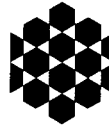


FROM THE DEPUTY CHIEF MEDICAL OFFICER

Dr Ian Carson



Department of

**Health, Social Services
and Public Safety**

An Roinn

**Sláinte, Seirbhísí Sóisialta
agus Sábháilteachta Poiblí**

www.dhsspsni.gov.uk

HSS(MD) 20/2005

Chief Executives of HSS Trusts
Chief Executives of HSS Boards

Castle Buildings
Stormont Estate
Belfast BT4 3SR
Tel: 028905 20601
Fax: 028 9052 0574
Email: ian.carson@dhsspsni.gov.uk

Your Ref:
Our Ref: HSS(MD) 20/2005
Date: 15 June 2005

Dear Colleague

**GOOD PRACTICE IN CONSENT –
EUROPEAN COURT OF HUMAN RIGHTS RULING**

I am writing to bring to your attention the judgment in a case of the European Court of Human Rights where doctors treated a child contrary to his mother's wishes, without a court order (*Glass v United Kingdom*) and to remind you of the importance of having a system in place to handle issues of parental objection.

Action

I would be grateful if you would bring this case to the attention of the members of staff who are involved in the treatment and care of children to remind them of their legal responsibilities when there is conflict between parents and doctors and the child is not competent to provide consent.

Glass v United Kingdom

The treating staff of the child in the case (David Glass) thought that he was in the process of dying. They wanted to give him morphine to alleviate his suffering. His mother did not want morphine to be given, believing it would compromise his chances of recovery. However, the treating staff did administer diamorphine to the child. The


mother took the case to the European Court of Human Rights and argued that as it was clear that there was dispute over the treatment to be given to David, the hospital should have involved the courts to clarify whether, despite his mother's objections, the treatment was in David's best interests.

The Court of Human Rights found that the NHS Trust's failure to bring the dispute before a court was a breach of the child's right to private and family life protected under Article 8. The Court said that as there had been indications that there was a dispute over treatment some time before crisis point was reached, and the UK High Court could have been used to settle the dispute before an emergency situation arose.

Good Practice in Consent

The guidance from the Department of Health Social Services and Public Safety (*Good Practice in Consent - Seeking consent: working with children, 2003*) is that in the event of a continued disagreement between parents and doctors, parental refusal can be overridden in an emergency, but if there is a dispute in other situations, the courts should be involved. The *Glass* judgment made clear that the failure to refer such cases to the court is not only a breach of professional guidance but also potentially a breach of the Human Rights Act.

Yours sincerely

A handwritten signature in black ink, appearing to read 'I. Carson', with a long horizontal flourish extending to the right.

Dr Ian Carson