

The hearing process of children and youth

projeto 12
Justiça para Crianças

An Action guide & a Guide to best practices for professionals



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JUS Project/Project 12: An action guide and a Guide to good practices¹

JUS Project/Project 12 is a project funded by the European Union that aims to contribute to a child-friendly justice particularly in the Portuguese context.

The project aims to:

- Contribute for the effective interest of the children, assuring that children's rights are guaranteed in different judicial and non-judicial procedures.
- Ensure an improvement in judicial and non-judicial processes.

Based on the standards for a child-friendly justice adopted by the Council of Europe in 2010, and by the UN Convention on the rights of the child, particularly Article 12th (right for the participation), Jus Project/Project 12 aims to reinforce the importance of justice system:

- Adapted for children and according to their needs
- Accessible
- Fast

A child-friendly justice also implies providing training for professionals. Training helps children to minimize revictimization or secondary victimization during a hearing process and to use action guides promoting best practices during a hearing process.

The project includes:

- **Materials** that aim to help professionals and children before and after a hearing process. Materials were developed for different age groups (3-6; 7-10 and 11-14) and with special needs.
- An **Action guide** & a **Guide to best practices** for professionals

¹ The original documents – Action Plan and Guide to best practices - were written in Portuguese; this document represents a summary of the original ones and was translated into English by the authors.



that work with children and youth in judicial (e.g., parental responsibilities) and non-judicial processes, child protection or children's rights.

All the materials are available at:

<https://projeto12.pt>



ACTION GUIDE

A hearing process implies:



Preparing the setting.



Preparing the interview.



Basic knowledge about child development as it is important for preparing and conducting a hearing process.



Basic knowledge about variables of the interviewer that might interfere in the hearing process.





Preparation stage

It is important to prepare children and youth before being heard in a judicial or non-judicial process. Provide clear information and adjusted to their age/developmental stage. The project includes a set of videos that explain what a hearing process is in different settings and some games that provide concrete information about specific topics (e.g., children's rights, who works in a court, etc.) aiming to minimize myths or erroneous beliefs about this topic.

Usually, children ask questions such as the following ones:

What is a hearing process?

Where am I going to be heard?

Who is going to talk with me?

Can someone be with me?

Can I ask my parents to be with me?

Can I bring a toy?

Are they going to ask me questions? And if I do not know the answers?

For how much time am I going to be heard?

And if I want to cry or if I will be very anxious, what can happen?





The hearing process

At this stage, it is important to:

1. Prepare the hearing setting.
2. Structure the hearing process.
3. Adjust questions to children's developmental stage.
4. Be aware about a set of factors that might influence a hearing process.

Prepare the hearing setting

Ideally the setting should include either a quiet waiting room and a hearing room. The hearing room should be a quiet place, warmth, private and safe.



The setting should include ludic materials such as:

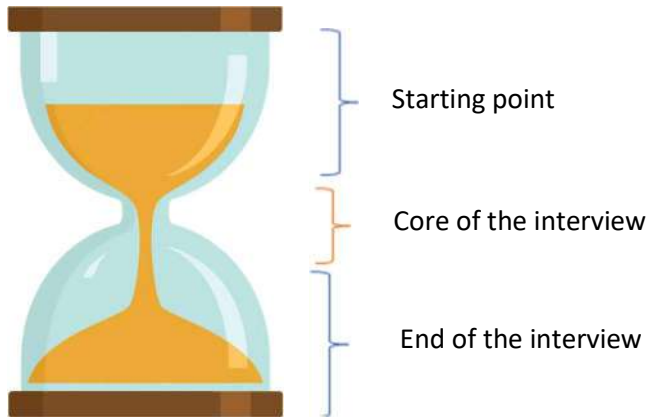
- Simple furniture.
- Child-friendly furniture.
- Paper and color pencils.
- Multicultural wood family toys.
- Lego blocks.
- Play dough.

Some hearing rooms have a unidirectional mirror. A judge/prosecutor, for example, can be behind the mirror observing the child during a hearing interview with a specialized social worker that asks questions prepared previously with the judge/prosecutor. Ideally the setting should include a minimum number of adults.

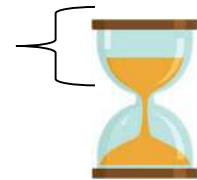
Judges/prosecutors can opt to use or not their professional costume. Some children like whereas for other children the costume scares them. To minimize those possible negative impacts, before the hearing an adult can explain to the child that like police or fireman judges and prosecutors use a specific costume; in some situations, younger children can try on the costume.

How to structure a hearing process?

Using an hourglass metaphor, a hearing interview can be structured in three parts:



Starting point



Using a child-friendly language, the interviewer should:

- Present all the people involved.
- Explain the goals of the interview.
- Assess and clarify child's expectations using, if helps, metaphors (e.g., if the child/adolescent thinks that the decision only depend on him/her: "imagine that I am doing a puzzle; each person is an important piece of this puzzle and each one shares with me information about the same situation; you are an important piece of the puzzle; with all the pieces I can take a decision at the end of the process...").
- Explain the rules of the interview.

"I am going to ask you some questions because it is important for me to understand what happened/to you"

"I would like to get to know you better, so I am going to ask you some initial questions about you and your interests; it that ok?"

"Please let me know if you don't understand what I am going to ask you; I can repeat or clarify"

"You can also ask me questions"

"I really appreciate if you answer to my questions but if you don't want to answer you have the right not to answer to me, ok?"



- Explain recording procedures along the hearing process

There can be a written recording, an audio recording and/or a video recording. Recording procedures must be explained to the children (e.g., who is going to read/see what he/she said; why recording is important).

It can be explained to the child that the interviewer will take some notes for helping him/her to structure the information, which is important for asking questions later on/during the hearing.

- Explain the limits of confidentiality

The child has the right to be informed about the limits of confidentiality (e.g., who is going to have access to what he/she said during a hearing process).

- Sensitize for the importance of telling the truth

It is important to assess whether children – especially younger ones – know the difference between a true or a false statement and their consequences (morality assessment) – especially for older children and adolescents:

“Tell me something about this room that is not true”

“Do you know what is a true and a false statement?”

“Let’s play a game: in this room there is a; is it true or false?”

“What happens when someone lies?”

- Let the child explore the setting/materials before starting to ask questions if the child expresses that will.
- Start with neutral questions (using open questions) as it helps to establish a relationship of trust:

“What is the name of your school?”

“What do you do you like to do in your free time?”

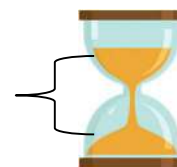


Overall, the literature suggests the use of the '4W&H':

Who? Where? When? What? How?
e.g., 'Tell me, where do you live?'

Questions starting by 'Who', 'Where', and 'What' imply a more concrete reasoning, whereas questions starting by 'Why', 'When', and 'How', imply a more abstract one. Younger children have a more concrete reasoning. At this stage, the use of neutral questions, helps to assess the level of understanding of the child.

Core of the interview




The literature suggests the use of open questions with the purpose of getting a spontaneous testimony of the facts and richer information, followed by closed questions that help to focus in a particular aspect or to obtain concrete information. Other type of questions can be also used:




Type of questions to use frequently ✓	Examples
Open questions	<i>'Can you tell me what happened in that day?'</i> <i>'Can you share with me what do you think about...?'</i>
Focused questions	In the person: <i>'How do your dad plays with you?'</i> In the behavior: <i>'Is there any kind of punishment at your place when kids do something wrong?'</i> In the sensations: <i>'Tell me everything that you saw/hear in that day'</i>
Paired questions (open + closed questions)	Child: <i>'My uncle hit me'</i> Interviewer: <i>'Where did he hit you?'</i> Child: <i>'In the back'</i> Interviewer: <i>'Can you explain me how he hit you on the back?'</i>
Follow-up questions	<i>'What happened afterwards?'</i>
Time-frame questions	<i>'Since you arrive to your mother's house until dinner time, can you tell me what happened?'</i>
Questions using a looping technique (using child's words to ask the question)	<i>"You told me before you're your grandmother hits your brother. How does she hist him?'</i>



What type of questions should be avoided?

Type of questions to avoid	Examples
 Limited questioning (when the interviewer opts to use questions that limit child's answer to two alternatives)	'When that happen to you, were you dressed up or not?'; 'Did you stay with him in your room or in the living room?'
Abusive use of closed questions	'Do you like him?' 'Would you like to live again with your mother?'
Negative questioning (especially with younger children)	'Don't you think that you should have told that to someone?'

What type of questions should be forbidden?

Type of forbidden questions	Examples
 Suggestive questions (bias child's answers and constraints a spontaneous testimony)	'You said that he hit you; was it with a belt?'; 'You said before that he touched you in your underwear; was it in your vagina?'

'Should' and 'Should not'

We should...	We should not...
Promote a spontaneous testimony of the child giving him/her the opportunity to express his/her views about the situation	Interrupt a child when he/she is/are is giving his/her views
Ask one question at a time	Ask several questions simultaneously – child probably will answer to the first one or to the last one!
Respect child's silence	Try to fill silent moments: the child can be thinking or coping with the situation
Interrupt the hearing if necessary (e.g., give the opportunity to eat a snack, to go to the bathroom)	Judge child's views
Be honest with the child	Make any false promises to the child (e.g., 'tell me everything now, and after this hearing you will forget all the things you had been through')

During the interview it is also important to use a set of communication techniques that promote a more positive communication and a relation of trust:

Communication techniques	Definition/examples
Active listening	Full attention (through verbal and non-verbal communication)
Empathic statements	'I understand that you might feel...'; 'Take your time to answer, I know that it can be difficult for you to talk about this...'
Clarifying	'What do you mean by...?'; 'You told me that you feel anxious very often; what do you mean by feeling anxious?'
Paraphrasing	Paraphrasing means repeating back what has been said by the child using her/his own words, through rephrasing.
Summaries	Summaries enable a check of the accuracy of the interviewer during data collection.

End of the interview



At the end it is important to:

- Give the child the possibility to add or clarify something that he/she might feel that is important to add or to clarify.
- Give the child the possibility to ask questions as well.
- Reinforce and praise the child for his/her effort and collaboration during the process.
- End the interview with neutral questions (e.g., 'And now are you going to have lunch? What do you like to eat?')





Child's developmental stages

For the ones that work with children and youth, it is important to have a basic knowledge about children's development, particularly about cognitive, social and emotional aspects. The starting point of the interview is an opportunity to understand child's maturity/development because this aspect influences how the interviewer will structure the interview and ask questions. The use of neutral questions is important for this (informal) assessment².

Although development stages can occur at different moments for each child because it depends not only on individual aspects but also on social/contextual ones, at different school-ages there are some developmental milestones that are expected to occur. The tables present some of the main milestones and recommendations for the interviewer for different age groups considering those milestones:

3-6 years old

The child presents....	It is easier for the child...	Its is more difficult to....
A preoperational reasoning an egocentric point of view.	Identify and describe events that are familiar for him/her. To answer with small sentences. Identify basic emotions.	Keep attention for a long period of time. Take on another person perspective.
The interviewer should...	Conduct short interviews (< 30 minutes) Ask short questions and focused questions. Avoid asking questions involving time frame and frequency (e.g., of events, behaviors) Ask questions segmenting the information (e.g., <i>'Do you remember what happened before ...?; 'And do you remember what happened after...?'</i>)	

² A judge or a prosecutor can ask a social worker to ask the questions regarding his/her deeper knowledge about these issues.



7-11 years old

The child presents....	It is easier for the child...	It is more difficult to the child to....
Concrete reasoning (logical)	To maintain longer attention span. Take the perspective of others and use that to make decisions and solve problems. To gradually regulate own emotions and identify others' emotions.	Have abstract ideas
The interviewer should...	Consider that moral decisions are shaped by adults' standards – it is then important to explain the importance of telling the truth. Interviews can be longer (30-60 minutes) Questions including frequency and duration of events/behaviors can be asked. Ask questions considering others' perspective.	

12-17 years old

The adolescent presents....	It is easier for the adolescent...	It is more difficult to the adolescent to....
Deductive and abstract reasoning (use of more complex concepts) Views and opinions that may be different from significant adults	To explain his/her positions and choices To understand figurative language and analogies. To think logically and reason hypothetically. Identify more complex emotions.	Regulate behaviors and to use fully some executive functions as prefrontal cortex is still in maturation.
The interviewer should...	Ask questions considering not only the present but the future. Ask questions similar to adults. Try to explore if there are any secondary benefits derived from his/her views. Interviews can take longer (60-90 min).	

Other children/youth factors that might constraint testimony:

Cognitive impairments

Post-traumatic stress disorder (need a clinical diagnosis)

Poor insight

Attachment styles (secure; ambivalent; avoidant)

In these cases, it is important to consider a multidisciplinary team.





Variables of the interviewer

A set of variables of the interviewer can interfere during the interview and consequently on child's testimony, and on decision-making moments: we talk particularly about heuristics and biases. Overall, heuristics can be defined as automatic short-cut judgements based on limited set of cues, that allow us to make decisions quicker especially when there is a pressure to decision-making in a short period of time. They allow us to draw inferences and to fill information gaps as well. They derived from formal learning and experience. Some examples studied in judicial contexts are:

- **Availability heuristic:** when trying to make a decision, some examples are more readily available in our memory; as a consequence, there is the tendency to judge those outcomes as being more common or frequently occurring than others less available in our memory.
- **Representativeness heuristic:** this heuristic involves comparing a person, an event, or a situation to its prototype. For example, if a person is trying to see if a child or an adolescent is trustworthy there is the likelihood of comparing that child or adolescent to another one that is a prototype.

Despite the benefits of heuristics there is also some drawbacks as they can lead to cognitive biases, particularly to:

- **Confirmation bias:** pay attention to information that is consistent with previous beliefs, expectations, or assumptions.
- **Illusory correlations:** considering that there is a relationship between variables even when such relationship does not exist. A common example is 'if someone cries during a testimony that means that the person is saying the truth', or 'if a child does not cry when he/she is testifying in an alleged sexual abuse situation that means that that not happened'.

Awareness about these cognitive variables in an important step to avoid their impact during decision-making process involving children and youth. The existence of a semi-structured interviews is also a helpful tool for this purpose.



Other resources

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