

# Practical Handbook for Lawyers When Representing a Child

Training Materials on Access to Justice  
for Migrant Children, Module 6

FAIR Project, April 2018

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## COLOR CODE:

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| <b>RED BOX</b>   | <b>INTERNATIONAL AND EU LAW AND STANDARDS</b> |
| <b>GREEN BOX</b> | <b>NON-BINDING SOURCES</b>                    |
| <b>TEXT</b>      | <b>ICJ SUMMARIES AND EXPLANATIONS</b>         |



This training module (a part of a series of training materials<sup>1</sup> relevant to protecting the rights of migrant children) provides a practical resource to accompany the right to be heard training module. Its objective is to assist lawyers in their consideration on how best to communicate with children in the course of their professional interactions with them and what ethical issues might be at stake.

## **I. Child friendly justice**

### **1. Key principles of child friendly justice**

#### **A. Best interests of the child**

In all actions concerning children, including migrant children, the principle of the best interests of the child must be a primary consideration (Article 3 Convention on the Rights of the Child). The best interests of the child is an overarching component of substantive rights, a fundamental interpretative legal principle. It is applicable to all official procedures pertaining to children and must be based on an assessment of all elements of a child's or children's interests in a specific situation.

*(Please see Training module 0. Guiding principles and definitions, Section 3.1. The best interest of the child for more background information.)*

#### **B. Child Participation in justice processes**

The best interests of the child principle is intimately tied to article 12 of the Convention on the Rights of the Child, which protects the child's right to be heard, the child's participation in justice processes, in accordance with the evolving capacities and maturity of the child.

*(Please see training module I. Access to Fair Procedures, Section I. The right to be heard for more background.)*

- ▶ The participation principle highlights the role of the child as an active participant in the promotion, protection and monitoring of his or her rights, and applies equally to all measures adopted by States to implement the Convention on the Rights of the Child (GC No 12, CRC, paras 81, 107).
- ▶ Assessment and determination of the child's best interests requires the participation of the child. The child's views must be taken into consideration in determining their best interests. Their views must be given due weight (GC No 12, CRC, para 44).
- ▶ General Comment No 12, CRC (para 2): The right of all children to be heard and taken seriously constitutes one of the fundamental values of the Convention. It establishes not only a right in itself, but should also be considered in the interpretation and implementation of all other rights.

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<sup>1</sup> These training materials on access to justice for migrant children were developed as part of the FAIR (Fostering Access to Immigrant children's Rights) project and include the following training modules:

0. Guiding principles and definitions,
- I. Access to fair procedures including the right to be heard and to participate in proceedings,
- II. Access to justice in detention,
- III. Access to justice for economic, social and cultural rights,
- IV. Access to justice in the protection of their right to private and family life,
- V. Redress through international human rights bodies and mechanisms,
- VI. Practical handbook for lawyers when representing a child.

The following Guidelines on child friendly justice were adopted by the Ministers: "to serve as a practical tool for member states in adapting their judicial and non-judicial systems to the specific rights, interests and needs of children and invited member states to ensure that they are widely disseminated among all authorities responsible for or otherwise involved with children's rights in justice."

**Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice**  
***(Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies)***

**D. Child friendly justice during judicial proceedings**

**3. Right to be heard and to express views**

44. Judges should respect the right of children to be heard in all matters that affect them or at least to be heard when they are deemed to have a sufficient understanding of the matters in question. Means used for this purpose should be adapted to the child's level of understanding and ability to communicate and take into account the circumstances of the case. Children should be consulted on the manner in which they wish to be heard.

45. Due weight should be given to the child's views and opinion in accordance with his or her age and maturity.

46. The right to be heard is a right of the child, not a duty on the child.

47. A child should not be precluded from being heard solely on the basis of age. Whenever a child takes the initiative to be heard in a case that affects him or her, the judge should not, unless it is in the child's best interests, refuse to hear the child and should listen to his or her views and opinion on matters concerning him or her in the case.

48. Children should be provided with all necessary information on how effectively to use the right to be heard. However, it should be explained to them that their right to be heard and to have their views taken into consideration may not necessarily determine the final decision.

49. Judgments and court rulings affecting children should be duly reasoned and explained to them in language that children can understand, particularly those decisions in which the child's views and opinions have not been followed. (...)

**Committee on the rights of the child – communication procedure:**

The Third Optional Protocol to the CRC on a Communications Procedure (OP3 CRC)<sup>2</sup> establishes an international complaints procedure for violations of child rights contained in the Convention on the Rights of the Child (CRC) and its protocols. While the provisions of OP3 CRC are only directly applicable to proceedings before the Committee on the Rights of the Child and to State which are party to OP3 CRC, particularly because they were adopted by the UN General Assembly its elements can be taken as an important international standard to guide appropriate procedures for enforcing child rights.

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<sup>2</sup> Rule 19 1. The Committee may decide to invite the author(s) and/or alleged victim(s) as well as representatives of the State party concerned in order to provide, in person or by way of video or teleconference, further clarifications or to answer questions on the merits of the communication, provided that the Committee deems it to be in the best interests of the child(ren). Any hearing shall be conducted in a closed meeting. The hearings of alleged victims(s) will not be conducted in the presence of State representatives, unless the alleged victim(s) so request and the Committee deems it in the best interests of the child(ren). The Committee shall guarantee child-sensitive procedures at hearings of the alleged victim(s) and it shall ensure that the views of the alleged victim(s) are given due weight in accordance with their age and maturity. The non-appearance of a party will not prejudice the consideration of the case.



The best interests of the child must be duly taken into account during all phases of the communication procedure (Article 2 and 3 OP3 CRC). In order to ensure the protection of the best interests of the child, the traditional communication procedures must give way to flexibility and additional resources in order to accommodate the differing levels of maturity and vulnerabilities of a child.

In order to promote child participation throughout the communications procedure, correspondence with a child must be accessible and comprehensible to the child. This means using language appropriate for the child's age and/or for the person(s) assisting or representing the child and ensuring that it is delivered in a manner that is accessible to the child (See Article 17 OP3 CRC).

### **C. Child Protection**

Children must be made aware of their right to be protected from harm and know where to go for help if needed. It is also necessary that children feel free to speak up about child protection concerns affecting them or other children.<sup>3</sup>

## **2. Treatment of children during proceedings**

The following Report of the UN High Commissioner was requested by the Human Rights Council as a whole in resolution 22/32, and after it was issued, expressed its appreciation in the resolution A/HRC/25/L.10.

### **Access to justice for children, Report of the United Nations High Commissioner for Human Rights, UN DOC A/HRC/25/35**

16 December 2013

49. The hearing of a child is a difficult process and can even be traumatic, in particular for child victims of sexual crimes. Therefore, article 12 of the Convention on the Rights of the Child requires States to ensure a safe, child-sensitive environment in which the child feels respected, as well as conditions that take into account a child's individual situation. During proceedings, the privacy and confidentiality of children must be protected and their safety ensured.

50. Many States have reported on a wide variety of special protection measures for hearings and questioning of children, as well as interrogation of children. Measures taken include (a) the establishment of child-sensitive premises for the hearing of a child; (b) the conduct of hearings solely in the presence of a parent, guardian or any other person who takes care of the child, except where this does not correspond to the child's interest, or other specially trained professionals, such as psychological experts; (c) measures to ensure privacy for children, such as the restriction of public access to courts and the prohibition to disclose certain information; (d) audio-visual recording of the interview of the child and questioning outside the courtroom, as well as one-stop shops which bring together services under one roof to collect forensic evidence, provide legal advice, health care and other support. These measures are taken to prevent re-victimization of the child, to gather necessary evidence, to support healing and reintegration, and to prevent impunity.

51. In order to ensure that children can effectively participate throughout the whole process, it is also important that decisions are explained to children in a way that they can understand. As emphasized by the Committee on the Rights of the Child, information and feedback about the weight given to their views should be made available to them.

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<sup>3</sup> UNICEF, Child protection, A handbook for parliamentarians, [http://www.ipu.org/pdf/publications/childprotection\\_en.pdf](http://www.ipu.org/pdf/publications/childprotection_en.pdf)

**Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice**  
***(Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies)***

D. Child friendly justice during judicial proceedings

(...) 4. Avoiding undue delay

50. In all proceedings involving children, the urgency principle should be applied to provide a speedy response and protect the best interests of the child, while respecting the rule of law.

51. In family law cases (for example parentage, custody, parental abduction), courts should exercise exceptional diligence to avoid any risk of adverse consequences on the family relations.

52. When necessary, judicial authorities should consider the possibility of taking provisional decisions or making preliminary judgments to be monitored for a certain period of time in order to be reviewed later.

53. In accordance with the law, judicial authorities should have the possibility to take decisions which are immediately enforceable in cases where this would be in the best interests of the child.

5. Organisation of the proceedings, child-friendly environment and child-friendly language

54. In all proceedings, children should be treated with respect for their age, their special needs, their maturity and level of understanding, and bearing in mind any communication difficulties they may have. Cases involving children should be dealt with in non-intimidating and child-sensitive settings.

55. Before proceedings begin, children should be familiarised with the layout of the court or other facilities and the roles and identities of the officials involved.

56. Language appropriate to children's age and level of understanding should be used.

57. When children are heard or interviewed in judicial and non-judicial proceedings and during other interventions, judges and other professionals should interact with them with respect and sensitivity.

58. Children should be allowed to be accompanied by their parents or, where appropriate, an adult of their choice, unless a reasoned decision has been made to the contrary in respect of that person.

59. Interview methods, such as video or audio-recording or pre-trial hearings in camera, should be used and considered as admissible evidence.

60. Children should be protected, as far as possible, against images or information that could be harmful to their welfare. In deciding on disclosure of possibly harmful images or information to the child, the judge should seek advice from other professionals, such as psychologists and social workers.

61. Court sessions involving children should be adapted to the child's pace and attention span: regular breaks should be planned and hearings should not last too long. To facilitate the participation of children to their full cognitive capacity and to support their emotional stability, disruption and distractions during court sessions should be kept to a minimum.

62. As far as appropriate and possible, interviewing and waiting rooms should be arranged for children in a child-friendly environment.

63. As far as possible, specialist courts (or court chambers), procedures and institutions should be

established for children in conflict with the law. This could include the establishment of specialised units within the police, the judiciary, the court system and the prosecutor's office.

#### 6. Evidence / statements by children

64. Interviews of and the gathering of statements from children should, as far as possible, be carried out by trained professionals. Every effort should be made for children to give evidence in the most favourable settings and under the most suitable conditions, having regard to their age, maturity and level of understanding and any communication difficulties they may have.

65. Audiovisual statements from children who are victims or witnesses should be encouraged, while respecting the right of other parties to contest the content of such statements.

66. When more than one interview is necessary, they should preferably be carried out by the same person, in order to ensure coherence of approach in the best interests of the child.

67. The number of interviews should be as limited as possible and their length should be adapted to the child's age and attention span.

68. Direct contact, confrontation or interaction between a child victim or witness with alleged perpetrators should, as far as possible, be avoided unless at the request of the child victim.

69. Children should have the opportunity to give evidence in criminal cases without the presence of the alleged perpetrator.

70. The existence of less strict rules on giving evidence such as absence of the requirement for oath or other similar declarations, or other child-friendly procedural measures, should not in itself diminish the value given to a child's testimony or evidence.

71. Interview protocols that take into account different stages of the child's development should be designed and implemented to underpin the validity of children's evidence. These should avoid leading questions and thereby enhance reliability.

72. With regard to the best interests and well-being of children, it should be possible for a judge to allow a child not to testify.

73. A child's statements and evidence should never be presumed invalid or untrustworthy by reason only of the child's age.

74. The possibility of taking statements of child victims and witnesses in specially designed child-friendly facilities and a child-friendly environment should be examined.

#### **E. Child-friendly justice after judicial proceedings**

75. The child's lawyer, guardian *ad litem* or legal representative should communicate and explain the given decision or judgment to the child in a language adapted to the child's level of understanding and should give the necessary information on possible measures that could be taken, such as appeal or independent complaint mechanisms.

76. National authorities should take all necessary steps to facilitate the execution of judicial decisions/rulings involving and affecting children without delay.

77. When a decision has not been enforced, children should be informed, possibly through their lawyer, guardian *ad litem* or legal representative, of available remedies either through non-judicial mechanisms or access to justice.

78. Implementation of judgments by force should be a measure of last resort in family cases when children are involved.

79. After judgments in highly conflictual proceedings, guidance and support should be offered, ideally free of charge, to children and their families by specialised services.

80. Particular health care and appropriate social and therapeutic intervention programmes or measures for victims of neglect, violence, abuse or other crimes should be provided, ideally free of charge, and children and their caregivers should be promptly and adequately informed of the availability of such services.

81. The child's lawyer, guardian or legal representative should have a mandate to take all necessary steps to claim for damages during or after criminal proceedings in which the child was a victim. Where appropriate, the costs could be covered by the state and recovered from the perpetrator.

82. Measures and sanctions for children in conflict with the law should always be constructive and individualised responses to the committed acts, bearing in mind the principle of proportionality, the child's age, physical and mental well-being and development and the circumstances of the case. The right to education, vocational training, employment, rehabilitation and reintegration should be guaranteed.

83. In order to promote the reintegration within society, and in accordance with the national law, criminal records of children should be non-disclosable outside the justice system on reaching the age of majority. Exceptions for the disclosure of such information can be permitted in cases of serious offences, *inter alia* for reasons of public safety or when employment with children is concerned.

### 3. Protection measures for child victims and witnesses of crime

#### **Economic and Social Council resolution 2005/20 of 22 July 2005: The Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime**<sup>4</sup>

III. Principles 8. As stated in international instruments and in particular the Convention on the Rights of the Child as reflected in the work of the Committee on the Rights of the Child, and in order to ensure justice for child victims and witnesses of crime, professionals and others responsible for the well-being of those children must respect the following cross-cutting principles:

(a) Dignity. Every child is a unique and valuable human being and as such his or her individual dignity, special needs, interests and privacy should be respected and protected;

(b) Non-discrimination. Every child has the right to be treated fairly and equally, regardless of his or her or the parent's or legal guardian's race, ethnicity, colour, gender, language, religion, political or other opinion, national, ethnic or social origin, property, disability and birth or other status;

(c) Best interests of the child. While the rights of accused and convicted offenders should be safeguarded, every child has the right to have his or her best interests given primary consideration. This includes the right to protection and to a chance for harmonious development:

(i) Protection. Every child has the right to life and survival and to be shielded from any form of hardship, abuse or neglect, including physical, psychological, mental and emotional abuse and neglect;

(ii) Harmonious development. Every child has the right to a chance for harmonious development and to a

<sup>4</sup> **Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime**  
<http://www.un.org/en/ecosoc/docs/2005/resolution%202005-20.pdf>

standard of living adequate for physical, mental, spiritual, moral and social growth. In the case of a child who has been traumatized, every step should be taken to enable the child to enjoy healthy development;

(d) Right to participation. Every child has, subject to national procedural law, the right to express his or her views, opinions and beliefs freely, in his or her own words, and to contribute especially to the decisions affecting his or her life, including those taken in any judicial processes, and to have those views taken into consideration according to his or her abilities, age, intellectual maturity and evolving capacity.

(...)

#### **XI. The right to be protected from hardship during the justice process**

29. Professionals should take measures to prevent hardship during the detection, investigation and prosecution process in order to ensure that the best interests and dignity of child victims and witnesses are respected.

30. Professionals should approach child victims and witnesses with sensitivity, so that they:

- (a) Provide support for child victims and witnesses, including accompanying the child throughout his or her involvement in the justice process, when it is in his or her best interests;
- (b) Provide certainty about the process, including providing child victims and witnesses with clear expectations as to what to expect in the process, with as much certainty as possible. The child's participation in hearings and trials should be planned ahead of time and every effort should be made to ensure continuity in the relationships between children and the professionals in contact with them throughout the process;
- (c) Ensure that trials take place as soon as practical, unless delays are in the child's best interest. Investigation of crimes involving child victims and witnesses should also be expedited and there should be procedures, laws or court rules that provide for cases involving child victims and witnesses to be expedited;
- (d) Use child-sensitive procedures, including interview rooms designed for children, interdisciplinary services for child victims integrated in the same location, modified court environments that take child witnesses into consideration, recesses during a child's testimony, hearings scheduled at times of day appropriate to the age and maturity of the child, an appropriate notification system to ensure the child goes to court only when necessary and other appropriate measures to facilitate the child's testimony.

31. Professionals should also implement measures:

- (a) To limit the number of interviews: special procedures for collection of evidence from child victims and witnesses should be implemented in order to reduce the number of interviews, statements, hearings and, specifically, unnecessary contact with the justice process, such as through use of video recording;
- (b) To ensure that child victims and witnesses are protected, if compatible with the legal system and with due respect for the rights of the defence, from being cross-examined by the alleged perpetrator: as necessary, child victims and witnesses should be interviewed, and examined in court, out of sight of the alleged perpetrator, and separate courthouse waiting rooms and private interview areas should be provided;
- (c) To ensure that child victims and witnesses are questioned in a child-sensitive manner and allow for the exercise of supervision by judges, facilitate testimony and reduce potential intimidation, for example by using testimonial aids or appointing psychological experts.

#### **Steps to be taken by lawyers, social workers and judges in all judicial and administrative proceeding include:**

- Preparing children by providing them with accessible information about:
  - Their role in the hearing, including their rights at each stage, the support they can be given, how they can participate, and how their views will be considered;
  - The practical arrangements such as when the hearing will take place, and where, how long it will last, who will be there, what protection he or she will be provided with, and when and how decisions will be made;
- Ensuring that the child can be heard effectively in the hearing by the introduction of legal rights

- which are properly implemented, and creating child-friendly, safe and accessible courts;
- Assessment of the capacity of the child by consideration of whether the child is able to form a view of the issues being addressed and, if so, what weight must be attached to those views. There should be a presumption in favour of the child’s capacity;
- Feedback to the child so that she or he knows exactly what decisions have been made and why;
- Mechanisms for the child to make a complaint, or seek a remedy or redress if her or his right to be heard has not been properly implemented.<sup>5</sup>

#### 4. Participation model

The following “participation model” provides a way of conceptualizing Article 12 (the right to be heard) of the UN CRC. It includes four elements: space, voice, audience and influence and is based on Ireland’s National strategy on Child participation in decision making.

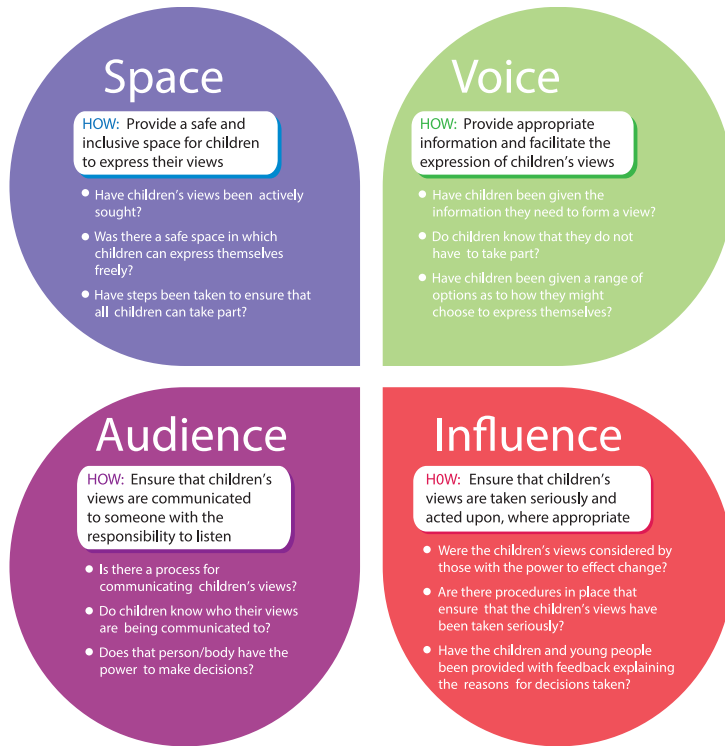


This model provides a way of conceptualising Article 12 of the UNCRC which is intended to focus educational decision-makers on the distinct, albeit interrelated, elements of the provision. The four elements have a rational chronological order:

- **SPACE:** Children must be given safe, inclusive opportunities to from and express their view.
- **VOICE:** Children must be facilitated to express their view.
- **AUDIENCE:** The view must be listened to.
- **INFLUENCE:** The view must be acted upon, as appropriate.

**Figure 1 Lundy’s Model of Participation as included in Ireland’s National Strategy on Children and Young People’s Participation in Decision-Making 2015-2020**

<sup>5</sup> UNICEF, Save the children, Every child’s right to be heard, A resource guide on the UN Committee on the Rights of the child General Comment No. 12, 2011, p. 62.  
[https://www.unicef.org/french/adolescence/files/Every\\_Childs\\_Right\\_to\\_be\\_Heard.pdf](https://www.unicef.org/french/adolescence/files/Every_Childs_Right_to_be_Heard.pdf)



**Figure 2 Lundy's Voice Model Checklist for Participation as included in Ireland's National Strategy on Children and Young People's Participation in Decision-Making 2015-2020**

## II. Communication with a child client

### 1. Practical aspects

#### **Lawyers and judges should:**

- a) Be mindful of the interpreter;
- b) Be aware of the time, as stress and fatigue can impact the child's ability to participate;
- c) Explain to the child that it is all right if they don't know the answer to a question;
- d) Employ child-sensitive questioning, with careful attention to language and tone;
- e) Recognize that children will not be able to present testimony with the same precision as adults; and
- f) Ensure that there are as few people in the court as possible.<sup>6</sup>

#### **Courtroom orientation**

The courtroom is typically an unfamiliar place for children. Many family and juvenile court experts recommend allowing children to visit an empty courtroom prior to their scheduled hearing. Under the supervision of court personnel, the children should be permitted to explore the courtroom, sit in all the locations (including, especially, the judge's bench and the witness stand), and to practice answering simple questions in preparation for testimony. To the extent that resources permit, court administrators should be receptive to requests by legal representatives or custodians for unaccompanied migrant children to visit our courts prior to the initial hearing. Additionally, they should be open to other ways to familiarize unaccompanied migrant children with court operations.<sup>7</sup>

### 2. How to communicate with a child client

*Children with experience with the judicial process have expressed their opinions on helpful and unhelpful characteristics of a lawyer in a study<sup>8</sup> carried out in 1996 in the US as follows:*

#### **Helpful characteristics in an interviewer/attorney:**

- a) Taking the time to develop a relationship with the client;
- b) Listening to the client and engaging in dialogue;
- c) Respecting the client's individuality;
- d) Awareness that some child clients may view an attorney as an adult who can protect them rather than simply as a lawyer; and
- e) Awareness that in the case of neglect or abuse, some youth may be more concerned with their attorneys protecting them from future neglect or abuse than with having them keep this information confidential.

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<sup>6</sup> US Department of Justice, Office of the Chief Immigration Judge. 2004. "Interim Operating Policies and Procedures Memorandum 04-07: Guidelines for Immigration Court Cases Involving Unaccompanied Alien Children," in *Child Clients are Different: Best Practices for Representing Unaccompanied Minors*. American Bar Association (ABA) Center for Continuing Legal Education (CLE). (Retrieved July 16, 2012) (<http://tinyurl.com/9x4mo86>).

<sup>7</sup> *ibid*

<sup>8</sup> Chaplan, Janet A., March 1996. "Youth Perspectives on Lawyers' Ethics: A Report on Seven Interviews." *Fordham Law Review* 64(1763). The author of the study is a member of the American Bar Association Section of Litigation Task Force on Children, and has previously served as a law guardian at Lawyers For Children, Inc. In this study she explored the participation of disempowered clients in justice processes in light of legal ethics and as part of the study conducted a number of interviews with children that can give a concrete picture of how they perceived their contact with their lawyer.



### **Unhelpful characteristics in an interviewer/attorney:**

- a) Being continuously absent or rushed;
- b) Maintaining a manner that is unfriendly and uncaring and does not promote trust; and
- c) Using a narrow interview technique that does not contextualize a child's experience take into account other considerations affecting the child.

### **Child-friendly communication – useful tips:**

- Explain that it is OK for the child to say 'I don't know' or 'I don't remember' rather than feeling obliged to come up with an answer
- Have a kind, reassuring and friendly tone
- Use simple language (avoid technical terms and jargon that children are unlikely to understand) and change language according to the age and maturity of the child
- Ask one question at a time
- Recognise that it may be necessary to speak 'through' a supporter
- Allow children to have time to respond
- Wear less formal clothing
- Monitor the child's participation and suggest breaks with additional breaks if the child is distressed or tired
- Avoid leading questions
- Avoid using questions that involve comparative judgements as children may find these difficult or have different perceptions (i.e. big, small, fast, slow)
- Be sensitive to language that the child may find difficult to say (i.e. sexual language, or language about body parts)
- Be cautious around sensitive topics, e.g. traumatic experiences, information about their parents – do not make assumptions
- Do not use aggressive, confrontational or degrading language
- Do not repeat the same question over and over again – it could confuse the child
- Avoid multiple clauses within sentences
- Avoid multiple questions within questions, leading questions, and double negatives<sup>9</sup>

### **Listening: methods to use to show we are listening**

- Non-verbal: nodding, facial expression, eye contact, overall body language
- Verbal: positive sounds (mm, aha, etc.), tone of voice, open and closed questions, paraphrasing, summarising, reflecting back

### **Alternative communication methods**

- Signs and Symbols
- Makaton signs and symbols (internationally recognised hand signs) <https://www.makaton.org/>
- Picture Communication Systems: <http://www.pecs-unitedkingdom.com/>

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<sup>9</sup> Coram Children's Legal Centre, London. Unlocking Children's Rights: Strengthening the capacity of professionals in the EU to fulfil the rights of vulnerable children" materials available at: <https://www.ucc.ie/en/childlawclinic/ourwork/fullstory-715703-en.html>

## **Creative communication tool-kits**

- Children may be asked to choose role plays, such as people, buttons or stones to represent themselves, family members, pets, professionals. The child may be asked who is important to them using, how near or far they want people and other children to be, to re-enact past or current events etc.
- Children may often communicate through play materials things they can't or don't want to express verbally. Children might draw family and school pictures, make models, make feelings masks.
- Puppets and/or a soft toy can be used to talk to a small child about what they think or feel. Children may also use these themselves to re-enact events or explain current feelings. Finally, play objects can help to distract a child and make the child feel at ease.
- Stories, rhymes and poems: children can either use paper or pens to create their own stories, involving for example, what he or she want a new foster carer to know about them? They may write poems, rhymes about their sentiments. They may be given story books on specific subjects when explaining things to young children, about war, migration, death, foster-care etc.
- Visual aids: cards with pictures of home, school, special events (birthday, holidays ) happy, sad, angry faces to express feelings
- IT equipment: children and young people can use tablets and computers to create their own information to present to professionals about issues that affect them.

## **Factors for child-friendly environment**

### **Physical environment**

- The room is well-ventilated and comfortable
- The room has colourful drawings and posters
- Seats are the appropriate size
- The child is allowed to sit with the person he/she wishes to
- The environment is safe
- The room is private

### **Provisions**

- The child is given information leaflets
- The child is given the chance to ask questions
- Food and refreshments are provided

### **Support and involvement**

- Child is accompanied by helpful parent
- Child has a supportive adult helping him/her
- Adults are dressed in smart casual clothing
- Communication is child-sensitive

### **Logistics**

- Child is informed about the meeting, and location
- The child is given transportation to the meeting
- The meeting takes place during appropriate hours, with ample breaks
- Waiting is minimised
- The child's contact with hostile others is strictly limited or prevented<sup>10</sup>

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<sup>10</sup> Angela O'Connell, Child Law Clinic, School of Law, University College Cork, Ireland, Training FAIR project Bulgaria January 21-22 2017. Emma Hurley, PhD Candidate, School of Applied Psychology, University College Cork, Ireland (Developmental psychology – teen development materials).

### Relation with the child and trust building: Good practices (ECRE)<sup>11</sup>

In **Spain**, an NGO legal advisor noted that he adapts the length of the meeting and their content to the mood and situation of the child. He tries to arrange several meetings if it is necessary to build trust and provide information. Other NGO legal advisors noted that they try to adapt the meetings to the maturity level of the child.

A legal advisor interviewed in the **UK** noted that a good advisor would try to meet the child up to five times to finalize a statement, allowing time to build a rapport and establish trust with the child. Legal advisors stated they try to limit meetings to two hours for children. An advisor also mentioned that it is considered good practice for a barrister to meet the child and discuss the case with them in preparation for an appeal's hearing. Yet the advisor added that this does not happen often in practice.

In Linz, **Austria**, a first meeting is usually held with the child around two weeks after their arrival in the youth care facility where the task of the legal advisor and the asylum procedure are discussed. The main goal of the first meeting is to establish a rapport with the child and build trust. The children are provided the contact details of their legal advisors and encouraged to contact the advisors at any time, within office hours. Appointments are arranged flexibly, sometimes for the following day if necessary. Similarly, in Vienna, unaccompanied children can request additional meetings with their legal advisor to prepare for the interview with the Asylum Agency. Legal advisors interviewed all stated that they adapt the meetings and their method of communication to the individual child they are representing.

One legal advisor specialised in unaccompanied children cases, in **Belgium**, mentioned that in an asylum procedure she would meet the child four to six times if the case goes to the appeal stage but she would also arrange extra meetings if necessary in relation to an age assessment, new information or in case of changes to the situation of the child.

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<sup>11</sup> Right to Justice: Quality Legal Assistance for Unaccompanied Children, comparative report, ECRE 2014, p. 72 [http://www.asylumlawdatabase.eu/sites/www.asylumlawdatabase.eu/files/aldfiles/ECRE%20Comparative\\_Report\\_Right\\_to\\_Justice.pdf](http://www.asylumlawdatabase.eu/sites/www.asylumlawdatabase.eu/files/aldfiles/ECRE%20Comparative_Report_Right_to_Justice.pdf)



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