

INTERAGENCY STANDARD OPERATING PROCEDURES
FOR BEST INTERESTS DETERMINATION
OF UNACCOMPANIED, SEPARATED, AND VULNERABLE CHILDREN

Duhok Governorate
Northern Iraq
Last Updated – March 2015

1. The Purpose and Objectives of the Standard Operating Procedures for Best Interests Determination

- 1.1. These Standard Operating Procedures for Best Interests Determination (BID SOPs) describes guiding principles, procedures, roles, and responsibilities for each actor in the BID process for unaccompanied, separated, and vulnerable children affected by the Syrian refugee crisis living in camps, urban areas, and other settlements/collective centers in Duhok Governorate. The Best Interests Determination (BID) describes the formal process with strict procedural safeguards designed to determine the child's best interests for important decisions affecting the child.¹ The BID SOPs are designed to be used together with the 1989 United Nations Convention on the Rights of the Child (Annex X), the 2008 UNHCR Guidelines for Determining Best Interest of the Child (Annex X) and the Field Handbook for the Implementation of UNHCR BID Guidelines (Annex X). These BID SOPs target refugee children but can at an exceptional basis and case by case basis target IDP children at risk, in the absence of other mechanisms.
- 1.2. The first draft of this BID SOPs in November 2014 were developed by UNHCR and the International Rescue Committee with input from members of the Duhok Governorate Child Protection Sub Working Group (CPSWG), including the Ministry of Labour and Social Affairs (MoLSA), the Directorate of Labour and Social Affairs (DoLSA), the Development and Modification Centre (DMC), Save the Children, ACTED, UNICEF, and others.

2. Definitions

- 2.1. Unaccompanied children: 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.
- 2.2. Separated children: Children who have been separated from both parents or from their previous legal and customary primary caregiver, but not necessarily from other relatives. Separated children may, therefore, include children accompanied by other adult family members.²
- 2.3. Youth Heads of Households: While international law defines an adult as any person at or above the age of 18, Iraqi cultural norms regard an adult as any person aged 21 years and above. For the purposes of BID, persons between the age of 18 and 21 heading households of siblings or child relatives, and who are not the parents of such children, will be considered as youth heads of households.

¹ UNHCR Field Handbook for Implementation of BID Guidelines, page 8, UNHCR BID Guidelines, pages 22-24 and page 30-44.

² Interagency Guiding Principles on Unaccompanied and Separated Children (2004).

3. BID Guiding Principles

- 3.1. The 1989 Convention on the Rights of the Child (CRC) is the main legal instrument on the protection of children. It embodies four general principles:
 - 3.1.1. The best interests of the child shall be a primary consideration in all actions affecting children. (Article 3)
 - 3.1.2. 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 other status. (Article 2)
 - 3.1.3. State Parties recognise that every child has the inherent right to life and shall ensure to the maximum extent possible the survival and development of the child. (Article 6)
 - 3.1.4. 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)
- 3.2. The UNHCR BID guidelines (Annex I) and the Field Handbook for the Implementation of UNHCR BID Guidelines (Annex II) form the basis of the BID process.
- 3.3. To ensure that BID guiding principles and processes are adhered to:
 - 3.3.1. All individuals involved in the BID process shall be trained on child rights, child protection, the BIA/BID, and the BID SOPs.
 - 3.3.2. All individuals involved in the BID process shall sign and adhere to BID Panel Code of Conduct (Annex IV) and Undertaking of Confidentiality (Annex VI) and implement decisions in accordance with the Child Protection Case Management Standard Operating Procedure.
 - 3.3.3. All individuals involved in the BID process shall maintain objectivity in the decision making and act as advocates for the child, ensuring that the child's best interests are fully represented. Case workers and the BID supervisor shall not participate in making decisions at the BID panel when it is convened.
 - 3.3.4. The BID process shall facilitate meaningful participation of children without discrimination on the basis of nationality or any other factor.

Purpose and Scope of the BID and BIA Process

4. Purpose of Best Interests Assessment (BIA)

- 4.1. A BIA is an essential element of case management and general child protection work, and should be conducted as soon as a child is identified to be at risk, upon an unaccompanied or separated child's arrival to KR-I, and prior to tracing, temporary care, and any other child protection intervention.
- 4.2. Trained child protection case management actors will normally conduct a best interests assessment (BIA). A BIA Form (Annex VII) or the standard CPIMS form can be used as long as the minimum of what the BIA form requires is incorporated, as a Best Interests Assessment does not require any particular formality.

- 4.3. Throughout the course of the Best Interests Assessment, the child should be given an opportunity to express their views based on their developmental capacity and the assessment should be documented. The view of the child should be taken into consideration. For children under the age of 3 years, who may not have the capacity to understand the situation or meaningfully participate in the decision affecting them, information from caregivers and the views of the child’s parents should be highlighted as such. Staff should have the necessary skills to make appropriate assessments.
- 4.4. The BIA should be updated as required when there are significant changes or additional information that becomes known between identification of the vulnerable child and until a durable solution is implemented.

5. Purpose of Simplified Best Interests Determination

- 5.1. A simplified BID procedure may be selected in certain exceptional circumstances such as:
 - 5.1.1. Prior to placement of an unaccompanied or separated child that has been identified as higher risk in care arrangements with a verified foster family where no clear indications of risk of abuse, neglect, exploitation, or violence to the child exist.
 - 5.1.2. Where a child or children are at imminent risk of violence and exploitation and require temporary care or a temporary change of care arrangements for immediate safety measures. This includes but is not limited to instances of imminent threats of trafficking, forced marriage, honor killing, abduction, and/or recruitment.
 - 5.1.2.1. These cases should be raised to the BID Supervisor and evaluated by the BID Supervisor for Simplified BID based on the imminence factor under the grounds of a protection emergency.
- 5.2. Where there are clear indications as to what constitutes the best interests for a child, the child protection agency may propose to the BID supervisor that a Simplified BID be undertaken. The BID supervisor will advise as to whether a full BID is required.
- 5.3. Key safeguards must be maintained even where a simplified best interests determination is undertaken. Each child should be interviewed and the case properly documented as per standard procedure for BID. If a simplified BID is warranted, the child protection staff will utilize the Simplified BID Report Form (Annex IX) and the panel may be replaced with the BID supervisor and one representative from a government agency.

6. Situations requiring BIA, Simplified BID and BID and Corresponding Timeframes

- 6.1. Generally, BIDs will be required where children are at risk of, or exposed to abuse, neglect, exploration, and/or violence in current care arrangements, prior to a change in care arrangements, family reunification, or durable solutions.

Cases in need of Best Interest Assessment	Cases in need of Simplified BID	Cases in need of BID
All unaccompanied and separated children All vulnerable children who are vulnerable, or exposed to, abuse, neglect, exploitation, and/or violence.	When an unaccompanied or separated child that has been identified as higher risk is placed with a verified foster family. Where a child or children are at imminent risk of violence and exploitation and require temporary	Family reunification cases where there are reasonable grounds to believe that a child is exposed to or may be at risk of abuse, neglect or exploitation and/or violence by the accompanying adult or where existing care arrangement is not suitable.

<p>When children require family reunification and there are no protection concerns or history of protection concerns within the family.</p> <p>When placement of a child that has not been identified as high risk is placed with a verified foster family.</p> <p>When there is a medical, protection or other emergency that requires immediate action.</p> <p>When a spontaneous care arrangement takes place (temporary and/or alternative), even if the carer is unverified.</p> <p>All other cases as advised by a BID Supervisor.</p>	<p>care or a temporary change of care arrangements for immediate safety measures. This includes but is not limited to instances of imminent threats of trafficking, forced marriage, honor killing, abduction, and/or recruitment. These cases should be raised to the BID Supervisor and evaluated by the BID Supervisor for Simplified BID based on the imminence factor under the grounds of a protection emergency.</p>	<p>When a change in care arrangement includes:</p> <ul style="list-style-type: none"> • a carer who is under the age of 25 and/or where there are concerns that the care given is inadequate, • a carer who is a person with a specific need and particularly vulnerable, including an elderly caregiver or • when an alternative care arrangement is being considered (see Interim Alternative Care SOPs for Dohuk) <p>All SGBV cases being considered for temporary or alternative care arrangements.</p> <p>Any case involving a proposed separation of a child from current care arrangements where there are reasonable grounds to believe that a child is at imminent risk of or exposed to abuse, neglect, exploitation and/or violence.</p> <p>To assist in addressing unresolved custody issues after divorce or separation of parents or abandonment prior to: the identification of durable solutions (i.e, third country resettlement or voluntary repatriation), and/or long-term care arrangement</p> <p>Any case where a child/children are exposed to, or vulnerable to abuse, neglect, exploitation, and/or violence, and where the BIA recommends the case go to the BID panel.</p> <p>Any case, including family reunification cases, involving identification of durable solutions, i.e., third country resettlement and voluntary repatriation.</p>
<p>Timeframe for Documentation³</p>		

³ See Child Protection Case Management SOPs for guidance on response times to individual cases.

<p>Initiated within 24 hours as defined by an evaluation of imminence and severity of the child protection risk by the child protection agency, in accord with the regional SOPs for child protection case management.</p> <p>Initiated within one week for medium and low risk cases, as defined by the regional SOPs for child protection case management.</p> <p>Finalised as soon as possible, no later than within four weeks.</p> <p><i>Note: Urgent protection issues should be addressed with priority and not wait for the completion of BIA documentation.</i></p>	<p>For protection emergencies the BID supervisor should be updated by phone and simplified BID submitted within 24 hours of the emergency. The BID supervisor will assess development, and has the discretion to recommend the BID panel is convened. BID supervisor will respond within 24 hours.</p>	<p>Four weeks after the case worker identified that the case should be considered for BID.</p>
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7. Target Group

7.1. These BID SOPs target at risk refugee children and their caregivers, especially where there are important decisions related to care, safety and security, and durable solutions, to be made. At risk children include:

7.1.1. Unaccompanied and separated children

7.1.2. Children who are at risk of, or exposed to, abuse, neglect, exploitation, and/or violence

7.2. In certain situations a BID may include young adults above 18 who are facing protection risks. These include:

7.2.1. Young adults (up to 25 years old given cultural norms in northern Iraq) who are caring for unaccompanied/separated children or younger siblings who may be considered separated children themselves, and may have been unaccompanied or separated children themselves before aging past 18 years.

7.2.2. Youth-headed households, including new and young mothers (up to age 21).

7.2.3. Extremely vulnerable young adults (up to 21 years old) with severe protection concerns, mental disability, or illness, and young women facing sexual abuse or exploitation.

7.2.4. Unaccompanied and separated young people who were registered when they under 18 and who did not benefit from a BID in time, but due to current vulnerability, a BID is recommended by the child protection agency.⁴

8. Roles and Responsibilities

8.1. BID Supervisor

⁴ Field Handbook, page 73.

- 8.1.1. UNHCR will assume the role as BID Supervisor It is the role of the BID supervisor to:
- 8.1.2.
- 8.1.3. Develop and regularly update BID SOPs on an annual basis, or more frequently if new circumstances require amendments;
- 8.1.4. Establish the BID panel through identifying suitable BID panel members;
- 8.1.5. Respond to proposals for Simplified BIDs and provide guidance on when a full BID is required;
- 8.1.6. Organize and chair BID panel meetings;
- 8.1.7. Oversee the management of an accurate file and data system safeguarding sensitive information included in BID reports, while also indicating on the UNHCR progress system only that a BID has been conducted;
- 8.1.8. Oversee the caseload of children who have come before the BID panel on as needed basis in coordination with child protection agencies and case workers;
- 8.1.9. Oversee the implementation and follow up of BID recommendations in coordination with child protection agencies and case workers.⁵
- 8.1.10. In Duhok governorate, the BID Supervisor will follow up with the child protection agencies on BID reports submitted if there is a need to verify or collect additional information.
- 8.1.11. the view of the child and reasoning for the recommendations are well reflected.
- 8.1.12.

8.2. Child Protection Case Workers

- 8.2.1. Child protection case workers may be from MoLSA, DoLSA, the IRC, ACTED, Save the Children, or any child protection case management agency. UNHCR staff may support in exceptional situations or where other staff are unavailable. Child protection case workers must be trained in child protection, case management, and the BI process. It is the organisations' responsibility to ensure child protection case workers have adequate training.
- 8.2.2. The role of child protection case workers is to:
- 8.2.2.1. Identify children of concern to UNHCR who require a BID;
- 8.2.2.2. Conduct home visits and interview children/caregivers and other people close to the child;
- 8.2.2.3. Write, update, and share BIA and BID reports in a timely manner;
- 8.2.2.4. Act as an advocate for the child;
- 8.2.2.5. Liaise directly with the BID supervisor (undertaken in most instances by manager of child protection case worker);
- 8.2.2.6. Inform children in a child sensitive manner and/or caregivers on the decision and recommendations;
- 8.2.2.7. Ensure that referral and follow-up actions are taken in a timely manner;
- 8.2.2.8. Support, coordinate and collaborate with community-based child protection structures;

⁵ See checklist for BID Supervisor, Annex 8, page 96 in UNHCR Guidelines

8.2.2.9. Monitor the caseload to assist the BID supervisor in monitoring, planning for follow-up, and prioritization of cases;⁶

8.2.2.10. Adhere to ethical and data protection/information sharing principles for case management prior to and during the BIA/BID process, as well as while implementing the BID recommendations and in working with other actors.

8.3. The BID Panel

8.3.1. See Annex V for the Terms of Reference for the BID Panel.

8.3.2. All BID Panel members must sign an Undertaking of Confidentiality form (Annex VI) prior to sitting on a BID panel. Signed forms should be kept in the BID Panel files by the BID supervisor.

The BID Process

9. Child Protection Case Management Context

9.1. The BIA and BID process should be carried out as part of a case management approach outlined in the SOPs for child protection case management (Annex XI). Child protection case workers, along with their managers, will need to be aware of when to conduct BIA and BID and through the course of the process, be required to undertake specific tasks outlined below.

10. Identification for the BIA/BID process

10.1. All unaccompanied and separated children require Best Interests Assessment. The identification of unaccompanied and separated children is outlined in the Child Protection Case Management SOPs (Annex XI).

10.2. Where there are reasonable grounds to believe that a child is at imminent risk or has been exposed to abuse, neglect, exploitation, and/or violence within a current care arrangement that might require separation;

10.3. Children without effective parental support, who are residing in youth headed households whereby the carer is under the age of 25, and the carer is not a parent to the children;

10.4. To assist in addressing unresolved custody issues after divorce or separation of parents or abandonment, prior to the identification of durable solutions.

10.5. Identification of children in need of BIA may occur through UNHCR registration of refugees, through the border reception process, through the work of child protection actors in refugee as well as through protection monitoring, self-referrals, and referrals from other sectors.

10.6. All child protection agencies will be required to conduct BIAs with the above children where they have the capacity to do so. If agencies do not have the technical expertise or resources to conduct BIAs they should refer the child to the BID Supervisor who may choose to transfer the case to an agency capable of conducting BIAs.

⁶ See checklist for Child Welfare officer, Annex 7, page 95 in UNHCR Guidelines

11. The Best Interests Assessment

- 11.1. The Best Interests Assessment form (Annex VII) is the best tool for assessing a child's best interests and it is recommended that child protection staff utilize this particular form in Duhok governorate. The BIA is a confidential document. The outcome of the BIA may reveal that a Simplified BID or a BID is required (see criteria above). As outlined in the SOPs for child protection case management, a case plan should be developed and implemented to address any protection issues, even if a BID is not required.
- 11.2. The BIA should include interviews with the child, the caregiver and other relevant persons in the life of the child. These people might include neighbors, teachers, friends, or other children. Home visits should be conducted where possible while maintaining appropriate confidentiality and if circumstances allow without placing the child at greater risk.

12. Family Tracing

- 12.1. Family tracing should be conducted for children who are unaccompanied or separated as per the SOPs for child protection case management. Referrals for family tracing should form part of the best interest assessment.

13. Drafting the BID Report

- 13.1. Following the collection of information as part of the BIA, the child protection case workers will draft the BID report with recommendations using the Simplified BID Report Template (Annex IX) or the BID Report Template (Annex VIII).
- 13.2. The BID report should be produced within four weeks of the BIA initiation, or as agreed with the BID Supervisor.
- 13.3. Where siblings reside in the same location, one joint BID report shall be created.⁷ Specific circumstances and needs of each individual to be addressed must be clearly outlined within the joint BID report.⁸
- 13.4. The BID report should be submitted to the BID supervisor for review one week prior to the BID panel. The BID supervisor may request additional information or edits (as appropriate) before the BID report is considered final.
- 13.5. Once finalized, the BID supervisor will send the BID report(s) to the BID Panel members. Ideally this will be three working days prior to the BID Panel meeting. The BID report sent to the BID Panel members should be redacted for location and identifying information. Additionally, the BID report(s) should be coded by number, and locked with an electronic password. The BID supervisor should keep track of BID cases by number code.

14. BID Panel Meeting

- 14.1. The BID Panel will meet to review cases on an as needed basis, and as per the BID Panel Terms of Reference.
- 14.2. BID Panel members should strive to review the BID report prior to convening at the BID panel meeting to expedite panel discussion and decisions.

⁷ Field Handbook, page 73.

⁸ Field Handbook, page 73.

14.3. At the meeting, the BID Panel will make a final decision, and outline the reasoning and decision making process. The BID report recommendations developed by child protection staff with the BID Supervisor will be approved, deferred, or amended.

14.4. The BID Panel will agree on a follow up plan and implementation of the decision(s), including the timelines and actors responsible for follow up.

14.5. The BID Panel members will sign the BID report.

15. Implementing BID Panel Decisions

15.1. The child protection staff will inform the child and any caregivers of the decisions made in the BID panel and outline the steps for implementing those decisions within two weeks of the BID panel decision.

15.2. Those responsible for implementing BID decisions should timely act accordingly including follow up and monitoring of the child.

15.3. The BID supervisor will send a summary of the BID panel decision(s) to those BID panel members who were present and participated in the panel within three working days of the panel meeting.

16. Follow Up of BID Panel Decisions/Implementation

16.1. The BID supervisor will follow up for a status update on the implementation of the BID panel decision

16.2. Child protection staff and agencies should discuss any challenges to the implementation of BID panel decisions with the BID supervisor at any given time, to jointly determine whether the BID panel should be reconvened to reconsider the panel decisions.

17. Case closure

17.1. The BID Panel should consider case closure on a case by case basis.

18. Re-opening

18.1. A case may be reopened and brought back to the BID panel if new protection risks emerge.

19. For Separation of a Child from Family or Legal Guardian and Custody Disputes

19.1. The decision to separate a refugee child from his or her parents or caregiver must be made by a BID panel. The panel should include a MoLSA or DoLSA representative. Refer to the SOP on Alternative Care for guidance on arranging an alternative care placement (Annex X).

20. Alternative Care

20.1. The SOP on Alternative Care (Annex X) provides additional guidance on procedures for placing children in care arrangements, including ongoing monitoring.

21. Annex List

- I. UNHCR BID Guidelines
- II. Field Handbook for the Implementation of UNHCR BID Guidelines

- III. United Nations Convention on the Rights of the Child
- IV. BID Panel Code of Conduct
- V. BID Terms of Reference
- VI. Undertaking of Confidentiality
- VII. Best Interests Assessment Form
- VIII. Best Interests Determination Form
- IX. Simplified BID Form
- X. Standard Operating Procedures for Alternative Care
- XI. Regional Standard Operating Procedures for Child Protection Case Management