

The role of 'public interest' in *Gillick*

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Gillick is the leading case on children's rights in healthcare.

In 1980, the Department of Health and Social Security issued a circular on family planning to Area Health Authorities. The circular indicated that a doctor could provide contraceptive advice to under-16s without parental consent.

Victoria Gillick, a mother of ten, including five daughters, failed to receive assurance from her local Area Health Authority that they would seek her consent, before providing contraceptive advice and treatment to any of her under-16 year old daughters.

She then sought declarations in the courts, that the circular was unlawful. In the High Court, her action was dismissed. The Court of Appeal unanimously allowed the appeal. In the House of Lords, this was overturned by a 3:2 majority.

Research Question

The extent to which public interest was a driving force behind the *Gillick* litigation.

Supporting Arguments

▪ Legal Aid

Victoria Gillick's application for legal aid was refused on the basis that it was not in the public interest. After much campaigning and a personal visit to the Law Society offices, she was awarded legal aid.

• Publicity

The media attention which surrounded the litigation provoked public interest.

▪ Pressure Groups

The interest of pressure groups represented that there was public interest in the issues raised by the case. The Children's Legal Centre and The Responsible Society both sought legal proceedings to intervene in the case but were unsuccessful.

▪ Legal Certainty

The term public interest was used in the House of Lords by Lord Scarman, to express disapproval of the Court of Appeal's emphasis on the law needing to be certain (at 421).

Wider Issues

An analysis of public interest in *Gillick* provides a deeper understanding of why and how the case reached the courts as well as the way in which the case was received by the judges. This raises questions about the role of public interest in the creation of the legal principles which arose from the case.

References

Gillick v West Norfolk and Wisbech Area Health Authority and another [1985] 3 All ER 402 .

Background photo depicting Victoria Gillick. Taken from

http://genesmusingsgene.blogspot.co.uk/2012_01_01_archive.html