



Practice Sheet for **Child Protection**

Tip 1

Applying the principles of **'best interests of the child'** and **'do no harm'** to support reintegration of children from residential care institutions to families and communities

Purpose

The purpose of this paper is to explain the meaning of the **'best interests of the child'** and **'do no harm'** to enhance the knowledge of social workers, case managers, officials of the Department of Social Affairs, Veterans and Youth Rehabilitation (DoSVY), Women and Children Consultative Committees (WCCC) and Commune Committees for Women and Children (CCWC). This is part of the implementation of the national action plan and provincial operational plans for improving child care with the target of safely returning 30 per cent of children in residential care institutions to their families by the end of 2018.

Best interests and do no harm

The principle of the best interests of the child is one of the fundamental principles of the Convention on the Rights of the Child (CRC).

The best interests of the child must be the primary consideration in making decisions that may affect children. The best interests of the child is guaranteed in article 3 (1) of the CRC, which states: “...in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child should be the primary consideration”.

The full application of the concept of the child’s best interests requires the development of a rights-based approach and engagement of all actors to ensure the holistic physical, psychological, moral and spiritual integrity of the child and promote the child’s dignity. The concept of the best interests of the child is aimed at ensuring the full and effective enjoyment of all the rights recognized in the CRC. All adults should think about how their decisions will affect children and do what is best for them. The concept is complex and its content must be determined on a case-by-case basis. It should be adjusted and defined according to the specific situation of the child,

taking into consideration his or her personal context, situation and needs.

Do no harm means that the wellbeing of children must not be reduced or compromised under any circumstances. It means “to protect the child from harm”. Therefore reunification and reintegration of a child must ensure the child’s wellbeing and development. This includes fulfilment of material, physical, educational and emotional needs, as well as the need for affection and safety.

The best interests of the child and do no harm are the cornerstone principles of child protection work and human rights-based programmes, as children have the right to live a life of freedom, dignity, equality and safety. Children have special rights, as they are young and vulnerable. Children would not survive and reach their full potential without the help and cooperation of adults.

Do no harm and the best interests of the child are interrelated. The principle of the best interests of the child is also closely related to other principles, such as the right to non-discrimination, the right to life, survival and development, and the right to be heard.

Applying the best interests of the child and do no harm for family preservation

In the context of preservation of family and maintaining relations, family is the fundamental unit of society and the natural environment for growth and wellbeing of its members, especially children. Prevention of family separation and preserving family unity are important components of any child protection system. Removal of a child from the care of the family should be considered only if the family presents a serious danger to the child and, whenever possible, should be temporary and for the shortest possible duration. Removal decisions should be regularly reviewed and the child’s return to parental care, once the original causes of removal have been resolved, should be in the best interests of the child.

If a child must be placed in alternative residential care, if at all possible it is important to locate a care option close to the child’s home, to facilitate contact and potential reintegration with the family and to minimize disruption to the child’s education, and cultural and social life.

Tips for reintegration

Throughout the reintegration process, social workers ensure that individual children and families understand and agree to reintegration strategies and support. It is important to be clear about the services being offered and the regulations governing these services (e.g. confidentiality protocols). Children and families/guardians should be informed of the benefits and risks, and give their permission to proceed. It is vital to gain informed consent. This means social workers consult with children on what they want. The view of a child should be respected.

Throughout the preparatory stage, it is important to consider the environment in which a child is living. Social workers must choose the most appropriate form of care based on individual assessment. Children should remain in alternative care for as long as is needed to prepare them for reintegration or, where this is not possible, to find them a new permanent family. However, it is important to ensure that boys and girls do not become trapped in alternative care for long periods, as this is only ever a temporary solution and does not provide children with the permanent homes they need for a sense of security and belonging.

Social workers must be sure that a child will be reintegrated into school and continue to

study for his or her future development. The transfer to school should be completed before reunification with family or relatives. Children should be supported with stationery, education materials and a school uniform, if necessary.

Social workers must be confident that a child will receive adequate food, proper shelter and medical care. This means that a child will not be reunified with parents or relatives who lack means for survival, or who are homeless and lack access to medical care. Such families should be supported so that they can provide such care.

Social workers must be sure that the family has access to sufficient income/resources to maintain the family and the child living together. Income generation and livelihood support for families in need should be available for parents and relatives prior to and after reunification of a child.

In the process of family assessment, reunification and reintegration, social workers must consider a child's safety and the rights of a child to be protected against all forms of physical or mental violence, injury or abuse, sexual harassment, peer pressure, bullying, degrading treatment, sexual, economic and other exploitation, drugs or forced labour. Social workers should be sure that a child will

be safe and looked after. This means that a child will not be reunified or placed with alcoholic, violent and abusive parents or relatives. Abuse, neglect, violence and exploitation within a family are extremely common reasons for children leaving home. With intensive effort, it is possible to address these issues within a family, which can be crucial to avoiding re-separation.

To ensure the principle of do no harm is rigorously applied, and that children receive good quality support, protection and care to find a sense of belonging and purpose in all spheres of life, social workers should implement all steps of case management (see the operational plan).

Social workers must attempt to avoid causing harm when doing case management and reintegration support work. The best protection social workers can provide to a child is to be aware of the potential risks of harm, and exercise good judgement and caution. While performing case management and reintegration support of children from residential care institutions, social workers and case managers are responsible for meeting programme targets of reunifying children, and at the same time, avoiding potential risks a child may face after reunification.

Applying the best interests of the child and do no harm during reintegration

To ensure the wellbeing of all children in all residential care institutions and the reintegration of those children who are unnecessarily in residential care, namely children who have at least one living parent or other family members who could provide care for them, family reunification is the best option. Where a child's own family is unable, even with appropriate support, to provide adequate care, or abandons or relinquishes a child, the State is responsible for protecting the rights of the child and ensuring appropriate alternative care, with or through competent local authorities and duly authorized civil society organizations. Alternative care may take the form of kinship or foster care, supervised independent living or residential care. Family-based options should be prioritized. Residential care should be used on a temporary basis and only if family and community-based care options are not possible.

During the family reunification process, social workers must assess the circumstances

that guarantee a child's best interests and opportunities to access health care, quality education, including early childhood education, non-formal or formal education and related activities, as well as the opportunity to participate and fulfil ambition. Social workers should properly assess whether a child will be reunified in a secure and stable family living environment. This means that social workers should not reunify a child in a violent family without ensuring that problems have been adequately addressed and that it will be safe to do so.

All reintegration processes should aim to benefit children. Processes should not harm children, or jeopardize their life, physical and psychological safety, or wellbeing. Social workers should carry out a full risk assessment to determine the harm that could be caused by reintegration and to identify steps to mitigate risks to children, families and staff.

References

United Nations, Convention on the Rights of Child, 1989

United Nations, General Comment No.14 (2013) on the right of the child to have his or her best interests taken as primary consideration, Committee on the Rights of Children

United Nations, Guidelines for the Alternative Care of Children, General Assembly, 2010

Ministry of Social Affairs, Veterans and Youth Rehabilitation, Minimum Standard on Alternative Care for Children, 2006

Ministry of Social Affairs, Veterans and Youth Rehabilitation, National Action Plan for Improving child care with target of safely returning of 30 per cent children in residential care to their families 2016-2018, 2017

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