

## **Council of Europe. Committee of Ministers**

### **Recommendation CM/Rec(2011)12 of the Committee of Ministers to member states on children's rights and social services friendly to children and families**

(Adopted by the Committee of Ministers on 16 November 2011 at the 1126th meeting of the Ministers' Deputies)

The Committee of Ministers, under the terms of article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve greater unity between its member states, *inter alia*, by promoting the adoption of common rules;

Being aware that a child is a person with rights, including the right to be protected and to participate, to express her or his views, to be heard and be heeded;

Bearing in mind the legal texts referring to the rights of children, and in particular the United Nations Convention on the Rights of the Child, the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5) which protects the rights of everyone, including children, the European Social Charter (ETS No. 35) and the European Social Charter (revised) (ETS No. 163), the European Convention on the Exercise of Children's Rights (ETS No. 160), the Convention on Contact concerning Children (ETS No. 192), the European Convention on the Adoption of Children (revised) (CETS No. 202), the United Nations Convention on the Rights of Persons with Disabilities and the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201);

Taking into account the following recommendations of the Committee of Ministers to member states: Rec(87)20 on social reactions to juvenile delinquency, Rec(98)8 on children's participation in family and social life, Rec(2003)19 on improving access to social rights, Rec(2005)5 on the rights of children living in residential institutions, Rec(2006)5 on the Council of Europe Action Plan to promote the rights and full participation of people with disabilities in society: improving the quality of life of people with disabilities in Europe 2006-2015, Rec(2006)19 on policy to support positive parenting, CM/Rec(2009)10 on integrated national strategies for the protection of children from violence, CM/Rec(2009)9 on the education and social inclusion of children and young people with autism spectrum disorders, CM/Rec(2010)2 on deinstitutionalisation and community living of children with disabilities, as well as the 2010 Committee of Ministers' Guidelines on child-friendly justice and the 2011 Committee of Ministers' Guidelines on child-friendly health care;

Recalling the following Parliamentary Assembly recommendations: 1121 (1990) "Rights of children", 1501 (2001) "Parents' and teachers' responsibility in children's education", 1703 (2005) "Protection and assistance for separated children seeking asylum", 1666 (2004) "European-wide ban on corporal punishment of children", 1778 (2007) "Child victims: stamping out all forms of violence, exploitation and abuse", 1864 (2009) "Promoting the participation by children in

decisions affecting them”, 1905 (2010) on “Children who witness domestic violence”, 1939 (2010) “Children without parental care: urgent need for action”, and 1934 (2010) “Child abuse in institutions: ensuring full protection of the victims”;

Bearing in mind the 2010 New Strategy for Social Cohesion and Council of Europe Action Plan for Social Cohesion, which stress that the well-being and empowerment of families and children are critical for quality of life and for building confidence in the future, and invites the member states to make sure that vulnerable categories of people have access to social and financial services. They also stress that the participation of children and young people is a fundamental right and a key element for the future of society, and that the organisation and adaptation of relevant services should be done according to the rights of the child, who must be able to evolve in a safe, violence-free and supportive environment;

Recalling the final communiqué of the Conference of European Ministers responsible for Family Affairs held in Vienna in June 2009, which stressed that all policies and decisions affecting children must respect children’s rights and the child’s best interest ;

Referring to the work of the Council of Europe programme “Building a Europe for and with Children”, the programme’s 2009-2011 Strategy and the future 2012-2015 Strategy of the rights of the child;

Taking into account the 2003 report on “Safeguarding adults and children with disabilities against abuse”, and the 2007 reports on “Integrated social services in Europe” and on “User involvement in personal social services” prepared under the auspices of the European Committee for Social Cohesion (CDCS),

Recommends that the governments of member states:

Take into account the guidelines appended to this recommendation as a practical tool for adapting their social service systems for children and families to the specific rights, interests and needs of children and identify practical remedies to existing shortcomings in social service delivery;

Encourages member states to:

- a. review domestic legislation, policies and practices to ensure the necessary reforms to implement this recommendation;
- b. ratify as soon as possible, if they have not yet done so, relevant Council of Europe conventions concerning children’s rights;
- c. promote co-operation in the field of child- and family-friendly social services, including in the field of research and sharing of good practice, both domestically and internationally;
- d. ensure that social services co-operate across borders in individual cases where children are at risk and are moving between countries;
- e. disseminate the content of this recommendation in a child-friendly language and form;
- f. foster a dialogue with stakeholders as well as the public on the outcomes and general satisfaction of the child and family friendliness of social services.

Invites member states to ensure that this recommendation is widely disseminated among all authorities responsible for or otherwise involved with children's rights in social services, service providers, groups representing the interests of children and families and of other stakeholders.

## Appendix to Recommendation CM/Rec(2011)12

### Guidelines

#### I. Scope and purpose

1. The recommendation addresses children's rights in social services planning, delivery and evaluation which must be adapted to their needs as well as to those of their families. It is based on the principle of the best interest of the child and the child's rights to provision, participation and protection.
2. The recommendation applies to all children without discrimination in whatever situation, capacity or for whatever reason they may come into contact with social services as well as with regard to all decisions of social services that may directly or indirectly affect their life.
3. The recommendation aims to ensure that social services are delivered upon individual assessment of the child's needs and circumstances and take into account the child's own views, considering his or her age, level of maturity and capacity.

#### II. Definitions

For the purposes of this recommendation on children's rights and child- and family-friendly social services (hereafter "the recommendation"):

1. a "child" refers to any person below the age of 18;
2. a "parent" refers to the person(s) with parental responsibility according to national law. In cases where the parent or parents are absent or no longer have parental responsibility, this can be a guardian, an appointed legal representative or the child's immediate caregiver;
3. the term "social services" refers to an inclusive range of services meeting general social needs as well as personal social services provided either by public or private bodies. While the former refers to standardised, universal services provided to people as members of a category, the latter are "needs specific" and are addressed to particular needs of beneficiaries;
4. the term "social services for children and families" refers to a set of measures and activities to meet the general or individual social needs of the child and/or the family. They are designed to meet the diverse needs of children and families as general, specialised and intensive social services delivered at different levels;
5. the term "child-friendly social services" refers to social services that respect, protect and fulfil the rights of every child, including the right to provision, participation and protection and the principle of the best interest of the child.

#### III. Fundamental principles

The recommendation builds on the existing principles enshrined in the instruments referred to in the preamble. These principles are further developed in the following sections and should apply to all chapters of this recommendation.

#### A. Provisions in the best interest of the child

1. Social services for children and families should establish the overt goal that the best interest of the child be the primary consideration.

2. Bearing in mind that the parents have the primary responsibility for the upbringing and development of the child, social service delivery should ensure that there is a supportive environment for the child by providing the appropriate level and diversity of services and resources necessary for positive parenting and the empowerment of parenting skills.

3. Social services for children and families should aim at the full development of the child's potential and recognise the child's need to be nurtured, recognised, empowered and to have a structured upbringing. Social services should ensure appropriate response and quality of interaction with children and families including:

a. respect for the dignity of the child and her or his family, which ensures that children are treated with care, sensitivity, fairness and respect;

b. protection from discrimination on any grounds such as sex, age, disability, social, economic or ethnic background, race, colour, birth, property, language, religion, political or other opinion, sexual orientation or other status;

c. social inclusion to ensure equity, equal opportunities and positive outcomes for all children, including children from vulnerable groups;

d. overcoming stigmatisation of certain groups of children who experience social prejudice by supporting a positive self-image and self respect;

e. avoidance of dependency on services by encouraging the autonomy and activity of children and families.

#### B. The child's rights to participation

1. Social services in their work should ensure that the child is heard and taken seriously. Children should be considered and treated as full bearers of rights, as active subjects in the planning, delivery and evaluation of social services. Children should be empowered to exercise their rights in accordance with their capacity, given due weight to their age, development and individual circumstances. More or less formal measures, protocols and procedures should be envisaged to this end.

2. Participation should not only be perceived in terms of the evolving capacities of the child, the positive outcome in the future, but also in terms of the quality of the child's life in the present. Thus children should be seen as they are today, not only as beings "in the making".

3. Participation in social services delivery for children and families can be on different levels, both individually and as a group:

- a. consultative participation, recognising that children have expertise and perspectives which need to inform and affect adult decision making;
  - b. collaborative participation, offering children the opportunity to be actively involved at any stage of decision making, initiatives, projects or services;
  - c. child-led participation, facilitating the initiative of children and their own advocacy in relation to the various activities and services established to meet their needs.
4. In all processes where social services are provided to children, these should have the right to:
- a. be informed in a child-friendly way about their rights to access social services, about services available as well as about the possible consequences of alternative course of action;
  - b. receive all relevant information about their situation;
  - c. be supported to express their views;
  - d. be listened to;
  - e. have their views taken into account in the decision-making process according to their age and level of maturity;
  - f. be informed about decisions taken and to what extent their views have been taken into account.
5. The right to be heard is a right of the child, not a duty for the child.
6. Partnership with parents and parental involvement in the delivery of personal social services for children and families should be ensured without diminishing the child's right to be heard and taken seriously.

### C. The child's right to protection

1. Social services for children and families should ensure the protection of children from all forms of neglect, abuse, violence and exploitation by preventive measures as well as through appropriate and effective interventions. These should aim for the preservation of family strength and unity, especially in families facing difficulties.
2. Situations of child abuse and neglect require supportive and comprehensive services with the aim to avoid family separation for him or for her. Maintaining the family unity should not, however, be an aim in itself. In the best interest of the child and his or her protection, out-of-home placement is sometimes necessary. Moreover, when the parents are involved in the sexual abuse or exploitation of the child, the intervention procedures shall include the possibility of removing the alleged perpetrator from the family home.
3. Decisions of out-of-home placement must only be made on the basis of the best interest of the child. The choice of care should be appropriate to both the present and future needs of the child.
4. Social service delivery for children and families for protecting vulnerable children should, inter alia, adhere to the following principles:

a. prevention and early intervention; b. child-focused partnership with parents; c. careful assessment of the individual child's needs with regard to protective factors (including strength) as well as risk factors in the child's social environment; d. prevention of re-victimisation of the child.

#### IV. General elements of child-friendly social services

##### A. General social services

General social services for children and families should be organised on the basis of subsidiarity and offer a range of preventive, comprehensive and responsive services, with special regard to children deprived of their rights and families with the greatest needs. This includes, inter alia:

- a. guaranteeing children's access to good quality advice/counselling, educational day care, recreational and cultural activities, etc., especially taking the parent's or parents' situation in the labour market (participation or exclusion) into consideration;
- b. the fulfilment of basic needs of children and families in situations of poverty such as financial assistance, subsidised housing and access to health care and education for all children;
- c. support systems for children in vulnerable situations, for example, migrant children, children victims of trafficking, children with mental health problems, children without parental care and children whose parents are deprived of their liberty or some other rights;
- d. general provisions for family counselling and programmes to enhance parenting skills;
- e. integrated policies and effective early intervention in situations of child abuse and neglect, including developing an individual plan of appropriate support for each and every child;
- f. that services accommodate the special needs of children with disabilities and their families, for independent living and full participation in everyday life;
- g. implement effective prevention programmes against criminality, substance abuse and other risk-taking behaviour as well as measures to overcome toxic elements in the child's social environment.

##### B. Specialised social services

Specialised social services should be in place to ensure immediate emergency interventions and address negative impacts of adverse childhood experiences, and provide social and psychological support to children and their families. These multidisciplinary services and/or programmes should be based on assessment of children's individual needs and preferably evidence-based interventions. These should, inter alia, include services for children and parents with regard to:

- a. victims of physical and mental violence, abuse and neglect, including cases where children witness domestic or other kinds of violence;
- b. victims of sexual abuse and exploitation;
- c. parents in special need of parenting skill training, for example due to abusive or deficient parental practices;
- d. children with cognitive, communication, physical and other disabilities;

e. children with behavioural and emotional difficulties, including anti-social behaviour (for example, aggression, inappropriate sexual behaviour), substance abuse and mental disorders.

### C. Intensive social services

When decisions of alternative care cannot be avoided, the principle of appropriateness to the child's needs identified by a rigorous assessment should be the determining factor with regard to individual decisions.<sup>1</sup> Intensive social services should be based on the following principles:

- a. standards of quality of care, including rules on children's rights, should be established;
- b. children in alternative care should have their situation reviewed regularly with the aim of reintegration of the child into family and society by provisions of after-care;
- c. programmes for de-institutionalisation need to be developed in co-ordination with efforts to increase family and community-based care services, especially for children under the age of 3 and children with disabilities;
- d. short-term intensive services, for example placement for acute, diagnostic/assessment or for respite-care purposes, should be available as a family support measure;
- e. provisions of alternatives to deprivation of liberties for children in conflict with the law should be developed.

### V. Key strategies in child-friendly social service delivery

#### A. Information and advice

1. The dissemination of information on the rights and availability of social services should be transparent and in child-friendly language, reflecting the needs of children of all ages and stages of development. Reaching out, for example through awareness-raising campaigns as well as support and information services, should be developed, especially targeted at vulnerable children and families. Support systems aimed at raising parental awareness of children's rights should be in place.

2. From their first involvement with the social service system, children and families should be promptly and adequately informed and advised, inter alia, of:

- a. their rights to services including the instruments available to remedy possible violations of these rights;
- b. the range of services available and the procedure by which they are delivered;
- c. the role the child may exercise in different procedural steps and the actors that may accompany or support the child in her or his dealings with the social services.

#### B. Accessibility of services

As holders of social rights, children should have equal access to social services. This entails measures being taken, inter alia, to ensure:



- a child-friendly facility and a single point of access to different offers of the social services;
- b. a child-focused and culturally-sensitive approach which fosters meaningful dialogue with children and families;
- c. prompt responses to any problems children and their families might experience, especially in emergency situations;
- d. flexibility in opening hours and of geographical accessibility through a network of outreach service offers;
- e. translation, interpretation and application of different information technologies adapted to different situations;
- f. design and organisation of social service offices responding to the special needs of persons with physical, sensory or intellectual impairments as well as mental disorders;
- g. affordability in the case of fee-based services.

### C. Availability

The availability of social services for children and families at different levels is a key element to meet the diverse needs of children and their parents at different stages and situations of their lives. This requires, inter alia, the following components with regard to the planning and delivery of social services:

- a. that social services be provided according to a careful assessment of needs for general, specialised and intensive services and meet the objectives assigned to them;
- b. that regular reviews of range, volume and objectives of services be conducted to ensure flexibility and sensibility to changing needs and the development of work practices;
- c. that sufficient financial, infrastructural and human investment be ensured to achieve established objectives.

### D. Appropriateness, suitability

1. Social services should be delivered on the basis of appropriateness to the needs of every child and every family at a given moment in time, bearing the child's future in mind. This should involve respecting, upholding and defending the other rights of the child, ranging from access to health care, education, recreation, culture, sports and leisure to participatory and protective rights.

2. The suitability of services should be based on planning and matching services with individual needs, including an assessment of outcomes for the child and, if appropriate, a review of responses.

### E. Interdisciplinary and multi-agency collaboration

1. Children and families with complex and multiple needs should benefit from co-ordinated services by professionals co-operating across different sectors including education, health and social services, and law enforcement agencies. The competencies and responsibilities of each service



should be made visible and clarified to beneficiaries. The need for facilitation (case management) should be considered.

2. A common assessment framework and interagency protocols should be established for different professions and agencies working with or for children, especially children at risk. While implementing a multidisciplinary approach, professional rules on confidentiality should be respected.

3. Social services should facilitate the availability of child-friendly, multi-sectoral and interdisciplinary services for child victims and witnesses of abuse for the purposes of avoiding repeated interviews and the re-victimisation of the child.

#### F. Professional competency: training, supervision and accountability

1. All members of staff working with and for children should have adequate professional training as well as ongoing training on the rights of the child. Training in human rights instruments (United Nations Conventions on the Rights of the Child and on the Rights of Persons with Disabilities) should be ensured with the aim of establishing and maintaining the cultural climate of children's rights in social services.

2. All professionals should be trained in the identification of signs of child abuse and neglect that children may have experienced and how to use the relevant referring and reporting mechanisms.

3. Professionals should receive training in applying participatory methods of working with children and families to ensure they are heard and taken seriously. This includes training in communicating with children at all ages and stages of development, as well as with children in situations of particular vulnerability. Staff working directly with children should be competent in building and maintaining trusting relationships with them based on mutual respect, confidentiality and friendliness.

4. The training of professionals should include professional responsibility, accountability and interdisciplinary co-operation between different professions by sharing experiences and good practice.

5. Professional accountability should be ensured by clearly defined mandates, work procedures and codes of ethics. Professionals should have sufficient resources and benefit from individual and/or group supervision to enhance their competence and support.

#### G. Safety of the child

In all social service delivery, the safety of the child should be a primary consideration. Children should be protected from harm by effective and speedy intervention in high risk situations while ensuring the avoidance of secondary victimisation. For these purposes, a system of mandatory reporting to social services or other appropriate agencies should be established. Further measures to safeguard children's safety include, inter alia:

- a. professionals working with and for children should be subject to supervision including, where necessary, regular and comprehensive assessment ;
- b. staff recruitment procedures should include vetting according to national law to ensure staff suitability to work with children, for example, by verification of criminal records; c. social

service premises should be safe in terms of the state of the facilities, equipment and other aspects of the physical or social environment.

#### H. Confidentiality and privacy rights

The privacy and personal data of children who are or have been recipients of social services should be protected in accordance with national law. No information or personal data may be made available or published, particularly in the media, which could reveal or indirectly enable the disclosure of the child's identity or her or his family. This includes, inter alia:

- a. prevention of violations of privacy rights by the media should be ensured through legislative measures or through monitoring self-regulation by the media;
- b. access to all records or documents containing personal and sensitive data relating to children should be restricted and be stipulated by law. If the transfer of personal and sensitive data is necessary for the best interest of the child, this should be regulated by the relevant data protection legislation;
- c. professionals working with and for children should abide by strict rules of confidentiality except where there is a risk of harm to the child;
- d. rules on confidentiality should facilitate multidisciplinary co-operation by setting up a common framework for respecting the right to privacy. This entails allowing the sharing of information with persons bound by professional secrecy, and only if it is in the best interest of the child. Sharing information should be limited to what is strictly necessary to achieve this end and should generally be subject to the approval of the child and her or his parents.

#### I. Mechanisms for complaints and review of decisions affecting the child

Mechanisms for re-examination of the outcome of decisions or requests when they are challenged by the child or her or his parents should be in place. A clear complaint procedure to an independent and impartial body should be established including facilitating measures for the child to exercise the right to make complaints. A special effort should be made to disseminate information on procedures to ensure that children and families are aware of the right to make complaints and have decisions reviewed.

#### J. Quality standards, monitoring and evaluation

Quality standards in social services should be established reflecting policy and practice to ensure the implementation of this recommendation. All social service providers for children and families should be accredited and registered with the competent authorities on the basis of national legislation and regulations. Based on these, an efficient monitoring and evaluation system should be implemented. This should include the following:

- a. regular internal evaluation of social services based on strict and transparent rules and criteria;
- b. independent external evaluation, including the involvement of children and parents in the process of evaluation of social services and making the findings publicly available;

c. to ensure that civil society, in particular organisations, institutions and bodies which aim to promote and protect the rights of the child, can participate fully in the monitoring process.

1 United Nations Guidelines for the Alternative Care of Children, Resolution A/64/142, 2009.