



CHILD & YOUTH PROTECTION
FOUNDATION

THE GLOBAL FUND FOR
Children

Navigating Case Management in Child Protection Training Material

Child and Youth Protection Foundation

Peju Osoba

Joseph Mtemdoo Gbagyo

Kolawole Olatosimi

November, 2017



CHILD & YOUTH PROTECTION
FOUNDATION

THE GLOBAL FUND FOR
Children

MODULE I:

CASE MANAGEMENT



Introduction

This manual has been developed to support Training in Case Management for Social workers.

The manual provides participants with:

1. The **Child Rights** context of child protection
2. An overview of how to implement **Case Management**, the processes and required skills and resources for effective Case Management.

Child Rights International and National Legislation and Case Management

Children have a number of rights which have been enshrined in international protocols, including the United Nations Convention on the Rights of the Child (UNCRC) and the African Charter on the Rights and Welfare of the Child (ACRWC). National legislation also upholds children's rights in the Child Rights Act (CRA) however this has not been enacted into law by all states. The rights that are afforded to children in these conventions, charters and laws does not preclude children the rights given in other human rights standards, but recognizes the special protections that children require as a result of their relative vulnerabilities.

Child rights principles define a child as anyone under the age of 18. A child's best interests are paramount in any decisions that are made with and for the child. All children are afforded all rights in the convention in line with the principles of non-discrimination and non-divisibility. The CRC can be broadly divided into four key areas of child rights:

- Survival- health
- Development- education
- Protection- protect child from all forms of violence, abuse, exploitation and neglect
- Participation- to participate in decision-making about issues that affect them.



For Case Management this means that child protection should include survival, development, protection and enabling children to be part of the decisions that are being made in line with their evolving capacities.

‘Evolving capacities,’ means in accordance with a child’s age and level of understanding.

United Nations Convention on the Rights of the Child 1989

Article 1 - Everyone under 18 has all these rights.

Article 2 - You have the right to protection against discrimination. This means that nobody can treat you badly because of your colour, sex or religion, if you speak another language, have a disability or are rich or poor.

Article 3 - All adults should always do what is best for you.

Article 4 - You have the right to have your rights made a reality by the government.

Article 5 - You have the right to be given guidance by your parents and family.

Article 6 - You have the right to life.

Article 7 - You have the right to have a name and a nationality.

Article 8 - You have the right to an identity.

Article 9 - You have the right to live with your parents, unless it is bad for you.

Article 10 - If you and your parents are living in separate countries, you have the right to get back together and live in the same place.

Article 11-You should not be kidnapped.

Article 12 -You have the right to an opinion and for it to be listened to and taken seriously.

Article 13 -You have the right to find out things and say what you think, through making art, speaking and writing, unless it breaks the rights of others.

Article 14 -You have the right to think what you like and be whatever religion you want to be, with your parents’ guidance.



Article 15 -You have the right to be with friends and join or set up clubs, unless this breaks the rights of others.

Article 16 -You have the right to a private life. For instance, you can keep a diary that other people are not allowed to see.

Article 17 -You have the right to collect information from the media - radios, newspapers, television, etc. -from all around the world. You should also be protected from information that could harm you.

Article 18 -You have the right to be brought up by your parents, if possible.

Article 19 -You have the right to be protected from being hurt or badly treated.

Article 20 -You have the right to special protection and help if you can't live with your parents.

Article 21 -You have the right to have the best care for you if you are adopted or fostered or living in care.

Article 22 -You have the right to special protection and help if you are a refugee. A refugee is someone who has had to leave their country because it is not safe for them to live there.

Article 23 -If you are disabled, either mentally or physically, you have the right to special care and education to help you develop and lead a full life.

Article 24 -You have the right to the best health possible and to medical care and to information that will help you to stay well.

Article 25 -You have the right to have your living arrangements checked regularly if you have to be looked after away from home.

Article 26 -You have the right to help from the government, if you are poor or in need.

Article 27 -You have the right to a good enough standard of living. This means you should have food, clothes and a place to live.

Article 28 -You have the right to education.

Article 29 -You have the right to education which tries to develop your personality and abilities as much as possible and encourages you to respect the environment.



Article 30 -If you come from a minority group, because of your race, religion or language, you have the right to enjoy your own culture, practice your own religion, and use your own language.

Article 31 -You have the right to play and relax by doing things like sports, music and drama.

Article 32 -You have the right to protection from work that is bad for your health or education.

Article 33 -You have the right to be protected from dangerous drugs.

Article 34 -You have the right to be protected from sexual abuse.

Article 35 -No-one is allowed to kidnap you or sell you.

Article 36 -You have the right to protection from any other kind of exploitation.

Article 37 -You have the right not to be punished in a cruel or hurtful way.

Article 38 -You have the right to protection in times of war. If you are under 15, you should never have to be in an army or take part in a battle.

Article 39 -You have the right to help if you have been hurt, neglected, or badly treated.

Article 40 -You have the right to help in defending yourself if you are accused of breaking the law.

Article 41 -You have the right to any rights in laws in your country or internationally that give you better rights than these.

Article 42 -All adults and children should know about this convention. You have a right to learn about your rights and adults should learn about them too.

This is a simplified version of the UNCRC. The UNCRC has been signed by 193 countries. The convention has 54 articles in total. Articles 43 - 54 are about how governments and international organisations will work to give children their rights.

Source: Save the Children

Nigeria signed the Convention on the Rights of the Children on 19th April 1991

The African Charter on the Rights and Welfare of the Child



The African Charter on the Rights and Welfare of the Child (African Children's Charter) was adopted by the Organization of African Unity on 11 July 1990 and came into force on 29 November 1999. The African Children's Charter provides a list of rights of the child which is very similar to the one contained in the Convention on the Rights of the Child (CRC). Unlike the CRC, the Charter also imposes duties on the child.

The Charter was ratified by Nigeria on 23 July 2001. The Children's Charter originated because the member states of the African Union believed that the CRC missed important socio-cultural and economic realities particular to Africa. It emphasises the need to include African cultural values and experiences when dealing with the rights of the child as challenging traditional African views which often conflict with children's rights such as child marriage, parental rights and obligations towards their children, and children born out of wedlock and expressly saying that the Children's Charter is higher than any custom, tradition, cultural or religious practice that doesn't fit with the rights, duties and obligations in the Charter.

States parties must recognise the rights, freedoms and duties enshrined in the Charter and take the necessary steps to adopt such legislative or other measures as may be necessary to give effect to the provisions of the Charter (Article 1(1) of the Charter).

Article 1(3) of the Charter states that any custom, tradition, cultural or religious practice that is inconsistent with the rights, duties and obligations contained in the Charter shall be discouraged

Article 2 Under the Charter a child is any person below the age of 18 years

Article 3 Principle of non-discrimination: children are entitled to the rights guaranteed in the Charter without discrimination on grounds of race, ethnicity, colour, sex, language, religion, political or other opinion, national or social origin, fortune, birth or other status

Article 4 of the Charter holds that in all actions concerning the child undertaken by any person or authority, the best interests of the child are to be the primary consideration

Article 5 State parties have an obligation to ensure children's right to survival and development, including the right to life and prohibition of the death penalty



Article 6 The right to a name and a nationality

Article 7 The right to freedom of expression

Article 8 The right to freedom of association and of peaceful assembly

Article 9 The right to freedom of thought, conscience and religion

Article 10 The right to protection of one's privacy, family, home and correspondence

Article 11 The right to education 10

Article 12 The right to leisure, recreation and cultural activities

Article 13 The right to special protection of handicapped children

Article 14 The right to health and health services

Article 15 Every child must be protected from all forms of economic exploitation and from performing any work that is hazardous or likely to interfere with the child's mental, spiritual, moral, or social development

Article 16 States are required to take legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse, while the care of the child

Article 17 The administration of juvenile justice. This includes the obligation to:

- Ensure that no child who is detained or imprisoned or otherwise deprived of his her liberty is subject to torture, inhuman or degrading treatment or punishment
- Ensure that children are separated from adults in their place of detention or imprisonment;
- Ensure that every child accused in infringing the penal law shall be presumed innocent until proven guilty, informed promptly in a language that he understands and in detail of the charge against him, shall be afforded legal and other appropriate assistance in the preparation and presentation of his defence and shall have the matter determined as speedily as possible by an impartial tribunal and be entitled to an appeal
- Prohibit the press and the public from trial



- Promote the reformation, re-integration and social rehabilitation of the child
- Set an age of criminal responsibility below which children cannot be tried for a criminal offence

Article 18 The right to protection of the family unit

Article 19 The right to parental care and protection

Article 20 Parental responsibilities

Article 21 Protection against harmful social and cultural practices, including child marriage

Article 22 The protection of children during armed conflicts

Article 23 The protection of refugee children

Article 24 Adoption

Article 25 Separation from parents

Article 26 Protection against apartheid and discrimination

Article 27 Protection from sexual exploitation

Article 28 Protection from drug abuse

Article 29 Prevention of sale, trafficking and abduction and the use of children for begging

Article 30 Protection of children of imprisoned mothers by:

- Ensuring that a custodial sentence is only used as sentence of last resort;
- Establishing and promoting measures alternative to institutional confinement for the treatment of such mothers;
- Establishing special alternative institutions for holding such mothers;
- Ensuring that mothers are not imprisoned with their children;
- Preventing the death penalty from being imposed on such mothers;
- Promoting the aim of reforming, rehabilitating and reintegrating the mother.



Article 31 Responsibilities of the child towards his family and society, the State and the international community. Such responsibilities include the duty to work for the cohesion of the family, to serve the national community, to preserve and strengthen social and national solidarity and to contribute to the promotion of African unity.

Source: The Child Rights Manual Nigeria- Bar Human Rights Committee of England and Wales, 2012, UNICEF

Child Rights Act

Basic Provisions of the CRA include:

Provisions of freedom from discrimination on the grounds of belonging to a particular community or ethnic group, place of origin, sex, religion, the circumstances of birth, disability, deprivation or political opinion; and it is stated categorically that the dignity of the child shall be respected at all times.

No Nigerian child shall be subjected to physical, mental or emotional injury, abuse or neglect, maltreatment, torture, inhuman or degrading punishment, attacks on his/her honour or reputation.

Every Nigerian child is entitled to rest, leisure and enjoyment of the best attainable state of physical, mental and spiritual health.

Every government in Nigeria shall strive to reduce infant mortality rate, provide medical and health care, adequate nutrition and safe drinking water, hygienic and sanitized environments, combat diseases and malnutrition, support and mobilize through local and community resources, the development of primary health care for children.

Provisions for children in need of special protection measures (mentally, physically challenged, or street children): they are protected in a manner that would enable them achieve their fullest, possible social integration, and moral development.



Expectant and nursing mothers shall be catered for, and every parent or guardian having legal custody of a child under the age of two years shall ensure its immunization against diseases, or face judicial penalties.

Betrothal and marriage of children are prohibited.

Causing tattoos or marks are made punishable offences under the Act; and so also is the exposure to pornographic materials, trafficking of children, their use of narcotic drugs, or the use of children in any criminal activities, abduction and unlawful removal or transfer from lawful custody, and employment of children as domestic helps outside their own home or family environment.

Child abduction and forced exploitative labour (which is not of a light nature) or in an industrial undertaking are also stated to be offences. The exceptions to these provisions are where the child is employed by a family member, in work that is of an agricultural or horticultural or domestic in nature, and if such a child is not required to carry or move anything heavy that is likely to adversely affect its moral, mental, physical spiritual or social development.

Buying, selling, hiring or otherwise dealing in children for purpose of begging, hawking, prostitution or for unlawful immoral purposes are made punishable by long terms of imprisonment.

Other offences considered grave include sexual abuse, general exploitation which is prejudicial to the welfare of the child, recruitment into the armed forces and the importation /exposure of children to harmful publications. It further preserves the continued application of all criminal law provisions securing the protection of the child whether born or unborn.

Children's responsibilities

Children under the Act, are also given responsibilities which include working towards the cohesion of their families, respecting their parents and elders, placing their physical and intellectual



capabilities at the service of the State, contributing to the moral well-being of the society, strengthening social and national solidarity, preserving the independence and integrity of the country, respecting the ideals of freedom, equality, humaneness, and justice for all persons, relating with others in the spirit of tolerance, dialogue and consultation, and contributing to the best of their abilities solidarity with and unity with Africa, and the world at large.

Source: UNICEF Nigeria Information Sheet, Child Rights Act, August 2007 13

Child Protection

Any definition of child abuse and neglect assumes a definition of the child. According to the UNCRC, ACRWC and CRA a child is ‘every human being below the age of 18 years’.

Child abuse and neglect, sometimes also referred to as child maltreatment, is defined in the World Report on Violence and Health ‘*as all forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation resulting in actual or potential harm to the child’s health, survival, development or dignity in the context of a relationship of responsibility, trust, or power.*’ (WHO, 1999 & 2002)

Within the broad definition of child maltreatment, five subtypes are distinguished – these are:

- Physical abuse
- Sexual abuse
- Emotional abuse
- Neglect and negligent treatment
- Sexual and commercial exploitation.



These sub-categories of child maltreatment and their definitions were devised following an extensive review of different countries' definitions of child maltreatment and a 1999 WHO consultation on child abuse prevention.

Physical abuse of a child is the actual or potential physical harm from an interaction or lack of interaction, which is reasonably within the control of a parent or person in a position of responsibility, power, or trust. There may be single or repeated incidents (WHO, 1999).

Child sexual abuse is the involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared and cannot give consent, or that violate the laws or social taboos of society. Child sexual abuse is evidenced by an activity between a child and an adult or another child who by age or development is in a relationship of responsibility, trust or power, the activity being intended to gratify or satisfy the needs of the other person. This may include but is not limited to the inducement or coercion of a child to engage in any unlawful sexual activity; the exploitative use of a child in prostitution or other unlawful sexual practices; the exploitative use of children in pornographic performances, internet pictures and materials (WHO, 1999). The recent use of technology such as the internet by adults to entice children to meet or participate in virtual sex is also an abuse.

Emotional abuse includes the failure to provide a developmentally appropriate, supportive environment, including the availability of a primary attachment figure, so that the child can reach their full potential in the context of the society in which the child lives. There may also be acts toward the child that cause or have a high probability of causing harm to the child's health or physical, mental, spiritual, moral or social development. These acts must be reasonably within the control of the



parent or person in a relationship of responsibility, trust or power. Acts include restriction of movement, degrading, humiliating, scapegoating, threatening, scaring, discriminating, ridiculing, or other non-physical forms of hostile or rejecting treatment (WHO, 1999).

Neglect and negligent treatment is the inattention or omission on the part of the caregiver to provide for the development of the child in: health, education, emotional development, nutrition, shelter and safe living conditions, in the context of resources reasonably available to the family or caretakers and which causes, or has a high probability of causing, harm to the child's health or physical, mental, spiritual, moral or social development. This includes the failure to properly supervise and protect children from harm as much as is feasible (WHO, 1999).

Sexual exploitation is the abuse of a position of vulnerability, differential power, or trust for sexual purposes; this includes profiting monetarily, socially or politically from the exploitation of another. Child prostitution and trafficking of children for sexual abuse and exploitation being one example of this. Commercial or other exploitation of a child refers to the use of the child in work or other activities for the benefit of others. This includes, but is not limited to, child labour. These activities are to the detriment of the child's physical or mental health, education, moral or social-emotional development (WHO, 1999). Children being recruited in to the army would also come under this category.

Disabled children and abuse, disability in children can make them more vulnerable to child abuse. What might be considered harmful or abusive treatment of a non-disabled child is sometimes seen as OK for a disabled child, this can be for many reasons. In discussing safeguarding of disabled children it is essential to consider not only personal attitudes and values



but also the social context that children are living in, what are the community attitudes towards disability? Awareness of how society treats disabled children is critical for two reasons:

- So individuals do not reinforce abusive attitudes or behaviour in their own practice.
- So that staff can promote the rights of disabled children to be protected.
- Cultural and traditional values mean that children can experience other types of abuse in specific contexts such as:
 - Children branded as witches
 - Spiritual abuse- abuse by people in positions of trust in religious or spiritual organisations, or misuse of spiritual or religious rituals for harm
- Migrant children

Child Protection is the actions that are undertaken by individuals, organisations, communities etc. to protect children who are at risk or who have experienced abuse and neglect

Source; Keeping Children Safe Tool 3 p198-200 15



UNCRC Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Child Safeguarding refers to measures that an organisation puts in place to ensure that children are safe within the organisation, e.g.

1. A written policy on keeping children safe
2. Putting the policy into practice.
3. Preventing harm to children
4. Written guidelines on behaviour towards children
5. Meeting the standards in different locations
6. Equal rights of children to protection
7. Communicating the 'keep children safe' message
8. Education and training for keeping children safe
9. Access to advice and support
10. Implementing and monitoring of the standards



11. Working with partners to meet the standards

Source; Keeping Children Safe Standards

Case Management

A case management process should fit within a national or state level child protection system to enable an effective response to individual child protection cases. However where child protection systems are not well developed, child protection agencies, may need to operate their own case management system whilst supporting and building the capacity national and state systems. Case management needs to fit into existing legislation and powers of those implementing case management must remain within the limits of the law. Organisations may need to work with police and state bodies to implement some actions, such as removal of a child from an abusive environment to a place of safety. Other actions can be completed by ORGANISATIONS and partners, such as the provision of services.

Definitions:

“The process of assisting an individual child (and their family) through direct support and referral to other needed services, and the activities that case workers, social workers and other project staff carry out in working with children and families in addressing their protection concerns”

Save the Children

“Collaborative process of assessment, planning, facilitation, care coordination, evaluation and advocacy for options and services to meet an individual’s and family’s comprehensive health needs through communication and available resources to promote quality cost effective outcomes”

Case Management Society of America website

“The process of planning, coordinating and reviewing the care of an individual”

Hutt et al 2004



“Case management systematically arranges assistance to the individuals from the beginning to the end of the relationship. The system facilitates a step-by-step approach from identification, to assessment, intervention and to case closure. It empowers and it relies on field workers recording information and making decisions at each step of intervention on a child protection issue or issues. It also relies on those decisions being monitored by line managers. Embedded in this process are standardised data management processes that provide a basis to examine program effectiveness at a variety of levels”

Terre des hommes

Case - Individual or family being assisted in order to resolve a child protection concern

Case worker- Worker responsible for managing a case who has clear responsibilities and competencies

Case manager- Manager responsible for ensuring the decisions made by the case worker are in the best interests of the child and address risk. The case manager will also make decisions about closing a case and about resources.

Case File- A written record of all information on the child and family that is relevant to how child protection concerns will be addressed. They are held confidentially and securely.

Case Management is therefore a structured approach to child protection issues and is a method of prevention of further harm to a child and other children who may be at risk. It provides a process for responding to and protecting children at risk of harm. It includes:

- Planning, implementing and monitoring the helping process of a case, until situation is better or improved
- Coordinating services in which a worker assesses with a client what services are needed and obtains and monitors delivery of services. Services can be either direct (case worker directly meets needs) or indirect (referral to others for support)

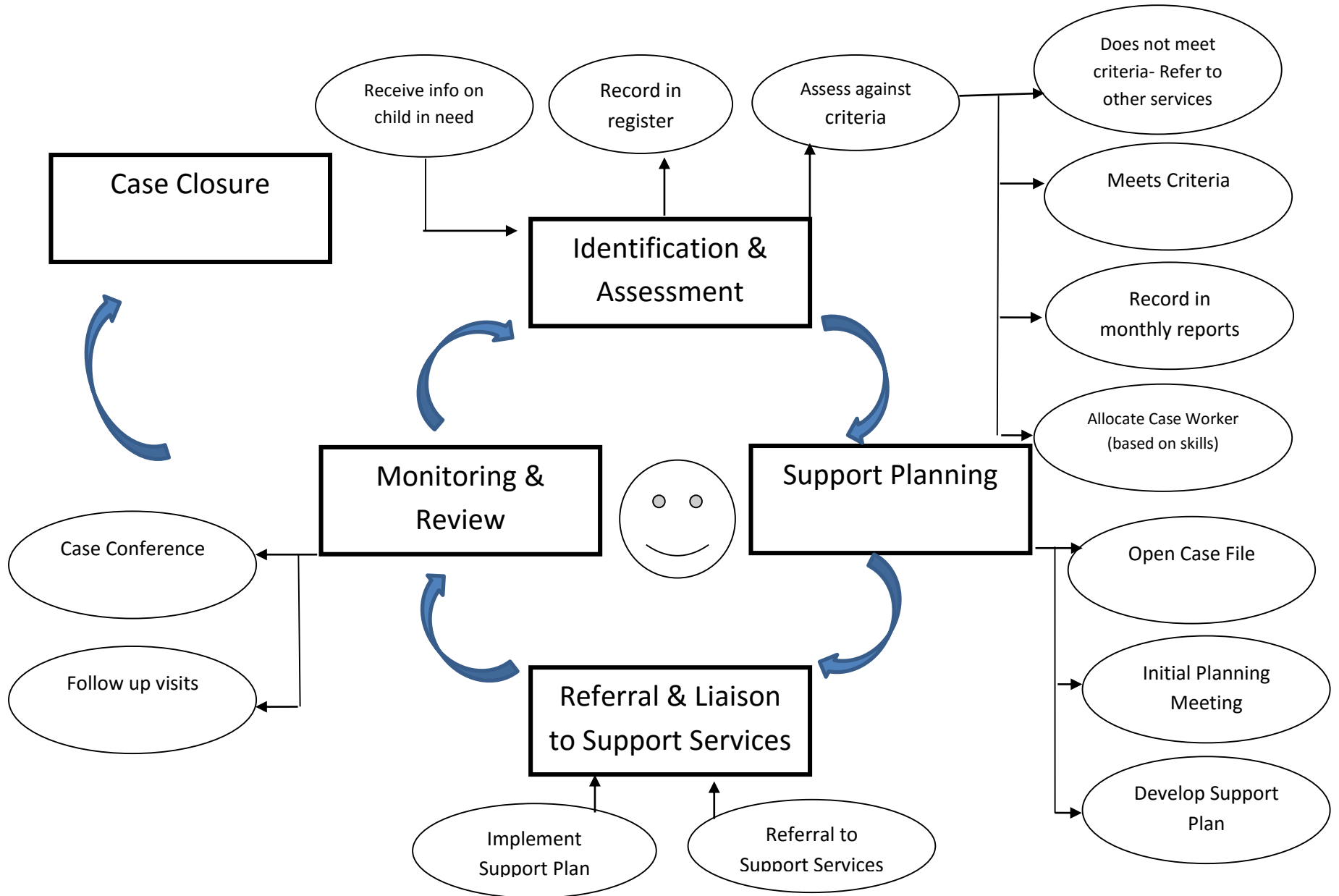


Case Management should be child-centred. Throughout the process case managers “search for and attempt to provide answers and information to key child protection questions such as:

- What are the serious risks to the child’s or children’s safety?
- What is trying to be achieved in the ‘best interest of the child’?
- At what level can the child participate in the process?
- Who should be consulted (for example: parents, other family members, community leaders or supporters, other specialist services or organisation, health services, police or statutory authorities)?
- What decisions have been taken and why?
- What resources can be used to assist the child?
- What is the plan for intervention?
- What is the timeline for action?”

Adapted from Terre des hommes, Case Management; Systems and Accountability, 2009:5

All interventions and outcomes should be recorded within the child’s case file. It is also important to maintain an overall record of outcomes for each referred child for monitoring programme effectiveness. Results of the monitoring can be used to support ORGANISATION learning, and for results to be shared with government, donors and to inform potential donors. Anonymous case management data can also support evidence based advocacy and awareness raising.





Assessments

An assessment of need and risk is conducted by the ORGANISATION worker who has the initial information on the child using a standard Assessment Form. If the assessment confirms the child protection concern, a case should be opened and a permanent case worker and case manager should be allocated. If the assessment does not confirm a child protection concern no further action is taken by the ORGANISATION case management system. It would be good practice to refer the child to other services for support where there are unmet needs. An assessment is a method of data collection and analysis and is conducted by the case worker. The assessment reviews the child and family/carers' strengths and areas where they need support. It considers the child's developmental needs, parenting capacity and family and community factors. Areas which assessment should focus on include:

- Legal
- Risk Factors
- Culture
- Aspirations
- Family Situation
- Health
- Disability
- Education and training
- Emotional development
- Family and social situation
- Self-care



Data can be collected from a number of sources- child, family, referring agency, education, health, NGOs, reports and any other source of information on the child's protection concern. The data is then analysed and used to answer questions:

- What is happening?
- Why is it happening?
- What is likely to happen next?
- How can I change what will happen next?

Emergency contexts would also need to register child to assist with family tracing and reunification.

Standard registration information includes:

- Child's name, age and gender
- Whether the child is separated, unaccompanied or with their primary carer
- Where the child is currently staying
- Date and location where they are registered
- Initial protection concern/need

Where a child is in a 'home' environment one of the most important aspects to review is the family environment, the situation of the child within the family and their views about it. Where a child is not in a 'home' environment it is important to include and understand the cause of separation and the impact of reunification to the home.

Assessments can look at Needs or Risks or both. As stated above you need to have criteria against which to assess. An assessment will provide insight into the particular protection concerns or vulnerability affecting a child and will inform the provision of support. It will identify a range of needs and which are most urgent.

Assessment Forms

Standard assessment forms are used to gather and record information on the child/ family from all the data sources. These are completed by the case worker and used to decide if the child meets the criteria for case management. If they meet the criteria, a case worker is allocated to coordinate all support with and for the child and family/ carers.



Risk assessments need to consider:

1. The risk the person poses to others (dangerousness)
2. The risk person is subject to (vulnerability)

In child protection we assess risk the child is subject to AND risk of others to the child. Assessing risk is crucial in child protection.

Assessment Results

After information on a child in need has been received by the ORGANISATION an assessment should take place. Once the assessment has been completed a decision is made about whether the child meets the



Organisation's case management criteria, and fits within the organisation's target group. If they do then the child has a support plan developed and continues around the case management cycle. If they do not the child can be referred to other agencies for support, but there is no further action by the ORGANISATION case management process as a whole.

Defensible Decision Making

In recognition of fact that assessments are highly fallible and subjective, we need to arrive at decisions in the same way that a reasonable body of professionals would also have followed. This makes the decision defensible if brought to account, i.e. you can defend the reason for the decision that you made. Aspects that contribute to a defensible decision include:

- Take all reasonable steps
- Use reliable assessment methods
- Information is collected and analysed
- Decisions are recorded
- Work within policies and protocols
- Communicate with others to get information you don't have

Once a case file has been opened containing the assessment form, and a case worker has been allocated, the case worker should develop a support plan based on best interests of the child to meet identified needs and to minimise risk.

Case Files

It is very important to document the case management process and work done to support a child and their family/ carers. As explained within the Terre de hommes definition of case management, it relies on recording information. It is also important to record decisions so that if decisions are questioned there is a record of the decision made and the reason for the decision. This supports defensible decision making as



shown above. Case files which document information are also important for programme quality and monitoring (Terre des hommes) and for advocacy.

Some important aspects of documenting case management process include:

- All case management documentation should be kept safely and securely
- It is important to record sufficient information for others to come and get an overview of the work done and required to be done to manage assessed risk to the child
- It is important to record fact not fiction
- Do not make assumptions and record these as fact. Only record what you know to be true
- If you have received information from other sources, quote the source, and not record as your own
- All documents should have the name and signature of the person making the recording
- All documentation should be dated

Effective case management requires a number of standard forms to be used and documents maintained.

These include:

- Case File Cover Sheet
- Assessments
- Care plans
- Records of work done
- Minutes of case conferences
- Documents, letters and correspondence
- Records of anything given to a child

Authorized Use/Confidential

Case File Cover Sheet- this briefly gives an overview of the child and should include:

- Child's full name, address, date of birth/age, sex, religion, language



- Parent/ carers name, address, date of birth;
 - Name and contact details of case worker- organisation phone and address
 - Details of other workers/ agencies providing support
 - Date and reason for referral
 - Code for identification

Support plans- a standard form is used to detail the support that will be provided and by whom, when. It should also include details of review dates. See appendix 4 for draft ORGANISATION support plan and appendix 5 for other examples

Record Sheets- any work done with, or on behalf of the child needs to be recorded in as much detail as possible for someone to pick up the file and understand what has been done and needs to be done to keep the child safe. This should include visits, phone calls, referrals and discussions with other agencies.

Information should be recorded as soon as possible after the event and records should be kept in chronological order. Names and signature of the worker should be recorded.

Date	Work Done	Name & Signature
3rd August 2017	Met child and family to prepare for the case conference on 10/08/13. Agreed that Case Worker will talk on behalf of child and family to say that they would like to continue to attend the community based parenting classes and children's clubs. They are not aware of progress with the court case and would like an update	Peju Osoba <i>POsoba</i>
10/08/17	Case conference took place- see minutes of case conference and new support plan for details	Peju Osoba <i>POsoba</i>

Minutes of **case conferences, copies of correspondence or documents** about the children such as birth certificates, school records can also be maintained in a case file.



It is good practice to allow children to have access to their file and to be able to review the contents with the case worker. Files may contain information on other people, such as siblings, parents which should remain confidential from the child. This information should be maintained in a **confidential section** of the file which the child is not permitted to see to maintain the confidentiality of others.

Support Plan

A support plan sets clear priorities and goals of what will be done to meet the needs identified in the assessment to help reduce the risk and increase protection. The support plan should include precise information on assistance to be provided- What? Who? Where? When? Review Details. As with all plans it needs regular review and monitoring to ensure all needs are being met. Areas which may be addressed are the same as the assessment and may include:

- Health
- Disability
- Education and training
- Emotional development
- Family and social Relationships
- Self-care
- Legal
- Risk Factors
- Culture
- Aspirations
- Family Situation

The child should participate in development of support plan so s/he understands what's happening. This also supports accountability of the case worker.



If a referral is being made to a service provider, the agency should be included in development of plan.

The case worker is supported by the case manager to develop and implement support plan. The case manager may be required to make decisions such as about budget, or involvement of other statutory bodies and referrals may need to come from the manager.

3. Referral and Liaison with Support Services

Where the case worker cannot meet all the child's needs, they need to refer the child to other agencies as identified in the support plan. A referral is the means by which a person refers a child, family or carers to the organisation or to another agency.

“Getting all the pieces of the service plan so that they are carried out in a logical sequence is at the heart of service coordination” (Steinberg & Carter 1983 in Vourlekis & Greene 1992:20) is the case workers' responsibility. Referrals for support may be made to education, physical/mental health services, legal, livelihood support, skills training and informal support such as family, friends and neighbours. Support can be either 'practical' or 'emotional'. 'Practical' support are services which are tangible such as education or health services whilst 'emotional' support such as psycho-social, or counselling support.

To manage referrals effectively you need a Resource Directory outlining which services are provided by which agencies. This may require the Organisation to do some resource mapping to identify agencies which could meet children's needs and join the referral pathway. It is important that when you look at which agencies you can refer a child to check that the agency provides quality and safe services. This means that the each organization will need to regularly build relationships with Organisation that can provide services to the children in the your target group.

A **referral pathway** should include:

- Clear criteria of the children defined as needing for case management for child protection
- Role of each agency
- Who can make a referral



- Information about the child, family/ carers need to be provided by referrer to agency
- How to provide required information and to whom, e.g. referral form, phone call
- What will happen next, e.g. assessment, internal meeting to decide if meets criteria

Partnership Agreements or Memorandums of Agreements may also need to be developed to formalize referral pathways.

The case worker advocates with and for the child and family/ carers to ensure that child gets their needs met by other support agencies to ensure quality of care. **Advocacy** is a skilful mix of speaking on behalf of the child and **empowering the child** to speak on their own behalf, to participate in decision making and have their voice heard.

4. Monitoring and Review

Follow Up and Monitoring Visits by Case Worker

The situation of all children registered with the case management programme must be monitored in an appropriate and timely fashion as often/ regularly as determined by assessment and support plan. The situation of family/ carers should also be reviewed as changes in their situation may increase or reduce risk to the child. Where the case worker does not have regular access to the child (e.g. the child has moved to another town) other involved agencies may do the follow up visit in coordination with the case worker.

The aims of monitoring or following up visits are to:

- Provide support/ guidance
- Assess child's perspective/ views
- Ensure access to services in line with support plan
- Update child and carer of progress
- Monitor for, and mitigate, risk of abuse, neglect & exploitation



Case Conferences

The main purpose of the case conference is to discuss the needs of the child and family/carers and to plan how to meet these needs in a coordinated way. A case conference (or group meeting) is a meeting to review the progress of a child's situation from the time that they have been assessed and plan for the child's future. Case conferences should be undertaken at regular intervals as determined in the support plan.

This meeting should include the case worker and case manager who have responsibility for the support plan of the child. Those people providing aspects of the care and assistance as defined in the support plan should also be present. It is important that the child themselves and the family members give their views and be part of the decision-making process.

Information should be shared in the meeting to build a full picture of the needs and strengths of the child and the family/carers and to provide information upon which decisions can be made about what needs to be done to manage care and reduce potential risks.

Where organisations find it useful there can be an Initial Planning Meeting. This reviews the information in the assessment and results in the development of the support plan. Other organisations may find it easier to develop the first support plan in collaboration with other agencies but without the need for a planning meeting. All subsequent case conferences review and update the support plan and result in the development of a new support plan.

The support offered in the case conference should encourage the family to take the responsibility for their child and therefore promote good practice of empowering and enabling participation. It allows the child to discuss their views on their situation and to describe their wishes. The child and the family's personal opinions should be respected.



Preparatory stage:

The **case worker** does the following:

- Identifies who should be invited to the conference
- Decides the day and the time of the conference with the chair
- Informs all participants, about the day and the time
- Prepares the case conference report be based on the implementation of the support plan of the previous month(s).
- Meets with the child (and family) and informs them about the content of the report and the process of the case conference. They should decide if the child and family will be at the case conference. If they will not be present, they should agree how their views will be taken into consideration, this could be a letter to the case conference, picture, or case worker representing the child's and family's views. While the case conference develops and reviews plans, the case worker ensure the implementation of the support plan.

Chair

The role of the chair is to manage the content of the meeting and keep people focused on addressing the needs of the child and her family. The chair could be the Case Manager or another senior person within the ORGANISATION. The chair should ensure that all areas of the assessment are considered in the initial case conference to develop the support plan and that in subsequent case conferences all areas of the support plan are reviewed.

The chair should prepare for the meeting with the case worker (and case manager if this person is not the chair). They should particularly consider how to manage any sensitive or confidential information and what information needs to be shared and discussed. A decision should also be taken about whether parts of the case conference should be restricted to key people to maintain confidentiality and dignity of the child.



The chair should de-brief with the case worker after the meeting to ensure the new care plan is clear and the work to be undertaken with the child and/or her family members and other professionals.

Case closure

An important part of case management is the decision to close a case. Criteria for case closure should be established. This may include where the child and/or family:

- Have resolved immediate protection concerns and developed solutions to underlying concerns, so the risk of harm has been reduced to the minimum.
- Have been referred to another agency for support
- Is unwilling to engage
- Has moved away
- Is untraceable
- Unwilling to engage with services
- Diseased

Any decision to close a case should be made with full collaboration of child and family/ carers. The case manager must be involved in the decision to close a case. The decision to close a case should be made in a case conference.

Communication Skills

Excellent communication skills are a prerequisite for effective case workers and managers. Case workers, managers and support providers need to communicate with children, families, carers and other professionals. Failure to communicate well will result in inaccurate information upon which to make decisions about a child's risk and needs.



Listen!

**When I ask you to listen to me and you start giving advice,
You have not done what I asked.**

**When I ask you to listen to me
And you begin to tell me why I should not feel that way,
You are trampling on *my* feelings.**

**When I ask you to listen to me
And you feel you have to do something to solve my problem,
You have failed me, strange, as it may seem.**

Listen!

All I asked was that you listen, not talk or do – just hear me.

Advice is cheap;

Eight dollars will get you an advice column in any newspaper.

And I can *do* for myself.

I am not helpless. Maybe discouraged and faltering, but not helpless.

When you do something for me that I can and need to do for myself,

You contribute to my fear and feeling of inadequacy.

But when you accept, as a simple fact, that I do feel, no matter how irrational, then I can quit trying

To convince you

And get about the business of understanding

What is behind this irrational feeling?

And when that is clear,

The answers are obvious and I do not need advice.

Irrational feelings make sense when we understand what is behind them.

So please listen and just hear me.

If you want to talk, wait a minute for your turn, and I will listen to you.

Adapted from a poem by Ralph Roughton, M.D.

Listening

Listening is one of the most important skills a case worker can have. How well you listen has a major impact on your job, and on the quality of your relationships with others.

Some 'do's' of listening	Some 'don'ts' of listening
<ul style="list-style-type: none"> ➤ Show interest and express empathy ➤ Listen for facts and feelings ➤ Listen for feelings and intensity of these e.g. angry, annoyed, furious ➤ Be aware of what body language is communicated as well as words ➤ Cultivate the ability to be silent when silence is needed 	<ul style="list-style-type: none"> ➤ Argue ➤ Interrupt ➤ Pass judgment too quickly or in advance ➤ Give advice ➤ Jump to conclusions ➤ Let the speaker's emotions react too directly on your own



Active Listening

You make a conscious effort to hear not only the **words**, but, more importantly, to try and **understand the total message** being sent. In order to do this you must pay attention to the other person very carefully. You cannot allow yourself to:

- Become distracted by what else may be going on around you
- Form counter arguments that you'll make when the other person stops speaking
- Lose focus on what the other person is saying

All of these barriers contribute to a lack of listening and understanding.

There are **five key elements** of active listening. They all help you ensure that you hear the other person, and that the other person knows you are hearing what they are saying:

1. Pay Attention
2. Show that you are listening
3. Provide Feedback
4. Defer Judgement
5. Respond Appropriately

Pay Attention

- Give the speaker your undivided attention and acknowledge the message
- Recognize what is *not* said
- Look at the speaker directly
- Put aside distracting thoughts
- Avoid being distracted by environmental factors
- “Listen” to the speaker’s body language
- Refrain from side conversations when listening in a group setting



Show that you are listening

Use your own body language and gestures to convey your attention

- Nod occasionally
- Smile and use other facial expressions

Provide Feedback

Our personal assumptions, judgments, and beliefs can distort what we hear. As a listener, your role is to understand what is being said. This may require you to reflect what is being said and ask questions.

- Reflect what has been said by paraphrasing. “What I’m hearing is…” and “Sounds like you are saying…” are great ways to reflect back
- Ask questions to clarify certain points. “What do you mean when you say…?” “Is this what you mean?”
- Summarize the speaker’s comments periodically

Defer Judgement

Interrupting is a waste of time. It frustrates the speaker and limits full understanding of the message.

- Allow the speaker to finish
- Don’t interrupt with counterarguments

Respond Appropriately

Active listening is a model for respect and understanding. You are gaining information and perspective.

You add nothing by attacking the speaker or otherwise putting him or her down.

- Be candid, open, and honest in your response
- Assert your opinions respectfully
- Treat the other person as you would want to be treated
- Note your posture and make sure it is open and inviting
- Encourage the speaker to continue with small verbal comments like yes, and uh huh



Summarising

It may be useful from time to time to check out your understanding of factual information as well as the feeling information coming from the speaker. This helps you assess whether you have been listening accurately, and helps you decide whether you need to seek more information before proceeding. One easy and useful way to reflect the situation and facts is through summarising where the case worker reviews briefly (summarises) complex information. The summarising response can refocus an interaction that seems to be getting stuck or help reduce a detailed story to a more manageable size.

Speaker: *“This week I had difficulty sleeping I kept having nightmares, my brother got sick and I had to take care of him. I have to cook dinner and do the laundry. My friend wanted me to visit but I did not have any time!”*

Listener: *“All the responsibilities you have seem to be overwhelming you. You do not seem to even have time to relax.”*

Summarising helps to:

- Calms a conflict or an intensive situation
- Helps you control emotions and build a constructive relationship
- Encourages other people to share information
- Increases the other person's trust in you
- Gives others a chance to clarify or explain
- Helps other people clarify their own thinking
- Emphasizes important points



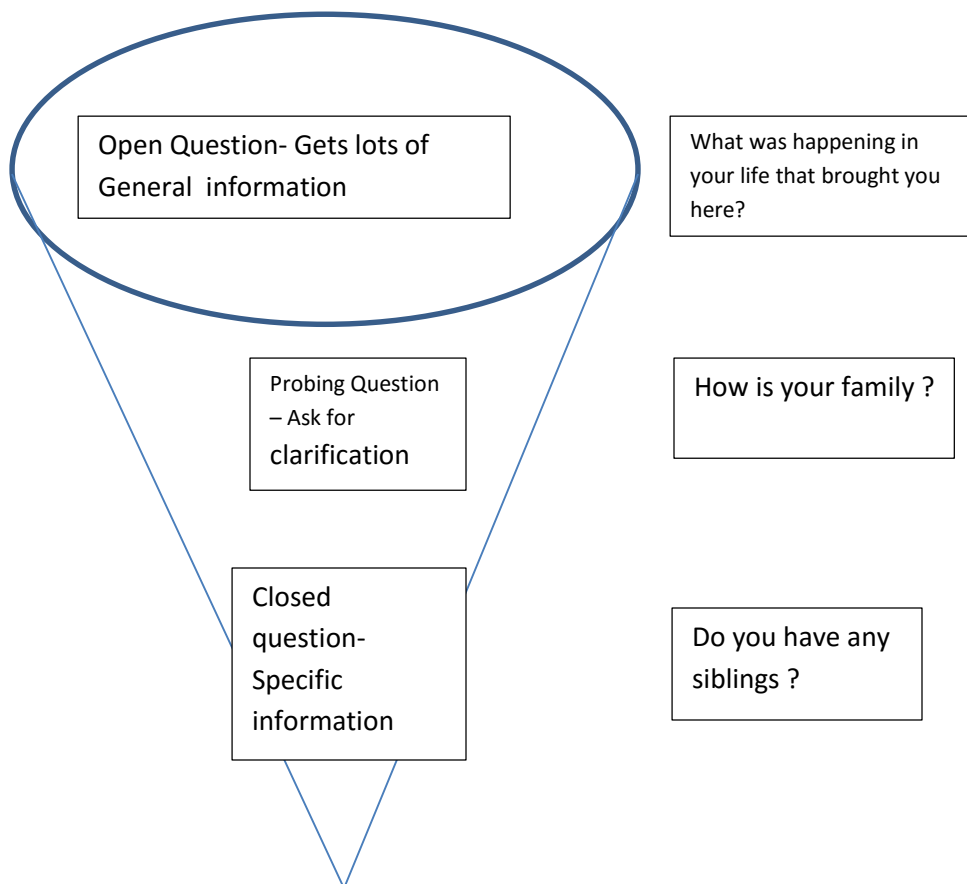
Remember with summarising, you are not trying to get the speaker to AGREE with you, but rather to **make sure you have heard accurately**

Statement	Purpose	To Do This	Example
Encouraging	<ol style="list-style-type: none"> To convey interest To encourage the other person to keep talking 	<ul style="list-style-type: none"> -Do not agree or disagree -use neutral words -use varying voice intonations 	<ol style="list-style-type: none"> “Can you tell me more...” “What happened next ? ”
Clarifying	<ol style="list-style-type: none"> To help clarify what is said To get more information To help the speaker see other points of view 	<ul style="list-style-type: none"> -Ask questions -restate wrong interpretation to force speaker to explain further. 	<ol style="list-style-type: none"> “When did this happen?” “What happened before this?”
Restating	<ol style="list-style-type: none"> To show you are listening and understanding what is being said To check your interpretation. 	<ul style="list-style-type: none"> -Restate basic ideas and facts 	<ol style="list-style-type: none"> “So you would like your friend to trust you, is that right?” “You’re going to talk to you mother about this then?”
Reflecting	<ol style="list-style-type: none"> To show that you understand how the person feels To help the person evaluate their own feelings after hearing them expressed by someone else 	<ul style="list-style-type: none"> - Reflect the speaker’s basic feelings 	<ol style="list-style-type: none"> “You seem very upset.” “You were upset when your mother didn’t believe you”
Summarising	<ol style="list-style-type: none"> To review progress To pull together important ideas and facts To establish a basis for further discussion 	<ul style="list-style-type: none"> -Restate major ideas expressed including feelings 	<ol style="list-style-type: none"> “These seem to be the key ideas you have expressed...” “It sounds as if you are worried about
Validating	<ol style="list-style-type: none"> To acknowledge the worthiness of the other person 	<ul style="list-style-type: none"> -Acknowledge the value of their issues and feelings -Show appreciation for her efforts and actions 	<ol style="list-style-type: none"> “I appreciate your willingness to resolve this matter.” “Thanks for telling me this”

Questioning

Types	Features	Usage
Open	Use "What", "How", "Why" Can't be answered by "Yes" or "No"	Draw out others feelings and opinions Hands control to the respondent
Probing	Be more specific, using "How many", "How long", "Who", "Where", "When", "Why" etc. Can't be answered by "Yes" or "No"	Narrow and deepen the focus
Closed	Can be answered by "Yes" or "No"	Can be answered by "Yes" or "No"

Funnel Method of Questioning





Non-verbal Communication

How we communicate is not just about what we say, it is how we say it and the way that our body language conveys messages too. It is also about what we don't say and when to be silent.

Body language

How you sit and stand conveys a message. Try to adopt a relaxed pose, this means having open/uncrossed limbs, turning and leaning towards the other person. Rapport is demonstrated through mirroring the other person's posture and can convey a positive attitude of warmth, interest and attentiveness.

Eye contact

Maintaining some eye contact demonstrates an interest in and liking for the person who is speaking. Too much eye contact can appear intrusiveness/aggression. Avoiding eye contact can show that you are anxious or wish to withdraw.

Facial expression

Our faces show a multitude of feelings which we need to be aware of so that we can control our facial expression to convey the attitude that we wish to convey- a positive non judgement one. Our faces can show criticism, boredom, friendliness, approval, responsiveness, anxiety, confusion, etc.

Voice, tone and pace

It is not just what we say, but how we say it. Be careful that you maintain an even pace and medium volume voice. Speaking quickly can convey feelings of tension, impatience whilst speaking slowly gives an impression of calm.

A loud voice can convey anger or impatience and be silencing to the listener, whilst speaking softly can mean that the listener cannot hear properly whilst maintaining a comfortable interpersonal distance.



Interpersonal distance

Different people have different degrees of a comfortable body space, or how close you are to them. Being too close can appear threatening and being too far away can make you seem distant and disinterested.

Sitting/ standing alongside someone shows – cooperation, being opposite can appear confrontational whilst being at right angles can give a feeling of equality of status

Touch

When working with abused children considering how you use touch is very important. Some children may find this intrusive or frightening whilst others may find touch through hugging, stroking an arm etc. comforting. Safe Touch is touch which is offered as a comfort, unsafe touch is abusive; it is important that children start to learn the difference between safe and unsafe touch. 41

Skin tone

Flushed or blemished skin tones can betray embarrassment, anger or stress, whilst a very pale skin tone may mean that the person is afraid or ill. Also look for perspiration which can indicate stress, illness or being too hot! Rashes, including eczema and psoriasis, can indicate stress, anxiety or poor health.

SILENCE!

May reach a point in the conversation where the case worker does not know what to say. This is ok! What the child may have said may make you speechless. If this is the case you can summarize what the child has says and say 'I'm just going to think about what you've said'

If child is struggling to talk can say 'I'm just going to stay quiet to give you the space to think about what you want to say'. Non verbal communication is especially important here, so if you appear comfortable with the silence so she will be. Ensure you do not look bored or impatient

Allowing the child to break the silence means the conversation will go at her//his speed and be led by her/him.



Blocks to Communication

A case work interaction is different from a day-to-day talk with a friend. It is more focused and structured. You, the listener, have a role. The case work role is to help the speaker explore and understand her/his feelings about a specific problem, this done by listening for feelings and reflecting feelings. Unlike day-to-day conversation, the focus remains on the speaker most of the time. Some blocks to communication are listed below so you can become aware of these and what you do most often and may want to change. In any interaction, but especially in a case work interaction, these blocks usually stop the speaker from talking, break trust and either damage or end the relationship.

Interrupting and Asking Questions

Each of us is curious about and/or likes people or most likely we would not want to be a case worker. We may want to ask a lot of questions, but, in a case work interaction, it is important that the speaker is able to focus on her/his problem and feelings without outside interference. Sometimes too many interruptions and questions will distract the speaker and confuse her/him, especially if the questions take the focus away from the speaker's feelings.

BLOCKING CONVERSATION

Speaker (upset about a fight with mother): "Last night I had a terrible fight with my mother. I really need to tell..."

Case Worker (interrupts): "What is her name?"

Speaker: "Uh, Davina. So anyway, we had this fight and..."

Case Worker: "Do you often fight?"



□ **Stealing the Spotlight and Shifting the Focus**

In a typical conversation the focus may shift back and forth between the speaker and listener many times and both parties feel it is okay and normal. In a case work interaction, the focus needs to stay with the speaker. When someone is talking with us and we can identify the topic, it may remind us of a similar even in our own life. We should refrain from acting on this.

BLOCKING COMMENTS

Case Worker: "Oh, I have the exact same problem with my parents. Mine do not trust me either. One time I..."

Judging or Minimizing Another's Feelings

Sometimes, without meaning to, we judge or minimize another's feelings. Usually this is done when we are either trying too hard to make the speaker feel better, or we are feeling uncomfortable about what the speaker is saying. The result is the speaker may feel put down or that you do not understand her/him. Again, this blocks effective communication.

BLOCKING COMMENTS

Case Worker: "Oh, I have the exact same problem with my parents. Mine do not trust me either. One time I..."

Judging or Minimizing Another's Feelings

Sometimes, without meaning to, we judge or minimize another's feelings. Usually this is done when we are either trying too hard to make the speaker feel better, or we are feeling uncomfortable about what the speaker is saying. The result is the speaker may feel put down or that you do not understand her/him. Again, this blocks effective communication.



BLOCKING COMMENTS

Case Worker: "Don't feel that way. Your anger is only hurting you."

Case Worker: "You really should not feel that way. Lots of people have problems worse than yours."

Case Worker: "Oh! That is not as bad as you made it sound. Things could be a lot worse."

Offering Sympathy

As a case worker we encourage you to offer empathy rather than sympathy. When you are being empathetic, you are equal to the speaker and are truly trying to understand her. When you offer sympathy, you place yourself above the speaker and you may communicate that the problem situation is hopeless.

BLOCKING COMMENTS

Case Worker: "Oh, you poor thing. This must be so horrible. Try not to worry, everything will get better"

Case Worker: "I feel so sorry for you. I know exactly how you feel."

Preaching and Moralizing

Try to separate your beliefs from the situation. They do not belong in case work; it is not about you.

BLOCKING COMMENTS

Case Worker: "Some people never seem to know when to behave properly."



GUIDELINES FOR MAKING AN EFFECTIVE RESPONSE TO ANOTHER'S FEELINGS

Be brief

Speaker: "My brother spilled soup on my homework!"

Case worker A: "You sound really angry with him!" (Desirable response; it's brief)

*Case worker B: "You sound really angry with him! That must have upset you a great deal. Homework takes a long time to do. You sound like you became angry with your brother. You sound really angry with him."
(Less desirable response; it's not brief)*

Be willing to trust your intuition

Especially when labelling undercurrent feelings, what you reflect may or may not be what the speaker is feeling. This is ok. If you have "accurately listened", your gut reaction is likely to be accurate too. If it is not, the listener will almost always put you straight, and be able to remain at a feeling level. Furthermore, you can use the new information the child gives you to select the most useful focus for the interaction.

Speaker: "My boyfriend and I just broke up."

Case worker: "You sound sad about that."

Speaker: "Yeah, I am. I thought we would get married someday."

OR

Speaker: "My boyfriend and I just broke up."

Social worker: "You sound sad about that."

Speaker: "No, really I am glad. We were always arguing."

Child Development

It is important to understand what milestones children are expected to achieve for normal development. This enables others to assess whether a child is meeting their milestones, or whether their physical, social and emotional, intellectual and language development is delayed which may indicate a health problem, disability, neglect or abuse. Similarly children may exhibit behaviours 'too early' (e.g. sexualised

behaviour) as a result of neglect, abuse or exploitation. In both situations child protection case management may be required to provide support and assistance.

Brain Development



Our physical development is developed from the bottom of the brain (spinal cord) to the top. We can see this in babies learning to control their movements and as we get older our movements become more refined. The intellectual and emotional functions of the brain develop from the back to the front. Our brains are not fully developed until our mid-20s. This part of the brain controls risk and high level reasoning. Understanding the brain's development is important in understanding child development. Messages are passed from one neuron to another across synapses to create neural pathways. Each time we do something these messages are passed. As children's brains develop these pathways develop and with repetition the pathway gets stronger. Pathways that are not used, die off.

Only a few neural pathways



6 Years Old



Imagine when you go to the bush and take your bush knife to create a path. If you go often down this path it will get big and strong. If you don't go down this path again it will grow over. It is the same in the brain. As children get older, more and more pathways are created. Once we get to puberty, pathways that are not used die off. This means that if an adult (e.g. parent) provides love, a pathway in the brain will develop showing parent=love. When this love is repeatedly shown to the child the pathway in the brain gets stronger and stronger. If this is not repeated the path will die away and the child will not associate feelings of love with the parent. Similarly, if a carer beats a child a pathway in the brain will develop that shows carer=beat=pain=fear. If the child is often hit this pathway gets stronger and the child develops a pathway in the brain linking fear to the carer.

Many neural pathways have formed as many experiences have taken place



Many neural pathways that are not used start to die off during adolescence

Key issues on child development cards to discuss include (other cards should be discussed if there are questions):

At birth- Bonds with main carer. This special emotional bond to one person is called *attachment*. If a baby has not formed an attachment with someone within the first six months, there will be long term social and emotional issues. If the baby is separated from the person with whom it has formed an attachment the separation will cause anxiety. When the carer returns the baby is soothed. This is normal, but in babies and children who do not have good attachment, they may be unable to recover from the separation. The part

Key issues on child development cards to discuss include (other cards should be discussed if there are questions):

At birth- Bonds with main carer. This special emotional bond to one person is called *attachment*. If a baby has not formed an attachment with someone within the first six months, there will be long term social and emotional issues. If the baby is separated from the person with whom it has formed an attachment the



separation will cause anxiety. When the carer returns the baby is soothed. This is normal, but in babies and children who do not have good attachment, they may be unable to recover from the separation. The part of the brain responsible for emotions (orbital prefrontal cortex) fails to develop properly when children do not have secure attachment. This is important for *children who are abandoned, fostered, adopted or otherwise separated* from their parents when very young. Children who have made good attachments as a child in adulthood will tend to have lasting, trusting relationships, have high self-esteem, be able to talk about their feelings and seek support. In adults who failed to attach as children there may be long term psychological issues.

Around 18 months- children **know the names of parts of the body**. Even at this age adults can begin to develop a child's *resilience* to potential abuse by explaining the parts of the body that no one should touch and who to tell if someone does touch their private parts.

Around 2 years- children may **Throw Tantrums if Frustrated**. Children are beginning to develop emotions and feelings, but do not yet have the words to understand/ describe how they feel, so they may have tantrums to express their developing emotions. *Children should not be punished for tantrums*, rather patience and reassurance provided as others try to help the child express how they feel. Love and guidance should be provided.

Around 3 years- up to 25% of children may have **Imaginary Friends**. The friend may take the form of an animal, person or a toy who the child treats as if it has a real personality. This is completely normal and assists children to develop creativity and imagination. Pretend play is vital for brain development. Talking to imaginary friends can also assist language development and development of social skills. In the brain the prefrontal cortex and medial temporal lobe start picking up signals around eighteen months of age, and they tap into some of our most advanced, higher-order thinking. When you hear a toddler make a chu-chu noise with his train, this is your first clue that abstract thought has begun and all pretend play is important for



brain development. This is not a sign of something to worry about and children should not be dubbed witches for this normal and important part of a child's development.

Around 4-5 years- most children are **dry by night** by around 4-5 years. Continued bed wetting could be due to a child producing more urine than their bladder can cope with, having an overactive bladder, meaning it can only hold a small amount of urine or being a very deep sleeper so they do not react to the signals telling their brain their bladder is full. Constipation is frequently associated with bedwetting, especially in children who do not wet every night. *Occasionally, bedwetting can be triggered by emotional distress, such as being bullied or moving to a new school or abuse.*

Around 7-8 years- most children will begin to **understand right from wrong**. Prior to this children simply learn that if they do something, they may be stopped from doing this, and so learn to please adults, or avoid punishment rather than understanding intellectually what is right and what is wrong. However fully understanding the consequences of their actions does not take place until around **12-15 years**. Parents and carers need to help children to develop a moral compass which will guide them. The age of criminal responsibility in Nigeria, at 7 years is very low, and children are only beginning to understand right from wrong at this age, and may not yet fully understand consequences. This is important to understand when working with *children in conflict with the law*.

10 years onwards- **puberty** is a time of physical and emotional change. Whilst the body is preparing for adulthood, hormones also are preparing the child emotionally to become an adult. This results in children wanting to spend more time with their peers than their family, wanting to make their own decisions and develop an independent identity. This can result in children engaging in unsafe behaviours, including unprotected sex, using alcohol, drugs, joining gangs etc. *It is important that throughout childhood the child's main carers build upon the trusting, loving attachment developed at birth, so that children can continue to come to their carers to discuss peer pressure, sex, risks etc. without being judged or punished.*



Carers need to allow children to become independent whilst providing a safety net. *Sexual abuse and exploitation should not be confused with a child's emerging sexuality.*

Confidentiality

Case workers, case managers, support agencies and ORGANISATIONS will have access to a considerable amount of personal information relating to the children, families and carers who use the service. It is expected that staff will treat this information in a discreet and confidential manner and that information will only be shared with others on a *need to know* basis.

Confidentiality is not the same as secrecy. It should be made clear to service users that case workers cannot be expected to keep secrets.

Secrecy means that information that you are given will **not** be divulged to anyone else in any circumstances. **Confidentiality means** that the circumstances in which information may be shared is understood and all parties are aware of the people with whom it may be shared.

Case workers will need to share information about the service users with whom they work, including with case managers and those working with the child on the support plan. It may be necessary to also share information with other colleagues in the workplace. This is because they are accountable to the agency for the work they undertake with service users and to allow decisions to be made and appropriate support provided by the most appropriate agency. Case workers should be honest and open about this with service users.

Information may also need to be shared elsewhere within or external to, the agency if there is clear evidence of serious danger to the child, worker or any other persons in the community. Where information will be shared with others, this should be discussed with the child, and their family/ carers. The diagram below shows that only those supporting a child need information about that child. Issues can of course be discussed in general meetings, but specific details about a child should remain within the group of those identified in the support plan. This will change over time as the support plan develops.



CHILD & YOUTH PROTECTION
FOUNDATION

THE GLOBAL FUND FOR
Children

It is important that actors have a shared understanding of what confidentiality means so that everyone conforms to the limits of confidentiality and it is clear who needs to know what.

Where there is a need to inform others about a child, for example to keep that child, or other children safe, it may be possible that the child or family be empowered to can breach their own confidentiality and seek support services with the case worker.

Some agencies have an open access to records policy. That means service users are entitled to see the records that are kept about them. Case workers must record information accurately, which may mean checking the facts with the service user or anyone else who provides information.



CHILD & YOUTH PROTECTION
FOUNDATION

THE GLOBAL FUND FOR
Children

Sample Case management folder

Ogun State CPN Assessment Form

Child's details

Name of Child		Identification Code	
Date of birth		Age	
Place of birth		State of origin, including LGA	
Address and phone number Home town give description of address and/ or place child is presently staying where formal address is not known			
Preferred Language(s)		Sex	
Religion		Nationality	



Parent/ Carer Details

Name and relationship to child		Permanent address (descriptive) and phone number	
Name of Referrer		Contact number and address of Referrer	
Reason for Referral			

Assessment Summary of Risks, Strengths and Needs

	Risks	Needs	Strengths/ Capacity
Health – illnesses, medication, immunisations, HIV status			
Disability- nature of disability, give details of assistance needed			
Participation in education, vocational training – level, achievements, access. Name of school/ trainer			



	Risks	Needs	Strengths/ Capacity
Employment- type, child labour, impact on development			
Emotional Development- self harm, ability to cope with stress, psychological difficulties, confidence, often unhappy etc.			

Family & Social relationships- relationships with family, peers and adults, anti-social behaviour, orphan, separated from family			
Self-care, ability to look after self- becoming independent, asking for help, washing, dressing, feeding, leisure activities/ hobbies			
Legal- any criminal cases as victim, witness, or alleged offender			
Risk Factors to child and of child - Alcohol/ drug misuse, sexual abuse, sexual exploitation, trafficking, anti-			



social behaviour, homelessness, violent/ aggressive behaviour etc			
Cultural and religious needs- such as place of worship, diet			
Aspirations- what are the child's hopes/ wishes?			
Family situation- size and composition of family, formal and informal support, ability to care for the child, income, employment, housing, sanitation, water, illness, absent parents, any risk factors, e.g. alcohol, drugs, mental health, criminality, abusive behaviour			
Name and contact details of service providers working with the child / family- e.g. education, training, health, legal			



Recommendations

Priority needs to minimise risks			Recommended Actions		
Meets Case Management Criteria Yes/ No (delete as appropriate)			Explanation		
CPN refer the case to¹:	YES	Date	CPN refer the case to:	YES	Date
Police			Emergency shelter (non-gov't)		
Citizen's Rights			Ministry of Women Affairs, Social Welfare		
NBA			Local administrator (LGA, WARD Office)		
FIDA			Red Cross/Crescent		
NAPTIP			Local NGO		
NHRC			Mediation by faith-based organization/religious leaders		

¹ Taken from CPN/ UNICEF Individual Case Form



Medical facility (gov't)			Community-based traditional mediation mechanism		
Medical facility (non-Gov't)			Other (specify)		
Emergency shelter (gov't)			No Further Action		
Views of child					
Views of family					
Name of Case Worker			Profession of Case Worker		
Contact number			Organisation name and address		
Date of assessment			Signature		

Support Plan

Start Date of Support Plan		End Date of Support Plan	
-----------------------------------	--	---------------------------------	--



Child's details

Name of Child		Identification Code	
Date of birth		Age	
Place of birth		State of origin, including LGA	
Address and phone number Home town give description of address and/ or place child is presently staying where formal address is not known			
Preferred Language(s)		Sex	
Religion		Nationality	

Parent/ Carer Details

Name and relationship to child		Permanent address (descriptive) and phone number	
Name of Referrer		Contact number and address of Referrer	
Reason for Referral			



Support Plan to meet identified Risks, Needs and Strengths

	Agreed Actions to meet identified risks and needs- where action is not needed write 'Not Applicable'	Who will do this?	Start Date	End Date	Results of agreed actions- to be completed at Case Conference
Health –medical check, medication, immunisations, Anti-Retrovirals					
Disability- assistance needed					
Participation in education, training – need for enrolment, referral					
Employment- support to get appropriate employment, or end child labour/ exploitation					
Emotional Development- psycho-social; counselling;					



	Agreed Actions to meet identified risks and needs- where action is not needed write 'Not Applicable'	Who will do this?	Start Date	End Date	Results of agreed actions- to be completed at Case Conference
therapy to address risk factors and needs					
Family & Social relationships- family strengthening, reintegration/ reunification to family, develop friendships, social skills					
Self care, ability to look after self- becoming independent, asking for help, washing, dressing, feeding, leisure activities/ hobbies					
Legal support- any criminal cases as victim, witness, or alleged offender; lawyer; police					
Risk Factors to child and of child – homelessness/ shelter, alcohol/ drug misuse, sexual abuse, sexual exploitation, trafficking, anti-social behaviour, violent/ aggressive behaviour etc					



	Agreed Actions to meet identified risks and needs- where action is not needed write 'Not Applicable'	Who will do this?	Start Date	End Date	Results of agreed actions- to be completed at Case Conference
Cultural and Religious needs- such as place of worship, diet					
Aspirations- what is being done to support child's hopes/ wishes?					
Family situation- support to family to support their ability to care for the child, income, employment, housing, sanitation, water, illness, any risk factors, e.g. alcohol, drugs, mental health, criminality, abusive behaviour					
Name and contact details of service providers working with the child / family- e.g. education, training, health, legal					
CPN refer the case to²:	YES	Date	CPN refer the case to:	YES	Date

² Taken from CPN/ UNICEF Individual Case Form



	Agreed Actions to meet identified risks and needs- where action is not needed write 'Not Applicable'		Who will do this?	Start Date	End Date	Results of agreed actions- to be completed at Case Conference
	Police			Emergency shelter (non-gov't)		
	Citizen's Rights			Ministry of Women Affairs, Social Welfare		
	NBA			Local administrator (LGA, WARD Office)		
	FIDA			Red Cross/Crescent		
	NAPTIP			Local NGO		
	NHRC			Mediation by faith-based organization/religious leaders		
	Medical facility (Gov't)			Community-based traditional mediation mechanism		
	Medical facility (non-Gov't)			Other (specify)		
	Emergency shelter (Gov't)			No Further Action		
	CPN refer the case to3:	YES	Date	CPN refer the case to:	YES	Date
	Police			Emergency shelter (non-gov't)		
	Citizen's Rights			Ministry of Women Affairs, Social Welfare		

³ Taken from CPN/ UNICEF Individual Case Form



	Agreed Actions to meet identified risks and needs- where action is not needed write 'Not Applicable'	Who will do this?	Start Date	End Date	Results of agreed actions- to be completed at Case Conference
	NBA			Local administrator (LGA, WARD Office)	
	FIDA			Red Cross/Crescent	
	NAPTIP			Local NGO	
	NHRC			Mediation by faith-based organization/religious leaders	
	Medical facility (Gov't)			Community-based traditional mediation mechanism	
	Medical facility (non-Gov't)			Other (specify)	
	Emergency shelter (Gov't)			No Further Action	

Views of child	
Views of family/ carer	
Date of Case Conference to review plan	



**CHILD & YOUTH PROTECTION
FOUNDATION**

**THE GLOBAL FUND FOR
Children**

Name of Case Worker		Profession of Case Worker	
Contact number		Organisation name and address	
Date of assessment		Signature of Case Worker	
Date Case Conference Completed		Signature of Case Manager	



CHILD & YOUTH PROTECTION
FOUNDATION

THE GLOBAL FUND FOR
Children

MODULE II:

BEST INTEREST DETERMINATION

AND

HUMAN RIGHTS IN THE

ADMINISTRATION OF CHILD ABUSE



Best Interest Determination in Child Protection (BID)

What is BID?

A Best Interest Determination describes the formal process designed to determine the child's best interests for particularly important decisions affecting the child that require stricter procedural safeguards.

The determination of the best interests of the child is not a stand-alone activity: it must be part of a broader child protection programme and the overall child protection system.

The following **elements** of a child protection programme are crucial for successful BID implementation:

- Identification,
- Documentation,
- Family Tracing,
- Case Management,
- Referral and
- Follow-up systems.

Partnership with other key agencies and child protection actors is crucial for any child protection programme and for effective implementation of the BID process.

Child protection staff must have a good understanding of child-rearing practices, family structures and traditional forms of interim care within the population(s) of concern. These practices differ significantly across cultures and are important to consider in developing support programmes for children at risk.



Child Protection

Child protection work consists of both prevention and response. A multi-sectorial approach should be adopted, working together with stakeholders of other sectors such as health, education and livelihood.

PREVENTION SERVICES	RESPONSE SERVICES
Birth registration	Family tracing and reunification
Awareness-raising with children and adults on child protection and child rights	Placement of children in alternative care
Children's and youth clubs	Income-generating activities for families at risk
Social protection measures, including cash transfers to families	Drop-in centres
Life skills training for youth	Reintegration services



Parenting programmes	Emergency shelters
Micro-credit schemes	Vocational training
Maternal and child health services	Legal action
Formal and non-formal education	Recreational and psychosocial programmes and counseling
Mental health services	Support of community-based and child-led child protection mechanisms
Disaster risks reduction activities (DRR)	Measures to prevent children from engaging in hazardous labour

Why BID?

- It encourages a child rights based approach to protection programming.
- It facilitates case management through the development of a care plan with better monitoring of children at risk.
- It facilitates better quality care for children at risk as it involves persons with different expertise in child protection.
- It provides a formal process with safeguards for making decisions which are likely to have a fundamental impact on the lives of children.
- It ensures that children's views and opinions are given due weight according to their age, maturity and evolving capacities.



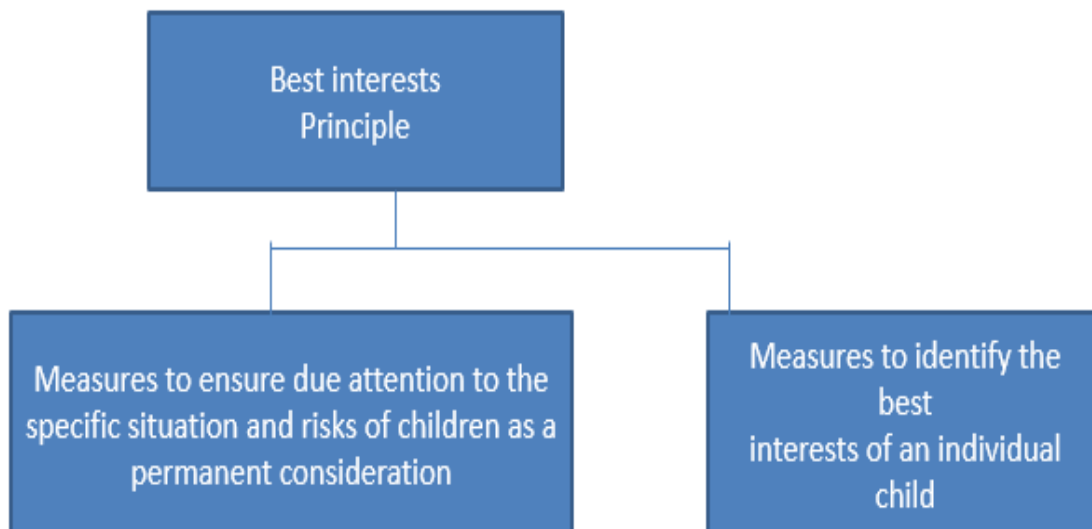
- It provides a more comprehensive assessment of children at risk that addresses the full spectrum of the child's situation, needs, and vulnerabilities and considers both short- and longer-term impacts.

As a joint undertaking it also serves to assign roles and responsibilities and thereby enhances the accountability of the various actors involved in protection delivery for children.

When to Carry Out a Bid

- In circumstances in which formal procedural safeguards and additional protection measures are necessary for identified children at risk.
- When certain decisions or actions may have a significant and long-term impact on the life of a child.
- When a parent or caretaker of a girl or boy is unable or unwilling to meet the best interests of the child.
- In complex protection cases, for instance, if there are conflicting factors and rights which complicate the assessment of the child's best interests.

The Best Interest Principle:



Who Undertakes The BID?

The process of BID will be conducted by the agency in charge of the welfare of the child. A panel will be set up that should consist of 3 – 5 member. The panel should be multi-disciplinary

Criteria for Membership of the Panel

- An understanding of child rights
- A solid understanding of the practical implications of the different stages in child and adolescent development knowledge on specific protection risks such as, trafficking, recruitment, sexual and gender-based violence
- An understanding of the procedural aspects of the BID.
- A sensitivity to cultural background, age and gender-related issues.



- An understanding of the cultural and religious background of the child.
- A knowledge of the social and economic background of the child

Gathering Information on the Child.

- A verification of existing and documented information on the child
- Several interviews with the child and if appropriate observations; Interviews with persons within the child's network including caregivers, family (extended and siblings), friends, neighbours, guardian, teachers, etc.
- Background information on the conditions in the locations considered for the decision;
- Where appropriate or necessary, views of experts.

The View of the Child.

- Children 16 years and older are normally assumed to be sufficiently mature to make decisions, such as decisions relating to their caregivers.
- Children between 14 and 16 are presumed to be mature enough to make a major contribution.
- Children between 9 and 14 can meaningfully participate in the decision-making procedure, but their maturity must be carefully assessed on an individual basis
- Children younger than 9 have the right to give their opinion and be heard.
- The views of the child may carry different weight depending on the degree that the child knows and understands the consequences of the various options.

During the **BID procedure**, it is important to focus on the rights of the child so that the child's interests will be fully considered. This does not mean that the needs and rights of a child must always prevail where interests clash.



CHILD & YOUTH PROTECTION
FOUNDATION

THE GLOBAL FUND FOR
Children

The child should be informed of the decision as soon as it is made. If the child has been involved throughout the process, as should be the practice, the decision will in most cases not come as a surprise.

Just as every BID case differs, the reaction of the child to the BID outcome will differ. Every child should have the chance to come to terms with the decisions, and some children may need more time than others.

Records shall be kept of all information collected, including the protocols of interviews, the BID report and assessment forms and other materials. Access to BID documents shall be restricted to authorized staff.



Assessment of Relevant Factors

Factors	Current Situation of the Child	Option 1	Option 2	Option 3
Views of the child				
Views of family members and other persons close to the child				
Safe environment and risk of harm				
Family environment and alternative care				
Development needs of the child				
Other factor(s) relevant in the specific circumstance				



Who is a child?

According to Section 277, a child is anyone below the age 18 unless otherwise stated by the provisions of the law.

HUMAN RIGHTS IN THE ADMINISTRATION OF CHILD ABUSE

Child Justice Administration in Nigeria:

Child justice administration is by emphasising that rights of the child are not violated and same is protected against abuse:

Therefore the aim of child justice is to achieve the following:

- treatment of child offenders to be fair and humane'
- their well-being and rehabilitation and that of the reaction of the authorities should be proportionate to the circumstances of the offender as well as the offence'
- Prevent issues that may affect the child from his or her development in life and to accord him or her dignity and respect.

Legal instruments for protection of the child's rights in Nigeria

1. Convention on the Rights of the Child (CRC) (1989)
2. African Charter on the Rights and Welfare of the Child (1990)
3. The 1999 Constitution of the Federal Republic of Nigeria
4. The Child's Rights Act(CRA) (2003)
5. The Child's Rights Law of various State (CRL) (2007)

Other legal instruments for protection of the child's rights



- Child Right Laws of various 23 States, Abia, Akwa Ibom ,Anambra, Bayelsa, Benue, Cross River, Delta, Ebonyi, Edo, Ekiti, Imo, Kwara, Lagos, Nasarawa, Ogun, Ondo, Osun, Oyo, Rivers , Plateau, Niger, Kogi, Taraba
- Trafficking in Persons (Prohibition) Law Enforcement and Administration Act 2003;
- Violence Against Persons(prohibition) Act 2015
- Labour Act Cap LFN 2004
- Ebonyi State Law No. 010 (2001) on the Abolition of Harmful Traditional Practices Against Children and Women;
- Edo State Female Genital Mutilation (Prohibition) Law 2002;
- Edo State Criminal Code Amendment Law 2000;
- Bauchi State Hawking by Children (Prohibition) Edict of 1985 CAP 58;
- Cross River State Girl Child Marriages and Female Circumcision (Prohibition) Law 2000;

The core principle of the CRC

To emphasise the best interests of the child as being the prime consideration for instance, Articles 37 to 40 of the CRC emphasise that;

- 'a child cannot be deprived of his/her liberty unjustly',
- recognise the right of juveniles to 'rehabilitation and social reintegration extending to children who are victims of neglect,
- exploitation and abuse' and confers some rights on juveniles which apply to all phases of the juvenile justice process



The core principles of the African Children's Charter

Article 17 of the African Children's Charter affords the 'child offender accused of having infringed penal law the opportunity of having the right to special treatment in a manner consistent with the child's dignity and worth'.

This reinforces the respect for the child's rights and fundamental reforms by reintegrating and rehabilitating him or her back to his or her family and society.

The core principle of the CFRN 1999

Chapter 1V of the CFRN as amended contains the Fundamental rights of every citizen of Nigeria including children.

The core principle of the CRA

The CRA has 278 Sections and 11 Schedules.

The Child's Rights Act 2003 was enacted by the National Assembly of the Federal Republic on Nigeria and has 31st July, 2003. It is 'AN ACT TO PROVIDE AND PROTECT THE RIGHTS OF A NIGERIAN CHILD; AND OTHER RELATED MATTERS'. For the Act to be enforceable in a State is must be passed into law by the House of Assembly of the State.

Child Justice Administration/ Child Rights

The legal status and fundamental rights of the child set out in the CFRN 1999 and Part II of the CRA, and in particular are:

- The presumption of innocence;
- The right to be notified of the charges;



- The right to remain silent;
- The right to the presence of a parent or guardian
- The right to legal representation and free legal aid shall be respected in the administration of the child justice system.

Rights of children in conflict with law

The rights in the administration of child abuse are embedded in the following legal instruments:

1. The CFRN 1999 as amended
2. The CRA 2003
3. The Criminal law, both substantive and procedural law (penal code/ criminal code)

The CFRN 1999 as amended: Chapter IV

- Right to life (S. 33)
- Right to dignity of human person (S. 34(1))
- Prohibition of torture or inhumane and degrading treatment (S.34 (1) (a))
- Prohibition of slavery or servitude (S. 34(1) (b))
- Prohibition of force or compulsory labour ((S. 34(1) (c))
- Right to personal liberty (S. 35)
- Right to fair hearing (S. 36)
- Right to privacy
- Freedom of thought, conscience and religion (S. 38)
- Freedom of expression (S. 39)
- Right to freedom of movement (S.41)
- Prohibition of discrimination (S.42)



- Right to acquire and own immovable property in Nigeria(S. 43)

NIGERIA'S CHILD'S RIGHT ACT 2003 CAP C 50 LAWS OF FEDERATION

In addition to the above Constitutional provision, there are also provisions of Federal and State legislations that seek to address other forms of violence against children.

The CRA 2003 in Sections 21- 40 provides for the protection of children against discriminatory, harmful and exploitative practices. These include

- the prohibition of child marriage,
- child betrothal
- infliction of skin mark or tribal marks
- abduction
- force,
- exploitation
- hazardous child labour,
- child hawking,
- begging for alms,
- prostitution
- unlawful sexual intercourse
- other forms of sexual abuse and
- Exploitation prejudicial to the welfare of the child.



The CRA further prohibits recruitment of children into the Armed Forces of Nigeria, and importation of harmful publication which portray information on commission of crimes, acts of violence, obscene, immoral and indecent publications which tend to corrupt or deprave a child.

Legislative provisions of CRA on prevention, protection, and redress

Sections 50-52 of the CRA 2003 provide for the protection of children in need of care and against physical or moral danger and empowers “a child development or police officer or any other authorized person to bring a child in need of care and protection before a court for a corrective order, if he has reasonable grounds for believing that the child is an orphan or is deserted by his relatives, neglected, ill- treated or battered by his parent or guardian or custodian, or found destitute, wandering, homeless or surviving parent undergoing imprisonment, mentally disordered, or otherwise severally handicapped; or found begging for alms, or in company of a reputed/or common thief or prostitute, or otherwise beyond parental control or exposed to moral or physical danger.”

Sections 21-40 of the CRA 2003 provide for the protection of the rights of the child through the prohibition of:

- a. child marriage,
- b. child betrothal,
- c. infliction of tattoos and skin marks,
- d. exposure to use,
- e. production,
- f. trafficking of drugs and other psychotropic substances,
- g. use of children in any criminal activity,



- h. abduction and unlawful removal and transfer of a child from lawful custody, forced,
- i. Exploitative or hazardous child labour, including employment of children as domestic helps outside their own home or family environment.

Specific Provisions of C.R.A Addressing All Forms of Violence

The CRA, 2003 has made a fair attempt under **Parts III, IV, V and VI** to address all forms of violence against children including physical, sexual and psychological as well as emotional violence, injury or abuse, neglect or negligent treatment which takes place in the family, home, school, neighbourhood, workplace, street and the community, among others.

Provisions of CRA prohibiting Corporal Punishment of Children in Various Settings

The CRA 2003 in Section 221 (1) (b) provides that “no child shall be ordered to be subjected to corporal punishment”. Under the Nigerian legal system there is no specific provision for the punishment of those who administer corporal punishment to children. However, in the light of the above provision of the CRA such an act now constitutes an assault or battery or causing grievous harm to the child.

Section 221 of the CRA explicitly prohibits the imposition of corporal or capital punishment or imprisonment on any person below the age of 18 years. However, existing Penal and Criminal Codes operative in all the States of Nigeria provide for capital punishment and corporal punishment as sentences for crimes committed by any person in Nigeria. Hence capital punishment is constitutional in Nigeria if it is based on the order of a competent Court of law. Accordingly, the existing Criminal and Penal Codes are yet to be reviewed to be consistent with the CRA 2003 even as the CRA overrides any other legislative provisions inconsistent with it.



Provisions of CRA on Ways of addressing harmful or violent traditional practices

The CRA 2003, in Part III protects children against discriminatory, harmful and exploitative practices. Specifically, Section 21 CRA prohibits child marriage and provides punishment for those who violate this provision and there is liability on conviction to a fine of five Hundred Thousand Naira or five years imprisonment or to both.

Note that Nigeria is a Federal Republic composed of 36 states and one Federal Capital Territory (Abuja). Government includes federal, state and local levels. State and local governments are in charge of the implementation of the national policy as defined and monitored by the federal authority. Nonetheless, each state has its own government, laws and judiciary. The states are subdivided into 774 Local Government Areas. The Act recognizes the rights of children, restores their confidence and self-esteem and improves their status. It will also enable children with disabilities, to enjoy their rights fully, as it provides special measures for their care and protection. All sectors of the society, including government and the people, will benefit from the production of well- rounded and self-confident future leaders.

NB In 1993 after the ratification of the convention on the right of the child in 1991, Children Bill was drafted to implement the principles enshrined in the CRC and the AU Charter on the Rights and welfare of the child. The bill was finally passed and assented to in 2003 in September by the then President Olusegun Obasanjo. It is intended to be the definitive piece of legislation concerning children within Nigeria.

The provisions of CRA supersede all other legislation that has a bearing on the right of the child, except the constitution. 23 States in Nigeria & FCT have so far passed the CRA now CRL As at today the following States are yet to domesticate the CRA they include : **Adamawa, Bauchi, Borno, Enugu, Gombe, Jigawa, Kaduna, Kano, Katsina, Kebbi, Sokoto, Yobe, Zamfara.**

Basic provisions of the CRA protecting the Human rights of Children and best interest principle



- i. The dignity of the child shall be respected at all times (S.11)
- ii. Every child has the right to survival and development (s.4)
- iii. Every child is entitled to privacy (s.8)
- iv. Every child has a right to basic education (s.15)
- v. Freedom of thought, conscience and religion (s.7)
- vi. Prohibition of discrimination of all forms either by circumstance of birth, ethnic group or community, or disability. (s.10)
- vii. Freedom from torture or inhumane and degrading treatment to wit ;physical , mental or emotional injury, abuse or neglect, sexual abuse etc (s.11 &32)
- viii. Freedom from attacks on a child's honour and reputation (s.11)
- ix. Right to rest and leisure (s.12)
- x. Right to enjoy safe and best state of physical, mental and spiritual health (13)

Every Government in Nigeria shall-

- endeavour to reduce infant and child mortality rate;
- ensure the provision of necessary medical assistance and health care services to all children with emphasis on the development of primary health care;
- ensure the provision of adequate nutrition and safe drinking water;
- ensure the provision of good hygiene and environmental sanitation;
- combat disease and malnutrition within the framework of primary health care through the application of appropriate technology;
- ensure appropriate health care for expectant and nursing mothers; and
- support, through technical and financial means, the mobilization of national and local community resources in the development of primary health care for children; **Section 13(3) (a-g) CRA**



- xi. Right to parental care, protection and maintenance; Section 14 (1) (a-b)
- xii. Right of a child to free, compulsory and universal primary education, etc; Section. 15 (1)
- xiii. Right of a child in need of special protection measure; Section 16 (1)
- xiv. Right of the unborn child to protection against harm, etc; Section 17 (1)

PROTECTION OF CHILDREN IN CONFLICT WITH LAW

Institutional Mechanisms

Institutional mechanisms are the various institutions put in place by both national and international governmental agencies saddled with the responsibilities of children human right protection in terms of implementing the various government policies as well as adjudicating on the various laws protecting child's rights in Nigeria. These institutional mechanisms range from court to civil societies and various international and national governmental policies.

A. Family Court

The CRA 2003, provides for family courts which will operate at the High Court and Magisterial levels, and have been vested with the jurisdiction to hear all cases in which the existence of a legal right, power, duty, liability, privilege, interest, obligation or claim in respect of a child is in issue, or any criminal proceedings relating to any offence committed by a child. **Section 149**

Establishment of the Family Court

According to the CRA there shall be established for each State of the Federation and the Federal Capital Territory, Abuja a court to be known as the Family Court (the Act referred to as the Court) for the purposes of hearing and determining matters relating to children.

Court levels of the Court



The Court shall be at two levels- -

- a. The Court as a Division of the High Court at the High Court level: and
- b. The Court as a Magistrate Court, at the Magistrate level. **S.150 CRA**

General jurisdiction

Subject to the provisions of the CRA and in addition to such other jurisdiction as may be conferred on it by any other law, the Court shall have unlimited jurisdiction to hear and determine the following issues: -

- a. any civil proceeding in which the existence or extent of a legal right, power duty, liability privilege interest, obligation or claim in respect of a child is in issue; and
- b. any criminal proceeding involving or relating to any penalty, forfeiture, punishment or other liability in respect of an offence committed by a child, against a child or against the interest of a child.

The reference to civil or criminal proceedings in this section includes a reference to a proceeding which originates in the Court and that which is brought by the Court at the High Court level to be dealt with by the Court in the exercise of its appellate or supervisory jurisdiction.

The Court shall, in any matter relating to or affecting a child or a family and at all stages of any proceedings before it-

- a. Be guided by the principle of conciliation of the parties involved or likely to be affected by the result of the proceedings, including- .
 - i. the child,
 - ii. the parents or guardian of the child, and
 - iii. any other person having parental or other responsibility for the child; and
- b. Encourage and facilitate the settlement of the matter before it in an amicable manner. **S.**

151(1, 2, 3) CRA

Composition of the Family Court at the High Court Level; Section 152 of CRA



1. The Court at the High Court level shall consist of such member of-
 - a. Judges of the High Court of the State and the Federal Capital Territory, Abuja; and
 - b. Assessors, who shall be officers not below the rank of Chief Child Development Officers, as shall enable the Court to effectively perform its functions under this Act.

Subsection 2 provides; the members of the Court at the High Court level shall be appointed by Chief Judge of the State and in the case of the Federal Capital Territory, Abuja, and the Chief Judge of the High Court of the Federal Capital Territory. Abuja.

The Court at the High Court level shall be duly constituted if it consist of-

- a. A Judge; and
- b. Two assessors, one of whom has attributes of dealing with children and matters relating to children preferably in the area of child psychology education.

Powers of the Court

The Court at the High Court level shall have power to do the following: -

- a. deal with all matters relating to the enforcement of the rights of the child as set out in the CRA on the application for redress by a child who alleges that a right has been, is being, or is likely to be infringed in respect of him;
- b. deal with all offences punishable with-
 - i. death, or
 - ii. terms of imprisonment for a term of ten years and above;
- c. deal with other matters relating to a child where the claim involves an amount of Fifty Thousand Naira and above;
- d. deal with divorce and custody of the child; and
- e. hear appeals from the Court at the Magisterial level.



Appeals shall lie to the Court of Appeal on any matter decided by the Court at the High Court level in the same manner as appeals lie in respect of matters decided by the High Court.

Family Court at the Magistrate Court level

The Court at the magisterial level shall consist of such number of-

- a. Magistrates, not below the rank of Chief Magistrate; and
- b. Assessors, who shall be officers not below the rank of Senior Child Development Officer, as shall enable the Court to effectively perform its functions under this Act.

The members of the Court at the magisterial level shall be appointed by the Chief Judge of the State and in the case of the Federal capital Territory, Abuja, the Chief Judge of the High Court.

(3) The Court at the magisterial level shall be duly constituted if it consist of-

(a) A Magistrate;

(b) Two assessors, one of whom shall be a woman and the other person who has attributes of dealing with children and matters relating to children, preferably in the area of child psychology education,

(4) The Court at the magisterial level has power to try offences and deal with all matters not specifically assigned to the Court at the High Court level under Section 152 of this Act.

(5) Appeals lie to the Court at the High Court level from a decision of the Court at the magisterial level in the same manner as appeals lie from the decisions of Magistrates Courts to the High Court of the State. **S.**

153 (5) of CRA.

The personnel of the Court shall be afforded professional education, in-service training, refresher courses and other modes of instruction to promote and enhance the necessary professional competence they require.

S. 154 (1) CRA



The contents of the education, training and courses referred to in Subsection (1) of this section shall be such as shall reflect the diversity of the children who come into contact with and the diversity and complexity of matter dealt with by the Court. . **S154 (2) CRA**

In constituting a Court handling a matter concerning a child, consideration shall be given to the circumstances and the needs of the child, particularly the age, sex, religion or other special characteristics of the child. **S.154 (2) CRA**

Principles Guiding Proceedings/ Support for children in conflict with the Law

Right to counsel

A child has the right to be represented by a legal practitioner and to free legal aid in the hearing and determination of any matter concerning the child in the Court. **S. 155 CRA.**

Exclusion of persons from attending court

No person, other than the members and officers of the Court, the parties to the case, their solicitors and counsel; parents or guardian of the child and other persons directly concerned in the case shall be allowed to attend the Court, and, accordingly, member of the press are excluded from attending a Court. **S. 156 CRA.**

Prohibition of publication of child's name

During proceeding in the family court, no person shall publish the name, address, school, photograph, or anything likely to lead to the identification of a child whose matter is before the Court except in so far as is required by the provisions of this Act. **S.157 (1) CRA**

A person who acts in contravention of the provisions of this section commits an offence and is liable on conviction to a fine of fifty thousand naira or imprisonment for a term of five years or to both such fine and imprisonment. **S.157 (2) CRA**

Proceedings to be in the interest of the child



The proceedings in the Court shall be conducive to the best interest of the child and shall be conducted in atmosphere of understanding; allowing the child to express himself and participate in the proceedings including right to interpreter. **S.158 of CRA.**

Attendance of parents, guardians or child at the hearing in the Court

In any proceedings in which the Court is hearing an application for an order under this Act, or is considering whether to make an order, the Court may order the parents, guardian or the child concerned to attend such stage or stages of the proceeding as may be specified in the order. The power conferred above shall be exercised in accordance with the rules of the Court. **S.159 (1, 2) CRA**

Where an order made under subsection (1) of this section has not been complied with or the court has reasonable cause to believe that it will not be complied with, the Court may do any of the following

- (a) Make an order authorizing a police officer or such person, as may be specified in the order to-
 - (i) Take charge of the child and to bring him to the Court, and
 - (ii) Enter and search any premises specified in the order if he has reasonable cause to believe that the child may be found on the premises; or
- (b) Order any person who is in a position to do so to bring the child to the court. **S.159 (3) CRA.**

Note that where the Court has reason to believe that a person has information about the whereabouts of child, it may by order require the person to disclose such information to the Court. A person who refuses to comply with an order made under this section commits an offence and is liable on conviction to a fine not exceeding fifteen thousand naira or to imprisonment for a term not exceeding eighteen months or to both such fine and imprisonment. **SEE. S.159 (4, 5)**

Evidence giving by a child



In any proceedings, whether civil or criminal, the evidence of a child may be given unsworn. A deposition of a child's sworn evidence shall be taken for the purposes of any proceedings, whether civil or criminal, as if that evidence had been given on oath **S.160 CRA.**

Rules for procedures and fees

The Chief Justice of Nigeria may make rules regulating the procedure in the Court the parties entitled to participate in any proceedings, the fees to be charged and the forms to be used in proceedings. While the provisions of any written law relating to the practice and procedure in Magistrate Courts or High Courts, as the case may be, not inconsistent with the provisions of this Act shall have effect with respect to proceedings in the Court **S.1161 (1, 2).**

Exclusive jurisdiction

No other Court, except the Family Court, shall exercise jurisdiction in any matter relating to children as are specified in this Act.

The provisions of subsection (1) of this section shall not affect the jurisdiction of the normal criminal courts to try cases or offences by adult offenders as specified in Part III of this Act or any other. **S.162 (1, 2).**

Legal Aid Facility

Under the Nigerian Constitution, the National Assembly is mandated to ensure that Legal aid and financial assistance is available to all indigent citizens (children inclusive) to facilitate submission of complaints and in seeking redress. In addition the Legal Aid Act of 2004 provides for legal assistance and services to poor citizens charged with the commission of capital offences in Nigeria. It establishes the National Legal Aid Council and charges it with the responsibility earlier mentioned.

PENAL SANCTIONS

Outcome of legal proceedings in respect of Child offenders



Under the various Criminal and Penal Codes as well as the Children and Young Persons Laws of various States, children in conflict with the law or juvenile offenders are liable to various forms of punishment ranging from committal to remand homes or Borstal training homes for vocational training, rehabilitation and reformation programmes before release. This depends on the nature and gravity of the offence in question.

Jurisdiction to Impose Punishment

A family Court is empowered to impose punishment only as regulated by the provisions of the Children Right Law (of various State) and the provisions the Criminal Procedure Act for instance. It has been stated earlier that family Courts do not have jurisdiction over homicide offences. Hence, family Courts cannot impose death sentence.

Section 419 (1) & (2) of the Criminal Procedure Act generally provide that:

- i. A child shall not be ordered to be imprisoned; and
- ii. A young person shall not be ordered to be imprisoned if he can be suitably dealt with in any other authorized manner such as probation, fine, corporal punishment or committal to an approval institution.

By the import of S.419 (3) of the CPA, a young person who has been ordered to be imprisoned must be separated from adult prisoners.

Where a young person who has not attained the age of seventeen years at the time of the commission of the crime is found guilty of a capital offence, sentence of death shall not be passed on him. Instead, he shall be ordered to be detained during the pleasure of the President or Governor as the case may be. This is as contained in S.272 of CPC and S. 368 of CPA.



It must be noted that the relevant age of the accused in the foregoing is his age at the time of commission of the crime but not his age at the time of conviction. In S.427 of CPA where a child or young person has been tried and found guilty the court may, after, due consideration, do one of the following;

- a. Dismiss the charge ;or
- b. Discharge the offender on his entering into a recognizance; or
- c. Discharge the offender and place him under supervision of probation officer or;
- d. Commit the offender to the care of a relative or other fit person; or
- e. Send the offender to a Government establishment or an institution; or
- f. Order the offender to be whipped ; or
- g. Order the offender to pay fine, damages, costs; or
- h. Order the parent or Guardian of the offender to pay a fine damages or costs; or
- i. Order the parent or Guardian of the offender to give security for his good behavior; or
- j. Commit the offender with the approval of the Governor, to custody in a place of detention established under the children and young person Law; or
- k. Where the offender is apparently fourteen years old or upwards' the court may sentence him to imprisonment; or
- l. Deal with the case in any other manner in which it may be legally dealt with

Maximum fine on a child

Where a child is charged before a magistrate's court with an offence and the court deals with the case summarily, the court may not inflict on him a fine exceeding four naira. This is the spirit of S.428 of the CPA which same is silent under the CPC.

Power to order parent to pay fine, instead of child or young person



Depending on the location, in S.429 of CPA applicable to the southern part of Nigeria, where a child or young person is charged before any court with a any criminal offence for the commission of which a fine, damages, or costs may be imposed and the court is of the opinion that the case would be best met by the imposition of a fine, damages, or costs, whether with or without any other punishment, the court may in any case , and shall if the offender is a child ,order that the fine , damages or costs awarded be paid by the parent or guardian of the child of the child or young person instead of the child or young person , unless the court is satisfy that the parent or guardian cannot be found of that.

Similarly, S. 429(3) of the CPA where the court thinks that a charge against a child or young person is proved, the court may make an order on the parent or guardian for the payment of fine, damages or costs or requiring him to give security for good behaviour, without proceeding to the conviction of the child or young person.

Appeals

By the powers of Section 233 of the CFRN 99 (as amended), appeals from the decision of a family court lie to the court of Appeals while the decision of the court of Appeals from the High Court lie to the Court of Appeal. Further Appeal lies to the Supreme Court.

Changes in the CRA

The CRA provides for the substitution of the word 'juvenile' in the CYPA with 'child offender' 'juvenile court' in the CYPA with 'family court' in the CRA; juvenile justice administration in the CYPA with 'child justice administration' in the CRA.



Other changes include the substitution of the word 'detention' in the CYPA with 'custody' in the CRA; 'approved schools' in the CYPA with 'children residential and children correctional centres in the CRA;'probation and probation officers in the CYPA with 'child care, guidance and supervision' in the CRA.

It is my contention that these substitutions in the CRA bring about greater clarity in the application of the law in Nigeria as these replacements, if implemented, will prevent the stigmatisation of a child alleged to have committed an offence, or one who is beyond parental control to be regarded as an offender.

In practice, the replacement of approved schools or remand homes or Borstal institutions, as indicated in the CRA, has not been implemented as the old system is still in operation, especially as the Laws of the Federal Republic of Nigeria (LFN) 2004 have not been amended to reflect the new names. For instance, the remand home and Borstal institution in the old order of the CYPA are still retained in the LFN as the Borstal Institutions and Remand Centre Act, despite the enactment of the CRA which changed the name, as indicated above. The article, therefore, argues that retaining the old names in the LFN results in discrepancies in the treatment of a child alleged to have committed an offence or a child in need of care and protection.