

**Country-Led Evaluation of Child Justice Reform:
The Diversion Pilot**

Malaysia

Inception Report

UNICEF Malaysia

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This Inception Report was produced by Leisha Lister, Dr. Nadzriah binti Ahmad, Joanna Brooks, Emmanuelle Diehl, Joy McCarron and Guy Thompstone for UNICEF Malaysia in January 2022. The opinions and statements presented here do not necessarily represent those of UNICEF.

Child Frontiers Ltd.

Suite A 15/F Hillier Commercial Building

65-67 Bonham Strand East

Sheung Wan, Hong Kong

Child Frontiers is a registered company (No. 1275515)

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Acronyms and Abbreviations

AGC	Attorney General's Chambers
ASEAN	Association of Southeast Asian Nations
CO	Country Office
CPD	Country Programme Document
CRC	Convention on the Rights of the Child
CSO	Civil Society Organizations
DAC	Development Assistance Committee
DPP	Deputy Public Prosecutor
DSW	Department of Social Welfare
EAPRO	UNICEF East Asia and Pacific Regional Office
EPU	Policy & International Relations Division
EQUALS	Evaluation Quality Assurance and Learning Service
ERB	Ethical Review Board
ESRC	Economic and Social Research Council
FCDO	Foreign, Commonwealth and Development Office
FGD	Focus Group Discussion
GERAAS	Global Evaluation Reports Assessment and Analysis System
GEROS	Global Evaluation Reports Oversight System
HML	Health Media Lab
IIUM	International Islamic University Malaysia
IOM	International Organization for Migration
IPD	District Police
JKM	Department of Social Welfare Malaysia (Jabatan Kebajikan Masyarakat Malaysia)
KAP	Knowledge, Attitudes, and Practices
KII	Key Informant Interview
MCO	Movement Control Order
MOHA	Ministry of Home Affairs
MWFCD	Ministry of Women, Family and Community Development
NGO	Non-government Organization
OECD	Organisation for Economic Co-operation and Development
RMP	Royal Malaysian Police
SDG	Sustainable Development Goals
SOP	Standard Operating Procedure

TOC	Theory of Change
TOR	Terms of Reference
UN	United Nations
UNEG	United Nations Evaluation Guidelines

1. Introduction and background

1.1 Introduction

This Inception Report has been prepared by Child Frontiers, an international company focused on child welfare and protection in partnership, and IOD PARC, a UK-based company specializing in results-based performance assessment in international development. The purpose of this independent evaluation is to assess progress made to date and potential scaling up of the Child Justice Reform: The Diversion Pilot in Malaysia (hereinafter the Diversion Pilot). This is a *country-led evaluation* commissioned by the UNICEF Malaysia Country Office (CO) on behalf of the Ministry of Women, Family and Community Development (MWFCD). The period under evaluation is between December 2019 and August 2021, excluding the period 18 March 2020 – 1 September 2020, when the project was on hold due to the COVID-19 measures and a Movement Control Order. The evaluation will be both a formative (providing recommendations for scale-up) and summative evaluation. It will assess how well the pilot is functioning (e.g., organisational capacity, delivery and targeting of activities or services, achievement of specific objectives, perception of the pilot by stakeholders, and how the pilot fits into the sector / broader context as a whole). The evaluation will also collect potential preliminary impacts of the pilot on children who underwent diversion and the Inception Report families.

A Probation Pilot preceded the Diversion Pilot (see further below under Section 2.1). The evaluation recognises that the work that has been carried out as part of the Probation Pilot might be a precondition for a successful diversion programme. So, while not evaluating the Probation Pilot *per se*, the Probation Pilot is referenced and has been incorporated explicitly into the evaluation methodology. In particular, the evaluation will consider the extent to which the probation pilot has created an enabling environment for the introduction of the diversion pilot, which aspects of the probation pilot were necessary preconditions as well as assessing whether the distribution of trained probation officers has had any impact on the usage and success of diversion.

1.2 Purpose of the Inception Report

This inception report defines the purpose, scope, approach, and methodology for the following evaluation phases: data collection, analysis, and write up and dissemination. The Inception Report is based on a review of critical UNICEF and country-related documentation, including data and project documents about the Diversion Pilot and the Probation Pilot.

The Inception Report includes

- The scope of the evaluation;
- A proposed list of the main stakeholders to be consulted;
- The overarching analytical framework (evaluation matrix) that will be used for the evaluation;
- The approaches, tools and questions to be used in the evaluation;
- The sampling criteria to be used for data collection and proposed list of stakeholders;
- Risks, limitations and mitigation measures;
- An updated timeline; and
- The quality and ethics criteria to be applied.

Key activities undertaken during the inception period included:

- Preliminary consultations with UNICEF Diversion Pilot team and representatives of the MWFCF;
- Context analysis on justice for children, including access to justice and child protection in Malaysia as well as on relevant international standards, best and emerging practices; and
- Document review of all key UNICEF and pilot documents and other relevant background documentation to inform the context analysis.

1.3 Country context*Overview*

The Government of Malaysia has made significant strides in advancing the protection of children since it acceded to the Convention of the Rights of the Child (CRC) 1989 (hereinafter referred to as the CRC) on 17 February 1995. This is evident in the government's measures to improve systems, create specialised structures, and enhance laws and policies for children. Following CRC and international best practices, the Malaysian government has recognised the need for a separate and distinct approach to justice for children. Special legislation governing children who commit crimes and children in need of protection has been in place since 1947. In both law and practice, measures are taken at all stages of the criminal justice process to ensure children are separated from adults and afforded special care and protection. In Malaysia, the child justice system is governed by Part X of the Child Act 2001 (hereinafter referred to as the 2001 Act), Criminal Procedure Code and the Penal Code.¹ According to the Child Act, a *child* is defined as below eighteen (18) years old.² More recent amendments bring the provisions of the 2001 Act more in line with the CRC, and children in conflict with the law are afforded better legal protection.³

However, whilst significant progress has been made, gaps and challenges remain. In its Concluding Observation regarding Malaysia's first periodic report to the UN Committee on the Rights of the Child, the Committee on the Rights of the Child (hereinafter referred to as the Committee on the CRC) acknowledged Malaysia's positive measures taken to comply with international child justice standards. It also highlighted some areas of concern regarding the child justice system and strongly encouraged the government to seek technical assistance from UN agencies, including UNICEF, to address these issues.⁴ More recently, Malaysia has submitted its Combined Second to Fifth Periodic Reports (2012-2018) to the Committee on the CRC, highlighting the development and progress of the

¹ Child Act 2001 (Act 611), Criminal Procedure Code (Act 593) and the Penal Code (Act 574)

² Section 2 (a) of the Child Act. Section 2 (b) of the Child Act provides that in relation to criminal proceedings, a child is a person who has attained the age of criminal responsibility according to Section 82 of the Penal Code. This definition is also in line with the definition of a child as stipulated in the National Child Protection Policy, 2009

<http://www.jkm.gov.my/content.php?pagename=dasar_perlindungan_kanak-kanak_negara&lang=en>. See also National Child Policy, 2009 <http://www.jkm.gov.my/content.php?pagename=dasar_kanak-kanak_negara&lang=en>, both issued by the Ministry of Women, Family and Community Development.

³ The latest amendments to the Child Act 2001 was made via Act A1511, and it came into force on 1 January 2017.

⁴ Consideration of Reports submitted by the States Parties Under Article 44 of the Convention: Concluding Observations: Malaysia

CRC/C/MYS/CO/1, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fMYS%2fCO%2f1&Lang=en (hereinafter referred to as the Concluding Observations Report, 2007), para 104 (f).

Diversion Pilot and training that has been conducted with the main stakeholders since 2013.⁵ Additionally, in response to the report submitted by Malaysia, the Human Rights Council called for Malaysia to prioritise and ensure that the physical, emotional safety and welfare of the children are always safeguarded.⁶

Art 40 (3) (b) of the CRC requires States Parties to have measures in place for dealing with children without resorting to judicial proceedings, commonly referred to as 'diversion'. This article is supported by General Comment 24 which introduces measures for dealing with children in conflict with the law without resorting to judicial proceedings. Malaysia does not currently have a formal diversion programme. Although the practice is not widely used or actively encouraged, the Criminal Procedure Code vested powers in the police to exercise discretion as to whether to charge a child and to exercise discretion in very minor cases, such as traffic violations, minor shoplifting, or fighting between children. Once the police investigate and submit investigation papers to the Deputy Public Prosecutor (DPP), the DPP has prosecutorial discretion to dismiss charges, but this discretion is used sparingly. Although Malaysia is a State Party to the CRC, there is currently no specific provision in the 2001 Act or legal framework governing diversion for children in conflict with the law in Malaysia.⁷ Before the implementation of the Diversion Pilot, UNICEF Malaysia provided technical support in the implementation of the Probation Pilot, conducted from May 2018 to April 2020. The Probation Pilot aims to enhance the capacity of Probation Officers and Counsellors in the Department of Social Welfare (DSW) to effectively support children in conflict with the law who have been released into the community and to improve the quality of probation reports provided to the Court for children.

2. Background to the Diversion Pilot

In 2012, the Ministry of Women, Family and Community Development (MWFCD) commissioned a publication, "*The Malaysian Juvenile Justice System*" (hereinafter referred to as the 2012 MWFCD report), which recommended, among other things, that Malaysia introduce diversion for children in conflict with the law. This MWFCD report also highlighted the pressing issues facing children in conflict with the law from the pre-trial stage, trial stage and up to disposal and post-disposal stage.⁸ Responding to this recommendation, UNICEF and the Department of Social Welfare sought to create awareness about child-rights-based diversion programmes among all stakeholders and create broad-based support to develop and implement a diversion programme in Malaysia. In 2014, an MWFCD led an informal inter-agency task force to discuss a possible diversion pilot programme. It was envisaged that the introduction of diversion would assist Malaysia to meet its commitments under

⁵ Combined Second to Fifth Periodic Reports Malaysia (2012-2018) CRC/C/MYS/2-4, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&TreatyID=10&TreatyID=11&DocTypeID=29&DocTypeCategoryID=4, para 171.

⁶ Report of the Working Group on the Universal Periodic Review: Malaysia (A/HRC/40/11) during the Fortieth Session, 2019, para 151.231 <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/001/96/PDF/G1900196.pdf?OpenElement>> (hereinafter referred to as the Report of the Working Group on the UPR, 2019).

⁷ Nadzriah Ahmad (2017) *Diversion of Child Offenders from the Criminal Justice System in Malaysia and Reforms of the Child Act 2001: Lessons from New Zealand*, PhD Thesis, International Islamic University Malaysia (IIUM), Gombak Selangor, Malaysia.

⁸ Ministry of Women, Family and Community Development (MWFCD) and UNICEF, *The Malaysian Juvenile Justice System: A Study of Mechanisms for Handling Children in Conflict with the law*, (Kuala Lumpur: Ministry of Women, Family and Community Development (MWFCD) and UNICEF, 2013).

Article 40 of the CRC. Additionally, in another publication entitled “*Diversion Not Detention: A Study on Diversion and other Alternative Measures for Children in Conflict with the Law in East Asia and the Pacific*”, UNICEF makes recommendations for the implementation of diversion as an alternative to pre-trial and post-trial detention and for the adoption of restorative justice practices when dealing with children in conflict with the law.⁹ The implementation and evaluation of the Diversion Pilot are also in line with one of the strategic measures set by the MWFCDD that aims to strengthen the protection and rehabilitation system for children in Malaysia.¹⁰ Following the implementation of the Diversion Pilot, a research entitled “A Study on the Diversion Pilot for Children in Conflict with the Laws in Malaysia” was carried out to assess the implementation of the Diversion Pilot in Sepang, Seremban and Port Dickson. This study also seeks to address the implementation of the warning, stern warning and intervention programmes for children who participated in the Diversion Pilot. The key findings of this study will be discussed in greater detail in the literature review in the final report of this study.¹¹

In parallel with the introduction of diversion and response to the 2012 MWFCDD report, UNICEF began discussions with the DSW on the importance of strengthening probation services in Malaysia.¹² The MWFCDD report found that probation reports lacked analysis and did not include case plans for children, and too much effort was placed on low-risk children. As a result, between 2016-2017, technical support was provided by a consultancy firm engaged by UNICEF to review probation reports, undertake a capacity building assessment, and develop a capacity-strengthening intervention plan to enhance the knowledge and skills of probation officers and counsellors involved in the rehabilitation of child in conflict with the law.¹³

2.1 The Probation Pilot

In response to recommendations emerging from UNICEF’s work between 2016 and 2017, a Probation Pilot was approved by the DSW, and a 2-year pilot began in Sepang, Seremban and Port Dickson in May 2018. It concluded in May 2020. The pilot focussed on areas the DSW considered would make a difference to outcomes for children in conflict with the law, and it aimed to:

- Strengthen the capacity of Probation Officers and Counsellors to effectively support children in conflict with the law who have been released into the community;
- Improve the quality of Probation Reports provided to the Court for Children; and
- Improve the level and quality of support to children on community-based orders and see a reduction in the numbers of children re-offending and sentenced to periods of detention.

⁹ Diversion not detention: A study on diversion and other alternative measures for children in conflict with the law in East Asia and the Pacific (2017) <<https://www.unicef.org/eap/media/2401/file/Diversion%20not%20Detention.pdf>>, p 124-133

¹⁰ Ministry of Women, Family and Community Development (MWFCDD) Strategic Plan 2021-2025

¹¹ A Study on the Diversion Pilot for Children in Conflict with the Law in Malaysia (August 2021) UPUM, Unit Perundangan Universiti Malaya, (UPUM), Universiti Malaya, Kuala Lumpur

¹² Ministry of Women, Family and Community Development (MWFCDD) and UNICEF, The Malaysian Juvenile Justice System: A Study of Mechanisms for Handling Children in Conflict with the law, (Kuala Lumpur: Ministry of Women, Family and Community Development (MWFCDD) and UNICEF, 2013).

¹³ The review found that 90.5 % of children were in conflict with the law for the first time.

2.2 Introduction to the Diversion Pilot

Based on the work of the Probation Pilot, UNICEF estimated that 200 children and their families could benefit from a Diversion Pilot over two years. Although it is impossible for UNICEF to fully anticipate the number and composition of children who could benefit from diversion, evidence from the Probation Pilot provides some estimates:¹⁴

- 84% of children across the 3 pilot areas were first time children in conflict with the law
- Only 8 children reoffended for a second time
- 199 (96%) of the probation reports were for males
- 37% of children came from families where the parents were either divorced or separated
- 90% of all offending was non-violent
- 27.5% concerned drug use
- 12.1% concerned illegal racing

Thus, the Diversion Pilot model was developed with UNICEF's technical assistance, bolstering the government's commitment under the National Policy for Children and Plan of Action (2009) to introduce diversion programmes for children in conflict with the law. The pilot is the result of a series of workshops and technical discussions undertaken by an interagency Diversion Task Force, chaired by the MWFCD, with representatives from the DSW, the Attorney General's Chambers (AGC), the Ministry of Home Affairs (MOHA), the Royal Malaysia Police, the judiciary, academics, respected child rights advocates and NGOs. The inter-agency discussions on diversion began in 2014, spearheaded by the Policy and Strategic Planning Division of the MWFCD. Through a series of technical workshops with the inter-agency task force, UNICEF supported the development of:

- The diversion model, informed by international standards and best practices;
- Inter-Agency Standard Operating Procedures (SOPs) for diversion; and
- A Diversion Pilot Implementation Plan for the selected three locations: Sepang, Seremban, and Port Dickson.

For the Diversion Pilot to function effectively, UNICEF and DSW agreed that Probation Officers would require additional skills to conduct quality risk assessments and develop appropriate intervention plans to address known risk factors. To address this, substantial training and mentoring for Probation Officers was undertaken in the three pilot areas.

The 2001 Act does not currently make any specific provision for the implementation of diversion for children in conflict with the law in Malaysia.¹⁵ Therefore, Cabinet approval was required to authorise the Diversion Pilot in Malaysia. Approval was obtained on 11 September 2019.¹⁶ Following this milestone development, a press statement was issued, announcing the start of the 2-year pilot on 16 December 2019. However, due to the Covid-19 pandemic and the MCO, the diversion pilot was put on hold from 18 March 2020. It resumed on 1 September 2020 and was extended to 31 May 2022.

¹⁴ UNICEF Malaysia (2020) Final Report on the Probation Pilot

¹⁵ Nadzriah Ahmad (2017) Diversion of Child Offenders from the Criminal Justice System in Malaysia and Reforms of the Child Act 2001: Lessons from New Zealand, PhD Thesis, International Islamic University Malaysia (IIUM), Gombak Selangor, Malaysia.

¹⁶ Steering Committee TOR (To include the complete reference here)

2.3 Objectives of the Diversion Pilot

The Diversion Pilot aims to promote children's rehabilitation and prevent offending and re-offending.¹⁷ The diversion pilot serves as an alternative platform for children in conflict with the law that will: (a) provide a second chance for children to take responsibility for their offending behaviour, (b) engage parents and society to provide support systems for children in the rehabilitation process and ensuring compliance, and (c) provide the Court and institutions with resources to ensure targeted rehabilitation services to high-risk children who have committed a more serious offence.¹⁸

The introduction of the Diversion Pilot signals the government's ongoing commitment to reduce the number of children coming into conflict with the law and to prevent children from being detained. The Diversion Pilot aligns with - and is an important activity within - UNICEF Malaysia's Costed Evaluation Plan for 2021-2024. This evaluation will demonstrate the feasibility of the intervention and make recommendations about how to scale up and sustain diversion strategies nationwide.

2.4 Diversion Pilot key stakeholders

A summary of the principal Diversion Pilot stakeholders, the nature of their engagement, roles and responsibilities is provided in the table below. How these stakeholders will be included in the evaluation respondent sample can be found in Annex 4.

Agency	Nature and Level of Engagement	Roles and Responsibilities
Ministry of Women, Family and Community Development	Primary duty bearer National	<ul style="list-style-type: none"> - Chair of the Steering Committee - Coordination with the different agencies
Ministry of Home Affairs	National Primary	<ul style="list-style-type: none"> - Member of the Steering Committee - Provides policy direction to the RMP
AGC National/District	Primary	<ul style="list-style-type: none"> - Exercise discretion on whether to divert - Monitors the timelines of DPPs making decisions
Royal Malaysian Police	National/District Primary	<ul style="list-style-type: none"> - Give a police warning to children for certain cases - Give a stern warning when directed by DPP - Liaise between DPP and DSW - Monitor timelines of police officers in line with the SOPs - Keep a record of cases given police warnings
Department of Social Welfare	National/District Primary	<ul style="list-style-type: none"> - Undertake the Diversion Risk Assessment and case conference with child and parent when instructed by DPP

¹⁷ Para 1.1 of the SOP

¹⁸ Para 1.2 of the SOP

		<ul style="list-style-type: none"> - Develop undertaking to participate in diversion intervention with child - Monitor the child's participation in the diversion intervention - Review child's compliance with the undertaking with child and parent/guardian - Notify the child and parents of the DPP's decision, and follow-up accordingly - Keep a database of cases referred to DSW and monitor timelines of probation officers in line with SOPs
Children who are diverted and their families	Primary rights holders and first-hand beneficiaries of the pilot	
UNICEF International/Development partner	Primary	<ul style="list-style-type: none"> - Guidance, oversight, technical assistance support and leadership for the implementation - Liaison with the government at different levels as and when required - Support for monitoring, evaluation and reporting

2.5 Expected results of the Diversion Pilot

The Diversion Pilot is expected to:

1. Prevent children from suffering negative developmental impacts associated with detention and formal proceedings. It gives them a chance to reassess their behaviour and take responsibility for their actions (e.g., through counselling, rehabilitation, community service work, etc.) without getting a criminal record.
2. Discover the reasons for the offending behaviour and address the child's needs through practical rehabilitation activities. Diversion assists the child and family to access the support they need to address problem behaviours before they escalate.
3. Enable justice sector officials, namely AGC, police and Probation Officers, to deal with cases expeditiously and impose immediate consequences for offending behaviour.
4. Reduce the number of minor and less serious offences clogging up the formal justice system, thus allowing resources to be focussed on repeat or high-risk offenders.
5. Deliver a better rationalisation of scarce child justice resources.¹⁹
6. Contribute to community safety by reducing re-offending.²⁰

¹⁹ Economic costing exercises carried out in other countries have shown that greater use of diversion can significantly reduce the overall costs of the system since it ensures that more expensive formal criminal justice processes are used only in necessary cases.

²⁰ Global evidence from a range of project reviews, evaluations and meta-analyses show that diversion can reduce offending by up to 70% compared to custodial measures depending on the programme's quality. However, it is acknowledged that the re-offending rates in the diversion pilot are likely to be very low, given that most of the cases that will be diverted will be low risk. Still, spill-over effects likely take place, preventing future offenders from re-offending, a hypothesis that should be tested in the evaluation. Re-offending rates are available for pilot areas and the rest of Malaysia from 2017 onwards.

7. Engage the child's family and community in supporting the child's rehabilitation.
8. Contribute to social development, conflict resolution and peace-building efforts through restorative justice approaches. Diversion provides an opportunity for victims to express their views and remorse and places the needs of victims more centrally in the process.
9. Encourage restitution and promote reconciliation between the child, their family, and the victim.

2.6 Diversion Pilot Theory of Change

The Diversion Pilot has no Theory of Change (ToC) or results framework. Therefore, the evaluation team has reconstructed a ToC based on the activities, actors, and intended results of the Diversion Pilot. The ToC was designed after a preliminary review of documents and includes inputs from MWFC and UNICEF during an initial workshop. MWFC will review the ToC before it is presented for validation by the Evaluation Reference Group. Based on further suggestions, the evaluation team will further refine the ToC to ensure it is aligned with the objectives and the essence of the Diversion Pilot.

The theory of change reads as follows:

"If children who have come into conflict with the law are given a second chance and opportunity to properly understand the meaning of their actions; and

If parents and society are engaged to provide a support system for improving the understanding of children for their actions and compliance with their consequences; and

If the standard operating procedures are known and well implemented by the relevant agencies; and

If institutions are facilitated with resources that can provide targeted rehabilitation services to high-risk children who have committed more serious offences;

Then children's rehabilitation and the prevention of offending and re-offending will be promoted; Law enforcement agencies dedicate adequate resources to the diversion solutions and the diversion pilot contributed to community safety & tolerance & reintegration of children in conflict with the law and reduced reoffences.

Main assumptions

The Diversion Pilot is based on the assumption that:

- There is sufficient political will to support the relevant institutions with financial and human resources.
- There are a sufficient number of trained probation officers;
- There exists, or there will be put in place, an official coordination mechanism between the different agencies so information about each child's case can be shared more efficiently and the investigation and case processes can be conducted without too many delays; and
- There are children and families willing to participate in the Diversion Pilot as they understand the process and value the potential for more positive outcomes.

Main risks

Such a pilot is not without risk. Risks are assessed to be:

- There is a lack of implementation of pilot SOPs, including an absence of due diligence in respecting all the steps and adhering to the timelines.
- External factors such as Covid-19, changes in political leadership, and lack of financial support could delay or put the implementation of the Diversion Pilot on hold.
- The key stakeholders have not been fully informed of what the Diversion Pilot entails.
- There is insufficient participation by the key stakeholders (police, DPP, Probation Officers, children, and their families). This includes an unwillingness to implement the SOPs, the financial inability of the children's families to go to the meetings with Probation Officers and go through the diversion process, and a lack of awareness about the Diversion Pilot.
- There may have been staff turnover at pilot sites during the pilot period. New staff may not be aware of SOPs or have been trained.

Scaling up the programme to other districts and states of the country might occur if the pilot is evaluated as a success and the assumptions mentioned above are all met in the other districts and states. The reconstructed theory of change is depicted in Annex 3.

3. Evaluation aims and framework

3.1 Purpose, scope and objectives of the evaluation

As set out in the terms of reference (ToR), the primary **purpose** of the country-led evaluation is: “to produce **reliable, credible and useful evidence** on the implementation of the Diversion Pilot, and in particular on **what is working, what is not working, why and how to improve the pilot** so that it is geared for national scale-up and what (early) impacts children and families have experienced from diversion. The evaluation is expected to help identify lessons, good practices, and innovations of the pilot to inform its scale-up (formative/ forward-looking) and look back into the achievement of expected results of the pilot (summative). The evaluation will assess both programme design and implementation mechanisms, assess its programmatic functionality and capacity to achieve results, capture beneficiary perception and intended behavioural change, as well as capture potential early impacts. On the other hand, the formative and forward-looking component of the evaluation will help UNICEF explore ways to improve its support to the Diversion Pilot scale-up, maximize the value for money of this support, and identify lessons, necessary changes, good practices, innovations and strategic recommendations for strengthening the current implementation, as well as its future scale-up.”

Scope of the evaluation

The evaluation will focus on the period from the start of the pilot in December 2019, taking into consideration a pause in the pilot during the initial Covid-19 lockdown, until the beginning of this evaluation in September 2021. The evaluation will focus on the processes and implementation of the Diversion Pilot and the achievement of expected results, including early impacts. In addition, the evaluation will consider the Probation Pilot as a possible precondition for the successful introduction of diversion.

At a minimum, the acceptance of diversion among rights holders such as community leaders, children, their parents, and duty bearers such as justice service providers will be measured. Building on information from a KAP survey and study undertaken by the University of Malaya Consulting Unit in 2021, the evaluation will also assess the early individual impact on children and their families who have been through the diversion process, as well as the impact on children who are not eligible for diversion.

The evaluation will not measure the final impact on children and their families. However, it will seek to harvest preliminary impact as highlighted in the ToC. It is expected that the real impact will take longer to manifest. Finally, the evaluation will focus on the three locations where the pilot has taken place.

Audience

The primary users of the evaluation include the MWFC, the Diversion Pilot Steering Committee and UNICEF. Given the focus on utility and participation, the evaluation's recommendations will be co-created and validated with the Evaluation Reference Group.

Other users include UNICEF East Asia and Pacific Regional Office (EAPRO) and UNICEF Headquarters (HQ), especially as there is little evidence and few evaluations on diversion. In particular, this is the first UNICEF country-led evaluation of this kind on diversion.

The final evaluation report will not be made public without the consent of MWFC.

Governance

As stated in the ToR, the evaluation will be supervised by the Evaluation Reference Group led by an Evaluation Manager (Evaluation Specialist, UNICEF), in close collaboration with the MWFC and UNICEF Malaysia's Child Protection Specialist and Monitoring & Evaluation Officer. It will be supported by UNICEF EAPRO Child Protection and Evaluation Sections.

Geographical scope

The evaluation will focus on the 3 locations where the Diversion Pilot is being implemented: Sepang, Port Dickson and Seremban. However, interviews will be conducted with essential stakeholders at the national level, mostly in Putrajaya or Kuala Lumpur. Furthermore, to understand the experiences of children who have not gone through the diversion process, the sample will also include children at the Henry Gurney School in Melaka and Sekolah Tunas Bakti.

Time frame

The evaluation will be conducted between September 2021 and February 2022.

Evaluation criteria and questions

The evaluation will be conducted in line with OECD Development Assistance Committee (DAC) evaluation criteria: (a) relevance; (b) effectiveness; (c) efficiency; (d) sustainability; (e) impact; and (f) coherence. The evaluation will comply with UNICEF'S Evaluation Policy 2018, the United Nations Evaluation Group's Norms and Standards (UNEG) 2016, and UNICEF's Global Evaluation Reports Oversight System (GEROS).

As per the ToR, the evaluation team will consider key questions shaped around these criteria as presented below. Further questions and sub-questions are articulated in the evaluation matrix in Annex 1. These are also shaped by the evaluation criteria detailed above but include the two cross-cutting questions. Any deviations from the questions contained in the ToR have been explained.

Key Evaluation Questions

Relevance

1. How does the Diversion Pilot fit with Malaysia's national priorities and strategies, including those of the MWFCDD? How does it fit with UNICEF's national/regional/global priorities?
2. How relevant is the Diversion Pilot to the different stakeholders? Do they support it?
3. Are the Diversion Pilot SOPs and design documents articulated to meet the most pressing needs of children in conflict with the law and their families?
4. How does the pilot fit into the child justice system as a whole?

Efficiency

5. Have services and activities/interventions been efficiently designed and implemented to a high standard? (NB: The design and implementation will be assessed here, which deviates from the original question in the ToR, which only encompassed implementation.) Quality will be measured on the following criteria:
 - Design and implementation
 - Participation
 - Acceptance
 - Changing behaviours and/or social norms
 - Buy-in and ownership
 - Empowering stakeholders
6. Is the pilot achieving the right balance and effort level depending on case complexity? (e.g., is the same time and effort spent on a simple, low-risk case compared to a complex and more high-risk case?)

Effectiveness

7. Have specific programme goals been achieved?

8. To what extent is the Probation Pilot a precondition for meeting the expected programme goals? The answer to this question will be clear on what elements of the probation pilot are essential and why.

Coherence

9. To what extent are there synergies and interlinkages between the pilot and other interventions carried out by the government and between key stakeholders?
 - Do coordination mechanisms between key stakeholders exist? If so, to what extent are they well designed, clear and active? Are there differences in coordination at national or sub-national levels? Has trust been created among partners, and has this enabled achievement of the pilot's objectives?
 - Is there evidence of the formation of strategic partnerships between key stakeholders, and has this led to increased capacity to achieve results?

Impact

10. Has the Diversion Pilot led to a decreased number of children re-offending? If data is not available, this will be assessed by analysing attitudes, motivations and intentions to re-offend.
11. Has there been an impact on the level of acceptance of diversion among community leaders, children and their parents, and justice service providers?

Sustainability

12. Are the Diversion Pilot's infrastructure, implementing capacity and SOPs, and existing/planned resources sustainable in terms of:
 - a. Resources: sufficient physical, human and financial resources. In particular, availability of resources in the absence of UNICEF support;
 - b. Management: vision and leadership; collaboration across agencies; accountability and staff support at all levels, including supervision and mentoring;
 - c. Staff: appropriate number; percentage of their role/time allocated to the Diversion Pilot; ratio to children; job description of staff, appropriate professional level and mix of expertise; education levels; initial and in-service training; opportunities for professional development; adherence to child protection policies and codes of conduct; improvement in 'head, heart, hands' (knowledge, attitudes and practice);
 - d. Policies and procedures (including existing SOPs and data collection systems): developed (in a participatory way); implemented; monitored (for appropriateness and efficiency); updated as per pilot plan. For example, have appropriate record-keeping forms been developed, and are they updated and filed confidentially?
13. Is the diversion pilot scalable and sustainable based on the pilot design and implementation reality? What are the preconditions for scale-up and the preconditions for sustainability? (laws, policies, structures, staff, funding, procedures, monitoring and reporting systems, training etc.). If not, what needs to be modified or strengthened to allow for a nationwide scale-

up? When responding to the questions, take into consideration: management and governance structures, existing SOPs and programme documents, monitoring and reporting systems, staff capacity and readiness to adopt diversion, law and policies, training, availability of resources that do not come from UNICEF support, etc.

Cross-cutting criteria

14. To what extent are sex and age disaggregated data collected and monitored?
15. Were gender, age, disability and background considered in the design and implementation of the Diversion Pilot SOPs? To what extent have local communities, women, youth, People with Disabilities and other disadvantaged groups benefitted from the Diversion Pilot?
16. To what extent has the Diversion Pilot been designed and implemented in line with the human rights-based approach (HRBA)? (The evaluation team has introduced this cross-cutting question to assess compliance with the HRBA).

The team has reviewed the evaluation questions provided in the ToR and the proposed sub-questions to be further explored. Except for those areas highlighted above, the evaluation team concludes that these are appropriate and sufficient to assess a number of elements to determine the pilot's achievements and constraints, performance, results, impact, relevance and sustainability, as well as the potential for scale-up.

In addition, the team has developed a series of indicators to measure progress and are included in the evaluation matrix. After reviewing the existing literature and key evaluation questions, they were created and guided by the reconstructed ToC. Process indicators have been developed and linked to the ToC outputs, while the outcome indicators are connected to the ToC outcome.

In keeping with UNICEF's priorities, the evaluators will apply a human rights-based approach and an equity and gender equality lens to all evaluation criteria. Two additional cross-cutting questions have been included to capture these aspects and are found in the evaluation matrix.

3.2 Evaluation approach and methodology

Overall approach

The evaluation will utilise a **theory-based approach** based on the ToC that has been reconstructed according to the activities, actors and intended results of the Diversion Pilot.

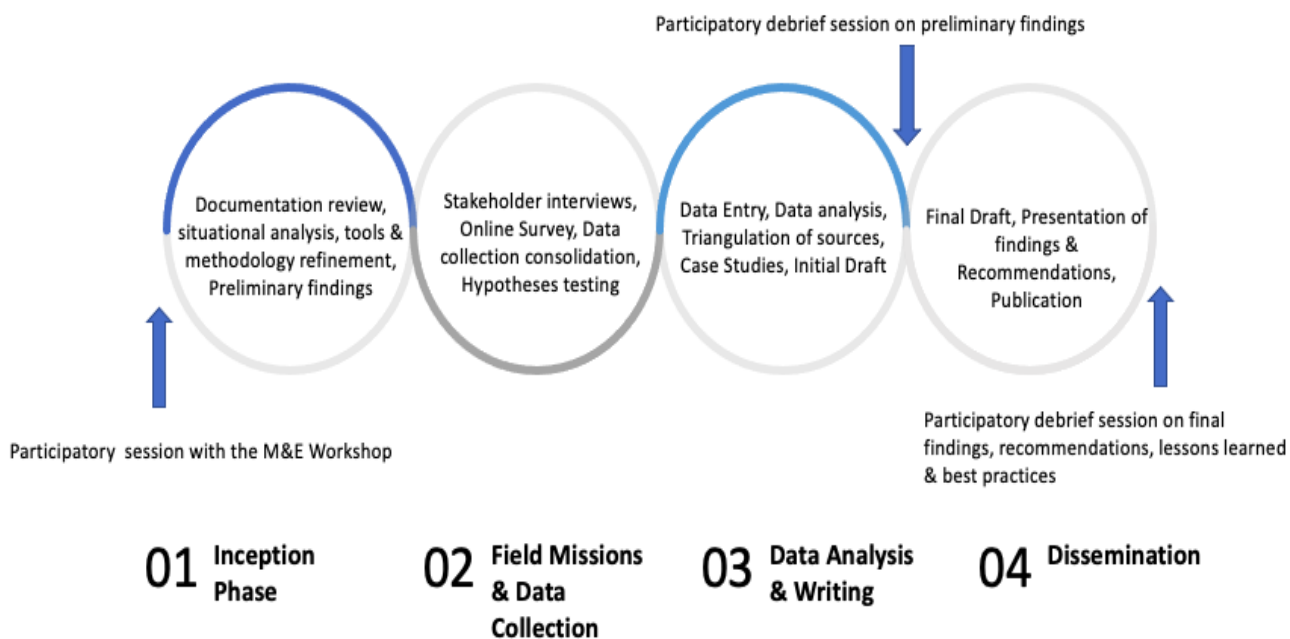
The evaluation will be multi-faceted and will use mixed (qualitative and quantitative) methods as the best approach for meeting the evaluation's needs. The evaluation will be conducted through a participatory and consultative process, including all relevant stakeholders and the pilot partners and beneficiaries. A preliminary debrief of findings will be organized before the final report is drafted. Recommendations will be co-created based on inputs from relevant stakeholders – which, combined with the country-led and participatory approach, will maximise the report's utility.

Annex 2 contains a proposed list of Key Informant Interviews (KII) and Focus Group Discussions (FGDs) with relevant ministries, agencies, police officers, probation officers, public prosecutors, CSOs and UNICEF. It also includes children as rights holders and potential beneficiaries of diversion. The methodological approach has been synthesized into an Evaluation Matrix (see Annex 1), which will guide the evaluation team and provide an analytical framework. The evaluation team will identify a cross-section of data sources to optimise data collection and ensure triangulation. The final list of KII and FGDs will be agreed upon with the MWFC and UNICEF in advance of the data collection phase.

The evaluation team will conduct as many interviews as possible to ensure the integrity and comprehensiveness of the process. This means ensuring representation across different stakeholder types. For interviews, this will be achieved by posing a similar set of questions to multiple interviewees. The data collection tools in Annex 4 give a detailed indication of questions that the evaluation team will ask each group of stakeholders.

Coupled with this, the evaluation team will adopt a political economy analysis that recognizes the local context and the incentives faced by the actors engaged in it - in other words, the internal and external factors that determine success. This approach will help the team understand who seeks to gain and lose from the Diversion Pilot, who has vested interests, and the social and cultural norms that need to be considered. Applying political economy analysis will help answer why things are the way they are: it will help unpack the enabling environment and create a better understanding of the political economy drivers behind justice for children and child protection reform in Malaysia.

The non-linear, sequential methodology for evaluating the Diversion Pilot consists of four main phases:



Phase 1 – Desk research, document review, preliminary M&E training and Inception Report – virtual

Phase 1 focuses on the desk research, document review and preparation of this Inception Report, including the evaluation matrix and the data collection tools and instruments. In addition, Phase 1 has included delivering the first M&E training and reconstructing the ToC. The desk research and document review included: all relevant national strategies and laws, relevant pilot documents related to both the Diversion Pilot and the Probation Pilot, progress reports, contextual reports and studies, as well as the SOPs. A bibliography of sources consulted is provided in Annex 6.

Outputs: Initial M&E Training, reconstructed Theory of Change, submission of Inception Report (containing Evaluation Matrix and Workplan) for review and approval, plus ethical review and clearance.

Phase 2 – Field missions and data collection – virtual and in-person

Phase 2 data collection will form the most intensive part of the evaluation process. The evaluation team will conduct interviews and FGD with relevant pilot stakeholders, as identified in Annex 2.

Depending on the Covid-19 pandemic and the travel restrictions and other measures in November 2021, joint decisions will be made about the most appropriate and ethical ways of collecting data. Some interviews will probably be conducted virtually, at least in the early stages of the data collection. However, assuming that travel restrictions do not return, a national team will conduct in-person data gathering, including visits to all three pilot districts.

All interviews will be undertaken with complete confidentiality and anonymity, and there will be no attribution of comments in the report. Interviews with children will comply with best practices and ethical requirements for conducting interviews with children.

The final list of FGD groups will be agreed upon with MWFCDC and approved by the Reference Group. The evaluation team will try to balance geographical sites, ensuring each of the three sites is represented, as shown in Annex 7.

The evaluation approach will be as *participatory* as possible, given the complex realities on the ground. This will allow an opportunity for stakeholders of the pilot to express themselves – either through FGD or through other means, such as through a de-brief to be conducted after the data-gathering phase. The approach will also try to be *inclusive* and guarantee the effective participation of as wide a range of stakeholders as possible. As with all participatory processes, the key to success is to be flexible and innovative in using appropriate tools and to be willing to adapt to local circumstances. This includes being responsive to the current Covid-19 context and measures and, if necessary, switching to virtual data collection. In addition to being participatory and inclusive, the evaluation team's approach will also be based on the principles of *gender equality*.

Output: Upon conclusion of the data-gathering portion of the evaluation, the evaluation team will debrief UNICEF and the Evaluation Reference Group on its preliminary findings.

Phase 3 – Data analysis and drafting

Phase 3 focuses on analysing and validating the data, findings and recommendations and drafting the evaluation report. Findings will be presented and validated, and recommendations will be based on complete data analysis and triangulation. The evaluation team will prepare a first draft and submit it to MWFCDC and UNICEF for comments. The evaluation team will revise the draft evaluation report, addressing all received comments and suggestions and preparing an updated version of the evaluation report. This report will then be presented to MWFCDC, UNICEF, the Reference Group and children in HGS and STB to co-create recommendations in line with utilisation and participatory approaches. It will then be submitted to the external quality assurance mechanism, after which any comments and suggestions will be addressed, and a revised evaluation report will be prepared and submitted. This report will be presented to the Reference Group for final approval.

The evaluation team will prepare and deliver an online presentation of key findings and recommendations in a participatory workshop. On the basis of discussions arising from the presentation and any comments shared by the Reference Group, the evaluation team will finalise the report.

Phase 4 – Dissemination phase

The evaluation team will produce a 4-page evaluation briefing note in both English and Malay. The note will be designed as a communications tool and use non-technical jargon. It will instead rely on the use of visuals and infographics, including photographs (as appropriate). The team will seek guidance about the nature of this briefing note to accumulate the requested types of visuals during the data collection.

The team will produce a three-minute infographic video to document the rationale, process and outcomes of the Diversion Pilot. This process will comply with the strictest ethical standards. Finally, a debrief with the Evaluation Reference Group and UNICEF will take place. This will be an opportunity to present and validate the findings, recommendations and lessons learned. The debrief will offer participants the space to ask final questions on the evaluation findings and recommendations.

Outputs: Draft evaluation report; revised evaluation report; PowerPoint presentation; final evaluation report, infographic and video summary.

Utility

The purpose of the evaluation is to learn from the past implementation of the Diversion Pilot. This will enable adaptations to be made for future scale-up. Therefore, the utility of the evaluation process and the final report will focus on actionable, co-created recommendations. The evaluation team comprises legal and justice experts, both nationals and international, and evaluation experts. At each stage, we will seek feedback from MWFC and UNICEF to ensure the findings and recommendations thoughtfully balance the proper depth and breadth to equip MWFC and UNICEF to take the recommendations forward. The evaluation team will focus on providing suggestions that can be actioned in the next two years.

3.3 Data collection and analysis methods

Data collection methods

Different data collection tools have been developed and will be used, depending on the Covid-19 context:²¹

- Desk review to systematically interrogate materials to obtain quantitative data and to identify alignment and dissonance between the documented intentions and the documented activities;
- Key Informant Interviews with duty bearers to gather qualitative data from pilot stakeholders and relevant actors – either in-person or virtually;
- Focus group discussions to gather qualitative data from pilot stakeholders and on capturing people's voices – in-person;
- Testimonials/interviews with children who have not been diverted and who are in Henry Gurney Schools or Sekolah Tunas Bakti.

Desk review

The team will use in-depth approaches to systematically interrogate materials generated by the client and broader sources as appropriate. For this evaluation, documents include those listed in the literature review bibliography of sources as Annex 6. When combined, these will identify alignment and dissonance between the documented intentions and the documented activities of the Diversion Pilot in the context of its new ToC.

Key Informant Interviews

Key informant interviews (KIIs) with duty bearers, including the MWFC and other relevant ministries, UNICEF, police, probation officers and CSOs, among others, will be conducted through semi-structured interviews. These interviews offer the space needed to provide additional information that interviewees deem essential for the evaluation and do not necessarily arise through the set questions. At the same time, they provide the parameters for gathering data on pre-selected topics for both aggregation and disaggregation.

A comprehensive eighteen-month review of the Diversion Pilot commissioned by the MWFC and conducted by the University of Malaya Consultancy Unit was published in September 2021. This study contained responses from an online KAP survey (baseline), responded to by 3 DPP, 4 probation officers and over sixty police officers. As it is too early to repeat this survey, a series of qualitative deep-dive questions are included in the interviews and FGD with these stakeholders. By gleaning a deeper understanding of the responses provided in the KAP survey undertaken in May 2021, the evaluation will learn about the opportunities and impediments for making diversion more tailored and effective, will consider whether and how activities have been undertaken to fill the gaps in knowledge, attitudes and practices, and provide a series of recommendations for scaling-up across the country.

²¹ Information pending

A decision about appropriately undertaking in-person data collection methods will be taken following UNICEF's guidelines immediately before the data collection phase.²² UNICEF's Guidelines promote the avoidance of non-essential primary data collection with participants under 18 years, especially during the Covid-19 pandemic. Assuming internal travel within Malaysia and face to face meetings are permitted, participatory data collection adhering to all appropriate ethical protocols will be undertaken in the three main pilot sites. The national team will be trained in the subject matter and data collection methods, especially concerning Covid-safe procedures. Our national team member, experienced in managing teams of researchers in Malaysia, will supervise and mentor the data collectors and assure the quality of the evaluation notes, transcripts, and translations. Key in-person data collection methods that we will use for in-person data collection include:

Focus Group Discussions

FGD with stakeholders throughout the evaluation will bring together diverse views and facilitate a greater understanding of where the convergent and divergent issues are for people. A suggested list of FGD is provided in the stakeholder mapping in Annex 2, while the proposed structure and focus for the FGDs are contained in Annex 4.

Focus group discussions and individual interviews or testimonials with children

Following strict ethical protocols, focus group discussion and interviews (in the form of individual case stories or testimonials) will be conducted with children who have been placed in Henry Gurney Schools or Sekolah Tunas Bakti. These children, both boys and girls ranging from 15-17 years, have not been subject to diversion; however, their opinions about the potential advantages of diversion will reinforce the conclusions, or provide a different perspective to, the information recently gathered by the University of Malaya Consulting Unit with children who have been diverted and their family members. The approach will allow for an analysis of the pathways that different children have followed, and how they are perceived and experienced.

As a measure to ensure that children are involved, to the extent possible, in the co-creation of recommendations for the future development of diversion in Malaysia, focus groups will be convened with the same children at the end of the data collection phase. This will provide an opportunity to present the findings of the evaluation to children, verify their perspectives, and seek their recommendations about the shape of diversion in Malaysia.

*Children who have been through the diversion process and their families will not be interviewed in this evaluation. The study conducted by the University of Malaya Consulting Unit conducted interviews with the very small number (7) children and families who had already completed the diversion process in July 2021. As such, it is deemed inappropriate and unnecessary to interview these children again. Records of children who have been given stern warnings or police warnings are not immediately available and, following consultation with the RMP, because the fieldwork will begin

²² UNICEF, Ethical Considerations for Evidence Generation Involving Children on the Covid-19 Pandemic (April 2020).

in mid-January 2022 it seems unlikely that contact details and permission would be received in time for this evaluation.

Selection criteria

1. The **adults** who will be invited to participate in this evaluation will be selected purposively. Although there are many police officers who may come into contact with children in the justice system, there are relatively few other policy-makers or service professionals (DPP, probation officers, social welfare officers, law enforcement professionals, NGO staff) who have been involved in the pilot to date. The adults participating in this evaluation comprise the key stakeholders who have been involved in the design, management and implementation of the Diversion Pilot.
2. **Children** will be selected and invited randomly to participate in focus group discussions. The following process of selection will be applied:
 - The evaluation team will create a comprehensive but simple child-friendly package of information to share with children at each of the selected HGS or STB. The information will describe in English and Malay the nature and content of children's possible involvement in FGD.
 - The evaluation team will make a visit to the school prior to the interviews, ideally one week beforehand, to explain the purpose and process of interviewing children to a pre-selected focal point from each school. This focal point will then be assigned the task of explaining how and why children might be involved in the evaluation (clarifying at this early stage that not all volunteers can be included) and seeking volunteers to put their names forward.
 - The focal point will then be requested to provide a list of all child volunteers, disaggregated by sex (in the case of mixed schools) and age. Specifically, where possible, schools will break the age groups into (i) 15 and 16 year olds, and (ii) 17 year olds.
 - The evaluation team will assign each name a number or identifying code. Through a random and anonymous process of selection, the evaluation team will select ten children for each focus group discussion. In order to ensure that these children do indeed still wish to participate, the usual informed consent processes will be undertaken at the focus group discussion.
 - The evaluation team will ensure that those who have not been randomly selected are informed in a respectful manner, reducing the likelihood that individual children feel excluded.
3. **Children** who will be interviewed individually will be selected by the focal point (or other staff) at the school. The evaluation team will develop a short set of criteria to guide the focal point in their selection process, ensuring that the focal point guarantees genuine voluntary participation.

Analysis methods

As stated elsewhere, this is a theory-based evaluation, which uses the reconstructed theory of change to provide a framework for designing and conducting the evaluation. The overall evaluation design is a theory-based evaluation, which seeks to test explicit or implicit programme theories of change and expected outcomes against actual results achieved. The only way to assess the impact of the development interventions without having integrated an experimental or quasi-experimental, randomized project design with a clear counterfactual and an impact evaluation study in the project from the start is to clearly identify project theories of change and the hypothesized causal change mechanisms and to gather evidence as to whether and to what extent the project theory holds. It is crucial to evaluate the outcomes, how they came about, and to what extent the project contributed to them. This evaluation will follow such a theory-based evaluation design. Theories of change map out the change pathway from one or several project interventions to the expected outcomes, including the intermediate, smaller changes that need to happen for broader change to occur. Every project has a theory of change, whether it is implicit in the design or explicitly identified. Well-designed interventions clearly spell out their theory of change and discuss how the project interventions achieve the desired outcomes through the theory of change.

The project theory of change will identify key intermediary steps and change mechanisms that are supposed to lead to the ultimate outcome. To that end, the evaluation team has reconstructed a ToC identifying the activities, the outputs, the outcomes, assumptions, challenges, success factors, and the key stakeholders involved in the Diversion Pilot. The theory of change helps assess how the Diversion Pilot contributed - or not - to achieving the expected outputs and outcomes. To complement the theory of change approach, the evaluation process includes the following analytical methods:

- Political economy analysis;
- Scalability analysis;
- Quantitative and qualitative data analysis;
- Data synthesis;
- Triangulation; and
- Verification and validation.

Political Economy Analysis

A political economy analysis will help the evaluation team to understand who seeks to gain and lose from the pilot's interventions, as well as to identify who has vested interests and the social and cultural norms that need to be taken into account. The stakeholder analysis will be expanded upon to identify the 'stake' that organizations or partners have. This analysis will be integrated throughout the final report.

Scalability analysis

An important analytical element that complements the theory-based approach is the focus on scalability of the initiatives. In particular, the evaluation will assess which elements of the probation pilot are, or are not, prerequisites for the introduction and success of diversion. The evaluation will aim to identify what scaling up means for diversion in the specific context, and according to MWFC, UNICEF and other stakeholders. The evaluation team will work with MWFC and UNICEF to identify the specific characteristics and criteria that will inform an understanding of the ability for the pilot

learning to translate into scaling, including the necessity or not of aspects from the probation pilot. Because the scope of the evaluation does not include data collection outside the three pilot locations for both probation and diversion, the evaluation team will seek to obtain statistical data on the number of trained probation officers and their geographical spread and will cross-reference this with locations where diversion has been used. It will also consider the potential impact of turnover of trained probation officers on diversion processes. Sub-questions in the evaluation matrix are identified where they are relevant to how the pilot achieves results, and in what context. These are, therefore, the priority for understanding the opportunities and limitations for replicating or scaling the pilot. The basic schema used for analysing the potential for scale-up is provided in Annex 5. This provides the overarching framework that will be applied to assessing the potential for the Diversion Pilot to be scaled up. In the context of scalability the evaluation team will consider a number of different factors, including whether the Diversion Pilot addresses an identified need; the pilot's M&E framework and the processes and outcomes of scale-up; expertise and an assessment of the thematic and geographical fit, technical expertise and resource availability; capacity and the enabling environment – including the existence of a Probation Pilot - as a precursor for a decision to progress, which is affected by political will and commitment from government counterparts, partners, the community and UNICEF; and the potential impact of scale-up. These factors are already incorporated into the evaluation matrix and data collection tools and instruments.

Quantitative and qualitative data analysis

Most of the primary data collection methods (interviews and FGDs) will collect qualitative data, with quantitative data being provided as part of the literature review. This will be analysed using MAXQDA in which the code structure will be aligned to the key evaluation questions, sub-questions and indicators. The qualitative data from the primary data collection methods will be cross-referenced with other sources such as documents. The survey results will provide a mix of qualitative and quantitative responses. The qualitative responses will be analysed in MAXQDA as above. The quantitative data will produce descriptive analysis (rather than more complex regressions). If there is useful disaggregation, for example between categories or respondents or location, the analysis will show these, providing there is no risk of re-identification of respondents (this can occur with small-sized samples).

Triangulation

Triangulation is the process of using multiple data sources, data collection methods, and/or theories to validate research findings. We are using more than one approach (data collection method) to address the evaluation questions to reduce the risk of bias and increase the chances of detecting errors or anomalies. We are applying three approaches to triangulation: triangulation (checking the consistency of findings generated by different data collection methods); interrogating data where diverging results arise; and analyst triangulation (using multiple team members to review findings, allowing for a consistent approach to interpretive analysis).

Data synthesis

The process of bringing all the evidence together to synthesize the data and formulate findings and conclusions occurs in two ways. The first is the process of articulating the main findings and cross-checking the strength of the evidence for each. Based on this, the conclusions are then developed and cross-checked across the team members for their relevance to the findings.

Verification and validation

The above steps incorporate verification and validation of evidence during the data collection and data analysis processes. In addition, there is a further step to validate the findings based on the evidence through a participatory validation workshop with key stakeholders and the UNICEF Country Office. This is an opportunity to share key findings, offer mutual challenge, and discuss the feasibility of and receptiveness to draft recommendations. It also provides a significant opportunity to foster buy-in to the evaluation process particularly for the stakeholders responsible for implementing recommendations.

Finally, these different analytical tools help the evaluation team draw the connections between the expected pathways of change to the different outcomes of the Diversion Pilot. In addition, the collected data will help draw conclusions on the activities' contribution to achieving the outputs and the objectives of the Diversion Pilot. The final report will present how these activities and outputs contributed to each outcome or not.

Sampling methods for qualitative and quantitative data collection

Sampling will necessarily be purposive rather than representative as the evaluation methodology is primarily based on qualitative data collection methods, complemented by secondary qualitative data where available. This means that we will speak with various stakeholders who have experienced the pilot in operation within each of the three pilot areas.

The Reference Group and UNICEF proposed a list of stakeholders in the ToR. It has been reviewed and revised, and a suggested sample can be found in Annex 2.

We want to ensure the inclusion of participants from each of the three pilot areas. The evaluation team will use a sequencing approach to conduct the interviews to ensure data gaps are closed and the information collected helps answer the EQ. We will also use the baseline data that the terms of reference mention. A proposed work plan for the interviews is proposed in the section below.

3.4 Methodological limitations and attribution of results

Challenges and limitations

When designing the evaluation, the evaluation team identified a number of possible challenges. These are briefly outlined below, with mitigating strategies to be used by the team.

Key data gaps

Data is critical to enable the monitoring and evaluation of the Diversion Pilot. In the Probation Pilot, data was provided to UNICEF which enabled regular updates to DSW on the progress of the Pilot, the identification of potential issues impacting on the pilot and data that contributed to the validation of the Diversion Risk Assessment tool.

The UNICEF Lead Consultant who provided technical assistance to the DSW-led Probation Pilot established a similar data set for the Diversion Pilot to be completed by Probation Officers. The data set included:

- Form 2 Request for Diversion Risk Assessment: capturing general demographic information about the child, the alleged crime and key dates
- Form 3 Diversion Risk Assessment: detailing risk factors
- Form 5 Diversion Risk Assessment Report: outcomes on the assessment and recommendation for diversion
- Form 6 Diversion Undertaking: information about the diversion plan and the undertakings by the child;
- Form 7 Diversion Progress: progress update on the child's progress.

At the time of writing, apart from forms 2 and 3, the data set is incomplete. Limited data has been entered since October 2020. There is information on 51 cases in Form 5 and information on 5 cases in Form 6. Additionally, as at October 2021, there have been 7 stern warnings and 569 warnings. Data is limited in relation to referrals to DPP and the outcomes of these referrals. Data from the DPP on their acceptance or refusal of diversion recommendations amount to 13 cases. There is no data provided by the Courts that would allow the review to show whether there has been a reduction of the number of children in the formal justice system. The absence of this data will present difficulties in being able to assess the impact of diversion on children and the viability of scaling up the pilot. Finally, financial data will be provided and an analysis of the budget and allocation of funds and delivery will be undertaken at that stage. While it was not expected that, at inception phase, analysis of budget data would have been undertaken, except to assess to what extent each evaluation question can potentially be answered with the information obtained, this information will be crucial for assessing the cost-implications of scaling up the pilot. It is anticipated that the expenditure data will be available shortly.

The evaluation team will seek to mitigate any gaps in quantitative data through the systemic integration of quantitative and qualitative methodologies and methods at all stages of the evaluation. By using a mixed methods approach, the evaluation team will be able to overcome any gaps or weaknesses that are inherent in each data collection method when used alone. This will allow for sufficient triangulation between different data sources and will also increase the credibility of the

evaluation findings, when information from different data sources converges. This can help to deepen the understanding of the Diversion Pilot, its effects and context.

A second potential limitation relates to the ongoing challenges of data collection in Malaysia. At the current time, much research is still being collected **remotely using virtual tools**. **If this remains an issue during the evaluation**, stakeholders may not have access to online methods of communication and the Internet. If it is necessary to conduct online meetings, the evaluation team will do their best to schedule appointments - and reschedule if necessary - and be as accommodating and flexible as possible. Once interviews are organized, the evaluation team will reassure interviewees that the sessions are confidential and anonymous and will facilitate a conducive atmosphere to allow participants to speak freely and openly.

Thirdly, the evaluation team may be faced by some key biases, including the following:

- **Recall bias:** UNICEF has and is conducting a number of projects in Malaysia, and it is quite possible that key informants may not accurately remember specific intervention activities under the Diversion Pilot – in particular, this could get confused with the Probation Pilot. A similar problem could be that participants in multiple UN activities may blend their experiences into a composite memory or response and, subsequently, will not distinguish between them as separate activities in their responses. The evaluation team will primarily mitigate this bias through a semi-structured interview protocol to help focus recall with questioning specific activities.
- **Response bias:** Informants may give the team positive remarks about the pilot because they would like to stay involved with the intervention in the future, and they perceive that a negative evaluation could mean the end of pilot opportunities. The team will adopt two main strategies for mitigating this bias. First, it will stress confidentiality and explain the team's independence from both the UN and the pilot. Second, as with recall bias, questions designed to elicit specific examples will help to identify response bias.
- **Selection bias:** Key informants referred to the evaluation from UNICEF or implementing partners could mean that the evaluation team hears only from people who had positive experiences. As with the other forms of bias, multiple data sources and questions eliciting specific examples will help mitigate the risk of this bias.

3.5 Ethical considerations

The evaluation will observe the ethical principles and standards set by UNICEF, Child Frontiers and IOD PARC. This starts with the principle of 'Do no harm'. The ethical code of conduct used in this evaluation adheres to recognized ethical frameworks for conducting evaluations with potentially vulnerable populations, including field visits, and has been previously used in UNICEF evaluations in many countries. A copy of the ethical code of conduct can be found in Annex 7. The ethical protocols are based on international guidelines for all contexts:

- UN Evaluation Group Ethical Guidelines for Evaluation, 2008;
- UN Evaluation Group Code of Conduct for Evaluation in the UN System, 2007;
- UNICEF Procedure for Ethical Standards in Research, Evaluation, Data Collection and Analysis, 2015;
- Department for International Development (FCDO), Ethics Principles for Research and Evaluation, 2011; and
- Economic and Social Research Council (ESRC) Framework for Research Ethics Principles, 2012.

This means that the evaluation team will uphold the appropriate obligations of evaluators, including maintaining the independence, impartiality, credibility and accountability of the individual team members and the evaluation process as a whole. The evaluation team is not subject to any conflicts of interest and will confirm at the reporting stage whether they were able to carry out the evaluation without any undue interference.

The data collection team comprises both international and Malaysian members. The internationals will conduct interviews with adult, senior policy makers virtually (using Zoom) and will not travel to Malaysia for this assignment. The Malaysian team conducting face-to-face interviews and FGD with children and adults is led by Dr. Nadzriah binti Ahmad, Senior Lecturer and Chairperson of the Child Law Centre, Faculty of Law, Universiti Teknologi MARA. Dr. Nadzriah Ahmad has conducted research with children in the justice system for the past decade and has supervised research teams in the kinds of correctional facilities and approved schools that are subject to this evaluation. The small team of 4 data collectors are professors and PhD students at the law faculty and are experienced researchers. To ensure they fully comply with the strict ethical and health protocols of this evaluation, a two-day training will be conducted before the data collection begins.

The evaluation team will adhere to UNICEF's expectations for approval by a formal ethical review board (ERB), according to the 'UNICEF Procedure for Ethical Standards in Research, Evaluation, Data Collection and Analysis'. The requirement of ERB approval is automatically triggered when there are any human subjects included. This is particularly important for community members or disadvantaged or vulnerable populations. Still, equally, the evaluation team has responsibilities to all persons who participate in data collection, including those who act in an official capacity. This evaluation will include a wide range of pilot stakeholders, including representatives from sectors such as education, justice, human rights, child rights, health and social protection, development cooperation partners, civil society, and UNICEF. Therefore, the evaluation methodology and protocols will be submitted to UNICEF's selected Ethical Review Facility, the Washington-based group Health Media Lab (HML), for approval.

Informed consent protocols are included in Annex 7. These comprise guidance for interviewers regarding managing referrals if a respondent becomes upset or distressed, or if there is a disclosure of current or historical abuse.

Annex 8 presents the certificate of ethical approval.

Data management

We take a Responsible Data Lifecycle approach (Oxfam 2017²³ and USAID 2019²⁴) to managing client and evaluation participant data, which is in line with UNICEF's Procedure (2015). This applies to both personally identifying information and the content of interviews, focus group discussions, and surveys. In line with our Data Protection Policy and Ethical Code of Conduct, we avoid collecting any personally identifying data. If it is necessary to collect such information, we protect individuals by holding the data on encrypted hardware and anonymizing it at the earliest opportunity. We understand that personally identifiable information refers to data such as someone's name, address and contact details, but it also refers to combined data such as a job title within an organization or descriptive characteristics of individuals and their circumstances.

Within this evaluation, we will specifically ensure the following:

- **Confidentiality:** participants' anonymity will be protected, and all participants will be assured of the confidentiality of any information they share with us;
- **Preventing disclosure of identity:** we will take appropriate measures to prevent an individual's data from being published or otherwise released in a form that would allow any subject's identity to be disclosed or inferred;
- **Informed consent:** we will seek informed consent from all participants and ensure that participants have the contact details of the evaluation team so that they can withdraw or change their consent at any time;
- **Data security:** our data is kept secure on our servers; once analysed, all data is anonymized. We destroy all personal data within six months of the completion of a project. Only team members will have access to password-protected folders containing participant data for the duration of the project. Raw data (for example, interview transcripts) are stored in a protected folder in Child Frontiers' document sharing site on the secure server. This folder is accessible only by the evaluation team. The evaluation team and all users of the shared folders have signed confidentiality and data protection agreements; and
- **Ensuring accessibility to groups with specific needs:** we will ensure our information is produced in formats that are accessible, such as in large print, suitable language, or audio if needed. We will also ensure that the timing and length of focus groups meet people's needs. For example, if there is a requirement to include carers or family members in focus groups or interviews, we will accommodate this.

²³ Responsible Data Management Toolkit available at: <https://policy-practice.oxfam.org/resources/responsible-data-management-training-pack-620235/>.

²⁴ Considerations for Using Data Responsibly at USAID available at: www.usaid.gov/responsibledata

Step	Output / Activity / Deliverable	Completion date
PHASE 1a: INCEPTION		
1	Initial M&E workshops	Sept 15 th , 2021
2	Literature review	Sept 30 th , 2021
3	Development of TOC	Oct 4 th 2021
4	Draft Inception Report (English) <ul style="list-style-type: none"> - Submitted to MWFCO & UNICEF - MWFCO & UNICEF review and return - Re-submitted to UNICEF CO, RO, RG - MWFCO & UNICEF review and return - Ethical clearance and finalisation 	Oct 4 th 2021
		Oct 11 th 2021
		Oct 18 th 2021
		Nov 1 st , 2021
		Nov 10 th , 2021
5	2 hr RG Workshop: PPT Presentation (English and BM) & review of Inception Report	Proposed: Afternoon of Oct 26 th 2021
6	Inception Report (approved) <ul style="list-style-type: none"> - Deliverable 1: Inception Report (English) - Deliverable 1: Inception Report (BM) 	Nov 10 th , 2021
		Nov 22 th 2021
PHASE 1b: M&E TRAINING		
7	Delivery of M&E training #2 (TBD) <ul style="list-style-type: none"> - Deliverable 2: Two-day training on M&E 	Mid-November 2021
PHASE 2: DATA COLLECTION & ANALYSIS (to be revised as of Jan 2022)		
8	Fieldwork planning and training	Nov 15 th 2021
	Interviews and field visits	Dec 31 st 2021

9	<p>Data analysis</p> <ul style="list-style-type: none"> - Emerging findings report and PPT submitted to MWFCO & UNICEF - 2-hour meeting + presentation in workshop RG - RG, MWFCO and UNICEF review and return - Deliverable 3: Emerging findings – 10 pages + PPT 	<p>Jan 17th 2022</p> <p>Proposed: Jan 25th or 26th</p> <p>Jan 31st 2022</p> <p>Jan 31st 2022</p>
10	<p>Report drafting (including review by RG)</p> <ul style="list-style-type: none"> - Submitted to MWFCO & UNICEF - MWFCO & UNICEF review and return - Re-submitted to UNICEF CO, RO, RG - 2 hr meeting & presentation to RG - MWFCO & UNICEF review and return - Report finalised <ul style="list-style-type: none"> - Deliverable 4: PowerPoint presentation of the report - Deliverable 5: Final report – 50 pages 	<ul style="list-style-type: none"> - Feb 14th 2022 - Feb 21st 2022 - Feb 28th 2022 - Proposed: 7th March 2022 - March 11th 2022 - March 18th 2022 <p>March 7th 2022</p> <p>March 11th 2022</p>
PHASE 3: PRESENTATION AND COMMUNICATIONS		
11	<ul style="list-style-type: none"> - Version 1 – Infographic and video summary submitted to MWFCO & UNICEF - MWFCO & UNICEF review and return - Version 2: Final version submitted to MWFCO & UNICEF - Deliverable 7: Infographic, video summary (English and BM) 	<p>March 11th 2022</p> <p>March 18th 2022</p> <p>March 25th 2022</p> <p>March 25th 2022</p>

Data collection and fieldwork plan

The team will develop the fieldwork plan once the inception report has been finalised and approved. Broadly, the following timeframes are proposed:

- Week 1, 2 & 3: Interviews with all relevant duty bearers
- Week 3,4 & 5: Interviews with beneficiaries and international partners.
- Week 6,7 & 8: Interviews with experts and NGOs.

The team members will divide amongst themselves the stakeholders taking into considerations language limitations.

3.6 Logistics, roles and responsibilities

UNICEF's management of the evaluation

Although this is a Country-Led evaluation, UNICEF will support the management of the evaluation. It will be supervised by an Evaluation Management Team, which includes the MWFC and is led by an Evaluation Manager (Evaluation Specialist, UNICEF), in close collaboration with the MWFC and UNICEF Malaysia Child Protection Specialist and Monitoring & Evaluation Officer. It will be supported by UNICEF East Asia and Pacific Regional Office (EAPRO) Child Protection and Evaluation Sections. The evaluation is guided and steered by the Reference Group, which comprises key agencies in the Steering Committee.

UNICEF will support the evaluation by facilitating introductions to pilot stakeholders, providing key documentation, actively engaging in the process, and liaising closely with the external evaluation team leader. UNICEF's Evaluation Manager will arrange for external quality assurance of key deliverables.

The evaluation team

The evaluation team will be relatively self-sufficient in managing the evaluation process, appreciating UNICEF's support to introduce the team to key pilot stakeholders and provide critical documentation. There may be cases where UNICEF facilitation is required, for example, formal introductions as official protocol for meeting with stakeholders. Still, otherwise, the evaluation team will manage the majority of communications with stakeholders. The evaluation team will follow up to organize and confirm the interviews and scheduling.

The team composition reflects the needs expressed in the ToR. IOD PARC has also drawn on the support of a Research Assistant.

The team selected for this assignment is a blend of both international and national consultants. The leading team members offer complementary technical and substantive expertise, with many years of

practical experience in conducting evaluations and reviews of child justice systems (children in conflict with the law and child victims and witnesses). The team is experienced in working with government ministries, UN agencies (notably UNICEF), and civil society agencies to assess and build the capacity of child justice systems. Collectively, our justice specialists can apply their technical legal knowledge to UNICEF’s programming protocols for project evaluation, theory of change, results frameworks, human rights and gender-sensitive programming, and ethical standards.

Our national team lead is a recognised expert in child justice reform in Malaysia, including diversion. The team will ensure that the evaluation is fully contextualised to the Malaysian political and social situation, guiding the international experts on the history of justice reforms and acting as the liaison between government agencies, UNICEF and the international team. The team can work fluently in English and Malay.

Team structure and roles

Person	Role and responsibility
Guy Thompstone, Thailand	Focal point for the contract, overall oversight, support to evaluation design, and overall quality control.
Emmanuelle Diehl, Spain and Joanna Brooks, Serbia	Evaluation & Legal Experts: Responsible for the theory of change, methodological design and drafting of tools, implementation of the evaluation, data analysis, drafting and presentation of the report as well as developing and conducting the M&E trainings.
Leisha Lister, Australia	Child Justice and Diversion Expert: Responsible for providing technical expertise to the design and implementation of the evaluation, data analysis and drafting of the evaluation report.
Dr. Nadzriah binti Ahmad, Malaysia	Child Justice and Diversion Expert: Responsible for providing technical expertise to the design and implementation of the evaluation, data collection and analysis and drafting of the evaluation report.
Joy McCarron, France	Researcher at IOD PARC who will provide research support for the evaluation and additional support as required.

3.7 Quality assurance

Child Frontiers and IOD PARC have well-established approaches to evaluation quality assurance, which will provide the team with tools and processes to document and maintain a high standard throughout the evaluation cycle. We are well-versed in United Nations Evaluation Group (UNEG) standards and guidelines and have built our approach to quality control systems on our foundation as a centre of excellence in the provision of both innovative and pragmatic M&E assistance. Clients include organizations such as UN agencies and bilateral donors (including UNICEF's GEROS, FCDO's EQUALS, WFP's DEQS, and UN Women's GERAAS). The team has been introduced to IOD PARC's quality assurance approach from the planning stage. For this evaluation the inception and evaluation reports are also assessed against UNICEF quality assurance standards and frameworks.

Quality assurance mechanisms will inform both key points in the consulting cycle (e.g. the development of outputs) and the ongoing processes (e.g. our overall project management).

UNICEF's standards will be followed and adhered to according to the quality review checklists used for external quality assurance. For example, this inception report has been constructed according to the expectations and requirements for the Quality Review Checklist for Inception Reports. And the full draft of the report was checked carefully against the checklist on its completion. Similarly, the evaluation report will be developed using the quality review checklist for evaluation reports and re-checked against the criteria on completion.

Annex 1: Evaluation Matrix

Evaluation criteria and questions	Evaluability assumptions	Indicators	Data sources	Data collection methods	Data analysis methods
Criterion: Relevance					
<p>1. How does the Diversion pilot fit with Malaysia’s national priorities and strategies, including those of the MWFCDC? How does it fit with UNICEF’s national/regional/global priorities? Are there linkages with the SDGs?</p>	<p>The real problems and needs of pilot target groups can be identified through UNICEF documentation, including research and assessments, context analysis and validated through KIIs and FGDs.</p> <p>The broader local, national and donor priorities can be identified through both UNICEF’s processes and through documentation which can be validated through KIIs.</p>	<ol style="list-style-type: none"> 1. Needs assessments conducted by UNICEF/partners at design stage 2. Context and stakeholder analysis conducted at pilot design stage and updated throughout the project cycle 3. Participation of population-level stakeholders, including the most vulnerable, in needs assessments 4. Malaysia priorities incorporated into project strategic planning 5. Partner priorities incorporated into project strategic plans 	<ul style="list-style-type: none"> • Internal (UNICEF) and external documents of research and governmental institutions • Current/recent socio-economic analyses • Logic chain • Needs assessment/s • Theory of change rationale and documentation • Project staff within UNICEF, donors, beneficiaries, 	<ul style="list-style-type: none"> • Desk review • KIIs • FGDs 	<ul style="list-style-type: none"> • Desk review comparative analysis of national strategies, SDG reports, etc. • Content analysis of interviews for evidence of alignment with plans, strategies and effectiveness of same • Political economy analysis • Triangulation

	The formulation of the project design can be traced, including the extent to which the project design and implementation were informed by consultations and evidence.		CSO implementing partners, governmental stakeholders, and others benefiting from project activities		
2. How relevant is the Diversion Pilot to the different stakeholders and beneficiaries? Do they support it?	Data collection methods can be facilitated so that stakeholders and beneficiaries are open about their views.	<p>6. Respondents report strengths and any gaps in the pilot.</p> <p>7. Respondents identify factors that make the pilot more or less relevant to them.</p>	<ul style="list-style-type: none"> Any pilot and UNICEF documentation that reports stakeholder and beneficiary views, including the baseline survey. Stakeholders and project beneficiaries. 	<ul style="list-style-type: none"> Document review KIIs, FGDs 	<ul style="list-style-type: none"> Qualitative triangulation between data sources and methods. Comparison of baseline and endline findings. Qualitative analysis.
3. Are the Diversion Pilot SOPs and design documents designed to meet the most pressing needs of children in conflict with the law and their families? Have these been developed according to	Design documents provide the basis or rationales for the pilot priorities and activities.	8. Rationale provided in pilot documents evidence needs assessments, SitAns and/or international good practices.	<ul style="list-style-type: none"> Pilot and UNICEF documentation, and international good practices. 	<ul style="list-style-type: none"> Document review KIIs 	<ul style="list-style-type: none"> Qualitative triangulation between data sources and methods. Corroboration of materials

<p>global/regional best practices on diversion? Are interventions designed in accordance with the type and risk level of potential offences? Have these been developed taking into consideration the implementing capacity of relevant stakeholders?</p>		<p>9. International good practices are justified and adapted to the local context(s).</p>	<ul style="list-style-type: none"> • UNICEF and stakeholders. 		<p>rationale with key informants to understand the justifications.</p>
<p>4. How does the Diversion Pilot fit into the child justice system as a whole?</p>	<p>Links, synergies and complementarities are both perceived and real.</p>	<p>10. The child justice system incorporates (or can incorporate) the pilot programme.</p>	<ul style="list-style-type: none"> • As above, plus national/ regional strategies/ plans related to the justice system with specific reference to child justice. • UNICEF and stakeholders (gov, non-gov), implementing partners and frontline staff. 	<ul style="list-style-type: none"> • Document review • KIIs 	<ul style="list-style-type: none"> • Qualitative triangulation between data sources and methods. • Corroboration of materials rationale with key informants to understand the justifications.
<p>Criterion: Efficiency</p>					
<p>5. Are services and activities/ interventions being efficiently designed and implemented to a high standard? (NB: The design</p>	<p>Global and regional good practices can be applied,</p>	<p>11. Number and quality of activities/ interventions which have been developed,</p>	<ul style="list-style-type: none"> • Pilot documentation including 	<ul style="list-style-type: none"> • Document review. • KIIs 	<ul style="list-style-type: none"> • Comparative analysis of desk review documents on

<p>as well as the implementation will be assessed here, which deviates from the original question in the ToR, which only encompassed implementation.) Quality will be measured based on the following criteria:</p> <ul style="list-style-type: none"> o Design and implementation o Participation o Acceptance o Changing behaviours and/or social norms o Buy-in and ownership o Empowering stakeholders 	<p>contextualised for the local realities.</p>	<p>implemented (in a timely manner with appropriate frequency and within agreed timelines), monitored and updated as per the pilot plan and SOPs</p> <p>12. Beneficiaries: are services and activities reaching the intended number and type of beneficiaries?</p> <p>13. Degree to which inputs used for the pilot (funds, expertise, natural resources, time, etc.) were converted into outputs and short-term outcomes in the most cost-effective manner possible, as compared to feasible alternatives in the context</p>	<p>monitoring reporting.</p> <ul style="list-style-type: none"> • UNICEF and stakeholders (gov, non-gov), implementing partners and frontline staff. • Children. 		<p>resource management</p> <ul style="list-style-type: none"> • Content analysis of interviews, FGDs and/or Survey to identify evidence of satisfaction with funding levels in UNICEF and partners • Triangulation
<p>6. Is the pilot achieving the right balance and effort level depending on case complexity? (e.g., is the same time and effort being spent on a simple, low risk case compared to a</p>	<p>This granularity of data is available or can be self-reported by stakeholders.</p>	<p>14. The extent to which interventions are individually tailored to each case.</p>	<ul style="list-style-type: none"> • Pilot monitoring data. • UNICEF and stakeholders (gov, non-gov), 	<ul style="list-style-type: none"> • KIIs 	<p>As above</p>

<p>complex and more high-risk case?)</p>			<p>implementing partners and frontline staff.</p> <ul style="list-style-type: none"> • Children. 		
<p>Criterion: Effectiveness</p>					
<p>7. Have specific programme goals been achieved?</p> <ul style="list-style-type: none"> - To what extent have children been diverted to civil life away from delinquency and criminal behaviour? - Has the diversion pilot allowed for the allocation of resources into offences of a more serious nature? - Are families, communities and relevant stakeholders informed about the Diversion Pilot? - Are the SoPs well known and well implemented by the relevant stakeholders? - What coordination mechanisms exist between the relevant government agencies? - Do children and their families want diversion? 	<p>Pilot monitoring data is available and can be augmented by key informant insights.</p>	<p>15. Reduction in the number of children in pre- or post-trial detention;</p> <p>16. Increase in the use of diversion;</p> <p>17. Increased use of appropriate interventions that is matched to the risk level of each child;</p> <p>18. Increased availability of and access to appropriate interventions for diverted children at the institutional (e.g., DSW) and community levels (e.g., faith based organizations, community, NGO, etc.)</p> <p>19. Improved coordination and cooperation between stakeholders (government and civil society);</p>	<ul style="list-style-type: none"> • Pilot monitoring data. • UNICEF and stakeholders (gov, non-gov), implementing partners and frontline staff. 	<ul style="list-style-type: none"> • Document review. • KIIs 	<ul style="list-style-type: none"> • Comparative analysis of desk review documents covering progress achieved • Content analysis of interviews, FGDs and/or Survey for evidence of contribution towards change • Triangulation

		<p>20. Increased number of children consenting to participate in programmes without duress);</p> <p>21. Increased number of children who successfully complete the diversion interventions;</p> <p>22. Children being treated equally when authorities make decisions to divert them (e.g., social background, types of offence, age, ethnicity, gender)</p> <p>23. Existence of a monitoring data collection system that informs programme objectives</p>			
<p>8. To what extent is the probation pilot a necessary precondition for meeting the expected programme goals? This will also consider what elements of the probation pilot are essential and why.</p>	<p>The pivotal role of the probation pilot can be isolated and confined.</p>	<p>24. The extent of the link(s) between the factors within the probation pilot and the expected Diversion Pilot project goals are traceable in theory and practice.</p>	<ul style="list-style-type: none"> • Theory of change • UNICEF and stakeholders (gov, non-gov), implementing 	<ul style="list-style-type: none"> • KIIs • Observations 	<ul style="list-style-type: none"> • Comparative analysis of desk review documents on resource management

			partners and frontline staff.		<p>Content analysis of interviews, FGDs and/or Survey to identify the extent to which the probation pilot components affect the Diversion Pilot.</p> <ul style="list-style-type: none"> • Triangulation
Criterion: Coherence					
<p>9. To what extent are there synergies and interlinkages between the pilot and other interventions carried out by the government and between key stakeholders? Are there differences in coordination at national or sub-national levels? Has trust been created among partners and has this enabled achieving the Pilot's objectives? Is there evidence of formation of strategic partnerships between key stakeholders and has this led to increased capacity to achieve results?</p>	<p>Synergies are evidence from documentation and from observations, confirmed by stakeholders.</p>	<p>25. Existence of coordination mechanisms between key stakeholders exist, and to what extent they are well designed, clear and active</p>	<ul style="list-style-type: none"> • Pilot documentation and documentation from other parts of the justice system and other interventions. • Government stakeholders. • Other implementing partners with relevant or complementary initiatives. 	<ul style="list-style-type: none"> • Document review. • KIIs 	<ul style="list-style-type: none"> • Comparative analysis in desk review of different partnership modalities (i.e., UNICEF programming and external programming contributed to by UNICEF) • Content analysis of interviews to identify evidence of

					<p>efforts to minimize duplication and added value of data by UNICEF</p> <ul style="list-style-type: none"> • Analysis of KII, FGD and/or Survey evidence to determine different values of UNICEF participation in internal/external processes • Analysis of contribution of externalities to coordination forums/mechanisms outside UNICEF control • Triangulation
Criterion: Impact					
10. Has the diversion pilot led to decreased number of children re-offending (as the evaluation might not have enough time to look at re-offending rates,	Data on re-offending rates are available. Alternatively, assuming in-person data collection is	26. Rates of re-offending, and/or attitudes towards re-offending.	<ul style="list-style-type: none"> • Existing data sources, pilot monitoring data. 	<ul style="list-style-type: none"> • Document/data review • KIIs 	<ul style="list-style-type: none"> • Comparative analysis of desk review documents

<p>attitudes, motivations and intentions to re-offend will be explored as an alternative);</p>	<p>possible, attitudes can be documented without social bias.</p>		<ul style="list-style-type: none"> • Children (boys and girls). 		<p>covering progress achieved</p> <ul style="list-style-type: none"> • Content analysis of interviews, FGDs and/or Survey for evidence of contribution towards change • Triangulation
<p>11. Have there been impacts on the acceptance of diversion among community leaders, children, their parents and justice service providers.</p>	<p>Changes in attitudes can be compared to a baseline. Sample size is sufficient to be more than anecdotal, or qualitative ‘case studies’ can be identified which tell an individual’s perspective in more depth.</p>	<p>27. The extent to which attitudes have changed positively or not (and among different stakeholder types). 28. The reasons for changes in levels of acceptance.</p>	<ul style="list-style-type: none"> • Baseline data • Stakeholders and beneficiaries. 	<ul style="list-style-type: none"> • KIIs 	
<p>Criterion: Sustainability</p>					
<p>12. Are the diversion pilot infrastructure, implementing capacity and SOPs and existing/planned resources sustainable in terms of: a. Resources: sufficient physical, human and financial resources. In particular, availability of resources in absence of UNICEF support; b. Management: vision and leadership; collaboration across</p>	<p>Resources and factors that support the implementation of the current pilot can be identified.</p>	<p>29. The components for continuation are identified and in places. The extent to which they are embedded and will continue can be confirmed by stakeholders and practices.</p>	<ul style="list-style-type: none"> • SOPs, manuals, strategies, plans. • UNICEF and service provider stakeholders, including leadership and management. 	<ul style="list-style-type: none"> • Document review • KIIs • Observations 	<ul style="list-style-type: none"> • Desk review comparative analysis of donor strategies, national strategic documents SDG reports etc. • Content analysis of

<p>agencies; accountability and staff support at all levels, including supervision and mentoring;</p> <p>c. Staff: appropriate number; percentage of their role/time allocated to the diversion pilot; ratio to children; job description of staff, appropriate professional level and mix of expertise; education levels; initial and in-service training; opportunities for professional development; adherence to child protection policies and codes of conduct; improvement in ‘head, heart, hands’ (knowledge, attitudes and practice);</p> <p>d. Policies and procedures (including existing SOPs and data collection systems): developed (in a participatory way); implemented; monitored (for appropriateness and efficiency); and updated as per project plan. For example, have appropriate record-keeping forms been developed, and are they being updated and filed confidentially?</p>					<p>interviews for evidence of alignment with plans, strategies and effectiveness of same</p> <ul style="list-style-type: none"> • Content analysis of interviews to identify evidence of alignment and engagement with partners by UNICEF • Triangulation
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<p>13. Is the diversion pilot scalable and sustainable based on the pilot design and implementation reality? What are the preconditions for scale up and the preconditions for sustainability? (Laws, policies, structures, staff, funding, procedures, monitoring and reporting systems, training etc). If not, what needs to be modified or strengthened to allow for a nationwide scale up? When responding the questions take into consideration: management and governance structures, existing SOPs and programme documents, monitoring and reporting systems, staff capacity and readiness to adopt diversion, law and policies, training, availability of resources that do not come from UNICEF support, etc.</p>	<p>Scalability as defined here is agreed upon by both UNICEF and government and partner stakeholders or is updated based on discussions with key informants during the course of the evaluation.</p>	<p>30. Extent to which there is the will, appetite, resources and feasibility for scaling and/or replicating the three approaches to diversion.</p> <p>31. Extent to which there are barriers to nationwide scaling, and strategies required to overcome these.</p>	<ul style="list-style-type: none"> Existing project documentation Informed views of stakeholders engaged in the pilot, and more widely from those indirectly engaged, and some who may not have been engaged. 	<ul style="list-style-type: none"> Document review. KIIs 	<ul style="list-style-type: none"> Content analysis of interviews for evidence of alignment with plans, strategies and effectiveness of same Comparative analysis of desk review documents on policy/strategy alignment and partner engagement (CPD, reports, results frameworks etc.) Triangulation
<p>Cross-cutting</p>					
<p>14. To what extent are sex and age disaggregated data collected and monitoring?</p>	<p>Monitoring data is available to analyse.</p>	<p>32. Consistency of disaggregation of monitoring data.</p>	<ul style="list-style-type: none"> Monitoring data. UNICEF and implementing partners. 	<ul style="list-style-type: none"> Document review. KIIs 	<ul style="list-style-type: none"> Content analysis of document review for evidence of

<p>15. Were gender, age, disability and background considered in the design and implementation of the diversion pilot SOPs? To what extent have local communities, women, youth, PwDs and other disadvantaged groups benefitted from the Diversion Pilot?</p> <p>16. To what extent has the Diversion Pilot be designed and implemented in-line with the human rights-based approach (HRBA)? (The evaluation team has introduced this cross-cutting question to assess compliance with the HRBA).</p>	<p>SOPs are available to analyse.</p>	<p>33. Comprehensiveness of analysis based on gender, age and disability, and extent to which this translated meaningfully into the SOPs and their implementation.</p>	<ul style="list-style-type: none"> • Diversion SOPs • UNICEF and stakeholders. • Government and non-governmental partners. • Children and their families. 	<ul style="list-style-type: none"> • Document review. • KIIs 	<p>integration of cross-cutting issues</p> <ul style="list-style-type: none"> • Content analysis of interviews, FGDs and/or Survey for evidence of cross-cutting issues • Triangulation
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Annex 2: Proposed List of Key Informant Interviews and Focus Group Discussions²⁵

NATIONAL-LEVEL (KII / FGD ²⁶)-POLICY MAKERS					
	Locations	Respondents	KII/FGD/Survey	Total	Tentative dates
	Policy and Strategic Planning Division, Ministry of Women, Family and Community Development (MFWCD) Putrajaya	Head of Children's Policy Unit	(1 x KII)	1	22 /11/2021 TO 26/11/2021
	Department of Social Welfare (DSW) Putrajaya	Director of Policy and International Division <i>(Bahagian Dasar dan Hubungan Antarabangsa)</i> Principal Senior Assistant Director, Policy and International Division	(1 x KII) (1 x KII)	1 1	22 /11/2021 TO 26/11/2021

²⁵ To be reviewed in light of approved budget and timeframe of the evaluation.

²⁶ FGD = Approx. 8 (max. 10) participants

		<p>(<i>Cawangan Dasar Kanak-Kanak</i>)</p> <p>Director of Children's Division (<i>Bahagian Kanak-Kanak</i>)</p> <p>Senior Assistant Director, Children's Division (<i>Cawangan Rehabilitasi dan Keadilan Kanak-Kanak</i>)</p>	<p>(1 x KII)</p> <p>(1 x KII)</p>	<p>1</p> <p>1</p>	
	Department of Social Welfare (DSW) Putrajaya	<ul style="list-style-type: none"> ▪ Head of the Sekolah Tunas Bakti ▪ Children from STB (children who are not diverted) 	<p>(1 x KII)</p> <p>(8 children x 3 FGD)</p> <p>(3 children x SSI or testimonial)</p>	<p>1</p> <p>24</p> <p>3</p>	<p>06/12/2021</p> <p>TO</p> <p>10/12/2021</p>
	Ministry of Home Affairs, Putrajaya	<p>Representative from Strategic Planning Division (<i>Bahagian Perancangan Strategik</i>)</p> <p>Representative from <i>National Anti-Drug Agency (Agensi Anti Dadah Kebangsaan-AADK)</i></p>	<p>(1 x KII)</p> <p>(1 x KII)</p>	<p>1</p> <p>1</p>	<p>29/11/2021</p> <p>TO</p> <p>3/12/2021</p>

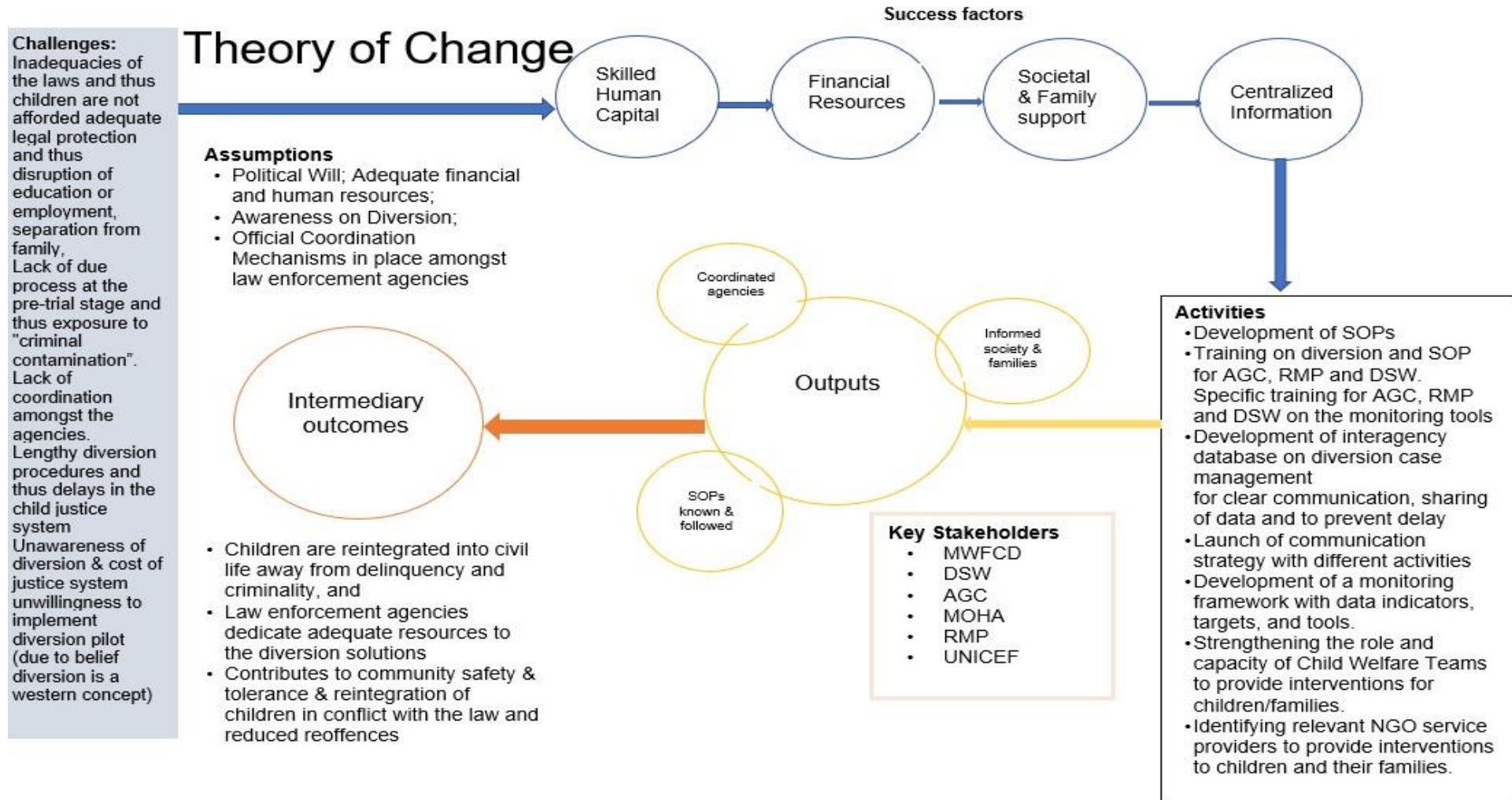
		d)Crime Prevention and Community Safety Department (Jabatan Pencegahan Jenayah dan Keselamatan Komuniti -JPJKK)			
		<p>Malaysian Prison Department</p> <ul style="list-style-type: none"> ▪ Head of the Henry Gurney School, Melaka ▪ Children from Henry Gurney School, Melaka (children who are <i>not</i> diverted) 	<p>(1 x KII)</p> <p>(8 children x 3 FGD)</p> <p>(3 children x SSI/testimonial)</p>	<p>1</p> <p>24</p> <p>3</p>	<p>06/12/2021</p> <p>TO</p> <p>10/12/2021</p>
	Attorney General's Chambers, Putrajaya	<ul style="list-style-type: none"> ▪ Sexual Crimes and Domestic Violence Unit, Prosecution Division 	(1 x KII)	1	06/12/2021 TO 10/12/2021
	Office of the Chief Registrar of Federal Courts (<i>Pejabat Ketua Pendaftar Mahkamah Persekutuan</i>), Kuala Lumpur	<ul style="list-style-type: none"> ▪ Magistrate for Court of Children, Jalan Duta Kuala Lumpur 	(1 x KII)	1	13/12/2021 TO 17/12/2021
	Malaysian Bar Council, Kuala Lumpur	<ul style="list-style-type: none"> ▪ Representative(s) 	(1 x KII)	1	13/12/2021 TO 17/12/2021

	SUHAKAM, Kuala Lumpur	<ul style="list-style-type: none"> Commissioner for Children 	(1 x KII)	1	13/12/2021 TO 17/12/2021
PILOT SITE X 3 (SEPANG, SEREMBAN, PORT DICKSON (SSI / FGD)²⁷					
	Locations	Respondents	KII/FGD/ Survey	Total	
PILOT SITE					
	Department of Social Welfare (DSW)- State Level State Children's Unit (Jabatan Kebajikan Masyarakat Negeri)	<ul style="list-style-type: none"> Head of Unit (Pegawai Kebajikan Masyarakat) 	(1x KII)	1	22 /11/2021 TO 26/11/2021
	Department of Social Welfare (DSW) - Pilot Sites	<ul style="list-style-type: none"> Probation Officers Counsellors 	(2 x each district x 1 FGD) and survey (3 x each district x 1 FGD)	6 9	22 /11/2021 TO 26/11/2021
	Deputy Public Prosecutors -Pilot Sites	<ul style="list-style-type: none"> Deputy Public Prosecutors 	(1 x each district x KII) and survey	3	22 /11/2021 TO 26/11/2021

²⁷ The information is per site where the pilot has been conducted. The e.g. (2 x FGD) designates the total FGD across all 3 sites. The sites are in 2 different states, although locations are very close by: Sepang (Selangor), Seremban (Negeri Sembilan) and Port Dickson (Negeri Sembilan). This makes travel especially easy between sites and it may be possible to bring individuals from different pilot sites together, rather than visiting each individually. We also assume overlap between, for example, DSW probation teams working in more than 1 pilot site.

	Police Officers -Pilot Sites	<ul style="list-style-type: none"> Police Officers 	(8 officers for each district x 1 FGD)	24	22 /11/2021 TO 26/11/2021
	Child Welfare Teams -Pilot Sites	<ul style="list-style-type: none"> Chairperson 	(1 officer for each district x KII)	3	22/11/2021 TO 26/11/2021
CIVIL SOCIETY / NGO (SSI / FGD)					
	Child welfare & justice organisations working with children in conflict with the law / diversion pilot -Pilot Sites/Kuala Lumpur	<ul style="list-style-type: none"> Representative(s) of civil society 	(1 x FGD)	1	13/12/2021 TO 17/12/2021

Annex 3: Reconstructed Theory of Change



Annex 4: Data collection tools and instruments

Data collection tools

The interview guides presented here indicate the questions that the evaluation team will discuss with stakeholders. They are not exclusive or exhaustive and will be further refined once the names and designations of interviewees has been finalised. However, although some terminology may be adapted, the core questions and the methods used remain the same. If requested, the theme of the interview (or even the actual questions) will be shared in advance with participants.

Introductions

At the start of every interview or focus group discussion, the evaluator will introduce the process as follows - noting that adaptations will be made according to the composition of the group:

Thank you for making time to meet with me. My name is _____ and I am working with a team of evaluators who have been commissioned by the Ministry of Women, Family and Community Development, with the support of UNICEF Malaysia, to conduct this an evaluation of Malaysia's Diversion Pilot.

We are conducting this interview to understand more about the implementation of the pilot – what works well, what could be improved. The findings from the interviews will be used together with results from other interviews and focus group discussions to create a series of conclusions and recommendations for the Government of Malaysia, specifically whether the Diversion Pilot is designed and being rolled-out in a way that would be scalable in other parts of the country. The evidence and information generated will enable the Government to determine its strategic vision and investment in diversion as part of its commitment to reform of the justice for children system.

Before we start the interview, I would like to confirm that you give your consent to be interviewed.

Go through the consent form

In advance, thank you for sharing information about your experience of the Diversion Pilot. If you are ready, let's start the interview.

TOOL 1: Interview Questions for Governmental Counterparts

<p>ORGANISATION / AGENCY / DEPARTMENT:</p> <p>INTERVIEWEE NAME AND DESIGNATION:</p> <p>INTERVIEWER:</p> <p>DATE:</p>
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PART 1: INTRODUCTIONS

Introductions, explanation of how data will be used, consent protocols

PART 2: INTERVIEW

1. What are the main challenges that children face in accessing justice²⁸, including in accessing child-focused preventative and remedial justice programmes in Malaysia?
2. What is being done to address these challenges?
3. What impact has the COVID-19 pandemic had on children's access to justice in Malaysia in general and on the Diversion Pilot in particular?
4. Are you familiar with the government's Diversion Pilot? Is the pilot relevant for enhancing justice for children in Malaysia?
5. To what extent do you consider diversion to be socially and culturally appropriate to Malaysia? Are there offences that you think should / should not be diverted? Why?
6. Among the activities conducted under the pilot, which of them were most relevant and why? Were there any less relevant activities?
7. To what extent were the objectives of the pilot consistent with the priorities of Malaysia with the needs and interests of citizens, and in particular children, including the 12th Malaysia Plan, the Shared Prosperity Vision, the 2030 Agenda and the SDGs and the MWFCD's Strategic Plan priority areas?

²⁸ UNICEF defines access to justice as 'the general ability of children to obtain a remedy when their rights are being violated, not respected or denied'. <https://www.unicef.org/eca/child-protection/access-justice>

8. To what extent are there synergies and interlinkages between the Diversion Pilot and other interventions carried out by the government and between key stakeholders?
9. How would you assess the awareness of key stakeholders of the Diversion Pilot – DPPs, police, probation officers, as well as children, their families and communities?
10. In your view, what are the potential long-term impacts of the pilot activities?
11. Do you think it is necessary to have a probation pilot in place prior to the introduction of diversion programmes? Why/why not? If yes, which specific probation pilot elements are required to be in place prior to the introduction of diversion?
12. Do you see any link between the number of trained probation officers, police officers and DPP and the introduction and usage of diversion?
13. What kind of training (knowledge and skills) is required to enhance the implementation of diversion? Has this training been already implemented, or the training does not exist?
14. Has the turnover of trained probation officers, police officers and DPP had any impact on the introduction and usage of diversion?
15. Has the pilot strengthened local capacity for enhancing justice for children in Malaysia? If yes, in what areas?
16. What have been the main challenges in implementing the Diversion Pilot to date? Do you see divergence in the way diversion is implemented? To any specific offenses?
 - Institutional: administrative, technological, human capacity, legal and policy,
 - Individual: personal attitudes
17. What have been the main successes of the Diversion Pilot to date?
 - Advantages for a) society in general, b) families, and c) individual children?
18. Have you noticed any unintended consequences, whether negative or positive of the pilot to date? Please provide examples.
 - Including on individual children, families, society at large.
19. Will the relevant authorities continue with any of the activities beyond the lifespan of the pilot? If so, how will these be financed?

TOOL 2: Interview Questions for the Department of Social Welfare

<p>ORGANISATION / AGENCY / DEPARTMENT:</p> <p>INTERVIEWEE NAME AND DESIGNATION:</p> <p>INTERVIEWER</p> <p>DATE:</p>

PART 1: INTRODUCTIONS

Introductions, explanation of how data will be used, consent protocols

PART 2: INTERVIEW

1. What are the main challenges that children face in accessing justice²⁹, including in accessing child-focused preventative and remedial justice programmes in Malaysia?
2. Are you familiar with the government's Diversion Pilot? Is the pilot relevant for enhancing justice for children in Malaysia?
3. To what extent do you consider diversion to be socially and culturally appropriate to Malaysia? Are there offences that you think should / should not be diverted? Why?
4. Among the activities conducted under the pilot, which of them were most relevant and why? Were there any less relevant activities?
5. Do you think the Pilot has assisted in diverting children into civil life and away from delinquency and criminal behaviour?
6. What mechanisms are in place for collecting data on child justice and children involved in justice proceedings – in particular those children who are eligible for diversion? What gaps exist and how could these be improved?
7. Do you think it is necessary to have a probation pilot in place prior to the introduction of diversion programmes? Why/why not? If yes, which specific probation pilot elements are required to be in place prior to the introduction of diversion?

²⁹ See footnote 27

8. How would you assess the awareness of key stakeholders of the Diversion Pilot – DPP, police, probation officers,, as well as children, their families and communities? What has been done to increase the level of awareness?
9. What training has been provided to relevant stakeholders relating to diversion? Are there any gaps? What kind of training (knowledge and skills) is required to enhance the implementation of diversion?
10. To what extent are the SoPs relating to diversion well known? How would you assess their implementation? Are there any gaps? How could these be addressed?
11. How would you assess the coordination mechanisms among the relevant institutions involved in the diversion pilot? Who do you coordinate with and how? Have you faced any challenges in terms of coordination? How have these been overcome? Is there anything else that could be done to improve coordination?
12. To what extent are there synergies and interlinkages between the Diversion Pilot and other interventions carried out by the government and between key stakeholders?
13. Do you see any link between the number of trained probation officers, police officers and DPP and the introduction and usage of diversion?
14. Has the turnover of trained probation officers, police officers or DPP had any impact on the introduction and usage of diversion?
15. What have been the main challenges in implementing the Diversion Pilot to date? Do you see divergence in the way diversion is implemented? To any specific offenses?
16. Institutional: administrative, technological, human capacity, legal and policy,
17. Individual: personal attitudes
18. What have been the main successes of the Diversion Pilot to date?
19. Advantages for a) society in general, b) families, and c) individual children?
20. Have you noticed any unintended consequences, whether negative or positive of the pilot to date? Please provide examples.
21. What are the next steps in terms of expanding and scaling up the Diversion Pilot?

TOOL 3: Interview Questions for Steering Committee Members

ORGANISATION / AGENCY / DEPARTMENT:

INTERVIEWEE NAME AND DESIGNATION:

INTERVIEWER:

DATE:

PART 1: INTRODUCTIONS

Introductions, explanation of how data will be used, consent protocols

PART 2: INTERVIEW

1. What is your professional position? (institution/organization/title)
2. For how long have you been a Steering Committee member for the government's Diversion Pilot in Malaysia?
3. How would you assess the functioning of the Steering Committee? Are regular meetings held? Are the meetings well organised? Is there preparation in advance and follow-up?
4. Are all relevant stakeholders represented in the Steering Committee?
5. How does the Steering Committee monitor the progress of the Diversion Pilot? What data collection mechanisms are in place?
6. How would you assess cooperation and communication between the relevant stakeholders of the Diversion Pilot and the Steering Committee?
7. To what extent do you think the objectives of the Diversion Pilot are consistent with the priorities of Malaysia and with the needs and interests of citizens, and in particular children?
8. To what extent do you consider diversion to be socially and culturally appropriate to Malaysia?
9. How would you assess the awareness of key stakeholders of the Diversion Pilot – police, probation officers, prosecutors, as well as children, their families and communities?
10. To what extent are there synergies and interlinkages between the Diversion Pilot and other interventions carried out by the government and between key stakeholders?

11. Do you think it is necessary to have a probation pilot in place prior to the introduction of diversion programmes? Why/why not? If yes, which specific probation pilot elements are required to be in place prior to the introduction of diversion?
12. Do you see any link between the number of trained probation and police officers and the introduction and usage of diversion? What kind of training (knowledge and skills) is required to enhance the implementation of diversion?
13. Has the turnover of trained probation officers, police officers or DPP had any impact on the introduction and usage of diversion?
14. What have been the main challenges in implementing the Diversion Pilot to date? Do you see divergence in the way diversion is implemented? To any specific offenses?
 - Institutional: administrative, technological, human capacity, legal and policy,
 - Individual: personal attitudes
15. What have been the main successes of the Diversion Pilot to date?
 - Advantages for a) society in general, b) families, and c) individual children?
16. Have you noticed any unintended consequences, whether negative or positive of the pilot to date? Please provide examples.
17. Do you support the scale up of the Diversion Pilot? Why/why not?
18. What are the next steps in terms of expanding and scaling up the diversion pilot?

TOOL 4: Interview questions for UNICEF Malaysia

ORGANISATION / AGENCY / DEPARTMENT:

INTERVIEWEE NAME AND DESIGNATION:

INTERVIEWER:

DATE:

PART 1: INTRODUCTIONS

Introductions, explanation of how data will be used, consent protocols

PART 2: INTERVIEW

1. To what extent has the implementation matched the vision for the Diversion Pilot? Why/why not?
2. What have been the main challenges and successes of the Diversion Pilot to date?
3. Has the pilot been able to reach all target groups that it had intended to reach?
4. How has the changing context impacted on the programme implementation, in particular COVID-19?
5. Which aspects of the pilot, and which of the approaches used were most successful in bringing about change and why? Which were the least successful and why?
6. How was the partnership and coordination among UNICEF, implementing partners, entity and local partners?
7. How were implementing partners/service providers held to account for equitable and sensitive delivery of services/benefits?
8. What was the composition (gender, ethnicity, etc.) of pilot staff and does it reflect the diversity of pilot stakeholders?
9. What avenues did children, and their families have to provide feedback on the pilot or otherwise influence how and what the pilot was delivering?
10. Is there evidence that the pilot advanced any key human rights, gender or inclusion policies?
11. Have you observed any unintended impact (could be negative as well as positive) of the pilot?

12. What is the level of knowledge and capacity among relevant stakeholders? What has been done to address this? What are the remaining gaps?
13. Do you support the scale up of the Diversion Pilot? Why/why not?
14. How would you assess the coordination mechanisms among the relevant institutions? How could these be further strengthened?
15. To what extent are there synergies and interlinkages between the Diversion Pilot and other interventions carried out by the government and between key stakeholders?
16. Do you think it is necessary to have a probation pilot in place prior to the introduction of diversion programmes? Why/why not? If yes, which specific probation pilot elements are required to be in place prior to the introduction of diversion?
17. Do you see any link between the number of trained probation officers, police officers and DPP and the introduction and usage of diversion?
18. Has the turnover of trained probation officers had any impact on the introduction and usage of diversion?
19. How would you assess the sustainability of the pilot's interventions?
20. What are the remaining challenges and needs going forward in terms of scaling up and expansion?
21. Overall, how do you assess the impact and level of contribution of UNICEF in the overall pilot?

TOOL 5: Interview Questions for Relevant Institutions – AG Chambers, Bar Council, Police, Judiciary, Probation Officers, Coordinator of Child Welfare Teams

ORGANISATION / AGENCY / DEPARTMENT:

INTERVIEWEE NAME AND DESIGNATION:

INTERVIEWER:

DATE:

PART 1: INTRODUCTIONS

Introductions, explanation of how data will be used, consent protocols

PART 2: INTERVIEW

1. Please elaborate your cooperation with the Diversion Pilot and your role in the pilot.
2. What have been the main challenges in implementing the Diversion Pilot to date? Do you see divergence in the way diversion is implemented? To any specific offenses?
 - Institutional: administrative, technological, human capacity, legal and policy,
 - Individual: personal attitudes
3. What have been the main successes of the Diversion Pilot to date?
 - Advantages for a) society in general, b) families, and c) individual children?
4. In your view, did the pilot design address the context, needs and priorities of the intended target group – children in conflict with the law?
5. To what extent do you consider diversion to be socially and culturally appropriate to Malaysia? Are there offences that you think should / should not be diverted? Why?
6. Have you received any capacity development support through the pilot and if so, how has this strengthened your organization?
7. What is the level of knowledge and capacity among relevant stakeholders? What has been done to address this?
8. What are the remaining gaps? What kind of training (knowledge and skills) is required to enhance the implementation of diversion?
9. How would you assess the coordination mechanisms among the relevant institutions? Who do you coordinate with and how? Have you faced any challenges in terms of coordination?

How have these been overcome? Is there anything else that could be done to improve coordination?

10. To what extent are there synergies and interlinkages between the Diversion Pilot and other interventions carried out by the government and between key stakeholders?
11. To what extent do you think that the SoPs relating to diversion are well known? How would you assess the implementation? Are there any gaps? How could these be addressed?
12. What have been the biggest successes and biggest challenges of the Diversion Pilot to date?
13. Were there any unintended positive or negative consequences of the pilot implementation?
14. Could the same results have been achieved in another way?
15. What avenues did children, and their families have to provide feedback on the pilot, or otherwise influence how and what the pilot was delivering?
16. Do you think it is necessary to have a probation pilot in place prior to the introduction of diversion programmes? Why/why not? If yes, which specific probation pilot elements are required to be in place prior to the introduction of diversion?
17. Do you see any link between the number of trained probation officers, police officers or DPP and the introduction and usage of diversion?
18. Has the turnover of trained probation officers had any impact on the introduction and usage of diversion?
19. Do you support the scale up of the Diversion Pilot? Why/why not?
20. What are the next steps in expanding and scaling up the Diversion Pilot?

TOOL 6: Interview Questions for Children in Henry Gurney Schools or Sekolah Tunas Bakti

*Depending upon the level of access granted to girls and boys in the Henry Gurney Schools (HGS) or Sekolah Tunas Bakti (STB), the evaluation team will undertake individual interviews with children who have been placed in these centres or will conduct focus group discussions (see Tool 11).

These interviews will follow the structure of a personal testimonial, allowing each child to describe their experience of being involved with the justice system, the impact of *not* being diverted, and their understanding and perceptions of diversion.

Each interview guide will be crafted for the individual child depending upon their age, preferred language and current situation.

<p>LOCATION:</p> <p>INTERVIEWEE'S GENDER/AGE:</p> <p>INTERVIEWER:</p> <p>NOTE-TAKER:</p> <p>DATE:</p> <p>Any concerns raised about this child or another child during the course of the interview?</p>
--

Introduction

Thank you for making time to meet with me. My name is (name) and I am here as part of a team that aims to better understand children's experience of being placed in a Henry Gurney School/Sekolah Tunas Bakti. In particular, the purpose of this interview is to understand more about the diversion programme that is being piloted to ensure that children are diverted away from the criminal justice system.

My colleague (name) and I have been asked to talk with children about their experiences of being placed in (HGS/STB) and whether diversion might have been better for them.

Sometimes it is difficult to talk about these things, but it is important for us to hear your views. We promise to listen carefully to what you have to say. The interview will last about 30 minutes.

[Name of note-taker] will be writing down your views and ideas. We will not write down your name. Everything you tell us here will be kept confidential, and no one will know what you personally said to us. We will not be telling your parents or guardians, or the staff of this centre what you say to us. The only time we will share what you say is if you tell us that you need help, or disclose that you are being harmed, or if you tell us about another child who has been abused or harmed and needs help. We may have to tell another adult about your situation or this other child to make sure you/they get the help they need.

There is no obligation to talk to us and you are free to leave at any time. Would you like to talk to us?

Questions:

1. Could you please tell me what you know about diversion? How did you come to know about it?
2. Have you ever been diverted previously, perhaps through a warning of some kind?
3. If you have experienced diversion, please share your experiences with it and of the institutions you came into contact with.
4. If you rejected the option of diversion, please explain your reasons why
5. Do you think that diversion is a good way of keeping children out of contact with the law and preventing them from offending and/or re-offending?
6. Which children do you think should be eligible for diversion – why/why not?
7. What do you think about your current situation in HGS/STB? Do you think your placement here will be beneficial/non-beneficial?
8. Do you think diversion would have been a better option/outcome for you – why/why not?

Once you have asked these questions, ask the child if there is anything s/he would like to add, or if he/she has any questions for you.

Thank you for your time today.

Focus Group Discussion Interview Guides

Each FGD will have a minimum of five but no more than seven participants (excluding the facilitators) and will last approximately an hour and a half. A total of 4-5 questions will be selected for a deep-dive, participatory discussion.

TOOL 7: Focus Group Discussion with Representatives of the Department of Social Welfare

ORGANISATION / AGENCY / DEPARTMENT:

INTERVIEWEES NAMES AND DESIGNATION:

INTERVIEWER:

DATE:

PART 1: FGD INTRODUCTION

Introductions, explanation of how data will be used, consent protocols

PART 2: FOCUS GROUP DISCUSSION

Introduce yourself and tell us briefly about your role and responsibilities in developing and implementing the Diversion Pilot.

Guiding questions to select from:

- What are the risk factors that lead to children being involved in crimes/coming into conflict with the law in Malaysia?
- How does the diversion pilot seek to address these risks?
- To what extent do you consider diversion to be socially and culturally appropriate to Malaysia? Are there offences that you think should / should not be diverted? Why?
- How are potentially eligible children for diversion identified? Are there some potentially eligible children who are not being identified? Is there a difference for specific categories of children (girls, children with disabilities, children living and working on the streets)?
- What is the level of knowledge and capacity among relevant stakeholders? What has been done to address this? What are the remaining gaps?
- How would you assess the coordination mechanisms among the relevant institutions? How could these be further strengthened?
- How is data gathered and shared among the relevant institutions? What are the existing gaps and how could these be addressed?
- How is the Diversion Pilot linked with the Probation Pilot, and are the two mutually dependent? Are there any elements of the probation pilot are required to be in place prior to the introduction of diversion? Do you see any link on between the number of trained

probation and police officers and the introduction and usage of diversion? Has the turnover of trained probation officers had any impact on the introduction and usage of diversion?

- What lessons have been learned that could be applied in expanding and scaling up the Diversion Pilot further?
- What have been the main challenges in implementing the Diversion Pilot to date? Do you see divergence in the way diversion is implemented? To any specific offenses?
 - Institutional: administrative, technological, human capacity, legal and policy,
 - Individual: personal attitudes
- What have been the main successes of the Diversion Pilot to date?
 - Advantages for a) society in general, b) families, and c) individual children?
- Would you make any changes to the diversion pilot, and why?

TOOL 8: Focus Group Discussion with Probation Officers

ORGANISATION / AGENCY / DEPARTMENT:

INTERVIEWEES NAMES AND DESIGNATION:

INTERVIEWER:

DATE:

PART 1: FGD INTRODUCTION

Introductions, explanation of how data will be used, consent protocols

PART 2: FOCUS GROUP DISCUSSION

Introduce yourself and tell us briefly what your role and responsibilities in the development and implementation of the Diversion Pilot were. How long has the Pilot been running in your area?

Guiding questions to select from:

- What are the risk factors that lead to children being involved in crimes/coming into conflict with the law in Malaysia?
- How does the diversion pilot seek to address these risks?
- To what extent do you consider diversion to be socially and culturally appropriate to Malaysia? Are there offences that you think should / should not be diverted? Why?
- How are potentially eligible children for diversion identified? Are there some potentially eligible children who are not being identified? Is there a difference for specific categories of children (girls, children with disabilities, children living and working on the streets)?
- Is the pilot relevant for prevention and deterrence? Among the activities conducted under the pilot, which of them were most relevant and why? Were there any less relevant activities?
- What is the level of knowledge and capacity among relevant stakeholders? What has been done to address this? What are the remaining gaps?
- Are you familiar with the Diversion related SoPs? Have you received any training on the SoPs? How would you assess the implementation and adherence with the SoPs – are there any gaps/challenges? How can these be addressed?

- How would you assess the coordination mechanisms among the relevant institutions? How could these be further strengthened?
- How do you gather data and share this with the relevant institutions? How do you receive data from other institutions?
- What are the existing gaps and how could these be addressed? What kind of training (knowledge and skills) is required to enhance the implementation of diversion?
- Have you consulted children about the Pilot? Have you consulted parents? What were the results of this?
- Have you noticed any unintended consequences, whether negative or positive of the pilot? Please provide examples.
- How is the Diversion Pilot linked with the Probation Pilot and are the two mutually dependent? Do you see any link between the number of trained probation officers, police officers and DPP and the introduction and usage of diversion? Has the turnover of trained probation officers had any impact on the introduction and usage of diversion?
- What have been the main challenges in implementing the Diversion Pilot to date? Do you see divergence in the way diversion is implemented? To any specific offenses?
 - Institutional: administrative, technological, human capacity, legal and policy,
 - Individual: personal attitudes
- What have been the main successes of the Diversion Pilot to date?
- Advantages for a) society in general, b) families, and c) individual children?
 - Do you think that the Pilot should be expanded and scaled-up – why/why not?
 - What lessons have been learned that could be applied in expanding and scaling-up the Diversion Pilot further?
 - Would you make any changes to the diversion pilot and why?

TOOL 9: Focus Group Discussion for Counsellors

ORGANISATION / AGENCY / DEPARTMENT:

INTERVIEWEES NAMES AND DESIGNATION:

INTERVIEWER:

DATE:

PART 1: FGD INTRODUCTION

Introductions, explanation of how data will be used, consent protocols

PART 2: FOCUS GROUP DISCUSSION

Introduce yourself and give a brief overview of your role and responsibility and how it relates to justice for children.

Guiding questions to select from:

- Are you familiar with the government's Diversion Pilot?
- What are the risk factors that lead to children being involved in crimes/coming into conflict with the law in Malaysia?
- How does the diversion pilot seek to address these risks?
- To what extent do you consider diversion to be socially and culturally appropriate to Malaysia? Are there offences that you think should / should not be diverted? Why?
- How are potentially eligible children for diversion identified? Are there some potentially eligible children who are not being identified? Is there a difference for specific categories of children (girls, children with disabilities, children living and working on the streets)?
- Is the pilot relevant for prevention and deterrence? Among the activities conducted under the pilot, which of them were most relevant and why? Were there any less relevant activities?
- What is the level of knowledge and capacity among relevant stakeholders? What has been done to address this?
- What are the remaining gaps? What kind of training (knowledge and skills) is required to enhance the implementation of diversion?

- Are you familiar with the Diversion related SoPs (both interagency and JKM)? Have you received any training on the SoPs? How would you assess the implementation and adherence with the SoPs – are there any gaps/challenges? How can these be addressed?
- How would you assess the coordination mechanisms among the relevant institutions? How could these be further strengthened?
- How do you gather data and share this with the relevant institutions? How do you receive data from other institutions? What are the existing gaps and how could these be addressed?
- Have you noticed any unintended consequences, whether negative or positive of the pilot? Please provide examples.
- How is the Diversion Pilot linked with the Probation Pilot and are the two mutually dependent? Do you see any link between the number of trained probation and police officers and the introduction and usage of diversion? Has the turnover of trained probation officers had any impact on the introduction and usage of diversion?
- What have been the main challenges in implementing the Diversion Pilot to date? Do you see divergence in the way diversion is implemented? To any specific offenses?
 - Institutional: administrative, technological, human capacity, legal and policy,
 - Individual: personal attitudes
- What have been the main successes of the Diversion Pilot to date?
 - Advantages for a) society in general, b) families, and c) individual children?
- Do you think that the Pilot should be expanded and scaled-up – why/why not?
- What lessons have been learned that could be applied in expanding and scaling-up the Diversion Pilot further?
- Would you make any changes to the Diversion Pilot and if so, what and why?

TOOL 10: Focus Group Discussion for NGOs and CSOs

ORGANISATION / AGENCY / DEPARTMENT:

INTERVIEWEES NAMES AND DESIGNATION:

INTERVIEWER:

DATE:

PART 1: FGD INTRODUCTION

Introductions, explanation of how data will be used, consent protocols

PART 2: FOCUS GROUP DISCUSSION

Introduce yourself and give us a brief overview of your role and responsibility and how it relates to justice for children and the Diversion Pilot.

Guiding questions to select from:

- What are the risk factors that lead to children being involved in crimes/coming into conflict with the law in Malaysia?
- Are you familiar with the government's Diversion Pilot? If so, how does the diversion pilot seek to address these risks?
- To what extent do you consider diversion to be socially and culturally appropriate to Malaysia? Are there offences that you think should / should not be diverted? Why?
- Do you think diversion is relevant for prevention and deterrence? Among the activities conducted under the pilot that you are familiar with, which of them were most relevant and why? Were there any less relevant activities?
- Have you received any training regarding diversion – if so, who provided this training and how useful was it for you?
- How familiar do you think the relevant institutions are with the use of diversion – police, probation officers, courts etc.
- Have you assisted a child or his/her family who has been diverted? If so, please elaborate.
- Have you noticed any unintended consequences, whether negative or positive of the pilot or the use of diversion? Please provide examples.
 - Including on individual children, families, society at large.
- Do you think that the use of diversion should be expanded and scaled-up – why/why not?
- Would you change anything about the Diversion Pilot – if yes, what and why?

TOOL 11: Children who have not been through diversion (Henry Gurney Schools and Sekolah Tunas Bakti)

*Children in the HGS and STB will be visited twice. The first time will be to conduct focus group discussions with children about their perceptions of diversion, the second time to seek their opinions on the findings of the evaluation and to request their ideas and recommendations about how best to shape and invest in diversion in Malaysia. Both sets of FGD are included here, noting that the exact content of the second series of FGD will depend upon the characteristics (especially age) of the children, their level of previous participation, and their understanding of diversion.

LOCATION:

NUMBER OF PARTICIPANTS:

- **Gender & Ages**

INTERVIEWER:

NOTE-TAKER

DATE:

Any concerns raised about a child during the course of the interview?

PART 1 – FIRST ROUND INTERVIEWS

Hello. My name is _____ and this is my colleague (note-taker's name).

Thank you for making time to meet with us. We are here today as part of a team to better understand children's experience of being placed in a Henry Gurney School/Sekolah Tunas Bakti. In particular, the purpose of this interview is to understand more about the diversion programme that is being piloted to ensure that children are diverted away from the criminal justice system and do not get placed in HGS/STB, or end up in prisons when they are adults. We would like to understand the reasons why children are placed here and what kind of impact/outcomes it has on them.

Sometimes it is difficult to talk about these things, but it is important for us to hear your views. We promise to listen carefully to what you have to say. The group discussion will last about 1.5 hours.

[Name of note-taker] will be writing down your views and ideas. We will not write down your name. Everything you tell us here will be kept confidential, and no one will know what you personally said to us. We will not be telling your parents or guardians, or the staff of this centre what you say to us. The only time we will share what you say is if you tell us that you need help, or disclose that you are being harmed, or if you tell us about another child who has been abused or harmed and needs help. We may have to tell another adult about your situation or this other child to make sure you/they get the help they need.

Throughout this discussion we would ask you to please only talk for yourself and do not talk about other children or their experiences. Thank you.

If you or someone sitting nearby starts to get upset during the discussion, please let us know. We will find someone you can talk to privately if you would prefer that, or we can switch to a different activity.

There is no obligation to talk to us and you are free to leave at any time. So, I would like to check whether you would like to stay to talk to us?

Do you have any questions before we begin? If not, let's get started!

Activities:

1) WHAT IS DIVERSION?

30 minutes

Ask children to pair up with the friend / person sitting next to them. Then ask each pair to consider:

- *What does the word 'diversion' mean to you?*

After 5 minutes, ask each pair to share their ideas. The facilitator writes the answers on Post-It notes and sticks them on the wall. The facilitator then asks:

- *When you hear the word 'diversion', how what does it make you think of? How does it make you feel?*

After 5 minutes, ask each pair to share their ideas. The facilitator again sticks Post-It notes on the wall.

S/he then asks the children to stand up and cluster the Post-It notes to see where there is agreement or disagreement. (10 mins)

2) WHAT PROBLEMS SHOULD BE SOLVED BY DIVERSION? 30 minutes

The facilitator asks the children to break into 2 groups (of approximately 4/group). S/he provides the children with a set of flipchart paper and pens.

Depending upon the literacy and language of the children, the facilitator asks them to write down or (preferably) illustrate / draw the types of offences for which diversion should be an option. If possible, they should provide a rationale/justification for their answers.

Give children 15 minutes to discuss in their groups and develop their responses.

**This may be based on their actual knowledge of diversion or, if they are not familiar, on their perceived ideas about what diversion could be.*

After 15 minutes, the facilitator asks each group to present back their answers. The facilitator asks probing questions to elicit a deeper understanding of children's suggestions and the reasoning for their opinions.

Ask each group to pose questions or comment on the other groups answers. Then, with the children's assistance, the facilitator clusters some of the answers on the wall or flipchart. Note where there are significant differences in opinion.

OR, if the group is 'slow to warm up', try the following activity:

Place two faces in different parts of the room. The 😊 should have *AGREE* written under it and the 😞 face should have *DISAGREE* written under it.

Then the facilitator reads out a list of offences for which children can or cannot be diverted.

The facilitator reads out the offence/problem and ask children to *AGREE* or *DISAGREE* that this offence/problem should be eligible for diversion.

Ask children to go and stand under the emoji that represents their opinion. Ask the children to explain their choice and note down the answers. Ask children to pose questions to each other, if they feel comfortable.

The note-taker counts and records the numbers of children who respond each way.

3) WHAT DIFFERENCE WOULD DIVERSION MAKE TO CHILDREN? 30 minutes

Bring the children back into a single group.

Tell the children that the next activity may draw from their own experiences of being placed in a HGS or STB, but that they should try not to speak only of their own experience but think of the experiences of children more widely.

Ask children to think about how the lives of children in the HGS / STB would be different had their cases been diverted rather than resulted in going through the justice system.

Give a few minutes to allow time to reflect, before asking:

- What would be the advantages to children if their cases had been diverted?
- Would there be both short term and long term advantages?
- What are some of the advantages of *not* being diverted?

The note-taker maintains a record of the discussion while the facilitator gently probes the responses given by the group. The facilitator tries to find points of consensus among the group.

At the end of this discussion, the facilitator thanks the children for their participation.

PART 2 – SECOND ROUND VALIDATION AND CO-CREATION OF RECOMMENDATIONS

At the start of the session, the facilitator will repeat the introduction about the purpose of the evaluation, the ethical protocols for children’s participation and provide information and clarifications about the second round of discussions.

1) PRESENTING THE FINDINGS

20 minutes

Using flipcharts and illustrations (not written words), the facilitator will present the Top 5 macro-level findings emerging from the evaluation. These will be based on themes for exploration, rather than detailed technical points. The overall aim is to seek the children’s ideas about the future direction and shape (scalability) of diversion and the priorities they feel should be taken into account.

Once all the findings have been presented:

2) DEBATING THE CORE RECOMMENDATIONS

40 minutes

The facilitator will then ask the children to give their opinions about the five broad themes and will drill into greater detail using one of the following techniques, depending upon the composition of the group and their engagement in the process.

Supported closely by the facilitator, either:

- Divide children in pairs and ask them to provide their suggestions/recommendations for addressing the finding. Children could present back to the wider group and give an opportunity for the facilitator and other children to ask questions or debate the solution.
- Ask children individually to draw or illustrate solutions that are then pinned on the board, with a verbal explanation of the solutions they suggest.

Throughout, the facilitator guides and uses probing questions to better elaborate and capture the voices of children. At the end the facilitator sums up the macro recommendations and seeks children agreement about the ideas to be presented back to adult stakeholders.

Annex 5: Schema for scaling up

A schema was used to analyse the Evaluation Matrix from a perspective of scaling and is summarized here.³⁰ At its simplest, scaling up means that you can do X again, either in a different place or with different people. A survey of literature found multiple nuances to this, however.

To increase	we want to scale up investments in the Diversion Pilot to different regions of Malaysia
To replicate	we want to scale up best practice by replicating at least one best practice example to different regions in Malaysia
To catalyze change in practices/approaches	to establish sector-specific 'game changers' in relation to diversion
To move from partial to total coverage	to make the transition from the current state of the Diversion Pilot to programming towards sustained and nation-wide coverage
To reach more people	expanding, adapting and sustaining the Diversion Pilot in different places and over time to reach a greater number of children
To spread benefits and ensure equity, quality, speed and sustainability	scaling up brings more quality benefits to more children over a wider geographical area, more quickly, more equitably, and more lastingly
To increase impact coverage	to efficiently increase the socioeconomic impact of the Diversion Pilot from a small to a larger scale of coverage
To increase spread of effective models	how the impact of the Diversion Pilot can be increased in order to reach a larger number of beneficiaries
To spread ideas	often innovations – through diffusion so that they become widely accepted

Questions to consider are:

What is being scaled up?	To whom (area(s)/population(s)/institutions)? Just diversion or diversion + probation – all or some elements of probation.
What is meant by scale-up in this circumstance?	What are the criteria for sustainability and equity? Is probation a necessary prerequisite – if so, which elements?
What is the intended impact of scale-up?	Has the pilot proven to be successful?
How and by whom?	Is the pilot aligned with country policies, goals and systems?
What is the envisaged timescale?	

³⁰ IOD PARC, Scaling up?, 2016.

In particular the evaluation will seek to identify information relevant to several components for successful scale-up (as articulated by USAID³¹).

<p>Proven efficacy: is the Diversion Pilot model proven at small scale? And is there evidence that it can be effectively scaled up?</p>	<p>Equity: does scale-up include the concept of reaching the poorest/most vulnerable?</p>
<p>Sustainability: how sustainable will the scale-up be, and how sustainable does it need to be? What would sustainability look like?</p>	<p>Quality: can the quality of the model be assured? What are the risks to quality from extending coverage without e.g. adequate training including probation officers, fidelity to the model design, resources?</p>

The evaluation will seek to understand the opportunities and implications for scaling the Diversion Pilot within the context of the broader set of evaluation questions, and within the context of the Probation Pilot. It will not be a complete substitute for an in-depth study on scalability and replication. Still, it should provide the basis of further and more detailed inquiry and/or strategizing next steps as part of forward-looking recommendations.

³¹ Alexis D’Agostino, Jolene Wun, Anu Narayan, Manisha Tharaney, Timothy Williams (2014). Defining Scale-Up of Nutrition Projects, USAID.

Annex 6: Preliminary documentation list (generic)

General documentation	
1.	Inter-Agency Diversion Training: Facilitators' Handbook
2.	UNICEF Malaysia (2019) Report on the Training of Probation Officers for the Diversion Pilot
3.	Kajian Pemantauan Dan Penilaian Pelaksanaan Projek Rintis Diversion Bagi Kanak-Kanak Yang Mempunyai Konflik Dengan Undang-Undang Di Malaysia
4.	Unit Perundangan University Malaya (2021) Laporan Interim bagi Kajian Pelaksanaan Projek Rintis Diversion Bagi Kanak-Kanak Yang Berkonflik Dengan Undang-Undang Di Malaysia
5.	UNICEF Malaysia (2021) Nine-Month Diversion Pilot Review Report
Pre-pilot documentation	
6.	Mesyuarat Persediaan Bengkel Berkenaan Juvenile Restorative Justice (2012)
7.	Norbani Nazeri (2013) Diversion of Children in Conflict with the Law: Opportunities and Challenges in Malaysia
8.	Comments on the draft Report on Diversion: Opportunities and Challenges in Malaysia (2013)
9.	Briefing Note for UNICEF: Diversion and School-based Restorative Justice Programmes (2013)
10.	UNICEF Malaysia (2013) Designing a Diversion Model for Malaysia: Proposed Cooperation between UNICEF and the Attorney General's Chambers
11.	UNICEF Malaysia (2013) Designing a Diversion Model for Malaysia: Proposed Cooperation between UNICEF and MWFCD
12.	UNICEF Malaysia Diversion of Children in Conflict with the Law: International Models & Best Practices (undated)
13.	UNICEF Consultant (2014) Mission Report: To help progress planning and design of a diversion model
14.	UNICEF Consultant (2014) Progress Report: Support for Reform of the Malaysia Child Justice System
15.	UNICEF Malaysia (2014) Legal Basis For Diversion: International Standards and Practices

16.	UNICEF Consultant (2015) Mission Report: To help progress planning and design of a diversion model
17.	UNICEF Consultant (2015) Progress Report: Support for Reform of the Malaysia Child Justice System
18.	UNICEF Malaysia (2015) Proposed Diversion Model for Malaysia
19.	Police Cautions and other Forms of Diversion (2015)
20.	Flow Chart Diversion Pilot (2015)
21.	Plan of Action to Implement the Diversion Pilot (2016)
22.	UNICEF Consultant (June 2016) Progress Report: Support for Reform of the Malaysia Child Justice System
23.	UNICEF Consultant (September 2016) Progress Report: Support for Reform of the Malaysia Child Justice System
24.	UNICEF Consultant (November 2016) Progress Report: Support for Reform of the Malaysia Child Justice System
25.	Trip report: Regional Workshop on Diversion and Alternative Measures For Children in Conflict with the Law (2016)
26.	UNICEF Consultant (March 2017) Progress Report: Support for Reform of the Malaysia Child Justice System
27.	UNICEF Malaysia, Diversion: International Evidence (2018)
28.	UNICEF Malaysia, Justification for the Diversion Pilot (2018)
29.	UNICEF Malaysia, Diversion Q&A (2018)
30.	Plan of Action to Implement the Diversion Pilot (2019)
31.	UNICEF Malaysia Briefing Note: Diversion Pilot (2019)
32.	UNICEF Malaysia, Discussion Paper on the Workload Implications of the Diversion Pilot (2019)
Pilot SOPs	
33.	Standard Operating Procedure for a Diversion Programme for Child Offenders. (Interagency)
34.	Prosedur Projek Rintis Penyimpangan Pesalah Kanak-Kanak (Diversion). (Police SOPS)
35.	UNICEF Malaysia Review of DSW SOPs for Diversion December 2019

Probation Pilot	
36.	UNICEF Malaysia (2016) Capacity Development Assessment Report. Probation Services and Probation Reports
37.	UNICEF Malaysia (2017) Capacity Building Needs Plan, Probation Officers
38.	UNICEF Malaysia (2017) Report on Review of Probation Reports
39.	UNICEF Malaysia (2017) Assessment Report on interactive workshops
40.	UNICEF Malaysia (2018) Report on the Establishment Phase of the Probation Pilot Project.
41.	UNICEF Malaysia (2019) Six-Month Report on the Probation Pilot
42.	DSW: Report Visits and Monitoring by Children's Division Social Welfare Department (2019)
43.	UNICEF Malaysia (2019) Update on the Probation Pilot
44.	UNICEF Malaysia (2019) Eighteen-Month Report on the Probation Pilot
45.	UNICEF Malaysia (2020) Final Report on the Probation Pilot
46.	UNICEF Malaysia (2020) Final Report on the Probation Pilot
47.	Validation of Malaysian Child Offender Initial Screening Tool (2020)
48.	UNICEF Malaysia (2021) Report on the Training of Trainers for the Probation Pilot
Steering Committee documentation	
49.	Reinstatement of the Diversion Pilot: Pelaksanaan Semula Projek Rintis Diversion Bagi Pesalah Kanak-Kanak (2020)
Additional documentation	
50.	Ha Noi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children (2010)
51.	Ministry of Women, Family and Community Development (MWFCD) and UNICEF: <i>The Malaysian Juvenile Justice System: A Study of Mechanisms for Handling Children in Conflict with the law</i> , (Kuala Lumpur: Ministry of Women, Family and Community Development (MWFCD) and UNICEF, 2013).
52.	UNICEF (2017) Diversion not Detention: A study on diversion and other alternative measures for children in conflict with the law in East Asia and the Pacific

53.	Nadzriah Ahmad (2017) Diversion of Child Offenders from the Criminal Justice System in Malaysia and Reforms of the Child Act 2001: Lessons from New Zealand, PhD Thesis, International Islamic University Malaysia (IIUM), Gombak Selangor, Malaysia.
54.	ASEAN Regional Plan of Action on Elimination of Violence Against Children (2017). Under Action 3 of Part IX of the Regional Plan of Action on Violence Against Children
55.	ASEAN Community Vision 2025 under the ASEAN Socio-Cultural Community Blueprint 2025
56.	ASEAN 2025: Forging Ahead Together
57.	UNICEF (April 2020) Ethical Considerations for Evidence Generation Involving Children on the Covid-19 Pandemic.

Annex 7: Ethical protocol

7.1 Overview of ethical principles and standards

The evaluation will be based upon the following ethical principles and guidelines:

- **It will be useful and should have social and scientific value.** The evaluation is designed to generate knowledge and learning that will positively strengthen the justice for children system and promote diversion as an alternative to detention. Findings, lessons learned and recommendations will be presented in a constructive and user-friendly manner to ensure that they add value to and help improve the quality of diversion and protect vulnerable children in Malaysia.
- **The evaluation will have scientific validity.** One of the primary concerns about scientific validity relates to the legitimacy and accessibility of the concepts and terms used over the course of an evaluation. Several steps in the study process will bolster its scientific validity:
 - Training on monitoring and evaluation has been integrated into the evaluation assignment, ensuring that key stakeholders are aware of the importance and know the function of evaluation.
 - The evaluation tools will be shared for input with key stakeholders at the outset of the data collection process and adjusted accordingly. Consultation and reflection on the process will be scheduled by members of the evaluation team throughout the data collection and at set points during the process. This will create space for the team to address any potential concerns about validity and allow for adaptations to be made as necessary.
 - Members of the team will consistently discuss potential language and translation issues and devise strategies to ensure that all participants clearly understand the questions that are being investigated and the methods used. Strategies might differ by respondent group and will be discussed in the initial stages of the data collection.
- **Remain objective.** Evaluators will remain as objective as possible. At all times evaluators will allow respondents to express their own views and opinions and will not interrupt, make suggestions or engage in personal debates about the views expressed. Participants' responses will be recorded using the specific words that were used, regardless of whether the evaluator agrees with the statement expressed.
- **The evaluation will be conducted *independently*.** Child Frontiers and IOD PARC will make an independent judgement on the information collected and situations assessed. Although all efforts will be made to clearly explain and substantiate conclusions, a certain level of subjectivity will be required.
- **All participation must be voluntary.** Informed consent will be obtained, to the best extent possible, from all participants taking part in the evaluation. At all stages, the team will be clear about who they are, the purpose of the exercise, what will be done with the information that is collected and any potential consequences of the process. For participants interviewed online, an invitation package will be sent to them including information on how to give consent

(consent information forms). Their agreement to the online invitation to participate in an interview or focus group discussion is intended to signal consent. Prior to any interview or focus group discussion, the consent form information will be explained to participants. To reconfirm, the study team will then obtain informed consent verbally or via the online chat box from respondents prior to beginning each interview or group discussion.

- **Respect for potential and enrolled participants.** The evaluation team will respect and adhere to local codes of dress and behaviour. They will respect each participant's point of view and will not criticise respondents or act as a teacher or instructor. All opinions are valid and will be respected.
- **Confidentiality and data protection.** At the outset of data collection, all participants will be informed that their answers will be kept confidential. Specific comments or views expressed by participants will not be attributed to individuals and will be dealt with confidentially. Individual participants will not be named or otherwise identified in the final report(s). All effort will be made to ensure that interviews and focus group discussions, whether online or face-to-face, will be conducted in a quiet, private setting without interruptions. Only the evaluators and participants will be present on these occasions.
- **Cyber data protection.** At the outset of data collection online, all action will be taken to protect information and privacy of participants. Researchers will use passwords, enable "Waiting Room", or lock down the meeting room prior to any interviews or focus group discussions. Any cyber threats will be reported to relevant cyber security contacts.
- **Data transfer and protection.** The evaluation team will not share raw data with UNICEF, the Government of Malaysia or any other third party. All data will be analysed, anonymized and included in the report in such a way that does not identify anyone or place them at risk of harm. The team may not use data outside of the assignment, as stated in partnership contracts.
- **Data destruction and chain of custody.** All data files will be stored securely in a safe or locked file cabinets in a secure building or online on a cloud based system. Researchers will upload notes and documents to the cloud based platform and files will only be accessible to the research team who will have passwords to access the information. All files will be kept for a retention period only and once the retention period has expired (i.e., as soon as it is no longer needed for the research purposes) the data will be securely deleted.
- **Compensation.** Study respondents will not receive any monetary compensation for their participation. However, if face-to-face interviews and group discussions are possible, refreshments may be provided and reasonable expenses covered, if so approved and in accordance with government standards for such an evaluation.

7.2 Child protection policy and ethical protocol regarding disclosure of abuse

As per the institutional policies of Child Frontiers Ltd.

Our belief

We believe that every child has a right to protection from abuse, violence, neglect and exploitation, and that child protection is everyone's responsibility.

Our commitment

We are committed to protecting children from abuse, violence, neglect and exploitation and to taking necessary remedial action when such situations arise. In doing so, our guiding principle will always be 'the best interests of the child'.

We will address all reports and concerns of actual or alleged abuse or exploitation fairly, irrespective of who the referrer is, who the allegation is about or the nature of the concern.

No retaliation or punitive action will be taken against anyone who, in good faith, raises a child protection concern.

Our approach

Child Frontiers' child protection policies and procedures are based upon:

- **Shared understanding** of what constitutes child abuse, violence, neglect and exploitation;
- **Trained and supported personnel** who are equipped to recognize situations of abuse, violence, neglect and exploitation. They know what action is expected of them in terms of reporting and ensuring the safety of children in danger;
- **Clear lines of communication, authority and decision making** so that Child Frontiers personnel have well defined mechanisms for handling child protection concerns, and for receiving technical and other support in managing cases;
- **Promoting an organisational culture and environment** that encourages child protection concerns to be openly raised and explored;
- **Equity and fairness**, ensuring that all concerns are treated with importance and respect. This includes keeping sensitive personal information confidential, sharing it only on a 'need to know' basis;
- **Working in partnership** with other organizations which are better equipped and able to undertake investigations together with agencies and organizations that provide appropriate care and support to children, and with children and their families.

Our personnel selection and management

- Child Frontiers only engages personnel who are professionally qualified and skilled to work with and on behalf of children. In the case where teams are recruited for the purpose of research or evaluation, the child protection policy and procedures will be explained during a comprehensive training process.
- It is a condition of Child Frontiers that all personnel and collaborating agencies or individuals must accept, and be prepared to work in accordance with, the child protection policy and procedures of Child Frontiers.

Prevention of risk or harm

Before the data collection begins, the evaluation team will inform the government's evaluation reference group of the approved ethical protocols and, during the second meeting of this oversight body, highlight and explain the potential risks to participants, especially children. This will provide an opportunity to review the various agency roles and responsibilities should the evaluation reveal risk of harm. At this time, we will seek the following assurances:

- Each facility where children are placed will nominate a focal point to work with the evaluation team to plan the interviews and focus group discussions.
- The evaluation team will create and explain a package of information for the focal point to brief other staff and ensure that the strict criteria and protocols for data collection can be adhered to;
- Each focal point will confirm their understanding (by email) of the ethical protocols pertaining to the interviews and focus groups discussions with children.
- Data collectors will arrange a visit to each of the schools before the interviews and focus group discussions take place (preferably a week in advance). This will provide an opportunity to discuss the process of selection of the children, understand if there has been any perception of psychological stress as a result of inclusion or exclusion, ensure that those children volunteering have done so of their own free accord, and make practical arrangements to ensure that children's safety and confidentiality are paramount throughout the process. At this time, the team will confirm with the focal point that:
 - The selection of child participants is aligned to the agreed selection criteria and that the selected children have given their broad agreement to be involved;
 - The venue is private, child-friendly and safe, and that no facility staff will have access to the venue, or to be listening to or recording any of the discussions, or be allowed to ask children about the nature or content of interview or focus group discussion;
 - Staff at the facility understand the nature of the study and have been fully briefed by the focal point about the line of enquiry and ethical protocols, including the need for anonymity and confidentiality of information shared by children;
 - Staff understand that they may not treat a child differently, or make different decisions pertaining to that child's placement, as a result of their participation in the evaluation; and
 - Children will have access to support and counselling after the interview, if required. These services will be in accordance with the ethical protocol and will include access to external, confidential child helplines for advice and counselling, or to professional staff at the facility. This should happen in a private setting.

Interviews and focus groups discussions will not be undertaken until the evaluation team is assured that the measures outlined above have been completed.

Procedures for managing indication or disclosure of risk or harm

During the evaluation, it is possible that respondents may disclose to researchers that a child is at risk of abuse, violence, neglect and exploitation. Such disclosures may concern immediate and on-going risk to a child and may constitute severe or high levels of risk. Although researchers cannot be expected to assess the level of risk to a child, all evaluation team members have an express responsibility to act upon such disclosures and to report their concerns. At the minimum, the reporting and referral protocol will follow the process outlined below:

1. A written report will be drafted to document the nature of the disclosure.
2. The Child Frontiers team lead (professionally trained in risk assessment), or delegated associate, will decide the course of action to be taken based upon an initial appraisal of the situation and risk of harm.
3. If the risk of abuse, violence, neglect and exploitation is immediate and severe, a report will be made to the local police for urgent action.
4. If the risk to the child is not assessed to be immediate or severe, a report will be made immediately to the competent welfare authorities, most likely the Department of Social Welfare.
5. In all instances, Child Frontiers will work with the Department of Social Welfare to ensure the best interests of the child. This includes referral and support to social workers at DSW headquarters, the State DSW Office (JKMN) or in the District DSW Office (PKMD) to ensure the physical protection of the child, as well as cooperation with any relevant justice agencies (such as the police) to ensure the child is removed from a situation of harm.
6. If a child is in a life-threatening situation, Child Frontiers or the direct evaluator must report immediately to a welfare officer gazetted under the Child Act 2001 (Act 611). At the same time Child Frontiers will make a police report.
7. Where it is necessary to make a referral or a report, permission will be sought from the people involved before passing on their contact details, unless it is a life-threatening situation. In such cases, the person being referred will be informed that their details have been disclosed, together with the name of the social workers or agency to which the information was passed.
8. A written record of any reports and referrals made will be maintained by Child Frontiers. All records related to child protection referrals and concerns will be stored in a central location, with access strictly limited to the directors of Child Frontiers. Information will only be shared on a 'need to know' basis (e.g., if a criminal investigation is launched) and with the knowledge of those concerned.

For the purposes of this protocol, the respective representatives from the partnering agencies will be:

Child Frontiers: Mr. Guy Thompstone

Children's Division: X

7.3 Ethical protocol regarding possible psychological distress

The evaluation toolkit contains potentially sensitive questions that pertain to cases of children in difficult circumstances. These may trigger anxiety or psychological pain for evaluation participants, children and adults alike.

Procedure

A communication response plan in the event of a crisis will be shared with the participant. If is a life-threatening situation, the researcher has the duty of care to immediately dial the Malaysia Emergency Response Service (MERS) 999. Listed below the local support for psychological stress (non-exhaustive list):

	Name of entities/organizations	Contact details
1.	Talian Kasih	15999 WhatsApp 019-261 5999
2.	Mental Health Psychosocial Support Services	03-2935 9935 014-322 3392
3.	Befrienders Kuala Lumpur (For full list of operating centres: https://www.befrienders.org.my/centre-in-malaysia) Available in Penang, Perak, Johor Bahru, Kota Kinabalu and Kuching	03-7627 2929 Email: sam@befrienders.org.my
4.	BUDDYBEAR (Free hotline for children in distress) Website: https://www.humankind.my/	1800-18-2327 or Facebook Messenger: buddybear.humankind

Each time a communication response plan is activated, the evaluator will notify (in a shared written log with password protected) the Focal Point from the evaluation team [Guy Thompstone, Child Frontiers] and the Focal Point of DSW [X] on the status of the incident and follow-up.

7.4 Code of conduct for evaluation team

I hereby declare that I have read and understood the ethical protocol for this evaluation and Child Frontiers' child protection policy and that I will comply with the guidelines therein for the duration of this evaluation project.

I have a duty to ensure that no one is put at risk of harm as a result of their participation in this evaluation exercise. I have a responsibility to respect participants' views and experiences and to ensure that participation in the study is in every individual's best interest. I will do my utmost to ensure that participation in this evaluation is a positive experience for all.

While associated with this evaluation, I will never:

1. Hit or physically assault any participant
2. Behave physically in a manner which is inappropriate or sexually provocative
3. Use language or offer advice which is inappropriate, offensive or abusive
4. Act in ways intended to shame, humiliate, belittle or degrade participants
5. Act in ways that may place a participant at risk of danger, abuse or exploitation
6. Act in ways which could be deemed coercive, exploitative or abusive
7. Encourage children to act in ways that are illegal, unsafe or abusive
8. Develop intimate physical/sexual relationships with participants
9. Invite a child participant to my room, to stay overnight at my home unsupervised, on a date, or sleep in the same room or bed as a child participant
10. Do things for children of a personal nature that they can do for themselves
11. Incite flaming (refers to the act of expressing offensive opinions without holding back of emotions, e.g., racist, derogatory remarks) and will maintain respect and professional commitment towards the research.

I understand that failure to comply with this Code of Conduct may result in disciplinary action, including termination of my contract or referral to law enforcement agencies.

Print full name: _____

Signature: _____

Date: _____

7.5 Good practices for ensuring safe participation and consent In the evaluation

Data will be collected through online interviews and face-to-face interviews, testimonials and focus group discussions. Given the global pandemic, data collection will be conducted in accordance with any Covid-19 travel measures and will adhere to government health and safety guidance. The evaluation team will inform the HML Ethics Review Board of any research protocol or design changes that require further adaptation due to Covid-19 or any other reason.

The following three principles and standards should be applied throughout the evaluation, especially during data collection.

<p>Informed consent</p>	<p>Informed consent is the voluntary agreement of an individual (or their authorized representative who has the legal capacity to give consent), who exercises free power of choice, without undue inducement or any other form of constraint or coercion to participate in research. The individual must have sufficient knowledge and understanding of the nature of the proposed evidence-generating activity, the anticipated risks and potential benefits, and the requirements or demands of the activity to be able to make an informed decision. (UNICEF Procedure for Ethical Standards in Research, Evaluation, Data Collection and Analysis, 2015)</p> <ul style="list-style-type: none"> • If you have reason to believe that someone is not in a position to provide informed consent, pause and check... • Are they able to speak freely (i.e. not being overheard by someone else), and talk to you more about whether they are choosing freely to participate? • Do they sufficiently understand the purpose and process of the evaluation? Can explaining it more carefully and clearly help? • If you continue to have reason to believe that someone is not in a position to provide meaningfully informed consent, take the following steps: • If you suspect the person is under duress or any stress, ask them if they would like a referral to someone who may be able to help, or if that does not seem appropriate (because they have not disclosed duress), ask if you or a team member can follow up with them at a later date (this would be to ask if they need help or a referral). • If you suspect that the person is not able to give informed consent because they do not understand the process, then carefully end the interview: do not unnecessarily end the interview. • In all cases, write a record of your reasons and evidence and inform your evaluation supervisor straight away. • At the end of each interview or focus group discussion, the data collection team will compile the completed informed consent forms and pass them to the national lead evaluator. The team lead will be responsible for safely storing these documents in a locked storage facility at her university. They will be kept there until three months after the final report is delivered, at which point, they will be shredded.
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<p>Know your interviewee</p>	<ul style="list-style-type: none"> • This is more than a basic courtesy to know in advance who you are meeting with, what their role is, and what their relationship to the project is. • It will help you understand if there are any questions that should be tailored to the interviewee and whether there are any particular ethical or safeguarding considerations that should be followed. • You may not be able to get more than basic information about a person (e.g. their name, job title) before meeting with them, so ensure that you give them the opportunity to introduce themselves at the start of the meeting so you can tailor your approach as needed.
<p>Distress and referral</p>	<p>If the interviewee appears upset, distressed or discloses existing or historical risk of harm to themselves or others, then pause the interview.</p> <ul style="list-style-type: none"> • Ask if the interviewee would like to terminate the interview, or take a break. There is no need to continue now (or at all) if the person prefers. • Ask the interviewee if they have someone or somewhere (a service) that they get help from, or if they would like to be referred. • If they would like to be referred to a service, tell them that you will get the referral information to them (within 24 hours if they are not at imminent risk). • If someone, including a child, discloses that they are at imminent risk of harm, phone the evaluation team lead immediately to activate the child protection response.

Consent form for adults (Semi-Structured Interviews)

My name is X and I work with Y organization.

About this focus group discussion

We have been asked by the Ministry of Women, Family and Community Development (MWFCD) and UNICEF Malaysia to conduct an evaluation of the Diversion Pilot. This interview will help provide information about how appropriate, effective and sustainable the pilot is for ensuring that children do not enter the criminal justice system or be detained. This interview will examine your knowledge of or role in the Diversion Pilot, and seek your recommendations to improve the way diversion is implemented in Malaysia.

The findings from this and other interviews and focus group discussions will be used together to provide recommendations to a range of government ministries about how to best invest in justice sector reform, especially in the area of diversion for children in conflict with the law. The Ministry of Women, Family and Community Development (MWFCD) is very keen to learn how the Diversion Pilot is working well and anything that does not work so well. For this reason, we ask that you speak freely and openly.

The interview will take about 1 hour of your time, will be conducted online / in-person and is scheduled to take place in January 2022. No one will be paid or receive any other benefits from taking part in this evaluation. We do not think there are any risks for taking part in this discussion. If you find the discussion upsetting, or if you are worried that taking part will cause you any problems, you can choose to stop at any time.

Your privacy and confidentiality

All responses will be anonymous and confidential. No names will be used in the report.

With your permission, we would like to take notes during the discussion and would prefer to record the interview for future cross referencing. We won't share our notes or audio recording with anyone apart from other people working on this evaluation. We will use this information to write a report which will include what you and others have told us. However, all information provided in the final report will be kept anonymous. This means that we will not include your name in the report.

Your participation is voluntary

You have a choice about whether you take part in this discussion or you can choose to leave at any time.

Ensuring your (and others) safety and protection

If you tell us about a situation where a child is currently being abused, or is at immediate risk of harm, we have a duty to tell social workers or others so that they can help the child.

Your acceptance to the invitation for an online interview will inform us that you understand the purpose of this evaluation and voluntarily agree to take part in the discussions. Prior to commencing any

interview, we will explain the information in this consent form and reconfirm your consent. We will also explain about your participation at the start of the interview and ask you to either verbally consent or confirm in the online chat box of your consent again at that time.

If you have any queries prior to the interview, please contact:

Guy Thompstone: gthompstone@childfrontiers.com

Dr. Nadzriah Ahmad: nahmad@childfrontiers.com

STATEMENT OF CONSENT:

I understand the purpose of this evaluation and voluntarily agree to take part in this discussion

Name:

Signature:

Consent form for adults (Focus-Group Discussions)

My name is X and I work with Y organization.

About this focus group discussion

We have been asked by the Ministry of Women, Family and Community Development (MWFCD) and UNICEF Malaysia to conduct an evaluation of the Diversion Pilot. This focus group discussion today will help provide information about how appropriate, effective and sustainable the pilot is for ensuring that children do not enter the criminal justice system or be detained. This discussion will examine your knowledge of or role in the Diversion Pilot, and seek your recommendations to improve the way diversion is implemented in Malaysia.

The findings from this and other interviews and focus group discussions will be used together to provide recommendations to a range of government ministries about how to best invest in justice sector reform, especially in the area of diversion for children in conflict with the law. The Ministry of Women, Family and Community Development (MWFCD) is very keen to learn how the Diversion Pilot is working well and anything that does not work so well. For this reason, we ask that you speak freely and openly.

The focus group discussion will take about 1.5 hours of your time and is scheduled to take place in January 2022. No one will be paid or receive any other benefits from taking part in this evaluation. We do not think there are any risks for taking part in this discussion. If you find the discussion upsetting, or if you are worried that taking part will cause you any problems, you can choose to stop at any time.

Your privacy and confidentiality

We want to reassure you that anything you say during the discussion will not be attributed to you personally by the evaluation team.

It is important that all participants feel able to speak freely and know that their privacy will be respected. For this reason, we request that any information or opinions shared during this focus group discussion remain confidential to these participants. This means that anything said during this discussion must not be repeated or shared with people outside of this group.

However, you may prefer to share information or views with us afterwards if you prefer not to share them in the group discussion.

All responses will be anonymous and confidential. No names will be used in the report.

With your permission, we would like to take notes during the discussion and would prefer to record the discussion for future cross referencing. We won't share our notes or recording with anyone apart from other people working on this evaluation. We will use this information to write a report which will include what you and others have told us. However, all information provided in the final report will be kept anonymous. This means that we will not include your name in the report.

Your participation is voluntary

You have a choice about whether you take part in this discussion or you can choose to leave at any time.

Ensuring your (and others) safety and protection

If you tell us about a situation where a child is currently being abused, or is at immediate risk of harm, we have a duty to tell social workers or others so that they can help the child.

Your acceptance to the invitation for a focus group discussion will inform us that you understand the purpose of this evaluation and voluntarily agree to take part in the discussions. Prior to commencing any interview, we will explain the information in this consent form and reconfirm your consent. We will also explain about your participation at the start of the discussion and ask you to verbally consent once again before starting the discussion.

If you have any queries prior to the interview, please contact:

Guy Thompstone: gthompstone@childfrontiers.com

Dr. Nadzriah Ahmad: nahmad@childfrontiers.com

STATEMENT OF CONSENT:

I understand the purpose of this assessment and voluntarily agree to take part in this discussion

Name:

Signature:

Assent form for children

My name is X and I work with Y organization.

About this interview / focus group discussion

We are here today as part of a team commissioned by the Ministry of Women, Family and Community Development to better understand children's experience of being placed in a Henry Gurney School/Sekolah Tunas Bakti. In particular, the purpose of this interview is to understand more about the diversion programme that is being piloted to ensure that children are diverted away from the criminal justice system and do not get placed in HGS/STB, or end up in prisons when they are adults. We would like to understand the reasons why children are placed here and what kind of impact/outcomes it has on them.

Sometimes it is difficult to talk about these things, but it is important for us to hear your views. We promise to listen carefully to what you have to say. The activities we will do together should take about 1 ½ hours.

We would like to take notes during the discussion with your permission. We won't share these notes with any one apart from other people working on this assessment. We will use this information to write a report which will include what you and others have told us. However, all information provided in the final report will be kept anonymous. This means that we will not include your name in the report. If you are taking part in a group discussion, please don't share what we have discussed today with others.

The group discussion will last about 1.5 hours.

Your privacy and confidentiality

We will be writing down your views and ideas. We will not write down your name. Everything you tell us here will be kept confidential, and no one will know what you personally said to us. We will not be telling your parents or guardians, or the staff of this centre what you say to us. The only time we will share what you say is if you tell us that you need help, or disclose that you are being harmed, or if you tell us about another child who has been abused or harmed and needs help. We may have to tell another adult about your situation or this other child to make sure you/they get the help they need.

It is important that all participants feel able to speak freely and know that their privacy will be respected. For this reason, we request that any information or opinions shared during this focus group discussion remain confidential to these participants. This means that anything said during this discussion must not be repeated or shared with people outside of this group.

However, you may prefer to share information or views with us afterwards if you prefer not to share them in the group discussion.

All responses will be anonymous and confidential. No names will be used in the report.

With your permission, we would like to take notes during the discussion and would prefer to record the discussion for future cross referencing. We won't share our notes or recording with anyone apart

from other people working on this evaluation. We will use this information to write a report which will include what you and others have told us. However, all information provided in the final report will be kept anonymous. This means that we will not include your name in the report.

Your participation is voluntary

You have a choice about whether you take part in this discussion or you can choose to leave at any time.

Before we start, we wish to be clear with you that you will not receive any compensation (e.g. gifts or money) for participating today. However, we will provide some refreshments for you as a small token of our appreciation. We also hope that the report we write will help other children in the future so that they do not find themselves in the justice system.

Prior to commencing any interview, we will explain the information in this consent form and reconfirm your consent. We will also explain about your participation at the start of the discussion and ask you to verbally consent once again before starting the discussion.

If you have any queries prior to the interview, please contact:

Guy Thompstone: gthompstone@childfrontiers.com

Nadzriah Ahmad: nahmad@childfrontiers.com

STATEMENT OF ASSENT:

I understand the purpose of this assessment and voluntarily agree to take part in this discussion

Name:

Signature:

Details to be completed by the assessment team:

The participant has understood the nature of the discussion, was given an opportunity to ask any questions they may have, and has voluntarily agreed to take part in this discussion:

Name:

Signature:

Date:

Location:

Category:

Focus group number:

Guidance for evaluation data collection during COVID-19

The global COVID-19 situation is rapidly changing on a daily basis. Child Frontiers will therefore review and update this guidance regularly to ensure its appropriateness in different contexts and to build on our ongoing learning. Updates will be shared on our website at www.childfrontiers.com.

Introduction

Child Frontiers is a consulting company that promotes the care, well-being and protection of children. Among other services, we conduct qualitative and quantitative research in partnership with a range of development and humanitarian agencies. This work includes conducting small-scale, issue-specific qualitative studies and large multi-country research and programme evaluations. In most instances, our research and evaluations require associates and national partners to travel to remote areas and work closely with people in their communities, conducting focus group discussions, in-depth interviews and testimonials. Our work is driven by a commitment to ensure the protection of children in the places where they live, work, study and play.

Over the past year, the COVID-19 pandemic has pushed us to rethink how we work and to consider new methods for conducting research and evaluations. As a result, we have developed this document to guide decisions on whether to undertake research and how to do so safely during the pandemic. While COVID-19 has presented many challenges, it may also offer opportunities in terms of reshaping the way research is conducted, ensuring greater local collaboration and input. We are sharing this guidance in the hope that it will help other agencies and colleagues to plan and implement research that is safe, ethical and meaningful.

The guidance is based on extensive internal discussions with associates and national teams. It is divided into three sections:

- **Section 1** covers considerations for undertaking research and evaluations involving primary data collection. This section should be consulted when initially considering whether to undertake research and at crucial stages of the research process, such as when conducting training or data collection.
- **Section 2** guides face-to-face data collection during the pandemic. This guidance should be used throughout primary research in different settings. It can be also inform proposals for ethical clearance.
- **Section 3** looks at budgetary and planning implications of COVID-19, including the costs associated with protecting teams and participants from the virus and the additional time needed for to do so.

Section 1: Considerations for undertaking research and evaluations involving primary data collection

Face-to-face data collection should only be conducted if:

- Existing data is insufficient or unreliable
- It is not possible or effective to collect data remotely

- We are confident that researchers and participants are not at high risk of either contracting or spreading COVID-19 through their engagement in the research or evaluation.

Potential risks faced by researchers and participants if they are exposed to COVID-19 will also be considered. For example, whether the national or local health system has sufficient capacity to effectively treat COVID-19.

In making these decisions, it will be necessary to consider the following factors:

- The urgency of the research – does it need to happen now?
- The need for primary as opposed to secondary research – the extent to which secondary sources have been comprehensively examined and found to be insufficient.
- The viability of remote data collection – considering access to the internet and technology and how comfortable participants are speaking on virtual platforms.
- Ethical and safety issues associated with remote data collection – for example, considering the ability of participants to speak confidentially online or on calls.
- The sensitivity of the research topic and the need to build a rapport with participants (which may be more complex if done remotely)³²
- The rates of COVID-19 in the country and the capacity of health care systems to cope (recognising that data may not be reliable and that proxy measures may need to be considered).³³
- Access to and rates of vaccination, particularly among research teams and participant groups.
- The availability and reliability of COVID-19 testing.
- Our capacity to control the environment where the research is taking place – for example, to ensure that data collection takes place outside, where possible, or that hygiene and social distancing measures are in place.
- The vulnerability of research participants and teams (enhanced by underlying health conditions, being elderly, living in large family groups, being employed as health care professionals / other frontline workers).
- The willingness of research teams to carry out data collection.

It is essential to always follow government guidance regarding COVID-19 and to adhere to local lockdowns, curfews and other restrictions. However, it is also important to remember that local and national guidance may not be as strong as we might like and that stricter measures may need to be in place to protect participants and researchers.³⁴

³² Face-to-face data collection is usually better for examining issues related to child protection if using qualitative data collection techniques, so it may be advisable to proceed with face to face data collection regardless of the degree of sensitivity of the research topic, if the COVID-19 situation in country is improving.

³³ This information can be obtained through John Hopkins (<https://coronavirus.jhu.edu/map.html>) or Reuters (<https://graphics.reuters.com/world-coronavirus-tracker-and-maps/>)

³⁴ In some cases, the government may lack the capacity to assess rates of COVID-19 accurately or may have reasons for not sharing actual prevalence rates.

The points listed above represent a complex array of factors that will need to be considered when deciding if in-person data collection for research and evaluations should happen. To ensure clear and thoughtful decision-making, Child Frontiers has decided to establish an internal ethics panel. This panel will include a Director of Child Frontiers, another senior team member and local consultants and team members. Guidance from this panel will always be sought when:

- Rates of COVID-19 are on the rise.
- There has been a tightening of government restrictions due to concerns about rising COVID-19 rates.
- There are concerns about the capacity of health care systems to cope with current COVID-19 rates.
- Team leaders / members are sick with COVID-19 or raise concerns about continuing the research.

Section 2: Protocols to guide research and evaluations

Section 2 provides guidance once a decision is made to proceed with a study or evaluation based on the considerations outlined in Section 1. This section adapts protocols previously employed by Child Frontiers for research and evaluations in countries including Croatia, Jordan, Uganda, Thailand and Malaysia. The guidance is divided into two parts:

- Essential: essential across all context and projects
- Optional: other considerations to be adapted to each individual context / project.

The guidance acknowledges that there are variations in contexts, topics and participants in all settings, and that these should be taken into account at all times.

A. Plan ahead

Essential

- Discuss protocols with research teams and explore any necessary adaptations due to the specific context in which the research is taking place.
- Train research teams in these protocols and ensure that adherence to them is included in the researcher code of conduct.
- Obtain clearance from relevant authorities at the national and community levels, especially if movement restrictions are in place.
- Procure the necessary protective equipment for the research team and participants (see Box 1).
- Discuss COVID-19 protocols with participants (and their guardians, if participants are children) and ensure they are aware of the measures needed to minimise risk (e.g., wearing a mask, social distancing, using infrared thermometers, using hand sanitiser etc.).
- Identify a suitable venue for data collection (e.g., a large, well-ventilated room or private outside space).

- Find out about local measures and adjust this guidance accordingly. Even if local regulations do not explicitly require them, all of the 'essential measures' listed in this document should be adhered to while COVID-19 remains a threat in a country or in a region within a country.
- Consider how the team will travel to the research sites. Avoid public transport and hire vehicles if necessary. Ensure that COVID-19 protocols are adhered to when travelling (e.g. windows are open where possible, masks on).

Box 1: Protective equipment

- Participants and research teams should always wear face masks. Masks should be made available to all participants. Ensure masks are worn correctly and consider double-masking to improve fit (see link in the footnote for guidance).³⁵
- Visors can provide added protection to avoid transmission into eyes. However, visors should not replace masks (as it is easy for air particles to escape from a visor).
- If necessary for effective communication, it may be possible to buy masks with a see-through section around the mouth (check on safety of these masks).
- Participants and research teams must wash their hands or use hand sanitiser at the start of each discussion (and periodically during longer sessions). Hand sanitiser should ideally be at least 60% alcohol. Liquid soap is preferable to block soap.
- Infrared thermometers can help identify those participants who are currently symptomatic. However, these instruments do not recognise those that are asymptomatic who can still spread COVID-19.

Child Frontiers will clearly explain these preventive measures during the participant selection and at the beginning of data collection. The following precautionary measures also need to be articulated in all consent forms and information sheets. Participants who refuse or fail to comply will not be able to take part in the data collection.

B. Use masks and hand sanitisers

Essential

- Wear face masks at all times when collecting data, during your daily debriefs and when entering or leaving offices, shelters or homes. If available, N95 masks can offer a greater level of protection in higher-risk situations.
- Ensure all research participants wear face masks and carry extra ones to hand out as necessary.
- Wash hands thoroughly and regularly (ideally every 1 - 2 hours and definitely between each interview) with soap and water or alcohol-based hand sanitiser.
- Ensure participants wash their hands thoroughly and regularly before each interview or use alcohol-based hand sanitiser. Provide hand sanitiser if necessary.

³⁵ <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover-guidance.html>

- Sanitise all equipment used during data collection before and after each use (e.g., pens, recording equipment). Do not allow participants to share equipment (e.g., bring enough pens to provide one each).

C. Maintain social distance and consider the location of the research

Essential

- Conduct data collection remotely where possible.
- Conduct face-to-face data collection outside where feasible (considering the participants' confidentiality, weather conditions, etc.). These measures dramatically reduce the risk of infection.
- Approach respondent(s) for interviews/discussions in line with the required measures
 - Inform the respondent(s) of the COVID-19 measures before starting the interview or discussion.
 - Maintain the recommended distance (see below) when approaching respondents.
 - Avoid physical contact (handshaking, hugging, etc.) to greet respondents. As this may be perceived as culturally inappropriate, clearly explain why you are doing this.
- Keep a safe distance from participants and ensure that participants keep a safe distance from other another (e.g. much guidance indicates 2 meters inside and 1 meter outside, although guidance changes over time and between contexts). Remember to keep a safe distance even when entering the space where the research will take place. Reduce the size of focus groups, if necessary, to facilitate this.
- Ensure that social distance is maintained when doing drawings or diagramming exercises during the focus groups (e.g., if participants need to socially distance, ask one person to draw or ask participants to take it in turns, rather than crowding around a single sheet of flip chart paper and all contributing).
- Try to ensure that interview or discussion spaces are well ventilated. Air conditioners can help, but only if they bring fresh air in from outside rather than recirculating air. Ceiling fans will only help if the room is well ventilated already. Open windows where possible.³⁶
- During the data collection period, limit social contact with friends and family as much as possible. When working with highly vulnerable groups, it may be necessary to isolate fully during data collection.

D. Check for symptoms regularly during face-to-face data collection

Essential

- Researchers should not carry out face-to-face data collection if they have any of the common symptoms of COVID-19 (See WHO for latest list of symptoms at: <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/>). Researchers should check their temperature every morning. In case of a temperature above 37.5 Celsius, they should not engage in data collection.

³⁶ <https://www.hse.gov.uk/coronavirus/equipment-and-machinery/air-conditioning-and-ventilation.htm>

Optional

- Where possible, researchers should regularly test themselves during the data collection. When carrying out data collection with particularly vulnerable groups, testing can be crucial. However, testing is not available in all contexts. Testing is also not 100% reliable and can only identify if the researcher has COVID-19 at that moment. This should not give a false sense of security.
- Remember that it can take several days after contracting COVID-19 to have sufficient viral load to test positive. Many tests are more likely to be reliable 2-3 days after symptoms appear. It may therefore be necessary to isolate for a few days before testing.
- The most reliable form of testing available should be used in each context. For example, lateral flow tests are less reliable than PCR tests.³⁷
- Consider using infrared thermometers with all research participants. If they have a fever, the participant should be asked to leave and seek medical advice.

E. Respond appropriately to COVID-19 symptoms and test results*Essential*

- Immediately stop all face-to-face data collection and isolate if a researcher shows any of the symptoms of COVID-19 or tests positive.
- If a researcher experiences COVID-19 symptoms, they should wait for an appropriate period after symptoms have stopped before returning to data collection to ensure that they are no longer infectious. If a researcher has a positive test but no symptoms, they should also wait before returning to data collection to ensure that they are no longer infectious.³⁸
If showing the symptoms of COVID-19 or if an individual tests positive for COVID-19, research team members must inform any research participants, drivers, translators and others with whom they have been in close contact.

F. Consent of researchers and participants*Essential*

- Remind researchers that they have a choice about whether to facilitate research. If they have concerns about becoming infected by COVID-19, they can stop at any time. The assessment of risk should be continuous throughout the data collection phase. Be aware that the measures outlined above will minimise risk but will not eliminate it.
- Ensure COVID-19 is referenced in all consent processes. As part of the consent process, check again that participants have not tested positive for COVID-19 or had the symptoms of COVID-19 over the last 10 days.

³⁷<https://news.sky.com/story/what-are-the-different-types-of-covid-19-tests-and-will-they-get-us-out-of-lockdown-12068081>

³⁸<https://www.health.harvard.edu/diseases-and-conditions/if-youve-been-exposed-to-the-coronavirus#:~:text=Most%20people%20with%20coronavirus%20who,again%20there%20are%20documented%20exceptions.>

G. Referral mechanisms

Essential

- COVID-19 can have multiple impacts on the wellbeing of participants, leading to, for example, bereavement, social isolation or heightened risk of violence. Ensure that proper referral mechanisms are in place so that children and families at current risk of harm can be referred for support. Check that the services that children and families could be referred to are still operational during the pandemic. If not, this information should be included in the potential risks faced by researchers and participants if they are exposed to COVID-19 to be considered.

H. Considerations for international travel

Essential

- Consider if international travel for team members is essential given the increased risk of contracting or spreading COVID-19.
- Test yourself before travel and before return to your home country.
- Do not travel if there are already restrictions imposed or the risk of restrictions being imposed. This scenario could result in you becoming stranded or having to pay for costly quarantine. This situation may also apply to domestic travel.
- Consider rates of COVID-19 in the country being visited and do not travel if rates are high or rising.
- Consider the availability of health care in the country and know where to access health facilities should you become infected with COVID-19.
- Confirm the validity of both your travel and health insurance.
- Remember, you have a choice and should not feel pressured to travel.

Optional

- Wait to be vaccinated before travel.

I. Stop or pause the research if necessary

Essential

- If for any reason (e.g., concern that a researcher or participant may have COVID-19, lack of suitably large/ventilated room, inability to maintain social distance), it is not possible to follow the essential measures listed here, pause data collection.
- If the COVID-19 situation deteriorates, placing the researcher or the participants at heightened risk, discuss whether data collection should continue with an internal review panel.

J. Regular review

Essential

- Regularly review the risk of contracting or transmitting COVID-19 during the data collection period and make adjustments to protocols if necessary. Keep the client and key stakeholders informed at all times.

Section 3: Budgetary and planning measures

This section highlights budgetary and planning considerations that have emerged during research that has taken place during the pandemic. These issues need careful consideration to ensure that research or evaluations proceed efficiently and effectively and with due attention to the needs of all those involved.

A. COVID-19 protective equipment

A budget for COVID-19 protective equipment for all researchers and research participants should be included in all research and evaluation proposals. This includes:

- masks
- hand sanitisers
- liquid soap
- vizors (as appropriate)
- thermometer guns (as applicable).
- expenses for vaccinations, COVID-19 tests and PPE, as appropriate.

B. Additional time

When planning projects, additional time is likely to be required to allow for remote planning and project management, including the time needed for ethical clearance. Experience suggests that ethical review boards are mainly concerned with a) articulating a clear rationale for research during COVID-19 and b) demonstrating appropriate protocols for protecting researchers and participants. Sharing the protocols listed above and how these have been adapted to the local context may help.

Data collection plans may change regularly, even weekly or daily, as the pandemic evolves. In some cases, data collection can take up to twice as long as it might have done pre-COVID-19, including the process of identifying and recruiting participants. Considerations that data collection may have to be delayed or paused due to COVID-19 must be factored into the timeline.

Depending on the type of research or space available, focus groups may need to be smaller than usual to allow for adequate social distancing. In these instances, additional time will be required to complete the data collection. Otherwise, the sample size is likely to be very small.

Time should be factored in for briefing participants and those who have access to participants about COVID-19 and the essential and approved protective measures.

Annex 8: Ethical approval certificate



Research Ethics Approval

11 January 2022

Mr. Guy Thompstone, MSW
Director
Child Frontiers Ltd
Suite A 15/F, Hillier Commercial Building
65-67 Bonham Strand East
Sheung Wan, Hong Kong

RE: Ethics Review Board findings for: *Country-Led Evaluation of Child Justice Reform: The Diversion Pilot* (HML IRB Review #489MALA21)

Dear Mr. Thompstone,

Protocols for the protection of human subjects in the above study were assessed through a research ethics review by HML Institutional Review Board (IRB) on 16 December 2021 – 11 January 2022. This study's human subjects' protection protocols, as stated in the materials submitted, received **ethics review approval**.

You and your project staff remain responsible for ensuring compliance with HML IRB's determinations. Those responsibilities include, but are not limited to:

- ensuring prompt reporting to HML IRB of proposed changes in this study's design, risks, consent, or other human protection protocols and providing copies of any revised materials;
- conducting the research activity in accordance with the terms of the IRB approval until any proposed changes have been reviewed and approved by the IRB, except when necessary to mitigate hazards to subjects;
- promptly reporting any unanticipated problems involving risks to subjects or others in the course of this study;
- notifying HML IRB when your study is completed.

HML IRB is authorized by the United States Department of Health and Human Services, Office of Human Research Protections (IRB #1211, IORG #850, FWA #1102).

Sincerely,

D. Michael Anderson, Ph.D., MPH
Chair & Human Subjects Protections Director, HML IRB

cc: Pamela Clifford, Nepali Sah, fjamaluddin@unicef.org, Sivaselvi Supramaniam Penelope Lantz, JD

Health Media Lab, Inc.
1101 Connecticut Avenue, NW Suite 450
Washington, DC 20036 USA
+1.202.246.8504
unicef@hmlirb.com www.hmlirb.com