



Chapter Four

GUIDING PRINCIPLES AND KEY ISSUES

This chapter is for health and psychosocial service providers.

CONTENTS OF THIS CHAPTER INCLUDE

- » Overview of guiding principles for working with child survivors
- » Caring for Child Survivors Key Issues
 - **Key Issue 1:** Mandatory Reporting Requirements in Child Cases
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 - **Key Issue 3:** Ensuring the Best Interest of the Child-Balancing Roles in Decision-Making

CHAPTER OVERVIEW

This chapter introduces a set of guiding principles representing best practice from both the child protection and GBV sectors. These guiding principles provide ethical and practical guidelines for working with child survivors. The chapter then outlines guidance for how to approach key issues and procedures, such as handling mandatory reporting and confidentiality protocols in child abuse cases. It also addresses ways to balance the best interests of the child throughout service delivery by focusing on the roles of the child, caregiver and service provider in the decision-making process.

This chapter serves as precursor to the following chapters, which explain how to provide **case management** and **direct psychosocial care interventions**. Service providers must have a solid understanding of the issues covered in this chapter prior to offering services because they are often required to follow certain practices or laws for handling mandatory reporting, confidentiality, and decision-making in informed consent procedures as part of their overall service delivery guidelines. Specific instructions on how to obtain permission from caregivers and children for participating in case management and referrals for other services (referred to as informed consent and informed assent) are outlined in Chapter 5.

GUIDING PRINCIPLES FOR WORKING WITH CHILD SURVIVORS OF SEXUAL ABUSE

Service providers caring for child survivors should adhere to a common set of principles to guide decision-making and overall quality of care. Guiding principles set out the ethical responsibilities and behaviors of service providers delivering direct services to children and families seeking assistance. They assure service providers that actions taken on behalf of child clients are supported by standards of care that aim to benefit the health and well-being of the child client(s). Guiding principles ensure that all actors are accountable to minimum standards for behavior and action, and because of that, children and families receive the best care possible.

These guiding principles draw upon best practice principles outlined in the UNHCR Guidelines on Sexual Violence Response and Prevention and the United Nations Convention for the Rights of the Child.⁵³ The expectation is that humanitarian staff providing case management, health and psychosocial services to child survivors of sexual abuse adhere to these principles and understand how they are applied in direct practice.

1. Promote the Child's Best Interest

A child's best interest is central to good care. A primary best interest consideration for children is securing their physical and emotional safety—in other words, the child's well-being—throughout their care and treatment. Service providers must evaluate the positive and negative consequences of actions with participation from the child and his/her caregivers (as appropriate). The least harmful course of action is always preferred. All actions should ensure that the children's rights to safety and ongoing development are never compromised.

2. Ensure the Safety of the Child

Ensuring the physical and emotional safety of children is critical during care and treatment. All case actions taken on behalf of a child must safeguard a child's physical and emotional well-being in the short and long terms.

3. Comfort the Child

Children who disclose sexual abuse require comfort, encouragement and support from service providers. This means that service providers are trained in how to handle the disclosure of sexual abuse appropriately. Service providers should believe children who disclose sexual abuse and never blame them in any way for the sexual abuse they have

⁵³ Sexual Violence Against Refugees: Guidelines on Prevention and Response © 1995, United Nations High Commissioner for Refugees, Geneva. Can be downloaded here: <http://www.icva.ch/doc00000837.html>

experienced. A fundamental responsibility of service providers is to make children feel safe and cared for as they receive services.

4. **Ensure Appropriate Confidentiality**

Information about a child's experience of abuse should be collected, used, shared and stored in a confidential manner. This means ensuring 1) the confidential collection of information during interviews; 2) that sharing information happens in line with local laws and policies and on a need-to-know basis, and only after obtaining permission from the child and/or caregiver; 3) and that case information is stored securely. In some places where service providers are required under local law to report child abuse to the local authorities, mandatory reporting procedures should be communicated to the children and their caregivers at the beginning of service delivery. In situations where a child's health or safety is at risk, limits to confidentiality exist in order to protect the child.

5. **Involve the Child in Decision-Making**

Children have the right to participate in decisions that have implications in their lives. The level of a child's participation in decision-making should be appropriate to the child's level of maturity and age. Listening to children's ideas and opinions should not interfere with caregivers' rights and responsibilities to express their views on matters affecting their children. While service providers may not always be able to follow the child's wishes (based on best interest considerations), they should always empower and support children and deal with them in a transparent manner with maximum respect. In cases where a child's wishes cannot be prioritized, the reasons should be explained to the child.

6. **Treat Every Child Fairly and Equally (Principle of Non-Discrimination and Inclusiveness)**

All children should be offered the same high-quality care and treatment, regardless of their race, religion, gender, family situation or the status of their caregivers, cultural background, financial situation, or unique abilities or disabilities, thereby giving them opportunities to reach their maximum potential. No child should be treated unfairly for any reason.

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1. Promote the Child's Best Interest
2. Ensure the Safety of the Child
3. Comfort the Child
4. Ensure Appropriate Confidentiality
5. Involve the Child in Decision-Making
6. Treat Every Child Fairly and Equally
7. Strengthen Children's Resiliencies

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7. Strengthen Children's Resiliencies

Each child has unique capacities and strengths and possesses the capacity to heal. It is the responsibility of service providers to identify and build upon the child and family's natural strengths as part of the recovery and healing process. Factors which promote children's resilience should be identified and built upon during service provision. Children who have caring relationships and opportunities for meaningful participation in family and community life, and who see themselves as strong will be more likely to recover and heal from abuse..⁵⁴

APPLYING GUIDING PRINCIPLES IN CASE WORK

Guiding principles are brought to life in everyday case actions. Service providers apply guiding principles in different ways, at different times, and based on the specific child's situation. The primary guiding principle, to ensure the best interest of the child, may mean different things for different children. For example, it is not in the best interest of a 14-year-old girl who has been sexually abused by her father to obtain the father's permission for her to receive care and treatment. Why? Because he is the perpetrator and it is not safe to engage a perpetrator in a child's care and treatment. Therefore, the child may be able to decide herself (guiding principle #5) to undergo psycho-social treatment or health services without her father's knowledge. In this case, whether it is safe (guiding principle #2) to include her mother in treatment will depend upon the child's views and opinions (guiding principle #5) and the potential risks and benefits to the child for including her mother (guiding principle #2). Caseworkers will determine how to handle confidentiality (guiding principle #4), especially concerning whether or not to inform the mother about the child's situation, based on a careful analysis of the factors and in partnership with the child.

Understanding how to use the guiding principles in everyday case work requires practice, supervision and reflection. Applying the guiding principles requires careful analysis of a set of complex factors specific to each child's situation. These principles are meant to guide decision-making; however, they are not a formula for deciding the course of action. Decision-making and good case management practice rests upon the service provider's skill and sensitivity in bringing these principles to life—in a way that continually upholds the child's best interest. Supervisors and managers will need to carefully train staff and supervise how staff apply these principles in day-to-day case work.

⁵⁴ Perry, B. (2007). *The boy who was raised as a dog: And other stories from a child psychiatrist's notebook: What traumatized children can teach us about loss, love, and healing*. New York: Basic Books.



Photo: Gina Bramucci/the IRC

CARING FOR CHILD SURVIVORS KEY ISSUES

This section covers the following key issues in working with child survivors:

Issue 1: understanding mandatory reporting requirements;

Issue 2: confidentiality protocols in child sexual abuse cases; and

Issue 3: ensuring the best interest of the child: balancing roles in decision-making

ISSUE 1: MANDATORY REPORTING REQUIREMENTS

One of the main differences in working with children as opposed to adults is the need for health and psychosocial providers to comply with laws and policies regulating response to the suspected or actual abuse of children. These laws and policies are often referred to as “mandatory reporting laws” and they vary in scope and practice across humanitarian settings. To appropriately comply with mandatory reporting laws, service providers must have a thorough understanding of the mandatory reporting laws in their setting. In settings where laws and systems exist, service providers should have established procedures in place for reporting suspected or actual abuse before providing services directly to children. The elements of mandatory reporting that actors should agree upon to create the safest and most effective reporting mechanisms include first answering the

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question: Does a mandatory reporting law or policy exist in my setting? If yes, actors should establish procedures based on answering these key questions:

- » Who is required to report cases of child abuse?
- » Who are the officials designated to receive such reports?
- » When is the obligation to report triggered (i.e., with suspicion of abuse?)
- » What information needs to be shared?
- » What are the reporting regulations regarding timing and other procedures?
- » How is confidentiality protected?
- » What are the legal implications of not reporting?

REMEMBER

The best interest of the child should always be the primary consideration when taking actions on behalf of children, even in the context of mandatory reporting laws.

REPORTING CASES OF CHILD SEXUAL ABUSE

If service providers are required to report cases of child sexual abuse to local authorities and reporting systems are established and functioning, then they must follow the local protocol and clearly explain this to the client. Reporting suspected or actual cases of sexual abuse is very sensitive and the report should be handled in the safest and most discrete manner possible. Mandatory reporting in cases of child abuse is not the same thing as referring a child for immediate protection if they are in imminent danger. If a child is in imminent danger, then caseworkers should take actions to secure his/her safety (through referral to local police, protection agencies, etc.) prior to making a mandatory report to the designated mandatory reporting agencies. Once the child is safe, caseworkers should proceed with mandatory reporting procedures. Best practice for reporting cases of child sexual abuse (in settings where mandatory reporting systems function) includes:

- » inclusion of protocols for maintaining the utmost discretion and confidentiality of child survivors,
- » knowing the case criteria that warrant a mandatory report,
- » making the verbal and/or written reports (as indicated by law) within a specified time frame (usually 24 to 48 hours),
- » reporting only the minimum information needed to complete the report,
- » explaining to the child and his/her caregiver what is happening and why, and
- » documenting the report in the child's case file and following up with the family and relevant authorities.

Strategies for reporting abuse while maintaining discretion and the confidentiality of child survivors and their families should be discussed and agreed upon by key actors in the field. Examples on how to best uphold discretion and confidentiality in mandatory reporting circumstances should include: agreeing with other actors on the least amount of information necessary for sharing; reporting to only one mandatory reporting entity/person; and establishing guidelines regulating how third parties store information.

MAINTAINING CHILDREN'S BEST INTERESTS IN MANDATORY REPORTING PROCEDURES

Mandatory reporting requirements can raise ethical and safety concerns in humanitarian settings, where governance structures often break down and laws exist in theory but not in practice. In emergency settings, where established and safe mechanisms to report child sexual abuse might not exist and where security can be unstable and dangerous, mandatory reporting can set off a chain of events that potentially exposes the child to further risk of harm, and as such it may not be in the child's best interest to initiate a mandatory report. For example, investigators may show up to a child's home, therefore, potentially breaching a child's confidentiality at the family or community level (prompting retaliation). In addition, services for children may be non-existent, thus creating additional risk (e.g., separation from family, placement in institutions, or confiscation of private records). The local authorities may themselves be abusive or they may simply be ignorant of best practice procedures or guiding principles.

If these following criteria are present, even if a mandatory law exists in theory, service providers are advised to use the central guiding principle—the best interests of the child—to guide decision-making in child-centered service delivery:

- » Authorities lack clear procedures and guidelines for mandatory reporting.
- » The setting lacks effective protection and legal services to deal properly with a report.
- » Reporting could further jeopardize a child's safety at home or within his/her community.

If these criteria are present, service providers should follow a decision-making process that first considers the child's safety and then the legal implications of not reporting. Supervisors should always be consulted in decision-making to determine the best course of action.

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Service providers are advised to follow these steps for determining the best course of action:

STEP 1

Use these questions to guide decision-making:

- a. Will reporting increase risk of harm for the child?
- b. What are the positive and negative impacts of reporting?
- c. What are the legal implications of not reporting?

STEP 2

Consult with the program case management supervisor and/or manager to make a decision and develop an action plan.

STEP 3

Document with a supervisor or manager the reasons to report the case; otherwise, document the safety and protection issues that rule out making a report.

EXPLAINING MANDATORY REPORTING AT THE VERY BEGINNING OF CARE AND TREATMENT

If mandatory reporting policies and laws are in place and practiced, service providers are required to explain to the child and caregiver what their reporting responsibilities are at the beginning of services. This can be done in conjunction with the initial informed consent procedure for the services being offered (see Chapter 5 for more information on informed consent procedures).

If a mandatory report is required, service providers should share the following information with children and caregivers:

- » The agency/person to which/whom the caseworker will report.
- » The specific information being reported.
- » How the information must be reported (written, verbal, etc.).
- » The likely outcome of the report.
- » The child's and family's rights in the process.

- » Children, particularly older children (adolescents), and caregivers should be part of the decision-making process on how to address mandatory reporting in the safest and most confidential way. This means service providers should seek and consider their opinions and ideas on how to draft the report. This does not mean the caregiver and child can decide whether or not a report is made; rather, they can help decide how and when the report is made. Service providers who are equipped with in-depth knowledge about mandatory reporting procedures will be best positioned to work with children and family clients to manage this procedure as necessary.

SUMMARY OF KEY COMPETENCIES FOR MANDATORY REPORTING

Service providers must be able to:

- » Demonstrate an accurate understanding of the mandatory reporting laws/policies in their context.
- » Analyze specific criteria to determine whether reporting is in the child's best interest, and document and report this information to supervisors and/or the child's case response team.
- » Explain mandatory reporting requirements to children and caregivers at the outset of service delivery.
- » **Remember:** The most beneficial/least detrimental course of action for the child, and the least intrusive one for the family, should be employed as long as the child's safety is assured.

ISSUE 2: CONFIDENTIALITY PROTOCOLS IN CHILD CASES

Confidentiality is an ethical principle closely associated with medical and social service professions. Confidentiality is also one of the guiding principles in GBV, health and child protection case response, and caseworkers are expected to uphold client confidentiality as a matter of best practice. Maintaining confidentiality requires that service providers collect information in safe ways, protect all information gathered about survivors and agree to share only after gaining explicit permission (also called informed consent and/or informed assent) of the child client and his/her caregiver.

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Confidentiality protocols and decisions are more straightforward when working with adult survivors. For example, decisions about who to share information with is almost always made by the adult survivor and caseworkers are bound to respect these decisions.⁵⁵ However, working with children, especially younger children, requires understanding the legal limits to confidentiality. Caseworkers must be upfront and clear with children and caregivers concerning the limits to confidentiality.

The following situations may require service providers to share information with third person(s):

- » the existence of mandatory reporting laws and policies;
- » the need to protect a child's physical and/or emotional safety or to provide immediate assistance. This is applicable if the child is:
 - at risk of hurting or killing himself (suicidal).
 - at risk of being hurt or killed by someone else.
 - at risk of hurting or killing another person (homicidal).
 - injured and in need of immediate medical attention.
- » the need to inform a child's parent/caregiver in order to obtain permission to provide care and treatment to the child as long as there are no dangers in doing so. For example, if a 10-year-old child, with supportive caregivers at home, independently requests social and/or health services, parental permission would be sought to treat the child.

Service providers should have a standard set of agency-specific confidentiality protocols that guide all staff providing care to children. This will help service providers explain such protocols in a clear and consistent manner to child clients prior to commencing services. Discussions about how best to protect the confidentiality of the child and his/her access to support services are an ongoing element of the case management process. In the context of case referrals as presented in Chapter 5, service providers discuss with their clients which information they would choose to share with other service providers. If a child needs protection—for example, he/she is being stalked and at risk of imminent harm—it may be necessary to provide information to local law enforcement in order to protect the child. This does not mean that all, but only some, information about a child's case needs to be shared in order to provide a service or protect a child's safety. How much and what to share should always be discussed and decided with both the child and the caregiver.

⁵⁵ Unless the adult survivor is at risk of suicide or is at risk for harming/killing someone else.

EXPLAINING LIMITS TO CONFIDENTIALITY

Service providers can explain to children the limits of confidentiality in a way that respects their dignity. To do so means service providers have the language skills to communicate with children of different ages and respect the fundamental truth that children's experiences and stories belong to them. This means that service providers respect children's stories and experiences by including them in decision-making about how, what and with whom to share information with, in line with existing protocols. Limits to confidentiality are most often communicated during **informed consent procedures**. Below are sample scripts for explaining confidentiality to children of different ages:

SAMPLE SCRIPT: EXPLAINING CONFIDENTIALITY TO AN 8-YEAR-OLD SURVIVOR



"My job is to talk to children and help them with problems they face. I care about you and what happened to you, and I want to keep you safe. What you tell me is between you and me only, unless there is something that you tell me that worries me or if you need help that I cannot give you. If I am worried about your safety, I may need to talk to someone who can help you. If we need to get you more help in order to check your body or talk to someone who can help keep you safe, we will talk together about that other person, and decide what we should say. My job is to try and make sure that you are not hurt anymore, so we may need to also get help from other people in order to keep you safe and healthy. Does this sound okay with you?"

SAMPLE SCRIPT: EXPLAINING CONFIDENTIALITY TO A 12-YEAR-OLD SURVIVOR



"My job is to talk to children and help them with problems they face. Although most of what we talk about is between you and me, there may be some problems you might tell me about that we would have to talk about with other people. For example, if I can't help with you a problem you have, we will need to talk to other people who can help you. Or if I find out that you are in very serious danger, I would have to tell [insert appropriate agency here] about it. If you tell me you have made plans to seriously hurt yourself, I would have to inform your parents or another trusted adult. If you tell me you have made a plan to seriously hurt someone else, I would have to report that. I would not be able to keep these problems just between you and me because I want to be sure that you are safe and protected. Do you understand that it's okay to talk about anything with me, but these are other things we must talk about with other people?"

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ENSURING THE CHILD UNDERSTANDS

After explaining confidentiality to children, it is important for caseworkers to ask the child a few questions to make sure he/she understands what has been said. Questions such as “Can you tell me what I should do if I thought that someone was hurting you?” or “Can you tell me what my job is?” will help clarify the child’s comprehension.

ISSUE 3: ENSURING THE BEST INTEREST OF THE CHILD: BALANCING ROLES IN DECISION-MAKING

Ensuring that actions taken on behalf of child survivors are in their best interest is the foundation of any service. As outlined in the guiding principles above, determining which courses of action are in the best interest of a particular child requires determining factors such as: 1) a careful evaluation of the child’s situation; 2) meaningful discussion with the child and caregivers about what they believe is in the child’s best interest; and 3) seeking the least harmful course of action. In addition, applying the guiding principle of best interest requires a general understanding of the child’s and caregivers’ roles and rights in the decision-making processes, particularly in situations when caregivers’ decisions do not reflect a child’s best interest. At times, service providers may need to help make informed decisions on behalf of a child as part of their responsibility to protect the child. As with all social service and health care related work, service providers are constantly seeking to understand their client’s context and perspectives; they strive to find a path forward that is in harmony with protecting and promoting the child’s health and well-being.

Service providers have the responsibility to uphold children’s best interests throughout case management, which includes promoting actions that are in their best interest and advocating with other service providers. In case management, there are specific case action criteria for most effectively promoting children’s health and well-being. **Case actions which promote children’s best interests are actions that:**

- » Protect the child from potential or further emotional, psychological and/or physical harm.
- » Reflect the child’s wants and needs.
- » Empower children and families.
- » Examine and balance benefits and potentially harmful consequences.
- » Promote recovery and healing.



Photo: UNICEF/Marta Ramoneda/Haiti

THE CAREGIVER'S ROLE IN CARE AND TREATMENT DECISIONS

The best interests of the child are usually best secured by the parents or caregivers, and involving caregivers in a child's care and treatment is essential. Legally, parents and legal guardians (e.g. caregivers) 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 many humanitarian aid settings such as refugee camps or disaster areas where the rule of law is not fully respected, caseworkers can involve non-offending caregivers in decision-making for children 17 and under, unless it is against the child's best interest.

NEGLIGENT OR ABSENT CAREGIVERS

There may be situations when the caregiver/parent is absent, unwilling or unable to exercise basic parental responsibilities. A caregiver's actions might compromise the child's well-being if:

- » There is suspicion that the parent or guardian is involved in the abuse.
- » The child might become a victim of harmful reactions such as physical punishment or being forced to leave the home.

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- » The child does not want his/her parents to know about the abuse (and the child is old enough/mentally sound to make such a complex decision).
- » A child is unaccompanied or separated and there is no responsible adult acting as guardian.

In situations when the caregiver has different opinions than those of the child client and service provider regarding the child's best interest, the caseworker discusses the matter with the caregiver and ideally, they together reach an agreement that best supports the child. If the caseworker and caregiver are unable to come to an agreement and it is the caseworker's opinion that the caregiver is not acting in support of the child's best interest, the service providing organization may need to intervene (for example, if a parent refuses to grant permission for life-saving measures or post-sexual abuse medical care). It is essential that the caseworker first consult with his/her supervisors before intervening against the parents' wishes.

Caseworkers should take the following actions if the wishes of a parent/caregiver do not reflect the best interest of the child, particularly with regard to immediate health and safety needs:

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 parents and 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 with the child and the child's caregiver/family members the following (if such discussion does not put the child in more danger):

- » The reason 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 reevaluation of the decision and explain/discuss the next steps for reevaluation).
- » Any arrangements provided for the child/caregiver if, for example, the child has been placed in a safe location away from his/her parents and/or family members. Note: if a caseworker 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.

THE CHILD'S ROLE IN DECISION-MAKING

In addition to safeguarding children's best interests, guiding principles also aim to encourage service providers to listen to children's thoughts, ideas and opinions affecting their care and treatment. Providing children with information about what is happening, and offering them a chance to express their thoughts, helps them feel safe during their care and treatment. Children's rights in decision-making are based on local laws and service provider policies.

HELPFUL TIP

Service providers should be very clear about their role in decision-making for children seeking services. The role of the service provider is not to make decisions they think are right for the children, but rather to support children in understanding their options and to create a safe space for children to express what they would like to see happen. Service providers must be aware of their personal beliefs and attitudes when it comes to working with all clients, especially children, and are responsible for not imparting their personal beliefs to determine what children should or should not do.



Service providers need to know the following information in regard to children's legal rights in decision-making:

- » The person(s) responsible for providing permission (informed consent) for care and treatment of a child in the local context.
- » The age at which a child is able to independently consent to care and treatment in the local context.
- » 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.

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Children's abilities to form and express their opinions develop with age, and most adults naturally regard teenagers as more mature and knowledgeable than preschoolers. In some situations, adolescents who are seeking psychosocial and 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, service providers should aim to help identify a safe and trusted adult in the child's life who can be involved in care and treatment decisions. Otherwise, service providers can benefit by understanding the age and developmental stages of children and how they affect children's rights to participate in decision-making. For example:

- » Children 15 years and up are generally mature enough to make their own decisions.
- » Children 13 to 14 years are presumed to be mature enough to make a major contribution to decisions affecting their care and treatment.
- » Children 10 to 12 years can meaningfully participate in the decision-making process, but maturity must be assessed on an individual basis.
- » Children 9 years 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.

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

CONCLUSION

This chapter covered key issues that arise while working with child survivors. For instance, service providers need to understand the laws and policies in their practice settings as well as protocol regarding confidentiality prior to working directly with children. Working with children requires a solid understanding of the local laws and systems as well as good judgment and an emphasis on promoting safety and security. Working with children is complex; agencies offering case management and psychosocial services must have established supervision systems and staff training programs in place prior to need. Chapter 5 continues with instructions to provide case management services for child survivors and brings to life several of the issues discussed in this chapter.