

Participation of Child Survivors and their Caregivers

The Child's Role in Decision Making

Case workers must know information regarding children's legal rights in decision-making within the context in which they are working. This includes:

- The person(s) responsible for providing permission (informed consent) for care and treatment of a child;
- The age at which a child is able to independently consent to care and treatment;
- The mechanisms for third-party individuals to provide consent if caregivers or parents are not available, or if a caregiver or parent is the suspected perpetrator.

Children's abilities to form and express their opinions develop with age. It is important that case workers know the age of the child they are working with and her/his developmental stage and how this affects the child's right to participate in decision making. For example:

- **Children 9 years old and younger** have the right to give their opinion and be heard. They may be able to participate in the decision-making process to a certain degree, but caution is advised to avoid burdening them with decisions beyond their ability to understand.
- **Children 10-12 years old** can meaningfully participate in the decision-making process, but maturity must be assessed on an individual basis.
- **Children 13-14 years old** are presumed to be mature enough to make a major contribution to decisions affecting their care and treatment.
- **Children 15 years old and above** are generally mature enough to make their own decisions.

Case workers are responsible for understanding and assessing a child's age and development, and based on this information, providing the child with sufficient information to make informed choices. Children should be given the opportunity to express their opinions. Children may not always, however, have their wishes and desires met. In such cases, children have the right to be informed as to why their wishes cannot be accommodated.

In some situations, adolescents who are seeking psychosocial health services may have very good reasons for not wanting their caregivers to know what

happened and why they are seeking care. This is particularly true in sexual abuse cases involving family members and/or close family friends. Nevertheless, case workers should aim to help identify a safe and trusted adult in a child's life who can be involved in care and treatment decisions.

Special Situations

The best interests of the child are usually best secured by the caregiver(s), and involving caregiver(s) in a child's care and treatment is essential. Legally, caregivers and legal guardians have the right to make decisions about their child's treatment until the child reaches adulthood and/or the legal age of consent (which varies from country to country). In contexts where the rule of law is not fully respected, case workers should involve trusted caregiver(s) in decision-making for children under the age of 18 unless it is against the child's best interest.

Examples of situations where the caregiver's actions might compromise the child's best interest are when:

- There is suspicion that the caregiver is involved in the sexual abuse;
- The child does not want her/his caregiver to know about the sexual abuse and is of the age and maturity to make that determination;
- The caregiver refuses to grant permission for life-saving measures;
- The child might experience harmful or life-threatening reactions such as physical punishment, being forced to leave the home, early/forced marriage, honor killing;
- The child is unaccompanied or separated and there is no responsible adult acting as caregiver or guardian.

In situations where the caregiver has different opinions than those of the child and case worker regarding the child's best interest, the case worker discusses the matter with the caregiver and ideally they together reach an agreement that best supports the child. If the case worker and caregiver are unable to come to an agreement and the case worker does not believe the caregiver is acting in the child's best interest, the case worker's organization may need to intervene.

In situations where it is not in the best interest of the child to include a caregiver in the informed consent process, the case worker needs to identify whether there is a trusted adult in the child's life who can provide consent. If there is no other trusted adult to provide consent, the case worker needs to determine the child's capacity in decision-making based on their age and level of maturity (using the informed assent/consent guidelines as a reference), the urgency of the care needs, cultural/traditional factors, and risk to him/herself and the child in moving forward with services.

In situations where a child under the age of 15 does not assent but the caregiver gives consent OR if both the child and caregiver do not assent/consent OR a child above the age of 15 does not consent, the case

worker needs to decide on a case-by-case basis and based on the child's age, level of maturity, cultural/traditional factors, the presence of trusted and supportive caregiver(s), and the urgency of care needs, whether it is appropriate to proceed with case management and assisting the child so that they can receive needed urgent care and treatment services.

In situations where the child and/or caregivers are hesitant to proceed, case workers should ask additional questions to determine the cause of the hesitation to receive services. For example, the child and/or caregiver may be afraid of losing confidentiality. In this situation, the case worker can further discuss with the child and caregiver(s) their right to participate in how information is shared and risks associated with reporting. If serious risks are identified, then it may not be in the best interest of the child to continue with services – the case worker should further discuss this with her/his supervisor before proceeding with any next steps. Case workers should take the time to discuss the child's and caregiver's fears and concerns around proceeding with case management, and provide clear and accurate answers to help address these specific fears and concerns.

*****In all special situations, it is essential that the case worker or other case worker first consult with her/his supervisor before taking any decisions.*****

When the Wishes of the Caregiver Conflict with the Best Interest of the Child

As noted above, case workers must know information regarding children's legal rights in decision-making within the context in which they are working. If the wishes of a caregiver do not reflect the best interest of the child, particularly with regard to immediate health and safety needs, case workers should take the following actions.

STEP 1: Provide the non-offending family members with information, either personally or through a supervisor or other trusted adult, in an effort to engage them with the best possible action plan or treatment. Generally, once concerned caregivers are informed as to why a certain intervention is needed to secure their child's health and well-being, they will most often provide their permission to proceed and take part in the healing process.

STEP 2: In consultation with supervisors, discuss the following with the child and the caregiver(s) as long as it does not put the child in more danger:

- The reasons for making a particular decision (for example, the decision to seek medical treatment or secure safe housing for the child);
- That the decision is temporary (provide a timeline for re-evaluation of the decision and explain/discuss the next steps for re-evaluation);
- Any arrangements provided for the child/caregiver if, for example, the child has been placed in a safe location away from her/his caregiver(s)

and/or family members. If a case worker is concerned for the child's safety at home, every effort should be made to secure safer, short-term shelter/housing arrangements.

STEP 3: Follow through with agreed action steps.

REMINDER: Case workers should be very clear about their role in decision-making for children seeking services. The role of the case worker is not to make decisions they think are right for the child, but rather to support the child in understanding her/his options and to create a safe space for the child to express what they would like to see happen. Case workers must be aware of their personal beliefs and attitudes, as well as the boundaries of their role and organization, when it comes to working with children. Case workers are responsible for not imparting their personal beliefs to determine what children and caregiver(s) should or should not do.

Case Studies

Case Study 1: Six Year Old Boy

Anwar is a six year old boy living in a tent with his mother, aunt, and cousin, Faisal (16 year old boy). Anwar and Faisal have always enjoyed a good relationship. Before they began living in the tent, Faisal would often come to play with Anwar and Anwar would always be very excited to see him.

For the past few weeks, Faisal has been staying home with Anwar because Anwar's mother and aunt both found temporary work. Recently, Anwar's mother has noticed that Anwar is behaving differently. He gets anxious in the morning when she is leaving for work, begging her not to go or asking to go with her, and in the evening he insists on staying close by her and sleeps hugging her very tightly. Last night, she was surprised because Anwar wet the bed.

When Anwar's mom asks Faisal if he has noticed a change in Anwar, Faisal says no – that Anwar is fine when she is not there and that they have fun together. Later, when Anwar's mom asks Anwar if something is wrong, Anwar looks worried and nervous. Anwar's mom finds this strange as Anwar is usually very open and honest with her, never hiding any feelings or thoughts.

Anwar's mom asks her sister (Anwar's aunt) what the problem could be. Anwar's aunt says she will ask Faisal, but also tells her to ask someone from the organization that does activities for children in the camp as they might be able to help her figure out what is going on.

During a session with the case worker, Anwar, and his mother, the case worker takes a piece of paper and draws a circle on it. She asks Anwar to draw inside the circle the people or things that make him feel safe. Anwar draws his mother, grandmother, and two of his friends. The case worker then asks Anwar to draw people or things outside of the circle that do not make him feel safe. Anwar draws a person. When the case worker asks Anwar who the person is, Anwar says it is Faisal. The case worker then says, "Can you describe what Faisal does not make you feel safe?" Anwar says Faisal touches him in place that he does not like. The case worker asks Anwar to show her where on a doll, and Anwar points to the groin area of the doll. The case worker thanks Anwar for telling her and confirms that Faisal should not be touching him there.

Case Study 2: 14 Year Old Girl

Adelphine is a 14 year old girl living in a refugee camp. She noticed that her best friend, Aimee, has been acting strange for the past few weeks. They normally spend as much time together as they can, but Aimee seems to be withdrawing from her and making excuses to not hang out.

After pressing Aimee to explain her behavior, Aimee begins to cry and tells her that she had sex with her teacher. Aimee says that she didn't want to do it, but felt she had to because he threatened to tell other people that she seduced him for good grades. Aimee says the truth is that he offered her extra support after school. At first, he would touch her breasts and butt and make jokes. Aimee didn't like it, but tried to brush it off. When he became more aggressive, she was confused and felt guilty and scared so let it happen. Recently, he raped her. Aimee blames herself.

Aimee begs Adelphine not to tell anyone. She is ashamed and does not want to disgrace her family. She says she will take drastic measures if anyone finds out. She is also scared that she will be kicked out of school and no longer eligible for the scholarship she is hoping to obtain for a privately funded secondary school.

Adelphine promises Aimee that she will not tell anyone. She is not sure what to do though, so she confides in a woman (a case worker) who facilitates programming for adolescent girls at the women and girls' safe space in the camp. Adelphine begs the case worker not to tell anyone, but also says she wants to help her friend. The case worker asks Adelphine to see if Aimee would be willing to come to the safe space the next day to participate in some of their activities.

The following day, Aimee attends the safe space with Adelphine. As the case worker begins the activity, she reminds the girls that "Sometimes, things happen to girls that can make them feel uncomfortable. If there is anything you want to talk about, you can ask me after our activity is over." Aimee approaches the case worker and says a friend she knows had sex with her

boyfriend and might be pregnant and asks what options she has. The case worker shares the available options but that her friend would need her parents' permission for any of the services. Aimee begins to cry and says she cannot ask her parents for permission. The case worker gently asks Aimee if there is something that has happened to her that she would like to talk about. Aimee discloses the sexual abuse and the case worker works with her to find the best way to tell her parents.

