



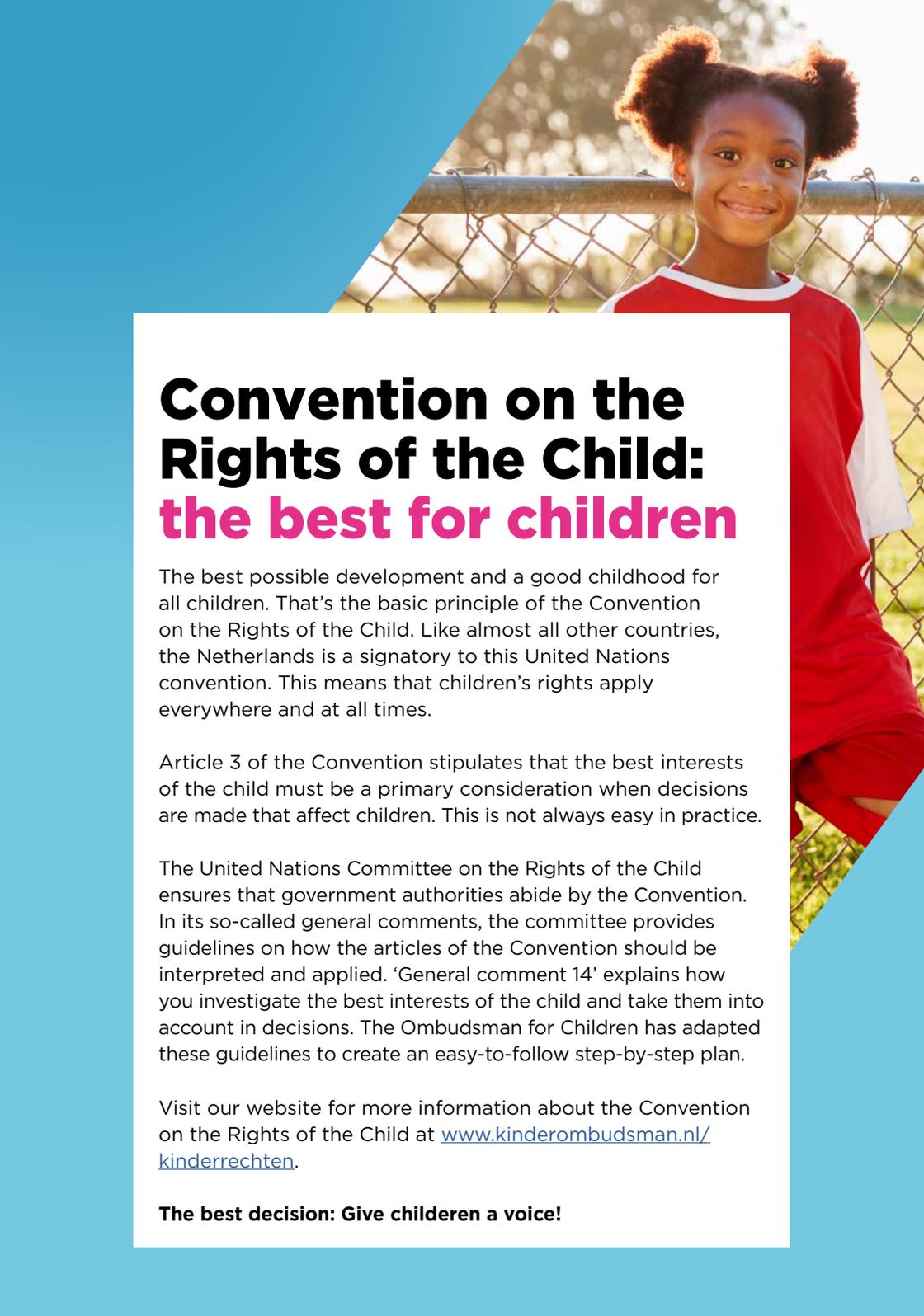
## **kinderombudsman**

het beste besluit:  
geef kinderen invloed



# **The best decision for the child in four steps**

Guidance for professionals



# Convention on the Rights of the Child: the best for children

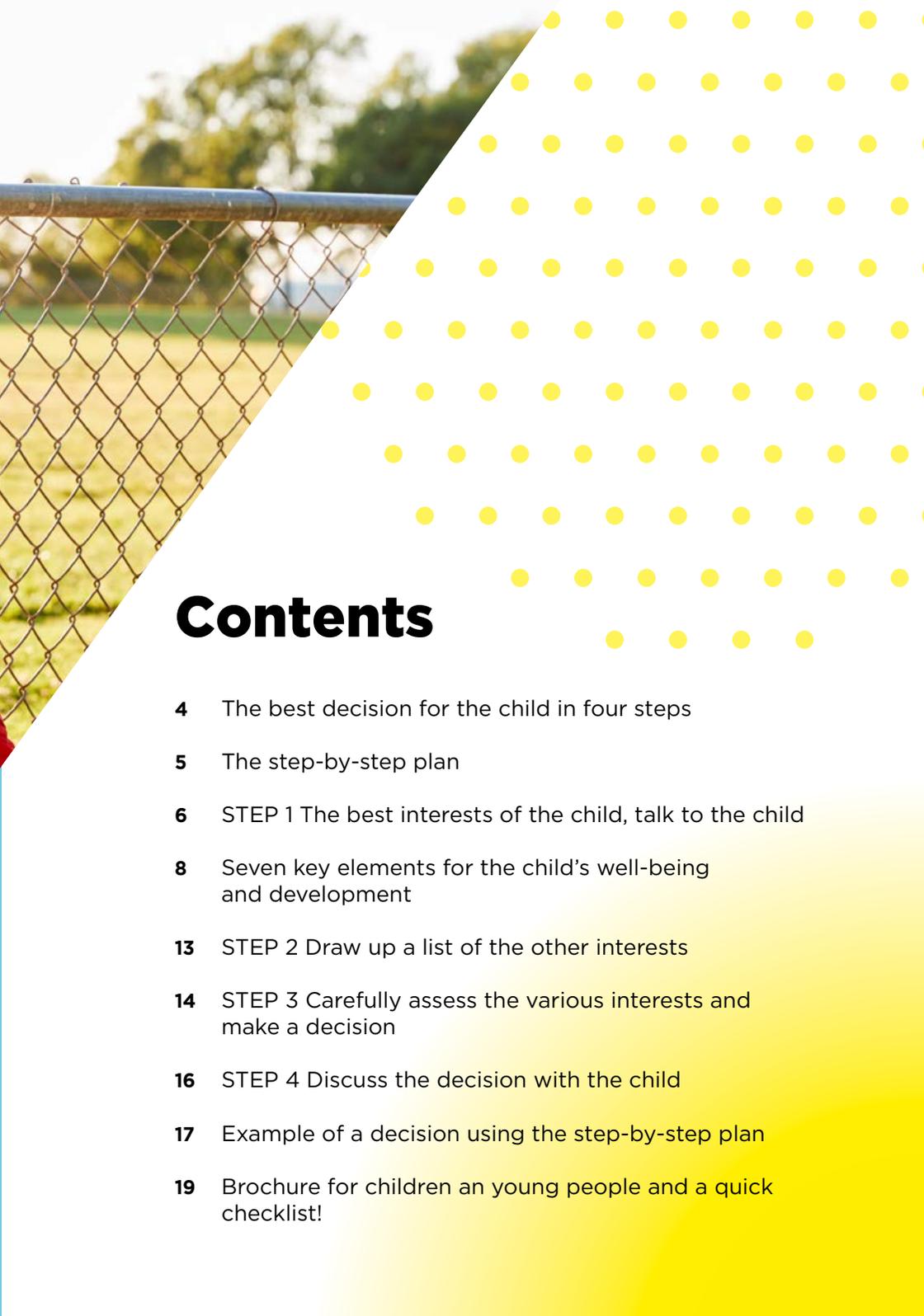
The best possible development and a good childhood for all children. That's the basic principle of the Convention on the Rights of the Child. Like almost all other countries, the Netherlands is a signatory to this United Nations convention. This means that children's rights apply everywhere and at all times.

Article 3 of the Convention stipulates that the best interests of the child must be a primary consideration when decisions are made that affect children. This is not always easy in practice.

The United Nations Committee on the Rights of the Child ensures that government authorities abide by the Convention. In its so-called general comments, the committee provides guidelines on how the articles of the Convention should be interpreted and applied. 'General comment 14' explains how you investigate the best interests of the child and take them into account in decisions. The Ombudsman for Children has adapted these guidelines to create an easy-to-follow step-by-step plan.

Visit our website for more information about the Convention on the Rights of the Child at [www.kinderombudsman.nl/kinderrechten](http://www.kinderombudsman.nl/kinderrechten).

**The best decision: Give children a voice!**



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# The best decision for the child in four steps

**Are you a professional responsible for making decisions that influence children's lives? The decisions you make can often be complex because there are numerous other interests at play alongside the child's interests. They include the parents' interests or those of the organisation where you work. The step-by-step plan in this brochure helps you to stay focused on the best interests of the child.**

## **Children-rights proof decision**

The Committee on the Rights of the Child states that a thorough and child-friendly investigation of the facts is required in order to reach an evidence-based decision. This also involves a careful assessment of what is best for the child and any other interests that may be at play. In this, you should always take account of what the child believes to be important and treat children equally. As a professional, you examine the interests of the child based on your expertise. You then reach a decision based on your research and careful assessment. In four steps, you reach a carefully-considered decision that puts the interests of the child first.

### **Do you have doubts or need some help?**

The Ombudsman for Children will be happy to help you out. Phone weekdays from noon until 5 pm CET 0800 8765432 when you call from the Netherlands or +31 70 8506 995 when you call from abroad. Or send an email to [ombudswerk@kinderombudsman.nl](mailto:ombudswerk@kinderombudsman.nl) or visit our website [www.kinderombudsman.nl](http://www.kinderombudsman.nl)

# The step-by-step plan



## **STEP 1 The best interests of the child**

Examine what is best for the child's well-being and development. What is the best decision if you only take account of the child's interests?



## **STEP 2 Other interests**

What interests do parents, care providers and the local municipality have?



## **STEP 3 Assessment of interests and decision**

Carefully assess the different interests, explore any alternatives and make a decision. Put the best interests of the child first.



## **STEP 4 Explaining the decision**

Tell the child about the decision in language that is easy to understand. Also make it clear to the child. Also tell the child what they can do if they disagree with the decision.

## STEP 1

# The best interests of the child, talk to the child

**Identify the best interests of the child by talking to them. During your conversation, find out about the child's well-being and wider development. You can use the example questions on pages 9 to 12 for this. Also ask other professionals or experts involved for their views on the best interests of the child.**

### Preparing the meeting

**Voluntary:** participation in the meeting must always be voluntary. This means you should ask the child in advance if they wish to discuss the subject. If a child prefers not to because they find it too stressful, for example, ask them who they think would be the best person to talk to instead.

**Child-friendly setting:** carefully consider the venue for the meeting. For example, ask the child what they will need in order to feel comfortable and safe in the meeting. The child may wish to be accompanied by someone else at the meeting, so you should allow for this. As far as you can, try to ensure that the conversation matches the child's level of development.

**Provide proper information:** it's important for the child to know in advance what the meeting is about, what is expected of them and what you intend to do with the results of the meeting (or not). To prepare them for the meeting, you can also give them a copy of 'The best decision for you, preparation for children and young people for a meeting with a professional'.

**Experienced professional:** if you personally find it difficult to engage in conversation with the child, ask a colleague or manager for help. You can also involve a professional care provider in the interview.

### **During the meeting**

Examine what is best for the child's well-being and development in the short and longer term. Base this on the seven elements that are important for a child's well-being and development. These are explained on pages 9 to 12. Ask brief, open questions, allowing the child space to speak freely.

For example, who plays an important role in the child's life? What is the child's home situation like? Does the child attend school and are there any (medical) problems that require treatment? Ask the child which decision they prefer and why.

### **Result of the meeting**

By the end of the meeting, you should have a clear record on paper on how the child feels about the situation and what they need. Check with the child if you have properly described their ideal decision and their perspective on it.

You will now also be able to determine which decision is most likely to provide the best protection for the child's well-being and development. Always take the information from professionals or experts involved into account.



### **TIP! Telephone professionals or experts involved in advance**

Make sure you are fully informed when you start the meeting. Before you do, contact any professionals or experts involved, such as a family guardian, psychologist, social worker or teacher. Ask them what they think is in the best interests of the child and why.

# Seven key elements for the child's well-being and development

**According to the Committee on the Rights of the Child, you can determine the best interests of the child based on seven key elements that are important for a child's well-being and development.**

Assessing the decision in terms of every element gives you a good overview of the decision that will contribute most effectively to the child's well-being and development.

Sometimes, there may be other important elements that you wish to take into account. What these are will depend on the child's specific situation at that time. Consider, for example which of the child's rights are at threat.

If you have to make a decision about a child with housing problems, you should add that element to the seven key elements. For this element, then check whether the housing is available, stable and appropriate for the child. Does the child have enough room and privacy and is the house fit for healthy human habitation?

The seven elements are featured on pages 9 to 12, together with example questions you can use in your meeting with the child.

## 1. The child's identity

What makes this child special? There may be several factors at play: gender, sexual orientation, ethnicity, nationality, culture, religion, health situation, age and residence status.

### Example questions:

- Who are you? Where do you live? How old are you?
- Do you have any brothers or sisters?
- What is your parents' religion? Do you share that religion?
- Do you have any family abroad?
- Do you belong to a specific culture?
- Are you attracted to boys, girls or both? Or are you attracted to neither of them?
- Are you a boy or a girl or do you feel different? How would you like to be addressed?
- What do you most enjoy doing?
- What should I absolutely know about you (in order to make a good decision)?

**Central question:** which decision will be most effective in protecting the child's right to an identity?

## 2. Protection and safety

Does the child feel sufficiently safe? Is there sufficient peace, structure and stability? Is the child protected from physical or mental violence?

### Example questions:

- Where do you feel at ease?
- Where do you feel safe?
- What do you need in order to feel safe?
- Where do you think you are cared for best?
- Who do you think is able to care for you the best?
- Does the place where you live keep changing?
- Do you have to deal with different people caring for you?



**Central question:** which decision will be most effective in protecting the child's right to care, protection and safety?

### **3. Maintaining the family environment and important relationships**

What is the child's social network like? Does the child live in a family with father, mother, brothers and sisters? Which other adults or children, such as neighbours or friends, are also important for the child?

**Example questions:**

- Do you live with your father and/or mother?
- Are your parents divorced?
- Which people are important in your life?
- How often do you generally like to see them?
- How would you like to stay in contact with them?

**Central question:** which decision will be most effective in maintaining the family environment and protecting the child's important relationships?

### **4. Vulnerable children or special situations**

Does the child have a physical or mental disability? Has the child experienced trauma involving domestic violence or an unstable environment?

**Example questions:**

- How are you doing right now?
- Have there been difficult times in your life that are important for this decision?
- Have any unusual things happened that are important for this decision?
- What do people need to be aware of when dealing with you?

**Central question:** which decision will be most effective in safeguarding the child's right to protection in a vulnerable situation?

## 5. The child's right to health

What is the child's mental or physical health situation? Is the child being treated by a (medical) professional? If so, what is needed to enable the treatment to continue?

### Example questions:

- How is your health, physically and mentally?
- What do you need in order to be or stay healthy?
- Do you need special care?
- Are you currently receiving the help you need?

**Central question:** which decision will be most effective in protecting the child's right to health?



## 6. The child's right to an education

Is the child able to continue to develop cognitively, socially and emotionally without interruption?

### Example questions:

- Are you currently going to school and do you enjoy it?
- Are you doing a study programme that's the right match for you?
- How are things going at school or on your programme?
- Is it safe there?
- Is there anything else you need at school or on your programme?
- For example, something that would improve your learning or your general situation at school or on your programme.

**Central question:** which decision will be most effective in protecting the child's right to an education?

## 7. The child's right to express an opinion

What decision does the child prefer and why?

### Example questions:

- What do you think is the best decision and why?
- What would you prefer to happen?
- What's the most important thing in your life?
- For example: being with your parents, doing fun things, playing sport, extra lessons or being close to someone who takes care of you.
- What do you think is important for your future?

**Central question:** what is the child's view about the decision and their own well-being and wider development?

## STEP 2

# Draw up a list of the other interests

In addition to the best interests of the child, there will be other interests that play a role in the decision. These interests, for example the parents' interests or those of your organisation, may match or may be at odds with the best interests of the child. There may be other obstacles, such as finances, specific legislation or regulations. In this step, examine which people, parties or organisations are involved in this decision as well as the child and write down what their interest is.



## STEP 3

# Carefully assess the various interests and make a decision

**When the interests of the child and those of people involved in the decision are clear, make a careful assessment. You can do this by working out several potential decisions in brief to make it clear which interests are mutually compatible or not.**

Put the interests of the child from Step 1 first and then weigh the interests from Step 2 against it. If these interests are at odds with each other, ask yourself whether it is proportionate to prioritise the interests of the child over the opposing interest.

In practice, financial interests may weigh heavily. Local municipalities may not always be willing or able to pay for additional care for a child. Equally, housing associations may insist on eviction in the case of rental arrears. Make a critical assessment of these interests and examine whether there genuinely is no possibility of prioritising the interests of the child.

Institutions or organisations do not always take responsibility for providing what is best for the child and may make referrals to different organisations or government bodies. For example, this can happen if a child requires additional (medical) support in order to help them at school. The question is then whether this should be arranged by the school or the local municipality. The child is then at risk of being sent from pillar to post. If this is the case, the issue of responsibility has an influence on the child's well-being and development. If you find this to be so, try to raise the issue.

Are you effectively being prevented from acting because of policy or legislation? If so, report it to the relevant policy- and decision-makers, such as the local municipality, housing association or institution. You can also report it to the Ombudsman for Children by sending an email to [ombudswerk@kinderombudsman.nl](mailto:ombudswerk@kinderombudsman.nl).

### **The decision**

When making the decision, always put the interests of the child first. Does the decision safeguard all seven elements as effectively as possible? If you are finding this difficult, discuss your doubts with a colleague or manager and try to reach a good decision together.



## STEP 4

# Discuss the decision with the child

**Explain to the child in simple language how and why you made the decision.**

### **Write the decision down on paper**

Write the decision down on paper clearly and in simple language. Include details of the careful assessment you made. Provide additional justification for points that are at odds with the best interests of the child. Also write down what the child would prefer and why. Keep your explanation brief and ideally no longer than one page of A4.

### **Explain the decision to the child**

Explain in simple language what you have decided and why. If the decision differs from the child's view, explain why. Allow the child time and space to ask questions. If you find the conversation difficult, ask a colleague or manager for help. Give the decision to the child on paper, so that they can read it again later.

### **TIP! Explain where and how the child can object**

Does the child disagree with a decision? If that happens, explain whether anything can be done to oppose it and if so what. If the child needs assistance with this, make sure you refer them. For example, to a children and young people's legal services centre or the Jeugdstem advice centre.

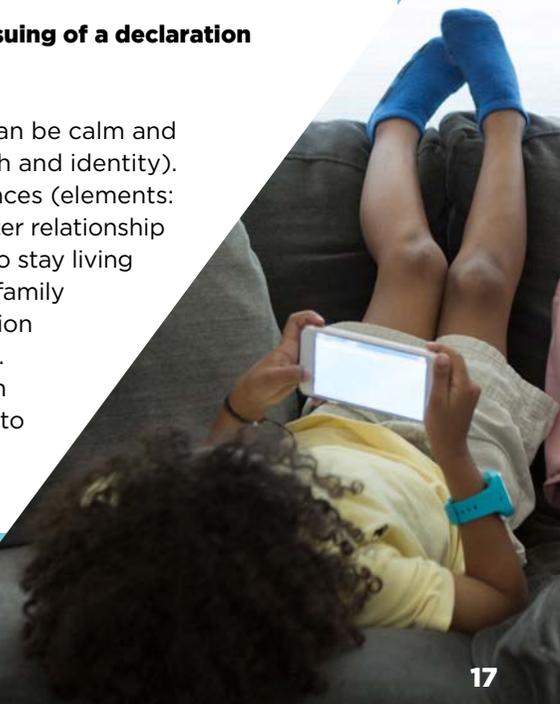
# Example of a decision using the step-by-step plan

**A mother submits an urgent request for housing from the local municipality. She is living with her son Sem, aged 9, in an apartment that is too small with just one bedroom.**

Sem has seen his father beating his mother. His mother is depressed and stressed and has lost her job as a result. His mother often discusses this with her sister. Sem finds it impossible to escape all these stories. The house is just too small for that. He is finding it increasingly difficult at school. Because of the stress, Sem loses his temper and kicks his mother. He is on the waiting list for help. Having their own space at home would be good for their relationship.

## **STEP 1 Sem's interest in the issuing of a declaration of urgency**

A place for himself where he can be calm and relax (elements: housing, health and identity). Help in processing his experiences (elements: vulnerability and health). A better relationship with his mother to enable him to stay living at home (element: maintaining family relations). Improved concentration at school (element: education). Sem would like to have his own room, where he can have time to himself (child's own interests and their perspective on it).



## **STEP 2 Other interests**

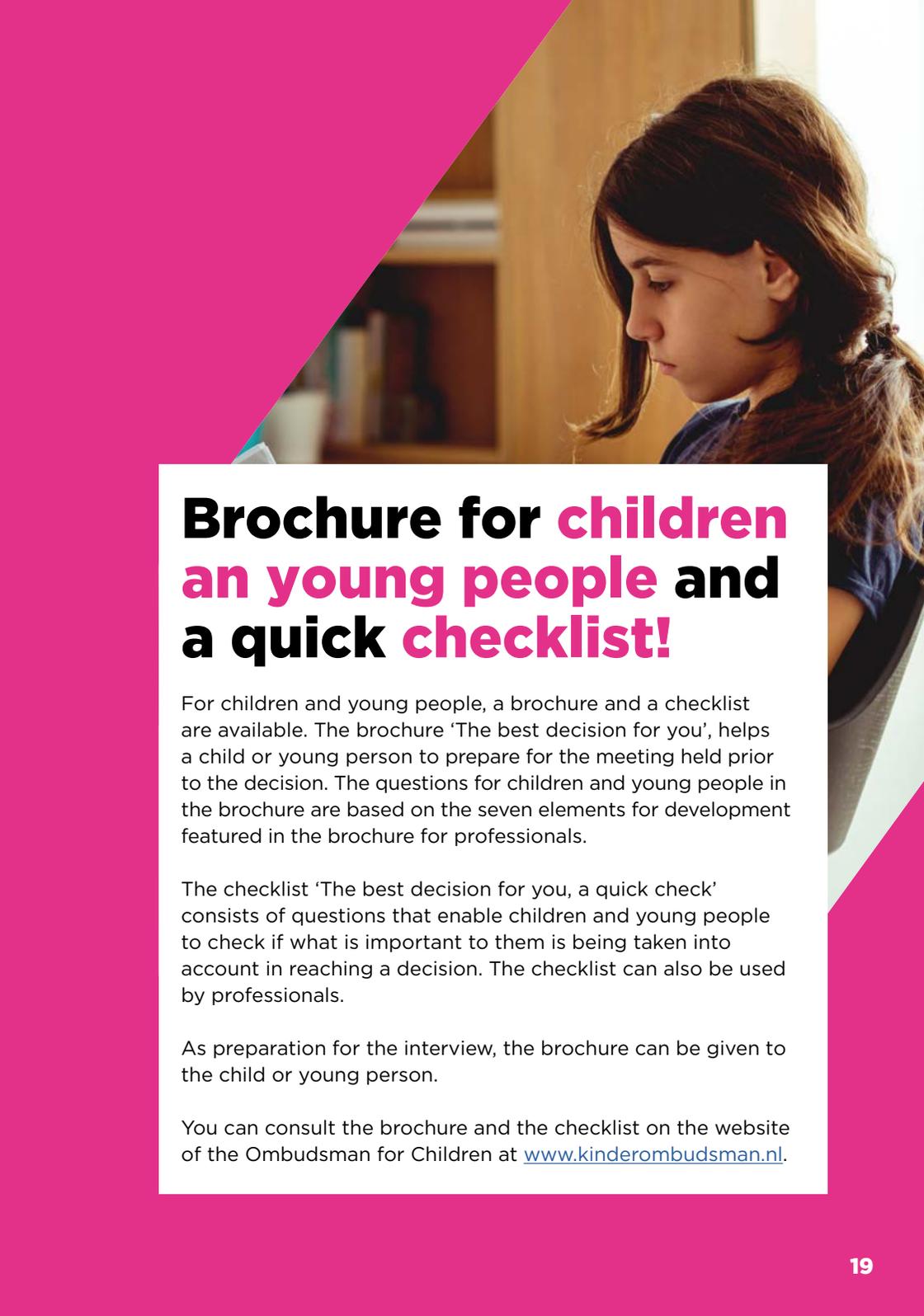
- Mother's interest: privacy and providing a healthy environment for Sem.
- Local municipality's interest: preventing homelessness among residents by giving priority to single people without a home. Focus on prevention to keep costs (of juvenile care) down.
- School's interest: for Sem to experience less stress in order to be able to develop at school as well as possible.
- Interest of other people in difficult situations in need of housing: for them to be housed quickly.

## **STEP 3 Assessment of interests and decision**

In the assessment of interests, Sem's interests are the primary consideration. If, after carefully assessing all of these interests, it is impossible to act in Sem's best interests because of the shortage of housing, try to identify an alternative solution that most effectively protects Sem's well-being and development.

## **STEP 4 Explaining the decision**

The local municipality not only needs to explain what decision has been made and why to the mother but also to Sem himself. It also needs to explain what Sem and his mother can do if they disagree with the decision.



## **Brochure for children an young people and a quick checklist!**

For children and young people, a brochure and a checklist are available. The brochure 'The best decision for you', helps a child or young person to prepare for the meeting held prior to the decision. The questions for children and young people in the brochure are based on the seven elements for development featured in the brochure for professionals.

The checklist 'The best decision for you, a quick check' consists of questions that enable children and young people to check if what is important to them is being taken into account in reaching a decision. The checklist can also be used by professionals.

As preparation for the interview, the brochure can be given to the child or young person.

You can consult the brochure and the checklist on the website of the Ombudsman for Children at [www.kinderombudsman.nl](http://www.kinderombudsman.nl).

## **Reaching the right decision step-by-step**

'The best decision for the child in four steps, guidance for professionals steps' is intended for professionals who make decisions involving children. This brochure provides a step-by-step guide to reaching the best decision for the child for people working for the police, in education, in healthcare, local government or at a housing association.

The step-by-step plan and practical tips and advice have been based on the Convention on the Rights of the Child and the interpretation of it by the United Nations Committee on the Rights of the Child.



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