

The “Minimum Protection Approach”

Beyond *do no harm* - responding to protection¹ concerns: a minimum approach

This guidance note seeks to provide National Societies (NS) and other Movement partners with guidance on how to ensure they are able to provide a minimum level of response to protection needs identified through the course of their work.

The approach describes how an NS can ensure their capacity to analyze, prioritize, and react to violations of the rights of the individuals it is assisting, in fulfillment of the Fundamental Principle of Humanity and as local actors, auxiliary to the authorities in providing impartial humanitarian assistance.

The “minimum protection approach” (MPA) includes ensuring that all programmes and operations “Do no harm”, and mainstream protection concerns, while building in further measures to reactively address protection concerns identified by staff, volunteers, community members or beneficiaries. The key elements are:

- a) Establish internal escalation pathways and protection focal points;
- b) Referring individual cases and issues to a relevant protection actor ensuring informed consent of the individual(s) concerned;
- c) Dialogue and advocacy with authorities on individual or systemic protection concerns where possible and appropriate.
- d) Directly meeting individuals’ needs arising from protection concerns through service provision

The MPA entails that, while remaining focused on service provision, the NS is able to identify and address the protection needs identified through service provision and community engagement without designing a full protection programme².

By implementing it, the NS would need to ensure the capacity to analyze, prioritize, and react to violations of the rights of the individuals it is assisting. The goal of this approach is to answer to unmet protection needs.

Implementing the MPA may impact the relation between NS and the authorities, which should be carefully evaluated in advance. Some authorities may perceive the MPA as running counter to the NS role as an auxiliary of public authorities in performing their humanitarian functions³.

This guidance note elaborates the Movement Framework on Protection which outlines the three “levels” of protective action:

- 1) **“Do no harm” and Protection mainstreaming:** “Do no harm” generally refers to avoiding any negative effects from humanitarian activities. “Protection mainstreaming” refers to ensuring that assistance activities address protection needs through ensuring dignity, access, participation and safety for affected people.
- 2) **Specialized protection activities** which address the causes and circumstances leading to violations of international law (including IHL) and domestic law. It also includes addressing the consequences of those violations.
- 3) **Efforts to influence standards, norms and law:** promote an enabling environment that is conducive to the protection of vulnerable persons.

¹ Protection definition: *all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law (i.e. HR law, IHL, refugee law).* (Inter Agency Standing Committee – IASC);

² The “Full Protection Approach” entails regular monitoring of situation of persons supported, confidential dialogue including reporting to the authorities and relevant non-State actors at different levels. It requires immediate responses to alleged violations of relevant bodies of law or norms as well as prevention activities to reduce the vulnerability and/or the exposure of individuals to risks;

³ For an overview of arguments that can be presented to authorities, please refer to the document “*added value of NS in Protection*” in the Movement Protection platform;

a. How to implement a MPA

The MPA should follow the recognized and applicable standards, especially those outlined in the ICRC reference document “Professional Standards for Protection Work (PS)”⁴ and the IFRC “Minimum Standards for Protection, Gender and Inclusion in emergencies” and relevant Movement technical guidance such as those on referrals, support to detainees, MHPSS guidance for survivors of protection violations.

- In all circumstance, implement the “do no harm principle” across all service provision activities of your NS (PS 1.4.) and as elaborated in detail in the IFRC guide “better programming initiative”;
- “Putting the populations at the center” including PS 1.6 “protection work must be carried out with due respect for the dignity of individuals”; 1.7 “seeking dialogue with persons at risk and ensure their participation in activities directly affecting them”;
- Assess protection needs (PS 2.1);
- Map protection actors and develop referral pathways (PS 5.1 and 5.5.-5.6);
- Map and understand relevant external legal and policy frameworks;
- Understand the services and positions of the authorities, and development of a dialogue;
- Develop internal capacity in terms of training, capacity etc. (PS 7.1-7.6).

b. Dialogue and possible formal agreement with the authorities

A dialogue with the authorities shall always be ensured prior to starting the implementation of the MPA whether developing a direct protection dialogue and/or referring cases to another actor. Here we are referring to the standard dialogue that NS have with their authorities regarding its own activities. This will allow for transparency of the work of NS on MPA being it by informing authorities that referrals to protection actors are conducted when a NS encounters a protection concern. This dialogue should clarify the role and mandate of the NS as well as ensure the authorities’ acceptance of the NS’s working modalities based on the fundamental principles.

Envisaging an agreement with the authorities is strongly recommended, be it in a written or oral form. Not reaching an agreement raises the risk of misunderstanding and may impact the action. Nevertheless, with or without agreement, the NS will always have to consider how to conduct its dialogue and, at what level this dialogue should start and what would the escalation path to higher authorities be - For example, from local to central authorities or from lower responsibility level to Ministerial level.

c. Pre-requisites

Developing an MPA must take in consideration, as for any Protection action, some pre-requisites (the points below are in no way exhaustive and are not ranked by order of importance):

Internal leadership support and understanding

Protection work could place the NS in challenging situations vis-a-vis the authorities, for instance when the NS identifies protection needs that are not followed up adequately by those in charge or violations. Therefore, protection work must not only be grounded in the work of dedicated operational staff/volunteers, but also in the commitment and support by the leadership of the NS.

Integration of protection standards in NS policies and development of relevant internal systems

A NS who wishes to engage in a MPA should develop internal procedures on how to collect information on the ground and how such information is processed and forwarded internally and transmitted externally, in line with data protection standards.

⁴ Professional Standards for Protection Work, ICRC, February 2018;

Training and capacity building of staff and volunteers on protection

NS staff and volunteers should receive adequate training on what protection work means. NSs must also be able to develop capacity to recognize and analyze protection needs to develop an adequate response⁵.

Understanding of the needs

NS should set aside time and resources to make an evaluation of the Protection needs and risks that may arise. This evaluation will be essential to develop an internal plan of action on the priorities and issues to address.

Overview of the different stakeholders, including the activities of other humanitarian organizations

To ensure complementarity and possibly allow the exchange of expertise, the NS should map the relevant stakeholders and analyze who could be the most influential and who offers strongest services. The partners should have a clear understanding of how they will cooperate and what is expected from each of them. This could be formalized in a cooperation agreement.

Internal understanding of the legal and policy framework(s) that affect the work

Identify national legislation on access to information/privacy and personal data as it is likely to shape protection activities.

Considering legal risks

Before undertaking protection activity, legal risks shall be considered. In the absence of privileges and immunities, including immunity from jurisdiction and testimonial immunity, NS staff and volunteers may be bound to provide confidential documents or give testimony if required to do so by a judge or any other authority. This may undermine the perception of the NS as being truly neutral and independent, and as being able to abide by their commitment of confidentiality.

⁵ Several trainings have already been created. Refer to the Protection training page in the Community of Practice for accessing available tools;