



UNHCR
The UN
Refugee Agency

Field Handbook for the Implementation of **UNHCR BID Guidelines**



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Acknowledgements

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Acronyms and Abbreviations

1951 Convention	Convention Relating to the Status of Refugees (1951)
ARC	Action for the Rights of Children
BID	Best Interests Determination
BIA	Best Interests Assessment
CAAFAG	Children Associated with Armed Forces and Armed Groups
CBO	Community-based Organisation
CHH	Child-headed Household (also Peer-headed Household)
CPA	Comprehensive Plan of Action
CRC	Convention on the Rights of the Child UNHCR Executive Committee
ExCom	UNHCR Executive Committee
FTR	Family Tracing and Reunification (also Family Tracing and Reintegration)
IA CP IMS	Inter-agency Child Protection Information Management System
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Person(s)
ILO	International Labour Organisation International
INGO	International Non-governmental Organisation
IRC	International Rescue Committee
NGO	Non-governmental Organisation
RSD	Refugee Status Determination
SGBV	Sexual Gender-based Violence
SOP	Standard Operating Procedure
ToR	Terms of Reference
UNHCR	United Nations High Commissioner for Refugees
UNHCR BID Guidelines	UNHCR Guidelines on Determining the Best Interests of the Child (May 2008)
UNICEF	United Nations Children's Fund
WVT	World Vision Tanzania

Chapter 1: Introduction

§ 1.1 The Best Interests of the Child

All actions concerning children shall be guided by the principle of the best interests of the child. The principle applies to all children—including refugee, internally displaced, stateless, and asylum-seeking children. Everyday, UNHCR and partner staff encounter situations where decisions for individual children need to be guided by the best interests principle. Such decisions may involve arranging alternative care for an unaccompanied or separated child, assessing the protection needs of a child at risk, or identifying a durable solution for a separated child. These decisions will have long lasting impacts for the individual child and therefore cannot be taken lightly. Safeguards and procedures need to be in place to ensure that the best interests principle will be duly applied to the child’s individual situation. Ensuring that the child can voice his or her own opinions in this process is one of the key safeguards in this process.

In order to assist UNHCR and partner agencies operationalize the principle in their everyday work, UNHCR developed a formal process for determining children’s best interests. This procedure is described in the UNHCR Guidelines for Determining the Best Interests of the Child (2008). Formalizing the process in this way has helped to increase the consistency and quality of decisions that significantly impact the lives of children.

The concept of the “best interests of the child” seems straightforward, but applying it in real-life situations can be challenging because considerations are often competing or even contradictory. Experience and feedback from field staff since the Guidelines were published have indicated that further implementation guidance is needed: the Guidelines describe what needs to be done, but more could be said on how to practically do it. In response, UNHCR and the International Rescue Committee have worked together to develop this Field Handbook for best interests determination. The 2008 Guidelines remain the authoritative guide, but the Field Handbook is a complementary source of guidance that offers additional advice on how to carry out best interest determination process in practice.

The Field Handbook offers more than details on how to implement the best interests determination (BID) process for children of concern to UNHCR. The Guidelines also clearly state that BID mechanisms should not be established in isolation from other protection measures intended to benefit children of concern to UNHCR. The mechanism is designed to be part of a comprehensive child protection system. The purpose of the process is not simply to determine what a child’s best interests are, but to also create and carry out a care plan that will serve those interests. Acting in support of a child’s best interests means having the capacity to do so through engaging the entire child protection system. The Field Handbook highlights these connections, helping UNHCR and other child protection staff understand how the pieces fit together as a comprehensive system. UNHCR’s goal is to establish better practice through better understanding and, ultimately, improved protection for all children of concern.

While this field Handbook mainly refers to refugee children, it is clear that the best interests principle must also guide all actions and interventions that UNHCR or partners take on behalf of other children of concern, e.g. internally displaced children. However, the process for implementing the best interests principle might differ, depending on the existing national child protection system and the nature of UNHCR’s engagement with internally displaced in that particular operational context. Should UNHCR be implementing a full BID process for internally displaced children, the Guidelines and this Field Handbook must be adhered to.

§ 1.2 Background on Implementation of the Best Interests Principle in UNHCR Operations

Over the years UNHCR has gained important experience in operationalizing the principle in its work for protecting children of its concern. Some of this work started prior to the 2008 UNHCR Guidelines were issued.

In the 1990s, UNHCR applied the best interests principle in its Comprehensive Plan of Action (CPA) for Vietnamese asylum-seekers and their dependants, which included Guidelines on Special Procedures for unaccompanied minors and other persons of special humanitarian concern. One key feature of the procedure was the assessment of the “best interests” of minors.

In the beginning of 2000, the best interests principle was applied during the assessment of durable solutions for the so-called “Lost Boys” of Sudan living in Kakuma refugee camp, Kenya. After evaluating the procedure applied in Kakuma, an initial set of guidelines on the best interests of the child were developed for use in Ethiopia (2003 to 2004), where BIDs were again conducted for unaccompanied and separated Sudanese refugee children.

Some resettlement countries requested UNHCR to put in place adequate safeguards to determine if resettlement is in the best interests of refugee children. UNHCR started drafting global guidelines for the determination of the best interests of the child in 2004. This resulted in a provisional version released in May 2006. The field-testing of the provisional Guidelines resulted in valuable feedback from field staff and important lessons learned such as those drawn from the IRC’s evaluation of BID implementation in Guinea. The final version of the BID Guidelines published in May 2008 incorporated these insights.¹

Among the main lessons learned was the importance of emphasising that BID is a general child protection tool. The emphasis is needed to counterbalance the tendency to apply BID mainly in the context of resettlement, despite the Guidelines’ explicit list of a wider range of situations in which a BID is required. The BID Field Handbook is building on these lessons, as well as on discussions and feedback provided during regional and country level BID workshops held with UNHCR and partner staff in 2009-2010, as part of the joint UNHCR-IRC project on best interest determination.

The BID Guidelines and this Field Handbook are part of UNHCR’s commitments relating to the protection of refugee children. Best interests determination is a tool to implement ExCom Conclusion No. 107 (2007) on Children at Risk.² Best interests determination is also included in UNHCR’s Global Strategic Priorities 2010–11 and 2012-13 and is part of the Age, Gender and Diversity Mainstreaming Accountability Framework. It is therefore important that all programme, community services, protection and field staff, as well as relevant (child protection) partners, have an understanding of the process and are able to apply the Guidelines in their daily work.

¹ International Rescue Committee, *Determining the Best Interests of Unaccompanied and Separated Children: Lessons from Guinea*, September 2007.

² See UNHCR ExCom Conclusion on Children at Risk, No. 107 (LVIII), para. g (i-ii), and h(xvii) 5 October 2007.

Chapter 2: The Best Interests of the Child—An Overview

Key Messages

- In all actions concerning children, the best interests of the child shall be a primary consideration.
- The principle of the best interests of the child applies to all children, without discrimination.
- The best interests principle can only truly operate when children themselves are viewed as individual rights holders and their right to participation is respected.
- BID is a key child protection tool providing additional procedural safeguards and protection measures for children at risk in accordance with the CRC.
- BID facilitates case management, monitoring and follow-up of children at risk.
- BID is a key part of a child protection system and needs to be integrated into the overall protection strategy.

§ 2.1 International Legal Frameworks and the Best Interests Principle

UNHCR BID Guidelines: pages 14-15

The 1989 Convention on the Rights of the Child³ is the main international legal instrument on the protection of children. The CRC acknowledges that every child has certain basic rights and lays down four⁴ fundamental principles; the principle of best interests as a primary consideration, included in Article 3, is one of them.

The best interests principle is a legally binding rule. Although the CRC does not give a precise definition of the principle, or explicitly outline common factors of the best interests of the child, the concept does broadly describe the overall well-being of a child. The absence of a specific definition in the CRC allows for the considerations of each case to be balanced in relation to its own context, but within a well-defined procedural framework. Considerations include individual factors such as age, gender, level of maturity and experiences, as well as social context factors such as the presence or absence of parents, quality of the relationships between the child and family/caretaker, physical and psychosocial situation of the child, and protection situation (security, protection risks, etc.).

Article 3 states that the best interests must be a primary consideration, but not necessarily the sole consideration. It applies for all other actions affecting children, whether undertaken by the public or private social welfare institutions, courts of law, administrative authorities or legislative bodies.⁵ It obliges states

³ UN General Assembly, Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989).

⁴ The four fundamental principles in the CRC are non-discrimination, participation, right to life and development, and the best interests of the child

⁵ In the African Charter on the Rights and Welfare of the Child, the best interests principle is described as “the primary consideration”. See Organization of African Unity, African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49, 1990, Art. 4.

to ensure that children's interests are placed at the heart of all decision-making which impacts children. The best interests principle relates to *all* actions concerning individual or groups of children.

In determining the best interests of the child, a person, court or other authority shall take into account the other general principles of the CRC:

- There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinions, national, ethnic or social origin, property, disability, birth or status (Article 2).
- State parties recognize that every child has an inherent right to life and shall ensure to the maximum extent possible the survival and development of the child (Article 6).
- Children shall be assured the right to express their views freely in all matters affecting them, their views being given due weight in accordance with the child's age and level of maturity (Article 12).

As a guiding principle of the CRC, the best interests principle, together with the above principles, should also guide the implementation of all other articles of the Convention.

"...What is truly best for a child cannot be determined by a general formula. What is best for one child will not necessarily be best for another. The touchstone is what is best for the individual child in his or her particular circumstance".⁶

The establishment of a procedure for operationalizing the best interests principle for children, also stems from a child rights based approach to protection programming. Ensuring that children can participate in a meaningful way in decisions that affect their life is one element of this. Another aspect is to ensure that a BID process includes necessary procedural safeguards as checks and balances to ensure that in this process the rights of the individual child are upheld and protected.

The CRC also provides a wider framework to consider in the best interests determination process. The following articles of the CRC are particularly relevant:

Article 9: Unaccompanied and separated children

1. (...) a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, (...), that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
2. (...) all interested parties shall be given an opportunity to participate in the proceedings and make their views known.
3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.
4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (...) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. (...)

6 Ressler, Everett M., Boothby, Neil and Steinbock, Daniel J., *Unaccompanied Children: Care and Protection in Wars, Natural Disasters and Refugee Movements*, Oxford and New York: Oxford University Press, 1988, p. 283.

Article 10: Right to enter or leave his/her country

1. (...) applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. (...)
2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. (...) States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. [...]

Article 19: Protection from abuse and neglect

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.

Article 20: Foster placement

1. A child temporarily or permanently deprived of his or her family environment, (...) shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. (...) due regard shall be paid to the desirability of continuity.

Article 22: Refugee children and family tracing

1. States Parties shall (...) ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall (...) receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights (...).
2. (...) States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Other relevant international legal sources related to children are, for example: general human rights, international humanitarian and refugee law, the ILO conventions No.182 (worst forms of child labour, 1999) and No. 138 (minimum age, 1973), the African Charter on the Rights and Welfare of the Child (1999) and the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography (2000) and the Optional Protocol on the involvement of children in armed conflict (2000).

§ 2.2 National Legal Frameworks and the Best Interests Principle

UNHCR BID Guidelines: page 15

Traditionally, the best interests principle included in domestic laws has often been specific only to custody disputes and adoption.⁷ However, the Committee on the Rights of the Child has been quite specific on how the principle should be incorporated into domestic legislation. The Committee states that the principle should be included in all relevant national legislation such as health and education. The principle should further be incorporated in such a way that courts can invoke it.⁸ Proper implementation of the CRC would, thus, also require a thorough law review to assess which laws must be revised in order to better reflect the best interests principle.

The use of the best interests principle in *all* actions for children is incorporated in a number of States' national laws, for example:

- Children's Act of Kenya (2001)
- Ethiopia Federal Constitution (1994)
- Code de la Protection de l'Enfant of the Democratic Republic of Congo (2008)
- Child Rights Act of Sierra Leone (2007)
- UK Children Act (1989)

In implementing a best interests determination (BID) process, one needs to understand how the best interests principle is (or is not) reflected in national legislation and policies.

§ 2.3 UNHCR and the Best Interests Principle

The UNHCR Executive Committee in its Conclusion No. 107 (2007) on Children at Risk calls on states and UNHCR to utilize best interests determination procedures.

The Conclusion thus provides a foundation and framework for UNHCR's active engagement in BID procedures. The Conclusion emphasizes in particular child participation and the role of national child protection systems.



Extracted from UNHCR's Executive Committee Conclusion on Children at Risk No. 107 (LVIII), 2007

[UNHCR's Executive Committee:]

- (g) *Recommends* that States, UNHCR and other relevant agencies and partners work in close collaboration to prevent children from being put at heightened risk, and respond, as necessary, through the general prevention, response and solution measures listed non-exhaustively below:
- Within the framework of the respective child protection systems of States, utilize appropriate procedures for the determination of the child's best interests which facilitate adequate child participation without discrimination: where the views of the child are given due weight in accordance with age and maturity; where decision makers with relevant areas of expertise are involved; and where there is a balancing of all relevant factors in order to assess the best option;

⁷ UNHCR BID Guidelines, pp. 14-15.

⁸ UNICEF, *Handbook on the Implementation of the Convention on the Rights of the Child*, third version, New York, 2007, Art. 3.

ii. *In the case of UNHCR, conduct best interests determinations respecting child protection systems of States in cooperation with other relevant agencies and partners. (...)*

(h) *Further recommends* that States, UNHCR and other relevant agencies and partners undertake the following non-exhaustive prevention, response and solution measures in order to address specific wider environmental or individual risks factors:

(...)

viii. (...) recognize UNHCR's role in the determination of the best interests of the child which should inform resettlement decisions including in situations where only one parent is being resettled and custody disputes remain unresolved due to the unavailability or inaccessibility of competent authorities, or due to the inability to obtain official documents from the country of origin as this could jeopardize the safety of the refugee or his/her relatives.⁹

§ 2.4 Concepts of Best Interests Assessments and Best Interests Determination

§ 2.4.1 Best Interests Assessments (BIA)

UNHCR BID Guidelines: page 22

Individual casework with children at risk, including unaccompanied and separated children, must be based on an assessment of protection needs with recommendations for interventions and referrals. UNHCR's assessment tool for protection of individual children is referred to as a Best Interests Assessment (BIA). A BIA is essential before any action affecting an individual child of concern to UNHCR is taken, unless a BID is required. As such, a BIA should be the standard or default UNHCR child protection assessment. Other child protection agencies may refer to this process differently, e.g. "a child protection assessment".

Overall, a BIA should be seen as an essential element of case management and general child protection work. It supports child protection actors in any decision or action taken on behalf of a child in line with Article 3 of the CRC.

A best interests assessment should be conducted as soon as a child has been identified to be at risk. The identification of a child at risk can happen at arrival, but more often occurs during the course of displacement through UNHCR or partners, or through community-based protection mechanisms.

While a BIA does not require the strict procedural safeguards of a BID, staff with the required expertise, skills and knowledge in child protection should carry out a BIA. A BIA involves interviews with the child and his/her caregivers and in most cases also includes home visits. The child's views and wishes must be obtained. The assessment and the recommendations need to be documented in order to facilitate monitoring and follow-up of the child and all interventions. The UNHCR sample BIA form can be used for this or, alternatively, other case management forms (e.g. the Inter-Agency Child Protection Information Management Forms).¹⁰

A BIA generally results in an assessment of the situation of the child and recommendations on protection and care interventions. The BIA can result in a recommendation that a Best Interests Determination is required or recommended. Even if it is clear that a full BID will be required but kept pending, for instance, to allow time for family tracing, a BIA can be a first step. In such instances, a well-done BIA is a good basis for the full BID and a tool for monitoring of progress in the situation of the child.

⁹ UNHCR ExCom Conclusion on Children at Risk, No. 107 (LVIII), 5 October 2007

¹⁰ *Inter-agency Child Protection Information Management Factsheet*, available at <http://www.crin.org/docs/1.InterAgencyCPDatabaseFactSheetJune07.pdf>

In conclusion, a BIA is required before any action affecting an individual child of concern to UNHCR is taken with the exception of situations when a full BID is required. For instance, a BIA must be undertaken in the following situations (*but is not limited to these situations*):

- As a child protection assessment for children at risk (e.g. child subjected to sexual violence, child in hazardous labour, etc.).
- Prior to placement of a child in alternative care, e.g. a foster family.
- Prior to family tracing.
- Prior to family reunification (NB: a BID is required in some situations!).
- Measures to address a situation where a child is denied access to education by her/his caregiver.
- When a child is considered for a durable solution with just one parent.

In the context of durable solutions, a BIA is needed when a child is being considered for resettlement with just one parent. In these instances, the outcome of the best interests assessment also needs to accompany the resettlement submission. The BIA process ensures that the best interests of the child have been taken into account before resettlement. The process also provides resettlement States with documentation on the child's protection situation, including a summary of the tracing efforts (if applicable) and UNHCR's recommendation(s). It should be noted that a BIA is not needed if the parent accompanying the child has sole custody, or if the other parent has given written consent for the child to depart. A BIA is also needed for married child spouses who are considered for resettlement together with a parent/caretaker (see textbox after section 3.6).

§ 2.4.2 Best Interests Determination (BID)

UNHCR BID Guidelines: pages 23–24 and 30–44 and Annex 1–4

Best interests determination (BID) describes the formal process with strict procedural safeguards designed to determine the child's best interests for particularly important decisions that affect him or her. It needs to facilitate adequate child participation and involve decision-makers with relevant areas of expertise, who can identify and balance all relevant factors in order to assess the best option. The process must be documented.

UNHCR uses this procedure for particularly important decisions affecting the child that require stricter procedural safeguards in order to identify his or her best interests.

Why is BID an important safeguard for children, their families/caretakers and communities?

- 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.
- 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.

- 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.

The BID Guidelines clearly indicate when a BID is required. These situations are summarized and referenced below:

The following situations require UNHCR and/or partners to undertake a BID for actions affecting children falling under their competence:

- **Temporary care arrangements for unaccompanied or separated children** in exceptional situations (*BID Guidelines, pages 34–35*):
 - in cases of (likely) exposure to abuse, neglect, exploitation or violence within a foster family or other care arrangement;
 - in cases where the care arrangement is not suitable for the child, e.g., regarding differences in cultural or ethnic background.
- The identification of **durable solutions for unaccompanied and separated children**: voluntary repatriation; local integration or resettlement (*BID Guidelines, pages 30–31*).¹¹
- The possible **separation of a child from her/his parents (or person holding custody rights by law or custom) against their will** if competent authorities are unable or unwilling to take action (*BID Guidelines, pages 36–42*):
 - In cases of (likely) exposure to abuse, neglect, exploitation or violence within the family.
- The **identification of durable solutions or decisions on care arrangements, in situations where the custody situation remains unresolved** and national authorities are unwilling or unable to adjudicate on the custody (*BID Guidelines, pages 40–44*):
 - In cases of divorce/separation of the parents – and parents disagree as to which parent the child should stay with.¹²
 - In situations where one parent is being resettled and custody disputes remain unresolved (*ExCom Conclusion No. 107 [LVIII], para. h [xviii]*).

IMPORTANT: *UNHCR’s decisions in the above cases are limited to a best interests determination for the child. The BID is not a legal determination of custody.*
- In complex cases, **prior to family reunification**.¹³

NOTE: *Page 22 of the BID Guidelines highlights three instances when a BID is required. However, there are additional situations where a BID is required, in cases of unresolved custody and family reunification, listed in separate sections of the BID Guidelines or in ExCom Conclusions as referenced above.*

A BID can be undertaken even if it is not formally required and, in a situation where a BIA is deemed insufficient, a BID can still be undertaken as an effective child protection tool, for example:

¹¹ Please note that two married child spouses travelling without either set of parents are UASC and therefore require a BID.

¹² This also relates to separation or divorce in polygamous marriages.

¹³ UNHCR BID Guidelines, Annex 4, p. 78.

- In other 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; and/or
- In complex protection cases, for instance, if there are conflicting factors and rights which complicate the assessment of the child’s best interests;
- In situations regarding polygamous families, as most resettlement countries only accept one spouse in view of their own national legislation forbidding polygamy. To avoid children being separated from one parent, a BID can be undertaken to advocate for the right of the children to remain with both parents.¹⁴

In the box below are some examples of children at risk who are in need of a BIA and/or a BID. (These are fictional examples only: names and stories are not real.)

When Is a BIA Sufficient? When Is a BID Required?

CASE EXAMPLES

Keep in mind: The responsibility to implement the best interests principle is first and foremost that of the State. UNHCR and partners should therefore seek to support national child protection systems in a spirit of partnership, rather than replacing them. Thus, in most of the cases below, it is important to assess to what extent it is possible to involve national child protection authorities in the best interests determination process.

CASE SCENARIO 1

A 16-year-old Ethiopian refugee girl, Aamina, lives with her mother in a refugee camp in Yemen. Aamina’s parents are divorced; her father lives in a nearby town, together with Aamina’s 14-year-old brother, Hakim, but they have not been registered as refugees. Her father came to the camp several times, searching for Aamina and her mother. He said he does not accept that his daughter lives alone with her mother and he wants the girl to live with him, her brother, his new wife and their two young children.

COMMENT: UNHCR and partners should first seek to involve the local authorities to clarify custody and to start a mediation process between the parents and their daughter, if this is in line with the best interests of the girl and her views. Close monitoring and follow-up need to take place. If the custody arrangement remains unresolved because the local authorities are not willing or able to intervene, a **BID** should be conducted in order to finalize recommendations as to which parent Aamina should stay with and what type of support the girl and her family need. During the BID process the situation of her brother, Hakim, also needs to be considered.

CASE SCENARIO 2

A 15-year-old Sierra Leonean refugee girl, called Binata, lives with her sick 67-year-old grandmother in a refugee camp near Kissidougou in Guinea. The two fled from Sierra Leone about eight years ago, and, so far, many efforts to trace other family members have failed. Her grandmother states that she is very ill;

¹⁴ UNHCR BID Guidelines, p. 41.

she does not leave her hut and says she is unable to care for herself. Binata must manage the household and does not go to school or spend time with other peers in the camp, taking care of her grandmother instead.

COMMENT: A **BIA** process needs to take place to assess Binata's situation, to establish whether her grandmother is able to provide adequate care for her granddaughter and to determine if there are any immediate care or protection interventions needed (such as medical care, psychosocial support, etc.). The assessment should also explore if tracing of other family members has taken place, in order to possibly find Binata's parents or other relatives who could care for her in the long-term. The BIA should seek the views of Binata and her grandmother. After the BIA is done, close monitoring and follow-up are necessary. If the situation of Binata's grandmother does not improve and she is unable to care for her granddaughter in the long-term, a **BID** must be conducted to determine Binata's best interests and the need for alternative care arrangement or other solution.

CASE SCENARIO 3

A Palestinian family from Iraq with six children (between 3 and 15 years of age) fled to Syria. According to reports, their father was abducted. Since, there has been no information of his whereabouts. The four girls in the family all stay at home to help their mother in the household. Of the two boys, the 15-year-old son works during the day as a carrier and off-loads lorries to help earn income for the household, while the mother regularly sends her 12-year-old son to the market and streets in town to beg for money.

COMMENT: A **BIA** must be conducted to assess whether the mother adequately covers the children's needs and whether additional livelihood support and/or psychosocial care are needed. The BIA must also assess whether tracing of other family members, who could potentially assist in caring for the children, should start. The BIA will seek the views of the mother, the children, and others who might have pertinent information. An individual care plan should be done to facilitate monitoring and follow-up. If the situation does not improve and the mother is not able to care for all of the children in the long-term, a **BID** must be conducted to determine if (some of) the children are in need of an alternative care arrangement.

CASE SCENARIO 4

Two unaccompanied Congolese refugee brothers called Innocent and Bienvenu, four and six years of age, have been living in Zambia with a foster family for approximately two years. Bienvenu is going to school and both brothers like to play with the other children of the foster family. They have few memories of the Democratic Republic of Congo.

COMMENT: A **BID** must be conducted to determine the most viable durable solution available for the children and their family/caregiver and, for example, to verify and continue tracing efforts. The ability and willingness of the foster family to continue to care for the children, as well as to determine the boys' own wishes, also need to be assessed. The **BID** will build on the **BIA**, which should have started as soon as possible after their identification/arrival in the country of asylum and which will be carried out (monitored, reviewed and revised) throughout the displacement cycle.

CASE SCENARIO 5

A 15-year-old refugee girl from Somalia, called Nadifa, is living in Cox's Bazar in Bangladesh with her father, one brother and three sisters. According to some reports of community workers in Cox's Bazar, Nadifa's father severely beats her regularly and he forces her to stay at home and work in the household and care for her younger brother and sisters. Nadifa is isolated and she rarely leaves the house. There are also allegations that Nadifa's father wants to marry her off to an older man from Bangladesh.

COMMENT: A **BID process** must be conducted to determine if Nadifa and her siblings should be separated from their father and placed in alternative care and whether other protection interventions should occur. If possible, UNHCR and partners should involve the local child welfare authorities. If the government authorities are unwilling or unable to intervene, the process could start with a rapid BIA, to assess immediately if Nadifa and her siblings are at imminent risk and to address any urgent needs. In the meantime, the BID process can start and further build on the **BIA**, and a decision for Nadifa and her family needs to be formalized.

CASE SCENARIO 6

Emanuel is a separated Colombian refugee boy, 16 years old, who has been living with relatives in Venezuela for the last six years. Emanuel is well integrated in the family. Recently UNHCR received information that his parents and two sisters, with whom he was living in Colombia before separation, have been traced in Venezuela. Emanuel is reluctant to be reunified with his parents; he says he does not have good memories of his father and he wants to stay with his foster family.

COMMENT: A **BID process** must be undertaken. If a BID was conducted previously in order to identify durable solutions for this separated boy within two years after his identification, the original case needs to be re-opened. To further build on available information about Emanuel, a check will determine whether any **BIAs** were conducted. The BID will determine whether family reunification is in Emanuel's best interests.

CASE SCENARIO 7

Htun is a three-year-old unaccompanied girl from Myanmar who has been living in Malaysia for several months. The girl was found alone by a Malaysian family, who now takes full care of the child. The family has renamed the girl according to their own customs and they want Htun to remain with them in Malaysia.

COMMENT: A **BID** must be conducted in order to determine if the care arrangement is in Htun's best interests. The very young age of the child will limit the weight of the child's own views/wishes in considering this case; the views of persons who know the child and the foster family will be sought to further inform the best interests determination process. Continuity of care is especially important for a very young child for developmental reasons.

CASE SCENARIO 8

An Iraqi family consisting of a mother and her three children is residing in Libya. According to the mother, the whereabouts of the father are unknown. In the absence of any other durable solution, the case has been put forward for resettlement because the mother and her children have been found to be at risk.

COMMENT: A **BIA** must be conducted to verify whether resettlement with the mother is in the best interests of the children. The mother must be informed that it is possible to initiate tracing for her husband. If the tracing efforts are unsuccessful, a BIA must be conducted and the tracing outcome must be recorded in the BIA report. If tracing is successful, discussions with both parents must take place to determine whether they are interested in family reunification. If this is not the desire of the parents, UNHCR will encourage and/or assist the process in which the parent who does not want to exercise custody of the children gives her/his consent for their children to travel. If there is a dispute about the custody of the children between the parents that remains unresolved, the case should preferably be referred to State authorities. If State authorities are unwilling or unable to resolve the dispute, a **BID** must be conducted.

CASE SCENARIO 9

An Afghan refugee family with two children fled to India. The girl, Latifaa, is 15 years old and the boy, Abbas, is 13 years old. The parents divorced and the father remarried recently. The mother took her daughter with her but left Abbas with his father. The father's new wife does not want to take care of Abbas, but the boy's mother says she can only take care of her daughter.

COMMENT: A BIA must be conducted in this case and would likely recommend that mediation and counselling need to be provided for the family, if in the best interests of the children, and relevant authorities need to be involved to address the custody and care of the children. If the custody situation remains unaddressed, a **BID** must be conducted, to make recommendations regarding the custody and care of the children.

CASE SCENARIO 10

An unaccompanied boy, Lamine, recently fled from Ivory Coast and arrived in Liberia. He lives with a foster family, which spontaneously took him in, and is from the same village in Ivory Coast as the boy.

COMMENT: A **BIA** process must be conducted to assess Lamine's situation and to identify child protection issues and/or other needs to be addressed, including family tracing if it is in the child's best interests. Monitoring and follow-up must take place. A **BID process** needs to be started within two years or less of the child's identification to determine an appropriate solution for Lamine, also through using the information collected through the BIA process.

For further guidance on identification, prevention and response to child protection issues, see Chapter 3 of this Handbook.

§ 2.5 Who Is Responsible for BID?

UNHCR BID Guidelines: pages 26–27

States have the primary responsibility to implement the best interests principle, in line with Article 3 of the CRC. The principle should be applied without discrimination to all children within a State's territory. UNHCR and partners should seek to strengthen existing national child protection systems by advocating and building capacity for national authorities to implement the best interests principle for children at risk.

Best interests determination procedures developed outside of national child protection systems should remain the exception. However, when national child welfare authorities or other relevant authorities are unable or unwilling to establish procedures for best interests determination, UNHCR should, exceptionally, establish a BID procedure in substitution of State responsibilities. This could also be the case when national BID procedures exist but children of concern, in spite of advocacy efforts, cannot access the procedure. A BID conducted by UNHCR or implementing partners, based on the BID Guidelines, may help complement national child protection systems for actions that are particular to UNHCR's population of concern and are undertaken independently by UNHCR or partners, such as deciding whether to submit an unaccompanied refugee child for resettlement or to support his or her voluntary repatriation.

Whenever possible, UNHCR (and partners) should make all reasonable efforts to involve the competent State authorities in its own BID procedures. UNHCR should also build partnerships with suitable non-governmental organizations (NGOs) or international non-governmental organizations (INGOs) with the necessary expertise in child protection.

§ 2.6 Planning and Timing of BID

UNHCR BID Guidelines: pages 32–33

Generally a BID should be conducted for unaccompanied and separated children as soon as possible and no later than two years after the identification of a child. It is important to note that this does *not* mean that the child is left without protection and assistance pending the conclusion of the full BID. Children at risk need a BID as soon as possible and require regular monitoring and follow-up to ensure their protection and care. There may be situations, particularly of very young children, for whom a two-year timeframe is too long, such as in the case of care arrangements, separation from parents or other complex child protection issues. A case-by-case approach for children requiring a BID and follow-up is essential (see para. 4.13 and 4.14). Also, a BID should not be placed on hold until prospects for a durable solution emerge.

Because the result of the family tracing is a key factor in determining the most appropriate durable solution for unaccompanied and separated children, reasonable time must be allowed for tracing. Family tracing should begin immediately after the child has been identified as unaccompanied or separated. The reasonable length of time for tracing will depend on a variety of factors, such as the age of the child, previous tracing experience for similar profiles, the urgency of the case, the quality of information available on the family and access to areas of origin. It is crucial to document all tracing efforts made in the child's individual file. In any event, UNHCR should continue to monitor and review all cases of identified unaccompanied, separated, and other children at risk on a reasonable and regular basis.

Keep in Mind

- In emergencies, assess the need to establish a BID process early.
- Develop a capacity-building strategy on BID and child protection in which gaps are identified; implement the plan.
- To the extent possible, seek relevant government actors' engagement in the BID procedure. For example, they may act as members of the BID panel and participants in monitoring, follow-up and identification of children at risk.
- Advocate with government to implement the best interests principle in all actions and decisions concerning children.
- Integrate the BID process in the child protection and overall protection strategy.
- Advocate for partner agencies' use of BID as a key child protection and case management tool for children at risk.

Resources: Suggested Further Reading and Relevant Websites

- ICRC, IRC, Save the Children UK, UNHCR, UNICEF, and World Vision International, *Interagency Guiding Principles on Unaccompanied and Separated Children*, Geneva, January 2004, available at <http://www.unhcr.org/refworld/pdfid/4113abc14.pdf>
- Action for the Rights of Children (ARC), 2009, available at <http://www.arc-online.org/index.html>
- Save the Children Alliance, *Child Rights Programming, How to Apply Rights-based Approaches to Programming, a Field Guide*, second edition, July 2005, available at <http://www.crin.org/docs/PDN%20Ingles%20Final.pdf>
- UNICEF, *Implementation Handbook for the Convention on the Rights of the Child*, third edition, 2007, available at http://www.unicef.org/publications/index_5598.html

Chapter 3: Best Interests Determination as Part of Broader Child Protection Programming

Key Messages

- 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.
- Certain 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 key national and/or international child protection actors is crucial for any child protection programme and for effective implementation of the BID process.
- It is important to be aware of the risks children and adolescents face in your specific contexts, such as trafficking, HIV/AIDS, discrimination due to ethnicity, sexual orientation or gender identity, etc.
- 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.

§ 3.1 A Systems Approach to Protection of Children of Concern

UNHCR BID Guidelines: pages 20 and 26

Determining the best interests of the child is not a stand-alone activity. It must be part of a broader child protection programme that represents a comprehensive approach to protecting children from abuse, neglect, exploitation and violence. In other words, a BID procedure is but one thread in the fabric of child protection. Just as BID is not an isolated activity but part of child protection programming, child protection programming itself is but one part of the overall child protection system.

Like many child protection agencies, UNHCR has also adopted a “systems approach” for protecting children of concern. Child protection programming has tended to focus on categories of children (e.g. victims of abuse, girl mothers, street children, child soldiers, etc.) rather than taking a holistic view of children’s entire “protective environment”. A systems approach takes this more holistic view and, consequently, also broadens the focus of child protection from an emphasis on prevention and response services to other equally important and complimentary activities.

The UNHCR framework for a systems approach to child protection has *six key components* that, when properly coordinated, work together to strengthen the protective environment of children.

A Child Protection System is comprised of the following interrelated components:

- **Coordination**—mechanisms and processes to ensure child protection actors work together in a coordinated manner.

- **Knowledge and data**—including surveys, assessments and other data collection and analysis upon which informed planning and programming is made, management information systems, monitoring and evaluation.
- **Legal and policy framework**—encompassing legislation and policy, oversight, regulation, and standard setting.
- **Prevention and response services**—incorporating functions of government departments and other agencies and the delivery of services, protocols and structured linkages between social work, legal, health, police services, etc. This includes processes of identification, assessment, referral and child protection case management.
- **Capacities**—both human and financial.
- **Advocacy and awareness-raising**—influencing change.

Designing child protection programming with the overall child protection system in mind is intrinsic to the systems approach. Activities may directly target the protection of children and may also strengthen the overall child protection system. It is notable that child protection programming often focuses on activities in the “prevention and response services” component. Using the systems framework for child protection draws attention to the other components that must also be developed in order to offer comprehensive protection for all children. Because the elements of a child protection system are all interconnected, it is very important to create and strengthen the relationships among them. A well functioning child protection system requires coordinated engagement of various actors and actions at different levels, both formally and informally. To be most effective, there needs to be coordination with other systems such as health, education and juvenile justice systems.

Since no single agency can carry all of the activities, a systems approach is necessarily based on a principle of partnership—across levels, sectors, and actors. Balancing effort across these ranges helps to improve sustainability and the ability of all those with responsibility to fulfil their roles.

In line with the systems approach, international agencies should build upon what already exists in terms of national child protection systems. This also applies to best interests determination procedures. Efforts should first be made to build on existing best interests procedures where these exist, rather than creating parallel structures. UNHCR and partners must therefore avoid creating structures or services parallel to those of the State.

Thus, when the national system is weak, the goal is to assist and support it. Whereas when the national system is functioning, UNHCR will advocate for non-discriminatory access to that system for children of concern. States also hold the primary responsibility for ensuring that services are available for all children within their territory. This should be kept in mind when designing and building child protection programming, including best interests determination procedures.

Whenever possible, competent state authorities should be involved in the BID process, including participation in the BID panel. However, in some situations the involvement of government entities in BID procedures is not desirable due to protection concerns. UNHCR’s role in BID will be partly determined by the scope and nature of the government’s involvement in the process.

It should be noted that support to a formal national child protection system, and the integration of children in UNHCR’s population of concern into that system, can be *part* of a systems approach. However, a systems approach exceeds this to include other levels and actors. For example, community-based mechanisms and other community-level strategies are important resources for child protection, especially when the national system is weak or collapses during a crisis. A systems approach acknowledges the value of actions at all levels and seeks to strengthen and support them.

With this understanding of the relationship between child protection programming and the overall child protection system, it is important to understand how the BID procedures relate to child protection programming. Best interests determination is most effective when embedded within a comprehensive child protection programme, because it requires the support of a well developed programme in order to achieve the best protection results for individual children. A child protection programme would at least include the following elements:

- Registration.
- Documentation.
- Case management (including referral, monitoring and follow-up).
- Psychosocial support services.
- Appropriate care arrangements.
- Family tracing and reunification.
- Community support mechanisms.

These functions should be carried out in partnership with national and/or international organizations, and the government. BID may still be carried out when some of these aspects are functioning weakly or not at all. However, the impact of the BID procedure will be diminished because of a limited ability to respond to the protection and care needs identified through the BID process. Assessing the strength of these seven areas in an operation's child protection programme will indicate where capacity may need to be built in order to effectively carry out BID.

What You Can Do

- Map the existing child protection system, including the legal and policy framework and community-based structures, in collaboration with the government, UNICEF and other child protection actors.
- Assess whether refugee children and other children of concern to UNHCR enjoy non-discriminatory access to the national child protection system.
- Assess whether your child protection programming adequately supports the BID process, and increase capacity where needed.
- Identify to which components of the child protection system your child protection programming makes contributions and assess there are gaps in relation to the other components.
- Advocate for and contribute to the development and implementation of child protection policies, procedures and practices in collaboration with partners.
- In coordination and collaboration with UNICEF and other child protection agencies, assist states by strengthening and supplementing national child protection systems in areas where gaps exist. Avoid creating structures and services parallel to those of the State.

§ 3.2 Prevention and Response to Child Protection Risks

Preventing and responding to violence and abuse against children is essential to ensuring children's rights to survival, development and well-being. Child protection aims to create a protective environment, where girls and boys are free from violence, exploitation and unnecessary separation from family. In a protective environment, laws, services, behaviours and practices both minimize children's vulnerability to protection risks and reinforce children's resilience.

Child protection in emergencies has been defined by the Global Child Protection Working Group¹⁵ as:

“the prevention of, and response to, abuse, neglect, exploitation and violence against children in emergencies”

Global Child Protection Working Group, June 2010¹⁶

Child protection work consists of both prevention and response. A multi-sectoral approach should be adopted, working together with stakeholders of other sectors such as health, education and livelihood. In the box below are examples of services for both prevention and response that can be carried out by local or national government entities or provided temporarily (to fill a gap) by national and international NGOs and community-based child protection mechanisms.

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 counselling
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 ¹⁷

§ 3.3 Understanding the Cultural Context: Roles and Perceptions of Families and Communities

To develop or support services for children at risk, staff must have a good understanding of the local context in relation to children. They must understand, for instance, family roles; family structure; child

15 The Child Protection Working Group operates as a UNICEF-led Area of Responsibility under the Protection Cluster.

16 This contrasts with the Inter-Agency Standing Committee (IASC) definition of protection, which includes all human rights: “The concept of protection encompasses all activities aimed at ensuring full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law, i.e. human rights law, international humanitarian law and refugee law”. See Inter-Agency Standing Committee Task Force on Humanitarian Action and Human Rights, *Frequently Asked Questions on International Humanitarian, Human Rights and Refugee Law in the Context of Armed Conflict*, 2004, available at <http://www.humanitarianinfo.org/iasc/pageloader.aspx?page=content-products-products&sel=12>

17 The table is based on Save the Children, *A Rough Guide to Child Protection* (unpublished), 2008, pp. 15–17.

protection risks; protective factors for children; root causes of abuse, neglect, exploitation and violence; the causes of family separation; and the impacts of family separation. Equally importantly, staff must understand child-rearing knowledge, attitudes and practices within the cultural and socio-political context. Staff must gain understanding of the informal child protection mechanisms that exist, such as the ways in which communities organize themselves to respond to child protection concerns.

The role of the family is conceived differently across communities and contexts; social, religious, cultural, traditional, political and economic factors all come into play. Family structures vary significantly across cultures and thus, for instance, the nuclear family¹⁸ is not always the most common household composition. In many societies, the child “belongs” to the extended family: childcare is shared among a wide social network and children can have multiple caregivers. It is important to understand factors like this when discussing family composition and relationships with the child during BID interviews.

Informal child fostering/kinship care is a widespread childcare practice in many parts of the world. Knowledge and practices regarding social, cognitive and emotional child development and childrearing practices differ across contexts and regions. Often older children are partly responsible for providing care for younger children in the household, with older and younger children tending to develop close bonds. This can be an important protective factor for children.

§ 3.4 Child Protection Risks and their Causes in Emergencies

Humanitarian emergencies and displacement increase the vulnerability of communities, families and children. In emergencies and displacement situations, families suffer multiple and severe disruptions, such as losing their homes and livelihoods, and often with that their autonomy as well. Commonly, there is also a perceived loss of dignity among displaced and emergency affected communities as they become recipients of humanitarian relief.

With an uncertain future, emotional stress, and only limited access to education, communities, families and children are pushed to the edge in many respects: children become more vulnerable and are at increased risk of abuse, neglect, exploitation and violence, including separation from their families, psychosocial distress, gender-based violence, economic exploitation, recruitment into armed groups and other forms of harm.¹⁹

In general, emergencies:

- **Pose new protection risks to children:** risks resulting from emergency situations can include family separation, sexual exploitation, and exposure to landmines, child trafficking, child recruitment and lack of access to basic services.
- **Exacerbate existing risks:** abusive situations tend to become aggravated (for example, increased domestic violence), and already impoverished families might resort to coping strategies with negative impacts on girls and boys, such as increased reliance on child labour, early marriage, and gender bias for boys which can expose girls to increased risks.
- **Undermine existing informal child protection mechanisms and child protection systems:** for example, the ability of families/communities to protect their children can be diminished, and national child protection systems might be weakened or overstretched.

The range of protection risks faced by refugee and displaced children vary depending on the operational context – whether the displacement occurs in an urban, rural or semi-rural setting. Likewise the protection risks can vary in emergency situations and protracted situations. Even durable solutions can expose

18 A nuclear family is generally understood as one or two biological parents and their child/ren living together in a household.

19 Save the Children Alliance, *Child Protection in Emergencies, Priorities, Principles and Practices*, 2007, p. 9.

children to new protection risks such as abandonment by foster families after voluntary repatriation, reverting to pre-displacement negative norms or coping mechanisms, or the termination of psychosocial support.

Protection risks may impact children differently and will depend on varying factors, such as age and developmental stage, gender, family ties and social and security network, socio-economic status, and access to community and peer support, as well as the child's resilience.

What You Can Do

- ➔ Organize awareness-raising campaigns (targeting parents, girls and boys, youth, teachers and other key people in the community) on child rights, child protection, the impact of abuse, child participation, parental skills, positive discipline, etc.
- ➔ Support the set-up of monitoring and reporting mechanisms for children at risk in the community.
- ➔ Conduct focus group discussions with girls, boys and youth on domestic violence, risk factors and protection and prevention measures.
- ➔ Advocate for access to education for all girls and boys.
- ➔ Set up life skills training for children and youth.
- ➔ Train staff for a “children's desk” dedicated to child protection within the local police unit.

§ 3.5 Family Separations: Causes and Responses

UNHCR BID Guidelines: pages 20 and 22

Family separation is, unfortunately, a relatively common feature in armed conflict and natural disasters. Some children become unaccompanied or separated accidentally—for example, while fleeing attacks and ongoing insecurity—while others are orphaned, abandoned or abducted by armed groups or armed forces. In some circumstances, children may leave their families on their own initiative (for instance, to escape abuse), or they are sent away by their parents to live with other relatives, or for labour.

Separation of children and their families stems from many different causes, all of which need to be thoroughly assessed and understood prior to the development of a prevention and response plan, including throughout the BID process. The exact cause(s) of separation guide the kind of interventions which are needed for the children and are an important aspect to keep in mind when making decisions in the best interests of the child.

When separations are accidental, there is generally a need for interim care, follow-up, tracing and family reunification (see para. 3.11). When separation is intentional, careful analysis of the real causes of separation must be made. One needs to work with the child and both parents, to identify needs for support to parents, or to trace other relatives. In cases of both accidental and intentional separation children are likely to be in need of appropriate interim alternative care.

Causes for Separation of a Child from Parents and/or Other Family

Both the immediate and root causes of the child's separation need to be carefully analyzed in order to ensure appropriate prevention and response interventions. Considerations include, but are not limited to:

Causes of accidental separation

- Death of parents or caregivers.
- Injury or illness of parents/caregivers, e.g., parent in hospital.
- Chaos during the flight (children and parents flee in different directions).
- Children being trafficked.
- Children being abducted/recruited by armed groups or armed forces.
- Parents or children arrested by police forces.
- Children being admitted to institutional care (e.g., psychiatric institution, jail, orphanage, interim care centre) by police, NGOs, health authorities, etc.
- Children getting lost in camps or transit centres.

Causes of intentional/deliberate separation

- Stresses on the family or caregivers (increased poverty, death/injury of parents, family breakdown, limited access to services, etc.)
- Abandonment by family, caregivers or foster families.
- Children neglected or abandoned following parents' divorce/remarriage.
- Children sent by their parents/caregivers to other relatives or friends to another region/country.
- Children moved/fled with temporary caregivers or relatives (e.g., to the country of asylum) and were later abandoned or placed with other people.
- Children who were placed with a caregiver while parents moved elsewhere for work or other purposes being subsequently relinquished to a different caregiver.
- Children "deliberately" leaving their family, with or without family's consent (following abuse or for other reasons).
- Children being sent away by parents to work elsewhere.
- Girls sent away due to arranged early marriage.
- Children admitted to institutional care for safety/better chance of survival (as perceived by the parents/caregivers).
- Agencies' induced separations (e.g., higher standards offered in residential care, poorly organized evacuation, etc.).

Other causes of separation

- Movements or evacuation of populations.
- Inadequate documentation of children.
- Fostering or adoption without following guidelines.
- Parents or children admitted to hospital for treatment.²⁰

Unaccompanied and separated children are often at increased risk of abuse, neglect, exploitation and violence, as they lack the care and protection of their families or legal or customary caregivers. Risks include:

20 Action for the Rights of Children (ARC), Critical Issue Module 6: Separated Children, 2009, available at <http://www.savethechildren.net/arc/criticalissue/index.html>

- loss of identity, especially of children younger than five years old;
- trafficking;
- abduction;
- child recruitment by armed groups or armed forces;
- child labour;
- institutionalization;
- living and/or working on the street;
- risks to physical safety;
- health risks;
- sexual abuse and exploitation;
- severe emotional and/or psychosocial distress; and
- permanent family separation.

Unaccompanied and separated children may face multiple protection issues, requiring monitoring, referral to specialized services and/or community support.²¹

Measures to protect unaccompanied and separated children need to be in place throughout the displacement cycle – starting from the onset of an emergency, through protracted situations and during durable solutions phases. Systematic family tracing and efforts to reunify unaccompanied and separated children are required. Unaccompanied and separated children also need the benefit of other child protection programme components, such as community-based child protection support, temporary care, ongoing monitoring and follow-up. Providing this spectrum of care is in line with the Interagency Guiding Principles on Unaccompanied and Separated Children (2004).²²

Family tracing and reunification (FTR) programme activities should include psychosocial support, strengthening the resilience of children and families and working towards community empowerment. Capacity building and the strong involvement of national and local child welfare authorities, as well as local NGOs, CBOs (community-based organizations) and women’s groups, are essential. The capacity of community groups to prevent and respond to child protection issues should be reinforced, together with their ability to identify and refer unaccompanied, separated and other children at risk. Community awareness-raising, targeting both children and families, is important and can include, for example, child rights and child protection, the importance of family unity, the impact of abuse, peer-to-peer support and parental skills, as described below.

Who Is a Separated Child? Who Is Unaccompanied?

The Inter-Agency Working Group has agreed on the following definitions:²³

Unaccompanied children are those who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.

Separated children are those separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. Separated children may, therefore, include children accompanied by other adult family members.

Child protection staff should however be aware of possible differences in perceptions that might exist among specific populations.

21 Children at risk may in some circumstances be in need of tracing; for example, when a child is living with a sick parent who cannot provide adequate care, or when a child is subject to abuse in her/his family, it may be necessary to trace other relatives of the child to facilitate alternative care.

22 Inter Agency Guiding Principles on Unaccompanied and Separated Children, Geneva, 2004, available at <http://www.unhcr.org/4098b3172.html>

23 Inter-agency Guiding Principles on Unaccompanied and Separated Children; see also Glossary, Annex 1.

CASE EXAMPLES

- A 14-year-old girl, Thi Oo, had lived with her grandparents in her home country of Myanmar. Both her parents died before she was three years old. Her grandparents sent her to Thailand, where she lives with a paternal aunt who had lived close to the grandparents' house until the girl was 12 years old. Thi Oo knows her paternal aunt well from that time. She is a **separated** girl.
- Khalid is a 12-year-old boy from Somalia. He got separated from his family during the flight to Dadaab in Kenya. After a few days Khalid's neighbours from Somalia also arrived in the camp; this family had lived in the same compound as Khalid's family. Once they found him in the camp, the family took him in. Khalid is a **separated** boy.
- Issatta is a Liberian refugee girl in Ivory Coast. Before fleeing, she lived with her father and mother in Liberia. Now a family from Issatta's home province cares for Issatta, although she did not know the family prior to the flight. Issatta is an **unaccompanied** girl.
- Prakash is 14 years old, and his sister Sita is 12. They come from Bhutan but are residing with their grandparents in a camp in Nepal. Their parents got divorced and remarried new partners right after Sita was born; their mother gave both children to the care of her relatives and lives elsewhere in the camp. Both children are **separated**.
- Grace fled from Rwanda at a very young age and became separated from her family. She has been identified in a children's institution run by Catholic sisters in Lusaka, Zambia. Grace is an **unaccompanied** girl.
- Joao is a 17-year-old boy from Guinea Bissau who fled to Senegal with his parents. Joao says that his father used to drink alcohol and beat him often. Subsequently, Joao ran away from home, and now he lives on the streets of Dakar with a group of other street boys. Joao is an **unaccompanied** boy.
- Nadifa is a 6-year-old refugee girl living in Kharaz, Yemen. She used to live with her father and mother in the camp. Her mother died one year ago, and after that her father abandoned her. Another Somalian family from the same block in the camp, unrelated to Nadifa, now takes care of her. Nadifa is an **unaccompanied** girl.
- Aisha is a 16-year-old girl from Iraq who fled with her family to Damascus in Syria. A few months ago, she was reportedly raped several times by her uncle, who was also part of the household. Aisha has been placed in a safe house by UNHCR because she was at imminent risk at home. Aisha is an **unaccompanied** girl.

Prevention of family separation and preservation of family unity constitute important components of the overall child protection system. Ongoing, well-targeted awareness-raising campaigns on prevention of separation in emergencies should be conducted at various levels, such as in IDP or refugee camps, at schools, and in religious and other institutions that reach out to parents, children and key people in the community. Parents, caregivers and children need to be aware of practical measures to minimize the risks of separation. Parents and communities are best placed for preserving family unity.

Protection and assistance interventions need to be well planned and based on a careful assessment of the situation in order to prevent further risks for children by inadvertently causing family separations. Movement by refugees and IDPs (transfer, voluntary repatriation, relocation, evacuation, etc.) must be well organized and coordinated in order to avoid separation of children from their caretakers (see para. 4.1).

What You Can Do

Train community and youth groups to enable them to raise awareness among parents, children and other people in the community regarding:

- The importance of family unity;
- Immediate risks and separation undertaken for the protection and well-being of children;
- Prevention messages, such as ensuring that parents teach children their names, the name of their village and other important information;
- Other actions, such as providing name tags to very young children for identification purposes.

§ 3.6 Case Management

Case management is a key tool in child protection, and it can be used to manage and implement the activities determined to be in the best interests of a child. Case management ensures that the individual needs of the child and the child's caretakers are met through a systematic and coordinated process.

The goal in case management is to methodically assess, plan and intervene in individual cases so that care and protection are provided in a consistent and structured way for that individual child. Similarly, good case management also ensures that the quality of care is consistent across cases. To achieve this, a case management system requires strong leadership, teamwork and good coordination. It also requires documenting all aspects of the case in a physical or electronic file. The BID process, when implemented as part of a wider child protection programme, is in itself a case management system.

Not all children are in need of individual follow-up and case management. Most children are able to rely on their own protection strategies or on the support of their family or community. However, for those children identified as at risk or in need of assistance, a system of decision-making with accountability ensures that all actors are considered and engaged in finding both immediate and long-term interventions and solutions.

In brief, a case management system entails:

- Registration, ongoing assessment, analysis and planning.
- Establishing goals.
- The development of a **care plan** – planning tasks and services to help the child and the child's family to achieve the set goals.
- Recording information on the child and people closely associated with the child in a physical or electronic file.
- Monitoring, following up on and reviewing progress of the care plan.
- Closing the case when goals have been achieved.

An individual care plan is an effective tool to manage individual cases of children at risk. Based on an assessment (through a BIA, for example), the care plan outlines the intended interventions, such as placement in interim care, tracing, family mediation and support and referral to appropriate services. The care plan should identify which institutions are responsible for the child, the referral services that the child (and her or his caregiver) needs, and timelines to facilitate monitoring. The care plan needs to indicate when the progress will be reviewed and by whom.

Regular (weekly, or as according to office capacity or case urgency) internal case management meetings are useful to monitor individual cases and the child's care plan. The meetings are confidential in nature

and therefore access is in most cases restricted to those individuals who are directly involved in case work. Those involved in implementing and overseeing the care plan should attend, such as caseworkers, protection or community services staff, or personnel from other agencies. These meetings offer an opportunity to exchange information on a child's progress and to consider additional actions required, new referrals or case closure. In addition, these meetings facilitate regular review of the caseload and prioritization of urgent cases. In a BID process, these functions will also be served through meetings between the BID supervisor and the child protection staff²⁴, as well as through the BID panel meetings.

Specific protection consideration in relation to child marriage

Child marriage or early marriage is practiced in many parts of the world, especially in sub-Saharan Africa, South/South East Asia, and among some groups in the Middle East and other parts of Africa and Asia. Given the harmful consequences of early marriage for children, prevention is a key aspect to protect children from early marriages.

Prevention activities include:

- Awareness-raising with parents, girls and boys and other people in the community on protection risks for children subjected to early marriage (violence and exploitation, school-drop out, social isolation, premature pregnancy and health consequences etc.);
- Promote access to education for girls and boys;
- Income generating activities to prevent negative coping strategies such as early marriage;
- Long-term protection strategies and close cooperation with communities and national authorities to develop appropriate child protection legislation, policies, and practices in collaboration with UNICEF and other relevant partners.

Advocacy, awareness-raising and monitoring, should be part of the broader child protection programme to prevent and respond to child marriage. It may be extremely challenging to address child marriage if the practice is widespread and deeply rooted in the culture or society. Change in this case may have to be long term. In addition, interventions in individual cases of child marriage may not always lead to solutions, as sometimes there are no favourable alternatives for the child.

Married children often lack the care, protection and support of their parents. He or she should be regarded as an unaccompanied child, who is facing multiple risks. Sometimes family mediation or support could help to reintegrate the child. Yet, it may be very difficult to identify appropriate solutions and the BID may just determine what is least harmful for the child.

When there are clear indications that there are risks or signs of abuse, neglect, exploitation or violence and the child is at imminent risk, measures should be taken to ensure the safety of the child, e.g. through referral to a safe house.

Each case is different and therefore requires a case-by-case assessment. However, the following *general considerations* can be highlighted and should be considered in best interests assessments or determinations:

- Age and maturity of the married child.
- Age difference between the child and the adult spouse.
- Signs of abuse, neglect, exploitation or violence against the child.

²⁴ The term child protection staff refers to any person involved in child protection work such as protection and community services staff, BID case worker or the person referred to as a "child welfare officer" in the BID Guidelines, see UNHCR BID Guidelines, Annex 7, p. 95.

- Duration of the marriage and circumstances surrounding the marriage and/or elopement.
- Whether the marriage is formal or informal (in some circumstances formalization of the marriage improves the situation of the girl, e.g. entitlement to certain benefits, etc.).
- Possible risks and consequences for the child, if he/her was to be separated from the spouse.
- National legislation relating to age of marriage and separation/divorce (in country of origin, asylum and potential country of resettlement).
- Existing support for the child outside the marriage.
- Possible children of girl mothers.

Best interests process for married children in the context of resettlement

Child marriage can also be an issue in the context of durable solutions, e.g. the country of origin or the resettlement country may not recognize the marriage. UNHCR does not normally submit cases of married children for resettlement unless there are compelling protection risks that warrant the resettlement.

Regarding the need to conduct a BID/BIA the following specific cases can be identified:

- A case of two married child spouses, when being considered for Resettlement, but who are not accompanied by a parent/caretaker requires a Best Interests Determination.
- A case of two married child spouses, when being considered for Resettlement together with a parent/caretaker requires only a Best Interests Assessment.
- A child married to an adult: depending on circumstances, and considering the above listed general considerations, a BIA or a BID should be undertaken.
- If the married child couple has a child, the best interests of that child should also be considered in the BID process.

CASE EXAMPLES

CASE EXAMPLE 1

A 17 year old girl and a 17 year old boy from Myanmar have been married for a year in a refugee camp in Thailand. Both children are in agreement with the marriage and want to remain together. The family of the boy still lives close to the young couple and supports them, when necessary. The boy's family is put forward for resettlement, including the married boy and girl.

COMMENT: A BIA needs to take place to assess if Resettlement is in the best interests of the children.

CASE EXAMPLE 2

A 13 year old Sudanese refugee girl in Chad is married to a man who is 45 years old. The girl's father arranged the marriage. The girl has to care for her husband's two children from an earlier marriage and she is reportedly beaten severely by her husband. The girl has sporadic contact with her father. Her husband is considering returning to Sudan.

COMMENT: A BID needs to take place to identify a durable solution and to determine the best interests of the child.

§ 3.7 Identification of Children at Risk

A mechanism or procedure to identify children at risk of abuse, neglect, exploitation and/or violence—and those children who are particularly vulnerable to such risks—is a crucial element of a child protection programme. Identification of children at risk should start as soon as possible after displacement and must be ongoing, particularly in situations where there is an influx of new refugees or IDPs. Identification mechanisms should remain in place throughout the displacement cycle as part of ongoing general child protection monitoring. Children may become unaccompanied or separated at any time, for instance, due to abandonment or the subsequent death of a parent or caregiver.²⁵

Keep in Mind

Measures to identify children at risk and in need of a BID can be employed in various situations and by various actors, including, for example:

- Upon arrival in the country of asylum, when children at risk can be identified by child protection focal points within the registration team.
- During the refugee status determination (RSD) process by UNHCR and/or the authorities; e.g., by the RSD child protection focal point.
- During participatory assessments with children and communities.
- Through referral by national or international NGOs.
- By community-based child protection monitoring mechanisms.
- Through camp/community-level reception points, where children at risk can seek assistance and support.
- By girls and boys, parents and caretakers who directly approach UNHCR or a partner organization.



Identification/reception “desk” for separated and other children at risk.

Save the Children UK, IDP camp, Goma, Democratic Republic of Congo, 2008.

²⁵ See Lutheran Immigration and Refugee Service, *No Small Matter: Ensuring Protection and Durable Solutions for Unaccompanied and Separated Children*, May 2007, p.13.

Only trained staff of agencies that specialize in child protection should be involved in the identification, verification and documentation of children at risk. Staff should be sensitive and able to work with and interview children. Furthermore, they must have a solid understanding of child protection.

In most operational environments, reliance on communities to identify children at risk is a good practice as communities are often well informed about unaccompanied and separated children. Thus, community leaders, teachers, health centres and women's and youth groups create a network which can help to identify and refer unaccompanied, separated and other children at risk. In order to ensure that the community-based child protection mechanisms are well functioning, training and awareness-raising will be important throughout the emergency or displacement cycle.

Keep in Mind

- Unaccompanied and separated children should be identified and registered as soon as possible after arrival in the country of asylum.
- Children at risk, including unaccompanied and separated children, should be assessed immediately after their identification (for example through a BIA) in order to assess possible protection concerns and the need and method for temporary care, monitoring and follow-up.

Sometimes only unaccompanied children are identified, as staff may believe that separated children are traditionally cared for by their relatives and identification of separated children disrupts traditional forms of care. It should be emphasized, however, that separated children may risk treatment that is unequal to other children in the family: they may be subject to abuse, neglect, violence and/or exploitation; and they may want to be reunified with their parent(s). Therefore it is important to conduct identification, tracing and monitoring for separated children as well.

Ongoing information campaigns are needed at different levels in order to identify genuinely separated and unaccompanied children and to avoid facilitating false registration. It is essential to clearly explain the criteria that determines which children are unaccompanied or separated, and should be documented as such. Registration of unaccompanied and separated children may be seen as an opportunity for financial or material gain. Some parents might deliberately instruct their children to register as unaccompanied, separated, or orphaned children in hopes of receiving extra food, material support, or benefit from resettlement options. More holistic child protection programmes that target children at risk more broadly (rather than focusing only on unaccompanied and separated refugee children) can help to prevent false cases of unaccompanied and separated children.

Generally, unaccompanied and separated boys are more easily identified than girls. Therefore, data on unaccompanied and separated children must be carefully analyzed to ensure that, for instance, the identification mechanism used captures both girls and boys who are unaccompanied or separated. Staff members need to be vigilant when identifying children at risk in order to ensure that children who are in need of specific protection interventions, including BIAs/BIDs, are not overlooked. Specific groups of children at risk who are easily missed in the identification process include:

- Unaccompanied or separated girls: they can be “invisible” when taken in by the extended family or a foster family (e.g., providing domestic services in the household) and may not be identified as unaccompanied or separated by the community.
- Girl mothers: girls under 18, caring for their child/children).²⁶
- Very young children (e.g., under the age of 5).

26 Save the Children Sweden, *Networks of Support: A Literature Review of Care Issues for Separated Children*, Stockholm, 2001.

- Unaccompanied or separated children in institutional care.
- Refugee or displaced children living and working in the street. (IMPORTANT: These children commonly have parents or relatives, but for one reason or another they are not living with their family.)
- Unaccompanied and separated children living in host communities.
- Children with disabilities. (While a BID is rarely needed in these cases, a BIA and care plan can be a useful tool for case management.)

Some unaccompanied and separated children “without address” cannot provide adequate information that would enable a child protection staff to identify, document and successfully trace their family. The majority of children falling into this category tend to be under five years of age, or have been separated since a very young age. Special attention should be focused on this group of girls and boys to ensure that their right to a protective family environment is not violated.²⁷ In addition, measures need to be put in place to make sure that a BID is conducted for children under five years old in a timely manner (as soon as possible after two years of active tracing, if not required earlier).

What You Can Do

- ➔ Work in close partnership with local authorities and national and international child protection agencies with expertise in working with unaccompanied and separated and other children at risk.
- ➔ Carefully assess and analyze the situation of children, child protection issues, risk factors and protective factors/coping mechanisms in the community in cooperation with other agencies.
- ➔ Assess and analyze the root causes of family separation and develop an FTR support programme, building on existing mechanisms in the community.
- ➔ Support community outreach and monitoring programmes to ensure ongoing, timely identification and referral of children at risk, including unaccompanied and separated children.
- ➔ Make an extra effort to ensure systematic identification of unaccompanied and separated girls, unaccompanied and separated children under 5 years of age, as well as, unaccompanied and children in institutions and in host-communities.
- ➔ Advocate for equal access to basic humanitarian services as a measure to prevent parents from encouraging their children to register as unaccompanied and separated children.

§ 3.8 Registration, Documentation and Data Management

UNHCR BID Guidelines: page 78

After identification, registration takes place with the child’s key data compiled and recorded. For example, name, age, gender, name of the father and mother, and child’s address are included in registration data. The purpose of registration is to record important information, primarily to help preserve the identity of the child.

Registration is followed by the documentation process. The purpose of documentation is to record further information to meet the specific needs of the child. Documenting Best Interests Assessments and individual care plans are also important.²⁸ Documentation will enable, for example, tracing, reunification, implementation of immediate and long-term protection measures, follow-up, and BID.

27 UNICEF, *The Lost Ones. Emergency Care and Family Tracing for Separated Children from Birth to Five Years*, 2007.

28 Inter-agency Guiding Principles on Unaccompanied and Separated Children, Geneva, 2004, p. 33.

Documentation is to be completed as soon as possible after the identification of the child, both to minimize the possibility that children forget certain information and to ensure timely follow-up of identified needs. All relevant information about the child and her or his family should be documented: current address and tracing information, history of the separation, the wishes of the child, identified child protection issues and next steps for follow-up based on interviews with the child, other family members and the community (see Chapter 6 on communicating with children and child-friendly interviewing techniques).

Because the documentation process is an important element of case management/BID, it is advised that standard forms are used.²⁹ Documentation is not a one-off event, but rather part of the follow-up process that continues until the child is reunited with the family or a durable solution has been identified through the BID process. For each case of a child at risk or an unaccompanied and separated child, a file should be opened to contain the documentation (either physical, electronic or both). This individual file needs to be accurately updated and regularly reviewed, and tracing results and changes in the life of the child should be included. All staff having access to documentation should respect the principle of confidentiality, in the best interests of the child (see para. 5.2.9).

Ideally, after the case has been documented the information should be entered into a database to record and track data and to facilitate case management (see para. 6.9).

Inter-Agency Child Protection Information Management System (IA CP IMS)

Developed by International Rescue Committee, Save the Children and UNICEF, use of the IA CP IMS is globally promoted among various child protection actors to support child protection programmes, including BID. It can be adapted to the specific programme context³⁰ and be a good tool to improve case-management.

A number of standard forms have been developed including:

- Rapid Registration Form
- Full Registration Form
- Vulnerable Children Registration Form
- Children Associated with Armed Forces and Armed Groups (CAAFAG) Registration Form
- Children Under Five Registration Form
- Profile for Girls
- Follow-up Form
- Tracing Form
- Adult Verification Form
- Child Verification Form
- Reunification Form
- Adoption or Foster Form
- Closure Form
- Missing Children
- Best Interests Determination
- Services Provided Form
- Case Transfer Form
- Case Referral Form
- Case Re-open Form

29 See UNHCR BID Guidelines, Annex 6, pp. 89–94; UNHCR BIA Report Form in Annex 3.

30 *Inter-agency Child Protection Information Management Factsheet*, available at <http://www.crin.org/docs/1.InterAgencyCPDatabaseFactSheetJune07.pdf>

UNHCR uses a database system called “proGres” for registration of refugees and refugee households. ProGres can record information regarding persons with specific needs, such as unaccompanied and separated children, and children associated with armed forces and armed groups. The system can also capture information covered in the BID Report Form and record the various actions taken in order to carry out case management.

§ 3.9 Family Tracing

UNHCR BID Guidelines: pages 32–33

The goal of family tracing is to restore family links and, ultimately, to enable family reunification—whether this is for unaccompanied, separated or other children for whom tracing has been requested. Tracing should start as soon as possible after identification, and there are a variety of methods to employ, whether tracing children, families or extended family members. Tracing can take place within a refugee or IDP camp, between camps or between provinces in the country of asylum. Cross-border tracing occurs between countries of asylum and countries of origin.³¹ The International Committee of the Red Cross (ICRC) and national Red Cross and Red Crescent Societies are playing an important role in restoring family links through tracing. Where possible, UNHCR, partner organizations and the ICRC should work closely together.

Within the framework of a BID programme, it is fundamental that family tracing continue during the BID process. In addition, tracing does not necessarily end when a BID is completed. Children have the right to be reunified with their families (CRC Article 9), and families can still be traced even after years of separation. Children must be informed of the outcome of tracing efforts in a timely manner and on a regular basis from the moment of identification until a durable solution is found.

In cases where family tracing, including distant relatives, has been unsuccessful despite exhausting all reasonable efforts, the child should be informed, and alternative and long-term care solutions must be discussed and explored with the child. This must be formalized in a BID process and should also include national authorities to, for example, formalize care arrangements and possible adoptions.

Information provided by girls and boys about their family members and address may change over time. This may be because the child has become more open to providing information as time has elapsed, remembered or received additional information, or changed their mind as to whom they want to be reunified.

Throughout the family tracing and reintegration (FTR) and BID processes, staff must continue to gather information about family members other than the previous caretaker, in case the previous caretaker cannot be traced in due time. This may be an opportunity to provide the child with appropriate alternative care throughout the period that tracing continues. Finally, this placement could turn into a longer-term care arrangement if the previous caretaker cannot be traced and if the placement is in line with the wishes and best interests of the child.

Agency staff should realize that informal tracing mechanisms often exist, especially where there is a strong oral tradition and close ties among community members. Children and families may use their own networks for tracing. When developing FTR support, agencies should build on informal tracing mechanisms, if they exist, and actively involve communities whenever possible.

Tracing requires a high number of staff, good coordination and agreement on standardized forms, mutually compatible data systems and other resources such as logistical support. When setting up an FTR

31 Inter-agency Guiding Principles on Unaccompanied and Separated Children, Geneva, 2004; See also *Action for the Rights of Children (ARC), Module 6: Separated Children*, 2009.

programme, long-term commitment is essential. It is often necessary to continue tracing over a period of several years. Tracing activities may be interrupted or stopped for various reasons, mostly because of limitations in continued funding and available staff, security, etc. Hence advocacy for continued tracing throughout the BID process is important.

Tracing and reunification can be challenging, or even impossible, for agencies due to the lack of access that results from insecurity in certain areas. Nonetheless, to preserve family links all efforts should be undertaken to ensure that contact can be restored and maintained between families and children. This can also be done with the assistance of the ICRC or the national Red Cross or Red Crescent Society through “Red Cross messages”. If tracing is not possible in the child’s country of origin, in-country tracing of the child’s family members should not be overlooked. However, in other instances children are sometimes reluctant to provide information to a tracing agency, or purposely provide incorrect information, as they think that the information may block their opportunities for resettlement.

What You Can Do

- Ensure timely tracing for unaccompanied and separated children.
- Ensure effective coordination and communication with tracing agencies, in particular with the ICRC.
- Advocate for continued tracing efforts for children for whom reunification is still a viable option.

§ 3.10 Verification and Family Reunification

UNHCR BID Guidelines: pages 31–32

Family reunification is generally the ultimate goal of family tracing, but the best interests of the child, including safety of the child, always need to be a primary consideration. The national legal framework for reunification must reflect international human rights standards.

Verification is the process of establishing the validity of relationships and confirming the willingness of the child and the family member to be reunited.³²

The verification process should start as soon as family members have been traced. Best interests assessment (BIA) must take place for girls and boys before reunification to establish whether the reunification is in the best interests of the child (see para. 2.4.1). An assessment of the willingness of the child and the family member(s) to be reunified can be conducted through interviewing the child separately and talking to the person(s) who has/have been traced.³³ Interviews are not always possible (for instance, when dealing with very young children). Staff members are advised to also speak to neighbours and other key people in the community.

Other methods to carry out the verification include the exchange of pictures to check if the person in question, whether child or adult, is who she or he claims to be. Sometimes the family is willing to care for the child but does not have the means to adequately do so. The BIA can establish, on a case-by-case basis, whether there is a need for livelihood support. If such a need is identified, the family should ideally be referred to a livelihood support programme which is targeting vulnerable families in the community. In some complex cases, a simplified or full BID must be conducted before reunification can take place.

³² Inter-agency Guiding Principles on Unaccompanied and Separated Children, 2004, p. 37.

³³ UNHCR BID Guidelines, pp. 31–32 and p. 55.

Reunification refers to the process of bringing together the child and family or previous care-provider for the purpose of establishing or re-establishing long-term care.³⁴

Family reunification can take place only if the security situation in the area is favourable, otherwise reunification should be delayed. Reunification programmes must also be in line with policies of the national government and relevant legal frameworks.

Ideally, reunification takes place with one or both parents. When that is not possible, reunification with other family members who have been traced should be considered as a second-best option, as long as it is in the best interests of the child. Tracing efforts must therefore also focus on an unaccompanied child's extended family members. This could be especially meaningful when the extended family is living in or close to the community of the child's parents. The extended family can provide interim care and protection for the child while tracing continues. This could eventually turn into long-term alternative care (again, if it is in the best interests of the child), but it should not be assumed that these children are well protected and cared for simply because they live with "family".

After a child's placement with extended family, monitoring and follow-up must take place to ensure the child's well-being and integration into the family and to verify that the child is provided with continuous care and protection.

"Spontaneous reunification" occurs when parents, other family members or children, are "traced" through their own networks, without the assistance of an agency or local authorities. When spontaneous reunification with the extended family occurs, it is important to ensure that a BIA and follow-up visits still take place after the claimed reunification. Sometimes interim foster families claim to be the parents or may "hand over" the child to another family, possibly in exchange for goods or money. "Spontaneous" reunifications need to be assessed to prevent risks of trafficking and other child rights violations.

Child protection agencies must verify that the relationship between the family and the child is genuine. The agency must ensure that the family or caretaker is willing and able to take care of the child and the agency must also carefully consider the child's wishes. The name and current address of the child's caretaker must be documented and witnesses who are prepared to provide their names and addresses should be consulted. When there are doubts as to the relationship between the child and the family, a full BID is required.

The child and the family should receive psychosocial support and must receive information about possible problems they may encounter after reunification. This can help the child and the family mentally prepare for the reunification process. Reunification should not be rushed: adequate time must be allowed to carry out and solidify the reunification. It may also be important to organize a small ceremony at the child's home or in public together with the family, the child, the neighbours, and other children and people of the community, to celebrate the reunification. This or similar types of rituals may be organized by family members, the community or even, in some cases, the child protection agency.

Sometimes family mediation or individual casework is needed prior to reunification. This can occur, for instance, when the child or the family is hesitant or reluctant to be reunified. This requires further analysis of the reasons for the hesitation and counselling for the child and the traced family member(s) might be required. At times foster families can refuse to give up the child after successful tracing. The situation of the foster family and the relationship with the child needs to be thoroughly analyzed. In some traditions foster families expect something in exchange for the care that has been provided to the child, before they "allow" the reunification to take place. If the situation cannot be resolved through counselling and mediation, sometimes the local authorities or police may need to intervene to resolve the case.

34 Inter-agency Guiding Principles on Unaccompanied and Separated Children, 2004, p. 37.

The parents and the responsible child protection staff should sign reunification forms³⁵ for all spontaneously reunified children as well. The document signing must take place in the presence of the child, the parents/caregivers and witnesses such as neighbours or community leaders. The wishes of the child should be clearly reflected in the documentation and need to be verified again with the child directly, before reunification.

After reunification, monitoring and follow-up must be carried out to ensure the well-being and protection of the child, confirm reintegration of the child and the family and verify whether reunification is sustainable and in the best interests of the child.

In large operations, UNHCR and partners may face practical constraints in attempting to perform extensive post-reunification monitoring. In such situations, priority should be given to children reunified after a long-term separation, children placed with extended family, or children with protection concerns. Continued monitoring of these children is to ensure that the reunification is sustainable and continues to be in the best interests of the child. In these large-scale situations, close involvement of the community and/or relevant local authorities in monitoring and follow-up is essential.

§ 3.10.1 Family Reunification Requiring a BID

UNHCR BID Guidelines: pages 31–32 and Annex 4, page 87

Normally a BIA is sufficient to assess that family reunification is in the best interests of the child. However, certain situations require a BID, prior to family reunifications. This would apply in cases where there are risks or signs of abuse, neglect, or exploitation in the family; where the child's separation lasted a long period relative to the age of the child; where there are doubts as to the legitimacy of the family relationship; and where the reunification may lead to the child's separation from other individuals with close ties to the child.

Family reunification may not always be the solution in the best interests of the child and such situations need to be critically reviewed as they depart from the general principle of "family unity". Children, parents, siblings and their living situation may have changed over time, especially after a long separation. The child may be well integrated in the foster family, and the child's perceived ties to that family may be strong enough to constitute a new family relationship.³⁶ In some cases there may be a history of abuse by the child's previous caregiver, or the child's family may be dysfunctional in some other form.

If the traced family lives in an area that is still unsafe and insecure, reunification may not yet be in the best interests of the child. It may be decided in consultation with the child and the family that postponement of reunification is a preferable temporary solution to protect the child. The child and the family need to maintain contact during this period, for instance, through conveying messages via the National Red Cross and Red Crescent Society. Reunification should take place as soon as the area becomes safe enough, again with respect for the principle of *non-refoulement* in consultation with the child and the family.³⁷

The situations requiring a BID prior to reunification are described in Annex 4 of the UNHCR BID Guidelines. Annex 4 also applies to family reunification in a third country and family reunification in the country of origin. The BID process should establish whether the reunification is in the best interests of the child. When reunification is pursued, the development of a care plan is required before reunification takes place and continues to be carried out, as instanced through monitoring and follow-up.³⁸

35 See UNHCR BID Report Form in UNHCR BID Guidelines, Annex 6, pp. 89–94; and Inter-Agency Child Protection Information Management Factsheet, available at <http://www.crin.org/docs/1.InterAgencyCPDatabaseFactSheetJune07.pdf>

36 UNHCR BID Guidelines, p. 37.

37 In cases where groups of children from the same area are concerned, a simplified BID may be sufficient UNHCR BID Guidelines, p. 55.

38 Inter-agency Working Group on Unaccompanied and Separated Children, Draft Alternative Care in Emergencies (unpublished), 2010; UNHCR BID Guidelines, Annex 4, p. 87.

§ 3.11 Alternative Care Arrangements

Making arrangements for alternative forms of care is an important element of a child protection programme. Ideally, an interim care system should be in place before an emergency and should be well adapted to also function in an emergency context. However, this is often not the case in fragile states or countries affected by conflict, crisis or disasters. Therefore, in emergencies, international actors such as UNHCR and national and international NGOs at times need to support national authorities by filling the gaps. These actors need to be aware of the existing national policies and legal framework, as well as traditional and cultural practices in relation to child care among the population in question.

Skilled child protection staff must identify children in need of alternative care or those who are spontaneously fostered or placed in arranged interim care. Children in need of alternative care include:

- Unaccompanied children who lack care; for example, those who are not spontaneously fostered by other families.
- Fostered unaccompanied or separated children who are in a care arrangement which is not suitable.
- Children who are at imminent risk at home.

The types of alternative care in a given situation depend on the existing legal and policy framework and available resources. UNHCR and partners must also have a thorough understanding of cultural norms and values regarding kinship structure, childhood and child-rearing. This knowledge is necessary in order to identify appropriate alternative care arrangements for unaccompanied and separated children and to develop adequate monitoring and support mechanisms. Decisions on alternative care arrangements should be based on the best interests of the child as determined in a formal procedure (e.g. BID). The views of girls and boys in need of alternative care should be considered in identifying care arrangements that are in their best interests.³⁹

Interim and temporary care arrangements include:

- Foster care.
- Child-headed households.
- Group care.
- Supported independent living.
- Residential care.

Further details on the various forms of care are explained below in para. 3.11.1.

All children in alternative care arrangements must be routinely monitored and followed through systematic child protection activities. The follow-up should include monitoring the well-being of the children, continuation of family tracing and, possibly, provision of support services.

In supporting and supervising placements of children in formal and informal alternative care, the UN Guidelines should guide child protection staff for the Appropriate Use and Conditions of Alternative Care for Children.⁴⁰

In order to support children in alternative care, it is important to assess the capacity of families in the community to provide interim care. Where there are gaps, UNHCR and partners should assist existing support mechanisms for families and interim care arrangements.

³⁹ Save the Children UK, *A Sense of Belonging. Case Studies on Positive Care Options for Children*, First Resort Series, 2006.

⁴⁰ UN General Assembly, Guidelines for the Appropriate Use and Conditions of Alternative Care for Children, A/64/142, Feb. 2010, available at <http://www.crin.org/docs/Special%20Series%20ISS.pdf>

UNHCR and partners should further build the capacity of social workers and community members to monitor the care of children in substitute care arrangements. Peer support groups for foster parents can also provide valuable emotional support to foster families.

§ 3.11.1 Foster Care

In many communities, children who are left without parental care—for example, due to family breakdown, orphaning or other situations—are often cared for by the community on a short or long-term basis. Care can be taken on by the extended family (also called “kinship care”) or by unrelated families such as neighbours or friends of the family, who are often known to the child.

In brief, fostering refers to situations where children are cared for in a household outside their family. Fostering is usually understood to be a temporary arrangement, and in most cases the birth parents retain their parental rights and responsibilities. The initiation and practical arrangements around foster care normally fall into the following categories:

- **Traditional (or informal) fostering** refers to a situation in which the child resides with a family or other household that may or may not be related to the child’s family. No third party is involved in these arrangements, though a traditional fostering arrangement may be endorsed or supported by the local community and may involve well-understood obligations and entitlements. Decisions on traditional fostering tend to be made by adults, while children’s views and wishes often are not considered.
- **Spontaneous fostering** refers to a situation in which a family cares for a child without any prior arrangement. This is a frequent occurrence during emergencies and may involve families from a different community in the case of refugee children. Spontaneous fostering is also a form of informal fostering.
- **Arranged fostering** refers to a situation in which a child is cared for by a family as part of an arrangement made by a third party. The third party is usually an agency involved in social welfare such as a government department, a religious organization, or a national or an international NGO. This arrangement may or may not be covered by formal legislation.

As a general rule, fostering should follow national legislation and policies. If and when it is both possible and in the best interests of the child, child protection staff should seek to involve local authorities (from the social welfare department, for instance) in arranged foster care. The foster arrangement should also be culturally appropriate for the refugee or IDP community. Fostering of refugee children by families of the host communities should be discouraged. Often children are “invisible” in this type of care, which further might involve higher risks as well as limitations to monitoring the children and their foster families.⁴¹ For older children (children in their upper teens), supervised group living may be a more preferable option.

Sometimes, unaccompanied children who are living in spontaneous foster care arrangements may receive less focus than unaccompanied children in care arrangements set up by agencies. At times these children in spontaneous arrangements remain unregistered and therefore unknown to aid agencies or authorities. Similarly, their existence may be known, but it is simply assumed that the children are protected and well cared for—which might not be the case.

41 Inter-agency Guiding Principles on Unaccompanied and Separated Children, Geneva, 2004, p. 45.

Case Example of Foster Parents Support in Dadaab, Kenya

In the refugee camps in Dadaab, Kenya, Save the Children UK set up a system for identification and screening of potential foster families. The aim is to create a stand-by pool of foster families for the placement of children in need of alternative care. In collaboration with the community, other spontaneous foster families and children, criteria are developed for appropriate foster care. Foster families are trained on basic child protection, children's rights, communicating with children, parental skills and other important issues. "Foster parent committees" are established to enable foster families to meet and discuss care for unaccompanied children and other child protection concerns.

The Kenyan Government's Department of Children's Services formalizes all foster arrangements through an organized mobile court, which convenes at the Dadaab refugee camps on a regular basis. Foster families and the local authorities sign a written agreement to formalize the interim care.

Placement, monitoring and regular follow-up of unaccompanied minors in foster care and other children at risk in the camps is carried out by trained community workers, who report back to child protection staff of Save the Children to initiate necessary action. In case of concerns over abuse, exploitation, discrimination, custody issues and other risks, Save the Children assesses the case and, when needed, submits it to the BID panel.

§ 3.11.2 Supported Child-headed Households

In some cases, unaccompanied and separated children live in a "child or peer-headed household" (CHH), where they are cared for by an older sibling or by unrelated older children. Sometimes the members of these child-headed households are supported by the extended family but are living separately from their family for practical reasons; for example, due to limited space at the family home or shelter. In other instances, the CHH lives entirely on its own without any support from adults or extended family. In conducting assessments or in BID work, it is important to understand the full context of the CHH and the household composition.

In child-headed households, girls and boys must take on roles and responsibilities normally attributed to adults, caring for younger children and providing income and the basic necessities for survival. At the same time, they often lack adequate care and protection and access to medical services, education and humanitarian assistance, as well as recreational opportunities. Children, especially girls, in child-headed households can be extremely vulnerable to abuse and exploitation.

Child-headed households need regular monitoring and support—they should be systematically identified and assessed as quickly as possible. When there are clear indications that a child-headed household is *not* an appropriate care arrangement a BID must be conducted to determine the child's best interests in relation to the care arrangement and to develop a plan to address identified child protection. This is also the case when children in this arrangement are at risk of, or subjected to, abuse, exploitation, or other forms of harm.

§ 3.11.3 Supported Independent Living

Some young people may prefer not to be placed in a foster family or a small group setting (described below). They may request to live on their own or with a few other children in peer or child-headed households. Children in such independent living arrangements must have access to support and protection, either from designated caseworkers or from selected community members.

§ 3.11.4 Group Care

Where family-based care or independent living with adequate support and monitoring cannot be immediately organized, or is inadvisable for some other reason, placing the child in small group care is strongly preferable to other forms of institutional care. Group living arrangements enable children to give each other valuable peer-to-peer support. A group arrangement can, for example, be considered for siblings and adolescents who wish to remain together. The arrangement should be in line with the best interests of the children, and they should be provided with the necessary assistance.

Group care may occur in a small group home that is run like a family home, whereby groups of six to eight children or young people are cared for by consistent caregivers within the children's community. In consultation with the children and/or young people, a member of the community should be appointed to look out for them and to serve as a resource for the children to turn to if they face problems. The process of appointing a community member as steward for the children must be carefully considered as an unsuitable appointment may expose the children to protection risks.

Placement and support for children or young people in small group homes may be especially appropriate in an emergency context where foster care may be unsuitable because it cannot be well monitored. Young people in particular may request a long-term group home placement over family-based care or independent living. Children with severe or multiple disabilities, or those who have other special needs and cannot be adequately cared for within a family, may also benefit from small group care. In this case the small group arrangement would include live-in and oversight support from people with specialized knowledge in dealing with such needs.

§ 3.11.5 Residential Care

Residential or institutional care should always be a last resort if family-based care arrangements are not possible or it is decided that family-based care is not in the best interests of the child. Institutions can leave children vulnerable to abuse and exploitation. The dangers can arise from weak legal and administrative frameworks, poor accountability structures, or limited institutional capacity. The lower standard of care offered by many institutions and lack of individualised care can also disturb children's emotional development, threaten their health and nutrition, isolate them from the community and lead to discrimination. Residential care is also less cost-effective than family-based care. For unaccompanied and separated children and other children at risk, priority should be given to community-based solutions that build on existing social structures. As a general rule, large institutions and long-term residential care—and, for young children, any form of residential care—should be avoided.

The United Nations Guidelines for the Appropriate Use and Conditions of Alternative Care for Children (2007)⁴² further states that in an emergency:

- Care within a child's own community, including fostering, should be encouraged, as it provides continuity in socialization and development.
- Residential care should be used only as a temporary measure until family-based care can be developed.
- No new residential facilities should be established which are designed to care for large groups of children on a permanent or long-term basis.

In exceptional circumstances, however, when none of the alternative care arrangements described above are feasible, temporary institutional care may be considered, but only under the following conditions:

42 UN General Assembly, Guidelines for the Appropriate Use and Conditions of Alternative Care for Children, A/64/142, Feb. 2010, available at <http://www.crin.org/docs/Special%20Series%20ISS.pdf>

- The child is over three years of age.
- The placement is for no more than 12 weeks. If the child cannot be reunited with his or her parents within this timeframe, he or she should be placed in kinship or foster family care, or a small-group home.
- The institution is integrated within the child’s community.
- The institution is registered and externally monitored according to set standards.⁴³

Children in institutions should enjoy the same rights as other children. Monitoring must take place to ensure that these rights are respected. Every institution should have family reunification and alternative community-based care as one of its key objectives. Admissions must be screened and documented.

Centres should be small, temporary and organized around the needs of the children, preferably in small, family-like units. Siblings must be kept together. The centre must integrate into the local community as closely as possible and should liaise with the local authorities where relevant. Institutions must provide adequate basic care and meet minimum standards with regard to water, sanitation, health and protection. Daily activities should be established, including education, recreation and rest, and life skills. Staff should be adequately screened to ensure that they are experienced in caring for children, and they must be trained in all relevant aspects, including documentation, communicating with children and caring for children with special needs.

The primary responsibility for monitoring the standards of protection and care provided by the institutions lies with the government. Where there are gaps, national and international organizations should work together with the relevant government authorities to, for example, advocate for alternative family-based care, promote family tracing and reunification and establish gate keeping practices. Agencies can also strengthen government capacity to improve standards of care.

What You Can Do

- ➔ Gather information and carefully analyze the child-rearing practices and the structure of families and alternative care arrangements in the specific cultural, traditional and socio-economic context.
- ➔ Explore appropriate alternative arrangements for children who are in need of interim care, building on existing forms of interim care.
- ➔ Make sure that individual care plans for children in alternative care are being developed, implemented and monitored.
- ➔ Consider establishing mechanisms for identification and screening of potential foster parents.
- ➔ Set up a system for support of foster families; for example, through “foster parent committees”, and provide committee members with adequate training. These committees can also serve as a standby pool of foster families to provide care on an immediate basis for children who face abuse or neglect, or for newly arriving unaccompanied children.
- ➔ Help set up child-focused clubs or committees that engage in community activities, including identifying and monitoring unaccompanied and separated and other children at risk.
- ➔ Advocate with relevant authorities for the development or implementation of legislation and policies for an interim care system.

⁴³ Inter-agency Working Group on Unaccompanied and Separated Children, Interim Care Toolkit for Emergency and Post Emergency Response (unpublished), 2010.

§ 3.12 Monitoring and Follow-up of Interim Care Arrangements

UNHCR BID Guidelines: page 35

Children in community-based interim care arrangements (traditional, kinship, spontaneous and agency-arranged foster care and group living) are vulnerable to certain protection risks and need to be monitored closely. These risks involve possible abuse, neglect, exploitation, violence and discrimination.

Children who are part of a child-headed household and living with other children/youth might face discrimination and challenges in accessing services and assistance. A fostered child may be treated differently than the biological children in the household. The child may be used as domestic servant in the household or as a labourer to generate income. Girls especially are at risk of sexual violence, abuse or exploitation. Sometimes foster families decide to provide temporary care because they hope to receive additional support from humanitarian agencies. There are also cases in which the foster family wants the parents/previous caregivers to give compensation for the care provided, once the child is reunified.⁴⁴

Government authorities or child protection agencies must monitor children in alternative care to ensure that the arrangement is in the best interests of the child and that need for additional support is met. The child's birth/biological parents or customary caregiver should continue to be traced, even when the child receives adequate care from extended family or friends.

Where there is no existing national or local system to support guardianship and interim care, UNHCR and partners are responsible for monitoring and follow-up of unaccompanied and separated children in interim care. Where possible this is done in collaboration with local child welfare authorities.

When a child-headed household is identified, a BIA needs to be conducted at the earliest stage, focusing on the household living situation, child protection issues and other possible risks for the children involved. Other care arrangements should be considered if necessary, preferably through a full BID. Child-headed households need support on a case-by-case basis and community involvement in their support. Group living arrangements need to be carefully monitored to ensure the children's well-being and protection.

A care plan must be in place for each child, developed with the child and the foster family or child-headed household. The plan should reflect the current interim care arrangements and preparation for family reunification. At the same time, it should also include planning for a long-term or permanent care arrangement, in case the family of the child is not traced quickly.

Ideally, an adult from the children's community (for example, a widow with children) can be identified for the children to talk to when they face problems. This person should be selected in consultation with the children and people in the community. When necessary, this adult can report child protection concerns to the relevant child protection agency or camp authorities. Community-based child protection groups can also be involved in monitoring and follow-up on interim care if these activities are conducted under the supervision of trained staff.⁴⁵

Follow-up activities are a key part of case management for children at risk. Encompassing a range of support activities for children and their caregivers, follow-up starts after identification of the child and continues until a durable solution has been successfully implemented. Communities need to be involved in monitoring continuously and from the earliest stage. All children in care will require follow-up and ongoing reviews of their care plans. Children who are not in care but who have been identified as in need of monitoring as a result of protection or welfare concerns must also be included in the caseloads of social workers or community child protection committees.

44 Inter-agency Guiding Principles on Unaccompanied and Separated Children, Geneva, 2004, p. 45.

45 Inter-agency Working Group on Unaccompanied and Separated Children; Draft Interim Care Toolkit for Emergency and Post Emergency Response (unpublished), 2010, p. 78.

Follow-up aims to verify and facilitate the child’s social (re-)integration into the family and community, and his or her protection and physical and emotional well-being. Follow-up visits that target vulnerable households and children at risk aim to reassure families and children that the community cares and hence build trust with children and their families. More specifically, home follow-up visits should:

- Identify and address child protection concerns and needs for additional support.
- When necessary, provide psychosocial care and guidance to the child and the family.
- Assess a number of indicators, such as the physical and emotional state of the child and the quality of the relationship between the child and the caregivers and other children in the household.
- Determine whether the fostered child is receiving equal treatment compared to the other children in the household.
- Determine whether the child is going to school.
- Identify the child’s daily activities—is there space for recreation and play?

All follow-up visits for girls and boys should be action oriented. The person carrying out the visit must have a goal in mind. Ultimately, monitoring should not lead to stigmatization, but rather should facilitate social integration of children at risk. Frequent visits to vulnerable children without any substantive purpose or plan have proved to be harmful due to the stigma they create.

Some children may require a greater number of standard follow-up visits than others, depending on the circumstances, the identified risks, needs for additional support and the urgency of the case. Some children are in need of immediate interventions, for example, in cases of abuse. Priority cases should receive immediate care and protection. In such cases, monitoring and follow-up should be more frequent and continue until a durable solution has been found. The frequency of monitoring and follow-up visits also depends on available human and logistical resources. Where there are no additional protection concerns, suggested **minimum** routine monitoring frequencies can be found in the box below:

SITUATION	FREQUENCY
Children in interim care (up to 12 weeks)	Every one to two weeks and a formal 12-week placement review
Children in longer-term temporary care	Every four to 12 weeks with a review of tracing and reunification or alternative care plans every 12 weeks
Children in permanent alternative care	Once in the first month and third month, with subsequent follow-up conducted as/if continued monitoring is still required ⁴⁶

Among the children to be followed, criteria should be established for priority monitoring, especially when there are large numbers of children, requiring monitoring, tracing, follow-up and/or BID. Such criteria could include:

- if the child has a history of abuse.
- if the child has been subject to sexual gender-based violence (SGBV).

46 These standards are indicated in the Inter-agency Working Group on Unaccompanied and Separated Children, Draft Interim Care Toolkit for Emergency and Post Emergency Response (unpublished), 2010 and may be subject to change.

- if the child is a member of a child-headed household.
- if the child was formally associated with armed forces/groups.
- if the child has been placed in two or more different foster families.
- if the child has been separated for a very long/short time.
- the likelihood of reunification/placement with distant relatives.
- if the child is initially reluctant to join a family.
- if a child has emotional or physical problems that developed after separation.
- if the child is living with a parent with a physical or mental disability.

Where there are concerns regarding the protection and well-being of the child, regular follow-up is necessary, according to the needs of the child and the family/caretaker.

In cases where children and their families are spread out, or if reunified children have moved out of the immediate area, agencies should try to locate an organization that they can work through. Local community-based child protection and/or social service organizations can take on the responsibility to visit the child and family, provide support, or make referrals. Until such an organization can be located, any children moving to a different area must have the name and contact details of an adult to get in touch with if they have urgent protection concerns.⁴⁷

In cases where large numbers of unaccompanied and separated children are cared for by foster families, the priority for care planning should be placed on those children who are, or are likely to be, in alternative care for more than 12 weeks. It may prove difficult to assess and provide ongoing monitoring for all unaccompanied and separated children, and the focus should be on children in need of additional procedural safeguards and protective measures. These situations emphasize the importance of the involvement of the community in monitoring and follow-up of unaccompanied and separated children in alternative care and other children at risk (see para. 3.6).

In foster situations, economic support should be provided to the foster family to care for the child only on a case-by-case basis, after careful assessment. If the foster family needs assistance, it is preferable to provide support through general support initiatives for vulnerable households.

Keep in Mind

Children living in foster care, child-headed households, or other alternative care arrangements:

- Should have access to available services on a comparable level to other families in the community.
- Must be provided with food and adequate shelter and should have access to medical care.
- Should have access to education or vocational training, and their school attendance must be monitored.
- Should have access to community activities.
- May be in need of life skills training and livelihood support if they have reached adolescence.
- Need to be aware of the services available (and their foster parents need to be aware of this, as well). Agencies should refer and link up children and caretakers with the available services.

⁴⁷ Inter-agency Working Group on Unaccompanied and Separated Children, Draft Interim Care Toolkit for Emergency and Post Emergency Response (unpublished), 2010.

§ 3.13 Possible Separation of a Child from Parents against their Will

UNHCR BID Guidelines: pages 36–42 and Annex 3, page 86

BID Guidelines provide extensive guidance on separation of a child from his or her parents against their will. Children have the right to live with their parents. Therefore decisions leading to separation of a child from his or her parents need to follow strict procedures and fall within the competence of the State. This is also outlined in Article 9 of the UN CRC:

“a child shall not be separated from his or her parents against their will, except when competent authorities, in line with applicable law and procedures, decide that such separation is necessary for the best interests of the child”.

When national authorities are handling such cases in relation to children of concern, UNHCR may monitor the process. Where the responsible State authorities are unwilling or unable to take action, UNHCR must take measures to protect the rights of a child of its concern in line with its international protection mandate. In cases of severe forms of abuse or neglect within the family, this could mean the removal and separation of a child from her or his parents or caregiver.

The term “family” should be interpreted in a broad sense in line with local custom, and can, depending on the context, include extended family members or other people in the community with whom the child is living (UN CRC, Art. 5).

Separation of a child from his or her parents should be considered only when there are reasonable grounds to believe that the child is, or is likely to be, exposed to severe abuse or neglect by the parents, such as serious physical or mental harm and sexual exploitation and abuse. Separation of a child from his or her parents should be a measure of last resort. Any intervention should be combined with efforts to support the family through mediation and counselling for the involved family members, with the help of a social worker, child protection staff or maybe with the support of an elder or other respected community member.

In assessing a case where a child is suspected to be exposed to severe abuse, neglect, exploitation or violence, the root causes, frequency, patterns of past incidents and persistence of the identified issues must be carefully considered. In these cases a BID will be necessary before any decision is made that could lead to separation, even a provisional separation. A trained child protection worker also needs to determine if there are reasonable grounds to believe that the child’s life is at imminent risk or that imminent risk of physical injury is likely.

If the child is at imminent risk, immediate removal from the family and placement in alternative temporary care should be considered.

The BID supervisor (or, in his or her absence, another senior staff member from UNHCR or a child protection agency) must endorse the decision of the child protection staff regarding the removal of the child, prior to the separation or within a maximum of 48 hours. Bio-data of the child and the parents, reasons for the decision to remove the child, and timeframe must be recorded and included in the child’s file. The BID supervisor should inform national authorities, if this is determined to be in the best interests of the child. The child’s parents or caregiver need to be informed of the separation, its grounds, and procedures to follow. The BID should also establish whether it is in the best interests of the child to inform the parents or caregiver of the whereabouts of the child, and to arrange visits, if safe and appropriate.

Regardless of whether a BID results in a decision to separate the child and parents, the family should be offered support to assume its parental responsibilities and to provide care for the child. This process should start as soon as possible and should be conducted by skilled child protection staff. A care plan needs to be developed and should be formalized in a written agreement. UNHCR and partners (or, where

possible, the national child welfare authority) are responsible for monitoring the child and/or her or his parents and follow-up on the implementation of the care plan.

Separation of a Child from Parents against their Will in Cases of Abuse, Neglect, Exploitation and/or Violence

CASE EXAMPLES

UNHCR and partners must seek the involvement of the relevant child protection authorities when there are signs or risks that a girl or a boy is at imminent risk. These bodies have the authority to take decisions on separation of a child against the will of her/his parents. If the local authorities are not available, UNHCR and partners need to intervene through conducting a BID and developing a care plan to address the identified issues of abuse, neglect, exploitation or violence.

CASE SCENARIO 1

Irena is a 15 year old refugee girl. She is living with her parents and two younger brothers in a flat in the outskirts of a town. One day Irene approached a NGO community service staff member, who had visited the family a couple of times. Irena reported that she is facing sexual abuse by her father for the past year. She said that her father is often violent and beats her and her mother regularly. He also has problems in the neighbourhood, according to Irena. Irena says that her mother feels helpless and depressed and does not know how to protect her daughter against the abuse of the father. Irena said that her mother will never leave her father because her mother is scared. Irena feels rejected by both her parents and does not dare to talk to anyone in her community because she feels very ashamed of her situation. Irena has been going to school, but says she has problems concentrating during classes and she does not feel motivated to continue. She appears distressed and withdrawn. Irena says she feels isolated because she cannot talk about her problems and does not know where to go.

Comment: A child protection specialist would rapidly assess Irena's situation and verify if she is at imminent risk. They would explore, with Irena, what immediate support she needs and if urgent action is required, in particular related to interim care. The possibilities of a safe house or temporary foster care, as well as medical support, counselling and other support services available would be discussed with her. Irena would be asked if she agrees to having an NGO staff member speak to her mother discretely in order to discuss the situation of both Irena and the mother. There is also a need to verify if Irena's brothers are facing abuse, neglect, exploitation and/or violence. Yet, this needs to be done carefully, as to maintain safety of the children and their mother. A care plan needs to be developed for Irena which includes plans for close monitoring and follow-up. The care plan should be regularly reviewed at set time periods. A BID needs to be conducted, formalizing the decisions for Irena, whether she can remain with her mother, in case her mother decides to separate from Irena's father or if she should be separated from both parents and be placed in temporary alternative care. Both Irena and her mother and the rest of the family need to receive continued support. If possible, Irena and her family should be enabled to remain in regular contact through organized visits, if Irena agrees to this and if it is deemed to be in her best interests.

CASE SCENARIO 2

Fahran is a 13 year old refugee boy who lives with his parents and two younger sisters. His father sends him to work long hours in a nearby factory almost everyday. Fahran works illegally and his working conditions are bad. Fahran faces health problems due to the factory's poor working conditions. He does not receive medical treatment and his physical condition has recently deteriorated. When Fahran does not come back with enough money in the evening, his father beats him severely. His mother does not know what to do, but she is happy with the extra income that Fahran brings in. Fahran has never gone to school.

Comment: A child protection specialist would rapidly assess Fahran’s situation and that of his family, including his two sisters, and their needs for support, such as medical and psychosocial support. They would assess if mediation with Fahran’s parents could possibly result in removing Fahran from factory work and explore if there may be alternatives to support the household. A BID needs to take place to decide if Fahran should be separated from his parents and be placed in temporary alternative care. The situation of his two sisters would also be investigated: are they at risk of exploitation and should they also be considered for alternative care placement? A care plan needs to be developed for the boy and his family, mapping out continued support and referral to relevant services. Close monitoring needs to take place and the care plan should be regularly reviewed at set time periods. It should also be explored if Fahran and his father and the rest of his family can remain in contact through organized visits.⁴⁸

§ 3.14 Unresolved Custody Issues

UNHCR BID Guidelines: pages 40–44

Unresolved custody issues are, as such, rarely in the best interests of a child. Unresolved custody disputes can also delay durable solutions. In its general protection programming, UNHCR should therefore ensure that legal aid services and counselling are available to parents and families to provide advice on procedures for resolving custody disputes. It is important that these legal aid services are available throughout the displacement cycle. Families should also be advised and/or supported to obtain possible custody decisions from courts in countries of origin—if this can be done safely. If need be, legal assistance should be provided so families can access courts in the country of asylum.

Determination of legal custody falls squarely within the competence of States. For refugees, this responsibility rests with the State where the child is residing. UNHCR should therefore make all efforts to involve relevant authorities in such cases. If the State is unwilling or unable to take measures, then UNHCR and partner NGOs, working directly with children or legal partners, should try to mediate and provide guidance and counselling to the family. If, after these interventions, custody arrangements remain unresolved a best interests determination must be conducted, especially in cases where resettlement has been identified as a desirable and feasible durable solution. As UNHCR does not have the legal competence to determine legal custody, the BID decision would solely make a determination on which parent the child *should* stay with based on the best interests principle. Even after this, efforts to obtain a formal determination of legal custody through the competent state authority must continue.⁴⁹

In the best interests process it is important to document current and previous custody arrangements and to refer to, and preferably attach, legal documentation related to custody. The BID process should also reflect frequency and nature of contact between the child and the parents, including whether the custody-holding parent has exercised her or his custody rights and for how long. Thus the circumstances of the child—the care arrangements, tracing prospects and overall family situation—need to be considered and documented.

CASE EXAMPLE

Kenyan Mobile Court

In Kenya, two district children’s officers of the Kenyan Government visit the camps of Dadaab every two weeks to directly handle child custody cases referred both by Save the Children (the child protection partner of UNHCR) and by refugee community workers, as well as to formalize foster care arrangements after six months of monitoring by Save the Children and the refugee community workers. The district

⁴⁸ The stories and the children’s names are fictitious.

⁴⁹ UNHCR BID Guidelines, p. 40.

children's officers also make decisions in the mobile court regarding separation of children and parents against their will.

Keep in Mind

- UNHCR does not have the legal authority to decide on custody issues.
- Custody issues should be clarified as early as possible, in order to allow for legal proceedings in national courts or with relevant local authorities where needed.
- If the relevant authorities are unwilling/unable to intervene, UNHCR and partners need to conduct a BID aiming to make recommendations in the best interests of the child.
- A primary consideration is not only whether a parent holds legal custody, but also whether he or she has exercised the custody rights.
- As a longer-term strategy, advocacy might be the only intervention through which UNHCR can address custody issues in a country where there is gender-insensitive legislation (for example, legislation that grants custody to either the father or mother by default).
- Whenever possible, a copy of the letter of consent, custody decisions or other relevant documentation regarding the child's custody should accompany the child or caregiver. This letter may be helpful to determine custody in the country of return or resettlement.

§ 3.15 Temporary Care Arrangements for Unaccompanied and Separated Refugee Children and BID in Exceptional Circumstances

UNHCR BID Guidelines: pages 34–35

In some cases it is necessary to remove children from foster care or other types of care arrangement for their protection. Actions to remove children from foster families must be guided by local legislation and policies, where they exist, and local authorities need to be involved, whenever possible. If temporary care arrangements have been made by a State authority, UNHCR and partner organizations do not have to be involved, unless there is a need to support the government entity in this undertaking.

Enforcing local and national legislation and procedures is problematic in some countries, or the legislation and procedures are inadequate, or procedures are unavailable or inaccessible. Where the existing system is inadequate or States are unable or unwilling to intervene, clear standards and procedures for interim care need to be identified and formulated by agencies working with foster children, in consultation with the community and/or local authorities as appropriate to the context.⁵⁰ These standards and procedures should be in line with the BID Guidelines, the Interagency Interim Care Toolkit⁵¹ and other relevant guidelines.

While decisions on temporary care arrangements can normally be based on a BIA, the following exceptional situations require a BID:

- When there are *reasonable grounds to believe that an unaccompanied or separated child is exposed or likely to be exposed to abuse, neglect, violence or exploitation* by her or his foster family, a BID must be conducted as soon as possible. When the child is at imminent risk of abuse, violence, neglect or exploitation, it is necessary to separate the child from the foster family/accompanying adult, as

50 Inter-agency Guiding Principles on Unaccompanied and Separated Children, Geneva, 2004, p. 45

51 Inter-agency Working Group on Unaccompanied and Separated Children, Draft Interim Care Toolkit for Emergency and Post Emergency Response (unpublished), 2010.

a preventive measure, prior to the BID and in accordance with local and national legal processes.⁵² The child needs to be placed in suitable interim care, and a care plan for monitoring and follow-up must be developed.

- In other cases where there are *reasonable grounds to believe that existing care arrangements are not suitable for the child* (for example, due to differences in cultural, ethnic or religious background, his or her association with armed groups or armed forces, etc.), a simplified BID might be necessary and a more suitable care arrangement should be arranged. Ensuring that the child is placed in a stable environment with a suitable foster family as soon as possible is highly recommended; multiple placements in different foster families must be avoided.

Resources: Suggested Further Reading and Relevant Websites

- Inter-agency Guiding Principles on Unaccompanied and Separated Children, Geneva (2004), available at <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=search&docid=4113abc14>
- Save the Children Federation, *Separated Children: Care and Protection of Children in Emergencies. A Field Guide*, Westport, 2004, pp. 8–9
- UNICEF, *The Lost Ones: Emergency Care and Family Tracing for Separated Children from Birth to Five Years*, 2007, available at <http://www.crin.org/bcn/details.asp?id=13110&themeID=1005&topicID=1034>
- Save the Children UK, *Working with Separated Children: A Field Guide, Training Manual and Training Exercises*, 1999, available at <http://www.crin.org/docs/Working%20with%20Separated%20Children.pdf>
- UNHCR, *Refugee Children: Guidelines on Protection and Care*, 1994
- UN Guidelines for the Appropriate Use and Conditions of Alternative Care for Children, 2009, available at <http://www.bettercarenetwork.org>
- International Reference Centre for the Rights of Children Deprived of Family Care (ISS/IRC), *UN Guidelines for the Appropriate Use and Conditions of Alternative Care for Children, An Introductory Briefing on Its Background, Core Principles and Scope*, Geneva 2008, available at www.crin.org/docs/Special%20Series%20ISS.pdf
- Save the Children Sweden, *Networks of Support: A Literature Review of Care Issues for Separated Children*, 2001
- Save the Children Sweden, *Whose Children? Separated Children's Protection and Participation in Emergencies*, 2003
- UNICEF, *Situation Analysis Report: Strengthening Alternative Care Options for Refugee Children*, December 2006
- Inter-agency Working Group on Unaccompanied and Separated Children, *Draft Interim Care Toolkit for Emergency and Post Emergency Response* (unpublished), 2010
- Better Care Network, available at <http://www.crin.org/bcn/>
- World Vision International, *Because We Care: Programming Guidance for Children Deprived of Parental Care*, 2009

52 UNHCR BID Guidelines, pp. 34–35.

- Inter-agency Standing Committee (IASC), *Guidelines for Gender-based Violence Interventions in Humanitarian Settings*, September 2005, available at <http://www.unhcr.org/protect/PROTECTION/453492294.pdf>
- Action for the Rights of Children (ARC), Critical issue module 6: Separated Children, 2009, available at <http://www.arc-online.org/index.html>
- ARC, Critical issue module 1: Abuse and Exploitation, 2009, available at <http://www.arc-online.org/index.html>
- ARC, Critical issue module 3: Children with Disabilities, 2009, available at <http://www.arc-online.org/index.html>
- ARC, Critical issue module 4: Sexual and Reproductive Health, 2009, available at <http://www.arc-online.org/index.html>
- ARC, Foundation module 6: Community Mobilization, 2009, available at <http://www.arc-online.org/index.html>
- ARC, Foundation module 7: Psychosocial Support, ARC, 2009, available at <http://www.arc-online.org/index.html>
- ARC, Foundation module 1: Understanding Childhoods, available at ARC, 2009, available at <http://www.arc-online.org/index.html>

Chapter 4: Best Interests Determination in the Context of Durable Solutions

Key Messages

- The search for durable solutions for unaccompanied and separated children, as well as other children at risk, should be guided by the best interests of the child and as determined through a formal BID procedure.
- Best interests determination procedures should not be conducted in isolation but should be integrated into the overall protection programme which entails mechanisms for early identification of children at risk, appropriate response services and monitoring and follow-up, etc.
- A BID process should be initiated early in the displacement cycle in order to avoid BIDs being conducted just prior to identification of a durable solution.
- A BID should always consider the overall situation of the child – including care arrangements, protection, family reunification, specific needs, custody issues, etc. – even when the BID is conducted in the context of durable solutions.
- The individual care plan for unaccompanied and separated children should include considerations for durable solutions.
- For unaccompanied and separated children, the best interests process should start as soon as possible after their identification, beginning with the assessment of their situation and the launching of family tracing and/or other child protection interventions. The situation of the child should be monitored continuously, and a full BID should be completed within two years of identification to establish durable solutions.
- Family tracing should be initiated in a protection-sensitive manner for both the family and the child as soon as possible, and tracing should continue even after the implementation of a durable solution, until all possible tracing avenues have been exhausted.
- Access to age-appropriate information regarding durable solutions and country of origin information is important in order to help the child form and express his or her opinions as part of the BID process. This could, for example, include “go-and-see visits”.
- Monitoring of unaccompanied and separated children should continue for a reasonable period of time after the implementation of the durable solution.

§ 4.1 Determining the Best Interests of the Child in Relation to Durable Solutions

UNHCR BID Guidelines: pages 22, 30–31 and Annex 1, page 84

Decisions regarding durable solutions for unaccompanied and separated children and children facing other kinds of protection problems have long-term implications for their well-being. Such decisions should not be made lightly; they require careful balancing of a wide range of factors, for which the BID process provides the necessary framework and safeguards. Ideally, all three durable solutions described below should be explored in the process of deciding on the best interests of the child.

Background on Durable Solutions

Finding durable solutions that end displacement is at the core of UNHCR's mandate.

Voluntary repatriation

The core of voluntary repatriation is return “in safety and with dignity”; that is, return in and to conditions of physical, legal and material safety, with full restoration of national protection being the end product.⁵³

Local integration

“Local integration follows the formal granting of refugee status, whether on an individual or prima facie basis, and assistance to settle in order for the refugee to live independently within the community.” It is a legal, economic, social, cultural and political process.⁵⁴

Resettlement

“Resettlement involves the selection and transfer of refugees from a State in which they have sought protection to a third State which has agreed to admit them as refugees with permanent residence status. The status should ensure protection against refoulement and provide a resettled refugee and her/his family or dependants with access to civil, political, economic, social and cultural rights similar to those enjoyed by nationals”.⁵⁵

Finding a durable solution is in the best interests of the child, especially if girls and boys are growing up in a protracted refugee situation. Experience has shown that protracted situations frequently create frustration and tension within displaced populations and also with the host community. A lack of timely and durable solutions can result in increased protection risks for children and youth,⁵⁶ such as trafficking, child labour, early marriage or child recruitment. Displaced families, adolescents and children are also vulnerable to powerful individuals who exert pressure or make false promises regarding movement to third countries.

Best interests determinations in the context of durable solutions should not be conducted in isolation; rather, they should be part of a wider child protection programme. As such, BIDs should build upon individual casework conducted earlier during the displacement (for example, through initial best interests assessments (BIAs) undertaken soon after identification of the child at risk). The BIA and the necessary child protection interventions should address short-term and long-term care and protection needs through child protection interventions and referral to relevant services. BIA documentation should be regularly reviewed and updated and should also examine durable solutions that may be available to the child. Regular monitoring and follow-up of the child would also guide UNHCR and partners as to when to initiate a BID in the context of durable solutions.

When considering the best interests of the child in the context of durable solutions, the caseworker would ideally be able to consider all three durable solutions simultaneously. A comprehensive solutions package in which various options are implemented is preferable. Yet this may not always be possible, as one or more of the durable solutions may not be available.

53 UNHCR, Global Consultations on International Protection/Third Track: Voluntary Repatriation, 25 April 2002, EC/GC/02/5, in *Refugee Survey Quarterly*, Vol. 22, No. 2/3 2003, pp. 225–239, para. 15.

54 UNHCR Resettlement Handbook, Geneva, Nov. 2004, p. II/7.

55 UNHCR Resettlement Handbook, Geneva, Nov. 2004, p. I/1.

56 UNHCR, Local Integration and Self-Reliance, EC/55/SC/CRP.15, 2 June 2005.

Generally, a BID should be conducted within two years of the identification of an unaccompanied or separated child. However, this does not mean that the child is left without necessary child protection assessments and interventions (BIA, interim care arrangements, counselling, monitoring and follow-up, etc.). The period of two years simply allows for active tracing of family members or other legal or customary caregivers.

Keep in Mind: Family Tracing

- Family reunification, whenever feasible, should generally be regarded as being in the best interests of the child.
- Always seek the views of the child in relation to his or her wish to initiate family tracing—and carefully analyze and seek to address possible hesitation to initiating tracing.
- All efforts should be made to actively trace the family of unaccompanied or separated children.
- Family tracing efforts should be initiated as soon as possible after the identification of an unaccompanied or separated child. Tracing efforts that are initiated early on are also more likely to be successful.
- If tracing efforts have not been exhausted prior to identification of a durable solution, the tracing efforts should continue after voluntary repatriation, local integration or resettlement.
- Tracing efforts should be carefully documented and regularly followed up by the agency undertaking the tracing.
- ICRC has a global mandate for family tracing. However, other UNHCR offices and partners can also play a role in family tracing; for example, if family members are residing in refugee camps in another country.

Some children may need a BID and the necessary interventions at an earlier stage. Examples are very young unaccompanied and separated children (younger than five years old), children facing abuse in their family/foster family, and/or children in need of separation from their family or caretaker and/or interim care and protection. A child's serious protection risks may also lead to a recommendation of resettlement on an emergency or urgent basis, necessitating an immediate BID.

The BID decision and recommendations will further inform a plan to implement the durable solution, including setting timelines and identifying actors responsible for the implementation. The plan must be reviewed, updated and followed up on a regular basis. Unaccompanied and separated children and foster families need to be regularly informed about their options in terms of durable solutions and the potential short- and longer-term impact of the various options. Objective and relevant information should be made available to facilitate informed decision-making about available durable solutions.

During the BID process and the search for a durable solution, family tracing must continue in order to enable family reunification, if in the best interests of the child. For this purpose, documentation relevant for tracing—such as birth, school and health certificates, a summary of past tracing efforts and initiatives, and any other important records—should remain with the child after a durable solution has been identified. Regular monitoring and active follow-up of the child in the country of asylum should continue until a durable solution has been implemented effectively. After this, monitoring of the child is the responsibility of the receiving country/office.

Generally, decisions about durable solutions for children should consider:

- Best interests of the child.
- Views of the child.

- Family unity, including prospects for future family reunification.
- Present care arrangement.
- Continuity and sustainability of care arrangements.
- Ethnic, linguistic, religious and cultural background of the child.
- Available options for durable solutions.

§ 4.2 Enabling Children to Make Informed Decisions

UNHCR BID Guidelines: pages 59–63

Throughout the BID process, each child should receive adequate and age-appropriate information on the situation in the country of origin and on other possible options for durable solutions. It is important that the child understands what this means, both in the short and longer term: for example, what she or he can expect in the country of origin in terms of living circumstances, family environment, reintegration services and education. This helps the girl or boy to form her or his own views, which are an important consideration in the BID process.

Difficult memories or experiences related to the country of origin can possibly influence the child’s decision-making. Memories of violence, conflict, police raids, and illegal arrests might result in a hesitation to return, as the child could fear that such incidents are still occurring in the home country or place of origin. Child protection personnel need to listen carefully to the wishes and feelings expressed by the child. The caseworker should observe the child’s behaviour during the interview(s) in order to assess the grounds for these fears and to decide on the appropriate course of action (see also Chapter 5). Objective information provided by the child protection staff regarding the current situation in the country or place of origin can be reassuring and address fears that might be exacerbated by the process.

The BID process also gives the child an opportunity to discuss his or her concerns with an adult. If children continue to have serious concerns about returning home, a “go-and-see” visit could help the child make an informed decision and reassure her or him about safety and acceptance by the community. However, a careful assessment of the psychological impact of return should be made for children who have been subjected to, or have witnessed, extreme forms of violence, even if country conditions have changed. This applies regardless of whether the return is a short “go-and-see” visit or is a voluntary repatriation. If a psychological expert is available, he or she could provide valuable advice in these specific cases.

CASE EXAMPLE

Go-and-See Visits in Guinea

From Guinea, the IRC organized go-and-see visits in coordination with agencies in Sierra Leone for unaccompanied Sierra Leonean children whose families had not been traced despite continued efforts. During the period of the go-and-see visits to Sierra Leone, the children stayed with “stand-by foster families”, who were identified and supported by child protection agencies in Sierra Leone. A social worker from the IRC accompanied each child to her or his place of origin and provided support and counselling during the process. Once the children were back in their places of origin, they often recognized locations where they had lived or started to remember important elements about family members and other information that could help in tracing their families. In addition, members of the children’s communities sometimes recognized them and were able to provide information about their families’ whereabouts. Large numbers of children were reunified with their families within two weeks of being in Sierra Leone, despite having been separated for years.

§ 4.2.1 Consultation with Children and Parents/Caregivers Regarding Durable Solutions

To make certain that the views and concerns of children are voiced, UNHCR and partners must ensure child participation in community discussions. Children must also be invited to share their views and concerns regarding durable and desirable solutions. This can be accomplished through the use of child-friendly techniques through during facilitated focus group discussions or participatory assessments with children and youth (see para. 5.9). Children also have a right to receive information on durable solutions, communicated in a manner that is easily understood by them.

It can also be useful to organize regular focus group discussions with children of different age groups, including children at risk, to discuss the available durable solutions and the children's views and concerns. Children who may be consulted include children with disabilities, children in foster care, child-headed households and children living with elderly (grand) parents. These focus group discussions can also help to enhance understanding of children's issues related to the available durable solutions. UNHCR and partners can improve their understanding of children's views and concerns in order to address these issues prior to, or while, establishing durable solutions along with children and their families/caregivers.

Keep in Mind:

Cases of Unresolved Custody in the Context of Durable Solutions (See para. 3.14)

- Custody issues must be resolved as early as possible—e.g., through the provision of legal advice and counselling to affected refugees.
- Determination of legal custody lies within the competency of the State.
- If relevant authorities are unwilling or unable to intervene—and the unresolved custody issue is an obstacle to, for example, resettlement— UNHCR and partners need to conduct a BID process to recommend with which parent the child should reside, in correspondence with the child's best interests.
- Ensure contact between the child and separated parent as well as between the child and any separated siblings.
- Ensure that the child or the caregiver travel with a copy of the letter of consent, or any other relevant documentation regarding the child's custody.

§ 4.3 Voluntary Repatriation and BID

UNHCR's mandate includes assisting governments in facilitating *voluntary* repatriation of refugee children and their families, in *safety and dignity*, from the country of asylum to the country of origin. Refugees should be able to make a free and informed decision regarding repatriation. To facilitate informed decision-making, sufficient information should be provided to the refugees regarding the available options and conditions in the country of return, and the refugees should not be put under pressure to return.⁵⁷

Repatriation operations also include reintegration activities upon their return, such as the provision of a return package, protection monitoring and advocacy with government and other actors to ensure access to food, water, health facilities and school.

57 ExCom Conclusion 18 (XXXI) on Voluntary Repatriation, 1980; ExCom Conclusion 40 (XXXVI) on Voluntary Repatriation, 1985; ExCom Conclusion 74 (XLV), 1994.

These principles apply to repatriating children, whether they repatriate with their parents or caregivers, or not.

The CRC adds the following relevant provisions:

Article 10: “...States Parties shall respect the right of the child and his or her parents to leave any country, including their own and to enter their own country”

Article 7: “right to name and nationality”

Article 8: “right to preservation of identity, including nationality”

When considering voluntary repatriation as a durable solution for unaccompanied and separated children, a full BID needs to take place, including for those in foster care and child-headed households. In some instances, a BID may also be required for children at risk (for example, for children who live with a caretaker who has serious substance abuse issues).

CASE EXAMPLE:

The BID Process in Tanzania

In Tanzania UNHCR is implementing BID procedures with the IRC and WVT (World Vision Tanzania). BID takes place mainly in the context of voluntary repatriation of Burundian and Congolese refugees, providing additional safeguards and protection measures (for example, for unaccompanied and separated children or children who are facing abuse or custody issues). Foster families and children are provided with the necessary information before repatriation. The BID establishes the willingness and ability of the foster family to return with the child to Burundi or the DRC and to provide continued care, as well as the wishes and views of the child. Statistics show that since the BID process started in Tanzania in 2006, fewer unaccompanied or separated children have been abandoned by their foster family prior to voluntary repatriation.

§ 4.4 Local Integration and BID

Background Information: Local Integration

- Refugee children who will integrate locally should not be discriminated against and should benefit from the national system on the same basis as national children.
- A specific strategy must be established to ensure an adequate integration of unaccompanied and separated children.⁵⁸

Local integration has three separate dimensions: legal, socio-economic, and cultural. Granting refugees a secure legal status and residence permit allows them to progressively enjoy the same rights as nationals, including equal access to institutions, facilities, services, and to family reunification in the country of asylum.

The CRC states:

Article 2: “States Parties shall respect and ensure the rights (...) to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.”

58 UNHCR, Local Integration and Self-Reliance, 2 June 2005, EC/55/SC/CRP.15, para. 28, available at: <http://www.unhcr.org/refworld/docid/478b3ce12.html>

Local integration may be the preferred durable solution for some unaccompanied and separated children. For example, this is true in cases: where repatriation may not be appropriate or feasible; where refugees may be unwilling to return for specific reasons despite improvements in the overall situation in their country of origin; or where refugees have established close family, social, cultural and/or economic ties with the country of asylum. Local integration may also be appropriate for refugees who are born in countries of asylum, who have no ties with their parents' country of origin and who may risk becoming *de facto* or *de jure* stateless.

Where prospects for effective local integration exist, a determination that local integration is the most appropriate durable solution must be based on a BID. This process should also include an assessment of possible additional support needed for the safety and well-being of the child and to facilitate successful local integration. Local integration for children should be in line with national policies of the country of asylum. UNHCR and partners need to advocate and work with the government of the asylum country to secure their legal status and thereby access to national services that may be available.

For local integration to be successful, individuals, households and communities should be supported towards increasing self-reliance. While host governments have the primary responsibility for this, UNHCR and development agencies should provide additional support where there are gaps. Local integration support particularly benefiting children and adolescents includes advocacy for access to local primary and secondary schools, tertiary education, life-skills schemes, vocational training and income-generating activities for families and youth. Some individuals and specific groups of refugees, especially unaccompanied and separated children, may require specialized strategies and support.⁵⁹ The participation of adolescents and young persons in developing integration support is important to ensure that their views are heard and to reinforce their sense of belonging, integration and personal agency.

There may be situations where unaccompanied and separated children are fostered by refugee families or local families or live with peers in child-headed households. Children's rights to their own identity, especially for those who are unaccompanied or separated, might be in jeopardy as a result of the local integration process. In Guinea, for instance, some Guinean families who fostered young refugees had changed the names of children in their care.

An important factor related to unaccompanied and separated children during the local integration process is the availability of the official and legal documents required to prove their identity and secure their status in the country of asylum. Each child's individual care plan should outline steps necessary to obtain required documentation for the child.

CASE EXAMPLE

BID in a Local Integration Context in Guinea

Between 2005 and 2007, the IRC was responsible for overseeing a "durable solutions" project for unaccompanied and separated Sierra Leonean children in Guinea. A BID panel was established consisting of IRC, UNHCR, UNICEF, the Ministry of Social Welfare (MSW) and ICRC (as observer). The BID panel developed a number of recommendations for local integration. Many of these children had lived with their foster families in Guinea for an extended period, and they had few memories of Sierra Leone. Some children could speak only the local language and were well integrated in the local community.⁶⁰

59 UNHCR, Local Integration and Self-Reliance, 2 June 2005, EC/55/SC/CRP.15, para. 28, available at: <http://www.unhcr.org/refworld/docid/478b3ce12.html>

60 International Rescue Committee, *Determining the Best Interests of Unaccompanied and Separated Children*, Lessons from Guinea, September 2007.

§ 4.5 Resettlement and BID

Background⁶¹

UNHCR's resettlement activities involve the selection and transfer of refugees⁶² from a State in which they have sought protection to a third State that has agreed to admit them—as refugees—with permanent residence status. The status provided ensures protection against *refoulement* and provides a resettled refugee and his or her family or dependants with access to civil, political, economic, social and cultural rights similar to those enjoyed by nationals.

Resettlement also carries with it the opportunity to eventually become a naturalized citizen of the resettlement country. It is one of three durable solutions UNHCR is mandated to implement, in cooperation with states. Resettlement is geared primarily towards the protection of refugees whose life, liberty, safety, health or fundamental human rights are at risk in their country of refuge. UNHCR may submit refugees for resettlement consideration based on a number of criteria, such as legal and physical protection needs or medical needs, and several criteria have been established specifically for children, including “Children and Adolescents”, “Family Reunification”, and “Women (and Girls) at Risk”.

In some cases, resettlement to a third country may be in the best interests of a child, and may therefore be deemed the most appropriate durable solution. As with any consideration of durable solutions, such a decision should not be taken lightly; it should be formulated through the formal BID procedure, which establishes additional safeguards for the child. Resettlement also involves other challenges for the child that will need to be considered in the BID assessment. For this reason, resettlement should not automatically be considered to be in the best interests of the child; rather, resettlement recommendations should be subject to individual case assessment.

Among cases to be promoted for resettlement, priority attention should be given to refugees with acute legal or physical protection needs. This can also include children at risk, such as unaccompanied children. Protection and other needs, as well as the special programmes offered by resettlement countries that address their specific needs upon arrival for resettlement, should be considered.⁶³

The fact that resettlement normally means that the child is separated from his or her own community and cultural context should be given special consideration, in particular relating to the longer-term impact on the child. Resettlement can also make family reunification more difficult.

The BID process must carefully balance all rights at stake and facts in the life of the child to identify whether resettlement is the best durable solution for unaccompanied and separated children.⁶⁴ When a separated child is resettled with his foster family, careful consideration must be given to the need for continuity of care with the foster family and a potential family reunification later.

Priority attention should also be given to refugee children who are under physical threat, disabled, traumatized or in need of specialized medical care, if it reflects the best interests of the child. In these cases, the rest of the minor's family (or caregiver) should also be resettled with the child in order to prevent family separation or to avoid interrupting well-functioning care arrangements. If the child's protection risks arise from within the family or within the current care arrangement, the situation needs to be carefully considered when performing the best interests assessment and/or BID.

61 UNHCR Resettlement Handbook (country chapters last updated September 2009), 1 November 2004, available at: <http://www.unhcr.org/refworld/docid/3ae6b35e0.html>

62 Exceptions can be made for non-refugee stateless persons for whom resettlement is considered the most appropriate durable solution, and also for the resettlement of non-refugee dependent family members to retain or restore family unity.

63 Action for the Rights of Children, Durable Solutions Resettlement, 2002, pp. 52–53.

64 *Idem.* p.98.

Application of the Best Interests principle to Children being Considered for Resettlement with only One Parent

- **If the parent not travelling with the child can be reached**, his/her informed written consent must be obtained.
- If he/she refuses to sign consent form, efforts must be made to engage competent national authorities to make a legal determination of custody.
- If local authorities are unwilling or unable, or procedures are inaccessible to refugees, UNHCR must undertake a **BID** to determine if resettlement together with one parent is in the best interests of the child.
- The parent who travels with the child should be advised to initiate procedures to acquire full custody rights upon arrival in the resettlement country.
- **If the parent who is not travelling cannot be reached (is missing)**, explore if any documentation is available that would confirm status and location of the absent parent (e.g. death certificate, documentation relating to divorce or custody arrangements) document etc.).
- Discuss with the child if he/she wishes to pursue a tracing request for the absent parent, and in case of very young children, this should be discussed with the parent who is with the child. Staff must also assess whether tracing is deemed to be in the best interests of the child, and that tracing can be done safely.
- All information about tracing efforts or any information on his/her identity and whereabouts must be recorded.
- Explore and document reasons for the separation and in particular if domestic violence could have triggered the separation.
- Explore and document to what extent the absent parent has exercised his/her parental rights⁶⁵.
- The child's views on the possible separation from the absent parent must be taken into account.
- The child must receive age-appropriate information on longer term implications of resettlement with just one parent and be given an objective assessment of possible future family reunification in country of resettlement with the absent parent should he/she be found.
- A BIA must be conducted to determine if resettlement together with one parent is in the best interests of the child.

A BID is essential in all cases in which the resettlement of one parent is based on a protection risk emanating from the family (e.g. domestic violence).⁶⁶

§ 4.6 Family Reunification in a Third Country

UNHCR BID Guidelines: pages 31 and 87 (Annex 4)

Reunification of unaccompanied and separated children with their family or previous caregivers in a third country should be treated as a matter of urgency because of the special needs of children and young people for a stable family environment and their right to reunification.

⁶⁵ UNHCR BID Guidelines, pp. 42-43.

⁶⁶ UNHCR BID Guidelines, p. 41.

Normally, a BIA should be carried out to assess whether reunification is in the best interests of the child. The caseworker should try to get in touch with the person who is requesting family reunification and who claims to be a family member/previous caretaker of the child. This can be challenging at times, and some creativity may be required to establish such contacts. Also the views of the child and others around the child need to be obtained.

UNHCR strongly supports the principle of family unity. Family unity is defined on the basis of dependency, incorporating both so-called “nuclear” family members (parents and minor children) and other dependant family members (such as unmarried adult children or those who are emotionally and/or economically dependent on the nuclear family). Unaccompanied or separated children are by definition without immediate family members, but they may have next-of-kin in the country of origin or asylum. However, overly restrictive conceptions of the family, focusing only on this nuclear family unit, may run the risk of precluding reunification with more distant relatives who have, for example, been resettled. Nevertheless, it is important to discuss these issues with the child during the BID process (with the help of a resettlement officer if necessary). Explaining the meaning of resettlement and the possible implications for family reunification help the child make an informed choice.

It may not always be possible to reunite entire family groups in the broad or traditional senses. Yet governments should be encouraged to give positive consideration to the inclusion of those persons, whatever their age, educational level or marital status, but whose economic and social viability remain dependent on the family nucleus.⁶⁷ The UNHCR ExCom conclusion in the box below underscores this.



Extracted from UNHCR’s Executive Committee Conclusion on Children at Risk No 107 (LVIII) 2007

UNHCR’s Executive Committee:

(h) *Further recommends* that States, UNHCR and other relevant agencies and partners undertake the following non-exhaustive prevention, response and solution measures in order to address specific wider environmental or individual risks factors:

(...) xviii. *Enhance the use of resettlement as a protection and durable solutions tool for children at risk; where appropriate, take a flexible approach to family unity, including through consideration of concurrent processing of family members in different locations, as well as to the definition of family members in recognition of the preference to protect children within a family environment with both parents; and recognize UNHCR’s role in the determination of the best interests of the child which should inform resettlement decisions including in situations where only one parent is being resettled and custody disputes remain unresolved due to the unavailability or inaccessibility of competent authorities, or due to the inability to obtain official documents from the country of origin as this could jeopardize the safety of the refugee or his/her relatives.*⁶⁸

§ 4.7 Continued Monitoring of the Child after a BID in the Context of the Implementation of Durable Solutions

Special measures to receive children and their families, including unaccompanied children and separated children and their foster families, should be set up in the country or area of origin with the assistance of UNHCR, relevant government actors and other partners. If a BID establishes the need for continued care and protection after repatriation, UNHCR and partner staff should establish follow-up procedures,

67 Action for the Rights of Children (ARC), *Durable Solutions, Resettlement*, 2002 pp. 13, 52–53; UNHCR is currently in the process of developing guidance notes for resettlement countries on family structures and practices of care in different cultural contexts.

68 UNHCR BID Guidelines, p. 41.

to the extent possible. This is for the protection of the child and his or her caregiver, and to support the durable solution's sustainability. Relevant information should be shared on a need-to-know basis with the concerned staff from UNHCR and/or partner organizations.

General returnee monitoring activities, which represent one of UNHCR's core protection activities, must also cover the situation of returning children, in particular unaccompanied and separated children (for example, children in foster families). Such monitoring can also be undertaken through community-based protection monitoring mechanisms. Members of such mechanisms need to be properly trained to detect possible risks facing children, such as *inter alia* the presence of landmines, lack of access to education or health clinics, or lack of documentation. Returnee children—especially girls, fostered children, members of child-headed households, girl mothers and children with disabilities—may also be vulnerable to discrimination, violence, abuse and exploitation.

During the BID process, and when voluntary repatriation is considered, the prospect for reintegration should also be examined. This involves making sure that children have adequate documents, such as birth certificates, necessary diplomas for re-entering schools, etc. Sometimes, refugee children do not speak the language of their country of origin, which requires specific education interventions to ensure that returnee children can be integrated in schools. Recognition of school diplomas obtained in the country of asylum might sometimes be a challenge requiring advocacy by UNHCR in the country of origin.

§ 4.7.1 Information-Sharing Between Actors Involved in the Implementation of the Durable Solutions

All necessary documentation should be given to UNHCR in the country where the durable solution will be carried out, and to other stakeholders on a “need-to-know” basis. This is part of the BID process and the documents could include: a copy of the BID Report Form; copies of birth, medical or school certificates; and other individual documentation for children. This will assist the implementation of the BID decision and the overall monitoring of children at risk.

CASE EXAMPLE

Monitoring and Support of Returnee Children in Burundi

A cross-border communication mechanism was set up between agencies in Burundi and Tanzania aiming to support reintegration of children and to prevent and/or mitigate child protection risks issues linked to the return of children and their families/caregivers.

Upon return to Burundi from Tanzania, some foster families were reluctant to “hand over” the child for family reunification as they expected to receive something as a “reward” for the temporary care provided during displacement. Unaccompanied and separated children, who returned to Burundi with their foster families, faced other risks. For example, they faced abandonment upon return, neglect and/or inadequate care, as well as difficulties in accessing basic services such as education. These issues stress the importance of monitoring the situation of children during and after the implementation of durable solutions.

To adopt a coordinated response, a working group on Child Protection was set up at the country level in Burundi. It involved UNHCR, the International Rescue Committee (IRC), the International Committee of the Red Cross (ICRC), UNICEF, local authorities and a local NGO. The working group aimed at improving information-sharing between child protection actors in Burundi and Tanzania, as well as facilitating the handover of documentation related to children at risk on a need-to-know basis. Community-based child protection mechanisms were established by the IRC in Burundi to monitor returnee and other children at risk.

§ 4.8 Simplified BID Procedures in the Context of Durable Solutions

Simplified BID procedures can sometimes be used, but only in exceptional situations (mainly in large-scale voluntary repatriation operations). Such simplified procedures might be employed for groups of children who share the same background, if practical and time constraints limit the capacity of UNHCR and/or partners to conduct a full BID for all unaccompanied and separated children (for further guidance and procedures see Chapter 6 of this Handbook).

Resources: Suggested Further Reading and Relevant Websites

- International Rescue Committee, *Determining the Best Interests of Unaccompanied and Separated Children: Lessons from Guinea*, September 2007, available at <http://crin.org/resources/infoDetail.asp?ID=15026&flag=report>
- Lutheran Immigration and Refugee Service, *No Small Matter. Ensuring Protection and Durable Solutions for Unaccompanied and Separated Children*, May 2007, available at <http://www.crin.org/bcn/details.asp?id=19084&themeID=1005&topicID=1033>
- Action for the Rights of Children (ARC), *Module on Durable Solutions: Voluntary Repatriation*, 2002, available at: <http://www.savethechildren.net/arc/>
- Action for the Rights of Children (ARC), *Module on Durable Solutions: Resettlement*, 2002, available at: <http://www.savethechildren.net/arc/>
- UNHCR, *Handbook on Voluntary Repatriation: International Protection*, UNHCR, 1996, available at: <http://www.unhcr.org/publ/PUBL/3bfe68d32.pdf>
- UNHCR, *Resettlement Handbook*, 2004 (partly updated in 2009), available at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b35e0&page=search>
- UNHCR, *Local Integration and Self-Reliance*, 2 June 2005, EC/55/SC/CRP.15, available at: <http://www.unhcr.org/refworld/docid/478b3ce12.html>
- UNHCR, *Through the Eyes of a Child: Refugee Children Speak about Children – A report on participatory assessments, carried out with refugee and returnee children in Southern Africa, 2005–2007*, available at <http://www.unhcr.org/47c804682.pdf>
- Save the Children UK, *Working with Separated Children: A Field Guide, Training Manual and Training Exercises*, 1999, available at <http://www.crin.org/docs/Working%20with%20Separated%20Children.pdf>

Chapter 5: The BID Process, Step by Step

Key Messages

- *A BID process should be initiated in the context of the identification of protection and care needs for children at risk and to consider durable solutions.*
- *Seek the engagement and involvement of partner organizations and government authorities with child protection expertise in the BID process and/or BID panel from the outset.*
- *Standard operating procedures (SOP) for BID and/or child protection should be developed*

§ 5.1 Introduction

UNHCR BID Guidelines: pages 47–50

BID implementation takes place in a range of different contexts around the world. The BID Guidelines highlight the primary responsibility of governments for best interests determination. However, if the relevant state authorities are unable or unwilling to set up best interests procedures, or if children of concern do not have access to national BID procedures, UNHCR (together with partners) needs ensure that this function is fulfilled for children of concern.

The UNHCR BID Guidelines set out standards and procedures necessary for carrying out the BID process. This chapter provides step-by-step guidance on how to establish a BID programme.

The key steps of the BID process are:

- Appointing a BID supervisor (within UNHCR or a preferable a partner agency).
- Identifying suitable partners with relevant child protection expertise.
- Identifying BID panel members and establishing a BID panel.
- Establishing standard operating procedures (SOP) for BID, developed jointly with partners.
- Providing training on child protection and the BID process for BID panel members and other staff.
- Assessing existing staff capacity and hiring caseworkers and child protection staff as needed, preferably through partnership arrangements.
- Providing information on the BID process to community groups and children.
- Establishing or strengthening the existing child protection programme, including mechanisms for identifying children at risk, referral mechanisms, case management system, etc. (see para. 3.7).

§ 5.2 Establishing a BID/Child Protection Team

§ 5.2.1 The BID Supervisor/BID Coordinator

UNHCR BID Guidelines: page 50

After it has been decided by UNHCR and partners that a BID process needs to be a part of their protection strategy, the first step is to appoint a suitable BID supervisor. Depending on the number of children who require a BID—those who are unaccompanied, separated or otherwise at risk—the BID supervisor can either be a UNHCR Protection or Community Services staff member, or a full-time BID supervisor can be recruited.⁶⁹ In country operations where BID processes take place in numerous locations, a BID coordinator may be appointed as well, to oversee the country's overall BID process.⁷⁰

Early on, the BID supervisor should raise awareness among UNHCR and partner staff regarding the importance, purpose and procedures of the BID process. He or she should also assume responsibility for establishing the BID panel by identifying and inviting suitable panel members. The BID Guidelines recommend that, as a general rule, the BID supervisor should seek the involvement of the national child protection authorities or other suitable government entity. For other members of the panel, the BID supervisor is recommended to look beyond UNHCR implementing partners for panel membership, such as with local and international NGOs and other international organizations (such as UNICEF).

BID Supervisor

Elements for Terms of Reference:

- Set up, manage and monitor the implementation of the BID process.
- Establish a BID panel and identify suitable BID panel members.
- Identify suitable partner agencies to implement the BID process.
- In cooperation with BID panel and partners, review existing or develop new standard operating procedures (SOP) for BID in accordance with the BID Guidelines.
- Organize and chair regular BID panel meetings.
- Oversee the caseload of children who require or are in the process of a BID, utilizing periodic review, analysis, prioritization and re-opening of cases (see para. 6.15).
- Oversee case management procedures.
- Regularly assess patterns of child protection risks and, in cooperation with partners, ensure appropriate and timely response.
- Oversee the implementation and follow-up of BID recommendations in coordination with partners/child protection staff.
- Develop and oversee implementation of a training plan for UNHCR and partner staff, as well as national/local authorities, who are involved in the BID process; the plan should include implementation of the BID Guidelines, child protection, case management, data collection, child-friendly interviewing methods and other relevant subjects.

69 As an example, UNHCR in Nepal recruited a full-time BID supervisor to oversee the BID process and child protection activities, and in Guinea, the IRC recruited a full-time BID supervisor to manage the BID programme between 2005 and 2007.

70 UNHCR BID Guidelines, p. 51.

- Ensure that BID staff sign the Undertaking of Confidentiality⁷¹ and the Code of Conduct and that they receive sufficient training to implement them.
- Oversee the quality of BID reports; provide technical guidance and feedback on BID reports to the child protection staff.
- Maintain statistics on the BID process (number of cases pending/decided, nature of decisions, etc.) and provide regular updates and reports on progress made in the BID process to UNHCR, partner staff and national/local authorities.
- Support mapping of existing referral partners and other service providers in collaboration with other BID partners and protection actors. 🌟
- In collaboration with partners, facilitate information campaigns on the BID process that target communities, children and other stakeholders. 🌟
- Monitor and evaluate the BID process, document lessons learned and develop necessary review of the BID programme strategy.
- Advocate for the wider use of the UNHCR BID Guidelines with other relevant stakeholders. 🌟
- Ensure coordination and cooperation with other relevant UNHCR sections (including colleagues who work in protection, community services, resettlement and repatriation) and staff from partner organizations.
- Promote good practices. 🌟⁷²

Additional Functions for a BID Coordinator:

- Ensure consistency between BID procedures and quality in the various sub- and field offices.
- Provide technical guidance and support to the BID supervisors.
- Regularly collect information and statistics on the BID process from the various field offices/sub-BID panels.⁷³

Desired Profile of the BID Supervisor:

- Previous experience in child protection/social work.
- Previous experience in community-based protection work and individual case an advantage.
- Thorough knowledge of the international and national legal framework relevant to best interests determination, child protection and refugee protection.
- Management and leadership skills.
- Analytical, writing and communication skills.

The BID supervisor contributes to the discussions of the BID panel, but in principle she or he does not have the right to vote.⁷⁴ If this is not feasible for practical reasons, an exception should be made to allow the BID supervisor to vote.

⁷¹ UNHCR BID Guidelines, Annex 5, p. 88.

⁷² These Generic Terms of Reference (ToR) are based on pp. 50–51 of the UNHCR BID Guidelines. See also Annex 8, p. 96 of the BID Guidelines for the Checklist for BID supervisors. Additional areas of responsibility in the ToR (marked with a 🌟) are based on experiences gained by UNHCR and partners through the implementation of the Guidelines in various countries.

⁷³ UNHCR BID Guidelines, p. 51.

⁷⁴ UNHCR BID Guidelines, p. 53.

As a BID Supervisor/Coordinator, Remember

- Promote BID as a child protection tool for all children at risk, and not just as a tool for durable solutions.
- Keep in mind that a BID programme should have sufficient capacity not only for processing BID interviews but also for the monitoring and follow-up of children who have undergone the BID process.
- Develop a child protection training strategy for BID panel members and child protection staff.
- If additional resources are needed for capacity-building, seek assistance: for example, through regional UNHCR staff (for community services, training, adviser for women/children) and through partners in country (UNICEF or other child protection agencies).
- Incorporate the BID process in the overall child protection strategy.
- Advocate for adequate resources (human, financial, material) for effective BID implementation.
- When appropriate, promote the establishment of sub-BID panels in field locations (especially when there are large numbers of children requiring BID).
- Involve suitable child protection partner NGOs in the BID process whenever possible.
- Use available stand-by agreements between UNHCR and partners to strengthen the implementation of the BID and child protection strategy through capacity-building and technical support.

§ 5.2.2 Child protection staff

The BID Guidelines refer to “child welfare officers” who are responsible for direct work with children in the framework of child protection and BID. They can also be called child protection staff. They are often staff members of child protection organizations, although they may be UNHCR Community Services or Protection staff, who act as a “child protection focal point”. Often it is necessary for the BID supervisor or partner organization to appoint additional child protection staff.

Child Protection Staff

Elements for Terms of Reference:

- Oversee identification of children requiring a BID.
- Conduct individual BID casework through home visits and interviews of children using child-friendly interview methods.
- Interview other people close to the child to collect relevant information.
- Ensure consent forms for release of information are understood and signed.
- Maintain strict confidentiality when dealing with individual case information.
- Maintain updated individual case files (including BID Report Forms and other necessary documents).
- Act as an advocate for the child.
- Inform children and/or caregivers on the decision and recommendations of the BID panel.
- Be responsible for timely implementation of the BID decision and appropriate follow-up of the recommendations of the panel.
- Support and work closely with community-based child protection structures.

- Train community-based child protection structures on basic child protection, child rights, child participation, community mobilization, confidentiality, communicating with children, etc., in close collaboration with other child protection partners.
- Assist the BID supervisor in prioritizing cases.
- Manage a team of child protection staff (if applicable).

Desired Profile of the Child Protection Staff:

- Experience working with children and individual case work; e.g., in fields of social work, child protection and legal protection.
- Thorough knowledge of the international and national legal framework relevant to best interests determination, child protection and refugee protection.
- Experience with child participation and implementing child-friendly interviewing techniques.
- Ability to work in a cultural and gender-sensitive manner, respecting diversity in all its forms, including religious minorities, socio-economic situation, sexual orientation and gender identity, ethnicity, etc.
- Experience in psychosocial support for children and their caregivers desirable.
- Good writing skills to record accurate data and clear and comprehensive individual BID reports.

Keep in Mind

As Child Protection Staff

- ➔ Actively work together and support community-based child protection structures, or groups in the community, to identify and refer children at risk.
- ➔ Apply child-friendly communication techniques during interviews.
- ➔ Facilitate meaningful child participation.
- ➔ Ensure proactive follow-up of children at risk.
- ➔ Be alert to possible new risk factors and vulnerabilities affecting children, which might call for a revision of BIA/BID recommendations.
- ➔ Collaborate with the BID supervisor and other relevant actors.

§ 5.3 Establishment of a BID Panel

UNHCR BID Guidelines: Establishing a BID Panel—para. 1.5, page 53

The BID panel is composed of UNHCR, partner staff and whenever possible government officials with different backgrounds and expertise in child protection and other related areas. Partner involvement in the panel has proven to be important for the success of the BID process.

The panel functions as a platform for analyzing individual cases and for reaching decisions in the best interests of the child. The decisions are based on the assessment and recommendations of the child protection staff. Entrusting decision-making to a multi-disciplinary panel contributes additional safeguards,

as the panel members' varying perspectives will offer a wide spectrum of expertise. This variety enriches the BID analysis and helps ensure that the final determination is in the child's best interests. In addition, a multi-disciplinary panel strengthens collaborative and coordinated action for children in need of protection and care.

The composition of the BID panel depends on the context in which the BID process is implemented:

- According to the BID Guidelines, the panel should be composed of three to five persons with significant professional expertise in child protection, social work or psychosocial work.⁷⁵
- Panel members should have a solid understanding of child and youth development and the physical and psychosocial well-being of children, including protection and educational issues.
- Panel members should also have an understanding of the legal, cultural, religious, political and socio-economic context of the children they consider.
- Panel members should also be able to assess possible safety implications of BID decisions for the individual child.
- Staff with backgrounds in tracing, durable solutions, education, mental health and psychosocial work, sexual gender-based violence (SGBV) and social welfare can make valuable contributions to the BID panel, which allow for a more comprehensive response in follow-up of BID decisions.
- BID panel involvement of child protection agencies that are working directly with/providing services to the communities and children of concern should also be encouraged.
- A BID panel is multidisciplinary and should be gender-balanced.

It should be noted that in various operational contexts, it might not be possible to establish a panel along the criteria listed here. For example, the criteria might not be met if the relevant authorities are not willing or able to be involved in BID procedures or if there are no suitable child protection partners available.

Representatives of the national child protection authorities and other child protection partners should, as a general rule, always be approached for BID panel membership. They have knowledge about local laws and available services, and they can play an important role in advocacy. Government officials have the authority to take measures, especially related to custody issues, separation of children and parents against their will following allegations of abuse, placement in foster care, and durable solutions, notably local integration. In some cases it will not be possible or advisable to involve the government authorities (for example, in countries where the involvement of the government could somehow compromise the protection of refugees).

However, it is the responsibility of the BID supervisor to make sure that, in each situation, an optimal panel composition is achieved so that the panel members are able to make the best possible BID decisions for individual children. It is also recommended that senior staff of UNHCR oversee the establishment of the BID panel and, when necessary, help with formally inviting suitable BID panel members who have relevant child protection expertise.

When dealing with large numbers of children, it may be worthwhile to consider the establishment of sub-BID panels in field locations. In this situation, it is the responsibility of the BID supervisor of the main BID panel or the BID coordinator to ensure consistency in and coordination of the BID process. The establishment of sub-BID panels is advisable only when staff members with the relevant expertise in child protection are available, whether from UNHCR or partners. Sub-BID panels should receive regular guidance and support from the BID supervisor/coordinator of the main BID panel.

⁷⁵ On average, most country programmes include five BID panel members, although sometimes the number is greater. In general, the BID panel should not exceed seven members, because a larger group may delay the decision-making process and may also put confidentiality at risk.

To the extent possible, a case should be reviewed by the same panel members from its submission to the BID panel through such time as a decision is reached. Yet, while not specifically required by the BID Guidelines, it is good practice to officially appoint alternate members familiar with the BID process, who could replace regular panel members if necessary.

BID panel members need to consider the following principles during the decision-making process:

- The child is a rights holder.
- The child’s view is given due weight in the decision.
- BID panel members act as an advocate for the child.
- BID panel members are objective and neutral.

BID panel members, should have reasonable decision-making power within their agency, granted by their management.⁷⁶

Even if the BID panellists have previous child protection expertise, it is important to provide them with necessary training on the BID process (this includes panellists who are alternate members and members of sub-BID panels). International and national agencies that are specialized in child protection can assist in providing such training for the BID panel or for persons otherwise involved in the BID process. Should there be a need for increased child protection expertise within UNHCR or partner organizations, external resources can also be sought to build capacity, for example, through support by regional advisers or deployment schemes.

GENERAL OVERVIEW OF POSSIBLE PARTNERS IN THE BID PROCESS	
UNHCR	UNHCR is mandated to lead and coordinate international action for the protection of refugees and other persons of concern. In the majority of cases, UNHCR leads the BID process. UNHCR is responsible for ensuring protection and assistance for children of its concern, including registration, monitoring and follow-up, advocacy, and search for durable solutions.
UNICEF	UNICEF plays a paramount role, especially at the level of the development of strategic decisions for child protection programming and advocacy. Given its mandate, UNICEF may be able to provide greater leverage with national child protection and social welfare authorities.
National and international child protection NGOs	National NGOs with a child protection profile can be most useful partners and can play a vital role in the BID process, because they have an in-depth understanding of the local situation and practices. These agencies have a wide range of expertise in child protection and might already be involved in family tracing and reunification, protection and care of unaccompanied, separated and other children at risk. In some cases INGOs are responsible for direct implementation and management of the BID process, under an implementing partner arrangement and with UNHCR providing oversight. Child protection NGOs could also provide child protection training support for staff involved in BID.

⁷⁶ International Rescue Committee, *Determining the Best Interests of Unaccompanied and Separated Children*, Lessons from Guinea, September 2007, p. 15.

Other NGOs	NGOs involved in education, health, psychosocial care and/or other services may also provide valuable support to the BID process.
ICRC	The International Committee of the Red Cross (ICRC) is mandated to restore family links through family tracing. It is preferred that they act as an active member of the BID panel or otherwise as observer.
Government	Whenever possible, national or local authorities should have an active role in the BID process and should be invited at the earliest stage possible.
Communities	Key people of the community can be invited by the BID panel for specific occasions. ⁷⁷
Experts	Experts, e.g., psychologists and legal experts, can provide necessary technical information and advice to the BID panel to facilitate the BID decision-making. ⁷⁸

CASE EXAMPLES

Inclusion of ICRC Staff as Active Observers in the BID Panel

The ICRC encourages dedicating staff members as “active observers” to the BID process. In Guinea, ICRC staff members actively participated in the BID panel meetings which took place for unaccompanied and separated Sierra Leonean and Liberian refugee children. When needed, the active observers from the ICRC provided tracing and other background information pertaining to children and followed up on continuing tracing needs, which were highlighted through the BID panel reviews. ICRC assisted in the review of the cases and in identifying appropriate durable solutions, which contributed significantly to transparent, quality decisions in the best interests of the children. In addition, the ICRC and IRC had developed a Memorandum of Understanding in Guinea with regards to the conditions and procedures for regular information-sharing on tracing of unaccompanied and separated children. Follow-up by both organizations contributed to improved coordination of tracing efforts.

§ 5.4 Development of Standard Operating Procedures (SOP)

UNHCR BID Guidelines: page 49

To ensure transparency and efficiency of the BID process, UNHCR and partners must at the outset develop standard operating procedures for BID. These SOPs should be clear and simple and must be in line with other existing UNHCR SOP, such as those for registration, refugee status determination (RSD), SGBV and resettlement, and must reflect the national context and operational realities. Country offices can also opt for integrating SOP specifically for BID within broader SOP for child protection, unaccompanied and separated children, etc. The SOP must be developed in cooperation between the BID panel and UNHCR senior management, and both entities must agree upon and approve the final procedures.

⁷⁷ To gain a better understanding of the community, consideration may be given to inviting an experienced community member to sit on the panel, provided adequate safeguards can be put in place to uphold the integrity and confidentiality of the process and ensure his or her safety.

⁷⁸ UNHCR BID Guidelines, p. 66.

Suggested Outline of BID Standard Operating Procedures

- Introduction (including reference to the BID Guidelines, the CRC, the Interagency Guiding Principles for Unaccompanied and Separated Children, the Interagency Interim Care Toolkit, national law, etc.).
- The objectives of the BID process.
- Core principles of the BID process, such as confidentiality, meaningful child participation, neutrality, maintenance of a child-focused approach, etc.
- Outline of the requirement for all BID workers to sign and respect the code of conduct.
- When to undertake a BID.
- The target group (including maximum age of young people included in the BID process).
- Outline of the different steps of the process and roles and responsibilities of actors involved (identification, registration, documentation, in-country and cross-border tracing, referral, placement in foster care, monitoring, follow-up and implementation of decisions).
- Reporting mechanisms and information flow.
- ToR of the BID panel.
- The decision-making process by the panel (review, analyses, how decisions are reached [by majority or unanimously], documentation of the decision and a plan of the implementation of the decision, responsible agencies and timelines).
- Procedures for instances where there is disagreement regarding a decision among BID panel members.
- Signing of the BID Report, including the decision and plan for implementation, by all BID panel members.
- Information on the decision provided to the child/caregiver.
- Closure and re-opening of cases.
- Prioritization of urgent protection cases.

After the BID SOP have been finalized by the various actors involved, it is recommended that representatives of each agency be involved and sign the document. Agencies' logos may be included. In overseeing the BID process, the BID supervisor is responsible for ensuring that the SOPs are respected and followed by the staff/agencies involved. The BID supervisor also needs to regularly review the SOPs jointly with the panel members to ensure that the procedures remain up to date and relevant to the (changing) context of the BID operation.⁷⁹

Keep in Mind

Establish mechanisms for identification of children at risk:

The BID process is dependent on the existence of a comprehensive mechanism to identify and register children at risk, including unaccompanied and separated children. This should also entail a system of referral of children who require referral for best interests determination.

⁷⁹ UNHCR BID Guidelines, p. 49.

Child protection agencies that work directly with children and communities and are familiar with the local situation in refugee camps or host communities are well placed to carry out child protection tasks. These agencies make good partners for ongoing identification, monitoring, follow-up and referral of unaccompanied, separated or other children at risk. Their work is often supported by links to community-based child protection structures, community groups such as women or youth groups, key leaders in the community, teachers, local health centre staff, or others. These community structures or groups can identify and refer unaccompanied, separated or other children at risk to the respective child protection agency or to UNHCR.

In urban refugee settings children and their caretakers frequently present themselves directly at the office of UNHCR. While referrals by child protection agencies or community focal points are possible in urban contexts, identification of children at risk is often difficult in urban settings. This is due to lessened social cohesion in urban communities where refugees are usually geographically scattered.-

In some contexts refugees live in rural host communities which may be difficult to reach and where there may be a lack of partner NGOs. Every effort should be made to work through community focal points to adequately identify children who require a BID. All partner staff and communities need to be sufficiently informed about the BID process and its purpose, and they must be trained on identification and referral of children at risk.

§ 5.5 Age Assessment

The best interests determination process is established for children below the age of 18, in accordance with the CRC. However, it is often difficult to assess and verify a child's age, as there are no scientific methods for age assessment that are 100 percent reliable. In making an age assessment, the child or youth must be given the benefit of the doubt. Someone claiming to be less than 18 years of age should generally be treated as such. The interviews for the BID process can help the child protection staff to collect information that may help to assess the age of children.

Verification of the child's age should take into account:

- The physical appearance of the child and his or her psychological maturity, considering a balance of physical, developmental, psychological, environmental and cultural factors.
- Because there are no scientific age determination procedures that are fully reliable, if scientific/objective methods are used for age assessment purposes, margins of error should be taken into consideration. Such methods must respect human dignity and do no harm. The youth or child should give informed consent. The procedure should be undertaken by a multi-disciplinary team and independent professionals.⁸⁰
- The child should have the benefit of the doubt.
- The child's statements.
- Supporting documentation.

80 Separated Children in Europe Programme, *Statement of Good Practice*, 4th revised edition, Brussels, 2010, pp. 25–26.

(g) *Recommends* that States, UNHCR and other relevant agencies and partners work in close collaboration to prevent children from being put at heightened risk, and respond, as necessary, through the general prevention, response and solution measures listed non-exhaustively below:

(...)

ix. Ensure that age assessments are only carried out in cases when a child's age is in doubt, and take into account both the physical appearance and the psychological maturity of the individual; that they are conducted in a scientific, safe, child and gender-sensitive and fair manner with due respect for human dignity; and that they consider the individual as a child in the event of uncertainty.⁸¹

§ 5.6 Young People and the BID Process

Usually BIDs are carried out for children under the age of 18. However, there might be instances where other young persons (up to age 21) are in need of additional support and safeguards, such as in the search for durable solutions.

The nature of the process for young people over the age of 18 differs from the BID process for children. The best interests of young adults cannot be determined for them, but a process is available to support them in making their own decisions.

§ 5.6.1 Procedures for Children Reaching 18 Years of Age During the BID Process

The category of young persons who are in the BID process but then “age out” before a final decision is taken by the panel poses particular challenges. As a general rule, every effort should be made to ensure that a BID decision is reached and implemented before a child reaches 18 years of age, as this in itself is in the best interests of the child.

When a child who has undergone or is undergoing a BID reaches the age of 18, she or he should not automatically be dismissed from a BID process. Especially in situations where young people with specific vulnerabilities are involved, the process needs to continue beyond the eighteenth birthday until a durable solution has been identified. The child protection staff should plan an interview or home visit with the young person when she or he reaches age 18 to discuss the situation and the available options. The child protection staff should explain that the young person has now reached adulthood and is in principle free to make his/her own decisions. However, if the young person feels a need for support and wishes to remain in the BID process UNHCR and/or partners can still provide guidance, counselling and referral to support services, as well as follow-up.

§ 5.6.2 Procedures for Young People at Risk

Other young people who can benefit from the BID process are those living on their own without parents or other relatives, as well as youth with a reduced mental capacity due to trauma or disability. In such instances, caseworkers can use the BID process to support the young person to arrive at a decision regarding, for example, durable solutions.

81 UNHCR ExCom Conclusion on Children at Risk, 5 October 2007, No. 107 (LVIII), 2007, para. (g) (ix).

The BID process can also be used for young adults (up to 21 years of age) who live in a group with unaccompanied children and share similar flight history and vulnerability.⁸² This can be decided on a case-by-case basis, particularly in consideration of the protection needs of the young people involved. Files of siblings who are living together in groups, including those who are 18 or above, should be kept together. It is best to create one joint BID report for siblings who are residing in the same location, although the specific circumstances and needs of each individual to be addressed must be clearly outlined.

Depending on the circumstances of specific refugee or IDP crises, UNHCR and partners could work out specific criteria for submission and procedural guidelines for considering the cases of young people. Nevertheless, this potential caseload of young people in need of BID must not detract from the time and resources of the BID panel in effectively processing the cases of children. The following is a list of circumstances in which UNHCR and partners should plausibly consider the submission of cases for persons over 18 and up to 21 years of age:⁸³

- Unaccompanied and separated young people who were registered when they were under 18 and who did not benefit from a BID in time (for example, due to their vulnerability) should be considered.
- Children for whom an initialized BID was not finalized before they turned 18 should be considered.
- Young people who serve as the primary caregiver for one or more children, such as their younger sister(s) and/or brother(s), should not be excluded from the BID process.
- Extremely vulnerable young people who could be effectively assisted through the BID process should be considered. This could pertain to adults who lack capacity to make decisions for themselves, such as adults with mental disabilities. Such cases would need to be treated as exceptions.

CASE EXAMPLES

Guinea and Jordan

In **Guinea**, a significant number of Sierra Leonean refugee children reached adulthood while they were waiting for BID panel decisions. This was due to the prolonged repatriation process, the delay in setting up the BID process, and documentation and assessment procedures that were at times inadequate and/or lengthy. The BID panel in Conakry considered most of these cases. Eventually, BID decisions were reached for a total of 40 young people between the ages of 18 and 21.⁸⁴

In **Jordan**, as an exceptional measure, the BID panel conducted a BID for a single elderly refugee woman from Iraq who suffered from mental disabilities and did not have the capacity to make an informed decision on the available durable solutions for herself. The BID process proved to be an effective method for assisting and providing protection for this vulnerable woman.

§ 5.7 Gathering Critical Information Through Assessments/Interviews

When girls and boys who require a BID are identified, relevant information must be gathered to inform the decision. For this purpose, a standard BID Report Form has been developed (included in Annex 6 of the BID Guidelines).⁸⁵ Information is needed about the background and current situation of the child. The child protection staff should gather information through separate interviews with the child, care-

82 UNHCR BID Guidelines, p. 49.

83 The BID Guidelines (p. 49) define the age limit for young adults who can be considered for a BID process as up to 21. However, criteria based on vulnerability and inability to make informed choices, rather than age, may be advisable. Cases may exist in which persons over 21 would benefit from a BID process. See: International Rescue Committee, *Determining the Best Interests of Unaccompanied and Separated Children, Lessons from Guinea*, September 2007, p. 17.

84 International Rescue Committee, *Determining the Best Interests of Unaccompanied and Separated Children, Lessons from Guinea*, September 2007, pp. 16–17

85 UNHCR BID Guidelines, pp. 89–94.

givers and other persons who are close to the child. Some information may be available already, such as information gathered for tracing purposes or in proGres. The child protection staff should verify the existing documents and information and, when relevant, update the child's file.⁸⁶

The child protection staff is responsible for planning and conducting interviews and regular home visits. She or he needs to clearly explain the purpose of the interview, the BID process, and the available options to the child and the family members/caregiver, as well as giving the reason for the interview, and asking permission to take notes.

The child protection staff is also responsible for providing the child and the caretaker with information about the BID process, the available options and the possible implications for the life of the child in the short, medium and long-term. In addition, the child protection staff should give information about possible referral options, including the services and facilities available to prevent or address protection issues and to facilitate involvement in community activities. If the child is in the BID process in order to seek durable solutions in his or her best interests, the child protection staff also needs to provide background information on the conditions, access to basic services and possible risks in the locations considered for the durable solution.

The information which the child protection staff should collect or verify includes the following:⁸⁷

- **The child's identity and history:**
 - ▶ Biographic data.
 - ▶ A summary of the child's history prior to and after the flight.
 - ▶ Circumstances and causes of the separation in cases of unaccompanied and separated children.
 - ▶ A drawing of a family tree can help provide an overview of the family composition.
- **Relationships with family and other people close to the child:**
 - ▶ Relevant information related to the previous caregiver and other relatives or people close to the child (addresses, profession, siblings, place of origin, etc.).
 - ▶ Duration and quality of the relationship of the previous caregiver and other relatives or people close to the child.
 - ▶ Tracing information and status.
 - ▶ Details of current care arrangement.
 - ▶ Details regarding the child's siblings.
- **The child's well-being, development and protection:**
 - ▶ Security and protection of the child.
 - ▶ Gender dynamics and how these affect the girl or boy.
 - ▶ Duration and quality of current care arrangement; the emotional bond and level of integration in current care arrangement (foster family, child-headed household, etc.).
 - ▶ Foster family's ability and willingness to continue to care for the child.
 - ▶ Physical appearance and health of the child, access to medical care.

⁸⁶ This information may already be completed in the Inter-Agency Registration Form for Unaccompanied and Separated Children. In principle, individual case files should have been established for separated children and other children at risk, which will make conducting a BID less time-consuming. See UNHCR BID Guidelines, p.18.

⁸⁷ UNHCR BID Guidelines, Annex 9, pp. 97–98.

- ▶ Access to food, water, sanitation and shelter.
 - ▶ Emotional and psychosocial well-being of the child.
 - ▶ Access to formal or informal education and/or vocational training.
 - ▶ How the child is coping at school; interaction with teachers and other students.
 - ▶ Child’s daily activities, playing habits and chores in the family.
 - ▶ How the child interacts with other children/people in the community.
 - ▶ Services and care provided to the child and caregiver so far.
 - ▶ Pending needs of the child.
- **The child’s views:**
 - ▶ Views, concerns, fears and wishes of the child related to the current care arrangement, durable solutions, potential separation from the caretaker, child protection concerns and possible solutions, etc.
 - **The views of other persons close to the child should also be established. The child protection staff needs to interview and seek the views of:**
 - ▶ The child.
 - ▶ (Extended) family members of the child, including siblings.
 - ▶ Guardian/current caregiver/temporary foster family.
 - ▶ Neighbours, teachers, friends, community leaders, community workers, etc.
 - ▶ Both parents for decisions relating to separation from the parents.
 - ▶ (Potential) interim foster family for decisions related to alternative care arrangements.

In some complex cases, the child protection staff can also seek the views of medical or psychosocial experts, as appropriate.

Throughout the BID process, the principle of confidentiality needs to be respected—this applies to all persons involved. The child also needs to be reminded of this principle if the BID caseworker finds that he or she is hesitant to share information.

§ 5.8 Documentation and Filing

Within the framework of BID implementation, a standard BID Report Form is used to record and preserve detailed information in order to facilitate case management and BID decision-making. To complete the form, the child protection staff and BID supervisors can use the checklist provided for child protection staff in the Guidelines.⁸⁸ Completion of the BID Report Form as soon as possible after the interview is advisable to avoid losing information that is relevant for the assessment. The BID Report Form is used to present the information to the BID panel in a systematic and consistent manner.⁸⁹

⁸⁸ UNHCR BID Guidelines, Annex 7, p. 95.

⁸⁹ UNHCR BID Guidelines, Annex 6, pp. 89–94.

The child protection staff is responsible for creating and maintaining a file for each child. Information on siblings should be kept together. The child protection staff should submit the completed BID Report Form with all necessary information and his or her recommendation regarding the best interests of the child to the BID supervisor. Other relevant and supporting documents in the file should also be shared with the panel. The recommendation made by the child protection staff is reviewed by the BID panel, which makes the final decision.

The file should include:

- The child's registration form.
- The BID Report Form, duly completed with all relevant information included and verified.
- Documented views of an expert (if needed).
- Other supporting documents, such as a copy of a birth certificate, health certificate, etc.

The BID supervisor is responsible for ensuring that child protection staff are trained in how to complete BID Report Forms and for providing technical guidance to BID staff throughout the programme. The child protection staff should regularly review and update the files during the period the decision is pending and after the decision has been made and the BID is being implemented.

§ 5.9 Data Entry and Information Management

After the child protection staff has completed the BID Report Form, she or he enters the data into the existing data information management system or database. This is an important step in order to ensure effective case management including tracking of cases, monitoring and timely follow-up. The BID supervisor is responsible for oversight of the documentation, data entry and overall database management. A limited number of staff members have access to the database and can make necessary changes or enter additional data. The principle of confidentiality needs to be adhered to, and the database should be password protected. Staff using the database should be provided with regular support and training on the use and purpose of the database, confidentiality and data protection (See Para. 5.2.9 and 6.9).

For UNHCR, the registration software proGres can also be used as the data management system for BID. Other agencies might use their own systems. For example, ICRC has its own database system, and child protection agencies may use the Interagency Child Protection Information Management System (IA CP IMS).⁹⁰ Providing child protection staff with direct access to the database is advisable.

§ 5.10 Data Sharing among UNHCR and Partners

UNHCR and partners need to share information about the children and the BID process on a regular basis to enhance coordination and avoid duplication of interviews or other required interventions. Data protection and sharing protocols must be in place to establish the purpose and scope of information-sharing among actors.

Agencies are strongly encouraged to use mutually compatible data management systems for family tracing and reunification (FTR), BID and child protection. Compatibility enhances information-sharing and coordination among actors through common practices for recording, using and exchanging data. Where agencies use different database systems, they should agree on methods of data sharing and the type of data to be gathered, recorded and shared. In some programmes, staff members use Excel sheets or a

⁹⁰ UNICEF, Save the Children and IRC, Inter-Agency Child Protection Database Factsheet, November 2008, available at <http://www.crin.org/bcn/details.asp?id=19085&theMeID=1005&topicID=1032>

matrix as a tool to record, monitor and track basic information on individual children, tracing, durable solutions and case management.

CASE EXAMPLE

Ecuador

In Ecuador, UNHCR works together with national NGOs and social welfare authorities in the process of making best interests determinations for unaccompanied and separated children. In order to be able to use a standard format, they created a web link to a database, based on proGres, and adapted it for use within their context. A limited number of staff from the organizations involved in BID have access to the database via a password. This common database helps the staff with case management.

§ 5.11 Review by the Panel

The purpose of a BID panel meeting is to reach a decision on the best interests of a child based on the recommendations made by the BID caseworker. The panel therefore considers the recommendation and related information presented in the individual file, which has been compiled by the child protection staff. The panel members discuss the available options, including the short and long-term implications for the child and her or his caregivers and possible siblings.

The BID supervisor is responsible for managing the work of the BID panel. In setting the agenda for the BID panel meetings, priority should be given to urgent and complex protection cases and BID cases that have been pending for a long time. The frequency of the meetings should be determined by the number of children requiring a BID and should be based on a collective decision by the Panel. Usually a BID panel meets monthly. Where there are large numbers of BID cases, the panel meetings should take place on a bi-weekly basis. However, the BID supervisor can call for an emergency BID panel meeting at any time if there are urgent cases to be addressed. Sometimes such quick consultations can also be done over e-mail.

Each meeting starts with an update on the follow-up of the implementation of BID decisions which have previously been taken. In a well-prepared BID panel meeting, where panel members have reviewed documentation in advance, it is generally possible to review up to 10 cases during the single session if necessary. Not more than 15 cases can be handled by the BID panel at once, as each case requires thorough analysis and review and demands full attention of all the BID panel members in order to maintain the quality of the decisions.

The BID supervisor shares the relevant BID Report Forms with the panel members at least one week prior to the panel meeting. This is important in order to allow the BID panel members to review the BID Reports in advance. In reviewing the BID Reports, the panellists should assess the recommendations but also verify whether information is missing, contradictory, or unclear. As mentioned above, this facilitates effective case management, which is particularly helpful when a large number of children require BID.

BID panel members can request further clarification and additional information through the BID supervisor when necessary. In most cases this means that the BID supervisor liaises with the child protection staff. The child protection staff may need to revisit the home of the child or plan additional interviews with others in the child's network to obtain the additional information required. In some operations, the child protection staff also attends the BID panel meeting to present the case and to clarify information immediately, if needed. However, to facilitate objectivity in decision-making, the child protection staff does not have the right to vote regarding the decision. At the same time, this process helps to avoid the

possible perception among community members, children and caretakers that the child protection staff has direct influence on the decision being made, which could put her or him in a difficult position.

§ 5.11.1 Case Analyses and Weighing Different Facts, Factors and Rights

The result of the BID must take into account the full range of the child's rights; a variety of factors should be considered. The best interests of the child are rarely determined by a single, overriding factor.

The primary consideration for decision-makers is to determine which of the available options is best suited to securing the realization of the child's rights, and which is thus in the child's best interests. Both the short and long-term impact of each option must be weighed before deciding which is best suited to the individual circumstances. Determining the best interests of a child thus requires taking account of all relevant circumstances, while keeping in mind the indivisible nature of the CRC and the interdependency of its articles. Giving the right weight to each of these various factors can be a challenge.

As a minimum, the following factors and rights need to be taken into account to establish the best interests of the child.

THE CHILD'S VIEWS

The child protection staff need to directly obtain and document the wishes, feelings and perceptions of the child. The weight given to the child's opinion depends on the child's age, maturity and ability to comprehend and assess the implications of the various options and durable solutions. The child protection staff should plan more than one home visit to ensure that the child has been able to express his or her well-informed view. Children, like adults, have the right to change their views and wishes.

In some cases, children cannot express their views, such as when they are very young, have mental disabilities or are severely stressed. The child protection staff should observe the child closely and seek the views of adults and peers in the child's network (see Chapter 5 on communicating with children). In some cases an expert needs to be involved, as when interacting with a speech or hearing-impaired child.

SAFE ENVIRONMENT

Safety is a priority consideration. Exposure or likely exposure to severe harm always weighs heavily in comparison to other factors. Specific factors to consider are:

- Safety in the geographical location/household under consideration.
- Availability of life-saving medical treatment for sick children.
- Past harm (frequency, patterns, trends) and potential ongoing/future harm.
- Whether root causes of past harm are addressed.
- Ability to monitor the child.
- Adequate shelter.

FAMILY AND CLOSE RELATIONSHIPS

The quality and duration of the relationship, the emotional bond and degree of attachment of the child with his or her other family members or caregiver need to be considered before a decision can be reached. These family members include:

- Siblings.
- Other family members, members of the extended family.

- Other adults or children in the cultural community.
- If applicable: current foster family/caregiver.
- If applicable: potential foster family/caregiver.

When identifying durable solutions for unaccompanied and separated children, **family reunification** is generally considered in the best interests of the child. Before making decisions for children in terms of reunification, ensure that:

- Verification of people traced takes place before reunification.
- The duration of the separation and the attachment to the interim caregiver of the child are verified. In some cases, children should remain with their foster family as an alternative to family reunification.

When family reunification is not possible, long-term alternative care should be considered. Before and after making decisions for children pertaining to **long-term alternative care**, ensure that:

- Maximum efforts have been undertaken to trace parents (or other previous caregiver[s] to whom the child is attached) for a significant period of time (at least two years).
- Active tracing efforts of any other family members, including extended family, have taken place, and the results of tracing are documented and verified.
- Tracing efforts continue (if possible).
- The child is regularly and adequately informed about tracing activities and results, even if these are negative.
- The child remains in contact with his or her family to preserve the family links, if family members are traced but reunification is not yet in the best interests of the child (for example, because the family lives in an insecure environment).

DEVELOPMENT AND IDENTITY NEEDS

Panel members must remember that the identity rights of children should be preserved. The developmental stage and needs of the child should be weighed in light of the available options for durable solutions:

- The child's cultural and community network.
- Continuity in the child's ethnic, religious, cultural and linguistic background.
- Specific considerations based on characteristics including the child's age, gender, ability and ethnic background, when relevant.
- Particular physical or emotional needs.
- Physical and mental health considerations.
- Availability and access to services.

§ 5.11.2 *Seeking the View of Experts*

In some cases, establishing the best interests of the child requires expert knowledge. For example, it may be useful or necessary to seek input from medical or psychosocial experts, particularly in assessing children who have experienced traumatic events or have mental or physical disabilities.⁹¹ Such experts should be identified as part of the process to establish a referral mechanism. However, such experts may not always be available in each country of operation where BID is being implemented.

91 UNHCR BID Guidelines, p. 66.

The BID supervisor should familiarize the experts with their roles and with the purpose of the BID process. It is also important to agree on the working modalities and information flow between the expert and the BID supervisor. Referrals should be provided in writing by using referral forms. The BID supervisor is responsible for follow-up on the referral to ensure that the expert opinion is received in a timely manner. The expert should provide his or her feedback in writing and should include information on the findings, delivered services and results of his or her work. If confidentiality constraints make the expert hesitant to share such information, another arrangement should be sought that will allow the expert to otherwise contribute to the determining the child's best interests. It is important that the expert is made aware of the confidentiality rules that apply to the BID process and the staff involved. Finally, the outcome of the expert referral should be attached to the child's file.

§ 5.11.3 Reaching Transparent, Quality Decisions and Finalizing Recommendations

Decision-making and identifying durable solutions in the best interests of the child can be a difficult process; various facts, factors and rights of the child need to be carefully balanced and weighed. The quality of the decision will depend on the quality of the interviews which were conducted with the child, as well as on the quality and comprehensiveness of the recorded information. This again stresses the importance of engaging skilled child protection staff and panel members with significant experience in child protection or child welfare to be part of the BID process. As indicated earlier, the BID supervisor is responsible for ensuring that capacity gaps are addressed through capacity-building and training.

The child protection staff and BID panel members must be able to balance the options and make choices in a way that is both informed and objective, but that gives due consideration to the views expressed by the child, as well. Their decisions can have profound and long-term implications for the child. Typically, determining the best interests in UNHCR operational contexts is a choice among the least damaging of a limited number of alternatives. Often solutions may not be indisputably "right". In the final analysis, determination of a child's best interests requires judgment that takes into account a range of relevant and possibly competing factors within the realm of achievable possibilities.

Yet some factors and rights need special attention during the decision-making process, bearing in mind that each child is unique:

- Exposure or likely exposure to abuse, neglect, exploitation and violence, which usually outweighs other factors.
- Past abuse, neglect, exploitation and violence (frequency, patterns, trends).
- Safety/security in the area where the child is living.
- A stable, protective, enabling environment.
- Still-existing root causes of past abuse, neglect, exploitation and violence.
- The importance of the family and of close relationships.
- Stable alternative care arrangements.
- Accessibility of basic services (health, food, water, shelter, education, etc.), nurturing the survival and development rights of the child.
- Accessibility of treatment for sick children.
- The view and opinions of the child in light of the available options.
- Views of family members and others close to the child.

- Balancing best interests of the child with rights of others.⁹²
- Ability to monitor the child.

§ 5.11.4 Formalizing the Decision and Recommendations

The BID panel can reach a decision on a case in the first session a case is presented to the panel. However, usually it takes two to three panel sessions to finalize the decision and recommendations, especially if additional or clarified information is needed or the case requires further monitoring of the child before a decision can be taken. Thus the finalization process can take between one to three months, also depending on the frequency of the panel meetings. Panel members should be committed to make timely decisions in the best interests of the child, and unnecessary delays should always be avoided. As a general rule, panels should strive to complete BID cases within 3 months, unless it is determined to be in the best interests of the child to delay the decision.

In the process of considering individual cases, the BID panel can:

- Approve the decision and recommendations.
- Defer the decision.
- Reject the decision and decide on an alternative recommendation.
- Reopen the case.
- Close the case.

A decision can be deferred, pending further assessment by the child protection staff or pending the opinion of a technical expert. BID decisions and recommendations can also be deferred if one or more of the members judge the information to be incomplete. The report is then sent back to the child protection staff for completion. Sometimes the required information will become available only over time. For example, a child in a newly identified foster family needs to be monitored over a period of time before it can be decided whether the foster placement is suitable as a longer-term placement. In such instances, it is important to agree on timelines with the panel members.

When cases are deferred, the BID supervisor is responsible for timely follow-up and resubmission of the case. The child protection staff should inform the child and the caregiver about the deferral of the decision and provide the tentative date of the next panel review. The BID supervisor then re-submits the case to the panel as soon as the additional information has been collected or other necessary steps have been carried out, and a new vote is undertaken during a BID panel session. The BID panel usually reaches decisions by majority or, in some operations, unanimously. The BID panel members must decide at the beginning of the BID process whether decisions should be finalized by majority or qualified majority, and this information should be included in the BID SOP.

Each member should have the right to vote. While the BID Guidelines state that the BID supervisor should not have a right to vote, in practice the BID supervisor usually does vote because the BID supervisor's first responsibility is to act as the child's advocate, as all other BID panel members.

However, it is important to stress that the child protection staff member who presents a case to the BID panel should *not* vote on the decision for that particular case. This is because doing so can cause children and their caregivers to have expectations regarding the influence of the child protection staff. These false expectations may put the child protection staff and/or their work in jeopardy.

⁹² The interests of a child can sometimes be in conflict with the interests of others. Therefore, children's rights and the rights of others need to be carefully considered, analyzed and balanced, in case there are legitimate concerns based on the rights of others. For instance, the placement of a child with tuberculosis in a foster family may be in the best interests of the child in the short term, but it may lead to infection of the family if placement takes place prior to treatment. See UNHCR BID Guidelines, p. 76.

The following actions are considered in the BID process, depending on the context of the country programme:

- Family reunification.
- Fostering and other alternative care arrangements.
- Separation from parents/caregiver.
- Voluntary repatriation.
- Local integration.
- Resettlement.

The BID panel can also make other recommendations for follow-up based on the identified needs of the child and her or his caregiver, for example:

- Counselling.
- Psychosocial support.
- Follow-up visits/regular monitoring.
- Medical assistance.
- Educational assistance.
- Shelter.
- Relocation (to safe haven/house).
- Registration.
- Tracing.
- Community activities.
- Alternative interim care arrangements.
- Protection measures.
- Other.

After the BID panel reaches a decision, the BID supervisor is responsible for completing the BID Report Forms with the following information in order to record the decision-making process and ensure transparency:

- The decision that has been reached.
- The reasoning of the decision.
- If the decision has been rejected or deferred and the reasoning for this.
- Whether the decision was reached unanimously or by majority.
- Any relevant issues raised during the discussion.
- Whether any information was rejected (e.g. for lack of credibility).
- A recommended plan of action to monitor the implementation of the decision and to follow up and address child protection issues, including a timeframe and details of the organization(s)/institutions responsible for follow-up.

The BID decisions should be formalized with the signature of all BID panellists on the BID Report Form as soon as possible. The BID supervisor has to make sure that not only the decision, but also all relevant information mentioned above, is included in the BID Report Form before the panel members can sign the decision.

§ 5.11.5 Implementation and Follow-up of Decisions and Recommendations

BID panel decisions can be implemented effectively if the panel members agree on follow-up plan indicating the actions required to address the child protection concerns and other possible needs of the child and/or caretaker. The plan should normally include:

- Follow-up actions recommended in order to implement the BID decision and to address identified child protection issues.
- The responsibilities assigned to the agency(ies) for carrying out the various actions recommended.
- Timelines for the actions to be implemented.
- Methods and timeframe for monitoring.

Referral to another child protection agency or other service provider should be conducted through a referral form. The referral form establishes which services or interventions are recommended or required to address child protection needs of individual children and their families/caretakers. The form also establishes which organization(s) or institution(s) is/are responsible to carry out and oversee the interventions. The use of referral forms is a measure to clarify responsibilities and enhance coordination and accountability of different actors.

UNHCR and the organizations with which other panel members are affiliated should be committed to timely implementation of the BID panel's recommendations. Unnecessary delays can negatively impact the decision and are not in the best interests of the child. The BID Report and the referral form can be used as tracking and monitoring tools for the BID supervisor, who is responsible for overseeing the implementation of BID recommendations.

It is a good practice that agencies responsible for follow-up of children with pending BID decisions regularly brief the BID panel on the situation of the child. The brief includes information on:

- progress of the implementation of earlier proposed interventions and recommendations;
- the outcome of monitoring;
- and possible challenges and further planned action.

The BID supervisor is responsible for the overall monitoring of the implementation process of the decisions and recommendations (in coordination with other responsible actors) and must ensure timely and appropriate follow-up with the respective staff/organizations.

§ 5.12 Informing the Child and the Parents/Caregiver

After a decision has been reached, the child protection staff is notified of the decision of the BID panel by the BID supervisor. Subsequently, the child protection staff plans a home visit to formally inform the child and other family members and/or the caretaker on the final decision and recommendations. This should take place no later than two weeks after the panel has reached a decision. The child protection staff explains how the decision may impact the life of the child and the lives of those in the child's network. Normally the child has been informed about the available options throughout the BID process; thus the decision is frequently not a surprise. However, in some cases the child or the child's family may oppose the decision, and therefore it may be important for the child protection staff to provide further counselling to the child and/or his or her family (see Chapter 5, Communicating with Children).

When resettlement claims are rejected, the persons concerned may oppose the claim's rejection. If such cases are part of the BID caseload, it is usually recommended that UNHCR resettlement staff provide the appropriate information to the child and caregiver instead of to the child protection staff. This is

because child protection staff may not always have precise knowledge of resettlement criteria and other related issues. Moreover, beneficiaries may perceive that the decision was made or influenced by the child protection staff, and this could jeopardize the staff member's work and the possibility of further assistance to children and families in the short and/or long-term.

§ 5.13 Management of the Caseload of Children Requiring BID

The process and principles of case management are outlined above (See chapter 3). It is the responsibility of the BID supervisor to oversee and manage the caseload of children requiring a BID. This means that all cases of unaccompanied, separated and other children at risk need to be tracked regularly through an information management system/database, in collaboration with the child protection staff.

In order to facilitate appropriate case management as part of the BID process, the BID supervisor needs to oversee the following:

- Prioritizing urgent protection cases.
- Planning regular follow-up.
- Updating case files.
- Re-opening cases.
- Closing cases.

§ 5.14 Prioritizing Cases

The BID supervisor is responsible for prioritization of cases referred for BIA or BID. Sometimes cases might arise in which a child is at immediate risk, which requires an urgent BIA and BID, especially in situations of abuse, neglect, exploitation or violence. Then a BIA and the necessary action should take place promptly and should be given priority over less urgent cases. As a next step, the case must be submitted to the BID panel, and a decision needs to be formalized through a panel review.

To help prioritize BID cases, an assessment or situation analysis is necessary to facilitate understanding of child protection issues and risk factors, as well as coping mechanisms in the community. Regular review and in-depth analysis of the BID caseload can also provide information about, for example, the extent, frequency, and root causes of child protection risks that girls and boys are facing. UNHCR's Heightened Risk Identification Tool can be helpful in understanding risk profiles in the community and prioritizing cases for BID.

UNHCR's Heightened Risk Identification Tool (HRIT) can be used to survey a sample of the community of concern, enabling UNHCR to understand the characteristics or profiles of persons who are likely to face specific risks. Both individual and environmental risk factors (e.g., security problems, barriers to accessing and enjoying assistance and services, legal systems that are not respected) can be identified, resulting in more effective protection and assistance responses.⁹³

A set of criteria for prioritization can be developed, depending on the outcome of the assessment and ongoing monitoring and follow-up. However these criteria should be applied with necessary care, as each case remains unique and context-specific, and a holistic approach towards children needs to be main-

93 UNHCR, The Heightened Risk Identification Tool, Geneva, Second Edition, June 2010, available at <http://www.unhcr.org/refworld/docid/4c46c6860.html>

tained. UNHCR and partners should also bear in mind that some children face multiple child protection risks at the same time, which may make them more vulnerable.

§ 5.15 Reopening and Closure of Cases

In general, any BID decision should be reopened for review:

- If there have been changes in circumstances that could alter the original decision, such as successful tracing or the emergence of new evidence.
- If initial BID decision could not be implemented within a reasonable timeframe, which in the context of durable solutions should not extend beyond one year after the initial BID decision.
- After separation from parents upon the request of the child, the child's guardian, or the parents.

A BID decision on the separation of a child from her or his parents can also be reopened. This happens through request by the child's guardian (or by the child, if there is no guardian) or holders of parental rights. The guardian or parents can request a review of the decision on the basis of new facts, evidence or legal considerations that may affect the initial decision. While the final decision on parental rights rests with the competent state authorities, UNHCR and partners must review the decision and measures taken in view of the best interests of the child, if requested to do so by the child's guardian or the parents.⁹⁴

Procedures for closure of cases should be part of effective case management. The decision to close the case must be authorized by the BID supervisor. It is difficult to define fixed criteria for closure of cases, as each case is different and context-specific. The following criteria for closure of cases can be applied:

- The BID decision is implemented within the reasonable timeframe as defined by the BID panel.
- The necessary referrals and protection interventions have been carried out and documented as outlined in the BID Report Form.
- The monitoring of the implementation of the BID decision has been ongoing for one year (delays in implementation must be avoided).
- The child and the caretaker each express her or his wish to end monitoring and follow-up, unless this is not in the child's best interests.
- The young person reached the age of 18 and expressed that she or he is no longer interested in a BID or follow-up.
- The child is reunified and reintegrated in her or his family after successful tracing.
- After the separated status of a child and the family relationship of the child and the caregiver have been verified, the child subsequently appears not to be separated, but rather to be living with her or his family under no risk of violations of her or his rights.
- The child is deceased.
- The child and the (foster) family moved to another location; the case may need to be closed, handed over and re-opened in another location, where UNHCR and/or partners are operational.
- The child's whereabouts are unknown and active localization of the child took place without positive results.

94 UNHCR BID Guidelines, p. 79.

The child and the caregiver need to be informed about the closure of the child or young person's file. As indicated above, in some instances closed cases should be re-opened for review.

To lead the BID process effectively, the child protection staff and BID supervisors can use the checklists for BID supervisors provided in the BID Guidelines to check regularly if all tasks are completed.⁹⁵

§ 5.16 Simplified BID Procedures

UNHCR BID Guidelines: pages 55–56

Simplified BID procedures may be used in exceptional situations, when there are clear indications of the best interests for an individual child or a group of children sharing the same characteristics (such as ethnic background, area of origin, or similar care arrangements).

A Simplified BID Should Be Limited to the Following Situations

- Family reunification (depending on the complexity of the case).⁹⁶
- Medical or protection emergencies requiring an immediate resettlement response.
- Sudden movement of large numbers of unaccompanied and separated children over a short period of time, for example, in large-scale voluntary repatriations.⁹⁷
- Other exceptional situations, subject to agreement by the Division of International Protection (Child Protection Unit).

A simplified BID can be carried out only in these **exceptional cases**, and only when there are practical and/or time constraints limiting the capacity of UNHCR/partners to undertake full BIDs for all children in the caseload. In these circumstances, additional safeguards still need to be in place: for example, documentation, child participation and having more than one UNHCR staff member/partner with sufficient background and skills in child protection.

Key safeguards and procedures to be maintained in these exceptional situations are:

- A formal decision to allow for simplified BIDs should be taken by the UNHCR representative based on the recommendation of the BID supervisor (and, if applicable, partner staff with experience in child protection) and on the best interests principle.
- The decision to use a simplified BID must be based on an assessment or situation analysis outlining the situation of the unaccompanied, separated and other child at risk. This analysis determines which children need a full BID and which may appropriately have a simplified BID procedure.
- Operation-specific checklists may be used to determine which children may require a full-fledged BID, and to identify those for whom a simplified procedure would be appropriate.
- One staff member of UNHCR or a partner organization is responsible for overseeing the caseload of children requiring a BID.
- Each child should be interviewed, and individual information should be collected and documented in a BID Report Form by a child protection staff with relevant child protection expertise.

⁹⁵ UNHCR BID Guidelines, Annex 8, p. 96.

⁹⁶ UNHCR BID Guidelines, Annex 4, p. 87.

⁹⁷ UNHCR BID Guidelines, pp. 55–56.

- Each BID Report Form, including the decision and recommendations and other associated documentation, should be kept in an individual file.
- A minimum of two staff members, preferably from different agencies (UNHCR, child protection agency staff and/or the social welfare/child protection authorities), should be involved.
- Staff should develop a coordinated response for monitoring and implementation of the decision.
- Staff should regularly monitor and evaluate the simplified BID process, identifying possible gaps and reviewing the strategy as needed.

Keep in Mind

In *complex* cases involving children at risk, it is still recommended that a regular, full BID process be put in place to determine the best interests of the children.

As described above, the procedures for a simplified BID are similar to those for a regular BID process, including a thorough assessment, completion of the BID Report Form, monitoring, implementation of the decision and follow-up of each individual child. *Only the decision-making process is simplified*, which is achieved through:

- A reduced panel of at least two staff members. One of those two (or more) staff members should be appointed as BID supervisor and will chair the BID panel meetings.
- Replacing BID panel by designated reviewing officer(s).

A child protection staff member with relevant child protection expertise is responsible for the case assessments and documentation and submits the BID Report Form and recommendations to the BID supervisor (of the reduced BID panel) or to the reviewing officer(s). The reduced BID panel/reviewing officer(s) must provide feedback on the cases to the child protection staff in accordance with an agreed-upon timeframe. The members of the reduced panel or the reviewing officer(s) will be responsible for finalizing the BID decisions, and the BID supervisor will oversee the implementation of the decisions.

Do's and Don'ts of Simplified BID Procedures

Do:

- ✓ Ensure UNHCR senior management decide when and how simplified BID procedures are implemented and which children require a full BID process. The senior management decision is to be taken in coordination with the BID supervisor or relevant child protection partners.
- ✓ Ensure that the child protection staff with relevant expertise is trained to conduct a thorough assessment and interviews with the child and other people in the life of the child.
- ✓ Conduct a simplified BID *only* when a full BID would delay meeting the best interests of the child. For example, in the case of urgent medical needs in a third country.
- ✓ Conduct simplified BIDs *only* for groups of unaccompanied or separated children where the members of the group have similar protection issues or needs and collectively require suitable alternative care. For example, when there are large numbers of child-headed households in prompt need of foster care or supported group living during a new influx of refugees.
- ✓ Conduct simplified BIDs in large-scale voluntary repatriation operations *only* when a full BID process would delay the return process and there are clear indications that simplified BIDs would be in the best interests of the children.

- ✓ Make individual decisions for each child, including those who share a similar background with others in their group.
- ✓ Make sure that at least one of the members of the reduced BID panel, or the reviewing officer, is trained on child protection and the BID process.

Don't:

- ✗ Conduct simplified BID procedures for children facing abuse, neglect, exploitation and/or violence or in a case of unresolved custody; such children need a full BID.
- ✗ Shorten or rush the assessment and documentation process; only the decision making process is simplified.

Resources: Suggested Further Reading and Relevant Websites

- International Rescue Committee, *Determining the Best Interests of Unaccompanied and Separated Children, Lessons from Guinea*, September 2007, available at <http://www.crin.org/bcn/topic.asp?themeID=1005&topicID=1034>
- Lutheran Immigration and Refugee Service, *No Small Matter: Ensuring Protection and Durable Solutions for Unaccompanied and Separated Children*, May 2007, available at <http://www.crin.org/bcn/topic.asp?themeID=1005&topicID=1034>
- UNHCR, *Heightened Risk Identification Tool User Guide, Second Edition*, June 2010, available at <http://www.unhcr.org/refworld/docid/4c46c6860.html>
- UNICEF, Save the Children and IRC, *Inter-Agency Child Protection Database Factsheet*, November 2008, available at <http://www.crin.org/bcn/details.asp?id=19085&themeID=1005&topicID=1032>
- UNHCR, *ProGres: Quick Reference, version 2*, August 2007
- Action for the Rights of Children (ARC), *Critical issue Module 6: Separated Children*, 2009, available at <http://www.arc-online.org/index.html>

Chapter 6: Communicating with Children

Key Messages

- Children have the right to express themselves and to be listened to.
- Children have the right to receive necessary information to form their own views and opinions.
- Child protection staff must act as advocates for children and assist them in finding solutions for their problems and setting their own priorities.
- Interviewing children should be done only by trained, skilled staff.
- Interviewing children may have ethical implications; the principles of “do no harm” and the best interests of the child should always be applied.

§ 6.1 Introduction

UNHCR BID Guidelines: pages 57–64

An important element of the BID process is communicating with children to identify their best interests and facilitate meaningful child participation. This communication should include informing children about the BID process and possible sustainable solutions and services, as well as collecting information and seeking their views. Interviews with children, especially those having difficult past and/or current experiences, need to be conducted carefully and require specific skills to spare children further harm. Staff should be trained and experienced in child-friendly interviewing techniques, principles and best practices.

§ 6.2 Ethics and Principles

Staff interviewing children must adhere to the following principles and rights of children in line with the CRC: non-discrimination (Art. 2), the best interests principle (Art. 3), child participation (Art. 12) and the right to receive information (Art. 13). Children have the right to form and express their views freely in matters affecting them, and further, they have the right to participate in all decisions affecting their lives. The views of children should be given due weight according to their evolving capacities.

§ 6.2.1 Non-discrimination and Diversity

The CRC states that children must have equal access to information. Furthermore, children’s right to be heard underpins all rights in the CRC. The right to be heard is central to children’s right to an individual identity and to their equal treatment with others. Children are largely discriminated against, as individuals and as a group, because they are not listened to and because less weight is attached to the views that they are able to express. In most societies, decisions—in courts, family, school and other spheres—that impact children’s lives are made without consulting them, although adults in the same situation would be consulted. Staff responsible for BID interviews with girls and boys should avoid age-based or any other form of discrimination.

At the same time, child protection staff working with children and young people should keep in mind that children, like adults, are not a homogenous group, and staff should reflect on diversity. While children and young people share basic universal needs, the expression of those needs depends on a wide range of personal, physical, social and cultural factors, as well as gender, age, maturity and history. Interviewers must be aware of the child's developmental stages, as well as gender concerns that may have consequences for the interview. (For example, in some cultures it may be considered improper for men to interview women; very young children may be raised to say what adults want to hear; etc.)

§ 6.2.2 Act as an Advocate for the Child

When interviewing children, UNHCR and partner staff must act as advocates for the child in her or his best interests, not in the interests of a country, an organization or a parent.

§ 6.2.3 Do No Harm

Interviews and discussions with girls and boys may have an effect on the child's emotional health. This is especially true when children have had stressful experiences or when certain decisions may have long-term consequences for the life of the child. In situations of displacement where children have experienced violence, they may not trust adults. They may be hesitant or may not want to speak with them.

§ 6.2.4 Building on Resilience

Working with children means identifying and building on the resilience and capacities of children themselves. This means avoiding focusing merely on stressful events in the life of the child or difficult experiences, child protection concerns, or risks in the community of the child. It is best to emphasize the strengths and coping mechanisms of local communities, families and children. During the interview, it is important also to talk about positive subjects in relation to the life of the child.

§ 6.2.5 Neutrality

The interviewer must be neutral and non-judgemental and must give the child the benefit of the doubt, even if there are inconsistencies in the information provided by the child.

§ 6.2.6 Child Participation

“Child participation” refers to the child's fundamental right to share her or his views and to influence and contribute to decisions concerning her or his life. This is a fundamental principle in the BID process. However, child participation is not an *obligation* for girls and boys; participation is a right meaning that the child exercised it on a voluntary basis. Therefore, the interviewer must seek the informed consent of the child and/or the caregiver before conducting a BID interview. Consent implies that a “person makes an informed choice to agree freely and voluntarily to do something”.⁹⁸ Thus the BID interviewer must explain the purpose and content of the interview to the child, as well as how the collected information will be used. The interviewer also needs to inform the child that she or he has the right to refuse participation in the interview, or to refrain from answering specific questions with which she or he is not comfortable.

98 UNHCR, *Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons. Guidelines for Prevention and Response*, May 2003, p. 29, available at <http://www.unhcr.org/refworld/docid/3edcd0661.html>

If a child or a young person is reluctant to speak or to participate in the BID interview, it is important to try to understand why. Sometimes children fear of judgement or criticism, or they may not trust the interviewer sufficiently to feel comfortable providing detailed information related to family members, place of origin, previous address and other issues. Some children may become extremely uncomfortable or frightened in the interview situation. In cases where the child is/has been subject to abuse, neglect, exploitation or violence, the child, family or caregiver may be reluctant to voice a report; the child simply may not want or may not be able to talk about it.

It is the role of the interviewer to reassure the child and show empathy and understanding for the child's feelings. In exceptional cases, children may feel better accompanied by a friend or somebody else they trust. All actions taken during and as a result of the BID interview will be guided by respect for the wishes, the rights and the dignity of the child. If the child has been subject to abuse, neglect, exploitation or violence, the best interests of the child principle should inform decisions about what type of care and support should be provided to the child and her or his family or caretaker.⁹⁹

Interviewers should provide the opportunity for children to ask questions and to speak freely. Summarizing what has been said may help children sense that they are being listened to and taken seriously, which is extremely important at all times. Interviewers should try to create an atmosphere of open discussion and positive engagement. The role of the interviewer is to collect information in the best interests of the child, but also to help facilitate discussion and exploration of ideas, supporting the child to arrive at solutions.

Interviewers can also raise children's confidence by helping them define priorities for themselves. Ultimately, interviewers should try to understand that what each child thinks and feels is in her or his best interests, and they should help children express their priorities and concerns. This requires an atmosphere of openness which accepts the full spectrum of ideas, thoughts and feelings. In other words, it is the role of the interviewer to engage the child in identifying problems, developing ideas and implementing solutions. Interviewers should never manipulate or push children to arrive at solutions, nor should they impose ideas that they believe to be best for the child.

§ 6.2.7 Developmental Stage of the Child

UNHCR BID Guidelines: page 60

In the context of BID, interviewers communicate with girls and boys of different ages, and they need to be aware of, and interact in a manner that is appropriate to, the developmental stage of each child.

The four crucial aspects of children's development – physical, emotional, cognitive and social – are closely interlinked, and each affects children's development overall. In brief:

- **Physical development** includes health, brain and biological development.
- **Emotional development** includes attachment, relationships, self-esteem, confidence and self-identity.
- **Cognitive development** includes language, intelligence, thinking, problem-solving and analytical skills.
- **Social development** includes communication, relationship-building, attitude, social skills, integration in a social environment (norms, limits and rules), conflict resolution skills, participation and association (ethical and moral development).

When interviewing children, staff should take into consideration the developmental stage of each child as well as age and maturity, gender, culture and social circumstances. Children need the care, protection

⁹⁹ Inter-agency Standing Committee (IASC), *Guidelines for Gender-based Violence Interventions in Humanitarian Settings*, September 2005, pp. 29–30, available at <http://www.unhcr.org/protect/PROTECTION/453492294.pdf>

and guidance which are normally provided by parents or other caregivers, and this is especially true for young children, who are most dependent.¹⁰⁰ While children's emerging abilities and capacities change the nature of their dependency and vulnerability from infancy through adolescence, their need for attention and guidance at each stage remains.

Interviewers should consider whether the child is, for example, from a marginalized population in terms of ethnicity or has any physical or mental disabilities, and they should be aware of potential child protection risks. Staff must be prepared and vigilant if the child faced abuse in the past and/or if the child has an ongoing disorder. On the other hand, interviewers need to realize that they may not be aware of various factors and facts which touch children's lives, such as their personalities, experiences, pains, concerns, prejudices, feelings and trauma.¹⁰¹

§ 6.2.8 Cultural Background of the Child

While children's physical developmental stages are universal, the cultural markers and rites of passage signalling other stages of development vary from culture to culture, as do the meanings given to social actions and behaviours. The best way to identify these cultural markers is to ask children, mothers and fathers themselves to identify these cultural markers and explain what impact they will have on child development.

Children's developmental pathways and goals for development are subject to significant cultural differences. Some general patterns of development can be predicted and observed across cultures and individuals, although the expression of these universal patterns will always be embedded in, and shaped by, local conditions and cultural practices. When BIA or BID interviews take place, staff should be sensitive to and respect the culture and traditional background of the child.

§ 6.2.9 Information Management and Confidentiality

UNHCR BID Guidelines: pages 60 and 78

Information management is a key factor linked to communication within the process of best interests determination. Case files must provide enough information for any member of a team to understand the history and situation of the child and to know the steps that have been taken, and the steps that need to be taken, by reading the case file. As a simple test of the file's quality, someone outside the process should be able to read the case file and know exactly what the issues are, what decision and actions have been taken, and what direction the case is taking for closure. Information is recorded in a database to monitor case management of individual cases but also an operation's overall work. The database will show case profiles and will also provide crucial data for monitoring, evaluation and adapting interventions to prevent, and to address, child protection issues.

In order to protect a child throughout the BIA and BID processes, and to maintain her or his trust in the staff member who carries out the BIA or BID, it is important for the interviewer and the translator to respect the principle of confidentiality. The interviewer and translator should have signed a confidentiality oath.¹⁰² At the beginning of the BID interview, staff must explain the concept of confidentiality and what that means to the child using simple words. In the context of BID, children and/or caretakers must be informed that the information will be shared with BID panel members of UNHCR and partners.

When a staff member needs to share the information concerning a child, she or he should seek and obtain the consent of the child (depending on the child's age and level of development) and/or the caretaker/

¹⁰⁰ Article 5 of the CRC articulates: "States Parties shall respect the responsibilities, rights and duties of parents, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention".

¹⁰¹ UNHCR Child Rights and Child Protection Training, Jijiga, Ethiopia, July 2009, pp. 78.

¹⁰² UNHCR BID Guidelines, Annex 5, p. 88.

family. Information is to be shared with a limited range of actors, only those who are involved in providing assistance on a need-to-know basis and in line with the best interests of the child. Personal data and confidential information, including identifying information (name, address, etc.) should be protected.

Information must only be shared with those who need to know. In some cases, this can go against the child's or caregiver's will (for example, when you know a girl is being subjected to sexual abuse by her caregiver or her father and neither of them wants to report the case). These cases are complex, and the principles of confidentiality and "do no harm" need to be balanced; for instance, where there is a risk of retaliation by the perpetrator.

§ 6.3 Interviewer Requirements

§ 6.3.1 Basic Skills

Communicating and interviewing children in a BID context is a difficult task requiring specific skills and expertise. Interviewers should:

- Be able to feel comfortable with children and to engage with them in a way that is child friendly.
- Be able to use language and concepts appropriate to the child's age and stage of development.
- Accept and understand that children who have had distressing experiences may find it difficult or impossible to trust an unfamiliar adult. It may take a great deal of time and patience before the child can feel sufficient trust to communicate openly; an interviewer's inability to do so should not be considered as a failure.
- Recognize when it may be better to let someone else interview the child or look for another methodology.
- Understand that children may view their situation in ways very different from that of adults.
- Take the thoughts and feelings of children and young persons seriously.
- Believe children and young people to be bearers of human rights.

It is preferable for the same initial interviewer to conduct the follow-up interview. The gender of the interviewer is also important. As a general rule, female interviewers and interpreters should conduct interviews with girls, especially adolescents. However, staff should also be ready to accommodate situations where girls are more comfortable talking to a male case worker and/or when boys prefer speaking with a female caseworker.

Staff interviewing and working with girls and boys need to be skilled and trained on, for example, child protection,¹⁰³ child participation, the CRC and national legislation, psychosocial care, confidentiality and child-friendly interviewing techniques. All UNHCR and partner staff, including interpreters, must be trained on, understand and have signed a code of conduct.

Staff Should Be Aware of Their Own Perceptions

Staff must be aware of their own perceptions when they are conducting interviews for BID and recognize that these perceptions may affect how they understand and assess the situation. Perceptions of reality are "filtered" based on what one sees and feels and on one's own socio-cultural context and experiences. Staff members must therefore be aware of how their own perceptions influence the BID process, be open to different outlooks, and be ready to modify their perceptions of others.

¹⁰³ For child protection standards, strategies, tools and training materials, see Keeping Children Safe Coalition, *Keeping Children Safe: A Toolkit for Child Protection*, 2008, available at <http://www.keepingchildrensafe.org.uk/>

§ 6.4 Interpreter Requirements

Ideally, the interviewer should speak the child's language. If this is not possible, proper translation must be provided. The interviewer must prepare the interpreter, making sure that she or he is sensitive to the culture and background of the child. The interviewer should observe the interactions of the interpreter and the child closely throughout the interview.

The interpreter should be behind the child or at her or his side, to make it clear who the interviewer is and that the interviewer, as opposed to the interpreter, is leading the session. The interviewer should always talk directly to the child, not to the interpreter.

Interpreters must understand the concept of confidentiality and abide by it. They must also sign the Undertaking of Confidentiality (see UNHCR BID Guidelines, Annex 4). Interpreters require training on the basics of child protection and child rights, as well as on techniques for communicating with children. They must also have an understanding of the purpose and objectives of the BID process and the interviews.

§ 6.5 Preparations

When a staff member is planning to have a BIA or BID interview, she or he must be well prepared and have read all existing information available about the child and her or his situation. Duplication of interviews and/or information gathering should be avoided. Sometimes it is necessary to verify and cross-check pieces of available information, to make sure everything is still up to date and relevant for the BID process. However, if children and their caregivers are interviewed repeatedly about the same issues, they may become overwhelmed or frustrated and, understandably, reluctant to participate further.

§ 6.6 Timing

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The interviewer must plan the BIA or BID interview in consultation with the child and the caregiver. Adequate time must be allowed to help children feel relaxed, to develop trust, and to enable children to feel that they are being taken seriously. The interviewer must be aware of, and allow time to accommodate, the limited concentration span of children, especially small children. She or he must be prepared to recognize when a child's limits have been reached. The younger the child, the lower her or his capacity is for maintaining concentration.

Interviews with very young girls and boys should not exceed 30 minutes, and interviews with young or even older children should not be more than 50 minutes. Questions can be modified or postponed, depending on the urgency. The interviewer may need to hold several meetings to get the information necessary. An interview can be ended if the child shows persistent signs of anxiety, and follow-up by a skilled staff member may be required.

§ 6.7 Location

UNHCR BID Guidelines: page 60

The interviewer needs to identify a safe and non-distracting environment, especially if children have been exposed to an environment of uncertainty, change, and anxiety. A quiet place with privacy is preferable, especially when the interview relates to personal or painful information. There should be no noise in the background.

The most appropriate place for the interview may also depend on the context of the BID and child protection work; the location should be determined in consultation with the child and caregiver. Possible settings include the home or the shelter of the child and her or his caregiver, a UNHCR or child protection agency office, or another location (i.e. a place where the child feels safe and confident).

§ 6.8 Taking Notes and Taking Photographs

Interviewers may need to take down key information during BIA or BID interviews and first should explain the reasons for this process to the child to obtain permission. Interviewers should not take notes on a computer or notebook in front of the child without explaining what they are doing, and they should plan to devote time after the interview to refine and complete their notes. Interviewers must review their notes with the children interviewed to be sure they are accurate. It is not uncommon for children to make corrections, or for interviewers to discover that they were wrong, or misinterpreted a child's words or made assumptions.

UNHCR and partner staff should photograph or film children and families only with their permission. The interviewer can show the pictures to the child afterwards and explain how they will be used.

§ 6.9 Child-friendly Interview Techniques

§ 6.9.1 Introductions

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When the interviewer starts the BIA or BID interview, she or he introduces her or himself, the organization and the purpose of the interview or the visit. Interviewers need to clearly explain, in simple language, who they are and what is going to happen during and/or after the interview. This is important so that the children and youth know who the interviewer is, what her or his role entails, and the importance of the collection of information. Interviewers need to explain carefully why certain information is being collected and how it will be used. Children need to understand that they can always answer questions with “I don't know” or “I don't understand”.

Sometimes children may think that interviewers can have direct influence on certain problems or decisions, or that they have the answers to certain questions—which may not be the case. Interviewers need to make clear what the interview can and cannot achieve, so that children know what to expect. Interviewers also should be realistic, to avoid false expectations and promote clarity. Children and youth must be kept informed throughout the interviews, the follow-up visits and the BID process as a whole.

During the interview, it is best for the interviewer (and the interpreter) to sit at the same level as the child—on the floor, a bench or a chair, for example—with no barriers such as a desk between him or her (and the interpreter) and the child.

Interviewers can start to tell something about themselves or engage in general conversation at the beginning or during interviews. They can start with non-sensitive questions to put a child at ease, and they should listen carefully to the child at all times, showing empathy and patience. An interviewer can break the ice by saying a few words in the child's language, such as a greeting or a simple question, to help establish contact. Some examples are:

“I'd like you to teach me how to say in your language”.

“My name is Marleen. What is your name?”

“I have a child/grandchild/niece/nephew near your age, who likes to...”

“I like drawing/playing board games, football (etc.).What do you do during your free time?”

Interviewers should be friendly and open, but at the same time they should be honest and not force smiles or fake feelings. They should speak in a normal conversational tone, but also allow silence. Interviewers must ensure that children feel comfortable, which often can take some time as a child “warms up” in this new and unfamiliar situation. Non-verbal communication is also important: smiles can help put children at ease.

Interviewers should use simple and age-appropriate language which children can easily understand. If it seems that a child has not understood something, the interviewer can ask if the child has understood the question and ask him or her to repeat it and explain his or her understanding of the question. Interviewers should encourage children to request clarifications and to ask questions. They should be careful to make sure that their questions are culturally appropriate and gender sensitive. Interviewers should show respect for children’s feelings, whether they are manifested as guilt, sadness, anger, fears, happiness, etc.

Questions should in general be open-ended. Here are some examples of closed and open questions:

CLOSED QUESTION	OPEN QUESTION
“Did you get separated before arriving in the camp in X?”	“Can you tell how the separation with your family happened?”
“Are you going to school regularly?”	“What are your daily activities?”
“Do you want to continue living with your foster family?”	“How would you feel about continuing to live with your foster family?”

However, while open questions are more useful, closed questions can also have a place in the interview, for example, to confirm that the interviewer has correctly understood what the child said.

Sometimes creative means can be useful in communicating with a child. The interviewer can use games, drama, drawing or songs, or go for a walk together with the child, all as appropriate to the child’s age, gender and culture. Especially when interviewing very young children, creative techniques, such as asking a child to draw her or his house, village and family members, may reveal important details for tracing or other information. Different methods include:

Role play/drama	Role play can provide insight to the child’s experiences and help the child express his or her feelings.
Storytelling	Real events can be woven into stories to help children recall situations, places and people.
Songs/singing	Music can help relax the atmosphere, enabling children to express emotions while allowing case-worker to make observations of feelings in a non-threatening atmosphere
Creative workshops	Self-expression is encouraged through creative sessions incorporating, for example, drawing or painting (using available materials).
Play	During organized play and sports, children can often reveal important information about situations, places and people to social workers/child protection staff who are present.

3–5 years:

- Storytelling.
- Mobility mapping and flow diagrams (see case example below).
- Songs.
- Interaction and observations during play activities.

6–12 years:

- Storytelling.
- Mobility mapping.
- Songs.
- Interaction and observations during play activities.

13–17 years:

- Mobility mapping.
- Interaction and observations during play activities.
- If children and young people are reluctant to speak to the interviewer, perhaps another child protection staff can take over the interview. Or a close friend (peer or adult) of the child/young person might assist in the interview and information-gathering, if in the best interests of the child.

CASE EXAMPLE

Mobility Mapping in Rwanda

The IRC worked with unaccompanied, separated, and orphaned children after the genocide in Rwanda and introduced a new tool, “mobility mapping”, to reveal tracing and other information. Social workers supported children in drawing their house and asked them to draw all the people in and around the household. Children were also encouraged to draw other houses and buildings in the village, such as the mosque, church or school, as well as the neighbouring villages. Then the children used different colours to mark the places that they liked most and visited most. Next, the social worker asked questions, such as: “Tell me some more about this place?”; “How did you feel there?”; “What did you do there?”, and “Why did you like it?”. The social workers also asked questions about the family members and other people each child had drawn. This method helped the children to remember information through drawing. Mobility mapping often revealed important information about the lives of the children and facilitated new tracing efforts and reunification of unaccompanied and separated children, even after years of separation.

The IRC also used “flow diagrams” to identify the social network and resource persons in the lives of children. The social workers helped the children to indicate in a diagram where/to whom they would go to get support for health, psychosocial or financial support.

Both tools are equally useful for determining whether, for example, reunification would be in the best interests of the child, or to identify a foster family or other forms of support in a child’s community.¹⁰⁴

104 International Rescue Committee, *Mobility Mapping and Flow Diagrams: Tools for Family Tracing and Social Reintegration Work with Separated Children*, 2003, available at <http://www.bettercaretoolkit.org/BCN/Toolkit/Document/index.asp?infoID=21730&TKsubcatID=113&TKcatID=14>

§ 6.9.2 Observe Behaviour and Feelings

Throughout the BIA or BID interview, the interviewer needs to carefully observe the child, looking for facial expressions, gestures and body language. Body language is as important as verbal communication, but it varies depending on culture and context, so non-verbal communication should be noted in light of the child's own culture.

Behaviour is not always planned or consciously understood. Awareness of this can help interviewers to be less judgmental of children's stories, which in turn can help them to understand possible underlying explanations for children's responses or behaviour.

During interviews, staff must be aware of their own non-verbal communication, such as smiling and showing an open approach towards children. Interviewers should show that they are interested and attentive, making sure that they do not have their arms crossed. Interviewers must be aware of their eye movements, avoiding letting their eyes dart around the room. Rather, they must concentrate on the conversation with the child and refrain from becoming preoccupied with other things. (However, in some cultures looking directly into other's eyes is not appropriate or perceived positively. Attention must be taken to be culturally appropriate.) Physical contact can be positive in some circumstances (for example, a hand on a shoulder if a child is having difficulties during an interview), but such contact can also be intimidating and/or negative for certain children; so in principle it should be avoided.

Adults can often feel uncomfortable when children become upset or distressed. Emotional distress on the part of a child is not necessarily a reason to stop the interview. Interviewers need to remember that emotion may help the child to express her or himself freely.

Staff should be sensitive to signs of distress and be prepared to respond if the child falls into distress. It may be necessary to leave out difficult questions and explain that the issue can be discussed another time. Children should never be pressed to answer questions.¹⁰⁵

§ 6.9.3 Ending the Interview

Interviewers should end the interview positively, particularly when children have been recounting traumatic events. They should explain the steps that will follow the interview; it is very important for children to know what they can or cannot expect and what will happen next. The end of the interview should allow time and space for the child to express her or his feelings and concerns, as well as to ask questions. The interviewer needs to summarize what has been discussed and cross-check notes to make sure the recorded information is correct.

When child protection issues have been identified as a result of the interview, the interviewer needs to discuss the possible interventions and available services for follow-up with the child and the caregiver, and he or she should seek the child's informed consent for referral.¹⁰⁶ If the child is too young to be able to give consent, the parents/caregiver need to provide consent (if they are not the alleged perpetrators of the abuse). The interviewer should indicate the timeframe for follow-up and let the child and caregiver know when the next visit is planned to occur.

To restore a sense of security, the interview should conclude with a casual discussion about everyday events in the child's present life. The interviewer should end the interview on a positive note or encourage the child to engage in positive activities.

¹⁰⁵ UNHCR, *Working with Unaccompanied Children: a Community-based Approach*, 1996, p. 44.

¹⁰⁶ For UNHCR and partner staff, it is mandatory to report all alleged cases of abuse by humanitarian workers and others working directly with children through the line management, in accordance with the code of conduct.

“Do’s” and “Don’ts” when Interviewing Children and Young People

Do:

- ✓ Use simple, age-appropriate language which the child can easily understand; keep it informal and friendly.
- ✓ Clearly introduce who you are, and explain the purpose of the interview and what the child can expect from it.
- ✓ Ask easy questions to start off; begin with broad questions, followed by more specific questions.
- ✓ Take time to ensure that the child feels comfortable.
- ✓ Use a checklist or the BID Report Form, but ask questions in your own words and order.
- ✓ Reflect on the child’s resilience and capacities, on her or his dignity and self-worth.
- ✓ Ask open questions.
- ✓ Listen to the child carefully; resist providing too much guidance or talking excessively.
- ✓ Resist filling silences which you find uncomfortable.
- ✓ Show empathy and patience.
- ✓ Consider the flow of the discussion; do not jump from question to question without introducing new topics.
- ✓ Observe the child carefully during the interview; identify signs of distress and take appropriate action.
- ✓ Leave time and space for the child to express her or his feelings and/or concerns and to ask questions.
- ✓ If you cannot answer a question immediately, tell the child you will get back to the question, or inform the child that you do not know the answer.
- ✓ Give children a break for water, the bathroom or a few minutes free from your questions.
- ✓ Summarize what you discussed to make sure you have the correct information.
- ✓ Actively involve children in exploring problems, developing ideas and implementing solutions.
- ✓ When protection issues are identified, take timely and appropriate action.
- ✓ Keep children regularly informed about next steps, follow-up and decisions.
- ✓ Ensure confidentiality.

Don’t:

- × Act like a private investigator by using over-zealous questioning methods.
- × Cross-examine the child or assume the child is lying if the story changes.
- × Make assumptions about what children are thinking or feeling.
- × Come to an interview thinking that you know what you will hear (if you do, you may only take note of the information you expected to hear).
- × Show your frustration or scepticism during the interview.
- × Judge.

- × Interrupt a child who is in free narrative or answering a question, even if the information is not what you were expecting.
- × Ignore signs of distress, such as bruises, not talking or uncontrollable crying.
- × Use closed questions that allow the child only to answer “Yes” or “No”.
- × Ignore the questions that children ask you.
- × Use closed questions (“Did you leave the town?” or “So you were 10 when that happened?”).
- × Ask two questions in one.
- × Further distress the child.
- × Leave the child in the middle of telling a traumatic story.
- × Make false promises to children and youth.
- × Impose ideas or solutions or force a child to give information.
- × Forget to balance your time and resources, which could force you to have to cut off an interview.
- × Conduct interviews in non-confidential spaces or in places that are uncomfortable.

§ 6.10 Practical Guidance for Some Specific Situations Related to Interviewing Children

UNHCR BID Guidelines: page 77

This sub-chapter provides some practical guidance for communicating with children. The tips are only general guidelines that should be adjusted according to the context and the particular child or young person before you. The suggestions below that are directed toward specific situations should be interpreted with sensitivity and with understanding of each child’s developmental stage and background.

In some cases, the interviewer may think that a child or a young person is not telling the truth during an interview. The child may be influenced or manipulated by peers or other people within her or his network to tell a certain story or to withhold particular information. Especially in resettlement processes, there may be cases of fraud.

However, one should not act like an investigator (using over-zealous efforts to find signs of incredibility or inconsistency in children’s stories). When interviewing children, as a general rule the principle of the benefit of the doubt should be applied. Never generalize by considering all children to be “liars”, and do not presuppose facts prior to the interview.

The interviewer should also take the developmental stage of the child into account. If a girl or a boy tells an inconsistent story, changes a statement or reveals certain information only at a later stage, this does not mean that the child does not tell the truth. Interviewers must provide children and young people with honest and realistic information about their options and possible short-term and long-term impacts. An interviewer who has doubts can present similar questions separately to other peers or to people in the child’s network, in order to obtain a more comprehensive picture of the child’s history and current situation.

Child protection staff are responsible for informing the child and the caregiver about the decision arrived at by the BID panel. In some cases, the child and/or caretaker may disagree with the BID decision. Then it is important for the child protection staff to be open and honest and to clearly explain the reasons for the decision. It is important to spend time with the child and actively listen to her or his views and feelings about the decision. When children feel that they have been heard, understood and respected, it may be easier for them to accept the decision. Sometimes, more than one visit by the child protection staff is

needed to help the child and caregiver to understand the reasoning behind the decision. In particularly difficult circumstances, the child protection staff should arrange counselling in consultation with the child and caregiver to assist in this process.¹⁰⁷

What You Can Do

- Provide continuous on-the-job training and supervision for child protection staff responsible for interviewing children.
- When interviewing children, apply child-friendly communication techniques, creativity and ensure an appropriate level of child participation.
- Be aware at all times that children are not just small adults; each child is at a specific developmental stage at the physical, cognitive and emotional levels, depending on, for example, her or his age, gender, culture, background, social environment and history.
- In identifying staff to interview children, seek those who have sufficient expertise in child development and protection, who are sensitive and who adhere to a child-focused approach—and support them throughout the process.
- Organize training for interpreters on the basics of child protection, child-friendly interviewing techniques, child participation and the aim of BID.
- Ensure that all staff working directly or indirectly with children have signed and understand a code of conduct.

Resources: Suggested Further Reading and Relevant Websites

- ARC, Foundations Module 4: Participation and Inclusion, 2009, available at: <http://www.arc-online.org/index.html>
- ARC, Foundations Module 7: Psychosocial Support, 2009, available at: <http://www.arc-online.org/index.html>
- ARC, Foundations Module 2: Understanding Childhoods, 2009, available at: <http://www.arc-online.org/index.html>
- UNHCR, *Working with Unaccompanied Children. A Community-based Approach*, May 1996, available at: <http://www.unhcr.org/refworld/docid/4a54bc24d.html>
- Save the Children UK, *Communicating with Children. Helping Children in Distress*. London, 1993
- Save the Children Alliance, *So You Want to Consult with Children? A Toolkit of Good Practice*, November 2003, available at <http://www.savethechildren.net/alliance/resources/publications.html>
- UNICEF and Save the Children Sweden, Innocenti Research Centre, *The Child's Evolving Capacities*, 2005, available at: <http://www.unicef-irc.org/publications/pdf/evolving-eng.pdf>
- International Rescue Committee, *Mobility Mapping and Flow Diagrams: Tools for Family Tracing and Social Reintegration Work with Separated Children*, March 2002, available at <http://www.ovcsupport.net/s/library.php?ld=700>
- Finland: Directorate of Immigration, *Guidelines for Interviewing (Separated) Minors*, March 2002, available at: <http://www.unhcr.org/refworld/docid/430ae8d72.html>

¹⁰⁷ BID Guidelines, p. 77.

Annexes

Annex 1: Glossary: Key Definitions

Annex 2: Draft Sample BID SOPs - Key Elements

Annex 3 : Sample Best Interests Assessment Form

Annex 4 : Guidance Notes : Using the Sample BIA Form

Annex 5: Best Interests Determination Report

Annex 1: Glossary: Key Definitions

Adoption: “A permanent living arrangement for a child that confers full family membership in his or her adoptive family. Adoption is usually understood to be a formal, judicial process that transfers legal rights and responsibilities for the child to the adopters. However, in some legal codes, there is a distinction between “simple adoption”, which does not usually involve a change of name and family identity, and “full adoption”, which does. Some traditional forms of adoption do not confer a change of legal status, leading to a blurred distinction between traditional adoption and long-term fostering.”¹⁰⁸

Age assessment: A procedure used to assess a person’s approximate age.

Best interests assessment: An assessment made by staff taking action with regards to individual children, except when a BID procedure is required, designed to ensure that such action gives a primary consideration to the child’s best interests. Best interests assessments should facilitate adequate child participation. Such assessment must be conducted by staff with the required expertise, whether working alone or in consultation with other.

Best interests determination: A formal process with strict procedural safeguards designed to determine the child’s best interests for particularly important decisions affecting the child. It should facilitate adequate child participation without discrimination, involve decision-makers with relevant areas of expertise and balance all relevant factors in order to identify and recommend the best option.

Care or interim care: Describes care arrangements for unaccompanied, separated children or other children in need of care, and intends to be temporary, pending the return of the child to his or her own family. However, the term “interim” can be misleading in situations in which family tracing is unsuccessful, necessitating longer-term substitute care.

Carer, caretaker and caregiver: Terms used interchangeably to describe the person exercising day-to-day care of a child, whether parent, relative, family friend or another person; does not necessarily imply legal responsibility. The term might include foster parents who take in a child either spontaneously or more formally through some kind of fostering arrangement.

Child: Any person under the age of 18, unless majority is attained earlier under the (national) law applicable to the child (Convention on the Rights of the Child, Article 1).

Child protection in emergencies: The prevention of and response to abuse, neglect and exploitation of – and violence against – children in emergencies.

Child Trafficking: All acts involved in the recruitment, transportation, transfer, harbouring or receipt of a person under 18 of age for the purpose of exploitation within or across borders. The use of illicit means, including violence or fraud, does not apply for children. Exploitation refers at a minimum to “sexual exploitation, forced labour or services, slavery and practices similar to slavery, servitude, forced begging or the removal of organs.”¹⁰⁹

¹⁰⁸ Save the Children UK, *Facing the Crisis- Supporting children through positive care options*, 2005, p. iv.

¹⁰⁹ Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, GA Res. 55/25,2000, art. 3.

Confidentiality: The obligation that information about an individual disclosed in a relationship of trust will not be disclosed or made available to unauthorized persons that are inconsistent with the understanding of the original disclosure or without prior permission.

Consent: Informed, free and voluntary agreement.

Documentation: The process of recording further information in order to meet the specific needs of the child, including tracing, and to make plans for his or her future. This is a continuation of the registration process and not a separate undertaking.

Durable solutions: In the context of the work of UNHCR, sustainable and long-term solutions for refugees: voluntary repatriation, local integration in the country of asylum and resettlement to a third country.

Family reunification: The process of bringing together the child and his or her family or previous caregiver to establish or re-establish long-term care. The term is also used when children are united with family with whom they did not live before. When the child is reunified with extended family members, it can also be called “extended family placement”.

Family tracing: In the case of children, this refers to the process of searching for both family members and/or primary legal or customary caregivers. The term also refers to the search for children whose parents are looking for them. The objective of tracing is reunification with parents or other close relatives.

Fostering: Situations where children are cared for in a household outside their family. Fostering is usually understood to be a temporary arrangement, and in most cases the birth parents retain their parental rights and responsibilities.

- ▶ **Traditional (or informal) fostering** refers to situations in which the child lives with a family or other household that may or may not be related to the child’s family. No third party is involved in these arrangements, though they may be endorsed or supported by the local community and may involve well-understood obligations and entitlements.
- ▶ **Spontaneous fostering** refers to a situation in which a family cares for a child without any prior arrangement. This is a frequent occurrence during emergencies and may involve a family from a different community than that of the refugee child.
- ▶ **Arranged fostering** refers to a situation in which a child is cared for by a family as part of an arrangement made by a third party (usually an agency involved in social welfare such as a government department, a religious organization, or a national or international NGO). This arrangement may not be covered by formal legislation.

Identification of unaccompanied, separated and other children at risk: The process of establishing which children have been separated from their families or other caregivers, and where these children may be found. The term can also be used to describe the procedures used to find out whether a child is at risk.

Kinship or extended family care: Situations in which girls and boys are placed within the extended family. Very often this is spontaneously arranged within the family, but sometimes authorities or agencies intervene to arrange and support the placement.

Local integration of children: Durable solution where children permanently settle in the first country of asylum. A legal, economic, social, cultural and political process by which refugee children are gradually afforded equal rights and access to services than nationals¹¹⁰.

110 UNHCR, Local Integration and Self-Reliance, EC/55/SC/CRP.15, 2 June 2005, para. 19.

Parent: A child’s biological mother/father. However, in some societies it is very common for girls and boys to spend various periods of time with members of their extended family, and sometimes with unrelated families. Throughout this publication the term “parent” generally refers to the biological parent, but sometimes it also refers to the other primary caregiver(s), such as adoptive parents or extended family members providing long-term care.

Prevention of family separation: Activities that support family life and diminish the need for the child to be separated from her or his immediate or extended family or other traditional caretaker; for example, in cases of parental illness or risk of abandonment as a result of poverty.

Principle of Non-refoulement: A core principle of international refugee law that prohibits States from removing refugees in any manner whatsoever to countries or territories in which their lives or freedom may be threatened. The principle is part of customary international law and is binding on all states, whether or not they are parties to the 1951 Convention.

Protection: All activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and spirit of international human rights, refugee and humanitarian law. Protection includes the right to physical, legal and material protection.

Psychosocial support: Term encompassing a wide range of strategies to respond to psychological, emotional, social and spiritual needs of children and adults. Psychosocial support needs to be based on a clear understanding of the culture and should not assume that Western approaches (e.g., individual counselling) are always appropriate.

Refugee: A person who meets the eligibility criteria under the applicable refugee definition, as provided for in international or regional refugee instruments, under UNHCR’s mandate and/or in national legislation. The 1951 Convention relating to the status of refugees defines a refugee as a person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership in a particular social group, is outside the country of his or her nationality and is unable or, owing to such fear, unwilling to avail him- or herself of the protection of that country.

Refugee status determination (RSD): The legal and administrative procedure undertaken by states or UNHCR to assess whether an individual is to be recognized as a refugee in accordance with national and international law.

Registration: In terms of children, the compilation of key personal data: full name, date and place of birth, father’s and mother’s name, former address and present location. This information is collected for the purpose of establishing the identity of the child, documentation, protection, to facilitate tracing and for durable solutions.

Resettlement: The selection and transfer of refugees from a state in which they have sought protection to a third state which has agreed to admit them—as refugees—with permanent residence status. The status provided should ensure protection against *refoulement* and provide a resettled refugee and his or her family or dependants with access to civil, political, economic, social and cultural rights similar to those enjoyed by nationals.

Residential care, institutional care, or orphanage: A group living arrangement which normally takes place in a building provided by an organization, with care provided by paid adults who may or may not live on the premises and who are not considered to be traditional carers within the culture. The term “orphanage” is not representative, as in practice these facilities often admit many children who are not actually parentless orphans.

Separated children: Those separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. Separated children may, therefore, include children accompanied by other adult family members.

Orphan: A child whose parents have both died. In many countries, children are referred to as “orphans” even if only one parent has died; it is therefore important to be aware of local usage of the term. For example, in some contexts a child living on the streets may be seen as an orphan even though both parents are alive, while a child who has lost both parents but is living happily within the extended family might not be described as an orphan. Therefore the term “orphan” should be avoided as a general description of unaccompanied and separated children; most of them are not orphans. In many contexts the term “orphan” may carry negative connotations.

Unaccompanied children: are those children who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.

Verification: The process of establishing the validity of relationships and confirming the willingness of the child and the family member to be reunited, undertaken prior to reunification of a child with the family.

Voluntary repatriation: Return “in safety and with dignity”; that is, return in and to conditions of physical, legal and material safety, with full restoration of national protection as the end product. Voluntary repatriation is based on the refugee’s free and informed decision.

Annex 2: Draft Sample BID SOPs - Key Elements¹

I. Introduction

A. Provide background information on the country operation and child protection issues

B. Refer to key documents on child protection:

1. Convention on the Rights of the Child, 1989
2. UNHCR Guidelines on Determining the Best Interests of the Child, 2008
3. UNHCR ExCom Conclusion No. 107 (LVIII) on Children at Risk, 2007
4. UNHCR ExCom Conclusion no. 105 (LVI) on Women and Girls at Risk, 2006
5. UNHCR ExCom Conclusion No.84 (XLVIII) on Refugee Children and Adolescents, 1997
6. UNHCR ExCom Conclusion No. 47 (XXXVIII) on Refugee Children, 1987
7. Interagency Guiding Principles for Unaccompanied and Separated children, 2004
8. UN Guidelines for Alternative care, A/RES/64/142, 2010

C. Refer to relevant regional text on children

II. Objectives of BID SOPs

III. Purpose/Scope of the BID and BIA process

A. BIA

B. Five situations requiring a BID

IV. Target Group

A. Unaccompanied, separated and other children (all persons below 18 years old) at risk of, or experiencing, abuse, neglect, exploitation and violence

B. Outline criteria for BID for youth up to 21 years old

V. Principles

A. Best interests of the child is a primary consideration prior to all actions affecting children's lives

B. Non-discrimination

C. Child-focused approach

D. Confidentiality

E. Child participation

F. All actors involved in the BID process should be objective and act as advocates for girls and boys

¹ Please note that this is only a sample BID SOP and only reflects the main elements that need to be incorporated in BID SOP. It does not capture specific Elements that may be particular to a given operation. Therefore, each operation must adapt the document to fit their operational context.

VI. Roles and Responsibilities

- A. Actors involved**
- B. Role of BID supervisor**
- C. Role of child welfare officers**
- D. ToR for BID Panel**
 - 1. Composition (BID panel members)
 - 2. How are decisions taken (by majority vote, etc.)
 - 3. Resolving conflict
 - 4. Signing Code of Conduct
 - 5. Regularity of meetings
 - 6. Protocols for information sharing

VII. Steps

- A. Identification**
- B. BIA**
 - 1. Methods
 - 2. Actors involved in the identification and referral of children requiring a BIA
- C. Documentation**
- D. Referral to support services**
- E. Care placement and monitoring of children in care**
- F. Tracing**
- G. Follow-up/Monitoring**
- H. Data entry/ProGres**

VIII. BID Process

- A. Child protection staff collect information:**
 - 1. Interview the child, the caregiver and other relevant persons in the life of the child (neighbours, teachers, other children, etc)
 - 2. Conduct home visits
- B. Child protection staff draft the BID report with recommendations**
- C. Child protection staff submit the BID report to the BID supervisor**
- D. BID supervisor reviews the BID report**
- E. BID supervisor sends the BID report back to the child protection staff for clarifications and additional information, when necessary**
- F. Child protection staff re-submit BID to the BID supervisor for review**
- G. BID supervisor sends the BID reports to the BID Panel members (at least one week prior to meeting)**
- H. BID panel meets (reviews and analyses the BID report)**
- I. BID panel makes a final decision, outlines the reasoning and the decision-making process (“Approved”, “Deferred”, “Other Recommendation”)**
- J. BID panel agrees on a plan for follow-up and implementation of the decision (including the time lines and actors responsible of follow-up)**
- K. BID Panel members sign the BID report**
- L. Data entry into proGres**

- M. Child protection staff inform the child, and the child’s family or the caregiver on the decision and any follow-up actions**
 - N. Implementation of the decision, follow-up and monitoring**
 - O. Case closure (outline criteria)**
 - P. Re-opening (outline criteria)**
- IX. Outline coordination procedures with relevant sections within UNHCR (Resettlement / Voluntary Repatriation/GBV, etc)**
 - X. Outline the procedures to separate a child from his or her parents or from caregivers**
 - A. Use *national legislation, policies and procedures* in the country of asylum as a reference. If national legislation does not comply with international standards on children, UNHCR needs to consider advocacy activities in cooperation with other relevant child protection actors.**
 - XI. Outline the procedures for custody issues (based on existing legislation, policies and procedures in the country of asylum)**
 - XII. Outline the procedures for monitoring and the formalization of care arrangements (based on existing legislation, policies and procedures in the country of asylum)**

Annex: Include annex with the key definitions used in this document (e.g. BID, BIA, UASC, etc)

Other Annex: Annex of the BID Guidelines and the Field Handbook on the Implementation of the BID Guidelines

Annex 3 : Sample Best Interests Assessment Form

Sample Best Interests Assessment (BIA) Form Identification and Follow-up of Children at Risk¹

BIODATA BOX

Name of the child (+ nick name)	File/Progress Registration #
Date of birth/age	Linked Cases
Place of Birth	Child identified by (officer/agency)
Place of origin	Nationality
Sex <input type="checkbox"/> Female <input type="checkbox"/> Male	
Name of the biological father	Purpose of the BIA
Name of the biological mother	Name of current caregiver
Current address	
Contact details	
Special needs	
Referral/name service provider	<input type="checkbox"/> High Priority <input type="checkbox"/> Priority <input type="checkbox"/> Normal
Name of assessor	Date of interview/home visit
Email address	Tel #
Agency	Signature
Does the child (or caregiver if appropriate) give informed consent for the interview? ² <input type="checkbox"/> yes <input type="checkbox"/> no	

¹ A Guidance note (Annex 4) gives a list of questions to be used for the interviews, as well as additional information on using this form.

² Obtain consent at the beginning of the interview with the child/caregiver.

I. Background Information

Ethnicity	
Religion	
Languages spoken	
Level of Education	

Mother ³	
Mother's name	
When did you last see your mother ?	
Where ?	
Where do you think your mother is now ?	
Does she have a telephone # ?	

Father	
Father's name	
When did you last see your father ?	
Where ?	
Where do you think your father is now ?	
Does he have a telephone # ?	

Siblings		
Name	Age/Sex	Current whereabouts

³ This information on family members (mother/father/ siblings-their whereabouts, etc) needs to be collected in case of unaccompanied and separated children. Please, specify, in case the previous primary caregiver of the child is from the extended family.

II. History of Separation⁴

Suggested questions: How did you become separated from your family? (Indicate time, place of separation, as well as causes of separation.) Why did you leave your home country? How did you travel to (name of the country of asylum)? (Indicate mode and route of travel, names of persons who assisted and their relationship to the unaccompanied/separated child); When did you arrive in (name of the country of asylum)? Do you have any relatives or friends in (name of the country of asylum)? If so, provide name, relationship and contact details (if available). Is there anything else you would like to tell about your flight?

III. Protection Needs & Care Assessment

Living & Care Arrangements

Suggested Questions: With whom do you currently live? (Note names, ages, gender) Is there an adult in (name/location in country of asylum) who is looking after you? If so, note name, relationship, contact information. How did you find this place to stay? How is your relationship with your caretaker and/or housemates? What are your activities (chores) in the household? What are the activities (chores) of the other children in the household? Do you feel you are treated similarly as the other children? Do you like to stay with this family? Are you happy here?

⁴ Refer to Guidance note for the Sample BIA Form , Annex 4

Safety & Security

Suggested Questions: Do you feel safe in this place? If not, what are the reasons/ did any incidents happen (if yes, describe)? Can you describe the place where you are staying? Note the number of rooms, conditions, and how many people are living in the place, etc.

Health & Access to Medical Care

Suggested questions: Do you feel healthy? If not, please, explain type of sickness/how you feel physically. Do you have access to medical care? If not, explain why?

Access to Food

Suggested questions: Do you have a UNHCR/ WFP ration card? Do you receive food rations? If yes, how much and when? Do you think you have enough food? If not, please, explain. What did you eat yesterday?

Water & Sanitation

Suggested questions: Do you have access to clean water? How far is the water point? Are appropriate sanitation facilities in place, where you live? Are there any risks for you?

Education

Suggested questions: Do you currently attend school or any educational activities? Please describe (name of the school/training course, grade, regularity, etc). If not, explain why not. Did you go to school prior to the separation? Do you like to go to school? If yes, what do you like most in school? If not, explain the reasons. Are the other children in the home going to school?

Child's Daily Activities

Suggested questions: Do you play with other children? If so, what do you do and where? How many hours per day? Do you currently work to earn some money? If so, what do you do? How many hours per day? What do you do with the money that you earn?

Protection & Psychosocial Well-being

Suggested questions: Where/ to whom do you go, to discuss problems or ask for help/assistance? Do you receive support from your community? From whom and what type of support? If, not, please explain. Do you feel safe from harm? Do you have any particular worries? Do you sleep well? Do you have nightmares? If yes, how often?

Tracing

Suggested questions: Would you like to receive help to find some of your family members? If so, note whom the child would like to trace and any information the child has about relatives' location. If not, what are the reasons you do not want to find your parents? Is tracing of family members taking place? If yes, by which agency? Have you been informed about the results? Are there additional needs?

Other

Suggested questions: Is there any other information you would like to share with me today?

IV. Home Visits

Suggested questions: Note the name, age and gender of persons present in the home at the time of the visit. Who is currently living with you in this home? (Note names, ages, gender) How long have you been living here? Who prepares the food? How often do you eat? What types/kind of food do you eat? Where do you sleep in this home? How do you spend your time? What do you like to do? How do you feel about living in this home? Are you happy here?

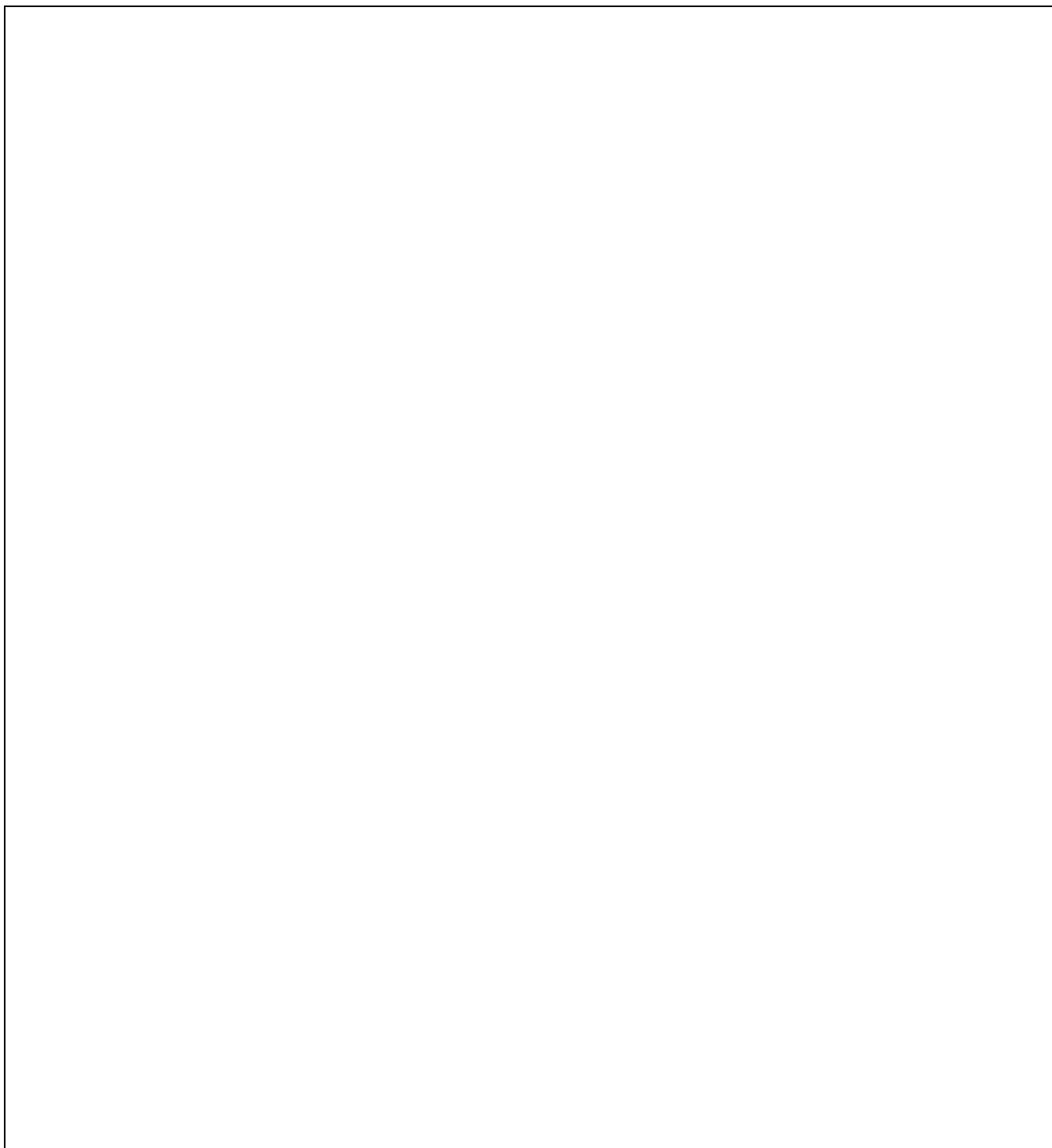
V. Information Filled by the Assessor

Suggested questions: Does the child look healthy? If not, explain. Does the child have nutrition problems? Are there (urgent) medical needs? If so, please explain. Does the child have sufficient clothing? Please, describe impressions about the home. Does the child appear frightened/withdrawn/unhappy (to be assessed/filled out by the assessor, please, provide details)? Are there (urgent) protection needs or risks to be addressed (provide details)?

VI. Verification Interview with Adult Caretaker/Foster Family (only if applicable)

Name of Caretaker	
Gender	Age
Ethnicity	Relationship to the Child
What is the name of the child's mother?	What is the name of the child's father?
<p>Suggested questions: Where did the child used to live? (Name of province, village) How did the child become separated from his/her family? What information do you have about the child and his/her life? When did you first meet the child? How long has the child been living with you? How did the child come to live with you? Are you in contact with the child's parents or other relatives? If so, please provide contact information. How is your relationship with the child? Are you able to continue caring for her/him? Is the child healthy? Is there any other information you would like to share with me today?</p>	

VII. Child's Drawing⁵



⁵ In this part children who are separated can draw a family tree or their previous home. They can indicate different rooms of the family home and who lives in which room. Such drawings help highlight family relations and other useful tracing information. The child can also draw her or his village, their old neighbourhood or town, and draw important buildings, such as their school or mosque.

IX. Action plan (order of priority)

Action/Follow-up required	Agency/Service Provider Responsible	Action taken + Date	Status ⁶

Date of next home visit	Date of review of this case
Signature of Child Welfare Officer	Signature of Review Officer
Date	Date

⁶ Indicate in this column the status of the case and mark it in colour, for example: green: on track, yellow: delay in implementation, but not a major problem and red: requires urgent action by management / supervisor of those responsible for follow up and indicate 'DONE' – if all action have been taken

Annex 4 : Guidance Notes : Using the Sample BIA Form

Introduction

Context

This form has been developed through the joint efforts of the International Rescue Committee and UNHCR with inputs from UNHCR and partner staff in six regions between 2009 and 2010.

Objectives

The BIA Form aims to support UNHCR and partner staff in carrying out child protection and case management work. The form should be continually maintained and should be started as soon as possible after identification of a child at risk of abuse, neglect, exploitation or violence. The BIA Form is a tool to be used until a sustainable solution has been found for the child.

The BIA form helps to identify child protection risks and questions to ask during child protection assessments, document, plan, monitor and follow-up. The BIA form can also inform the BID process, if a BID is needed at a later stage.

Content

Operations can adjust the BIA Form to reflect their particular contexts. Other child protection actors can also contribute to adjusting the form. The form's parts can be split into different (sub-) forms, such as Part VI, depending on the purpose of the assessment. The parts can be completed at different stages; the BIA Form does not need to be completed in its entirety at the same time. Rather, the information can be gathered over a period of time through home visits and interviews with the child and relevant persons; child protection staff can use the form for ongoing monitoring and follow-up.

Information gathering

The length of the interview and the type of information gathered depend on the characteristics of each individual child, such as age and level of emotional well-being. Some questions are open and others are closed; it is best to combine open and closed questions. Questions must be easy for the child to understand and appropriate for the child's age, maturity level and cultural context. Gaining children's trust takes time. Do not rush through the questions; this may be intimidating or even harmful to the child. Allow children to become familiar with you. Seeing the child several times over a period of time, such as through home visits, can make a child feel more at ease (see Chapter 6 on Communicating with Children).

Note: In some contexts partners of UNHCR may use other case management forms, such as the Inter-agency Child Protection Information Management System (IA CP IMS). If the Inter-agency forms are used, there is no need to use the BIA form.

General Information

The following is a list of the parts of the BIA Form that must be completed and regularly updated for all children at risk after identification:

- Bio data and basic information
- Part I (background information)
- Part III (general assessment)
- Part V (information provided directly by the assessor)
- Part VIII (summary and recommendations/action plan)
- Part IV needs to be completed following at least one home visit.
- Part II and part VI should be completed for unaccompanied and separated children living in alternative care arrangements.
- Part VII (Drawing) can be used for tracing purposes.

Important Note: This guiding note contains guiding questions (see box with guiding questions in the end) for each part of the BIA Form. Staff are encouraged to use structure the assessment around these questions in order to obtain a comprehensive picture of the situation of the child.

Important Note: This guiding note contains guiding questions (see box with guiding questions in the end) for each part of the BIA Form. Staff are encouraged to use structure the assessment around these questions in order to obtain a comprehensive picture of the situation of the child.

Part I: Biodata Box

The bio data box and the information required in Part I must be completed for each child. The purpose of the BIA needs to be clearly indicated on the first page, for example “child at risk”, “child in need of child protection interventions”, or “family reunification”. The child’s needs also need to be indicated, for example, if the child is in need of family mediation, care arrangement or referral to medical services. An order of priority can be indicated through ticking the boxes of “high priority”, “priority” or “normal”. Prioritizing helps improve planning for following-up with the child.

Part II: History of Separation

Part II is only completed for unaccompanied and separated children. It gives background information on the root causes and circumstances of the separation. Information recorded in Part II facilitates tracing activities and identifying any additional needs of the child. For example, an abandoned child may need psychosocial support. Child protection staff can use information in Part II at a later point to verify if the child’s separation is genuine.

Part III: Protection Needs & Care Assessment

These questions give a general overview of the protection needs and the care situation of the child. The information recorded in response to these questions informs future follow-up actions. Generally, it is better to conduct the information-gathering interview at the child’s home, as long as this is in compliance with the best interests of the child (see also Part VI).

Living & Care Arrangements

This section must be completed for all unaccompanied and separated children. It can also be useful for children who are not separated, but who are facing abuse, neglect, exploitation or violence at home. The answers to these questions will improve understanding of the child’s living situation.

Safety & Security

The information gathered through these questions is important to the well-being of every child, but is particularly important for those children who have a history of past abuse or are, for example, are members of a minority group

Health & Access to Medical Care

These questions assist in identifying any issues linked to the child's health or medical condition that the child may face. They will also indicate any current medical follow-up and inform future follow-up planning.

If the child has an urgent medical condition, an immediate referral to a relevant medical partner is necessary. The child protection staff need to discuss possible interventions with the child and the caregiver, following-up immediately.

Access to Food

The BIA must indicate whether the child is receiving adequate food rations or not. It is useful to ask when and what the child last ate. Unaccompanied and separated children, children living in child-headed households, children of extremely poor parents, and children living in single-parent households may face problems in accessing an adequate amount of food.

Water & Sanitation

The information gathered through these questions focuses on safe access to water and sanitation facilities. This information is especially relevant for girls, including at night, as they have unique protection risks. Gathering information on water and sanitation particularly applies in camp settings

Education

For children in school, these questions provide information on how the child feels at school and with classmates. Information should be gathered on if the child enjoys classes or if there are specific issues to be addressed, such as language problems or discrimination.

For out-of-school children, the root causes of not attending school must be established, and ways to address these causes discussed. If fostered children do not go to school, but other children in the foster family do, then the child may be facing discrimination within the family.

Questions on daily activities and questions on protection & psychosocial well-being will help to identify any further risks of abuse, neglect, exploitation or violence, or any other child protection issues that the child may be subject to.

Daily Activities

These questions will help you to understand what a day in the life of the child is like. You can ask, "What was your day like today?" or "What did you do after you woke up?" and "Please describe what you did after school today." The child may need time to answer and more visits or interviews may be necessary to gain the child's trust. This also applies for the section below.

Protection & Psychosocial Well-being

This set of questions should indicate the level of protection and psychosocial well-being experienced by the child. Additional useful questions are, "When you face a problem, who do you go to for help?", "What type of help or support do you usually ask for?", or "How are others able to help you?". If the child is in serious emotional distress, you can refer the child to a counsellor, with the child's consent. Whenever the child protection staff identify protection or psychosocial issues, follow-up actions need to be taken as soon as possible; the child and the caregiver must always be informed and consulted first.

Tracing

These questions should be completed for both unaccompanied and separated children, both those placed in foster families and those in other alternative care arrangements. Child Protection staff need to inquire on the willingness of the child to have his or her family traced, and with whom the child wants to be (re)united. The information gathered helps assess the quality and duration of the child's relationship with these family members. The family members can be siblings or distant relatives, not only parents.

If the relatives live in an insecure area, or tracing may cause risks for the child or the child's family, tracing and reunification may not be possible. The child must be informed on likely prospects for tracing. Even if the child's family lives in an insecure area, tracing may still be useful to re-establish or to maintain contact between the child and family. Tracing requests should be referred as soon as possible to relevant tracing agencies. UNHCR can liaise with other UNHCR Offices to trace family members. Sometimes children may need time to reveal tracing information, due to past experiences of violence in the home country, for example. If the child is with his or her family, you can record "n.a." in the BIA Form.

Other

At the end of the interview, or the home visit, the child should be invited to ask questions or to make further remarks. Try to end the interview or visit on a positive note, especially if the child has disclosed difficult experiences or shows signs of distress.

Part IV: Home Visits

At least one home visit should take place for the BIA; ongoing visits and follow-up are preferable. During a home visit, child protection staff can gain a more complete picture of the child's living conditions and witness the child in her or his own current environment. Observation can be a powerful tool in detecting child protection risks and protective factors.

Part V: Information Filled by the Assessor

At the end of the interview or home visit, the assessor should fill out Part V recording thoughts and impression regarding the interview and the child's care, protection, psychosocial and health situations. The child may not be able or willing to verbally provide detailed information in response to certain questions. It is therefore important that the assessor look for what the child expresses through body language. For example, the child may be withdrawn—head and eyes cast down, arms held tightly to the body, hands clasped, voice soft and barely audible—alerting the assessor that there may be an underlying issue that the child is afraid to voice. Part V is the assessor's opportunity to note these types of details.

Part VI: Verification Interview with Adult Caretaker/Foster Family (if applicable)

This part only needs to be completed for fostered unaccompanied and separated children to assess the foster care arrangement. The questions provide information that will help assess if the care arrangement is appropriate and in the best interests of the child.

Part VII: Drawing

In this part children who are separated can draw a family tree or their previous home. They can indicate different rooms of the family home and who lives in which room. Such drawings help highlight family relations and other useful tracing information. The child can also draw her or his village, their old neighbourhood or town, and draw important buildings, such as their school or mosque.

The information gathered through the drawings is particularly helpful if the assessor or another staff member is familiar with the child's area of origin. The assessor needs to guide the child during the process of drawing. More information on creative communication techniques is available in Chapter 5 of the BID Field Handbook.

Part VIII Summary & Recommendations

Part VIII must be carefully completed with detailed information on plans for follow-up and monitoring. The section needs to indicate who is responsible and what the timeline is for taking action. Part VIII needs to include a clear action plan. The action plan needs to be updated at each step of the follow-up process, until a sustainable solution is found and the case is closed.

Annex 5: Best Interests Determination Report

Section 1: Overview

Camp/Location	Linked Cases
BID File No.	Case Referred By
Registration Number	

Status of the Child	Purpose of BID
<input type="checkbox"/> Unaccompanied	<input type="checkbox"/> Durable Solution
<input type="checkbox"/> Separated	<input type="checkbox"/> Care Arrangements
<input type="checkbox"/> Orphan	<input type="checkbox"/> Separation
<input type="checkbox"/> Other	<input type="checkbox"/> Other
	<input type="checkbox"/> None of the Above

Priority of the Case *(mention reasons)*

<input type="checkbox"/> Urgent	Specify
<input type="checkbox"/> Normal	
Special needs of the child	

Child's Basic Bio-data *(refer to registration form)*

Child's Basic Bio-data <i>(refer to registration form)</i>	
	<i>Where relevant, indicate if information is an estimate</i>
Full name	
Alias	
Age	
Gender	
Date of birth	
Place of birth	
Date of arrival in the country	
Date of arrival at current location	
Nationality	
Ethnicity	
Religion	
Current address	
Registered address	
Current caregiver	
Related case(s)	
Linked BID(s)	
Name of Father	
Name of Mother	
Siblings	

Tracing	
Started on	Status

Interviews		
Person interviewed	No. of interviews	Date of Interviews

	Name	Organization
Interviewer		
Reviewing Officer		
Interpreter		

Documentation Attached
1
2
3
4
5
6

Section 2 : Options and recommendations

Part I – Brief summary information on the case

Please *briefly summarize* key issues, such as current care arrangement, information on parents and family, and the options under consideration.

Part II – History prior to flight/separation

Please *briefly summarize* key issues, such as current care arrangement, information on parents and family, and the options under consideration.

Part III – Current situation

Please describe the current living situation of the child, to include: Current care arrangement, living conditions, safety, relationships with foster parents/siblings/care-givers/other family members; Community networks, education and school attendance; Assessment of child’s age and maturity, physical and mental health and any specific needs assessment. Please state who has been contacted and who provided information, e.g. child, family, persons close to child, care-givers, teachers, neighbours, social workers/NGO staff.

Part IV – Available options & analysis

Please indicate all the available options and follow-up mechanisms and analysis of each. Please refer to all the factors included in the Annex 9 checklist in recommending what is in the child’s best interests, under the following headings: *Views of child, Family and close relationships, Safe environment, Development and identity needs*

Final Recommendation

Please provide the final recommendation and reasons.

Name of the assessor	
Signature of the assessor	Date

Name of reviewer	
Comments by reviewer to the report	
Signature of reviewer	Date

Section 3: Panel Decision

This section should be completed and signed at the BID panel sessions. The signed page should then be scanned in order to protect the information included, attached to sections 1 and 2 of the form and converted into a pdf document.

The Panel

<input type="checkbox"/> Approves the recommendations
<input type="checkbox"/> Defers decision (please explain why)
<input type="checkbox"/> Does not approve the recommendations (please explain why and provide the panel's recommendation)
<input type="checkbox"/> Reopens the case (please explain why, and who requested the reopening)
<input type="checkbox"/> Closes the case

Full Reasons for Decision

--

Follow-up actions required (tick and specify)

<input type="checkbox"/> None	<input type="checkbox"/> Refer child for <ul style="list-style-type: none"> • Alternative care arrangements • Protection measures • Educational assistance • Psychosocial assistance • Material assistance • Medical assistance
<input type="checkbox"/> Provide counseling to the <ul style="list-style-type: none"> • Child • Biological parents • Foster parents/care-giver 	
<input type="checkbox"/> Undertake formal tracing	
<input type="checkbox"/> Other (<i>explain</i>)	

Comments

--

Signatures of panel members

Name	Organization	Signature
Date		