

# Assessing Children's Capacity through the UN Convention on the Rights of the Child

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Professionals regularly assess children's capacity/understanding, for example when doctors treat children, or when lawyers represent child clients. They usually do this assessment intuitively. This document, based on an article in the [International Journal of Children's Rights](#), provides an approach to children's capacity through four concepts based on the **UN Convention on the Rights of the Child** (UNCRC): Autonomy, Evidence, Support and Protection.



**Autonomy** - UNCRC Article 12 says that children should be heard and their views given due weight. Going against their wishes should be taken seriously. Ask:

- Have I **heard the child's views/wishes**, and if not, do I have an adequate reason?
- Is this child enjoying as much **autonomy** as practicable/possible? ([Daly, 2018](#))

**Protection** - Article 3 obliges adults to make sure children's best interests are protected. Ask:

- Am I observing my obligation to ensure that I **protect children from harm**?
- Am I aware of *hot v. cold cognition*: In high pressure/peer pressure situations children may make objectively worse decisions than adults. Where they have support and time their decisions will likely be as objectively good ([Blakemore, 2019](#)).
- Am I considering that children should be more involved in decisions with **less risk**?

**Evidence** - UNCRC Article 2 prevents discrimination against children, so base work on evidence rather than assumptions. Ask:

- Am I treating this child **differently** than I would an adult – if so, why? ([Koh Peters, 2018](#))
- Am I treating this child differently because of **characteristics** such as gender, race, ethnicity, disability – if so, why?
- Am I basing my approach on *evidence* e.g. on psychological research?

**Support** - UNCRC Article 5 obliges adults to support children to exercise their rights *in line with capacity*. Ask:

- I am **helping this child to understand** the decision and its consequences?
- Have I **received training** in how to assess capacity? Ask whether he/she - *understands retains, uses, weighs information, and communicates a decision*.
- Like adults, **children's relationships** with others will be important to their decision-making process, am I considering that?