



Commissioner's position paper on the Implementation of the Principle of the Best Interest of the Child (BIC) in Educational Administration<sup>1</sup>

## **A. Awareness and application of the Principle of the Best Interest of the Child (BIC) in Educational Administration**

On several occasions, the Commissioner has indicated that policy-makers should consider the Best Interest of the Child (BIC) in all decisions and policies that affect children. Education professionals are very often confronted with situations where a proper evaluation of BIC would be required to reassure informed decisions and to establish children's rights at all levels. Even though most professionals often support this idea in theory, their professional attitudes and actions are not consistently directed towards this goal. Various investigations of complaints lead to the conclusion that there is still ground for their everyday practice to be compatible with the principle of BIC. Regular in-service training on this topic, which is rather missing in current practices, would be necessary to enhance professionals' potential to achieve this goal at all levels of education.

The Principle of securing BIC has been incorporated into the Regulations that govern the operation of Public Secondary Schools and it has clearly been indicated that any decisions regarding children must be taken in light with the UN Convention of the Rights of the Child (Convention). However, in practice this doesn't seem to be adequately applied by professional, since their

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decisions are mostly based on the rest of the regulations, whereas the notion of BIC seems to be underestimated or even marginalised.

## **B. The Best Interest of the Child (BIC) in the school setting**

In order to be in accordance with the Convention, BIC should be properly assessed and determined and be considered as a priority against other factors. It is noted that, some children may be in vulnerable situations due to various factors, such as: disability, being at risk of neglect/ abuse, migrants/ asylum seekers, in poverty or socially disadvantaged children, foreign or second language background, children in alternative care, limited access to services, children on the move, precarious family situations etc.

There are several examples of practices and/or decisions in everyday school praxis in Cyprus that indicate the necessity of a proper assessment and determination of BIC, such as the following:

- a) Application of punitive measures for pupils with emotional problems or delinquent behaviour (including decisions to repeat a class due to a high number of school absences).
- b) Whether religious education would preferably be offered as an optional subject in the school curriculum.
- c) Whether to consider approving pupils' overdue requests to change a field of study and/or specialisation domain, if there are still available places.
- d) The attendance status of certain children with disabilities, particularly in cases where pupils get exemptions from certain examinations/ evaluation procedures, demanding, though, to be awarded a standard



school certificate, providing argumentation in terms of non-discrimination and equal opportunities.

- e) Both parents' written consent as a requirement for a child's psychological evaluation to be undertaken and/or for any official referral for the child to be submitted to various inter-disciplinary committees (e.g. to receive special education/ to be attended by a psychiatrist/ to allow access to certain social welfare services/ to participate in special programmes etc.). Children usually have to deal with complicated situations and long delays, if either parent refuses to provide consent.
- f) Parents' disagreement regarding the type of school children should attend (i.e. regular or special school, public or private school, urban or district school etc.) or even regarding registration in a particular school in case of a child's relocation with a single parent.
- g) The participation of children into athletic events organised by the school, when the age of the participating child exceeds the maximum age specified in the eligibility criteria.

### **C. Securing BIC through high-quality inclusive education for all**

The Commissioner supports the view that, schools must fulfil the requirements for a meaningful and inclusive education, to meet individual needs and to ensure that all pupils have access to high-quality educational opportunities, alongside with friends and peers. In order to facilitate BIC at schools with the provision of high-quality education in an inclusive framework, the Ministry of Education should focus and invest in the design and implementation of both short-term and long-term plans and programmes, to strengthen the potential of all the stakeholders involved in this process and, at the same time, to guarantee a continuous monitoring of the ability and the effectiveness of schools to meet the needs of all pupils.



The Commissioner has further indicated that, the empowerment of education professionals is an essential component in securing BIC, therefore, it must include, among other things, the following:

- (a) A constant effort to improve training and to increase the knowledge and skills of all education professionals (teaching, specialist and support staff);
- (b) The enhancement of school collaboration with other public departments and local agencies;
- (c) Opportunities to encourage teachers to further develop their knowledge and skills on coping with diversity and to collaborate with families;
- (d) Support towards a joint creation of teaching materials, in order to enhance differentiated teaching, learning and assessment;
- (e) Supplying the school premises with all appropriate educational and/or other means and equipment, to support pupils through reasonable accommodation that ensures participation on the basis of a flexible curriculum;
- (f) An immediate provision of multi-disciplinary evaluation of a child's particular needs, if urgently required, and timely recruitment of the necessary scientific and support staff, as indicated by professionals;
- (g) An active involvement of parents as equal partners in educational processes. Parents' views must be taken into serious consideration during decision-making, in order to identify and establish BIC. In order to achieve this, they must be given the opportunity to access all data, information, and assessments concerning their child and to regularly



express their opinion on all matters concerning them. Thus, a long-term objective must be to develop transparent and accountable systems.

- (h) Pupils' participation in the decision-making process must be guaranteed, ensuring their right to be well-informed and their views to be taken into serious consideration in all decisions, policies and practices.

#### **D. Establishment of procedures and mechanisms to promote BIC with the participation of children**

On several occasions, the Commissioner has pointed out that, securing BIC with the participation of children requires the establishment of certain mechanisms within the school. Following are some examples to stress the significance of children's participation:

- a) The functioning of school councils

During consultations of the Commissioner with the Young Advisory Team<sup>2</sup>, many teenagers expressed the opinion that children's participation at school processes is very limited. In particular, pupils' involvement is usually restricted in discussing details of the internal school regulations, such as the school uniform, or to express an opinion regarding the selection of school trip venues, the organising of extra-curricular recreational activities, the participation in charity events etc. Based on that, the Commissioner supports the view that, there seems to be further ground for improving pupils' participation, especially in matters such as delinquency issues, dealing with school bullying, sex

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<sup>2</sup>The Young Advisory Team is established in line with the Commissioner for the Protection of the Rights of the Child (Amending) Law of 2014 [44(I)/2014]. Its purpose is to provide the Commissioner with the opportunity to consult with children, to listen and gather their views on issues of concern to them, so that those can be promoted and taken into account in decision-making processes. The composition of the team is based on equal participation of male and female children, and with the prerequisite that a specific number of children in vulnerable situations have the opportunity to participate.



education, teenagers' drug addiction etc. In order for student councils to serve their role, there must be a genuine representation of children's views, paying particular attention to the voices of the most vulnerable ones. Undoubtedly, pupils should be meaningfully engaged in various forms of decision-making for BIC to be effectively promoted at school.

#### b) Mechanism for dealing with complaints

A major component for safeguarding BIC within schools is the establishment of a complaint mechanism with detailed procedures. The Commissioner has pointed out that, such a mechanism must be jointly built with children, be accessible to everyone and be regularly evaluated. The Commissioner has also noted that, if there is a lack of a complaints mechanism within the school setting, this unavoidably results in the investigation of complaints based on goodwill of individual teachers. Consequently, this does not guarantee that all the necessary steps will be followed and that children will be informed about the process and about the result of the investigation of their complaint. Thus, BIC is not guaranteed, unless detailed procedures are specified which are being respected by everyone involved in the process.

To achieve reliability of the mechanism for dealing with complaints, it is essential for the responsible authority to provide adequate proof to any interested party that raises concerns about either the transparency of the process or the justification of a complaint resolution. In cases where the outcome of the investigation reveals an improper performance of duties by school staff and, thus, a corresponding breach of the code of conduct, the Commissioner supports the view that there must be consequences according to the specific circumstances. The Authorities have an increased responsibility to reassure that, any investigation of complaints against teachers is intended to protect the children from professionals who may violate their rights. Therefore, the focus of the mechanism must be on resolving complaints towards the direction of securing the Best Interest of the Child.



### c) Establishment of school regulations

Although the formation, application and monitoring of school regulations is of paramount importance, children support the view that they are not given the opportunity to have a substantial participation in this process. Furthermore, it seems that some pupils do not fully understand the content of the school regulations and, therefore, they are more inclined to violate them due to ambiguities. The Commissioner has pointed out that, this lack of communication can lead to a lack of trust and, consequently, it can result in marginalisation and isolation of certain groups of children within the school community. This can create a negative school climate which hinders genuine communication and, unavoidably, threatens the implementation of BIC. On the contrary, school regulations must provide a feeling of security and they should include provisions that contribute to the cultivation of a comfortable and friendly school environment.

In order to achieve that, the Commissioner has suggested that, school regulations must also include such provisions that clearly define teachers' obligations in terms of their interactions with children. These should include behavioural manners that support respect, human dignity and trust, a genuine interest for children's welfare, a clear disposition in favour of democracy, justice and freedom of expression and an established attitude that indicates a full compliance with the four Principles of the Convention.

## **E. Securing BIC in the relations between the school and third parties**

### a) Parents' councils

The Commissioner has repeatedly stressed the importance of parents' involvement in school practices, as equal stakeholders. However, the effectiveness of parents' collaboration with the school is often at stake. Things that may hinder a genuine parent-school collaboration can be the concerns derived from negative criticism, possible interference of some parents with the



pedagogical work of the school or their persistence on issues beyond their role, schools' limited flexibility in allowing decentralised procedures or a wider space for participation in general etc. To overcome these, stakeholders must invest on trust between all the involved parties, which must be based on clearly defined rules of collaboration, as a prerequisite to consolidate BIC in school practices.

#### b) Multi-disciplinary committees

There are cases where a multi-disciplinary evaluation of a child is required, to determine the necessary actions for the provision of reasonable accommodation and support. Depending on the particular characteristics of each case, the multi-disciplinary team may consist of professionals from various fields, such as the field of education, health (including mental health), social welfare services, justice etc, depending on the expertise each case demands.

Although the current legislation entails provisions for the functioning of multi-disciplinary teams, there is often an unclear or unspecified timeframe for the completion of certain stages of their functioning. Consequently, there are delays in carrying out needs assessment and further delays in providing the necessary support (as opposed to early intervention). As a result, children and their families often get frustrated awaiting desperately for delayed support and they get suspicious about the State's priorities regarding the allocation of resources. Apparently, BIC cannot be sufficiently promoted if such feelings of disappointment and despair can result in ruining real trust and respect.

Apart from the weaknesses regarding the timeframe of procedures, there are also other aspects to be considered as crucial. The Commissioner has repeatedly supported the view that, the evaluation reports and the decisions of the multi-disciplinary committees must be timely communicated to the child and to its legal representatives with clarity and transparency. The opinion of the child must also be reflected in any decisions taken for him/her. Official decisions





must be grounded with convincing arguments and they must include analytical descriptions of the particular needs of a child, as well as a thorough justification for the recommended support, the educational adaptations and any means of reasonable accommodations intended to achieve the specified learning targets for every individual child. It is rather disappointing though that, current practices do not usually comply with this approach, in breach of the law and against BIC.

## **F. Concluding remarks for the improvement of policies and practices relating to BIC**

The Commissioner remains concerned that domestic laws in Cyprus still do not fully comply with the provisions and Principles of the Convention. For example, regarding the current process of education reform towards an inclusive education system, the Commissioner insists that the responsible Authority must develop and implement a reliable time-bound plan of action for the incorporation of the Convention into the new law.

In order to fulfil the provisions of the Convention, the Commissioner also considers important the monitoring of the State's budgetary allocations for the implementation of programmes or actions specifically targeted to children, especially to those belonging to disadvantaged groups. It is crucial to reassure the accessibility, the quality and the effectiveness of services for children, in order to establish BIC.

Furthermore, the Commissioner notes that, more initiatives must be undertaken to make BIC widely known in educational administration, with proper training and dissemination of the Convention Principles. Thus, the responsible Authorities are encouraged to strengthen their efforts to provide adequate and systematic training and sensitisation on BIC for professionals working with and for children. Stakeholders, agencies and third parties are urged to further



support activities carried out to promote and consolidate BIC at school and in the wider community.

Lastly, the Commissioner underlines the importance of a reporting practice that is in full compliance with the Principle of Securing BIC in educational administration. In this regard, regular and timely reporting by a responsible monitoring body is crucial. Reporting obligations are necessary, so as to be in full compliance with the Convention and to guarantee that BIC is being respected and adequately established.

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