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20<sup>th</sup> February 2023

Deputy Carol Nolan  
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E: [Carol.Nolan@oireachtas.ie](mailto:Carol.Nolan@oireachtas.ie) / Cc: [PQuestions@hse.ie](mailto:PQuestions@hse.ie)

**Re: PQ 6741/23**

**Question: To ask the Minister for Health if he will outline the age of consent to medical treatment, as well as the policy basis for the current law on the matter; and if he will make a statement on the matter.**

Dear Deputy Nolan,

I refer to the above Parliamentary Question which has been referred by the Minister for Health to the Health Service Executive for direct response.

The HSE National Consent policy (2022) adopts the position that the consent of a young person aged 16 and 17 years (who has decision-making capacity) is sufficient (except where the Mental Health Act 2001 applies). This is in line with long established current practice and with the Medical Council, Guide to Professional Conduct and Ethics for Registered Medical Practitioners (2019) as well as with a reasonable interpretation of s. 23 of the Non-Fatal Offences Against the Person Act 1997.

While the HSE National Consent policy (2022) retains the position of the 2013 policy, that the age of consent to medical treatment is 16 years, it recognises that the legal basis for this has not been definitively established in the Irish Courts. Section 23 of the Non-Fatal Offences Against the Person Act 1997 states that: *“The consent of a minor who has attained the age of 16 years to any surgical, medical or dental treatment which, in the absence of consent, would constitute a trespass to his or her person, shall be as effective as it would be if he or she were of full age; and where a minor has by*

*virtue of this section given an effective consent to any treatment it shall not be necessary to obtain any consent for it from his or her parent or guardian.”*

The position in the HSE National Consent policy (2022) is based on a reasonable (although not the only possible) interpretation of Section 23. Since the adoption of the HSE National Consent Policy, this position has not been subject to legal challenge or judicial comment. It is underpinned by extensive consultation with relevant stakeholders as to the appropriate position to adopt.

If you require any further information or clarification please do contact us.

Yours sincerely,

A handwritten signature in blue ink that reads "Caoimhe Gleeson". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Caoimhe Gleeson  
General Manager  
HSE National Office for Human Rights and Equality Policy  
HSE Strategy and Research