

# CONSENT: YOUNG PEOPLE & CHILDREN

Sláinte Leanáí Éireann  
ag Cromghlinn



Children's Health Ireland  
at Crumlin

BARRY LYONS

# UNCRC



# PPP

Rights of **Protection**



Rights of **Provision**



Rights of **Participation**



# RIGHTS

- “the best interests of the child shall be *a primary / the paramount consideration*”
- **ARTICLE 12.1. UNCRC**
  - *“States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.”*
- **ARTICLE 42A (4. 2°) CONSTITUTION**



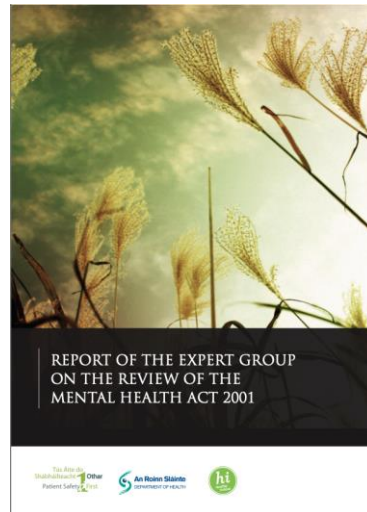
# AGE OF CONSENT

## ■ NFOAPA 1997, s23

- *“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.”*

## ■ MHA 2001

- *“It has long been unclear, however, how this Act [NFOAPA] interacts with the provisions of the Mental Health Act 2001. The apparent inconsistency between the two Acts has led to confusion over the status of consent or refusal given by adolescents.*
- *It is the Group’s view that in line with article 12 of the CRC ... children aged 16 and 17 years should be presumed to have capacity to consent to or refuse admission and treatment....”*



# THE EXTENT OF PARTICIPATION?

- Age
- Maturity
  - *Gillick competence*
- Experience

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## **Consent to Children's Surgery and Intensive Medical Treatment**

PRISCILLA ALDERSON\*



- Taking children seriously
- Recognising bodily integrity rights
- Negotiation

WHAT  
WORKS  
WELL?

PARTNERSHIP

# DIFFICULT AREAS

- Time!!!!
- Right to consent and right to refuse
- Reflective vs unreflective opposition
- Clinical holding
  - Physical and psychological safety



