

MICROSOFT

**INFORMATION GUIDE ON
THE MANAGEMENT OF
STATUTORY SERVICES IN
TERMS OF THE
CHILDREN'S ACT 38 OF
2005**

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ENQUIRIES

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Chapter 1 Introduction

1. Introduction

The Children's Act 38 of 2005, as amended, together with the General Regulations Regarding Children, 2010, hereinafter referred to as the Children's Act (the Act), came into full operation on 1 April 2010. It introduced momentous changes involving the care and protection of children. This legislation should be seen against the background of the United Nations Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child, and the Constitution of the Republic of South Africa (the Constitution).

Whereas the Constitution establishes a society based on democratic values, social justice and fundamental human rights and seeks to improve the quality of life of all citizens and to free the potential of each person, every child has special rights set out in section 28 of the Constitution. The Children's Act gives effect to certain rights of children as contained in the Constitution. It places an obligation on all organs of state in any sphere of government and all officials, employees and representatives of organs of state to respect, protect and promote the rights of children.

The Children's Act is multi-sectoral and multi-disciplinary in nature. It is implemented across different sectors, by various professionals from different disciplines. It puts forward a child care and protection delivery system that is holistic, comprehensive and integrated. It is therefore imperative for all who are responsible for its implementation to achieve its intended aims and objectives.

The Act is applauded for ushering in a paradigm based on family preservation, prevention and early intervention services. Nonetheless, statutory intervention is vital as part of a comprehensive care and protection system to service certain categories of children. Statutory services are fundamentally procedural and derived from legislative processes. These services need to be guided and practised with caution, prudence and discretion. It is therefore imperative for social workers and social service professionals to be well informed regarding correct processes and procedures when implementing statutory provisions of the Act. This document seeks to achieve that purpose.

1.1. Purpose of the information guide

The purpose of this document is to provide information to social workers, designated social workers and social service professionals regarding the application of the statutory provisions of the Children's Act. It is a supplementary aid and should be read with the Children's Act,

Regulations, other relevant child care legislation, guidelines, policies, norms and standards, as well as strategies developed to support implementation of the Children's Act.

Although some differences in application will occur, it is envisaged that this guide will promote uniform interpretation of statutory provisions of the Act by social workers, designated social workers and social service professionals throughout the country.

1.2. Philosophical orientation

This guide adopts an approach and philosophy promoting children's rights and responsibilities. In any matter concerning the care, protection and well-being of a child the standard that the best interest of the child is of paramount importance should be applied. Child participation is also encouraged and any child who is of such an age, maturity and stage of development as to be able to participate in any matter concerning him or her has the right to participate in an appropriate way and have his or her views given due consideration.

The preservation of family life, with parents having the primary responsibility to care for, protect, guide and ensure the well-being of their children, is of primary importance. The Act promotes parental care and clearly stipulates the responsibilities and rights that parents have towards their children. In instances where a family is unable to care for a child, or abandons or relinquishes a child, the state is responsible for protecting the rights of that child. Prevention and early intervention services should be offered to families to help them provide adequate care and protection for their children. If this fails, statutory intervention may be sought; however, family- or community-based interventions should be prioritised. Placement of a child in alternative care should be an option of last resort. If a child is in alternative care, the placement should be monitored and supervised to ensure the safety, well-being and proper development of the child. The placement should be reviewed regularly to determine the appropriateness of the placement and care arrangement based on the needs and best interest of the child.

1.3. General guiding principles

The general principles set out in the Children's Act guide the implementation of all legislation applicable to children and all proceedings, actions and decisions by any organ of state in any matter concerning a child or children in general.

All proceedings, actions or decisions in a matter concerning a child must:

- (a) Respect, protect, promote and fulfil the child's rights set out in section 28 of the Constitution, and the rights set out in the Children Act, subject to any lawful limitation.

- (b) Respect the child's inherent dignity.
- (c) Treat the child fairly and equitably.
- (d) Protect the child from unfair discrimination on any grounds, including the health status or disability of the child or a family member of the child.
- (e) Recognise a child's need for development and to engage in play and other recreational activities appropriate to the child's age.
- (f) Recognise a child's disability and create an enabling environment to respond to the special needs of the child.
- (g) If it is in the best interest of a child, give the child's family the opportunity to express their views in any matter concerning the child.
- (h) Inform a child, having regard to his or her age, maturity and stage of development, and a person who has parental responsibilities and rights in respect of that child, where appropriate, of any action or decision taken in a matter concerning the child which significantly affects the child.

Any measure taken by service providers for the care and protection of a child must be guided by the following additional principles:

Respect and recognition of parental responsibilities and rights

Parents have a primary responsibility to care for and ensure the protection, well-being and development of their children. Where applicable, the state may support and assist families and parents in fulfilling their responsibilities, while respecting their privacy and autonomy¹.

Family preservation

Services must be aimed at keeping families together and providing services and programmes intended to support and strengthen families. The purpose of family preservation is to empower families in order to reduce the incidence of the removal of children from their families².

Prevention and early intervention

Prevention and early intervention services are aimed at empowering, uplifting and supporting children, families and communities to build their capacity and self-reliance so as to enable them to address problems and make correct and healthy choices.

These services ensure that children who are at risk of becoming vulnerable are assisted through therapeutic or developmental programmes, thus preventing them from entering the child care and protection system or requiring statutory intervention³.

¹United Nations Guidelines for the Alternative Care of Children. (2010)

² Department of Social Development (2010) *Manual of Family Preservation Services*. Pretoria: Department of Social Development.

³ Department of Social Development (2009) National Policy Framework for the Children's Act 38 of 2005. Pretoria: Department of Social Development.

Interventions should concentrate first on prevention and early intervention, by enhancing family functioning, then on protection and lastly on the provision of statutory services⁴.

Quality services

Services to children and families must be guided by relevant legislation, policies, guidelines and ethics, as well as norms and standards. All proceedings, actions and decisions must promote and respect the rights of clients and children as outlined in the Constitution. Approaches that are conducive to conciliation and problem solving should be adopted. Any confrontational or hostile approaches should be avoided at all costs. Service providers must take reasonable measures to avoid undue delays in action, intervention or decisions in matters concerning children⁵.

Community based services

Services to children and families should be accessible and, as far as possible, be community based in order to promote family preservation and avoid separation of children from their families. If alternative care is inevitable, the child should be placed as close as possible to his or her habitual place of residence in order to facilitate contact and potential family reunification and minimise disruption of the child's educational, cultural and social life. The placement must be for the shortest possible period, and be supervised and reviewed on a regular basis. Adoption must be considered for young children who are orphaned or abandoned⁶.

1.4. Definitions

1.4.1. Child

"Child" means a person under the age of 18 years. For the purpose of the application of this guide, a child is any person under the age of 18 years, whether that person is a South African citizen or not. Any reference to a child includes a foreign child who is found in the Republic.

1.4.2. Parental responsibilities and rights

Section 18 of the Children's Act espouses the parental responsibilities and rights that a person may have in respect of a child. These include the responsibility and the right:

⁴ Department of Social Development (1997) *White Paper for Social Welfare*. Pretoria: Department of Social Development

⁵⁵ Department of Social Development (1997) *White Paper for Social Welfare*. Pretoria: Department of Social Development.

⁶United Nations Guidelines for the Alternative Care of Children. (2010)

- (a) *To care for the child.*
- (b) *To maintain contact with the child.*
- (c) *To act as guardian of the child.*
- (d) *To contribute to the maintenance of the child.*

1.4.3. Parent

“Parent” means a father or mother of a child and includes the adoptive parent of a child. Section 1 of the Act states that a parent in relation to a child excludes:

- (a) *The biological father of a child conceived through the rape of or incest with the child's mother.*
- (b) *Any person who is biologically related to a child by reason only of being a gamete donor for purposes of artificial fertilisation.*
- (c) *A parent whose parental responsibilities and rights in respect of a child have been terminated.*

1.4.4. Foster parent

“Foster parent” means a person who has foster care of a child by order of the children's court, and includes an active member of an organisation operating a cluster foster care scheme and who has been assigned responsibility for the foster care of a child. A foster parent has the status of a caregiver and not a parent, and cannot act as a guardian of a foster child.

1.4.5. Guardian

“Guardian” is a parent or other person who has guardianship of a child. A parent or guardian of a child has a duty in terms of section 18(3) of the Act to:

- (a) *Administer and safeguard the child's property and property interests.*
- (b) *Assist or represent the child in administrative, contractual and other legal matters, or*
- (c) *Give or refuse any consent required by law in respect of the child, including:*
 - (i) *Consent to the child's marriage.*
 - (ii) *Consent to the child's adoption.*
 - (iii) *Consent to the child's departure or removal from the Republic.*
 - (iv) *Consent to the child's application for a passport.*
 - (v) *Consent to the alienation or encumbrance of any immovable property of the child.*

In South Africa, guardianship of a child may only be awarded by the High Court. It would be desirable to have this function devolved to lower courts, but this matter will be addressed in the amendment of the Children's Act.

1.4.6. Care

“Care” in relation to a child includes, where appropriate:

- (a) *Within available means, providing a child with-*
 - (i) *A suitable place to live.*
 - (ii) *Living conditions that are conducive to the child's health, well-being and development.*
 - (iii) *The necessary financial support.*
- (b) *Safeguarding and promoting the well-being of the child.*
- (c) *Protecting the child from maltreatment, abuse, neglect, degradation, discrimination, exploitation and any other physical, emotional or moral harm or hazards.*
- (d) *Respecting, protecting, promoting and securing the fulfilment of, and guarding against any infringement of, the child's rights set out in the Bill of Rights and the principles set out in the Children's Act.*
- (e) *Guiding, directing and securing the child's education and upbringing, including religious and cultural education and upbringing, in a manner appropriate to the child's age, maturity and stage of development.*
- (f) *Guiding, advising and assisting the child in decisions to be taken by the child in a manner appropriate to the child's age, maturity and stage of development.*
- (g) *Guiding the behaviour of the child in a humane manner.*
- (h) *Maintaining a sound relationship with the child.*
- (i) *Accommodating any special needs that the child may have.*
- (j) *Generally, ensuring that the best interest of the child is the paramount concern in all matters affecting the child.*

1.4.7. Caregiver

“Caregiver” means any person other than a parent or guardian who factually cares for a child and includes:

- (a) *A foster parent.*
- (b) *A person who cares for a child with the implied or express consent of a parent or guardian of the child.*
- (c) *A person who cares for a child whilst the child is in temporary safe care.*
- (d) *The person at the head of a child and youth care centre where a child has been placed.*
- (e) *The person at the head of a shelter.*
- (f) *A child and youth care worker who cares for a child who is without appropriate family care in the community.*

(g) *The child at the head of a child-headed household.*

1.4.8. Permanency plan

A “permanency plan” is a plan drawn up by a designated social worker with the participation of affected parties and, where appropriate, relevant professionals. It is compiled when a child is removed from the care of a parent or caregiver. A permanency plan is applicable if it is not in the best interest of the child to remain in parental care, or if it is not possible for a child who has been removed from parental care to be reunited with his or her family. A permanency plan must clearly specify what ultimately needs to be achieved in order to terminate court-ordered supervision or to restore a child to the care of his or her family.

According to regulation 55, the purpose of a permanency plan is to work towards life-long relationships in a family or community setting.

1.4.9. Care Plan

“Care plan” refers to a plan for treatment and care of a child whilst he or she is in alternative care and focuses on the probable ultimate reunification of the child with his or her family, whilst providing him or her with the necessary services, care, developmental programmes or intervention.

1.4.10. Individual development plan

An “individual development plan (IDP)” refers to a detailed developmental intervention plan focusing on strengths rather than pathologies, and aiming to building competency rather than attempting to cure. An IDP should be based on a strong belief in the potential within each child and family, regardless of the reason for the child being in the child care and protection system. It should be informed by the **CircleofCourage approach**, which is based on assessment against the values and principles of belonging, mastery, independence, and generosity. An IDP must clearly state target issues to be addressed, as well as why, when and by whom they are to be addressed, in order to address developmental areas or issues in relation to a child in alternative care.

1.4.11. Family development plan

A “family development plan” is an agreement that is reached between a family, other significant systems and service providers, and that forms the basis for the delivery of services on all levels of service delivery⁷.

1.4.12. Parenting plan

A “parenting plan” is a signed plan concluded by co-holders of parental responsibilities and rights determining the exercise of their respective responsibilities and rights in respect of a child. A parenting plan may determine any matter in connection with parental responsibilities and rights, including:

- (a) *where and with whom the child is to live;*
- (b) *the maintenance of the child;*
- (c) *contact between the child and:*
 - (i) *any of the parties; and*
 - (ii) *any other person; and*
- (d) *the schooling and religious upbringing of the child.*

Co-holders of parental responsibilities and rights may apply for the registration of a parenting plan or for it to be made an order of court.

1.4.13. Parental responsibilities and rights agreement

A “parental responsibilities and rights agreement” is an agreement between the mother of a child and either the biological father of a child who does not have responsibilities and rights, or any person who has interest in the care, well-being and development of the child. This agreement stipulates the acquisition of such parental responsibilities and rights. A parental responsibilities and rights agreement takes effect only if registered with the family advocate, or if made an order of the High Court, a divorce court in a divorce matter, or a children's court.

1.4.14. After care

“After care” means the supportive service provided by a social worker or social service professional to assess, monitor or evaluate progress with regard to a child's developmental adjustment as part of:

- Family preservation or reunification services.
- Adoption, including inter-country adoption.
- Discharge from alternative care⁸.

⁷ Department of Social Development. (2010) *Manual on Family Preservation (revised)*, p. 133. Pretoria: Department of Social Development.

⁸ Department of Social Development. (2009) *Norms, Standards and Practice Guidelines for the Children's Act*, p.55. Pretoria: Department of Social Development.

After care also focuses on support in terms of training, education, employment, independent living, family and community integration, and psychosocial support for children and families⁹. After care should be planned and prepared as early as possible in the placement of a child and well before the child leaves, or is discharged from, the alternative care setting¹⁰.

1.4.15. Rehabilitation services

“Rehabilitation services” are those services aimed at improving and maintaining the social functioning of clients whose functioning has been impaired as a result of an event, injury, disability or any chronic condition so as to improve the quality of life of an individual. Rehabilitation services are an effective way of reducing harm and building the capacity of the individual or family. Services are provided in a wide range of settings, including the home, community, service agencies and residential facilities¹¹.

1.4.16. Reconstruction

“Reconstruction” is a process of empowering, assisting and supporting a child’s parents, caregivers or family while the child is receiving intervention or is in statutory care. Reconstruction aims at enabling the child to be reunited with his or her parents, caregiver or family and/or community of origin¹² if circumstances permit. Reconstruction services are aimed at addressing the issues that led or contributed to the removal of the child into alternative care.

1.4.17. Reunification

Reunification is a process that is goal-directed and planned to support and empower a child and his or her parent(s), guardian(s) or caregiver(s) with the aim of allowing the child to be reunited and restored to the care of such parent(s), guardian(s) or caregiver(s). Reunification services include services that facilitate reasonable contact between the child and his or her family if that is in the best interest of the child. In order to prepare and support the child and family with regard to his or her possible return, the social worker should assess the situation so as to decide whether reunification is possible and in the best interest of the child. The assessment should take into account the child’s safety, well-being, care and development, as well as any special needs that the child might have¹³.

⁹ Department of Social Development. (2009) *Norms and standards for child and youth care centres*. Pretoria: Department of Social Development

¹⁰ United Nations Guidelines for the Alternative Care of Children (2010)

¹¹ Department of Social Development (2007) *Norms and Standards: Developmental Social Welfare Services p. 111* Pretoria: Department of Social Development.

¹² Department of Social Development (2009) *Norms, Standards and Practice Guidelines for the Children’s Act* Pretoria: Department of Social Development.

¹³ United Nations Guidelines for the Alternative Care of Children (2010)

1.4.18. Statutory services

“Statutory services” in relation to the Children’s Act are services legally empowered or sanctioned by the Act. Statutory services include court-related and court-ordered services¹⁴.

1.4.19. Statutory intervention

“Statutory intervention” is a specialised field in social work that aims to improve the social functioning of individuals, families and communities by applying administrative procedures prescribed by law. It embraces different interventions in different categories of cases, including those aimed at court-ordered prevention and early intervention, those arising from crises, reported cases that are brought before the court and those resulting in a child being placed in alternative care or adoption.

1.4.20. Social welfare intervention services

“Social welfare intervention services” incorporate developmental and intervention programmes, such as prevention and early intervention services, protection of children, counselling, care, rehabilitation and therapeutic programmes. They include referral services within the Welfare Service system¹⁵.

1.4.21. Court-ordered services

“Court-ordered services” are services aimed at supporting the proceedings of the children’s court and the implementation of court orders.

1.4.22. Programme

A “programme” is a system of projects or services intended to meet a public need, the needs of a community, a family, a group of children or an individual child. It is a definite series of activities with a specific purpose and usually has a start and an end. In contrast, a “project” is an undertaking that encompasses a set of tasks or activities having a definable starting point and well-defined objectives. Usually each task has a planned completion date and assigned

¹⁴ Department of Social Development (1998) *Information Guide for the application of the Child Care Act* p. 4.

¹⁵ Department of Social Development. (2007) *Norms and Standards: Developmental Social Welfare Services*, p. 112) Pretoria: Department of Social Development

resources. Generally, the term “project” refers to an organised set of activities that are more narrowly directed toward a common purpose or goal.¹⁶

1.4.23. Designated social worker

A “designated social worker” is a social worker in the service of:

- (a) The National or provincial Department of Social Development.
- (b) A designated child protection organisation, which is an organisation designated by the provincial head of Social Development to provide statutory or designated child protection services.
- (c) A municipality.

The irony in the Children’s Act is that designated child protection services may be provided by the Department of Social Development and a designated child protection organisation. A municipality is excluded from this list; however, a social worker in the employ of a municipality is considered a designated social worker. This is a social worker responsible for providing designated child protection services as stipulated in section 105. This anomaly will be addressed in the amendment of the Act.

1.4.24. Fit and proper person

A “fit and proper person” in relation to a child is a person who has been assessed against the criteria of honesty, integrity, reputation, competence and capability, and approved to be entrusted with the care or protection of a child. Furthermore, the particulars of such a person should not be in Part B of the National Child Protection Register or the Sexual Offender Register.

¹⁶ Department of Social Development. (2007). *Operational Norms and standards for child protection p.13*. Pretoria: Department of Social Development.

Chapter 2 Services at different levels of intervention

2. Introduction

Social welfare intervention services in relation to children and their families incorporate a wide range of services, such as prevention and early intervention services, assessments, statutory intervention, protection, counselling, care, rehabilitation, therapeutic services, family reunification and after care services. These services are aimed at optimising and improving the functioning of individual children and families through various intervention strategies, techniques and approaches. The services are rendered by different professionals and role-players and should be aimed at family preservation and upholding the rights of children as set out in the Constitution and the Children's Act.

In order to achieve improvement in the social functioning of individuals and families, services should be rendered by adequately trained and qualified personnel in order to achieve the desired outcomes. Services that are not social work-related may be rendered by other social service professionals and personnel from other disciplines.

Services are rendered at different levels of intervention. The levels are not hierarchical and do not follow a linear process. Rather, they are on a continuum and often overlap. Clients may enter and exit the system at any level, depending on their needs, level of social functioning, outcome of assessment and intervention strategies that have been developed and applied to enhance their social functioning. This chapter outlines the generic services rendered at the different levels of intervention, which include the following:

2.1. Services at different levels of intervention

2.1.1. Prevention and early intervention services

Prevention services

Prevention services may be delivered at a macro, mezzo or micro level. In relation to the Children's Act, prevention services are aimed at strengthening children, individuals, families and communities to prevent deterioration of functioning or development of problems that may lead to statutory action. Prevention services should be given the necessary recognition, support and funding, as stated in section 146 (1) of the Act. This section stipulates that the MECs for Social Development in the provinces "must" provide and fund prevention and early intervention programmes.

According to section 143 of the Children's Act, prevention services are services provided to families with children in order to strengthen and build their self-reliance and their capacity to address problems that may be or are bound to occur in the family environment and which, if not attended to, may lead to statutory intervention.

The role of the social worker or social service professional at prevention level

Services and programmes rendered by social workers and social service professionals at the prevention level include promotion and awareness, life skills and advocacy or capacity-building programmes, as well the provision of information on services available to children and families and how to access them.

Promotional and awareness-raising programmes are aimed at making the community and individuals aware of certain environmental and social factors that could affect their well-being, and indicate the types of assistance that is offered to address these factors. The aim of these programmes is to prevent persons from requiring more intensive intervention in the future.

Capacity-building programmes aim to strengthen, empower and build the capacity and self-reliance of individuals or communities. These programmes are provided to designated people or institutions. Capacity building may include the empowerment or training of communities, designated groups, children, caregivers or parents. The direct result of capacity building programmes will be one or more of the following:

- Cognitive change (learning or acquisition of knowledge);
- Affective change (shift in attitude); or
- Behavioural change (altered behaviour).

Advocacy programmes address issues pertaining to the rights and responsibilities of children, parents and communities.

Childcare services at the prevention level include the provision of Early Childhood Development (ECD) services and services at drop-in centres or partial care facilities. Different types of partial care are:

- Early childhood services.
- After school care services.
- Private hostels; and

- Temporary respite care services for children, including children with disabilities. These services are aimed at providing temporary relief to parents or caregivers of young children or children with disabilities¹⁷.

Drop-in centres are community-based facilities that provide basic services aimed at meeting the emotional, physical and social development needs of vulnerable children.

All these services are preventative in nature because they provide safe and secure environments to children, thus protecting them from vulnerabilities. Children benefiting from these services receive cognitive, emotional, physical, nutrition and other services aimed at ensuring proper growth and development and thus preventing them from suffering long-term effects of malnutrition, illiteracy, stunted development and other negative influences.

Early intervention services

Early intervention services are services provided to vulnerable children or children at risk, as well as families where there are children identified as being vulnerable or at risk of harm or removal into alternative care. These services aim to strengthen individuals and families and to prevent the child from moving deeper into the statutory system, the child and youth care system, or the criminal justice system.

A vulnerable child in this context is a child who is most likely to fall through the cracks of regular programmes, policies and traditional safety nets and who therefore needs to be given special attention when programmes and policy are designed and implemented. These children experience negative outcomes at higher rates than their peers. A vulnerable child may be defined as a child who is living in circumstances with high risk and whose prospects for continued growth and development are seriously threatened.

Vulnerable children include, amongst others:

- Chronically and/or terminally ill children.
- Orphaned children.
- Children with disabilities.
- Children infected with and affected by HIV and Aids.
- Children from dysfunctional families.
- Children in homes headed by other children.
- Children in poor households and communities.
- Children living, working or begging on the streets.
- A child in conflict with the law.

¹⁷ Republic of South Africa (2010). *General Regulations Regarding Children. (Regulation 12)*. Government Gazette Vol. 538, No. 9256.

- An abused or deliberately neglected child.
- Unaccompanied children.

The focus of prevention and early intervention services

Prevention and early intervention services must focus on:

- (a) Preserving a child's family structure. These services should be aimed at strengthening families and enhancing their capabilities to socialise, care for, nurture and love family members so as to enable them to become responsible citizens.
- (b) Developing appropriate parenting skills and the capacity of parents and caregivers to safeguard the well-being and best interest of their children, including the promotion of positive, non-violent forms of discipline. Parenting is one important function of the family. Parents and caregivers are expected to play certain roles in the upbringing of children. These roles include guiding and directing the behaviour of children. This requires parents to understand the psychosocial development of children, as well as their needs and challenges at different stages of development. Where there is a breakdown in parenting or a lack of knowledge of adequate parenting skills or where inadequate parenting approaches that are detrimental to the child are applied, proper assistance should be provided to such families.
- (c) Developing appropriate parenting skills and the capacity of parents and caregivers to safeguard the well-being and best interests of children with disabilities and chronic illnesses. Children with disabilities and chronic illnesses often need specialised care and attention. In instances where parents need the necessary skills and knowledge to cater for their needs, these should be provided.
- (d) Promoting appropriate interpersonal relationships within the family. Healthy person-to-person interactions within and outside families should be enhanced to strengthen marriages and interpersonal family relationships.
- (e) Providing psychological, rehabilitation and therapeutic programmes for children. These services are critical to encourage healing and reparation, and to prevent the recurrence of problems.
- (f) Preventing the neglect, exploitation, abuse or inadequate supervision of children and preventing other failures within the family environment to meet children's needs. These services are important to ensure that children are not removed from their families or brought into the statutory childcare system.
- (g) Preventing the recurrence of problems in the family environment that may harm children or adversely affect their development. When problems occur, they should be attended to timeously and successfully. Techniques and approaches that enable family members to be well equipped to solve their own problems should be applied. Prevention services may also be used as part of reintegration and after care programmes for children and families that have successfully been through early

intervention, therapeutic or rehabilitation programmes, but who require further support to reintegrate into family and community and/or sustain their positive functioning.

- (h) Diverting children away from the child and youth care system and the criminal justice system. Avenues introduced in the Children's Act, including pre-hearing conferences, family group conferences and other lay forums, may be used to divert children from the child care system. The Child Justice Act, 2008 (Act No. 75 of 2008) regulates programmes to divert children from the criminal justice system. These programmes aim to promote the dignity and well-being of the child in conflict with the law by developing their self-worth and promoting family and community reintegration.
- (i) Avoiding the removal of a child from the family environment.

Prevention and early intervention programmes might not reach, or may be unsuccessful in addressing the needs of, some children; hence, proper assessment is required to respond adequately to the child's circumstances.

Services rendered at early intervention level

Services delivered by a social worker or social service professional at this level comprise developmental and therapeutic programmes to ensure that those who have been identified as being at risk are assisted before they require statutory services, more intensive intervention or placement in alternative care.

Early intervention services include:

- Recruitment, screening and training of foster parents, adoptive parents and temporary safe care parents.
- Holiday programmes for children.
- Diversion and youth development programmes.
- Empowering child-headed and grandparent-headed households.
- Support programmes on substance abuse.
- Family preservation programmes, including family support, marriage preparation and mediation services.
- Marriage enrichment programmes.
- Positive discipline programmes.
- Parental skills programmes.
- Income-generating projects.
- Caring for carers.
- Recreation programmes.
- Crisis intervention.
- Pre-and post-counselling for HIV tests.
- Offender assessment and rehabilitation.

- Identification screening, assessment and support, including early identification of children in need of care and protection.
- Support for children with disabilities and their families, as well as children infected with and affected by HIV, Aids, and other chronic illnesses.
- School social work.
- Appropriate linkages and referral of clients to relevant service providers.
- Social relief services, including food parcels, clothing, school uniforms, pauper's funeral, school supplies and cash transfers/vouchers.
- Outreach programmes.
- Feeding schemes and/or soup kitchens.
- Basic care for children (provision of meals, physical care, hygiene, and health services).

Assessment of children and their families during early intervention

Early intervention services include the processes of reception, assessment and referral by suitably trained personnel, including social workers, psychologists, health practitioners, etc. A multi-disciplinary team, with members depending on the presenting problem, may perform an assessment of a child's holistic environment in order to determine phenomena that may risk the well-being of the child. If a multi-disciplinary team is utilised, each professional should undertake a specialist assessment or contribute specialist knowledge or advice to the social worker who is the case manager.

The assessment should be a holistic process based on minimum norms and standards and guidelines for practice. It should define the desired course of action, intervention or a permanency plan. If, after the assessment, the social worker is not in a position to offer the required services, a referral to an appropriate programme of intervention should be made.

A holistic assessment requires a synthetic analysis of information collected from the child, the family and other sources. It is important that an assessment of the family and each family member be conducted. This will ensure that the needs, risks, strengths and safety of each family member are considered. Information on these aspects is necessary when engaging the family in any family preservation programme.

Risk factors are those conditions that increase the likelihood of a family member experiencing or exhibiting behavioural challenges that may lead to the removal of that family member or another member from the family. Those challenges may also contribute to dysfunction in the family. Strengths include talents, capabilities and qualities that enhance functioning, while needs include inadequacies, requirements, desires, shortages or deprivation.

Family assessments normally focus on five main domains, namely:

- Individual risk, needs and strengths.
- Peer risk, needs and strengths.
- Familyrisk, needs and strengths.
- Schoolrisk, needs and strengths.
- Communityrisk, needs and strengths¹⁸.

An assessment should always result in a plan of action which stipulates the results of the assessment, as well as goals, activities and timeframes. Depending on the outcome, a social worker may refer, or engage in therapy, group work or community work programmes.

The assessment process should culminate in an assessment report. The report should detail the following:

- a. An explanation of the purpose and objectives of the assessment.
- b. A description of the stages followed in the process of assessment of the child and his or her family.
- c. The information gathered through the assessment, including supporting documents such as genographs, ecomaps, checklists, questionnaires, scales, body maps, documents from other professionals, etc.
- d. A description of the process of developing and testing hypotheses and drawing conclusions as part of the systematic analysis of the assessment.
- e. A description of the needs, strengths, risks and challenges faced by the family and its members.
- f. A description of the outcomes of the assessment, the course of action to be followed and strategies for the review of planned actions.
- g. Conclusions that the social worker has drawn and which inform the need for referral, statutory intervention, planned non-statutory intervention, family support services or a care plan for the child or family.

See Annexure 1 for an example of an assessment report and Annexure 2 for an example of an Individual Assessment Tool.

¹⁸ Department of Social Development (2010). *Manual on Family Preservation Services*. Pretoria: Department of Social Development.

2.1.2. Pre-statutory services

Based on the outcome of the assessment, the child and family may be engaged in non-statutory or statutory intervention programmes. If statutory intervention is inevitable, pre-statutory services must be offered to the child and his or her family.

Pre-statutory services are provided to children and/or families that are vulnerable or at risk with the aim of preparing them for statutory intervention. The role of the social worker during the pre-statutory phase includes information gathering, investigation, individual assessment of the child and assessment of the child's family to identify and weigh factors that would determine future intervention and decisions. It also includes a process of investigating the developmental needs of a child, including his or her family environment or any other circumstances that may have a bearing on the child's need for protection and therapeutic services.

If statutory intervention is inevitable due to the fact that a child has been abused or deliberately neglected, the broad risk assessment framework outlined in regulation 35 must be used to guide decision-making in the provision of designated child protection services and to support the decision as to whether a child is in need of care and protection or not¹⁹.

The aim of the broad risk assessment framework is to provide guidelines for:

- (a) Identification of children who are being abused or deliberately neglected;
- (b) Assessment of risk factors to support a conclusion of abuse and neglect on reasonable grounds as contemplated in section 110 of the Act;
- (c) Investigation by a designated social worker upon receipt of a report of abuse or neglect of a child; and
- (d) Appropriate protective measures to be taken in respect of a child.

In applying the broad risk assessment framework the social worker should identify the presence or prevalence of the following indicators:

- (a) Indicators of physical abuse, including bruises on any part of the body; grasp marks on the arms, chest or face; variations in bruising colour; blue/black eyes; belt marks; lacerations around or behind the ears; cigarette or other burn marks; cuts; welts; fractures; head injuries; convulsions that are not due to epilepsy or

¹⁹ Republic of South Africa (2010). *General Regulations Regarding Children. Regulation 35*. Government Gazette Vol. 538, No. 9256).

high temperature; drowsiness; irregular breathing; vomiting; pain; fever or restlessness.

- (b) Emotional and behavioural indicators of physical, psychological or sexual abuse, including aggression; physical withdrawal when approached by adults; anxiety; irritability; persistent fear of familiar people or situations; sadness; suicidal actions or behaviour; self-mutilation; obsessive behaviour; neglect of personal hygiene; a child demonstrating socially age-inappropriate sexual behaviour or knowledge; active or passive bullying; unwillingness or fearfulness to undress or wearing layers of clothing.
- (c) Developmental indicators of physical, psychological or sexual abuse, including failure to thrive; failure to meet physical and psychological developmental milestones or norms; withdrawal; stuttering; unwillingness to partake in group activities; clumsiness; lack of coordination or orientation or observable thriving of children away from their home environment;
- (d) Indicators of deliberate neglect, include underweight; scanty hair; sores around the mouth; slight water retention in the palms or in the legs; extended or slightly hardened abdomen; thin and dry skin; dark pigmentation of skin, especially on extremities; abnormally thin muscles; developmental delay; lack of fatty tissue; disorientation; intellectual disability; irritability; lethargy, withdrawal, bedsores and contractures.

A person who, due to the presence of the indicators referred to above, suspects that a child has been abused sexually or in a manner causing physical injury, or has been deliberately neglected, must assess the total context of the child's situation in accordance with the following guidelines:

- (a) Many indicators may be non-specific to abuse or neglect.
- (b) A cluster or pattern of indicators as opposed to a single isolated indicator will provide support for a conclusion of abuse or neglect.
- (c) Information about specific times of any incidents, places where incidents took place and the context within which incidents took place, which must be noted in writing, may provide support for a conclusion of abuse or neglect.
- (d) Abuse may be unintentional, but failure on the part of the parent or caregiver to prevent abuse of the child may amount to neglect.
- (e) Abuse may be physical, psychological or sexual without any visible indicators and is likely to exist if the child continuously reports threats of harm or punishment.

- (f) A series of minor incidents, any of which may, when considered in isolation, not amount to abuse or neglect, may constitute abuse or neglect when considered together.
- (g) The child's age, personality and temperament should be taken into account.
- (h) Discrepancies in the version or description of incidents by the child and his or her parent or caregiver may either provide or diminish support for a conclusion of abuse or neglect; and
- (i) Any unexplained delay in seeking medical treatment for a child who is seriously injured should be considered as a possible indicator of abuse or neglect.

In most instances, pre-statutory services are rendered under the following circumstances:

- When a child's safety is compromised.
- When a child's well-being is at risk.
- When a child appears to be in need of care and protection.
- When a child requires immediate emergency protection.

It is important for the designated social worker to conduct a safety and risk assessment to:

- Establish whether a child may be suffering or is at risk of suffering significant harm or maltreatment;
- Establish whether the child is safe or unsafe; and
- Decide what action should be taken.

Section 110(5) obliges the designated social worker to conduct a safety and risk assessment to assess the safety and well-being of a child who is reported to be abused, neglected or in need of care and protection. After the assessment and investigation, the designated social worker must:

- Decide whether the child is in need of care and protection;
- Take measures to assist the child; or
- Initiate proceedings for the protection of the child.

The Safety and Risk Assessment Tools are enclosed as Annexure 3 and 4²⁰.

²⁰Department of Social Development (2012). Safety and Risk Assessment of Children in the Field of Child Protection Services. Pretoria: Department of Social Development.

2.1.3. Court preparation

Statutory intervention processes are court-related processes. Children and their families should therefore be prepared for court appearances and court processes. Court preparation is the process of preparing children and/or their families for appearance at court, as well as detailing, explaining and discussing the expectations of the court and procedures that are followed during the court hearing or process.

Court appearance may be a daunting experience for adults and even more so for children. It is therefore the duty of the social worker to address any fears, apprehension or lack of information, as well as to sort out practical issues of court appearance. Court preparation aims to increase the parties' knowledge of the court by familiarising them with surroundings, persons who will be attending the proceedings and their roles, as well as the rules of the court. The social worker should do this by providing them with information of what is likely to occur in the court setting²¹.

Section 10 of the Children's Act recognises children's right to participate in any matter concerning them and to have their views given due consideration. Children should be allowed to participate fully and effectively if required to do so in court. When preparing children to participate, social workers should ensure that they adhere to the professional code of ethics; for example, guarding against coaching or coercing children on what to say.

It is important that a child does not wait for prolonged periods at court to avoid the need for refreshments and increased anxiety, especially if there are no facilities to keep the child occupied. Where possible, the social worker may arrange with the court to call cases that involve children earlier in the day, or work through an appointment system.

The social worker is responsible for providing professional support and protecting the child against any undue harm, which may come from the perpetrator, media, disgruntled parents, etc. If a child shows any signs of trauma or anxiety, the social worker should provide the necessary professional intervention. It is also beneficial to prepare the child's carer so as to enable them to respond to the child's anxieties and fears, especially during the period prior to the hearing. If a child or one of the parties needs the services of an interpreter, the social worker should inform the court in advance to allow for arranging such services.

²¹ Mellor, A. & Dent, H. R. (1994). Preparation of the Child Witness for Court. *Child Abuse Review*. Vol 3: 165-176.

During the court preparation phase, the social worker is required to compile a professional report based on the outcome of the investigation. The report should present the client's situation and should comply with conditions outlined in regulation 55.

The social worker has an obligation to thoroughly work through the report before the court hearing with the child's parent(s)/caregiver(s); where the child is mature enough to understand, with the child concerned; and, where placing the child in foster care, adoption or temporary safe care is being contemplated, with the prospective parent(s)/caregiver(s). If it is in the best interest of the child, the child and his or her family should participate in any future plans regarding reunification or permanency placement during the court preparation phase.

If removal of a child is inevitable, the social worker should address the emotional and psychological anxieties associated with separation. Parents need to be made aware of their rights and responsibilities and any plans for family reunification (if possible) or any permanency plan.

Before submitting a report to court, when satisfied that the report is of the required quality, the social worker should submit it to his or her supervisor. The supervisor should check the report for proficiency and countersign it.

2.1.4. Statutory intervention

Statutory intervention embraces different categories of cases that can be brought before the court, namely:

- Those where settlement out of court has failed;
- Those where early intervention has failed; and
- Those arising from crises.

Statutory intervention becomes unavoidable when initial preventive or early intervention services to preserve the family fail. At this level, the child has either become involved in some form of court process or is no longer able to function optimally. The child may have to be removed from his or her normal place of abode, either by court order or on the recommendation of a social worker, to alternative care ²².

²² Department of Social Development. (2007). *Operational Norms and standards for child protection p.13*. Pretoria: Department of Social Development.

The social worker initiates children's court proceedings based on the outcome of the pre-statutory investigation and assessment, and on evidence that prevention and early intervention services have failed or are inappropriate.

Statutory intervention by a designated social worker may include:

- a) Removal of a child to temporary safe care with or without a court order.
- b) Investigation of the circumstances of a child and his family.
- c) Compilation of a report advising the children's court as to whether a child is in need of care and protection.
- d) Investigation of the circumstances of the prospective foster parent(s) or adoptive parent(s) if either foster care or adoption is the most appropriate placement option.
- e) Investigation of the placement option of a child in a child and youth care centre. This should only be considered if other placement options are not viable and/or would not be in the best interest of the child. It should be an option of last resort.
- f) Investigation of the option of court ordered early intervention services, including counselling, mediation, therapy, behaviour modification, problem solving or rehabilitation programmes for the child and his or her family.
- g) Bringing a child before the children's court.
- h) Implementation of any order made by the children's court.

2.1.5. Pre-placement services

Pre-placement services are services rendered to children and/or their families before a child is placed in adoption or alternative care. The role of the social worker during this phase is to prepare the child and his or her family. If the child is going to be placed in adoption or alternative care, the relevant person(s) or family with whom the child will be placed should also be prepared. The social worker is responsible to do the following:

- Assess or re-assess the developmental needs of the child in order to determine, review or institute appropriate placement.
- Prepare the child and/or his or her family for the placement.
- Consider the educational needs of the child and the likely effect of change in schools.
- Consider the likely effect of any change in the circumstance of the child, including the likely effect of any separation from siblings, friends or significant others.
- Prepare the adoptive parent(s), foster parent(s) or caregiver(s) for the child's placement.

- Prepare the adoptive family or foster family for the placement.
- Plan for ultimate restoration of the child to the family of origin or family reunification.

2.1.6. Continuum of care (alternative care)

Continuum of care includes the care and placement of a child into alternative care by court order, ranging from placement into foster care, to placement in temporary safe care or placement in a child and youth care centre. Services rendered include the reception, assessment, care and exit of a child from the child and youth care system or the criminal justice system. The child may exit the continuum either through discharge from alternative care, termination of foster care or movement to an independent living programme after reaching the age of 18 or 21, whichever is applicable.

The role of the social worker in the continuum of care includes:

- The care and placement of a child in alternative care by court order ranging from placement into foster care, placement in temporary safe care or placement in a child and youth care centre.
- To ensure that a child placed in alternative care is adequately cared for and the conditions of care as defined in section 1 of the Act are complied with. The social worker should ensure that the child:
 - (a) Is provided with:-
 - (i) A suitable place to live.
 - (ii) Living conditions that are conducive to the child's health, well-being and development; and
 - (iii) The necessary financial support.
 - (b) The well-being of the child is safeguarded.
 - (c) The child is protected from maltreatment, abuse, neglect, degradation, discrimination, exploitation and any other physical, emotional or moral harm or hazards.
 - (d) The child's rights set out in section 28 of the Constitution and the principles set out in the Children's Act are respected, protected and not infringed upon.
 - (e) The social worker should ensure that the child's caregiver fulfils the following:
 - (i) Guides, directs and secures the child's education and upbringing, including religious and cultural education and upbringing, in a manner appropriate to the child's age, maturity and stage of development.
 - (ii) Guides, advises and assists the child in taking decisions in a manner appropriate to the child's age, maturity and stage of development.
 - (iii) Guides the behaviour of the child in a humane manner.

- (iv) Maintains a sound relationship with the child. If reunification is sanctioned by the social worker and the children's court, allows reasonable contact between the child and his or her family or parents.
 - (v) Accommodates any special needs that the child may have.
 - (vi) Generally, ensures that the best interest of the child is the paramount concern in all matters affecting the child.
- Provision of services, including the reception, assessment, care, therapy and exit of a child from the child and youth care system or the criminal justice system.
 - The case manager who finalised the children's court proceedings, where applicable, is responsible for the process of the review of court orders, family reunification services, and any movement of the child within or out of the child and youth care system.
 - If a child is placed in a child and youth care centre, the social worker at the centre is primarily responsible for the well-being of and direct services to the child.

2.1.7. Family reconstruction services

Family reconstruction services include services rendered by a social worker to empower, assist and support a child's parents, caregivers, or family while the child is in alternative care. These services are aimed at enabling the child to be reunited with his or her parents, caregiver or family and/or community of origin²³ if circumstances permit. Reconstruction services address the issues that led or contributed to the removal of the child into alternative care. These services must be rendered to the child's parents or family immediately after the removal of the child to facilitate speedy reunification.

The role of the social worker in providing family reconstruction services may include the following services:

- Assessment.
- Therapeutic or rehabilitation services.
- Provision of parenting skills.
- Provision of life skills.
- Provision of family preservation services.
- Counselling.
- Marriage counselling.

²³Department of Social Development (2009) *Norms, Standards and Practice Guidelines for the Children's Act* p.55Pretoria: Department of Social Development.

- Referral for relevant services, including referral for treatment for addiction, mental health problems, etc.
- Support services.

A social worker responsible for family reconstruction services must provide six-monthly progress reports to the social worker rendering services to the child while the child is in alternative care. If one social worker is responsible for monitoring the child's placement and family reconstruction, that social worker should provide six-monthly progress reports on both the child and the family/parent(s). Before reunification may be considered, the social worker rendering reconstruction services must recommend such reunification if it will be in the best interest of the child.

2.1.8. Family reunification services

Family reunification services are goal-directed services that are planned and rendered to the child, parent, guardian, or caregiver in order to support and empower them to allow and facilitate the restoration of the child to the care of such parent(s), guardian(s) or caregiver(s).

Family reunification services aim to reunite the child when the issue(s) that led or contributed to the removal of the child into alternative care have been addressed.

It is the responsibility of the social worker to facilitate visitations and leave of absence from alternative care if it is in the best interest of the child, with the aim of family reunification.

2.1.9. After care services

After care services are supportive services provided to a child and his or her family after reunification or discharge from alternative care. The purpose of after care services is to assess, monitor and evaluate progress with regard to the child's adjustment to reunification. These services may include prevention services, as well as family preservation services to prevent the recurrence of problems that led to the initial removal of the child or to prevent the occurrence of new problems.

Services should be planned and rendered before a child is discharged from the provisions of the Act. They should systematically aim to prepare the child to assume self-reliance or to integrate fully into the community. After care services for 'children' over

18 or 21 years must focus on independent living. It is imperative for social workers and social service professionals to advocate for these children and liaise with other organs of state, business and relevant stakeholders to offer assistance to these 'children'.

The duration of after care services must be determined by the level of support and services that the child and the family require, but should not be less than six months. The social worker or social service professional, whoever is responsible, must submit quarterly progress reports on the results of reunification and after care services provided to the family.

Chapter 3 The role of social workers, social service professionals and designated child protection organisations under the Children’s Act

3. Introduction

There are a range of role-players and officials that have roles, responsibilities, powers and duties under the Children’s Act. These are not listed in any one specific place and each practitioner must be aware of his or her powers and duties.

What follows are the main roles and responsibilities of social workers and social service professionals in carrying out their duties to implement the Act. This chapter illustrates the roles and responsibilities beyond statutory intervention to highlight the expanded intervention options that the Act provides.

Section 1 of the Act provides separate definitions of a social worker and a social service professional. A probation officer is included in the list of persons who are recognised as a social service professional. However, most probation officers are registered as social workers in terms of the Social Service Professions Act. This means that probation officers are included in both definitions. The implication is that a probation officer may act as a social worker or a social service professional, depending on prevailing circumstances.

The Children’s Act places numerous obligations on the provincial Head of Social Development and MEC. It is apparent that, given their other responsibilities, they may not be in a position to perform all the duties assigned to them by the Act. It should be noted that they might delegate some of their powers and duties to officials in the employ of the Department in terms of section 309 and 311 of the Act. These officials include social workers and social service professionals.

3.1. The role of the social worker

A social worker is defined in section 1 of the Act as “a person who is registered or deemed to be registered as a social worker in terms of the Social Service Professions Act, 1978 (Act No, 110 of 1978)”.

Social workers generally are the main role players in the implementation of the Act. More specifically, they are required to perform certain functions. The tables below outline the roles and responsibilities of social workers, adoption social workers and designated social workers according to the relevant sections in the Act.

Section	Roles and responsibilities of the SOCIAL WORKER
21(3)(a)	Social workers may mediate a dispute between the biological father (who is not or was never married to the child's mother) and the biological mother with regard to the fulfilment by that father of conditions set out in section 21(1)(a) and (b).
23(3)(a)	A social worker must compile a report with recommendations if requested to do so by a court hearing a care and contact application and if there is also an application for the adoption of a child.
33(5)(a)	A socialworker may assist parties in the preparation of a parenting plan.
33(5)(b)	A socialworker may mediate between parties who have difficulties in exercising their parental responsibilities and rights to prepare a parenting plan.
46(1)(f)	A social worker may be ordered by a children's court to undertake supervision services.
49(1)(a)	A socialworker may be ordered by a children's court to undertake mediation to settle a matter out of court.
141(2)	A social worker who becomes aware of any instance of a person contravening section 141 by exploiting children or subjecting them to child labour, must report such contravention to the police and the Department of Labour in the case of child labour.
237(4)	A social worker involved in the proposed adoption of a child must submit a report to the clerk of the court if he or she obtains information regarding the identity and whereabouts of persons whose consent for the adoption is needed.

3.2. The role of a designated social worker

A designated social worker is defined in section 1 as "a social worker in the service of:-

- (a) The national or provincial Department of Social Development;
- (b) A designated child protection organisation; or
- (c) A municipality".

Certain tasks in the Act can only be fulfilled by designated social workers, for instance child protection and statutory services. However, it should be borne in mind that designated social workers, too, are registered social workers in terms of the Social Service Professions Act.

Section	Roles and responsibilities of the DESIGNATED SOCIAL WORKER
29(7)	A designated social worker may be requested by a High Court, divorce court or children’s court during court proceedings to undertake an investigation in terms of section 155(2).
47(1)	If it appears to <u>any</u> court in the course of proceedings that a child involved in or affected by those proceedings is in need of care and protection as is contemplated in section 150, the court must order that the question whether the child is in need of care and protection be referred to a designated social worker for an investigation contemplated in section 155(2).
50(3)	A children’s court order may authorise a designated social worker to conduct an investigation or further investigation, to enter any premises mentioned in the court order, either alone or in the presence of a police official to remove a child, investigate the circumstances of the child; record any information; and carry out any specific instruction of the court.
56(f)	A designated social worker managing a case of a child may attend children’s court proceedings.
62(1)	A children’s court, for the purposes of deciding a matter before it or any issue in the matter, may order, if necessary, that a designated social worker carry out an investigation to establish the circumstances of a child; the parents or a parent of the child; a person who has parental responsibilities and rights in respect of the child; a caregiver of the child; the person under whose care the child is; or any other relevant person.
65(2)(a)(ii)	For purposes of monitoring compliance with an order made by a children’s court or the circumstances of a child following an order, the court, when making that order, may order that reports by a designated social worker be submitted to the court within a specified period or from time to time as specified in the order.
148(3)	A designated social worker must submit a report to the court on the progress of early intervention programmes provided to a child and the family of the child.
149	A designated social worker’s report mentioned in section 148(3) above must contain a summary of any prevention and early intervention programmes provided in respect of a child and his or her family in order to assist the court to determine a matter concerning the child.
150(2)	A child in a child-headed household or a child who is a victim of child labour may be a child in need of care and a designated social worker must undertake an investigation to determine whether such child is a child in need of care and protection.
151(1)	(ii) A designated social worker may be ordered by a children’s court to undertake a section 155(2) investigation to determine whether a child is in need of

Section	Roles and responsibilities of the DESIGNATED SOCIAL WORKER
	<p>care and protection upon evidence given by any person before a presiding officer.</p>
<p>151(2)</p>	<p>A children’s court may issue an order that a child be placed in temporary safe care if it appears that it is necessary for the safety and well-being of the child.</p> <p>That order may be directed to a designated social worker who should carry it out.</p> <p>The Constitutional Court found that section 151 was unconstitutional insofar as it did not provide for automatic judicial review of the removal of a child and thereby lacked a method for determining whether there was just cause for the removal. The Constitutional Court decided that it was appropriate to read in a new subsection to be numbered (2A) into section 151 of the Children’s Act of 2005 as follows:</p> <p>“(2A) The court ordering the removal must simultaneously refer the matter to a designated social worker and direct that social worker to ensure that:</p> <ul style="list-style-type: none"> (i) The removal is placed before the Children’s Court for review before the expiry of the next court day after the removal; and (ii) The child concerned and the parents, guardian or caregiver as the case may be are, unless this is impracticable, present in court.”
<p>151(7) (b)</p>	<p>Where a child has been removed in terms of a court order by any person authorised by the children’s court, such person must refer the matter to a designated social worker for investigation in terms of section 155(2) and report the matter to the relevant provincial department of social development.</p>
<p>152(1)</p>	<p>A designated social worker may remove a child and place the child in temporary safe care without a court order upon certain grounds.</p>
<p>152(2)</p>	<p>Where a designated social worker has removed a child without a court order, the social worker must, within 24 hours, inform the parents, guardian or caregiver of the child, report the matter to the provincial department of social development and inform the clerk of the children’s court of the removal.</p> <p>The Constitutional Court found section 152 to be unconstitutional and ordered an additional paragraph to be numbered (d) to be added to section 152(2) and to read as follows:</p> <p>“(d) ensure that:</p> <ul style="list-style-type: none"> (i) The removal is placed before the Children’s Court for review before the expiry of the next court day after the removal; and (ii) The child concerned and the parents, guardian or caregiver as

Section	Roles and responsibilities of the DESIGNATED SOCIAL WORKER
	the case may be are, unless this is impracticable, present in court.”
152(3)	If a police official has removed a child and placed the child in temporary safe care, the police official must refer the matter to a designated social worker for an investigation contemplated in section 155(2).
152(5)	Misuse of the power by a designated social worker in the employ of a designated child protection organisation, to remove children without a court order constitutes unprofessional and improper conduct.
153(6)(d)	The court may, after having considered the circumstances that gave rise to the issuing of a written notice to an alleged offender and after having heard the alleged offender, refer the matter to a designated social worker for a section 155(2) investigation.
155(2)	Before a child is brought before the children’s court, a designated social worker must investigate the matter and within 90 days compile a report in the prescribed manner on whether the child is in need of care and protection. Regulation 55 and form 38 provide guidelines for the report.
155(3)	A designated social worker investigating whether a child is in need of care and protection must report the matter to the relevant provincial department of social development.
155(4) (a) and (b)	If a designated social worker finds that a child is NOT in need of care and protection, the reasons for such finding must be indicated in a report that must be submitted to the children’s court. The report must also indicate measures recommended to assist the child and his or her family.
155(5)	If, after an investigation, the designated social worker finds the child to be in need of care and protection, that child must be brought before the children’s court.
156(3)(a)	A designated social worker may be ordered by the children’s court to render supervision and reunification services.
157(1)(a)	A designated social worker may be requested to provide the children’s court with a report to assist the court in considering the best way of securing stability in a child’s life before making an order to remove the child from his or her parent or caregiver.
157(2)	This section sets out the various tasks that a designated social worker facilitating the reunification of a child with the child’s family must undertake.
168(2) and (3)	A child may be placed in alternative care under the supervision of a designated social worker. That child qualifies for leave of absence, provided that the leave is granted and approved by the supervising designated social worker. The designated social worker may at any time

Section	Roles and responsibilities of the DESIGNATED SOCIAL WORKER
	cancel the leave of absence.
168(4)	In the case of foster care, the designated social worker may at any time cancel leave of absence granted to a child.
168(5)	When a child's leave of absence is cancelled, the designated social worker must request that the child be returned to the person or facility providing alternative care.
170(1) and (2)	This section sets out the powers that a designated social worker has in respect of a child who has absconded from, or fails to return to, his or her place of alternative care.
171(3)(a) and (b)	A child may be transferred from alternative care to the care of his or her parent, caregiver or former caregiver under the supervision of a designated social worker. If any requirement is not complied with, the designated social worker may bring the child before a children's court.
171(4)	A designated social worker must consult the child, the child's parents, the person in whose care the child was and the person into whose care the child is being transferred before the provincial head of social development issues an order transferring the child.
174(3)	Provisional transfer of a child must be managed by a designated social worker.
175(2)(b)	A designated social worker may be required to provide a report entailing an assessment of the child's best interest and reunification before the provincial head of social development may issue a notice of discharge of a child.
182(2)(d)	A designated social worker must properly assess a prospective foster parent before the children's court may place a child in foster care.
184(1)	A designated social worker must submit a report to the children's court for the court to consider before placing a child in foster care.
187(1)	A designated social worker may be requested by the children's court to facilitate reunification services between a child placed in foster care and his or her biological parents.
187(2)	A designated social worker must submit a report to the children's court where a foster child has not been reunited with his or her biological parents two months before expiry of the court order or extension order.
187(3)	A designated social worker may be ordered by a children's court to continue facilitating reunification between a foster child and his or her biological parents.
200(4)	A designated social worker in the employ of the Department of Social Development must submit a report to the provincial head of social

Section	Roles and responsibilities of the DESIGNATED SOCIAL WORKER
	development for consideration before deciding on an application for registration of a child and youth care centre.
286(1)(iv)	A child who is a victim of trafficking must be referred to a designated social worker for an investigation in terms of 155(2) upon such child's return to South Africa.
289(1)	A child who is a victim of trafficking and found in the Republic must be referred to a designated social worker for investigation in terms of section 155(2) and may be placed in temporary safe care.

3.3. Roles and responsibilities of an adoption social worker

Section 1 of the Act defines an adoption social worker as “(a) a social worker in private practice who has a specialty in adoption services and is registered in terms of the Social Service Professions Act, 1978 (Act No. 110 of 1978); and who is accredited in terms of section 251 to provide adoption services; or (b) a social worker in the employ of a child protection organisation which is accredited in terms of section 251 to provide adoption services”. A social worker in private practice may only render adoption services in relation to national adoptions, while a designated child protection organisation may be accredited to render national and/or inter-country adoptions. There is a major omission in the definition of an adoption social worker in that a social worker in the employ of the Department of Social Development is excluded. This matter will be addressed in the amendment of the Act.

There are certain powers and duties specifically related to adoption and inter-country adoption, including conducting assessments for prospective adoptive parents and assessments to see whether a child is adoptable.

Section	Roles and responsibilities of the ADOPTION SOCIAL WORKER
230(2)	An adoption social worker must make an assessment to determine whether a child is adoptable.
231(2)(d)	An adoption social worker must properly assess a prospective adoptive parent.
231(3)	An adoption social worker, in the assessment of the prospective adoptive parent, may take the cultural and community diversity of the adoptable child and prospective adoptive parent into consideration.

Section	Roles and responsibilities of the ADOPTION SOCIAL WORKER
233(4)	Before consent for the adoption of a child is granted, the adoption social worker facilitating the adoption must counsel the parents of the child and, where applicable, the child on the decision to make the child available for adoption.
234(3)	The adoption social worker facilitating the adoption of a child must assist parties in preparing a post-adoption agreement if it is in the best interest of the child.
235(1)	An adoption social worker may apply to a children's court to issue a freeing order freeing a parent from exercising parental responsibilities and rights.
239(1)(b)	An application to a court for adoption of a child must be accompanied by a report by an adoption social worker.
250(1)(b)	Only an adoption social worker may render adoption services.
251(1)(a)	A social worker in private practice may be accredited as an adoption social worker to provide adoption services.

3.4. Functions that a Provincial Head of Social Development may delegate to a social worker

There are various functions that a provincial head of social development (HOD) may delegate to a social worker. The HOD may delegate these functions discretionarily; hence, the delegations may differ from province to province. The non-statutory functions that may be delegated relate to the following:

- Registration of partial care facilities, early childhood development (ECD) programmes, drop-in centres, cluster foster care schemes and child and youth care centres.
- Approval of prevention and early intervention programmes, programmes offered at child and youth care centres and approval of NPOs managing cluster foster care schemes.
- Inspection of partial care facilities, monitoring of ECD programmes and quality assurance of child and youth care centres.
- Designation of child protection organisations.

The table below illustrates the statutory functions that the HOD may delegate to a social worker.

Section	Duties and powers that may be delegated to a SOCIAL WORKER
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110(6)(b)	<p>A designated child protection organisation to whom a report of child abuse or neglect has been made in terms of subsection 110 must report the matter to the relevant provincial department of social development.</p> <p>The provincial HOD must monitor the progress of all matters reported to him or her by designated child protection organisations.</p>
115(a)	The Director-General of the Department of Social Development may allow a provincial HOD, or an official of a provincial Department of Social Development designated by the HOD to access Part A of the Child Protection Register, for the purpose of performing his or her functions in terms of the Act.
125(1)(c)	A provincial HOD may have access to Part B of the Child Protection Register.
130(2)(c)	A provincial HOD may give consent for an HIV-test to be conducted on a child, if the child is under the age of 12 years and is not of sufficient maturity to understand the benefits, risks and social implications of such a test.
135(1)	<p>A provincial HOD may apply to a High Court, a divorce court in divorce matters or a children's court for an order:</p> <p>(a) suspending for a period, terminating or transferring any or all of the parental responsibilities and rights which a specific person has in respect of a child; or</p> <p>(b) restricting or circumscribing the exercise by that person of any or all of the parental responsibilities and rights that person has in respect of a child.</p>
137(1)	A provincial HOD may recognise a household as a child-headed household.
137(2)(b)	<p>A child-headed household must function under the general supervision of an adult designated by:</p> <p>(a) a children's court; or</p> <p>(b) an organ of state or a non-governmental organisation determined by the provincial HOD.</p>
154	If there are reasonable grounds for believing that a child at the same place or on the same premises as a child placed in temporary safe care in terms of section 47, 151 or 152 is in need of care and protection, the provincial HOD may refer that child to a designated social worker for investigation contemplated in section 155 (2).
158(3)	A provincial HOD must place a child in a child and youth care centre offering the residential care programme which the court has determined for the child.
158(4)	A provincial HOD, as a general rule, must select a centre offering the programme ordered by the court which is located as close as possible to the child's family or community.

167(3)	A provincial HOD must approve a person, facility, place or premises for temporary safe care in terms of regulation 57.
168(1)(c)	A provincial HOD, in the case of a child in temporary safe care, may grant leave of absence, subject to certain limitations and conditions as prescribed in regulation 58.
168(3)	A provincial HOD may at any time cancel leave of absence granted to a child in alternative care.
168(5)	When a child's leave of absence has been cancelled, the provincial HOD must request that the child be returned to the child and youth care centre or person providing alternative care to the child.
169	<p>A child in alternative care may not leave the Republic without the written approval of the provincial HOD first being obtained.</p> <p>In granting approval, the provincial HOD may determine terms and conditions to protect the best interest of the child in alternative care. In most provinces, this function has not been delegated or has been delegated to high-ranking officials in the Department.</p>
170(6)(c)(ii)	<p>When a child who has absconded from alternative care is brought before a presiding officer of a children's court, the presiding officer must order that the child be returned to the centre or person, or be placed in another form of care.</p> <p>That child may not be returned to the centre or person if the presiding officer is of the opinion that there are good reasons why the child should not be returned. The provincial HOD must first take action to consider options to transfer, remove, discharge or return the child to the alternative care provider.</p>
170(7)(a)&(b)	A presiding officer of the children's court must order the clerk of the children's court to report to the provincial HOD the result of an absconder's inquiry and notify the provincial HOD of any court order made.
171(1-5)	<p>A provincial HOD may, by order in writing, transfer a child in alternative care from a child and youth care centre or person in whose care or temporary safe care that child has been placed to any other child and youth care centre or person.</p> <p>The provincial HOD may not transfer a child to a child and youth care centre in another province without the permission of the provincial HOD in that province and without the prescribed financial arrangements regarding the placement being made.</p> <p>If the provincial HOD transfers a child to the care of the child's parent, guardian or former caregiver under the supervision of a designated social worker, the order must specify the requirements with which the child and that parent, guardian or former caregiver must comply.</p> <p>If any requirement referred to in the above paragraph is breached or not complied with, the designated social worker concerned may bring the child before a children's court, which may, after an inquiry, vary the order issued by the provincial HOD or make a new order in terms of section 156.</p>

	<p>Before the provincial HOD issues an order to transfer a child, a designated social worker must consult:</p> <ul style="list-style-type: none"> (a) the child, taking into consideration the child's age, maturity and stage of development; (b) the parent, guardian or caregiver of the child, if available; (c) the child and youth care centre or person in whose care or temporary safe care that child has been placed; and (d) the child and youth care centre or person to whom the child is to be transferred. <p>If the provincial HOD transfers a child from a secure care child and youth care centre to a less restrictive child and youth care centre or to the care of a person, the provincial HOD must be satisfied that the transfer will not be prejudicial to other children.</p>
172(1)&(2)	<p>The provincial HOD may determine that:</p> <ul style="list-style-type: none"> (a) a child in a child and youth care centre be released from a residential care programme; (b) another residential care programme be applied to such a child; or (c) an additional residential care programme be applied to such a child. <p>To give effect to this determination, the HOD may transfer the child to another child and youth care centre or to a person in terms of section 171.</p>
173(1)&(2)	<p>A provincial HOD may, at any time whilst the child is in alternative care, issue a notice directing that the child be removed and be put in temporary safe care at a place specified in the notice.</p> <p>The provincial HOD must, within six months from the date on which that child has been moved and placed in temporary safe care and after an inquiry, transfer, discharge or return the child to the alternative caregiver.</p>
174(1)	<p>A provincial HOD may, at any time whilst the child is in alternative care, issue a notice directing that the child be provisionally transferred from alternative care into another form of care that is not more restrictive, as from a date specified in the notice, for a trial period of not more than six months.</p> <p>A notice of provisional transfer may be issued only after:</p> <ul style="list-style-type: none"> (a) procedures prescribed by regulation 60 have been followed: <ul style="list-style-type: none"> (i) to assess the best interest of the child; and (ii) to reunite the child with the child's immediate family or other family members, if applicable; and (b) a report on such assessment and reunification has been submitted to and considered by the provincial HOD.
174(4)	<p>A provincial HOD must revoke provisional transfer if a child so requests and the social worker so recommends.</p> <p>The provincial HOD may at the end of or at any time during the trial period for provisional transfer, confirm a child's placement or discharge the child from alternative care.</p>
175(1)	<p>A provincial HOD may, at any time whilst the child is in alternative care, issue a notice directing that the child be discharged from alternative care as from a date specified in the notice.</p> <p>A notice of such discharge may be issued only after:</p> <ul style="list-style-type: none"> (a) procedures prescribed by regulation 61 have been carried out: <ul style="list-style-type: none"> (i) to assess the best interest of the child; and (ii) to reunite the child with the child's immediate family or

	<p>other family members, if applicable; and</p> <p>(b) a report on such assessment and reunification by a designated social worker has been submitted to and considered by the provincial HOD.</p>
176(2)	A provincial HOD may, on application by a person placed in alternative care as a child, allow that person to remain in that care until the end of the year in which that person reaches the age of 21 years.
178(1)	If a child in alternative care is seriously injured or abused, the management of the child and youth care centre, person or organisation in whose care or temporary safe care the child has been placed must immediately report the matter to the provincial HOD, who must cause an investigation to be conducted into the circumstances of the serious injury or abuse.
178(2)(c)	<p>If a child in alternative care dies, the management of the child and youth care centre or person in whose care or temporary safe care the child has been placed must immediately after the child's death report such death to:</p> <p>(a) the parent or guardian of the child, if he or she can be traced;</p> <p>(b) a police official;</p> <p>(c) the provincial HOD; and</p> <p>(d) the social worker dealing with the matter.</p>

3.5. Social worker as expert witness

A social worker may be expected to apply social work in relation to legal issues, litigation and civil or criminal matters within the legal system. A social worker operating in this arena is regarded as an expert witness and is often expected to testify in court and systematically evaluate individuals so that the resulting information may be used in court by legal authorities. They are required to maintain relationships with their clients, uphold the spirit of the law and their professional ethics as well. The social worker's court report is the main tool to assist him or her when testifying in court and communicating with the court.

A social worker presenting a court report in court is regarded as an expert witness. The expert witness has the role of advising the court and providing an opinion that is guided by a professional knowledge base, is objective, and is based on research and theory. The expert witness should guide the court to reach the correct legal decision by informing the court about the holistic and comprehensive circumstances of the client. An

expert witness is different from a lay witness because a lay witness is restrained from giving any opinion, characterisation or conclusions²⁴.

A social worker has the role of consulting various sources; using written and oral sources of information; evaluating and interpreting facts; reaching conclusions based on professional knowledge and experience; presenting a report in court; and providing clarity and answers during cross-examination. It is important for a social worker to refrain from expressing an opinion that a client or party to a matter is lying or telling the truth. A well-researched and written report that complies with the general requirements, gives a social worker confidence as an expert witness in court²⁵.

3.6. Social worker as a manager or supervisor

A social work supervisor plays the role of an organisational management staff member to whom authority to direct, coordinate, enhance and evaluate the on-the-job performance of the supervisees for whose work he or she is accountable is delegated. In implementing this responsibility, the supervisor performs administrative, educational, and supportive functions. In interaction with the supervisee, the supervisor's ultimate objective is to deliver to the clients the best possible service, both quantitatively and qualitatively, in accordance with organisation's policies and procedures²⁶.

3.6.1. Components of supervision

The basic principles, knowledge and techniques of supervision apply to supervision of the social work practitioner, the student social worker or the social auxiliary worker, irrespective of social work method practised or practice setting. In supervisory practice administration, education and support are translated into complementary functions, each with its own set of specific knowledge and skills.

Administrative component

The supervisor occupies an administrative-managerial position in the hierarchy at mid-level, and takes responsibility for organisation management in order to accomplish its service objectives through the generic functions of planning, directing, organising and

²⁴ Swann, A. (2002). The roles and duties of the expert witness. *Child Care in Practice*. 8(4). 305-311.

²⁵ Swain, P. A. (2005). No expert should cavil at any questioning: Reports and assessments for courts and tribunals. *Australian Social Work*. 58(1). 44-56.

²⁶ McHendrick, B.W. (1990) *Introduction to social work in South Africa*. Pretoria: HAUM Tertiary:

controlling service programmes implemented by social workers reporting to the supervisor. Staffing constitutes a further function.

Planning enables a supervisor to develop and plan a course of action needed to accomplish service objectives. The objectives must clearly spell out what needs to be achieved. Planning, which occurs daily, should be realistic, time-bound, anticipatory and based on a consideration of alternatives.

Directing entails influencing, activating, guiding or supervising social workers in their work activity.

In executing the organising function, the supervisor determines what activities need to be carried out to get a job done, assigning these activities to workers and giving them the necessary authority to carry out these activities in a coordinated manner. This operationalises all the financial and human resources available to meet the ultimate service objectives of the organisation.

Controlling constitutes monitoring worker performance and taking corrective action. It also includes assessing and evaluating the effectiveness of programmes, as well as the performance of workers in direct service delivery. Case management processes, quality assurance and quality control are inherent in this function.

Staffing refers to all activities concerned with recruitment, appointment and retention of workers in the organisation. Workers should be appropriately placed in positions where their knowledge and skill can be applied and growth can occur. Assessment of job performance, which constitutes the formal objective appraisal of the worker's total functioning on the job over a specified period, also resorts under this function.

Educative component.

The educative component of supervision aims to expand and refine the worker's knowledge, skill and values expressed in attitudes. Educational supervision is a planned systematic process, based on a teaching-learning cycle that comprises of:

- Identification of learning needs based on formal assessment;
- Formulation of teaching-learning objectives;
- Selecting and organising content;

- Planning and implementing teaching-learning strategies; and
- Evaluating the outcome of the process.

The content of education supervision shifts in focus depending on the education, competencies and experience of each worker.

Supportive component

The third component of supervision is support and it aims to help workers to deal with job-related tensions and stressors that may, if unattended, impair their work to the detriment of service effectiveness. Therefore, it provides the psychological and interpersonal resources that enable the worker to mobilise emotional energy for effective job performance. It is also concerned with increasing motivation and morale building.

3.7. Roles and responsibilities of social service professionals

Section 1 of the Act states that a social service professional “includes a probation officer, development worker, child and youth care worker, youth worker, social auxiliary worker and social security worker who are registered as such in terms of the Social Service Professions Act, 1978 (Act No. 110 of 1978)”.

Currently, only social auxiliary workers and probation officers are registered in terms of the Social Service Professions Act and they are the only recognised categories of social service professionals.

The section below outlines the roles and responsibilities that the social service professionals can play in implementing the Act. Their main roles and responsibilities in terms of the Children’s Act include mediation in relation to parental responsibilities and rights; submitting reports on the viability of a partial care application; and visiting children in foster care every two years to monitor and evaluate placements.

Section	Roles and responsibilities of the SOCIAL SERVICE PROFESSIONAL (includes a probation officer, development worker, child and youth care worker, social auxiliary worker and social security worker)
21(3)(a)	A social service professional may be required to mediate a dispute between the biological father (who is not or was never married to the child’s mother) and the biological mother with regard to the fulfilment by that father of conditions set out in section 21(1)(a) and (b).

Section	Roles and responsibilities of the SOCIAL SERVICE PROFESSIONAL (includes a probation officer, development worker, child and youth care worker, social auxiliary worker and social security worker)
49(1)(a)	A social service professional may be ordered by a children’s court to undertake mediation to settle a matter out of court.
81(1)(c)(i)	A social service professional may be called upon to submit a report on the viability of an application for the registration of a partial care facility.
88(3)	A municipal manager may delegate any power or duty assigned to him or her in terms of section 88 to a social service professional in the employ of the municipality.
102(3)	A municipal manager may delegate any power or duty assigned to him or her in terms of section 102(1) to a social service professional in the employ of the municipality.
141(2)	A social service professional who becomes aware of any instance of a person contravening section 141 by exploiting children or subjecting them to a worst form of child labour, must report such contravention to the police and the Department of Labour in the case of child labour.
186(3)	A social service professional must visit a child in foster care at least once every two years to monitor and evaluate the placement.
219(4)	A social service professional may be called upon to submit a report for the provincial HOD to consider before deciding an application for registration or renewal of registration of a drop-in centre.
225(3)	A municipal manager may delegate any power or duty assigned to him or her in terms of section 225 to a social service professional in the employ of the municipality.

3.8. Roles and responsibilities of designated child protection organisations

Section 1 of the Act defines a designated child protection organisation as an organisation designated in terms of section 107 to perform designated child protection services.

It is noteworthy that the word “designated” appears before “child protection organisation” throughout the Act. The inclusion of the word “designated” implies that the organisation has met certain criteria and requirements to render child protection services and is designated as such by a specific authority. This paves the way for specialised and quality services to be rendered to children as opposed to having organisations without the necessary skill and capacity delivering such services.

In terms of section 107(1), the Director-General or provincial HOD, on written application by an organisation, may designate any such appropriate organisation that complies with the prescribed criteria, as a child protection organisation to provide any or all specific designated child protection services in the relevant province. National child protection organisations must be designated by the Director-General, while the provincial HOD must designate provincial child protection organisations.

The criteria that the organisation must comply with are listed in regulation 31 and include requirements such as registration with an appropriate authority as a non-profit organisation, having a constitution to promote inclusiveness and representivity in the management and organisation or services. The designation by the Director-General or provincial HOD must be in writing, may be made subject to certain conditions, and must be made for a prescribed period. In terms of regulation 31(4), the designation of the organisation as a designated child protection organisation must not exceed five years at a time.

Designated child protection services are defined in section 105(5) and include a range of services, including services aimed at supporting court proceedings, prevention and early intervention services, investigations, assessment, interventions, etc.

Section	Roles and responsibilities of the DESIGNATED CHILD PROTECTION ORGANISATION
1	Please note that a designated child protection organisation managing a case of a child is included in the definition of ‘who can be a “party” before a children’s court’.
1	Note that the definition of “ designated social worker ” includes a social worker in the employ of a designated child protection organisation .
105(3)	This section refers to how designated child protection services provided by a designated child protection organisation qualify for funding.
105(4)	Designated child protection services may be provided by a designated child protection organisation.
107	This section outlines the application requirements for organisations to be designated as child protection organisations. Moreover, the fact that the Director-General or provincial HOD may assign to a designated child protection organisation such powers and duties in terms of this Act necessary for the proper provision of designated child protection services

Section	Roles and responsibilities of the DESIGNATED CHILD PROTECTION ORGANISATION
	by the organisation.
108	This section refers to existing child welfare organisations automatically being regarded as designated child protection organisations for a period of five years from the date on which section 107 took effect.
110(1) and (2)	A designated child protection organisation may receive reports of abuse and neglect of children.
110(5)	This section sets out the duties to be undertaken by a designated child protection organisation once it receives a report of abuse or neglect of a child.
110(6)(a)	A designated child protection organisation to whom a report of abuse or neglect has been made must report the matter to the relevant provincial department of social development.
110(7)	This section sets out the various measures that a designated child protection organisation can take after it has investigated a report of abuse or neglect of a child.
110(8)	A designated child protection organisation which has conducted an investigation of a report of the abuse of a child must report the possible commission of an offence to a police official.
115(b)	A designated child protection organisation may be allowed to have access to Part A of the National Child Protection Register.
123(3)	No designated child protection organisation may allow a person whose name appears in Part B of the National Child Protection Register to work with or have access to children on its behalf, either as an employee or a volunteer, or in any other capacity.
124(1)(b)	A person whose name appears in Part B of the Child Protection Register and who works with or has access to children on behalf of a designated child protection organisation either as an employee or volunteer, must disclose that fact to the organisation.
125(1)(e)	A manager or person in control of a designated child protection organisation dealing with foster care and adoption may have access to Part B of the Child Protection Register.
126(1)(b)	Before a person is allowed to work with or have access to children on behalf of a designated child protection organisation, the organisation must establish whether that person's name appears in Part B of the Register.
126(2)(b)	A designated child protection organisation must establish whether the name of any person who works with or has access to children on behalf of the organisation appears in Part B of the Register.

Section	Roles and responsibilities of the DESIGNATED CHILD PROTECTION ORGANISATION
130(2)(d)	A designated child protection organisation arranging the placement of a child, if the child is under the age of 12 years and is not of sufficient maturity to understand the benefits, risks and social implications of such a HIV test, may consent to the child undergoing the HIV test.
133(2)(c)	A designated child protection organisation arranging the placement of a child, if the child is under the age of 12 years and is not of sufficient maturity to understand the benefits, risks and social implications of such a disclosure of HIV status, may consent to disclose the fact that the child is HIV-positive. Such consent should be in the best interest of the child and be guided by the HIV Infection and Aids Policy Guidelines of the South African Council for Social Service Professions ²⁷ .
135(1)	A designated child protection organisation may apply to a High Court, a divorce court or a children's court for the suspension, termination, transfer, restriction or circumscription of any or all parental responsibilities and rights that a specific person has in respect of a child.
148(1)	A children's court may order a designated child protection organisation to provide early intervention programmes in respect of a child and the family or parent or caregiver of the child if the court considers the provision of such programmes appropriate in the circumstances.
152(5)	If a designated social worker in the employ of a designated child protection organisation misuses the power to remove a child without a court order, this constitutes unprofessional and improper conduct.
312(1)	The Minister may, subject to the departmental strategic plan, enter into an agreement with a designated child protection organisation for the provision of any service that may or must be provided in terms of this Act, by such organisation on an agency basis.

²⁷ South African Council for Social Service Professions. (2004). *Policy guidelines for course of conduct, code of ethics and rules for social workers*. Pretoria: SACSSP.

Chapter 4 Roles and responsibilities of other stakeholders in the implementation of the Act

4. Introduction

Section 4 of the Children’s Act deals with the implementation of the Act by organs of state across all levels of government. It mandates that such implementation should involve allocating roles and responsibilities and must be done in an integrated, co-ordinated and uniform manner. Furthermore, all role-players must co-operate in maintaining uniform, coordinated and integrated service delivery to children.

This provision recognises the need for systemic implementation across a number of government departments at the national, provincial and local level. Although the lead Department for the implementation of the Act is the Department of Social Development, this section requires other stakeholders that are required to implement it to fulfil their roles and responsibilities under the Act. These role-players include presiding officers, clerks of the children’s court, family advocates, legal representatives, police officers, health practitioners, psychologists, traditional leaders, intermediaries and the provincial Departments of Basic Education. It is imperative for all stakeholders to be capacitated on their obligations and duties in relation to the Act.

Section 110 of the Act places an obligation on certain professionals and persons to report child abuse, child neglect or children in need of care and protection. This chapter will specify these persons, including professionals who are obliged to report children who are victims of trafficking.

This chapter summarises the roles and responsibilities of different role players in implementing the Children’s Act. It does not seek to provide detailed and exhaustive guidelines for different role-players to implement the Act. The SAPS National Instruction 3 of 2010 provides a detailed guide to members of the SAPS to implement the Act. Similarly, the National Department of Justice and Constitutional Development issued guidelines for clerks of children’s courts as well as presiding officers. The Children’s Institute published guidelines for health practitioners, ECD practitioners and child and youth care workers. These documents may be consulted for more information.

4.1. Roles and responsibilities of the presiding officers or the court

Section	Roles and responsibilities of the PRESIDING OFFICERS/ CHILDREN’S COURT
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Section	Roles and responsibilities of the PRESIDING OFFICERS/ CHILDREN'S COURT
22(4)(b)	A High Court, divorce court or children's court may order that a parental responsibilities and rights agreement take effect upon application by the parties.
22(5)	A High Court, divorce court or children's court must be satisfied that the parental responsibilities and rights agreement is in the best interest of the child before making it an order of court.
22(6)(b)	A High Court, divorce court or children's court may amend or terminate a parental responsibilities and rights agreement on application. (Note: only the High Court may confirm, amend or terminate a parental responsibilities and rights agreement that relates to guardianship.)
23(1)	A High Court, divorce court or children's court may hear an application for an order granting care of or contact with a child.
23(2)	A High Court, divorce court or children's court should take into account various factors when considering an application for care of or contact with a child.
23(3)	A High Court, divorce court or children's court must request a report and recommendation from a family advocate, social worker or psychologist on the best interest of the child if an application for the adoption of a child has been made in the course of the court proceedings addressing the care and contact application.
26(1)(b)	A court may hear applications confirming paternity. Section 26(1)(b) does not specify the court that may hear these applications.
28(1)	A High Court, divorce court or children's court may hear an application for the suspension, termination or extension of parental responsibilities and rights that a specific person has in respect of a child. (These applications may be heard by a High Court, the children's court or a divorce court.)
28(4)	A High Court, divorce court or children's court is obliged to take certain factors into account when hearing applications for suspension, termination or extension of parental responsibilities and rights.
29	This section outlines the duties and powers of the High Court, divorce court or children's court when hearing matters relating to parental responsibilities and rights agreements, care and contact applications and guardianship issues (High Court), paternity claims, and suspension, termination or extension of parental responsibilities and rights.
32(3)	A court may limit or restrict the parental responsibilities and rights, which a person (who does not have those rights but may exercise them under certain conditions) has. This section does not specify the court

Section	Roles and responsibilities of the PRESIDING OFFICERS/ CHILDREN'S COURT
	that may restrict or limit parental responsibilities and rights.
34(1)(b)	A parenting plan may be made an order of a High Court, divorce court or children's court.
34(2)&(3)	A High Court, divorce court or children's court has a duty to ensure which documents should be submitted for a parenting plan to be made an order of court.
34(5)	A High Court, divorce court or children's court may amend or terminate a parenting plan on application.
37	A court may warn a party who refuses to submit himself to take a blood sample in a paternity matter of the effect of such refusal on the credibility of such party.
39(2)	No voidable marriage may be annulled until the relevant court has inquired into and considered the safeguarding of the rights and interests of a child of that marriage.
42(4)	A presiding officer is subject to the administrative control of the head of an administrative region defined in section 1 of the Magistrates' Court Act 32 of 1944.
42(5)	A presiding officer must perform such functions as may be assigned to him or her under this Act or any other law.
42(8)	A children's court hearing must, as far as is practicable, be held in a child-friendly room, encourage participation and be accessible to persons with disabilities or special needs.
45(1)	This section lists matters that a children's court may adjudicate.
45(2)	A children's court may convict a person for non-compliance with a children's court order or contempt of the children's court, but may not try a person for a criminal charge.
46(1)	This section lists orders that a children's court may make.
48(1)&(2)	A children's court has additional powers. It may grant interdicts, make appropriate cost orders, vary, suspend extend, withdraw or monitor its orders, estimate the age of a person who appears to be a child, etc.
49(1)	A children's court may order a lay forum hearing in an attempt to settle a matter out of court, and order a family group conference or mediation by a family advocate, social worker, social service professional or traditional authority.
49(2)	This section deals with factors that the children's court should consider

Section	Roles and responsibilities of the PRESIDING OFFICERS/ CHILDREN'S COURT
	before a lay forum hearing is ordered.
50(1)	A children's court may order any person to carry out an investigation and furnish the court with a report and recommendation before it decides a matter.
50(3)	A children's court may authorise a designated social worker or any other person conducting the investigation to enter any premises alone or in the presence of a police official to remove a child, investigate circumstances of the child, record information and carry out a specific instruction of the court.
55(1)	A children's court may refer a matter to the Legal Aid Board where a child involved in the matter is not legally represented and the children's court is of the opinion that it would be in the best interest of the child to have legal representation.
58	A children's court may permit certain persons to adduce evidence, to question or cross-examine a witness or to address the court in argument.
59(1)(a)	The children's court may request the clerk of the children's court to summons a witness.
59(5)	A presiding officer of the children's court may order that a person summoned to court receive an allowance from state funds.
60	A presiding officer of the children's court controls the conduct of the proceedings and has a range of powers outlined in section 60.
61	A presiding officer of the children's court must allow for the child to participate in the proceedings. A child witness must be questioned through an intermediary. The children's court may also order that a matter or any issue in the matter be disposed of separately or in the absence of the child, if it is in the best interest of the child.
62(1)	A children's court may, for the purposes of deciding a matter before it, order a designated social worker, family advocate, psychologist, medical practitioner or other suitably qualified person to carry out an investigation to establish the circumstances of the child, his or her parents or caregivers or any other relevant person.
63(3)	A children's court is obliged to disclose relevant parts of a report written by a designated social worker, family advocate, psychologist or medical practitioner to a party if it prejudices such party and gives such party an opportunity to question or cross-examine the author of the report or to refute any statement contained in the report.
64	A children's court may only adjourn proceedings on good cause shown

Section	Roles and responsibilities of the PRESIDING OFFICERS/ CHILDREN'S COURT
	and for not more than 30 days.
65	A children's court may monitor its court orders or the circumstances of the child following an order made by it.
66	A children's court may order access to a children's court case record if such access would not compromise the best interest of the child.
69(1)	A children's court may order a pre-hearing conference between the parties to mediate between the parties, to settle disputes between parties to the extent possible and to define the issues to be heard in court.
69(3)	A children's court may decide that a child involved in a matter not be allowed to attend and participate in a pre-hearing conference mentioned in 69 (1) above.
69(4)	A children's court may prescribe the conduct and manner of the pre-hearing conference, how records of any agreement or settlement are kept, and consider the report of the conference when the matter is heard.
70(1)	A children's court may cause a family group conference to be set up to find solutions for any problem involving the child.
70(2)	This section states the duties that the children's court must fulfil when requesting a family group conference.
71(1)	A children's court may refer a matter to any appropriate layforum, including a traditional authority to settle a matter out of court.
71(3)	A children's court may prescribe the manner in which records of the layforum are kept and consider the report of the layforum proceedings.
72(2)	If a matter is settled out of court and the settlement is accepted by all parties, the children's court must consider the settlement and either confirm it and make it an order of court, refer it back to the parties for reconsideration of certain issues, or reject it.
74	Only the children's court may permit the publication of information relating to proceedings that reveals or may reveal the name or identity of a child who is a party or witness to the proceedings.
120(1)(a)&120(2)	A children's court may make a finding that a person is unsuitable to work with children of its own volition or upon application.
121(b)	The court may review a finding of unsuitability to work with children made by a forum.

Section	Roles and responsibilities of the PRESIDING OFFICERS/ CHILDREN'S COURT
128(2)	Any court, including a children's court, may hear applications to remove a person's name or any information from Part B of the Child Protection Register.
129(9)	A High Court or children's court may consent to the medical treatment or surgical operation on a child where another person that is supposed to give consent in terms of the Act refuses or is unable to give such consent.
130(2)(f)	A children's court may consent to a child's HIV test.
133(1)(d)	Any court may order that information that the child is HIV-positive be disclosed.
133(2)(e)	A children's court may give consent to disclose the fact that a child is HIV-positive.
135(1)	A High Court, divorce court or children's court may be approached to issue an order to terminate, suspend or transfer, restrict or circumscribe (limit) any parental responsibilities and rights that a specific person has in respect of a child.
136	A High Court, divorce court or children's court should take certain factors into account when considering an application in terms of section 135 to terminate, suspend, transfer restrict or circumscribe parental responsibilities and rights.
137(2)(a)	A children's court may designate an adult as a supervising adult of a child-headed household.
148	A children's court may order that a child and his or her family be provided with early intervention programmes before making an order for the child's removal.
151(1)	A presiding officer of the children's court may order that the question of whether a child is in need of care and protection be referred to a designated social worker for an investigation contemplated in section 155(2).
151(2)	A presiding officer of the children's court may also order that a child be placed in temporary safe care if it appears to be necessary for the safety and well-being of the child.
151(3)	A children's court may exercise any other functions assigned to it in terms of section 50(1) and 50(3) in addition to referring a child for investigation or placing a child in temporary safe care.
151(4)	An order placing a child in temporary safe-care must identify the child in sufficient detail to execute the order.

Section	Roles and responsibilities of the PRESIDING OFFICERS/ CHILDREN'S COURT
153(5)&(6)	A children's court, before which an alleged offender who has been asked to leave the home where a child resides appears, may inquire into the circumstances that gave rise to the issuing of the notice and may make a range of orders.
155(1)	A children's court must decide the question of whether a child who was the subject of proceedings in terms of section 47, 151, 152 or 154, is a child in need of care and protection.
155(2)	Before a child is brought before a children's court, a designated social worker must investigate the matter and within 90 days compile a report on whether the child is in need of care and protection.
155(4)(a)	A children's court must review a designated social worker's report submitted to the court where such social worker finds that a child is not in need of care and protection.
155(5)	A child found to be in need of care and protection by a designated social worker after an investigation must be brought before the children's court.
155(6)	When a child found to be in need of care and protection by a designated social worker after an investigation is brought before a children's court, the court may make a range of orders pending the decision of the matter.
155(7)	If a children's court finds that a child is in need of care and protection, the court may make an appropriate order in terms of section 156.
155(8)	This section refers to orders a children's court can make where the court finds the child not in need of care and protection.
155(9)	A children's court must have regard to a designated social worker's report when deciding the question of whether a child is in need of care and protection.
156(1)	This section refers to the list of orders a children's court can make when a child is found to be in need of care and protection.
157(1)	A children's court is obliged to obtain a report from a designated social worker and consider the best way of securing stability in a child's life before making an order for the removal of a child from the care of his or her parent or caregiver.
157(4)	In an order for the removal of a child, the children's court may include instructions relating to the implementation of the permanency plan for the child.
158(1)&(2)	A children's court may issue an order placing a child in the care of a child and youth care centre and must determine the residential care

Section	Roles and responsibilities of the PRESIDING OFFICERS/ CHILDREN'S COURT
	programme that is best suited for the child and order that the child be placed in a centre offering that particular residential programme.
159	This section refers to the duration and extension of orders made by a children's court.
161(1)	A children's court may issue a contribution order instructing a respondent to pay a sum of money as a contribution towards the maintenance or treatment of, or the costs resulting from the other special needs of a child placed in alternative care or temporarily removed or as a short-term emergency contribution towards the needs or maintenance of the child.
161(3)	A children's court may vary, suspend or rescind a contribution order or revive the order after it has been rescinded.
162	This section specifies which children's court has jurisdiction to make a contribution order. This is the children's court in the area in which the respondent is ordinarily resident, carries out business or is employed, or the children's court where the child involved in the matter is ordinarily resident.
164	A contribution order must instruct the respondent to pay the sum stated therein to such person or institution as the children's court may determine.
165	A children's court that has made a contribution order against a respondent may order an employer of the respondent to deduct the sum of money from the respondent's wages, salary or remuneration and pay it to such person or institution specified in the order.
170(5)–(7)	This section deals with the powers and orders a children's court may make in relation to a child that had absconded from alternative care.
171(3)(b)	A children's court may vary a transfer order issued by the provincial head of social development or make a new order.
180(3)	A children's court may place a child in foster care with a person who is not a family member, a family member who is not the parent or guardian of the child, or in a registered cluster foster care scheme.
182(1)	Before a children's court places a child in foster care, the court must follow the court processes stated in Part 2 of Chapter 9 to the extent that the provisions are applicable.
184(1)	A children's court must consider a report by a designated social worker before placing a child in foster care.
185(1)(b)	A children's court may place more than six children in foster care with a single person if it considers this to be in the best interests of all the

Section	Roles and responsibilities of the PRESIDING OFFICERS/ CHILDREN'S COURT
	children.
186	This section deals with the orders the children's court can make in relation to foster care placements and the duration of foster care orders.
187(1)	A children's court placing a child in foster care may also issue an order subject to conditions providing for a social worker to facilitate reunification of the child with his or her biological parents.
187(3)	After considering a report by a designated social worker, the children's court may order that the designated social worker continue facilitating reunification or order its termination.
188(1)(a)	An order of the children's court placing a child in foster care may define which parental responsibilities and rights a foster parent has in respect of the child.
188(3)	An order by a children's court may give parental responsibilities and rights to a foster parent in addition to those normally necessary.
188(4)	A children's court may monitor the suitability of the placement of the child in foster care.
189	A children's court may terminate foster care if it is in the best interest of the child.
233(5)	A children's court must establish the eligibility of a person chosen by the parents as an adoptive parent.
233(6)(a)	Consent to adoption of child given in South Africa must be signed by the person consenting and the child in the presence of a children's court presiding officer; the presiding officer must verify the consent in the prescribed manner; and the consent must be filed by the clerk of the children's court.
233(7)	A children's court may on good cause shown condone any deficiency in the provision of consent given outside the Republic.
234(6)	A post-adoption agreement takes effect only if it is made an order of a children's court and may be terminated or amended by an order of a children's court on application by a party to the agreement or the adopted child.
235(1)	A children's court may issue a freeing order on application.
235(4)(b)	A children's court may terminate a freeing order on the ground that it is no longer in the best interest of the child.

Section	Roles and responsibilities of the PRESIDING OFFICERS/ CHILDREN'S COURT
236(1)(e)	A children's court may divest a parent of the right to consent to a child's adoption.
236(5)	A children's court may, on a balance of probabilities, make a finding as to the existence of grounds on which a parent or person excluded from section 236 from giving consent to the adoption of the child.
238(1)	When a child becomes available for adoption, the presiding officer of the children's court must cause the sheriff to serve a notice on each person whose consent for the adoption is required.
239(1)	Application for the adoption of a child must be made to a children's court and be accompanied by the documents listed in this section.
240	This section deals with the factors that the children's court must take into account when considering an application for adoption.
241	A children's court may grant an order for adoption where consent is unreasonably withheld after taking into account all relevant factors.
243	This section deals with the power of the children's court to rescind an adoption order on application.
244(2)	This section relates to the orders a children's court may make when rescinding an adoption order.
248(1)(e)	A children's court may order the disclosure of information contained in the adoption register if it is in the best interest of the child.
261(4)	A children's court may consider the inter-country adoption of a child from South Africa by a foreigner in a convention country.
261(5)	A children's court may make an order for the adoption of a child from South Africa by a foreigner in a convention country if all the requirements are met.
262(4)	A children's court may consider the inter-country adoption of a child from South Africa by a foreigner in a non-convention country.
262(5)	A children's court may make an order for the adoption of a child from South Africa by a foreigner in a non-convention country if all the requirements are met.
271(1)	Where an inter-country adoption is not recognised in South Africa, an application for the adoption of a child from a convention or non-convention country may be made to the children's court.
287	Any court may suspend the parental responsibilities and rights of a parent, guardian or other person if it has reason to believe that the parent or guardian of the child trafficked the child or allowed the child to

Section	Roles and responsibilities of the PRESIDING OFFICERS/ CHILDREN'S COURT
	be trafficked, and the court may place that child in temporary safe care pending an inquiry by a children's court.
289(2)	When an illegal foreign child who is a victim of trafficking is brought before a children's court, the court may order that the child be assisted in applying for asylum in terms of the Refugees Act 130 of 1998.

4.2. Roles and responsibilities of the clerk of the children's court

Section	Roles and responsibilities of the CLERK OF THE CHILDREN'S COURT
53(1)	Matters that fall within the jurisdiction of the children's court must be brought to the clerk of the children's court.
57(1)	The clerk of the court may by written notice request the attendance of certain persons at the children's court proceedings.
59(1)	The clerk must summons the following persons: <ol style="list-style-type: none"> 1. A person to appear as a witness to give evidence or to produce a book, document or other written instrument as requested by the presiding officer. 2. A child or person whose rights may be affected. 3. A legal representative.
65(4)	Reports of alleged non-compliance of court orders or worsening of the child's circumstances following the court order must be made to the clerk of the court and the clerk must refer the matter to the presiding officer.
67(1)	The clerk for the children's court must generally assist the court in performing its functions and must perform functions as prescribed in the Act, by way of regulations or in any other law.
68	The clerk must, if it comes to his or her attention that a child may be in need of care and protection, refer the matter to a designated social worker for a section 155(2) investigation.
72(1)	If a matter is settled out of court and all parties accept the settlement, the clerk must submit the settlement to the court for confirmation or rejection.
73	The clerk may attend every children's court hearing.
122(1)	The registrar of the relevant court must notify the Director-General of Social Development in writing of any finding that a person is unsuitable to work with children.

Section	Roles and responsibilities of the CLERK OF THE CHILDREN'S COURT
152(3)(d)	The clerk of the children's court must be informed of the removal of a child where a police official has removed the child without a court order.
152(2)(b)	The clerk of the children's court must be informed of the removal of a child where a designated social worker has removed the child without a court order.
153(2)	The clerk of children's court must be given a duplicate original copy of the notice calling upon an alleged offender to leave the home or place where a child resides.
161(4)	Where a court varies, suspends, rescinds or revives a contribution order made by another court, the clerk of the first-mentioned court must inform the clerk of the court that initially made the order of such variation, suspension, revival or rescission.
166	A respondent against whom a contribution order is in force must notify the clerk of the children's court in writing of any change in his or her residential address or place of work and state his or her new contact and employer details.
170(7)	The clerk of the children's court must report the results of the inquiry into the reasons for the child's abscondment to the provincial head of social development and notify them of any order made.
233(6)(a)(iv)&(b)(iii)	A clerk of the children's court must file consent papers for the adoption of a child.
237(1)	When a child becomes available for adoption, the clerk of the children's court must take the prescribed steps to establish the name and address of each person whose consent is required or would have been necessary.
237(2)	A person who wants the court to dispense with any other person's consent on a ground set out in section 236 must submit a statement to that effect to the clerk of the children's court.
237(3)	A clerk of the children's court may request the Director-General of Home Affairs to disclose any information contained in the registration of birth of a child.
239(2)	When an application for the adoption of a child is brought before a children's court, the clerk must submit to the court a range of documents as set out in this section.
247(2)	The clerk of a children's court must keep records of all adoption cases of the children's court, forward certain documents to the adoption registrar and in the case of an inter-country adoption,

Section	Roles and responsibilities of the CLERK OF THE CHILDREN'S COURT
	forward documents to the Central Authority.

4.3. Roles and responsibilities of the family advocate

The family advocate is a legal officer employed by the Department of Justice and Constitutional Development offering services to assist parties in reaching an agreement on issues relating to the care, contact or guardianship of a child. If the parties are unable to reach an agreement, the family advocate evaluates the parties' circumstances in light of the best interest of the child and makes a recommendation to the children's court, divorce court or High Court.

Upon application by any party, the family advocate institutes an inquiry during which the family advocate, assisted by a family counsellor (normally a trained social worker), interviews the parties to ascertain their personal circumstances and the background details to their matter. The family advocate then interviews the children to allow them the opportunity to be heard. This prevents the child from having to appear in Court.

Section	Roles and responsibilities of the FAMILY ADVOCATE
21(3)(a)	The family advocate has a duty to mediate a dispute between the biological father (who is not or was never married to the child's mother) and the biological mother with regard to the fulfilment by that father of conditions set out in section 21(1)(a) and (b).
22(4)(a)	The family advocate has a duty to register a parental responsibility and rights agreement for it to take effect.
22(5)	The family advocate must be satisfied that the parental responsibilities and rights agreement is in the best interest of the child before registering the agreement.
22(6)(a)	The family advocate may amend or terminate a registered parental responsibilities and rights agreement on application by certain persons.
23(3)(a)	The family advocate may be requested to furnish a report and recommendations if requested to do so by a court hearing a care and contact application involving an application for the adoption of the child.
33(5)	The family advocate may be approached by parties to assist in the preparation of a parenting plan.
34(1)(b)	The parenting plan may be registered with a family advocate.
34(2)&(3)	The family advocate has a duty to ensure which documents must be

Section	Roles and responsibilities of the FAMILY ADVOCATE
	submitted for the registration of a parenting plan.
34(4)	The family advocate may amend or terminate a parenting plan.
49(1)(a)	The family advocate may be ordered by a children's court to undertake mediation to settle a matter out of court.
62(1)	The family advocate may be ordered by a children's court to carry out an investigation to establish the circumstances of a child, his or her parents or caregivers or any other relevant person.
62(2)	The family advocate may, in carrying out the section 62(1) investigation, obtain supplementary evidence or reports and be required to present his or her findings by testifying in court or submitting a written report.
276(1)(a)	The chief family advocate is the Central Authority for purposes of the Hague Convention on International Child Abduction.
277(1)	The chief family advocate may delegate or assign any powers or duties conferred or imposed upon him or her under the Hague Convention to any family advocate.
278(1)	The Central Authority must provide the High Court with a report on the domestic circumstances of the child prior to the abduction in order for the court to ascertain whether there has been a wrongful removal.

4.4. Roles and responsibilities of the police

Section 205 of the Constitution states that the objective of the South African Police Service (SAPS) is to prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law.

Section 13 of the South African Police Act No 110 of 1995 goes further to state that, subject to the Constitution and with due regard to the fundamental rights of every person, a member of the SAPS may exercise such powers and shall perform such duties and functions as are by law conferred on or assigned to a police official. The Children's Act gives effect to this provision and confers numerous powers and duties on police officials and they are listed below.

The SAPS issued a National Instruction on the Children's Act and trained police officials prior to and post the full promulgation of the Children's Act on 1 April 2010. The purpose

of the National Instruction is to provide practical guide to police officials on the implementation of the Children's Act.

Section	Roles and responsibilities of the POLICE
50(3)	A police official may accompany a designated social worker or an authorised person when entering premises to remove a child, investigate circumstances of the child, record information and carry out a specific instruction of the court.
50(4)	This section provides a list of additional powers that a police official who is accompanying a designated social worker or other person to conduct an investigation, has.
50(5)	<p>The police official accompanying a designated social worker or other person to conduct an investigation may use such force as may be necessary to overcome any resistance against entry or search of the premises.</p> <p>Section 13(3)(b) of the South African Police Act, 1995, states that: Where a member of the SAPS who performs an official duty is authorised by law to use force, he or she may use only the minimum force reasonable in the circumstances. Furthermore, Section 27 of the Criminal Procedures Act, 1977, states that a police official who may lawfully search any person or any premises or who may enter any premises, may use such force as may be reasonable necessary to overcome any resistance against such search or against entry of the premises, including the breaking of any door or window of such premises; provided that such police official shall firstly audibly demand admission to the premises and notify the purpose for which he or she seeks to enter such premises.</p>
89(2)(b) &(3)	The death of a child in a partial care facility must be reported to a police official and the police official must instigate an investigation into the circumstances surrounding the death unless satisfied that the child died of natural causes.
110(4)	A police official to whom a report of abuse or neglect of a child has been made or who becomes aware of a child in need of care and protection, must ensure the safety of the child concerned if the child's safety is at risk; and within 24 hours notify the provincial department of social development or a designated child protection organisation of the report and the steps taken with regard to the child.
115(c)	A member of the SAPS tasked with child protection may access Part A of the National Child Protection Register (CPR) as permitted by the Director-General of Social Development
116(1)(c)	Information in Part A of the CPR may be disclosed for the purpose of facilitating an investigation by the SAPS.
123(4)	The SAPS may not allow a person whose name appears on Part B of the CPR to work in a unit of the service tasked with child protection.

Section	Roles and responsibilities of the POLICE
124 (1)(c)	If a person whose name appears in Part B of the CPR works in a unit of SAPS tasked with child protection, such person must disclose that fact to the SAPS.
126(1) (c)	Before a person is allowed to work in a unit of SAPS tasked with child protection, the SAPS must establish whether or not that person's name appears in Part B of the CPR.
126(2)(c)	Within 12 months of the commencement of the chapter dealing with the National Child Protection Register, SAPS must establish whether the name of any person who works in a unit of SAPS tasked with child protection appears in Part B of the register.
127(1)(b)	<p>The SAPS may forward a written request to the Director-General of Social Development or an official authorised by the Director-General to request disclosure of the fact that a name of a particular person appears in Part B of the Child Protection Register.</p> <p>Disclosure that a person's name appears in Part B of the child protection register may be made to SAPS upon written request by the SAPS.</p>
151(5)	A police official may accompany a person authorised by court to enter any premises and remove a child.
151(6)	A police official referred to in section 151(5) may use such force as may be reasonably necessary to overcome any resistance against the entry of the premises.
152(1)	A police official may remove a child and place the child in temporary safe care without a court order under certain circumstances.
152(3)	Where a police official has removed a child without a court order, the police official must, within 24 hours, inform the parents, guardian or caregiver of the child; refer the matter to a designated social worker for investigation; notify the provincial department of social development; and inform the clerk of the court of the removal.
152(4)	The police need to ensure that the best interest of a child is the determining factor in any decision whether a child in need of care and protection should be removed. The police must take into account all relevant factors, including the possible removal of the alleged offender in terms of section 153. The safety and well-being of child is the first priority.
152(7)	Misuse of power by a police official to remove children without a court order constitutes grounds for disciplinary proceedings.
153(1)	A police official who is satisfied that it will be in the best interest of the child to remove the alleged offender from the home or place where the child resides, may issue a written notice which calls upon the alleged offender to leave the

Section	Roles and responsibilities of the POLICE
	home or place and call upon the alleged offender to attend court.
153(2)	A duplicate original notice requesting the alleged offender to leave the home must be given to the clerk of the children's court.
153(7)	Misuse of power by the police to issue a notice requesting an alleged offender to leave the home where a child resides constitutes grounds for disciplinary proceedings.
170(1)–(4)	This section sets out the powers and duties that the police official has in respect of a child that has absconded or fails to return to alternative care. The police official may apprehend the child; enter and search premises to apprehend the child; or use reasonable force to overcome any resistance against the entry or search of the premises. Upon apprehending the child, the police official must ensure the safety of the child and notify the department of social development or a designated child protection organisation that the child has been apprehended and inform them of any steps that have been taken with regard to the child.
178(2)(b) &178(3)	The death of a child in alternative care must be reported to a police official and the police official must cause an investigation into the circumstances surrounding the death unless satisfied that the child died of natural causes.
226(2)(b) &226(3)	The death of a child in a drop-in centre must be reported to a police official and the police official must cause an investigation into the circumstances surrounding the death unless satisfied that the child died of natural causes.

4.5. Roles and responsibilities of a legal representative or attorney

One of the features of the UN Convention on the Rights of the Child, which was ratified by South Africa, is the child's right to participate in all general matter affecting him or her. This right is enshrined in Article 12 of the Convention which reads as follows:

(12)(1) "State Party shall assure to the child who is capable of forming his or her own views, the rights to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child".

(12)(2) "For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national laws".

Similarly, the African Charter on the Rights and Welfare of the Child, which was also

ratified by South Africa, provides in Article 4 (2) that “In all judicial administrative proceedings affecting a child who is capable of communicating his or her own views, an opportunity shall be provided for the views of the child to be heard either directly or through an impartial representative as a party to those proceedings and those views shall be taken into consideration by the relevant authority in accordance with the provisions of the appropriate law”.

The South African Constitution domesticates these conventions and sets out the rights of the child in section 28, while section 28 (1)(h), codifies the obligation to ensure the child’s right to representation. This subsection provides that the child shall have a right to have a legal practitioner assigned him or her by the State, and at State expense, in civil proceedings affecting the child, if substantial injustice would otherwise result.

Section 10 of the Children’s Act 38 of 2005 extends the right of participation by providing that “Every child that is of such an age, maturity and stage of development to be able to participate in any matter concerning the child has the right to participate in an appropriate way and views expressed by the child must be given due consideration”. It is clear, therefore, that the Children’s Act extends the right of participation to include all other forums, and it is further clear that participation outside of a traditional legal forum can be in the absence of a legal representative.

Regarding the participation of children in legal settings, section 55 of the Act provides for a child to have legal representation provided by the Legal Aid Board if the court is of the opinion that it would be in the best interest of the child to have legal representation.

The objective of Legal Aid South Africa is to render or make legal representation available to indigent persons at State expense as contemplated in the Constitution of the Republic of South Africa (Act 108 of 1996), which affords every citizen access to justice. A child may not necessarily be indigent, but may qualify for such legal aid as provided for in the Children’s Act.

In addition, any person who is party to any court proceedings has the right to appoint a legal representative, either through own or State expenses.

Section	Roles and responsibilities of the LEGAL REPRESENTATIVE OR ATTORNEY
54	Legal practitioners may be appointed by any party in a children’s court matter at that party’s own expense. An indigent party has the right to apply for legal

Section	Roles and responsibilities of the LEGAL REPRESENTATIVE OR ATTORNEY
	aid.
55	Where a child involved in a matter before the children's court is not represented by a legal representative, and the court is of the opinion that it would be in the best interest of the child to have legal representation, the court must refer the matter to the Legal Aid Board referred to in section 2 of the Legal Aid Act, 1969 (Act 22 of 1969).
56(d)	The legal representative of a person entitled to legal representation may attend the children's court proceedings.
59(1)(c)	A legal representative may request the clerk of the court to summons a witness.
250(2)	A lawyer may render professional services in connection with the adoption of a child.
259(4)	A lawyer is not prohibited from rendering professional services in connection with the inter-country adoption of a child.
279	A legal representative must represent the child in all applications in terms of the Hague Convention on International Child Abduction.

4.6. Roles and responsibilities of the medical practitioner, health practitioners or superintendent

Section	Roles and responsibilities of the MEDICAL PRACTITIONER, HEALTH PRACTITIONER OR SUPERINTENDENT
62(1)	A medical practitioner may be ordered by a children's court to carry out an investigation to establish the circumstances of a child, his or her parents or caregivers or any other relevant person.
62(2)	A medical practitioner may, in carrying out the section 62(1) investigation, obtain supplementary evidence or reports and be required to present his or her findings by testifying in court or submitting a written report.
129(6)	The superintendent of a hospital or the person in charge of the hospital may consent to the medical treatment of or surgical operation on a child under certain circumstances.
130(2)(e)	The superintendent of a hospital or the person in charge may consent to the HIV test of a child under certain circumstances.
133(2)(d)	The superintendent of a hospital or the person in charge may give consent to

Section	Roles and responsibilities of the MEDICAL PRACTITIONER, HEALTH PRACTITIONER OR SUPERINTENDENT
	disclose the fact that a child is HIV-positive.
134(2)	Contraceptives may be provided to a child if the child is 12 years of age or older, provided proper medical advice is given to the child and a medical examination is carried out on the child.

4.7. Roles and responsibilities of the psychologist

Section	Roles and responsibilities of the PSYCHOLOGIST
23(3)(a)	A psychologist should render a report and recommendations if requested to do so by a court hearing a care and contact application, and if there is also an application for the adoption of the child.
33(5)	A psychologist should assist in the preparation of a parenting plan if requested to do so.
62(1)	A psychologist may be ordered by a children's court to carry out an investigation to establish the circumstances of the child, his or her parents or caregivers or any other relevant person.
62(2)	A psychologist may, in carrying out the section 62(1) investigation, obtain supplementary evidence or reports and be required to present his or her findings by testifying in court or submitting a written report.
250(2)	A psychologist may render professional services in connection with the adoption of a child.
259(4)	A psychologist is not prohibited from rendering professional services in connection with the inter-country adoption of a child.

4.8. Roles and responsibilities of the traditional leader or traditional authority

Section	Roles and responsibilities of the TRADITIONAL LEADER OR TRADITIONAL AUTHORITY
49(1)(c)	A traditional authority may be ordered by a children's court to undertake mediation in an attempt to settle a matter out of court.
71(1)	The children's court may refer a matter to a traditional authority to mediate a matter in an attempt to settle it out of court.

It is noteworthy that a traditional leader may not mediate in matters relating to abuse of a child. If a matter is settled out of court through mediation by a traditional leader, a report on the

agreement or settlement should be presented to the children’s court. The court may confirm or reject the settlement.

4.9. Roles and responsibilities of the intermediary

Questions posed to child witnesses at court are often complex, characterised by high-register vocabulary, legal terminology, and sentences containing complicated grammatical constructions. Such language may be difficult for younger children, as well as adolescents, to comprehend and can affect their ability to give the best evidence. Poor questioning techniques during cross-examination in court and the stress of testifying itself may be barriers to obtaining best evidence from children who are witnesses²⁸.

Questioning practices might be improved by, among others, involving people with specialist skills in child language (“intermediaries”) to assist attorneys, presiding officers and prosecutors to question children appropriately. An intermediary is a competent person appointed after a child is assessed and it is proven that the child’s testimony in an open court will expose him or her to undue mental stress. The role of the intermediary is to assist the child in providing quality evidence in court. Intermediaries relay questions one-by-one to the child, rephrasing each question into appropriate language and relaying back the child’s reply or response.

According to section 170A of the Criminal Procedure Act 51 of 1977, it is the duty of the court to appoint an intermediary in order to enable a witness under 18 years to give evidence through that intermediary.

The Minister of Justice, in terms of section 170A(4), must determine the persons or category or class of persons who are competent to be appointed as intermediaries. Social workers are included in the list.

Section 170A(5) states that the Minister of Justice may determine the payment of intermediaries who are not in full-time employment of the state. It is therefore the responsibility of the Department of Justice and Constitutional Development to appoint and reimburse intermediaries.

Section	Roles and responsibilities of the INTERMEDIARY
61(2)	A child who is a party or a witness in a matter before a children’s court must be questioned through an intermediary as provided for in section 170A of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) if the court finds that this would be in the best interest of that child.

4.10. Roles and responsibilities of the Provincial Department of Education

Section	Roles and responsibilities of the PROVINCIAL DEPARTMENT OF EDUCATION
196(2)	The provincial department of education must provide education to children in reform schools and schools of industry, even though the management of these

²⁸Davies, E., Hanna, K., Henderson, E. & Hand, L. (2011). *Exploring the Benefits and Risks of Intermediary Models*. New Zealand: Institute of Public Policy, AUT University

facilities is the responsibility of a Provincial Department of Social Development.

4.11. List of persons obliged to report abuse and neglect of a child:

Section 110(1) obliges all persons mentioned in the table below to report cases of child abuse or deliberate neglect in a Form 22 to the provincial department of social development, a designated child protection organisation or a police official.

On the other hand, sections 89, 178, and 226 require reporting of serious injury, **abuse** or death of a child in a partial care facility, alternative care or a drop-in centre to be made to the provincial head of social development. There are no forms to report in terms of section 89 and 226, which is a gap in the regulations. Furthermore, it might be confusing for practitioners who need to report abuse of a child because there are numerous provisions governing the reporting of abuse (section 110, 89, 178 and 226). For the purpose of reporting abuse of a child, procedures contemplated in section 110 should be followed. Procedures for reporting serious injury and death of a child that is not a result of abuse should be reported in terms of section 89, 178 or 226, whichever is applicable.

Section	List of persons obliged to report abuse and neglect of a child:
110 (1)	Correctional official
	Dentist
	Homeopath
	Immigration official
	Labour inspector (appointed under section 63 of the Basic Conditions of Employment Act 75 of 1997)
	Legal practitioner
	Medical practitioner (a person registered or deemed to be registered as a medical practitioner under the Health Professions Act 56 of 1974 and includes a dentist so registered or deemed registered)
	Midwife (a person registered as a midwife under the Nursing Act 50 of 1978)
	Minister of religion
	Nurse (a person registered as a nurse under the Nursing Act 50 of 1978)
	Occupational therapist

Section List of persons obliged to report abuse and neglect of a child:	
	Physiotherapist
	Psychologist
	Religious leader
	Social service professional (includes a probation officer, development worker, child and youth care worker, youth worker, social auxiliary worker and social security worker who are registered as such in terms of the Social Service Professions Act 110 of 1978)
	Social worker (a person who is registered or deemed to be registered as a social worker in terms of the Social Service Professions Act 110 of 1978)
	Speech therapist
	Teacher
	Traditional health practitioner
	Traditional leader
	Member of staff or volunteer worker at a partial care facility, drop-in centre or child and youth care centre
	Parents are not included in section 110 of the Act, but if they are aware of the abuse they should be mandated to report it. They will be considered for possible inclusion in the list during the amendment of the Act.
	Police official (not included in section 110)
	Parent (not included in section 110)

Section Who may report abuse and neglect?	
110 (2)	Any person who on reasonable grounds believes that a child is in need of care and protection must report that conclusion to the Department of Social Development, a designated child protection organisation or a police official.

4.12. List of persons who must refer a child who is a victim of trafficking to a social worker for investigation

Section Who must refer a child who is a victim of trafficking to a social worker for investigation?	
288	Immigration official
	Police official

Social worker
Social service professional
Medical practitioner
Registered nurse

Chapter 5 Social work administration and the administration function in statutory social work

5. Introduction

In generalist social work practice, social workers apply three basic social work methods, namely casework, group work and community work. Social work administration and research are the secondary methods. Social work administration is the focus of this chapter and it involves directing the overall programme of a social work organisation or agency. Social work administration is a social work function that includes the generic functions of planning, directing, organising, monitoring and controlling service programmes implemented by social workers²⁹.

Planning enables a social worker to develop and plan a course of action needed to accomplish service objectives. Objectives must clearly spell out what needs to be achieved when, why and by whom. Planning, which occurs daily, should be realistic, anticipatory and based on a consideration of alternatives.

Organising consists of determining what activities need to be carried out to get a job done, assigning these activities to workers and giving them the necessary authority to carry out these activities in a coordinated manner.

The monitoring function in social work administration includes monitoring performance, achievement of objective, quality of services and taking corrective action. It also includes assessing and evaluating the effectiveness of programmes, as well as the performance of workers in direct service delivery. Processes relating to the management of statutory cases are inherent in this function.

Social workers are expected to perform administrative functions in addition to their social work primary roles. These functions include, among others, keeping records, writing reports, managing court orders, conducting home visits, presenting reports in court, etc. In addition, the social worker should be able to organise the workload and meet designated responsibilities. This chapter will accentuate the significance of documentation, report writing and elements that social workers and supervisors should consider in order to ensure quality reports. The chapter

²⁹Zastrow, C (2000). *Social work and social welfare*. 7th Edition. CA: Wadsworth Publishing Company

will also highlight the importance of the reminder system to ascertain that return dates are adhered to.

5.1. Documentation and report writing

Documentation and report writing are important functions in social work practice. Social workers write different kinds of reports that include psychosocial reports, assessment reports, process reports/notes (after every encounter), progress reports (after a certain period, e.g. every three months), intervention evaluation or comprehensive reports (at the completion of a process or programme), supervision reports (after supervision sessions) and court reports. A social worker in a statutory setting should possess the skill to engage with clients; apply listening skills; be able to elicit information; gather relevant facts; interpret facts, verbal and non-verbal behaviour; conduct an assessment; make a prognosis; and prepare a report.

A social worker's court report is regarded as an inter-profession report normally presented to court to provide a comprehensive analysis of the client and their social environment³⁰. This report is a culmination of a collection of facts and information from varied sources, consulting written records and describing them as clearly as possible to the court. Report writing is an important function in statutory social work, therefore social workers should be able to write clearly and convey facts through written communication.

5.2. Guidelines for writing children's court reports

The following broad guidelines for children's court reports may be used by social workers and supervisors for quality control and to appraise proficiency of court reports.

5.2.1 Quality of evidence

A social worker's investigation and report contribute tremendously to the quality of evidence that the social worker gives in court as an expert witness. The best preparation for court testimony lies in the social worker's professional assessment of the client system, documentation in the form of case records, process notes, progress reports and other reports, as well as the social worker's professional opinion and observations. The social worker as an expert witness is viewed as qualified to give an opinion in certain areas of expertise, unlike lay witnesses whose testimony is limited to what they saw, heard or touched.

³⁰Healy, K. & Mulholland, J. (2007). *Writing skills for social workers*. London: Sage Publications.

For evidence to be admissible in court, it has to satisfy three criteria.

- The source must be competent. The social worker giving evidence must be qualified to make certain observations based on facts.
- The information must be relevant and have a bearing on the proceedings at hand.
- The information must have substance and thus have significant consequences for the case³¹.

5.2.2. Quality assurance and quality control

Quality assurance and quality control are important determinants of good court reports. Quality assurance is based on a process approach. It ensures that the processes and systems are developed and adhered to in such a way that the deliverables are of good quality. This process is meant to produce deficiency-free services which means being right the first time with no or minimum rework. Quality control, on the other hand, is a product-based approach. It checks whether the deliverables satisfy the quality requirements, as well as the specifications of the consumer or not. Depending upon the results, suitable corrective action is taken or recommended through quality control³².

In relation to report writing, assurance of quality is done before the report writing process, whereas quality control begins once the report has been written. During the assurance of quality or monitoring process, the requirements of the court or the consumer of the report are defined. Based on those requirements, the processes and systems are established and documented. All this is done to ensure that the requirements are met stringently. After finalising the report, the quality control process begins. Based on the consumer requirements and standards developed during the quality assurance process, the quality control officer, who is a supervisor, checks whether the report meets all the requirements or not. In essence, assurance of quality is a proactive or preventive process to avoid flaws, whereas quality control is a corrective process to identify defects in order to correct them.

The significance of quality assurance and control reiterates the need for practice and quality standards for children's court reports against which quality would be measured.

Supervisors have the duty to perform quality assurance and quality control functions. Quality assurance activities include documentation of processes to be followed, establishing standards, developing checklists, conducting audits, analysing risk factors, detecting failure,

³¹Kirst-Ashman, K.K. & Hull, G.H. (2009). *Generalist practice with organizations and communities*. 4th Edition. USA: Brooks/Cole Cengage Learning.

³²Brown, A. & Bourne, I. (2002). *The social work supervisor*. Buckingham: Open University Press.

analysing effects and training. Quality control activities include inspection and quality checks to ensure compliance with standards.

The following section provides elements that should be considered in report writing. If all these elements are adhered to, the quality of reports will be assured.

5.2.3. Points to consider when writing a court report

Social workers should adopt a contextual approach to report writing. The following section provides guidelines on issues that should be considered in report writing, which include:

Attitude

The social worker's attitude towards report writing is very important and can influence the quality of the report. The writer should believe that report writing is crucial and devote necessary time and energy to the exercise.

Effort and work

A positive attitude will determine the effort and hard work that the practitioner devotes to report writing. Acknowledging that the reader might have time constraints, the writer should proofread, edit and reduce unnecessary wordage in the report. This entails the social worker's effort to read, re-read or amend some aspects of the report in pursuit of producing a quality report that is clear and concise.

Confidence

Full confidence in the content, quality and veracity of a report contributes positively to the social worker's self-confidence as an expert witness and during cross-examination. If a social worker doubts the facts in the report, or considers the information insufficient, or thinks that certain information has been left out, those doubts may be apparent and obvious to the court, legal representative or parties involved in the matter. That may be used against the social worker to expose flaws in the case. Secondly, the credibility of the social worker as an expert witness may be challenged.

Time management

Good time management and the allocation of time for report writing is important especially due to the limited time that social workers have as a result of competing professional demands³³.

Audience

It is always important for the writer to have a sense of the audience when writing and responding to the reader's requests. The report should illuminate and fully inform the audience. For example, if the children's court requests a report, the social worker should understand the requester's knowledge base, based on the general knowledge base of the discipline of the requester, as well as their expectations. The social worker should also consider the period of time the reader could allocate to read and understand the report.

Preliminary thinking

Before writing, it is important to do some preliminary thinking. The writer should think about the reader, how much time the reader might have and what information should be included. The writer should clarify issues in his or her mind first before trying to present an argument, and think of the consequences the information might have.

Critical thinking and reflection

Critical thinking involves a cognitive activity where the writer engages in logical reasoning, scrutinising arguments, and recognising assumptions underlying certain beliefs. It increases the writer's confidence and results in him or her being committed to his or her viewpoints. Critical thinking produces viewpoints that are well informed, rational and supported by valid and relevant material for the situation at hand. Critical reflection, on the other hand, entails the social worker's use of professional knowledge and experience in the analysis and evaluation of situations, experiences and information. Critical analysis and reflection provide the basis for a social worker to form a professional opinion³⁴.

Professional opinion, impressions and factual evidence

The social worker must be objective in presenting factual evidence in court. Before including information in a report, the social worker must verify it and be sure of it. Hearsay should be distinguished from factual information.

When making an impression, a social worker should make the reader aware of that by using terms such as "my impression is...", "based on my experience...", "I observed that..." which

³³Palmer, R. (2002). *Write in style. A guide to good English*. London: Routledge Study Guides.

³⁴Brown, K. & Rutter, L. (2006). *Critical thinking for social work*. Exeter: Learning Matters Ltd.

would distinguish facts from impressions. It is important for a social worker's report to separate facts, hearsay, analysis and opinion.

Jargon

It is imperative not to delve too much into social work jargon without explaining the terms appropriately. The report should be clear and convey ideas in a manner that is easily understood by the reader³⁵.

Originality

Different clients that social workers deal with are unique and have different experiences. Every case is unique and every social work report should argue a case in a unique manner. The substance should be original and the report must be well informed and enlightening. A report that is original and unique will be more interesting to read than a tedious one or one copied from another report.

Case records

Case notes which comprise of process notes from interviews with different people, information from counselling sessions, as well as reports from third parties or institutions, such as a school, church or clinic, should be concise and accurate. All this information may be included in a court report with the social worker's professional opinion, interpretation or impression about the client system based on professional knowledge and experience in the field³⁶.

Writing style, language and grammar

Social workers should avoid colloquial speech, sexist language, or labelling people with undesirable terms, such as sleazy, low class, terrible parent, etc. They should avoid using abbreviations or, if this is unavoidable, spell the terms out the first time and put the abbreviation in parenthesis right after it and thereafter use the abbreviation. It is important to use paragraphs, dividing content into different themes, topics, points or issues. The writer should use correct grammar, punctuation, parts of speech, words and tense³⁷.

Precision and brevity

³⁵Barsky, A.E. (2006). *Successful social work education: A student's guide*. USA: Thomson Wadsworth.

³⁶Russell-Chapin, L.A. & Ivey, A. E. (2004). *Your supervised practicum and internship: Field resources for turning theory into action*. Canada: Thomson Brooks/Cole.

³⁷Mitchell, M.L., Jolley, J.M. & O'Shea, R.P. (2007). *Writing for Psychology*. 2nd Edition. USA: Thompson Wadsworth.

The purpose of a report is to inform and it should be clear, accurate, succinct and concise. The writer should make a point without elaborating extensively and using too many words. Information not related to the issue at hand, as well as unnecessary sentences, phrases, expressions and repetition, should be eliminated.

Logic and sequence

It is best to take a logical approach to report writing. The writer should decide what information to include and what to exclude, and use a logical order and arrangement of facts and arguments. A report with a logical flow will enable the reader to follow the writer's thinking and to recognise the implications of the report.

There are different approaches to logically arranging information in a court report:

- Chronological, starting with the first fact, incident or intervention moving through to the most recent.
- Importance, presenting the most important information first and moving through to the least important.
- Usefulness, presenting what might be potentially useful to the reader first, in order to clarify issues, and proceeding logically.

Lastly, the final document should be proofread to determine the logical flow before it is sent out.

Evaluation and recommendation

The evaluation part of a report contains the social worker's critical analysis of information and provision of a professional opinion on matters relating to the case. It explores the facts in the case, using the social worker's analysis and professional expertise to assist the court in interpreting the evidence.

The recommendation links up the key evidence and the outcome that is sought. A recommendation includes the best possible outcome or options available to the child or family.

5.2.4. Process of report writing

Having considered all the factors mentioned above, the social worker may plan and start writing the report. There are key points to consider when writing a court report³⁸:

³⁸Mitchell, M.L., Jolley, J.M. & O'Shea, R.P. (2007). *Writing for Psychology*. 2nd Edition. USA: Thompson Wadsworth.

- a) The writer should know the deadline and plan to finish writing earlier to accommodate unexpected problems. It is advisable to have a schedule for work to be done and not to wait until the last minute because that may lead to undue pressure and having to rush through the exercise, thus resulting in a sloppy report. The reminder system is therefore an invaluable resource for social workers.
- b) The second task entails thinking and searching for supporting material, such as relevant theories, documents or reports, and getting organised. It is important for the social worker to organise his or her thoughts by using an outline or jotting down the list of points that should be included in the draft report. These points should be rearranged to achieve a logical order.
- c) Thereafter the social worker should write the first draft. The first draft is the starting point and is just to get ideas on paper and include any requests by the reader. The first draft should never be sent to the supervisor before it is revised and edited.
- d) When the first draft is done, the writer should revise, re-organise, rethink, reread and rewrite it. This step entails cutting out unnecessary information, acquiring new information to fill gaps, organising information into themes, re-reading the information to refine thinking, and rewriting it to make sense.
- e) Organise the report to make it clear to the reader. This might involve adding subheadings, breaking long paragraphs and deleting repetitive sentences. It might be helpful to leave the draft report for a while and thereafter re-read it aloud or have a colleague read it with the intention of understanding and improving it.
- f) Check language, grammar, spelling, use of words, punctuation, formatting of paragraphs, spacing, page numbers, as well as numbering of headings and subheadings. Always use the computer spell-check function before forwarding a report.

This process is not linear and the writer may revert to preceding stages at any time.

5.2.5. General structure of the court report

Social work reports vary, based on the kind of jurisdiction involved, but they basically include individual or family background, including the history of parents or family; accommodation arrangements; medical, school or employment records; relationships; general behaviour; factors that have contributed to the issue under consideration; assessment of functioning; recommendations; and options for intervention.

There is certain basic information that is typically included in a social work report³⁹⁴⁰:

- Acknowledgement and dates of interaction and contact with the client and others involved in the case.
- Basic information about the client, which is also referred to as identifying information, including names, address, contact details, gender and names of family members. Most organisations have a standard template or cover page that is placed at the beginning of the report. The attached Annexure 5 may be used as a cover page.
- Reasons for client's contact with the agency. Here a short statement about the client's history with the organisation, the problem or situation and the reasons why they came to the organisation are provided.
- More detailed information about the client's situation or problem, including strengths, is recorded. A social history of the client system provides extensive information and comprehensive portrayal of the client's past and current situation. Topics such as client's development, which includes developmental data from birth (in the case of a child), personality and social growth; family background; family development, which may include parental relationships; discipline methods and relationships; family relationships, including interpersonal relationships; community involvement; education; socio-economic level; employment history; extended family; and medical history may be organised in a chronological or narrative format.
- Positive and negative observations of behaviours, relationships, patterns, etc. The use of conceptual frameworks, relevant perspectives, theories and models should be documented and reflected in the report. The report should be professional and not a conglomeration of data collected.
- Aspects of the intervention process, including the social worker's impressions and opinion concerning the client-in-situation. These should be labelled as such and be separated from facts.
- History of intervention, contacts with the client, others involved in the case, significant others, and progress made.
- Plans for future intervention and follow-up information on the plans for follow-up or action, by whom, when and why.

A children's court report should be comprehensive but concise and contain certain elements that include the following⁴¹:

- Cover page with details of the social worker, date, qualifications etc.

³⁹Kirst-Ashman, K.K. & Hull, G.H. (2006) *Understanding generalist practice*. 4th Edition. USA: Thomson Learning Inc..

⁴⁰Swain, P. A. (2005). No expert should cavil at any questioning. Reports and assessments for courts and tribunals. *Australian Social Work*. 58(1). 44-57.

⁴¹Swain, P. A. (2005). No expert should cavil at any questioning. Reports and assessments for courts and tribunals. *Australian Social Work*. 58(1). 44-57.

- Identifying details of the client.
- Sources of information.
- Introduction.
- Content with clear headings and paragraphs.
 - The content may include family history and background, including the housing, environmental factors, financial circumstances, health factors, interpersonal relationships, religion, spirituality, education, etc.
 - The child's circumstances, his or her views on the case and matters affecting him or her; his or her strengths and developmental needs/areas; and what will be in his or her best interest.
 - Services rendered to the clients.
- Evaluation.
- Plan of action and intervention.
- Recommendation.
- Supporting documents should be attached where necessary.
- Every page should be numbered.

Form 38 is the prescribed format for the social worker's children's court report for finding a child in need of care and protection and should be followed when compiling a section 155(2) report.

5.3. The reminder system

A reminder system in the context of administration of the Children's Act is a time management tool to keep track of expiry dates and reports that are due rather than relying on memory. It may be a manual or computerised system.

Section 159 states that an order made by a children's court in terms of section 156 lapses on expiry of two years from the date the order was made or such shorter period for which the order was made; and may be extended by a children's court for a period of not more than two years at a time.

It is the responsibility of the case manager and the supervisor to keep record of all court orders and expiry dates on court orders to ensure that no court order lapses.

It is the responsibility of the Statutory Services Section to keep a manual or computer record of each child in whose respect a court order has been issued in terms of section 46, 156 157 or 158. In addition, the case manager, supervisor and, where applicable, canalisation officer should take note of any order or intention by the children's court to monitor a court order in

terms of section 65 and complete an entry of any report that the court orders a designated social worker to submit in terms of section 65 (2) (a) (ii).

Any report compiled in terms of section 159(1) or 65(2)(a)(ii), should be submitted to the canalisation officer before the expiry of three months. The onset of the three months starts with the date of the court order or a date provided by the children's court.

Section 155(2) requires a designated social worker to investigate the circumstances of a child within 90 days after removal or referral by court. It is the duty of the designated social worker to submit the report to court before the expiry of the 90 days.

Depending on the setting, when using a manual reminder system, each child or family should be assigned an allocation card. In the case of children from the same family, a single allocation card should only be used when the return dates are similar, otherwise separate cards should be completed.

An allocation card or automated reminder system should consist of the following elements:

- Name and surname of the child
- ID number or date of birth of the child
- File number
- Social worker's details: Post number or name and surname
- Date on which the case was allocated
- Return date
- Type of court order (section in terms of which the court order was issued).
- Date of expiry of court order

5.4. Monitoring and evaluation

The function of Monitoring and Evaluation (M&E) is to promote accountability, to provide a clearer basis for decision-making and to learn from practical lessons and experience to guide future development interventions. Monitoring in relation to the children's court report entails ensuring that reports are submitted to court in time and that they are proficient and comply with the standards mentioned below, as well as any prescripts of the Children's Act.

Monitoring is a continuous or periodic process of collecting and reviewing data to measure the performance of a programme, project, or activity and implementation by management to:

- a) Assess delivery.
- b) Identify difficulties.
- c) Verify presented problem areas.
- d) Recommend remedial action(s).

As an integral and continuing part of project/programme management, it provides managers and stakeholders with regular feedback on implementation and progress towards the attainment of objectives and early indicators of problems that need to be corrected. It usually reports on actual performance against what was planned or expected.

Evaluation, on the other hand, is systematic and independent assessments of ongoing or completed projects or programmes, their design, implementation and results with the aim of determining the relevance of objectives, development efficiency, effectiveness, impact and sustainability and the relevance of an intervention in context of stated objectives

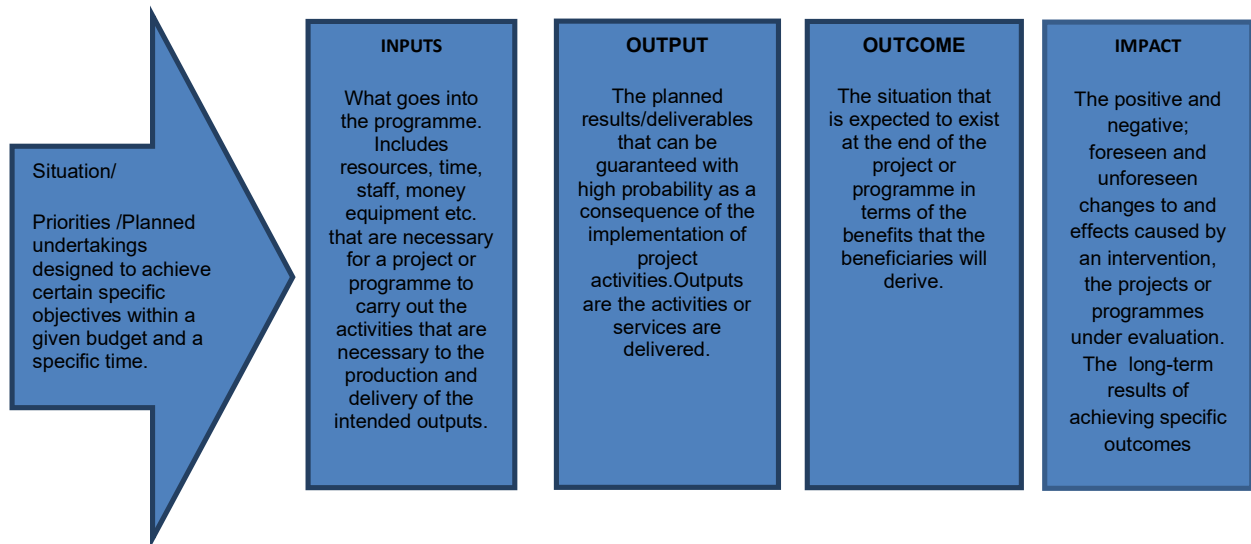
The combination of monitoring and evaluation together provide the knowledge required for:

- a) Adaptive project or programme management.
- b) Reporting and accountability responsibilities.
- c) Learning.
- d) Empowering the primary stakeholders.

Canalisation officers and supervisors are responsible for the M&E function and should report on relevant indicators that would determine the quality and outcomes of services rendered by social workers, as well as key elements of the Children's Act, to measure progress made to achieve the required results.

The following logic framework should be followed when monitoring programmes and services to children. It is a tool for developing and monitoring the logical relationship between inputs, outputs, and objectives/goals that determines the implementation of a project or programme via identification, formulation, appraisal, implementation, monitoring, reporting and evaluation

Figure 5.1: Logic framework adapted from the Children’s Act Monitoring and Evaluation Framework.



As part of monitoring statutory services to children, monthly statistics reflecting narrative challenges and achievements should be submitted to the National Department of Social Development via the provincial Department as routine data on pre-determined indicators.

The purpose of monitoring statutory services to children is:

1. To establish trends.
2. To measure the effectiveness and efficiency of services.
3. To identify challenges.
4. To identify early warning signs.
5. To devise appropriate and timely remedial action.
6. To plan new services or expansion of current services.
7. Ultimately, to evaluate the quality of services, demand for services and impact of services on the lives of children and families.
8. To establish whether services lead to the desired or planned outcome.

Monthly statistical reports on a social worker’s caseload should disaggregate the cases according to the following categories:

1. New allocations – these are new cases allocated to the social worker in a month.
2. Active cases – these cases require the social worker’s intervention after being allocated.
3. Pending cases – these are cases that would not require the social worker’s intervention for a period of at least six months.

4. Closed cases – these are cases that do not require any intervention and need to be archived.

It is worth noting that closed files should be archived following archiving rules and procedures or the file plan of the organisation. Case records and files may only be disposed after the expiry of the prescribed period as outlined in the National Archives and Records Services of South Africa Act 43 of 1996 or the Records Management Policy/Archiving Policy of the organisation, whichever is applicable.⁴²

Case records pertaining to adoption, placement of a child into foster care or a child and youth care centre, as well as cases of abuse and deliberate neglect may not be disposed. Keeping such records, especially adoption records, may assist clients who may wish to trace their origin or families later in their lives.

It is the duty of the official managing the data to provide monthly feedback on the findings and propose recommendations for the improvement of services.

5.4.3. Monitoring of statutory services

5.4.3.1. Case management audit process⁴³

The other function in monitoring statutory services to children entails conducting regular case management audits. Auditing is a quality control measure that must be performed internally and externally. It is an independent and objective activity designed to assess and improve an organisation's operations, effectiveness of risk management, control systems and governance processes.

Case management audit serves the purpose of:

- a) Examining the general operations of the statutory services to children.
- b) Examining files to ensure compliance with legislation, case management policies and procedures.
- c) Identifying and assessing general problems.
- d) Assessing whether social workers attend to cases professionally and appropriately.
- e) Assessing whether social workers are up-to-date with their work.

⁴²Republic of South Africa (1996). *National Archives and Records Services of South Africa Act 43 of 1996. Government Gazette*. Pretoria, South Africa: Government Printers.

⁴³Ismael, J.S. & Thomlison, R.J. (1987). *Perspectives on Social Services and Social Issues*. Ontario Canada: Canadian Council on Social Development.

- f) Assisting case managers, supervisors and office managers to better operationalise the case management system and to recommend measures to address problems.

The three major components of the case management process include:

- a) The review of the statutory case management practice to explore the following:
- The organisation's case management systems.
 - Whether the case managers receive proper training, supervision, mentoring, guidance and support, where necessary.
 - Identification of possible training needs and areas for improvement.
- b) Case file audit, which is based on a selection of a random sample of cases to explore documents, case records and individual case management plans and systems. Case file audits should focus on the following:
- The quality of reports, including process reports, court reports, progress reports, closing reports, supervision reports etc.
 - Whether proper records are kept by the case manager, because all processes and interventions should be supported by proper documentation and record keeping.
 - Whether court dates and deadlines are adhered to.
 - Whether files are in order and documents are properly filed.
 - Whether cases are managed in accordance with the prescripts of the Children's Act, any relevant legislation or policies.
 - Whether case manager comply with all the professional and ethical requirements of the profession in handling cases and clients.
- c) Review the statutory unit statistical reports; focusing on caseloads and caseload management in relation to the norms and standards.

See Annexure 6: Audit form for the management of statutory services.

Proper planning and preparation should precede each case management audit exercise and the audit should not be confined to case files audit. It should assess the state of the overall administration system of the office including the filing system, the availability of supporting service enablers such as computers, cars, office space, level of supervision, information management system etc. These aspects may contribute to the quality of work and the functioning of social workers.

An appropriate checklist of the required minimum standards that case managers and organisations should comply with should be developed before the audit exercise. This checklist should be applied uniformly to assess the quality of services and must make provision for recommendations and plans to be followed by the case manager, supervisor or office manager.

Supervisors should perform internal case management audits for social workers under their supervision on a quarterly basis. Social Work/Statutory Component Managers also have an obligation to conduct six-monthly audits at respective service point offices. It is the duty of the Provincial Statutory Unit to conduct annual audits in all their districts and regions. Audits for designated child protection organisations should be performed by the district or regional office of the Department of Social Development on a six-monthly basis.

The results of case management audits should be communicated to the relevant practitioner, their supervisor, as well as the manager. After the case audit, where applicable, there should be action plans followed by progress reports on action taken.

Chapter 6 Composition and functions of the Statutory Services Section

6. Introduction

Statutory services in general are services legally empowered or sanctioned by an Act of Parliament. Relevant statutes that are administered by social workers and require them to render statutory services include the Older Persons Act, 2006, the Child Justice Act, 2008, the Probation Services Act, 2002, the Prevention and Treatment of Drug Dependency Act, 1992 and the Children's Act, 2005. Of these Acts, the Children's Act comprises the greatest magnitude of statutory provisions that require trained practitioners to render statutory services. Statutory services in relation to the Children's Act include court-related and court-ordered services.

Statutory services include intervention in different types of cases, including those aimed at court-ordered prevention and early intervention; services and intervention ordered by the court; those arising from crises and which require court intervention; reported cases that are brought before the court; those resulting in a child being placed in alternative care or adoption; as well as the management of statutory services and cases.

The Children's Act authorises the provincial Head of Social Development (HOD) to perform certain statutory functions aimed at the management of statutory cases and facilitation of the movement of children within the child and youth care system. These statutory services were commonly known as canalisation services and the following chapter focuses on such services.

The term canalisation will be retained and it refers to the social work administration function that entails the management of statutory cases and the performance of duties and powers that are delegated by the provincial HOD in terms of section 311 of the Act. It also encompasses record keeping of all reports compiled in terms of section 155(2), 155(4), 159(1), 168(1)(c), 169, 171-176 and 239 (1)(b).

A canalisation officer, on the other hand, is an independent social worker entrusted with the function of regulating the stay of children in alternative care; managing and facilitating the movement of children within the child and youth care system; and discharging or releasing children from the provisions of the Act. A canalisation officer is a social worker who performs delegated functions for the above-mentioned purpose. The work of a canalisation officer is informed and guided by reports and recommendations provided by social workers who are case managers. The duty of the canalisation officer is to appraise, analyse and, where applicable, execute the social worker's recommendation, taking into account the best interest of the child. It is the duty of a social worker managing the case to ensure that all reports are proficient, including those compiled for the purpose of canalisation. The case manager's

supervisor must ensure that reports are of high standard and not open to debate or questions by the court, parties to a matter at hand or the canalisation officer.

6.1. The role and function of the supervisor in relation to canalisation

Quality assurance and quality control are major determinants of proficient court reports. It is the role of social work supervisors in an organisation to ensure that relevant processes and systems are developed to enable social workers to deliver quality services, including quality reports. The role of the supervisor is to ensure that social workers adhere to quality standards and produce proficient statutory reports the first time with no or minimum rework. The supervisor is required to perform the following quality control functions:

- a) Manage the reminder system in conjunction with the case managers and canalisation officers to ensure that deadlines are adhered to.
- b) Promote and uphold quality standards in relation to statutory reports.
- c) Quality-check and edit court reports to ensure that they comply with quality requirements mentioned in Chapter 5.
- d) Conduct regular case management audits to ascertain that case managers adhere to case management principles and plans as stipulated in Chapter 5.
- e) Identify case managers' training needs and advocate for such training.
- f) Countersign all court reports to confirm that they are proficient.
- g) Provide support, guidance, mentoring and education to case managers when necessary.

The supervisor must perform the following functions in relation to statutory reports:

- i. Ensure that the statutory reports compiled in terms of section 155(2), 159(1), 171(6) and 239 are proficient and reflect social work professional knowledge and expertise.
- ii. Ensure that a report compiled by a social worker in terms of section 155(2) is compiled in a form identical to form 38 and complies with the prescribed requirements set out in regulation 55. The report should:
 - (a) Contain a covering page containing the details of the social worker and supervisor.
 - (b) Contain a list of sources of information.
 - (c) Contain an introduction and personal details of the client.
 - (d) Reflect a history of and background to the matter to be decided by the children's court.
 - (e) Have reasons for the removal of the child, if applicable.
 - (f) Address any relevant factors referred to in section 150 of the Act.

- (g) Contain details of previous interventions and family preservation services that have been considered or attempted.
 - (h) Contain an assessment of the therapeutic, educational, cultural, linguistic, developmental, socio-economical and spiritual needs and strengths of the child.
 - (i) Contain an evaluation of the matter to be decided by the children's court.
 - (j) Indicate whether, after investigation, the child concerned is considered to be in need of care and protection or not.
 - (k) Contain a recommendation as to which order or orders in terms of sections 156 or 157 of the Act, including an order in terms of section 46 of the Act, would be appropriate for the child.
 - (l) Contain recommendations, where necessary, regarding measures to assist the child's parent, guardian or caregiver, including:
 - (i) Counselling.
 - (ii) Mediation.
 - (iii) Prevention and early intervention services.
 - (iv) Family reconstruction services.
 - (v) Family reunification.
 - (vi) Behaviour modification.
 - (vii) Problem solving.
 - (viii) Referral to another suitably qualified person or organisation.
 - (m) Address any written request by a presiding officer to the designated social worker concerned.
- iii. Verify whether the report contains an evaluation and recommendation.
 - iv. Assess and edit the report to ensure that it is proficient and does not contain inadequacies.
 - v. Verify whether the correct sections are quoted in the report and in the recommendation.
 - vi. Verify dates of birth, names, and surnames and ensure that their sequence corresponds with that in the birth certificate or identity document.
 - vii. Verify whether accompanying documents, such as birth, death or marriage certificates, school reports, clearance certificates issued in terms of the Children's Act or Sexual Offences Act, or any other supporting documents, are attached.
 - viii. If satisfied that the report is proficient, or if amendments are necessary, within five working days return it to the originator. If the supervisor proposes amendments, the case manager should attend to them and return the amended report within three working days. If the supervisor is satisfied that a court report complies with the prescribed requirements, he or she must date and countersign it on the cover page.
 - ix. In case of adoption, verify whether unmatched adoptable children and prospective adoptive parents had been registered on the Register on Adoptable Children and Prospective Adoptive Parents (RACAP) before finalisation of the adoption. An acknowledgement letter

from the Director-General of the Department of Social Development should accompany the adoption report as proof of such registration.

- x. Ensure that an adoption report compiled by an adoption social worker in terms of section 239 (1)(b):
 - ✓ Contains the following information as contemplated in section 239 (1)(b):
 - Information on whether the child is adoptable as contemplated in section 230 (3).
 - Information on whether the adoption is in the best interest of the child.
 - Where applicable, medical information in relation to the child.
 - ✓ Is accompanied by an assessment that the prospective adoptive parent is fit and proper to be entrusted with the full parental responsibilities and rights in respect of the child and is willing and able to undertake, exercise and maintain those parental responsibilities and rights.

- xi. Assess and edit reports received from designated social workers on persons, facilities, places or premises to provide temporary safe care in terms of regulation 57. Before sending the request to the canalisation officer , the supervisor must ensure that conditions set out in Regulation 57 are met and be satisfied that:
 - i. The child will be cared for in a healthy, hygienic and safe environment in line with the reasonable standards of the community where the temporary safe care is to be provided.
 - ii. The child will be provided with adequate nutrition and sleeping facilities.
 - iii. The person responsible for providing the child with temporary safe care has not been found to be unsuitable to work with children in terms of section 120 of the Act and is willing to provide such care.
 - iv. The area in which the child is to be placed in temporary safe care will not be severely disruptive to the child's daily routine.
 - v. Care of the child will be provided in accordance with the definition of "care" in section 1 of the Act.

6.2. Composition of the Statutory Services section

The composition of the Statutory Services section should be simplistic and left to the discretion of the provincial Department of Social Development. Notwithstanding that, canalisation should only be performed by a social worker registered in terms of the Social Service Professions Act 110 of 1978 and designated by the provincial Department of Social Development to perform that function.

The designation must be in writing and is subject to any limitations, conditions and directions, which the provincial HOD may impose. The HOD may amend, vary, revoke or withdraw the designation at any time.

A list of all designated canalisation officers should be submitted to the children's court presiding officer in the magisterial district and the local South African Social Security Agency (SASSA). This is to enable these institutions to have centralised access to canalisation officers in case of inquiries.

Designated Child Protection Organisations do not comprise of canalisation officers. They must submit the following documents to the regional or district office of the Department of Social Development on a monthly basis:

- a) Monthly statistics on the following:
 - Number of children found by the children's court to be in need of care and protection (in terms of section 150).
 - Number of reported cases of child abuse and deliberate neglect (in term of Form 22).
 - Number of court orders issued by the children's courts.
 - Number of reports submitted to children's courts for extension of court orders.
 - Number of children placed in foster care.
 - Number of children placed in temporary safe care.
 - Number of children placed in child and youth care centres.
- b) Copies of new court orders issued.

Since the process will be new in some areas, the following guideline should be followed to manage the Statutory Services section and the canalisation function.

6.3. Statutory Services section manager

If the Statutory Services section comprises of six or more canalisation officers, the section must be managed by a Statutory Services section manager, who is a qualified social worker with at least eight years' experience in the field of application of child care legislation or children's court matters. Clustering of canalisation officers for the purposes of supervision may be considered if the minimum number cannot be attained. It is important to note that a canalisation officer may not be supervised by a social work supervisor responsible for supervising designated social

workers. Canalisation officers should, as far as possible, be independent and objective in their functioning.

Minimum requirements:

- (a) A social worker registered in terms of the Social Service Professions Act, 1978.
- (b) Eight years' experience in the field of application of child care legislation or children's court matters.
- (c) Experience in child protection and statutory social work.
- (d) Competency and experience in management and social work supervision.
- (e) Competency and experience in planning, organising, administration, and written and oral communication.
- (f) Computer literacy.

6.4. Canalisation Officer

Only a social worker designated by the provincial HOD may perform canalisation functions. The functions, duties and powers of a canalisation officer are diverse and not confined to casework. Furthermore, provincial dynamics, needs and demands would determine the functions that canalisation officers may perform. Given other competing demands, a canalisation officer may be allocated a minimum of ten and maximum of 30 social workers depending on the size of the social workers' caseloads. The canalisation officer's case flow should not exceed 180 cases per month. This is an average of eight to nine cases per day. It should borne in mind that a canalisation officer does not conduct investigations and related statutory functions, but concentrates on reading, analysing, evaluating statutory reports and providing professional recommendations and decisions. In instances where a canalisation officer is engaged in other activities, the caseflow might be lower.

Proper planning and due consideration should be given to peak periods such as periods just before school holidays for leave of absence applications, year-end periods and beginning-of-the-year periods for section 176 applications for persons over 18 years to remain in alternative care.

Minimum requirements:

- (a) A social worker registered in terms of the Social Service Professions Act, 1978.
- (b) Six years' experience in the field of application of child care legislation or children's court matters.
- (c) Experience in child protection and statutory social work.

- (d) Knowledge and understanding of childcare legislation, policies, guidelines, norms and standards.
- (e) Good analytical skills.
- (f) Competency in planning, administration, organising and communication.
- (g) Competency in written and oral communication.
- (h) Computer literacy.

6.5. Administration Officer

The Statutory Services section and/or canalisation officer(s) should have access to administration support.

Minimum requirements:

- (a) Relevant qualifications in office administration.
- (b) Computer skills in order to manage the reminder system, registers, orders, notices and documents.
- (c) Good administration, filing, planning, organising and communication.
- (d) Basic knowledge and understanding of the Children's Act would be an added advantage.

6.6. Functions, duties and powers of the Statutory Services section

The provincial HOD may delegate any power or duty assigned to him or her in terms of the Children's Act to a canalisation officer. The following section focuses on the powers that may be delegated to the canalisation officer and the duties that a canalisation officer may perform:

1. Possess historical and current up-to-date information on the status of all children in alternative care in the area of jurisdiction.
2. Conduct research to establish trends, identify challenges and devise remedial actions.
3. Facilitate and conduct training and development for new recruits and social workers rendering statutory services.
4. Participate in case panel discussions for challenging and high-profile cases to provide guidance and expert advice to case managers.
5. Consider relevant section 159 reports (Annexure 8) for administrative extension of court orders and where applicable issue section 159 administrative extension orders (Annexure 8A).

6. Ensure that copies of the relevant extension orders are submitted to SASSA and the relevant case manager within four weeks after receiving the section 159 report⁴⁴.
7. Consider section 168 reports(Annexure 18)for leave of absence applications and, where applicable, issue a section 168 administrative order (Annexure 19).
8. Consider section 169 report (Annexure 9) for application for a childin alternative care to leave the Republic; forward the applications with a recommendation to the HOD or the person to whom the function has been delegated; receive the section 169 approval and forward it to the case manager or issue a section 169 approval (Annexure 10) if the function has been delegated to the canalisation officer.
9. Be informed of any child who absconds from alternative care, as well as the outcome of the children's court absconder's inquiry in a section 170 report (Annexure 16).
10. Consider section 171 reports(Annexure 17) for application of transfer of a child in alternative care and, where applicable, issue a section 171 administrative order (Annexure 11).
11. Consider section 172 reports (Annexure 22)for application of change in residential care programme of a child in alternative care and, where applicable, issue a section 172 administrative determination (Annexure 23).
12. Consider section 173 reports (Annexure 12) for application of removal of a child already in alternative care and, where applicable, issue a section 171 notice (Annexure 11).
13. Consider section 174 reports (Annexure 17) for application of provisional transfer of a child in alternative care and, where applicable, issue a section 174 notice (Annexure 11).
14. Consider section 175 reports (Annexure 20) for application of discharge of a child from alternative care and, where applicable. issue a section 175 notice (Annexure 13).
15. Consider section 176 reports (Annexure 15)for application for a person placed in alternative care as a child to remain in alternative care beyond the age of 18 years, and, where applicable, issue a section 176 administrative order(Annexure 15A).
16. Be aware and informed of any movement or death of children in alternative care. A social worker who receives a report of death, serious injury or abuse of a child in alternative care must immediately after receiving the report, but within 24 hours, inform the canalisation officer of such a report. The report should be contained in a Form 40.
17. Receive form 22 on reports of child abuse or deliberate neglect as reported in terms of section 110 and submit original copies thereof to the district Child Protection Register (CPR) coordinator within two working days.
18. Keep a record of form 22 notifications received and monitor cases and services to such children as contemplated in section 113 (d).

⁴⁴ It is the duty of the Administration Officer to submit orders issued by the canalisation officer within 48 hours to SASSA and the relevant DCPO.

19. Receive, keep a record of and submit form 23 notifications to the District CPR coordinator.
20. Where the function has been delegated to a canalisation officer, grant approval to persons, facilities, places or premises to provide temporary safe care in terms of regulation 57. Approval may only be granted if the canalisation officer is satisfied that:
 - i. The child will be cared for in a healthy, hygienic and safe environment in line with the reasonable standards of the community where the temporary safe care is to be provided.
 - ii. The child will be provided with adequate nutrition and sleeping facilities.
 - iii. The person responsible for providing the child with temporary safe care has not been found to be unsuitable to work with children in terms of section 120 of the Act and is willing to provide such care.
 - iv. The area in which the child is to be placed in temporary safe care will not be severely disruptive to the child's daily routine.
21. Where applicable, manage a register of the following:
 - a) All letters issued in terms of section 239(1)(b) to recommend the adoption of a child.
 - b) Finalised children's court cases, including adoption and inter-country adoption.
 - c) All court orders issued.
 - d) Reviewed and extended court orders⁴⁵.
 - e) Approved persons, premises, facilities, or places providing temporary safe care.
 - f) Administrative orders, notices and determinations issued in terms of the Children's Act.
 - g) Extension orders submitted to SASSA;
 - h) Form 22, 23 and 36 issued
22. Submit monthly reports on the 7th working day of each month to the regional or district Director for Social Development on (a) to (h) above. The regional or district office should submit statistics to the provincial Department of Social Development on the 10th working day of each month. Each province should submit statistics to the national Department of Social Development on the 14th working day of each month.
23. Issue reminders to case managers and their supervisors of court orders that are about to expire three months before the expiry date.
24. Issue notices to case managers and their supervisors about expired court orders and, where applicable, give advice to initiate new children's court proceedings.

NB: NO COURT ORDERS MAY BE BACKDATED

25. Receive a copy of form 36 authority for the removal of a child to temporary safe care.

⁴⁵ The North Gauteng Court order issued on 8 June 2011 authorizes the Department of Social Development to extend foster care court orders until 2014.

26. Follow-up on any outstanding form 36, authorising a social worker to remove a child to temporary safe care.
27. Follow-up on removals and placements within and outside the province.
28. The canalisation section may perform any other functions in terms of the Children's Act as may be deemed necessary by the provincial HOD.

Chapter 7 Initiating children's court proceedings

7. Introduction

Children's court proceedings may be initiated in different approaches. Section **14** presents a child with an opportunity to bring, and be assisted in bringing, a matter to court, provided that the matter falls within the jurisdiction of that court. In addition to the child, anyone acting in the interest of the child; anyone acting on behalf of a child who cannot act in his or her own name; anyone acting as a member of, or in the interest of, a group or class of children; or anyone acting in the public interest may also approach a court in terms of section **53**.

A child's parent, a person who has parental responsibilities and rights, or a person having interest in the care, well-being or development of a child may approach a court in terms of section 22(4)(b), 23, 24, 26(1)(b) or 28.

A children's court may order a designated social worker in terms of section **50, 62 and 151(1)** to carry out an investigation and to furnish the court with a report. Section 60 gives the presiding officer an opportunity to call any person to give evidence or produce a document or any other written instrument, during court proceedings. Such a person may be a social worker or designated social worker.

A designated social worker may remove a child by court order to temporary safe care in terms of section 151 or without a court order in terms of section 152(1) and investigate the matter within 90 days after the child was placed in temporary safe care.

All these approaches demonstrate that there are various avenues available to bring matters to the children's court and it is not always a social worker who may bring a matter to court or initiate children's court proceedings.

7.1. Procedure for bringing a matter before the children's court in terms of section 53

A social worker may bring a matter before the children's court in terms of section 53 acting in the interest of the child; acting on behalf of a child who cannot act in his or her own name, acting as a member of, or in the interest of, a group or class of children or acting in the public interest. The social worker must follow procedures outlined in Regulation 6 of the Regulations relating to Children's Courts and Child Abduction (Department of Justice (DOJ) regulations), by notifying the clerk of the children's court of the intention on a DOJ Form 2 (bringing a matter to children's court in terms of section 53 of the Children's Act).

The court may, among other options, within seven days refer the matter for court proceedings in terms of DOJ regulation 6(2)(c) and assign a court date within 30 days after referring the matter for court proceedings.

The clerk of the children's court must notify the social worker to attend the proceedings at least 15 days before the date of the hearing. The social worker must then submit a report to court, ten days prior to the hearing of the matter. In essence, this gives the social worker at least five days to prepare a report; it is therefore advisable for a social worker to prepare and finalise a report before notifying the clerk of the court of the intention to bring a matter before the children's court on a DOJ Form 2.

When the matter is before the court, the court may adjourn the proceedings for a period of not more than 30 days at a time in terms of section 64(1)(b).

7.2. Procedure to be followed by a designated social worker when ordered by the children's court to carry out investigations in terms of section 50

The children's court may issue an order authorising a designated social worker to conduct an investigation in terms of section 50(3). The order may authorise the social worker to remove a child in terms of sections 47(3) or 151; investigate the circumstances of the child; record any information; and carry out any specific instruction of the court. The court order made in terms of section 50 must be on a DOJ Form 9.

After concluding the investigation, the social worker must submit a report to court within ten days after conclusion of the investigation. This report must be edited and countersigned by the supervisor.

7.3. Procedure for removal of an alleged offender or removal of a reported child to temporary safe care

Parents have a moral and legal duty to care for their children. Unwarranted infringement of their responsibility and right to care and protect their children should be avoided at all costs to avert unnecessary litigation or civil claims. However, where circumstances such as those set out in section 150 prevail, the child may be considered to be a child in need of care and protection and statutory intervention will then be justified in the best interest of the child.

A designated social worker may receive a report of child abuse, a neglected child or a child in need of care and protection in terms of section 110. After receiving such a report, the designated social worker must:

- Ensure the safety and well-being of the child concerned, if the child's safety or well-being is at risk.
- Make an initial assessment of the report and ensure that it is not frivolous or obviously unfounded.
- Investigate the truthfulness of the report or cause it to be investigated.
- If the report is substantiated by such investigation, immediately initiate proceedings in terms of this Act for the protection of the child.
- Submit particulars of the child as stipulated in section 114(2) to the National Department of Social Development in a Form 22 for inclusion in Part A of the National Child Protection Register. To assess the child's risk, the designated social worker must conduct a safety and risk assessment using the tool contained in Annexure 3 and 4. There are different options available to ensure the safety of the child. First, the designated social worker may consider the removal of the alleged offender, the removal of the child with a court order or the removal of the child without a court order. These options are explained in the section below.

7.3.1. Procedure for the removal of the alleged offender

If, after the initial assessment of the report of abuse or deliberate neglect of a child in terms of section 110, the designated social worker is satisfied that the child needs protection, the designated social worker may prioritise removal of the alleged offender in terms of section 110(7)(b) and 153, if it is in the best interest of the child. If the designated social worker is satisfied that it is in the best interest of the child not to be removed from his or her home or place where he or she resides, but that the removal of the alleged offender from such home or place would secure the safety and well-being of the child, the social worker may request a police official to issue a written notice calling upon the alleged offender to leave and refrain from entering the home or place or having contact with the child until the court hearing. The social worker must complete a Form 24 and submit it to the relevant station commander of the police station under whose jurisdiction the alleged offender resides.

The police official to whom the request has been made may issue a written notice on SAPS Form 581 to the alleged offender and in the written notice call upon the alleged offender to appear at the children's court, specifying the place, date and time. The date specified on the written notice should be the first court day after the day on which the notice was issued. Subsequent to that, the police official must forward a duplicate original of the written notice to

the clerk of the children's court.

It is the duty of the social worker to confirm the court date and inquire whether he or she would be required to appear before the court. Section 153(5) states that the children's court may summarily inquire into the circumstances which gave rise to the issuing of the notice and might, therefore, order either the police official or the social worker to appear before it.

After having considered the circumstances which gave rise to the issuing of the written notice, and after having heard the alleged offender's reasons why he or she should not be permanently prohibited from entering the home or place where the child resides, the court may, among other options, refer the matter for investigation by a designated social worker in terms of section 155 to establish whether the child is in need of care and protection or not.

7.3.2. Removal of a child by a court order in terms of section 151

7.3.2.1. If it appears to a designated social worker that a child is in need of care and protection; and it is not in the best interest of the child to remove the alleged offender, the designated social worker has the prospect of approaching the children's court. The designated social worker might consider removing the child to temporary safe care by court order in terms of section 151. The social worker may prepare a report explaining the circumstances that led to the report in terms of section 110 and the reasons why the child should be removed to temporary safe care.

7.3.2.2. In addition, the designated social worker must assess the temporary safe care in terms of regulation 57(2) to ascertain that:

- The child will be cared for in a healthy, hygienic and safe environment in line with the reasonable standards of the community where the temporary safe care is to be provided.
- The child will be provided with adequate nutrition and sleeping facilities.
- The person responsible for providing the child with temporary safe care has not been found to be unsuitable to work with children in terms of section 120 of the Act and is willing to provide such care.
- The area in which the child is to be placed in temporary safe care will not be severely disruptive to the child's daily routine.
- Care will be provided in accordance with the definition of "care" in section 1 of the Act.

The designated social worker must thereafter complete Form 39 to seek approval of a person, facility or premises to provide temporary safe care from the provincial

HOD or the person to whom the function has been delegated. Approval to provide temporary safe care should be granted by the provincial HOD or an official to whom the function has been delegated, prior to placement of a child in temporary safe care. Temporary safe care may be provided by a person, facility, premises or place. Where applicable, the provincial HOD must pay temporary safe care fees to the provider of the service.

Temporary safe care providers assessed and approved during the previous 12 months and child and youth care centres registered and approved to provide temporary safe care do not need to be assessed and approved every time a child is placed in their care.

7.3.2.3. The children's court may request the designated social worker to provide evidence under oath or affirmation that the child concerned appears to be a child in need of care and protection. The designated social worker's report may serve as such evidence. This report needs to be countersigned by the supervisor.

7.3.2.4. If the court is satisfied that the child appears to be in need of care and protection, the court must order that the question of whether the child is in need of care and protection be referred to a designated social worker for an investigation in terms of section 155(2). In addition, the court may order the removal of the child and placement in temporary safe care if it appears that it is necessary for the safety and well-being of the child.

7.3.2.5. When removing a child to temporary safe care, the designated social worker must complete a Form 36 and hand it to the provider of temporary safe care upon admission of the child. A true copy of Form 36 must be delivered or handed after removal of the child to:

- The parent, guardian or caregiver who can readily be traced within 24 hours. If it is not in the best interest of the child to furnish the parent or caregiver with a copy of a Form 36, the designated social worker must inform the court of any reasons why the parent or guardian should not be furnished with such a copy. This may be done only in exceptional cases where the safety and well-being of the child might be at serious risk.
- The relevant clerk of the children's court by not later than the next court day, and
- The closest office of the relevant Department of Social Development within 24 hours. If the expiry of 24 hours is outside the working hours of the Department, the matter may be reported on the next working day.

7.3.2.6. After removing a child to temporary safe care the social worker must:

- a) Place the matter before the children's court having jurisdiction for the next court day for review of the removal and continued placement of the child.
- b) Without delay but within 24 hours inform the parent, guardian or caregiver of the

child of the removal of the child, if that person can readily be traced.

- c) Give notice to the parent, guardian or caregiver of the date, time and place of the review of the detention of the child and their right to furnish the court with information. The child concerned and the parents, guardian or caregiver must be present in court unless this is impractical.
- d) Bring the child or cause the child to be brought before the children's court of the district of removal.
- e) Within 24 hours refer the matter to a designated social worker for investigation in terms of section 155(2). If the expiry of 24 hours is outside the working hours of the designated social worker, the matter may be reported on the next working day.
- f) Report the matter to the relevant Department of Social Development.
- g) If the social worker removing the child is a designated social worker in the employ of the Department of Social Development, (e) and (f) above do not apply.

7.3.2.7. The place or person where the child is placed in temporary safe care must report to the children's court concerned if the placement is not confirmed by court order within seven days.

7.4. Removal of a child without a court order in terms of section 152

Section 152(1) makes it clear that before a child is removed to temporary safe care without a court order all of the following factors have to be present:

- The child must be in need of care and protection and should require **immediate emergency protection**. The safety and well-being of the child should be the first priority.
- The delay in obtaining a court order may jeopardise the child's safety and well-being, and
- The removal should be the best way to secure the child's safety and well-being.

(Social workers should use other relevant approaches to initiate court proceedings, where there is no danger or a need for immediate protection of the child.)

When a designated social worker removes a child to temporary safe care without a court order, the procedure set out in 7.4.2.2; 7.4.2.5; 7.4.2.6; and 7.4.2.7 above should be followed.

In case of emergency, a child may be placed with a relative or person familiar to the child. The designated social worker must then apply for approval of the temporary safe care provider within 48 hours after placement. It is advisable for designated social workers to have lists of

pre-approved temporary safe care providers to avoid placing children with persons who are not approved.

Misuse of power to remove a child to temporary safe care without a court order by a designated social worker constitutes unprofessional or improper conduct as contemplated in section 27(1)(b) of the Social Service Professions Act, 1978 (Act 110 of 1978) by that social worker. It is imperative for the social worker to be subjected to internal disciplinary procedures to verify, scrutinise and investigate the circumstances around the misconduct. If necessary, the matter may be referred to the South African Council for Social Service Professions (SACSSP) for an investigation into the possible withdrawal of that social worker's registration with the SACSSP.

The Act contains different provisions for social workers in the employ of the state and those employed by designated child protection organisations. It requires the designated child protection organisation's designation to be withdrawn in such cases. This might have far-reaching consequences for the services rendered by the organisation and staff employed at the organisation. This is one possible area of amendment.

Regarding misuse of power by a designated social worker employed in terms of the Public Service Act or the Municipal Systems Act, the Children's Act just stipulates that it constitutes unprofessional or improper conduct as is contemplated in section 27(1)(b) of the Social Service Professions Act, 1978 (Act 110 of 1978) by that social worker. This sanction is slightly lenient compared to the one imposed against a social worker in the employ of a DCPO.

7.5. Procedures regarding the notification and handling of child abuse and child neglect cases

The Child Protection Register (CPR) is an electronic, confidential national Register kept by the national Department of Social Development. It contains a record of all reported cases of abuse or deliberate neglect inflicted on children and a record of persons found unsuitable to work with children. Reporting of child abuse or deliberate neglect is regulated by section 110 of the Act.

7.5.1. Section 110 obliges any correctional official, dentist, homeopath, immigration official, labour inspector, legal practitioner, medical practitioner, midwife, minister of religion, nurse, occupational therapist, physiotherapist, psychologist, religious leader, social service professional, social worker, speech therapist, teacher, traditional health practitioner, traditional leader or member of staff or volunteer worker at a partial care facility, drop-in centre or child and youth care centre who

on reasonable grounds concludes that a child has been abused in a manner causing physical injury, sexually abused or deliberately neglected, to report that conclusion using Form 22 to a designated child protection organisation, the nearest provincial office of the Department of Social Development or a police official.

7.5.2. The police official to whom a report has been made in terms of section 110, or who has become aware of a child in need of care and protection must, in terms of section 110(4), within 24 hours notify the provincial Department of Social Development or a designated child protection organisation of the report and any steps that have been taken with regard to the child. The report should be accompanied by a Form 22.

7.5.3. The police official has a duty to:

- Respect the needs of the child and ensure the child's safety and security in terms of the South African Police Act 110 of 1995.
- Arrest the alleged perpetrator whom he or she reasonably suspects of having committed an offence in terms of the Criminal Procedure Act 51 1977.
- In terms of section 153, give notice to the alleged offender to leave the home or place where the child resides if satisfied that it will be in the best interest of the child for the alleged perpetrator to leave.
- Carry out the necessary processes as outlined in the SAPS National Instruction 3 of 2010.

7.5.4. The designated social worker who receives a Form 22 report from a person mentioned in section 110 or a police official must:

- Forward the Form 22 to the provincial Department of Social Development.
- Make an initial assessment of the report and if the report is not frivolous or unfounded investigate the report to substantiate it.

7.5.5. The investigating social worker should then initiate proceedings to protect the child. These proceedings may include removal of the child to temporary safe care by court order or without a court order.

7.5.6. After investigating and substantiating the report, the investigating social worker must complete a Form 23 and forward it to the provincial Department of Social Development. Form 23 must be submitted within six weeks after submission of Form 22.

7.5.7. The Provincial Department of Social Development must:

- Forward all Form 22 and Form 23 reports to the registrar of the National Child Protection register at the National Department of Social Development.

- Monitor each case reported in terms of Form 22 through the canalisation officer and receive six weekly reports outlining services and intervention offered to the child, as well as quarterly progress reports. The reports must be provided by the investigating social worker until finalisation of the children's court case. Such reports are required because children who are reported in terms of section 110, need urgent services and intervention and if they are placed in temporary safe care, their stay in that care could be up to six months.
- The provincial Department of Social Development and the canalisation officer must keep a record of:
 - All outcomes of the children's court proceedings.
 - All convictions of perpetrators from the criminal courts.
 - All findings of unsuitability to work with children from the criminal court, civil court, children's court or forum.
 - All finalised and closed cases of reported child abuse and deliberate neglect.

NB: For more information on procedures for notification of child abuse and deliberate neglect, please refer to the National Guidelines on the Notification of Child Abuse Cases

Chapter 8 Children's court processes in relation to children in need of care and protection

8. Introduction

Section 45 of the Children's Act authorises children's courts to adjudicate various matters, including those relating to the care, protection and well-being of children, as well as matters involving the maltreatment, abuse, neglect, degradation or exploitation of children. The following chapter focuses on children's court processes in relation to matters involving such children and other children in need of care and protection in terms of section 110 of the Act.

The children's court process is a statutory process and is preceded by pre-statutory and court preparation processes. Pre-statutory services are offered to children and families where early intervention services are deemed inappropriate or have failed. These services are offered when the assessment results indicate that statutory intervention is inevitable and the child needs to go through the court process. Before a matter is taken to court, the designated social worker must engage in court preparation processes, which include preparing relevant parties for court appearance, conducting investigations, compiling a statutory report and approaching the court for a children's court hearing.

Children's court proceedings are guided by section 52 of the Children's Act, the Magistrates' Courts Act, 1944, and the Rules Board for Courts of Law Act, 1985. Statutory intervention requires a designated social worker to interact with the clerk of the children's court, the presiding officer, parties involved in the matter and, where applicable, legal representatives.

The presiding officer in the children's court controls the conduct of proceedings, adjudicates matters, and may hand down judgments and issue orders. The clerk of the children's court is responsible for the administrative functions of the court, including the issuing of subpoenas to witnesses.

A designated social worker presenting a report in court is regarded as an expert witness. The report, if accepted by the court, may form part of the court records as evidence. During court proceedings, the court may make a determination and a finding as to whether a child is in need of care and protection or not and issue a court order. The court order may be valid for a certain period and needs to be extended. The court also has the prerogative to monitor its orders or vary them.

8.1. Identification of a child in need of care and protection

In most instances, cases of children who appear to be in need of care and protection are reported to a social worker by different people, including professionals and persons mentioned in section 110; members of the public; relatives; teachers; neighbours; etc. When a social worker receives such a report, he or she must conduct a thorough investigation and assessment to ascertain or dismiss the report. The assessment mentioned in section 3.5.2 in chapter 3 should guide the assessment of the child's circumstances. The social worker should also assess the circumstances of the child against the criteria mentioned in section 150. If a child satisfies one or more of the criteria in section 150, the social worker may conclude that the child is in need of care and protection and then approach the children's court to make a finding.

If, after investigation, the social worker concludes that the child is not in need of care and protection, he or she must, in terms of section 150 (3), where necessary, take measures to assist the child, including counselling, mediation, prevention and early intervention services, family reconstruction, behaviour modification, problem solving or referral to another suitably qualified person or organisation.

If a person reports a matter to a social worker and the social worker through his or her assessment concludes that the child is not in need of care and protection, and therefore does not approach the children's court to make a finding, that person is entitled to approach the children's court in terms of section 53 using DOJ Form 2. The court may order a social worker to conduct an investigation in terms of section 50 or 62 (1) to assist it in deciding on the matter.

8.2. Who is a child in need of care and protection?

Section 150 provides categories of children who may be found to be in need of care and protection. Before a social worker initiates children's court proceedings with a view of finding a child in need of care and protection, early intervention services should first be explored if it is in the best interest of the child.

A child in need of care and protection as explained in section 150 is a child who:

- (a) Has been abandoned or orphaned and is without any visible means of support. An abandoned child is a child who has obviously been deserted by a parent, guardian or caregiver or has, for no apparent reason, had no contact with the parent, guardian, or caregiver for a period of at least three months. An orphan is a child who has no surviving parent caring for him or her.

In carrying out an investigation, the designated social worker must carry out a two-phase inquiry, first, to confirm that the child is abandoned or orphaned, and second, to confirm that the child has no visible means of support. To confirm that the child has been abandoned or orphaned, the designated social worker must follow processes mentioned in regulation 56 by placing an advertisement in a newspaper and requesting death certificates.

In addition, the designated social worker must assess the child's current living arrangements, emotional, physical and psychological needs and establish whether they are fully catered for. To ascertain that a child does not have visible means of support, the designated social worker must assess all the needs of the child in line with the definition of care. These include health, education, and physical needs, among others.

Furthermore, the designated social worker must establish if the child has any financial resources in his or her name or entitled to him or her by any law and whether these resources are adequate to meet his or her needs. The financial means of the prospective foster parents should also be assessed, but they should not be the determining factor in the placement. Annexure C to the Regulations to the Social Assistance Act states that "a foster parent qualifies for a foster child grant regardless of such foster parent's income".

Any person in receipt of a social grant is an indigent person and qualifies for social assistance in terms of section 27(1)(c) of the Constitution if he or she is unable to support him- or herself. It should be stressed that support is not only financial, it may be emotional, psychological, spiritual, moral or some other form of support than financial. Any other person in receipt of a state grant for himself, herself or dependents also qualifies for a foster child grant if a child is placed in their foster care.

- (b) Displays behaviour that cannot be controlled by a parent or caregiver. Parents who cannot control their children's behaviour may be engaged in parenting programmes or positive discipline programmes as possible early intervention measures. The designated social worker should only consider statutory intervention if early intervention efforts fail or are deemed not to be the best option for the child.
- (c) Lives or works on the streets or begs for a living. This includes a child who, due to abuse, neglect, poverty, community upheaval or any other reason, has left his or her home, family or community and lives, begs or works on the streets or due to inadequate care, begs or works on the streets but returns home at night.
- (d) Is addicted to a dependence-producing substance and is without any support to obtain treatment for such dependency.

- (e) Has been exploited or lives in circumstances that expose the child to exploitation. Exploitation in relation to a child includes all forms of slavery or practices similar to slavery, including debt bondage or forced marriage, sexual exploitation, servitude, forced labour or services, child labour and the removal of body parts.
- (f) Lives in or is exposed to circumstances which may seriously harm his or her physical, mental or social well-being.
- (g) May be at risk if returned to the care of a parent, guardian or caregiver as there is reason to believe that he or she will live in or be exposed to circumstances which may seriously harm his or her physical, mental or social well-being.
- (h) Is in a state of physical or mental neglect. A child who is physically neglected may be identified by being grossly underweight with stunted growth and clear signs of malnutrition. Before approaching the court with a view of finding that child in need of care and protection, the designated social worker may, where applicable, assist the family to meet the nutritional needs of the child. This would depend on whether the family is only destitute but is in a position to provide for the child's emotional and psychological needs. Other role-players may be approached to assist the family.
- (i) Is being maltreated, abused, deliberately neglected or degraded by a parent, a caregiver, a person who has parental responsibilities and rights, a family member or a person under whose care the child is. Abuse in this case includes assaulting a child or inflicting any other form of deliberate injury on a child; sexually abusing a child or allowing a child to be sexually abused; allowing a labour practice that exploits a child; or exposing or subjecting a child to behaviour that may harm the child psychologically or emotionally.

It is important for the designated social worker to consider early intervention programmes in an attempt to deal with the problem before approaching the court. This should only be done where there are prospects of success and where the child's life is not in danger.

A child who is a victim of child labour or a child in a child-headed household may be a child in need of care and protection and must be referred for investigation by a designated social worker in terms of section 155(2). The social worker who receives a report of a child who is a victim of child labour or exploitation has a duty in terms of section 141(2) to report the matter to the police and the Department of Labour.

A child in need of care and protection may be identified by any person mentioned in section 110(1) and (2). Persons referred to in section 110(1) are mandated to report such a child and those mentioned in section 110(2) are not obliged to report. A designated social worker, to whom a report is made, must investigate the report and the circumstances of the child.

8.3. Suitable persons to investigate child abuse or neglect (Regulation 36)

A person is suitable to conduct investigations into cases of alleged child abuse or neglect if such person:

- Is a registered social worker in terms of the Social Service Professions Act 110 of 1978, and is employed by the National or provincial Department of Social Development or by a designated child protection organisation.
- Has sufficient experience in the field of child protection or is working under the supervision of a person who has at least five years' experience in child protection.
- Has not been found unsuitable to work with children and has no previous convictions relating to child abuse. To establish suitability to work with children, a social worker or the social worker's employer may submit a request in a Form 30 or 29, respectively, to establish whether the social worker's name is included in Part B of the National Child Protection Register or not. A letter confirming that he or she is suitable to work with children should be received from the National Department of Social Development.
- Upholds the rights of the child and children's best interests. The rights of children are stipulated in section 28 of the Constitution and the best interest of the child standard is outlined in section 7 of the Children's Act.
- Is able to work in a multi-disciplinary team with the objective of securing the best protection plan based on a child's developmental needs. A multi-disciplinary team may include professionals from other disciplines, such as doctors, nurses, physiotherapists, psychologists, psychiatrists, police officers, religious leaders, occupational therapists, etc.

8.3.1. Powers and responsibilities of persons suitable to investigate child abuse or neglect (Regulation 37)

A person who is suitable to conduct investigations into cases of alleged child abuse or neglect, and who has received a report alleging the abuse or neglect of a child, must:

- (a) Investigate that report in accordance with the broad risk assessment within a reasonable time that may be dependent on the severity of the case.
- (b) In cases of sexual abuse, refer the child immediately but within 72 hours to a medical/health professional for medical treatment.
- (c) If necessary, accompany the child or cause the child to be accompanied to a police station for the purpose of laying a complaint.
- (d) If necessary, accompany the child or cause the child to be accompanied to a medical facility for the purpose of medical treatment.

- (e) Facilitate counselling and support to reduce trauma to the child and his or her family members and, if necessary, refer the child to other relevant professionals.
- (f) Co-ordinate the available and applicable child protection services to ensure the safety and well-being of the child.
- (g) Develop and implement a **child protection plan** in consultation with the child, his or her parents, guardian or caregiver and, if required, other relevant professionals.
- (h) Review the child protection plan on a six-monthly basis or earlier, depending on the severity of the abuse or neglect.
- (i) Ensure that the particulars of the child as stipulated in section 114(2) are recorded in Part A of the National Child Protection Register. This entails completing and submitting Form 22.
- (j) Take protective measures, where applicable and necessary, by removing the child to temporary safe care.

8.4. Broad risk assessment framework to guide decision-making (Regulation 35)⁴⁶

The following broad risk assessment framework may be used to guide decision-making in ascertaining whether a child has been abused or deliberately neglected. It provides a guide for the subsequent child protection services that may be provided to the child⁴⁷.

The aim of the broad risk assessment framework is to provide guidelines for:

- (a) Identification of children who have been abused or deliberately neglected.
- (b) Assessment of risk factors to support a conclusion of abuse and neglect on reasonable grounds as reported in terms of section 110.
- (c) Investigation by a designated social worker upon receipt of a report of the abuse or neglect of a child.
- (d) Appropriate protective measures to be taken in respect of a child.

The broad risk assessment framework includes the following indicators that serve as a guide to confirm or substantiate a report that a child has been abused or neglected.

⁴⁶Bottoms, B. & Epstein, M. (1998) memories of child sexual abuse: A survey of young adults. *Child Abuse & Neglect*, 22(12), 1217-1238.

Besharov, D. J. (1990). *Recognizing child abuse: A guide for the concerned*. New York: free Press.

Cantwell, H. B. & Rosenberg, D. A. (1990). *Child neglect*. Reno, N V: National Council of Juvenile and Family Court Judges.

⁴⁷ Republic of South Africa (2010). *General Regulations Regarding Children. (Regulation 35)*. Government Gazette Vol. 538, No. 9256.

- (a) The presence of indicators of physical abuse include the following:
- Bruises or grasp marks on the arms, chest, face or other parts of the body.
 - Variations in bruising colour. The presence of many injuries at various stages of healing makes it obvious that injuries did not occur as a result of one incident.
 - Black or blue eyes.
 - Belt marks.
 - Swollen areas or broken bones.
 - Missing patches of hair.
 - Torn tissue or cuts around or behind the ears.
 - Cigarette or other burn marks.
 - Cuts, lacerations, welts, fractures, head injuries.
 - Convulsions that are not due to epilepsy.
 - High temperature, fever, restlessness or drowsiness.
 - Irregular breathing.
 - Vomiting or physical pain.
 - A child's behaviour might signal that something is wrong. Victims of physical abuse may display withdrawal or aggressive behavioural extremes, complain of soreness or uncomfortable movements, wear clothing that is inappropriate for the weather, express discomfort with physical contact or become chronic runaways.

- (b) The presence of emotional and behavioural indicators of sexual abuse include the following:

Children who are sexually abused may exhibit behavioural changes, based on their age. Children around the age of three may exhibit the following emotional and behavioural indicators:

- Fear or excessive crying.
- Vomiting.
- Feeding problems.
- Bowel problems.
- Sleeping disturbances.
- Failure to thrive.

Children between two and nine

- Fear of particular people, places or activities.
- Regression to earlier behaviour such as bedwetting or strange anxiety.
- Victimisation of others.
- Excessive masturbation.
- Feeling of shame or guilt.

- Nightmares or sleeping disturbances.
- Withdrawal from family or friends.
- Fear of attack recurring.
- Eating disturbances.
- Deterioration in school performance.
- Lack of concentration.

Symptoms for older children and adolescents include:

- Depression or sadness.
- Self-mutilation.
- Nightmares or sleeping disturbances.
- Poor school performance.
- Promiscuity.
- Substance abuse.
- Aggression.
- Running away from home.
- Fear of attack recurring.
- Eating disturbances.
- Suicidal gestures.
- Anger about being forced into situation beyond one's control.
- Pseudo-mature behaviours including demonstrating socially inappropriate sexual behaviour or knowledge for the age of the child.
- Irritability.
- Active or passive bullying.
- Obsessive behaviour.
- Unwillingness or fearfulness to undress or wearing layers of clothing.

(c) The presence of developmental indicators of psychological or emotional abuse are a result of ignoring, rejecting, isolating, exploiting, corrupting, verbally assaulting, terrorising, or just neglecting the child. An infant who is severely deprived of basic emotional nurturance can fail to thrive and can eventually die even though he or she is physically well cared for. Babies with less severe emotional deprivation can grow up to be anxious and insecure children who are slow to develop and who have low self-esteem. General symptoms of psychological or emotional abuse include:

- Insecurity.
- Poor self-esteem or clumsiness.
- Destructive behaviour.
- Angry acts such as fire-setting or cruelty to animals.

- Withdrawal.
- Poor development of basic skills including stuttering.
- Alcohol or drug abuse.
- Suicide.
- Difficulty in forming relationships or unwillingness to partake in group activities.
- Subsequent unstable job history later in life.
- Withdrawal, lack of coordination or orientation, or observable thriving of children away from their home environment.

(d) The presence of indicators of deliberate neglect include:

- Failure to thrive.
- Failure to meet physical and psychological developmental milestones.
- Underweight.
- Scanty hair.
- Sores around the mouth.
- Slight water retention on the palms or in the legs.
- Extended or slightly hardened abdomen.
- Thin and dry skin.
- Dark pigmentation of skin not related to skin complexion, especially on extremities.
- Abnormally thin muscles.
- Developmental delay.
- Lack of fatty tissue.
- Disorientation.
- Intellectual disability.
- Irritability.
- Lethargy – this includes lack of energy and enthusiasm or abnormal state of sleepiness or deep unresponsiveness.
- Withdrawal.
- Bedsores – These sores develop as a result of lying in bed in one position for a prolonged period.
- Contractures –This is a condition of shortening and hardening of muscles, tendons, or other tissue, often leading to deformity and rigidity of joints.

A person who, due to the presence of these indicators, suspects and concludes that a child has been sexually abused, or abused in a manner causing physical injury, or deliberately neglected, must assess the total context of the child's situation and take into account the following factors:

- (a) Many indicators may be non-specific to abuse or neglect.

- (b) A cluster or pattern of indicators as opposed to a single isolated indicator will provide support for a conclusion of abuse or neglect.
- (c) Information about specific times of any incidents, places where incidents took place and the context within which incidents took place, which must be noted in writing, may provide support for a conclusion of abuse or neglect.
- (d) Abuse may be unintentional, but failure on the part of the parent or caregiver to prevent abuse of the child may amount to neglect.
- (e) Abuse may be physical, psychological or sexual without any visible indicators and is likely to exist if the child continuously reports threats of harm or punishment.
- (f) A series of minor incidents, any of which may, when considered in isolation, not amount to abuse or neglect, may constitute abuse or neglect when considered together.
- (g) The child's age, personality and temperament should be taken into account.
- (h) Discrepancies in the version or description of incidents by the child and his or her parent or caregiver may either provide or diminish support for a conclusion of abuse or neglect.
- (i) Any unexplained delay in seeking medical treatment for a child who is seriously injured should be considered as a possible indicator of abuse or neglect.

When examining or assessing a child who is suspected of having been abused or neglected, the social worker must ensure that the child:

- (a) Be addressed in a language that he or she can understand. For very young children the social worker may use other approaches such as play, which include dramatised play, creative play such as drawing, clay, letters; biblo play such as children's stories or life storybooks, magazines, pictures or cartoons.
- (b) Where necessary, be accompanied by a support person of the child's choice, unless he or she is of sufficient maturity and mental capacity to understand the reasons for the assessment or examination and expresses a wish not to be accompanied by such person.
- (c) Be treated with empathy, care and understanding, with due regard to the child's right to privacy and confidentiality.
- (d) As far as possible be examined or assessed in a child-friendly environment.
- (e) Not be subjected to the presence of any other person who is not required to be present at the examination or assessment.
- (f) Not be subjected to cruel or degrading language.

A child must, prior to his or her being examined or assessed for purposes of establishing whether such child has been abused or neglected, consent, either verbally or in writing, to the assessment or examination if such child is 12 years or older, of sufficient maturity and has the mental capacity to understand the reasons for the examination or assessment.

An assessment or examination may proceed in the absence of a child's consent if it is deemed to be in the best interest of such child, provided the reasons for proceeding with the assessment or examination are noted in writing by the person or social worker doing the assessment or examination and explained to the child and to his or her parent, guardian or caregiver.

8.5. Investigations

After a report of abuse or deliberate neglect has been made to a designated social worker, or after a designated social worker has removed a child to temporary safe care, he or she must investigate the matter. Investigation entails a comprehensive and systematic study of the child's circumstances, development, family circumstances and, where relevant, any influence that the community or external conditions might have on the child and his or her family. The court might have certain instructions to the social worker and those should be borne in mind during investigation.

The court may, in terms of section 62(1), order the designated social worker to carry out an investigation to establish the circumstances of:

- (a) *The child.*
- (b) *The parents or a parent of the child.*
- (c) *A person who has parental responsibilities and rights in respect of the child.*
- (d) *A caregiver of the child.*
- (e) *The person under whose care the child is.*
- (f) *Any other relevant person.*

During investigation, the social worker should keep written records of any contact, including home visits, e-mails, telephone contacts, interviews, counselling, intervention, referrals or services offered to the clients. Those records should be in the form of process notes, progress reports, or supporting documents and will culminate in the comprehensive report submitted to court.

8.5.1. Investigation to determine whether a child has been abandoned or orphaned (Regulation 56)

If it appears to a designated social worker that a child has been abandoned or orphaned, whether for purposes of determining if such child is in need of care and protection or if such

child can be made available for adoption, such social worker must cause an advertisement to be published in at least one local newspaper circulating in the area where the child has been found calling upon any person to claim responsibility for the child.

In determining whether a child has been abandoned or orphaned for purposes of finding a child in need of care and protection, a presiding officer must:

- (a) Be satisfied that the child has been abandoned or orphaned. To determine that a child has been abandoned, a parent must have deserted the child or the child must have not had contact with a parent for more than three months for no apparent reason. To determine that a child is orphaned, the child's parents must have been deceased.
- (b) Be furnished with a copy of the advertisement mentioned above and be satisfied that, for the purposes of:
 - (i) Determining whether the child has been orphaned or abandoned, a period of at least one month has lapsed since the publication of the advertisement. This means that the social worker may place an advertisement only once in a newspaper and wait for a month to pass. It is not necessary for the social worker to place an advertisement that will appear in the newspaper every day for a full month.
 - (ii) Determining whether a very young child who has been orphaned or abandoned by his or her parents must be made available for adoption, a period of at least three months has lapsed since the publication of the advertisement, and that no person has claimed responsibility for the child.
- (c) Have regard, in the case of an orphaned child, to the death certificate or certificates of the child's parent or parents, guardian or caregiver, obtained by the social worker concerned, or if such certificate cannot be obtained, to an affidavit by a person or persons who can testify to the death of the child's parent, guardian or caregiver; **and**
- (d) Have regard, in the case of an abandoned child, to an affidavit, setting out the steps taken to trace the child's parent, guardian or caregiver, by the social worker concerned to the effect that the child's parent, guardian or caregiver cannot be traced **and** an affidavit by any other person, if possible, who can testify to the fact that the child has had no contact with his or her parent, guardian or caregiver for a period of at least three months.

8.5.2. Social worker's finding of whether a child is in need of care and protection or not

After receiving a report of abuse or deliberate neglect of a child, or after the removal of a child, the designated social worker must conduct a thorough assessment and investigation. The results of the designated social worker's assessment and investigation will determine whether a child is in need of care and protection in terms of section 150. If, after an investigation, the

designated social worker finds that the child is not in need of care and protection, he or she must indicate the reasons for the finding in a report, which must be submitted to the children's court for review.

The designated social worker must, where necessary, indicate in the report the measures recommended to assist the family, including counselling, mediation, prevention and early intervention services, rehabilitation, behaviour modification, problem solving or referral to another suitably qualified person or organisation.

If, after an investigation, the designated social worker finds the child to be in need of care and protection, that child must be brought before the children's court for the court to make a finding. The social worker must submit a report to court detailing the finding and make a recommendation for the court to make a finding. The report must also contain a detailed plan of action stating the placement options of the child, intervention plan, possible referral or any other services that should be rendered to the child and his or her family. Regarding matters that were brought before the children's court in terms of section 151 or 152, the report must be submitted within 90 days after the removal of the child.

8.5.3. Making a court finding whether a child is, or is not in need of care and protection (155)

After considering the designated social worker's report, the children's court may make a finding whether a child is in need of care and protection or not in terms of section 155.

If the court makes a finding that a child is not in need of care and protection, the court:

- (a) *Must make an order that the child, if the child is in temporary safe care, be returned to the person in whose care the child was before the child was put in temporary safe care.*
- (b) *May make an order for early intervention services in terms of this Act.*
- (c) **Must decline to make an order, if the child is not in temporary safe care.**

If the children's court finds the child to be in need of care and protection, the court may make an order in terms of section 156 or 46 of the Act.

8.5.4. Report of a designated social worker for the purpose of finding a child in need of care and protection

When compiling a report, the designated social worker must consider the guidelines provided in section 5.1. and 5.2 in chapter 5 of this document.

Social work reports vary, based on the kind of jurisdiction involved, but they basically include individual or family background, including the history of parents or family, accommodation arrangements; medical, school or employment records; relationships; general behaviour; factors that have contributed to the issue under consideration; assessment of functioning; evaluation; recommendations; and options for intervention. Form 38 is a guide for writing a court report for the purpose of finding a child in need of care and protection in terms of section 155(2).

The social worker should submit an original report to the court. The report should bear the name, surname and signature of the social worker who compiled it and the supervisor as outlined in the cover page (Annexure 5).

8.6. Permanency planning (regulation 55)

If a child is removed from the care of his or her parents, a permanency plan should form part of the court report. Permanency planning should be a well-thought out process involving the child, parents, and prospective caregivers or parents. This process should not be rushed and all possible options aimed at family preservation and reunification should be prioritised because generally, the child's own home should ideally be the best home to provide permanency.

It is generally difficult for people to make decisions, especially those that change a child's life or have permanent consequences. The rationale for taking decisions is to make sure that one is doing what is in the best interest of the child, considering the fact that every child has a Constitutional right to parental care or family care, or alternative care if removed from the family environment. If the child or the child's parents have to make major decisions, they should not be hastened, but should be provided with enough time and all possible options.

The child's right to a permanent or stable placement should take precedence if:

- The goals of restoring the child to parental care cannot be achieved within a certain period.

- If it is not in the best interest of the child to remain or be reunified with his or her parents.
- If the prognosis of the parents' ability to rehabilitate and receive the child back into their care is poor. Reconstruction services must be offered to parents and caregivers to facilitate ultimate reunification with the child.
- If the child does not have a parent, caregiver, relative or family member who can care for him or her, and all measures to trace or find such persons should be exhausted before considering alternative placement. If the child's family cannot afford to care for the child, that should not be the only motivation and grounds to consider permanent alternative placement. Efforts should be made to assist such families.

A child should not remain in a state of limbo or temporary safe care for more than six months. Permanent or stable placement should help the child to feel psychologically secure, and have a sense of security and a feeling of being wanted and loved.

Before concluding a permanency plan, the designated social worker should take into account the following factors:

- The ideal that every child should be provided with the opportunity to grow up within his or her family and where this is proved not to be in his or her best interest or not possible, to have a permanency plan which works towards life-long relationships in a family or community setting.
- The best way of securing stability in the child's life in terms of section 157(1)(b) of the Act.
- The age and developmental stage of the child.
- The child's therapeutic, educational, cultural, linguistic, developmental, socio-economical and spiritual needs.
- The views of the child.

A permanency plan must explore the following options, taking into account that the first option is the most desirable and the last option the least desirable:

- (a) If the child is to be removed from the care of his or her parent, guardian or caregiver, the possibility of placing the child in foster care with relatives or non-relatives as geographically close to the parent or caregiver as possible to encourage visitation by the parent or caregiver.
- (b) The possibility of adoption of the child by relatives.
- (c) The possibility of a relative or relatives obtaining guardianship of the child.

- (d) The possibility of adoption of the child by non-relatives, preferably of similar ethnic, cultural and religious backgrounds.
- (e) The possibility of placing the child in foster care with relatives or non-relatives or within a cluster foster care scheme.
- (f) The possibility of placing a child in inter-country adoption, only if all the options mentioned above are not viable.
- (g) The possibility of placing the child in a child and youth care centre.

A permanency plan approved by a children's court must be evaluated by the social worker concerned within six months of its implementation and thereafter at intervals of six months with a view to establishing, unless he or she had been adopted or placed in foster care, whether the child may be returned to the care of his or her parent or caregiver.

8.7. Report compiled by a third party or another social worker

A designated social worker may obtain supplementary evidence or a report from another social worker or professional, such as a psychologist, psychiatrist, doctor, police officer, etc. A supplementary report from another social worker may be required where a case involves parties outside the designated social worker's area of operation.

A designated social worker should make the court aware of any third party report or supplementary evidence and should not present it as his or her own. The social worker should seek the court's permission to read out a report compiled and signed by another social worker. The court may rely on such evidence, and if the parties are present, they may consent to the admission of such report in the absence of the social worker or object to it and insist on the presence of the relevant social worker for cross-examination purposes. In certain instances, the presiding officer may require both social workers to be present at court.

8.8. Subpoena of a social worker as a witness (Section 59)

The clerk of the children's court may subpoena any person, including a social worker, to appear as a witness in a matter before the court at least ten days before the date of the hearing on a DOJ Form 4.

The child or any person whose rights may be affected by an order that may be made by the court in the proceedings or the legal representative of such child or person, who intends to have a witness subpoenaed, must, within 15 days before the date of the hearing, request the clerk to

issue a subpoena to that witness. The clerk must issue the subpoena without delay. The person who is subpoenaed may be a social worker.

The subpoena must be:

- (a) Served personally on a party by a sheriff, a clerk, or a person authorised by the presiding officer of the court.
- (b) Submitted to a party by registered post.
- (c) Served or submitted in any other manner as directed by the presiding officer of the court.

As soon as the social worker completes investigations and decides to take a matter to court, or receives a subpoena from court, he or she must start with court preparation for the child and relevant parties as mentioned in section 2.2.3 of chapter 2.

8.9. Bringing a child before the children's court (Regulation 54)

Regulation 54 is relevant for matters that are brought to court in terms of section 155 for the court to decide whether a child removed to temporary safe care is in need of care and protection. A designated social worker must bring or cause the child to be brought before the children's court of the district where the child resides, is found or happens to be for the court to decide whether that child is in need of care and protection. A child who may be brought before court by a (designated) social worker is a child:

- (a) *Whose placement in temporary safe care has been confirmed by a presiding officer.*
- (b) *Who is a victim of trafficking and has been returned to the Republic as contemplated in section 286(1) of the Act.*
- (c) *Who is a victim of trafficking and is found in the Republic as contemplated in section 289(1) of the Act.*

In line with the Constitutional Court judgment on section 151 and 152; after the removal of the child, the social worker must:

- a) Ensure that the matter is placed before the children's court for review of the removal and for the court to determine whether there was just cause for the removal.
- b) Have the matter placed before the children's court before the expiry of the next court day after the removal.
- c) Ensure that the child, the child's parent, guardian or caregivers are present in court, unless this is impracticable.
- d) Notify the canalisation officer and submit a copy of Form 36 or a copy of the court order authorising the removal.

- e) If the court confirms the placement in temporary safe care or issues an interim order pending a decision on the matter, carry out an investigation, which must be concluded within 90 days.

The social worker must bring the child before court by no later than 90 days after:

- *The removal of the child whose placement in temporary safe care has been confirmed by the presiding officer.*
- *The date of return of the child to the Republic, in the case of a child who is a victim of trafficking and has been returned to the Republic.*
- *The date on which the child was found in the Republic, in the case of a child who is a victim of trafficking and is found in the Republic.*

In the case of a child who is **not** in temporary safe care but is the subject of an investigation as to whether he or she is in need of care and protection, that child may be brought to court by his or her parent, guardian or caregiver for a decision on whether that child is in need of care and protection not later than 90 days after the commencement of the designated social worker's investigation.

The parent, guardian or caregiver of such child must be notified by the clerk of the court to attend proceedings of the children's court where a decision will be made as to whether the child is in need of care and protection in a Form 37.

8.10. Proceedings of the children's court

8.10.1. Who may attend children's court proceedings? (Section 56 and 57)

Proceedings of a children's court are closed and **may** be attended only by:

- A person performing official duties in connection with the work of the court or whose presence is otherwise necessary for the purpose of the proceedings.*
- The child involved in the matter before the court and any other party in the matter.*
- A person who has been instructed in terms of section 57 by the clerk of the children's court to attend those proceedings.*
- The legal representative of a person who is entitled to legal representation.*
- A person who obtained permission from the presiding officer of the children's court to be present.*
- The designated social worker managing the case.*

The clerk of the children's court may, by written notice, request a party in a matter before a children's court, a family member of a child involved in the matter or a person who has interest in the matter to attend the proceedings of the children's court.

The person in whose care the child is must ensure that the child attends those proceedings except if the clerk of the children's court or the court directs otherwise.

8.10.2. Conduct of children's court proceedings (Section 60)

Children's court proceedings must be conducted in an informal manner and, as far as possible, in a relaxed and non-adversarial atmosphere that is conducive to attaining the co-operation of everyone involved in the proceedings.

The presiding officer in a children's court controls the conduct of the proceedings, and may call any person, including a social worker, to give evidence or to produce a document or other written instrument. The presiding officer may also question or cross-examine that person or, to the extent necessary to resolve any factual dispute that is directly relevant in the matter, allow that person to be questioned or cross-examined by:

- a) *The child involved in the matter.*
- b) *The parent of the child.*
- c) *A person who has parental responsibilities and rights in respect of the child.*
- d) *A caregiver of the child.*
- e) *A person whose rights may be affected by an order that may be made by the court in those proceedings.*
- f) *The legal representative of a person who is entitled to a legal representative in those proceedings.*

If a child is present at the proceedings, the court may order any person present in the room where the proceedings take place to leave the room if such order would be in the best interest of that child.

8.10.3. Participation of children during children's court proceedings (Section 61)

The presiding officer, during children's court proceedings, must allow a child involved in the matter to express a view or preference relating to a matter before the court. Before allowing the child to participate, the court must consider the child's age, maturity and stage of development

and any special needs that the child may have. The child must participate in the proceedings willingly.

The presiding officer of the children's court must:

- (a) Record the reasons if the court finds that the child is unable to participate in the proceedings or is unwilling to express a view or preference in the matter.
- (b) Intervene in the questioning or cross-examination of a child if the court finds that this would be in the best interest of the child.

A child who is a party or a witness in a matter before a children's court must be questioned through an intermediary as provided for in section 170A of the Criminal Procedure Act, 1977 (Act 51 of 1977) if the court finds that this would be in the best interest of that child.

The court may, at the outset or at any time during the proceedings, order that the matter, or any issue in the matter, be disposed of separately and in the absence of the child, if it is in the best interest of the child, and must record the reasons for any such order.

8.10.4. Court testimony by a social worker

A designated social worker giving testimony in court is regarded as an expert witness. It is therefore important for such a designated social worker to be aware of the roles and responsibilities of an expert witness as mentioned in section 3.5 of chapter 3.

A children's court, for the purposes of deciding a matter before it or any issue in the matter, may require a designated social worker to present the findings of the investigation to the court by testifying before the court or submitting a written report to the court.

A written report, purported to be compiled and signed by a designated social worker who, on the face of the report formed an authoritative opinion in respect of a child or his or her circumstances, or in respect of another person involved in the matter or his or her circumstances, is, subject to the decision of the presiding officer, on its mere production to the children's court as admissible evidence of the facts stated in the report.

If a person's rights are prejudiced by a designated social worker's report, the court must disclose the relevant parts of the report to that person prior to the date of the hearing of the matter if that person is a party to the proceedings and give that person the opportunity to question or cross-examine the author of the report in regard to a matter arising from the report or to refute any statement contained in the report.

8.10.5. The purpose and value of a designated social worker's report in children's court proceedings

In most instances, a social worker's report is possibly the single most comprehensive and important document that is written about a child and may have far-reaching consequences. It should therefore be a good piece of work with professional integrity.

A designated social worker should show the competence to form an authoritative professional opinion in his or her particular field of knowledge, skills and expertise on social work issues in the court report. This practical application of the social worker's knowledge and skills will make the evidence and professional opinion relevant and admissible if supported by facts and professional theory.

The social worker's attitude on the matter before court must be balanced and unbiased. If the social worker is to be helpful to the court, he or she must be neutral. The evidence of a social worker as an expert witness is seen generally as being of little value where he or she is partisan and consistently asserts the cause of a particular party at the expense of others. The tendency of unbalanced bias towards the interest of the child in isolation may also compromise the social worker's sense of judgement.

The intention and purpose of quality control of the report by the supervisor become useful to assist the court with a quality document. The supervisor must ensure that the social worker's report, investigations, discretion and efforts are not open to debate and scrutiny. A report compiled for the purpose of finding a child in need of care and protection in terms of section 155(2) should be proficient and comply with the conditions stated in regulation 55. Any court report should be clear, factual and comprehensive to assist the court to make an informed and balanced decision. Most importantly, the report should be admissible as evidence of the facts stated therein. The court should never be left with an option to request the designated social worker to re-investigate, re-submit a report, or seek better evidence from other sources or witnesses.

8.10.6. Social worker's evidence in court

The court has the discretion to subject a designated social worker to cross-examination or require the designated social worker to give verbal evidence in conjunction with the court report. It is therefore important for the designated social worker to have statutory social work skills and the ability to testify and provide evidence in court and be mindful of potential scrutiny and possibilities of being cross-examined.

Factors contributing to the quality of evidence mentioned in section 5.3.1 of chapter 5 should be considered. It is very important for the designated social worker to be poised, calm and not emotional during cross-examination. The social worker should also guard against providing contradictory statements and should never lie in court.

8.11. Age estimation of a child (Section 48(2) and DOJ Regulation 10)

A court may, if there is any uncertainty regarding the age of a person who appears to be a child request any documentation, evidence or statements relevant to the estimation of the age of that person from any person, body or institution or refer that person to a medical practitioner of the court's choice employed by the state for an estimation of that person's age and the medical practitioner must complete a DOJ Form 7.

In the absence of a valid birth certificate, identity document or passport, the court must, on all the available evidence make an estimation of the age and possible date of birth of the person by using, as a guide, DOJ Form 7 completed by the medical practitioner or a record of immunisation issued by a clinic.

An estimation of age must be entered into the court record as the age and date of birth of the person, which age and date of birth will be considered the correct age and date of birth of that person.

Where a court makes an estimation of age a DOJ Form 8 must be completed by the children's court and handed to the social worker involved with the matter to be handed in at the Department of Home Affairs. The Department of Home Affairs must register the birth of the child and issue a birth certificate in terms of the Births and Deaths Registration Act 51 of 1992 and the Identification Act 68 of 1997.

8.12. Adjournments

After the children's court has made a finding that a child who has been removed to temporary safe care in terms of section 151 or 152 is in need of care and protection, the court may adjourn the matter in terms of section 155(6) for a period not exceeding 14 days at a time and order that, pending decision of the matter, the child must:

- a) *Remain in temporary safe care at the place where the child is kept.*
- b) *Be transferred to another place in temporary safe care.*
- c) *Remain with the person under whose care the child is.*

d) Be put under the care of a family member or other relative of the child.

Any other children's court proceedings may be adjourned for a period of not more than 30 days at a time in terms of section 64 and the presiding officer may excuse any person from appearing at adjournment proceedings.

8.13. Types of court orders

If a children's court finds that a child is in need of care and protection, the court may make any order, which is in the best interest of the child, that court order may be, or include an order in terms of section 156.

Designated social workers should take note that section 156 orders are orders that are made when a child has been found to be in need of care and protection. The social worker should, firstly, identify the child to be in need of care and protection in terms of section 150; secondly, carry out an investigation in terms of section 155(2) to confirm whether that child is in need of care and protection. The investigation must be carried out within 90 days after the child has been identified. Thirdly, after the 90 days, submit a report in terms of section 155 (2) to the children's court. Fourthly, the court may make a decision and finding that the child is in need of care and protection in terms of section 155(7). Lastly, the court may make an order in terms of section 156.

Section 156 refers to orders that are made in terms of section 46. The children's court may make a section 46 order irrespective of the fact that a child has been found to be in need of care and protection. For example, an adoption social worker may first investigate the adoptable child's circumstances and those of the prospective adoptive parents and then make a court application in terms of 239. Lastly, the court may issue a section 46(1)(c) placing that child in adoption without finding that child to be in need of care and protection. This example is relevant for a case of adoption of a stepchild by a stepparent. That child may not be in need of care and protection in terms of section 150, but may only need stability and permanency.

On the other hand, section 46 may not be utilised outright for the purpose of issuing an order of adoption for an abandoned child. Firstly, that child has to be identified as a child in need of care and protection by a designated social worker in terms of section 150(1)(a). Secondly, the court will make a decision and finding in terms of section 155 to confirm that the child is in need of care and protection. Thirdly, a section 156(1)(a) and section 46 (1) (c) adoption order must be

issued. Section 156 does not contain a subsection relating to an adoption order, but cross-refers to section 46 which in subsection (1)(c) refers to an adoption order.

Section 46 may be utilised for different categories of children:

- Children who have been found to be in need of care and protection in terms of section 155 (7).
- Children who have not been found to be in need of care and protection in terms of section 155 (8).
- Children who are not in need of care and protection in terms of section 150, but whose circumstances warrant an order of court.

Due to all the reasons stated above, it will be noticed that there are similarities between section 46 and 156 court orders.

Below is a list of orders that the court may make in terms of section 156 and 46:

A section 156 order may be an order:

- a) *Referred to in section 46*
- b) *Confirming that the person under whose care the child is may retain care of the child, if the court finds that that person is a suitable person to provide for the safety and well-being of the child.*
- c) *That the child be returned to the person under whose care the child was before the child was placed in temporary safe care, if the court finds that that person is a suitable person to provide for the safety and well-being of the child.*
- d) *That the person under whose care the child was must make arrangements for the child to be taken care of in a partial care facility at the expense of such person, if the court finds that the child became in need of care and protection because the person under whose care the child was lacked the time to care for the child;*
- e) *If the child has no parent or caregiver or has a parent or caregiver but that person is unable or unsuitable to care for the child, that the child be placed in:*
 - (i) *Foster care with a suitable foster parent.*
 - (ii) *Foster care with a group of persons or an organisation operating a cluster foster care scheme.*
 - (iii) *Temporary safe care, pending an application for, and finalisation of, the adoption of the child.*
 - (iv) *Shared care where different caregivers or centres alternate in taking responsibility for the care of the child at different times or periods; or*
 - (v) *A child and youth care centre that provides a residential care programme suited to the child's needs.*
- f) *If the child lives in a child-headed household, that the child must remain in that household.*

A child-headed household must be under supervision of an adult.

- g) The child be placed in a facility designated by the court which is managed by an organ of state or registered, recognised or monitored in terms of any law, for the care of children with disabilities or chronic illnesses, if the court finds that the child has a physical or mental disability or chronic illness and it is in the best interest of the child to be cared for in such facility.*
- h) That the child be placed in a child and youth care centre that provides a secure care programme suited to the needs of the child, if the court finds that the parent or caregiver cannot control the child or that the child displays criminal behaviour.*
- i) That the child receive appropriate treatment or attendance, if needs be at state expense, if the court finds that the child is in need of medical, psychological or other treatment or attendance.*
- j) That the child be admitted as an inpatient or outpatient to an appropriate facility if the court finds that the child is in need of treatment for addiction to a dependence-producing substance.*
- k) Interdicting a person from maltreating, abusing, neglecting or degrading the child or from having any contact with the child, if the court finds that:
 - (i) The child has been or is being maltreated, abused, neglected or degraded by that person.*
 - (ii) The relationship between the child and that person is detrimental to the well-being or safety of the child.*
 - (iii) The child is exposed to a substantial risk or imminent harm.**

Court orders referred to in section 46 include:

- a) An alternative care order, which includes an order placing a child;
 - (i) in the care of a person designated by the court to be the foster parent of the child;*
 - (ii) in the care of a child and youth care centre; or*
 - (iii) in temporary safe care;**
- b) an order placing a child in a child-headed household in the care of the child heading the household under the supervision of an adult person designated by the court;*
- c) an adoption order, which includes an inter-country adoption order;*
- d) a partial care order instructing the parent or caregiver of the child to make arrangements with a partial care facility to take care of the child during specific hours of the day or night or for a specific period;*
- e) a shared care order instructing different caregivers or child and youth care centres to take responsibility for the care of the child at different times or periods;*
- f) a supervision order, placing a child, or the parent or caregiver of a child, or both the child*

- and the parent or caregiver, under the supervision of a social worker or other person designated by the court;*
- g) an order subjecting a child, a parent or caregiver of a child, or any person holding parental responsibilities and rights in respect of a child, to:*
- (i) early intervention services;*
 - (ii) a family preservation programme; or*
 - (iii) both early intervention services and a family preservation programme;*
- h) a child protection order, which includes an order:*
- (i) that a child remains in, be released from, or be returned to the care of a person, subject to conditions imposed by the court;*
 - (ii) giving consent to medical treatment of, or to an operation to be performed on, a child;*
 - (iii) instructing a parent or caregiver of a child to undergo professional counselling, or to participate in mediation, a family group conference, or other appropriate problem-solving forum;*
 - (iv) instructing a child or other person involved in the matter concerning the child to participate in a professional assessment;*
 - (v) instructing a hospital to retain a child who, on reasonable grounds, is suspected of having been subjected to abuse or deliberate neglect, pending further inquiry;*
 - (vi) instructing a person to undergo a specified skills development, training, treatment or rehabilitation programme where this is necessary for the protection or well-being of a child;*
 - (vii) instructing a person who has failed to fulfil a statutory duty towards a child to appear before the court and to give reasons for the failure;*
 - (viii) instructing an organ of state to assist a child in obtaining access to a public service to which the child is entitled, failing which, to appear through its representative before the court and to give reasons for the failure;*
 - (ix) instructing that a person be removed from a child's home;*
 - (x) limiting access of a person to a child or prohibiting a person from contacting a child;*
or
 - (xi) allowing a person to contact a child on the conditions specified in the court order;*
- i) a contribution order;*
- j) an order instructing a person to carry out an investigation in terms of section 50; and*
- k) any other order that a children's court may make in terms of any other provision of the Act.*

8.14. Placement of a child in a child and youth care centre (158).

An order placing a child in a child and youth care centre can only be made as a measure of last resort and only if another option is not appropriate. Given the types of court orders that the children's court may make, it is evident that there are numerous options that should be considered before resorting to placement in a child and youth care centre. When making a recommendation to the court, a designated social worker should consider and weigh different options, including early intervention services, home or community-based options, while considering the best interest of the child.

After the court has made such an order, the actual placement of the child should be facilitated by the provincial Head of Social Development or an official to whom the function has been delegated. This implies that each province should have a list of all the child and youth care centres and programmes offered at those centres. In effecting the placement, the child must be placed in a child and youth care centre offering the residential care programme determined and ordered by the court. The person facilitating the placement must, as a general rule, select a centre which is located as close as possible to the child's family or community.

The person placing the child must place the child in a child and youth care centre offering the residential care programme which the court has determined for the child, taking into account:

- a) the developmental, therapeutic, educational and other needs of the child;*
- b) the permanency plan for the child which was considered by the court, and any instructions issued by the court with regard to the implementation of the permanency plan;*
- c) any other instructions of the court;*
- d) the distance of the centre from the child's family or community;*
- e) the safety of the community and other children in the centre, in the case of a child in need of secure care; and*
- f) any other relevant factors.*

If there is no appropriate programme available in the province, the provincial Department of Social Development may request another provincial Department, which offers the programme, to admit the child. The two provinces must agree on the arrangements regarding the monthly fees payable for the care and maintenance of the child before the placement takes place. However, the sending province is responsible for making transport arrangements for the child.

8.15. Varying and monitoring of court orders

A children's court may withdraw, suspend or amend an order it has made or replace such an order with a new one.

In addition, the court may monitor whether there is compliance with an order it has made or the circumstances of the child after the order was made. In so doing, the court may order any person, including a designated social worker, to appear in court at any future date. The court may also specify in the order that a designated social worker submits a report within a specified period or from time to time.

8.16. Extension of court orders

The validity of court orders granted in terms of section 156 lapses after a period of two years, or any shorter period which the court may have determined. Section 156 includes orders made in terms of section 46. It must be noted that not all court orders should be extended after two years and the court has the discretion to extend an order.

The North Gauteng High Court Order instructed all provincial Departments of Social Development to extend foster care court orders issued in terms of the Child Care Act 74 of 1983 administratively until 2014. All orders issued in terms of the Children's Act 38 of 2005 should be extended by the children's court.

The social workers rendering family reunification and reconstruction/supervision services shall consult with each other and, where applicable, with the parent, guardian or caregiver of the child concerned on the child's placement and future plans. In their consultation and liaison, they must provide each other with six-monthly progress reports and share ideas on possible recommendations and the reasons for extending the court order.

For orders that must be extended by the children's court, the designated social worker managing the case must finalise and submit an extension report (Annexure 8) to the canalisation officer **four months** before the expiry of the court order. The canalisation officer must finalise the process within 14 days and the final report must reach the children's court within **three months** before the expiry date. If the court order is not renewed and eventually lapses, that matter should be taken back to court to re-initiate children's court proceedings.

The full procedure for the extension of court orders is outlined in chapter 9.

Chapter 9 Delegated functions to monitor and effect the movement of children in alternative care

9. Introduction

The Member of the Executive Council (MEC) and provincial Head of Social Development (HOD) have certain duties and functions assigned to them in terms of the Act. Section 309 authorises the MEC to delegate any power or duty assigned to him or her to the HOD, an officer in the employ of the province, or any organ of state by agreement. The HOD, on the other hand, may delegate powers and duties to an officer in the employ of the province or any organ of state by agreement.

The Minister, in terms of section 312, may enter into an agency agreement with a designated child protection organisation or other appropriate person for the provision of any service that may be or must be provided in terms of the Act by such organisation or person on an agency basis.

The Minister may delegate this function to the Director-General or MEC in terms of section 307.

All delegations by the Minister, Director-General, MEC or HOD:

- Must be in writing.
- May include the power to sub-delegate.
- Are subject to any limitations, conditions and directions which may be imposed.

In essence, the functions assigned to the HOD may be delegated to designated social workers or social workers in the employ of the regional, district or provincial Department of Social Development.

Most of the functions to effect, monitor and manage the movement of children in alternative care may be delegated to a canalisation officer in the employ of the state, a social work supervisor, a social worker or designated social worker at district, regional or provincial level. A social work manager, social work supervisor or a canalisation officer in the employ of the state may be delegated by the HOD to issue administrative orders on behalf of the HOD. Seeing that local designated child protection organisations are expected to liaise with persons to whom functions have been delegated, it is advisable to communicate the delegations to them.

The delegation of duties and powers does not divest the HOD of the responsibility concerning the exercise of the power or the performance of the duty. The HOD and the Department are responsible for monitoring the performance and exercise of delegated powers and duties.

The placement of children in alternative care or the monitoring of their movement is preceded by early intervention, pre-statutory and statutory intervention processes. A social worker should record all processes and interventions that precede the statutory and placement processes. There should be no instance where a case file contains only the court report and court order. The case file should provide a full case history from intake until the last report to date, or until the current stage.

9.1. Dealing with new statutory cases of children found to be in need of care and protection

When dealing with statutory matters social workers must ensure that there is a file for each case. A file may be allocated per child if only one child is involved in a matter or per family. If a file is allocated per family, each child should be assigned an allocation or control card if the court orders expire on different dates.

The following should be clearly identifiable on the cover of each file:

- File number.
- The provincial Department of Social Development office or designated child protection organisation responsible for the management of the case.
- File volume for large files (for example volume 1 or 2). Files should not exceed 3cm in thickness. On reaching this thickness a file must be closed and a new cover should be opened. The number of the new volume (e.g. vol. 2) must be indicated on the outside of the new cover. A sheet of paper with the wording "Closed, see volume" should be filed as the last item on the last volume.
- A 'subject' field. This field may include the name(s) and surname(s) of the child(ren), date(s) of birth or address.
- Status of the file (active, pending, closed).⁴⁸

Each file must as far as possible contain the following documents:

- Intake report.
- Assessment report.
- A copy of the child's birth certificate.
- Where the parent is deceased, a copy of the death certificate.
- Where applicable, a Form 22 and/or Form 23.
- Court order.
- Record of the court proceedings.

⁴⁸Department of Social Development (2011). *File Plan*. Pretoria: Department of Social Development.

- Section 155 (2) report.
- Process notes and six-monthly progress reports.
- Where applicable, a placement order in terms of section 158 placing a child in a child and youth care centre.
- Where applicable, an assessment report.
- Where applicable, the relevant plans.

The following aspects should be considered when placing a child in alternative care:

- The final court report must contain a permanency plan when a child is removed from parental care to be placed in alternative care.
- A care plan must accompany the final court report.
- If a child is placed in a child and youth care centre, that child must undergo an initial assessment conducted by a multi-disciplinary team within 48 of admission in line with the norms and standards for child and youth care centres. The institution social worker must convene a panel discussion meeting between the multi-disciplinary team members within two weeks to review the initial assessment, to assess the child's adjustment and to plan for the development of an Individual Development Plan (IDP) for the child.
- If a child is placed in foster care or with a person on a temporary safe care basis, the case manager must establish initial contact within two weeks to assess the child's adjustment and to plan for the development of an IDP for the child.
- An IDP must be finalised within six weeks after the placement of a child in alternative care.
- Where applicable, the case manager and the institution social worker must provide 6-monthly progress reports on services rendered to the child, the child's family or the foster family, whichever is relevant.
- Where applicable, supervision services must be rendered and a supervision report must be submitted every six months (Annexure 14).
- A child's permanency plan, care plan and IDP must be reviewed every six months in terms of regulation 55(3) and in line with the norms and standards for child protection and child and youth care centres
- If a child remains in alternative care for more than 18 months, before the lapse of 18 months the case manager must convene a panel discussion meeting to review the care plan and the IDP, and to decide whether the placement should continue, be varied or whether the child should be reunited with his or her family.

9.2. Placement of a child in a child and youth care centre following an order of court in terms of section 158

Placement of a child in a child and youth care centre should be the last placement option for a child in need of care and protection. A child should be placed at a centre that offers a relevant programme necessary to address the child's needs. The centre at which the child is placed must be registered and ensure the proper care of the child as contemplated in the definition of 'care'.

The provincial Department of Social Development must have a record of all registered child and youth care centres and all approved programmes offered by each centre as contemplated in section 191(2) and (3). It is the duty of every provincial Department of Social Development to have a vacancy rate register for each child and youth care centre in the province.

9.2.1. Procedure for placement of a child in a child and youth care centre

After finalisation of the children's court process, the designated social worker must inform the canalisation officer of the outcome by submitting the final court report and the court order. If the court has ordered that a child be placed in a child and youth care centre, the following process must be followed. If the designated social worker identified a relevant child and youth care centre offering a relevant programme beforehand, and the children's court ordered the placement of the child in that child and youth care centre, the designated social worker must indicate that to the canalisation officer.

- a) A court order and the record of children's court proceedings should be forwarded to the Regional, District or Provincial Department of Social Development – whichever is responsible for placement of children in child and youth care centres in that particular province. The duty to place a child in a child and youth care centre may be delegated to a canalisation officer.
- b) The relevant office of the Department of Social Development or the canalisation officer will forward copies of the said documents to the selected child and youth care centre.
- c) The child and youth care centre must admit the child to the centre to offer a programme that the court has determined for the child.
- d) The canalisation officer must take account of the following factors when placing a child in a child and youth care centre offering a residential care programme ordered by the children's court (section 158(3):
 - i. The developmental, therapeutic, educational and other needs of the child;*
 - ii. The permanency plan for the child which was considered by the court, and any instructions issued by the court with regard to the implementation of the permanency plan;*

- iii. *Any other instructions of the court;*
 - iv. *The distance of the centre from the child's family or community;*
 - v. *The safety of the community and other children in the centre, in the case of a child in need of secure care; and*
 - vi. *Any other relevant factors.*
- e) The canalisation officer or the case manager will forward a section 158 placement notice to the court and the court will record and enter the information into the child's court file through an administrative court process.
- f) The court order will be valid for a period not longer than two years and will require an extension upon expiry.

9.3. Extension of court orders

The validity of a court order granted in terms of section 156 lapses after a period of two years, or any shorter period which the court may determine. These court orders include, among others, a foster care order, an order placing a child in alternative care and an adoption order. Adoption orders do not have to be extended every two years and this matter will be addressed in the amendment of the Act.

In 2011 the North Gauteng High Court issued an order directing the Department of Social Development to administratively extend foster care orders issued before 1 April 2010 until 2014 or amend the Children's Act to provide a more comprehensive legal solution, whichever happens first. This means that foster court orders issued before 1 April 2010 must be extended administratively through the canalisation office. If they expire again before 2014, they may be extended administratively for another two years but not beyond 31 December 2014.

Foster care orders issued after 1 April 2010 and court orders placing a child in a child and youth care centre must be extended by the children's court.

Notwithstanding the provisions set out in section 156 that court orders may be extended for two years, the children's court may:

- Place a child in foster care for more than two years in terms of section 186 and extend the order for more than two years at a time.
- Order that the foster care placement subsists until the child turns 18 years. This provision is aimed at providing stability in the child's life, especially for a child who has been abandoned, orphaned or where prospects of family reunification are poor.

9.3.1. Procedure for extension of a foster care court order

- a) The social worker responsible for the placement of the child and supervision or family reunification services is the case manager and is accountable for the submission of the final extension report to the court or the canalisation office, whichever is applicable.
- b) If a child is placed in foster care and his or her parents are in an area outside the case manager's jurisdiction, the social worker responsible for services to the parents (reconstruction social worker) should submit a progress report every six months on services rendered to the family.
- c) Where applicable, the case manager must compile a detailed report with a recommendation to the canalisation officer if the court order needs to be extended administratively. The report should be submitted three months before the expiry of the court or extension order. The canalisation officer must issue an extension order clearly indicating the validity period.
- d) For court orders that need to be extended by the court, the case manager must submit the section 159 report to court two months before the expiry of the court order for the court to issue an extension order.
- e) If a children's court has placed a child in foster care, after 1 April 2010, with a view of reunification with the parents, and the child is not reunited with the parent(s) two months before expiry of the court order, the designated social worker responsible for family reunification must submit a report to the court stating the reasons why the child could not be reunited with his or her parents in terms of section 187(2).
- f) At the discretion of the court, or on request of the parent or guardian of the child concerned, the court may hold a formal review during which the parent or guardian and the child shall be given an opportunity to participate in the proceedings and make their views known.
- g) After careful consideration of the facts in the social worker's report and the view of the child and parent, guardian or caregiver, the court may extend the order.
- h) If a court order lapses, no extension order may be granted; the child will be automatically discharged and new children's court proceedings will have to be initiated. Social workers and supervisors must be prudent and ensure that court orders do not lapse.

9.3.2. Procedure for extension of an order placing a child in a child and youth care centre

- a) The case manager responsible for supervision or family reunification services is responsible for submitting the final extension report to the children's court. The case

manager must submit a progress report on family reunification services every six months to the institution social worker at the child and youth care centre.

- b) The institution social worker responsible for services to the said child must submit a progress report every six months on the child's progress.
- c) The institution social worker must submit a comprehensive report, with a recommendation, six months before the expiry of the court order to the field case manager.
- d) The field case manager must compile a detailed report with a recommendation and submit it to the children's court three months before the expiry of the court order.

9.3.3. Extension of court orders for persons over the age of 18 years still in alternative care

Section 176 makes provision for a person placed in alternative care as a child to remain in that care until the age of 21 years in order to complete his or her education and training. Education and training in this context includes primary education, secondary education and tertiary education at a university, college – including a Further Education and Training (FET) College – or any other recognised tertiary education institution.

9.3.3.1. Procedure for extension of court orders for persons over the age of 18 years wishing to remain in alternative care (section 176)

- a) A person placed in alternative care as a child is entitled, after having reached the age of 18 years, to remain in that care until the end of the year in which that person reaches the age of 18 years.
- b) Such a child must forward an application to the case manager requesting to remain in foster care until the end of the year in which that child reaches the age of 18 years (Annexure 15).
- c) The application should be forwarded to the case manager four months before the child turns 18 years old. If the child does not forward the application, it is the duty of the case manager to consult the institution social worker, the child in alternative care or the child's caregiver four months before the child turns 18 years old to request that the child submit such an application and to establish whether the foster parent(s) or caregiver(s) is/are willing and able to care for that child/person.
- d) The application should be accompanied by the latest school or academic report of the child, together with a letter or any confirmation that he or she is a registered student or learner. If not registered at any institution, the child should produce proof of admission or intention to study.
- e) The current alternative caregiver should be willing and able to care for that person.

- f) After receiving such application, the social worker should compile a section 176 report (Annexure 15) taking into account the above requirements and submit it for approval by the canalisation officer.
- g) The report must be submitted to the canalisation officer, three months before the child turns 18 years old.
- h) The canalisation officer must issue a section 176 order (Annexure 15A), which must be submitted to SASSA for continuation of the foster child grant.
- i) The approval in terms of section 176 (2) is valid for a year and takes effect from the date on which it was issued. It may be granted annually until the person reaches the age of 21 years. The same canalisation procedure should be followed annually.

9.4. Leave of absence (section 168)

Leave of absence in terms of section 168 may be granted to a child in alternative care by:

- *The management of the child and youth care centre in whose care the child has been placed.*
- *The person in whose alternative care the child has been placed.*
- *The Department of Social Development in the case of a child in temporary safe care.*
- *A designated social worker supervising the child in alternative care.*

A child placed in a child and youth care centre offering a programme for the reception, development and secure care of children in terms of section 29 of the Child Justice Act 75 of 2008 does not qualify for leave of absence unless stated otherwise in the court order placing such child.

Leave of absence shall be granted for a period not exceeding six weeks at a time. If longer leave, exceeding six weeks but not exceeding six months, is required, the canalisation officer may be authorised to give permission. If leave of absence exceeding six months is required, permission must be granted by the provincial HOD. No leave of absence will be granted unless it will serve the best interest of the child and suitable arrangements for the accommodation, care and supervision of the child for the duration of the child's leave have been made by the designated social worker.

When applying for leave of absence, the case manager must submit a section 168 report (Annexure 18) six weeks before commencement of the leave to the canalisation officer. The

canalisation officer must respond within four weeks. The case manager must supervise the leave and submit a report within four weeks after the leave of absence.

The social worker supervising the child during leave of absence may apply for the leave of absence to be revoked and the child to be returned to the care of the centre or person he or she was at before the leave was granted while investigations are being carried out. The matter does not need to go to court.

Granting of leave should not be based only on staff shortages or on an absence of developmental programmes at a child and youth care centre during the holiday period. If it is not in the best interest of the child to be granted leave of absence, the child should be allowed to remain in the centre for the duration of the school holidays and adequate provision should be made for his stay.

The foster child grant or payment to the child and youth care centre may continue to be paid even when the child is on leave.

9.5. Procedures to be followed when a child in alternative care leaves the Republic (section 169)

Section 169 prohibits a child in alternative care from leaving the Republic without the written approval of the HOD first being obtained. In granting approval, the HOD may determine terms and conditions to protect the best interest of the child. The HOD may delegate this function to an official in the employ of the Department of Social Development.

An application for leave of absence for a child in alternative care to leave the Republic should be forwarded to the HOD at least six weeks before departure. The HOD may require the following basic information when considering such application:

- Court order or extension order.
- Reasons for the departure.
- Confirmation of the consent of the person holding parental responsibilities and rights in respect of the child, the parent, guardian or care giver for the departure of the child if those people are readily available.
- Expected period of absence from the Republic, including the date of departure and date of return.

- Name, surname, copy of identity document and contact details of the authorised person or the person who will be accompanying the child, for example, a foster parent, a manager of a sports team, a sports coach or a director of a choir.
- Full address and, where possible, contact details, such as telephone number or email address, of where the child will reside during the visit outside the Republic.

After receiving such application, the designated social worker should compile a section 169 report, taking into account the above requirements, and submit it for approval by the HOD or the person to whom the function has been delegated. The report must be submitted to the HOD within 14 days after receiving the application.

After considering the report, the HOD may grant approval with or without conditions for the child to leave the Republic for a specified period. The HOD must respond within 14 days after receiving the section 169 application from the social worker.

Upon the return of the child, the case manager must submit a report to the canalisation officer within a month.

9.6. Children who abscond from alternative care (section 170)

A child is regarded as an absconder when he or she leaves a child and youth care centre or the care of a person where he or she is placed by court order without prior permission. An absconder also includes a child who fails to return to the child and youth care centre or the care of foster parents after the expiry of leave of absence.

9.6.1. Procedure for dealing with children who abscond from alternative care in terms of section 170

- a) It is the responsibility of the social worker at the child and youth care centre and the foster parent to inform the designated social worker who is the case manager within the next working day of the child's abscondment.
- b) The designated social worker or the social worker in the employ of the child and youth care centre must inform the local police in the area where the child absconded and the canalisation officer of the abscondment of the child immediately, but within 24 hours after receiving the report.
- c) If a police official or designated social worker has reasonable grounds to believe that a child is on certain premises, they may, without a warrant, enter and search the premises for the purpose of apprehending the child.

- d) A police official may use such force as may be reasonably necessary to overcome any resistance against the entry or search of the premises, including the breaking of any door or window, provided that the police official shall first audibly demand admission to the premises and notify the purpose for which he or she seeks to enter such premises.
- e) On apprehending the absconder, the police official must ensure the safety and well-being of the child concerned if the child's safety or well-being is at risk, and notify the designated social worker of the fact that the child has been apprehended and of any steps that have been taken with regard to the child.
- f) A child so apprehended/removed or a child who returns, of his or her own accord, to the centre or person in whose alternative care he or she was before absconding, must within the next court day be brought before a presiding officer of a children's court. If the child cannot be brought before the children's court immediately after being apprehended/removed, he or she may be kept in temporary safe care until such time as he or she is brought before the court.
- g) When the child is brought before a presiding officer of a children's court, the presiding officer must:
- i. Order that the child be put in the temporary safe care of a child and youth care centre or appropriate facility or person determined by the presiding officer and kept there until the court proceedings are completed and an order is made.
 - ii. Inquire into the reasons why the child absconded from, or failed to return to, the relevant child and youth care centre or person, and may, for this purpose, question the child and order that the child be returned to that centre or person.
 - iii. The presiding officer may order that the child may not be returned to that centre or person pending any action by the case manager if the presiding officer is of the opinion that there are good reasons why the child should not be returned to that centre or person or be placed in another form of alternative care.
- h) The presiding officer of the children's court must order the clerk of the children's court to report to the case manager the result of the children's court inquiry and notify the case manager of any order made.
- i) When an order has been made the case manager may, after consideration of the records of the children's court and such inquiry as the case manager may consider necessary, facilitate:
- The transfer the child.
 - The removal of the child from alternative care.
 - Discharge of the child from alternative care.

- The issuing of an order that the child be returned to the child and youth care centre or person in whose care or temporary safe care that child has been placed.

The case manager must inform the canalisation officer of the outcome of the absconder's inquiry and the relevant option considered in (i) above.

9.7. Transfer of a child in alternative care in terms of section 171

A child in alternative care may be transferred from a child and youth care centre or person in whose care or temporary safe care that child has been placed to any other child and youth care centre or person in terms of section 171.

9.7.1. Types of transfers which may be recommended by a designated social worker:

- a) Foster care to a child and youth care centre.
- b) Child and youth care centre to foster care.
- c) One foster family to another.
- d) One child and youth care centre to another.

9.7.2. Procedure for transfer of a child in terms of section 171

- a) A designated social worker contemplating transferring a child in terms of section 171 must conduct an investigation and ensure that the transfer will be in the best interest of the child. During investigation, the designated social worker must consult the following persons:
 - i. The child, taking into consideration the child's age, maturity and stage of development.
 - ii. The parent, guardian or caregiver of the child, if available.
 - iii. The child and youth care centre or person in whose care or temporary safe care that child has been placed.
 - iv. The child and youth care centre or person to whom the child is to be transferred.
 - v. The designated social worker who will be responsible for family reunification or supervision services.
- b) The designated social worker should secure the following supporting documents to facilitate the transfer:
 - i. The reviewed permanency plan, care plan and IDP.

- ii. A family reunification report if the child is transferred to parental care and family reunification services are provided by another designated social worker.
 - iii. A foster care screening and approval report if the child is transferred to foster care and the screening is performed by another social worker.
 - iv. Where applicable, a medical certificate or school progress report.
 - v. The child's birth certificate
 - vi. Any other relevant document.
- c) After finalising the investigation, the designated social worker must compile a section 171 report (Annexure 17) stating the reasons for the transfer and motivating why it is in the best interest of the child, and submit it to the canalisation officer.
- d) If satisfied that the transfer would be in the best interest of the child and will not be prejudicial to other children, the canalisation officer may issue a transfer order within 21 days (Annexure 11).
- e) According to section 171 (3), the canalisation officer may issue an order transferring a child to the care of the child's parent, guardian or former caregiver under the supervision of a designated social worker. The order must specify the requirements with which the child and that parent, guardian or former caregiver must comply. If any requirement referred to above is breached or not complied with, the designated social worker concerned may bring the child before a children's court, which may, after an inquiry, vary the order issued by the HOD or make a new order in terms of section 156. This section is inconsistent with sections 174 and 175, which deal with 'provisional transfer before a child may be reunified with family' and 'discharge of a child from alternative care', respectively. Children who are reunited with their parents may be granted provisional transfer and subsequently be discharged in terms of section 175. After the discharge, the case manager must ensure that after care services are rendered. This section will be reviewed during the amendment of the Act.
- f) If the canalisation officer issues an order in terms of section 171(6) to transfer a child from the care of a person to a child and youth care centre or from the care of a child and youth care centre to a secure care or more restrictive child and youth care centre, that transfer order must be ratified by the children's court before it may be carried out.
- g) The designated social worker responsible for the transfer should submit the section 171(1) report, as well as the transfer order issued by the canalisation officer to court.

- h) If a section 159(1) report for the extension of a court order is due, and the section 171(6) transfer falls during the same period, the designated social worker may compile a children's court report combining and detailing the two processes. The recommendation in the report should clearly state the two recommendations in terms of section 159(1) and 171(6). After considering the report, the court may issue two separate orders.

9.7.3. Procedure for transfer of a child in terms of section 171 and Regulation 59 to another province

Section 193 requires the provincial MECs to fund and provide child and youth care centres for their provinces. In addition, they are expected to develop provincial strategies aimed at an appropriate spread of properly resourced, co-ordinated and managed child and youth care centres providing the required range of residential care programmes in their respective provinces.

- a) In the event where there is no suitable programme to address the needs of a child as determined by the children's court in the province, and such a programme is available in another province, the HOD may transfer a child to a child and youth care centre in that province.
- b) Before the transfer, the HOD, or the person to whom the function has been delegated, must request permission for the transfer from the HOD in that province and agree on the financial arrangements regarding the placement.
- c) For the purpose of transferring a child to another province, the monthly fees payable by a provincial Department of Social Development in respect of a child in alternative care in that province ("sending province"), must, upon transfer of that child to a child and youth care centre or to a person in another province ("receiving province"), be terminated by the sending province and must be paid, in accordance with the rates applicable in the receiving province.
- d) The fees are payable from the date of arrival of the child in the receiving province.
- e) In the event where the parents of a child in a child and youth care centre relocate to another province, the canalisation officer in the sending province must forward a request to the canalisation officer in the receiving province for the transfer of the child to a child and youth care centre in the province the parents are relocating to.

9.8. Provisional transfer of a child in alternative care in terms of section 174

A child in alternative care may be removed to another form of care that is not more restrictive for a trial period of not more than six months for the purposes of observation, examination or treatment.

9.8.1. Procedure for issuing a notice of provisional transfer of a child in terms of section 174 and regulation 60

According to section 174, the HOD may issue a notice of provisional transfer only after procedures to assess the best interest of the child and, where applicable, procedures to reunite the child with his or her immediate family or other family members have been followed.

The HOD may delegate this function to a canalisation officer.

9.8.2. Procedure for assessing a child before a notice of provisional transfer may be issued (regulation 60)

- a) The procedure for assessing the best interest of the child before the canalisation officer may issue a notice of provisional transfer of the child from alternative care comprises of an assessment which must be conducted by a designated social worker in consultation with:
- (i) The parent, guardian or caregiver of the child or the person in whose care the child had been prior to placement in alternative care, if available, and provided that their parental responsibilities and rights of that person have not been terminated.*
 - (ii) The foster parent, the head of the child and youth care centre or the head of the facility, place or premises where the child had been placed in temporary safe care, as the case may be.*
 - (iii) The child.*
 - (iv) Where applicable, relevant professionals.*
- b) The assessment must take account of:
- (i) The child's basic need for love, parental care and permanent family life.*
 - (ii) The child's need for protection and security.*
 - (iii) The child's physical and psychological well-being.*
 - (iv) The ascertainable wishes and feelings of the child, considered in light of his or her age and maturity.*
 - (v) The likely effect on the child of any changes in his or her circumstances.*
 - (vi) The child's age, sex, background and any individual characteristics.*

- (vii) *The harm that the child has suffered.*
- (ix) *The capability of the child's immediate family or family members to meet the child's needs.*

It is worth mentioning that, for a child who has been placed in a child and youth care centre, the assessment must be facilitated by the institution social worker who must provide an assessment report to the case manager.

- c) After conducting the assessment, the designated social worker must record the outcome in a report that addresses all factors referred to in paragraph (b).
- d) After assessment, the case manager must compile a section 174 report (Annexure 17) and submit it to the canalisation officer.
- e) The canalisation officer must respond within 14 days and issue a section 174 order (Annexure 11).
- f) The case manager must submit a progress report after six months.

9.8.3. Procedure for provisional transfer with the aim to reunite a child with his or her family

- a) Before a child can be reunited with his or her immediate family or other family members and a notice of provisional transfer of the child from alternative care as contemplated in section 174(1) of the Act can be issued, a designated social worker rendering family reunification services must compile a report in consultation with:
 - i. *The parent, guardian or caregiver of the child or the person in whose care the child had been prior to placement in alternative care.*
 - ii. *The foster parent, the head of the child and youth care centre or the head of the facility, place or premises where the child had been placed in temporary safe care, as the case may be.*
 - iii. *The child.*
 - iv. *Relevant professionals.*
- b) The report must:
 - i. *Be based on the developmental assessment of the child and his or her ecological circumstances, and must reflect the existing and future individual developmental and permanency plans for the child to meet developmental and permanency goals as stipulated in the plans.*
 - ii. *Reflect the incidence of parental contact or contact with relatives during the period of his or her placement in alternative care.*
 - iii. *Include a fully motivated recommendation on the possibility or desirability of reunifying the child with his or her immediate family or other family members. If family reunification is desirable, the designated social worker should motivate and*

recommend the nature of activities that can be employed to promote an environment conducive to the development of the strengths and skills of the parent, guardian, caregiver, family members and child.

- c) The reports on assessment and reunification may be combined into a single report and must be submitted to the canalisation officer as soon as possible.
- d) A report on assessment and reunification has to be submitted to the canalisation officer for consideration.
- e) The canalisation officer must revoke the transfer if the child so requests and the social worker so recommends.
- f) The canalisation officer may at the end of or at any time during the 6-month trial period confirm the child's placement or discharge the child from alternative care in terms of section 175.

Section 174(5) states that the notice of provisional transfer shall be considered as proof of eligibility for any form of state support which would have been payable if the transfer had been permanent.

If a child in foster care is provisionally transferred, the foster child grant may be temporarily suspended for the duration of the provisional transfer.

9.9. Change in residential care programme in terms of section 172

A child in a child and youth care centre may change from one residential care programme to another in terms of section 172. The canalisation officer may determine that:

- a) A child in a child and youth care centre be released from a residential care programme.
- b) Another residential care programme be applied to such a child.
- c) An additional residential care programme be applied to such a child.

To give effect to that determination, the canalisation officer may transfer the child to another child and youth care centre or to a person in terms of section 171.

If the determination requires that a residential care programme that includes the secure care of the child or a programme that is more restrictive than the child's current residential care programme be applied, the children's court must ratify that determination before it can be carried out. The case manager must compile a report, attach the determination by the canalisation officer (Annexure 23), and submit both for consideration by the children's court.

9.10. Removal of a child already in alternative care (section 173)

A child in alternative care may be removed and be placed in temporary safe care pending a decision to transfer, discharge or return that child to alternative care if it is in the best interest of the child.

To facilitate this process, the case manager may submit a section 173 report (Annexure 12) to a canalisation officer requesting the removal of a child already in alternative care. The canalisation officer may, in the best interest of a child, at any time whilst the child is in alternative care, issue a notice (Annexure 11) directing that the child:

- a) *Be removed from the child and youth care centre or person in whose care or temporary safe care the child is; and*
- b) *Be put in temporary safe care at a place specified in the notice, pending any action to transfer the child in terms of section 171, discharge the child from alternative care in terms of section 175 or issue a notice directing that the child be returned to the child and youth care centre or person in whose care or temporary safe care the child was immediately before the notice was issued.*

The canalisation officer must, within six months from the date on which a child has been moved and placed in temporary safe care and after such inquiry, as he or she may consider necessary:

- a) *Transfer the child in terms of section 171 after consideration of a section 171 report submitted by the case manager.*
- b) *Discharge the child from alternative care in terms of section 175 after consideration of a section 175 report submitted by the case manager.*
- c) *Issue a notice directing that the child be returned to the child and youth care centre or person in whose care or temporary safe care the child was immediately before the notice was issued after consideration of a report submitted by the case manager.*

9.11. Discharge from alternative care in terms of section 175 (1)

The canalisation officer may, if it is in the best interest of a child, at any time whilst the child is in alternative care, issue a notice (Annexure 13) directing that the child be discharged from alternative care as from a date specified in the notice.

A child may be discharged from alternative care after reaching the age of 18 years, or earlier, on recommendation of a designated social worker in a section 175 report (Annexure 20) that

the provisions of the Act should no longer apply to him or her.

A notice of discharge (Annexure 13) may be issued only after:

- a) Procedures to assess the best interest of the child and, where possible, procedures to reunite the child with his or her immediate family or other family members (assessment procedures followed in the transfer process may be used with the necessary changes required by the context in respect of discharge); and
- b) A report on such assessment and reunification by a designated social worker has been submitted to and considered by the canalisation officer.

A notice of discharge relieves the alternative caregiver of any further responsibilities in relation to the child.

The discharge notice may have implications for the contribution order and in instances where contribution is in payment, the designated social worker must timeously notify the children's court by furnishing it with a copy of the discharge notice issued by the canalisation officer.

The core components of programmes offered in a child and youth care centre as stipulated in regulation 75, as well as foster care services must include independent living programmes to facilitate the disengagement and ultimate discharge of children from alternative care. These programmes are vital for children who do not have families to be reunited with and need to secure independent living after reaching the age of 18 or 21 years. Children whose prospects of being reunified with their families are poor or non-existent must be engaged in independent living programmes before they reach the age of 18 years. In such cases, the child's permanency plan must give priority to providing for independent living arrangements as a permanent solution.

After being discharged from alternative care, a child must receive after care services focusing, where applicable, on support in terms of training and education, employment, independent living, family and community integration and psychosocial support.

9.12. Termination of foster care in terms of section 189

Section 175 dealing with the discharge of a child from alternative care and section 189 on the termination of foster care are intrinsically related and seem to confuse practitioners. Until the

Act is amended, the application of section 189 should only apply for termination of foster care if a child was initially placed in foster care with a view towards adoption.

Practitioners are advised to use other administrative processes facilitated by the canalisation officer rather than applying for termination of foster care, which is a court process.

Provisions of section 175 for the discharge of a child from foster care or from a child and youth care centre should be applied when a foster child is discharged and reunited with his or her parents, instead of applying for termination of foster care through a court process as provided for in section 189 (2)(c)(i).

Provisions of section 186 placing a child in long-term or permanent foster care should be applied instead of applying for termination of foster care through a court process in terms of section 189 (2)(c)(ii).

Provisions of section 171(6) on transfer of children in alternative care deeper into the child and youth care system should be applied for transfer of a foster child to another form of alternative care (child and youth care centre) rather than applying for termination of foster care through a court process as provided for in section 189 (2)(c)(iii). In this case, the canalisation officer will issue an administrative transfer order, which will be ratified by the court.

Before applying for termination of foster care, the designated social worker must take into account all relevant factors, including:

- a) The bond that exists between the child and the child's biological parent, if the biological parent reclaims care of the child.
- b) The bond that developed between the child and the foster parent.
- c) The bond that developed between the child and the family of the foster parent.
- d) The prospect of achieving permanency in the child's life by placing the child in adoption.

All these factors must be reflected in the social worker's court report on application for termination of foster care.

9.13. Serious injury, abuse or death of a child in alternative care

- a) If a child in alternative care is seriously injured, the management of the child and youth care centre, person or organisation in whose care or temporary safe care the child has

been placed must report the matter to the HOD within 24 hours. The report must be contained in a Form 40.

- b) The HOD must cause an investigation to be conducted into the circumstances of the serious injury.
- c) If a child in alternative care dies, the management of the child and youth care centre or person in whose care or temporary safe care the child has been placed, must immediately but within 12 hours after the child's death report such death to:
 - i. The parent guardian or caregiver of the child, if he or she can be traced.
 - ii. A police official.
 - iii. The provincial Head of Social Development, and
 - iv. The designated social worker managing the case. The designated social worker must inform the canalisation officer within 24 hours after receiving the report.

The report must be contained in a Form 40.

- d) The police official must cause an investigation into the circumstances surrounding the death of the child. If the police official is satisfied that the child died of natural causes, the investigation may not be conducted.
- e) If a child in alternative care is abused, the management of the child and youth care centre, the foster parent or the provider of temporary safe care must report the matter in terms of section 110. The matter must be reported immediately but within 24 hours to the police, a designated child protection organisation or the nearest Department of Social Development in a Form 22.

Such incident must be reported within 24 hours to:

- The child's parent, caregiver or guardian.
- The designated social worker managing the case.

In addition to the report in terms of section 110, the management of the child and youth care centre, person or organisation in whose care or temporary safe care the child has been placed must report the matter to the HOD within 24 hours.

The report must be contained in a Form 40.

The HOD must cause an investigation to be conducted into the circumstances of the abuse.

9.14. Reporting of absence of a child from a child and youth care centre without permission

- It is the responsibility of a staff member at a child and youth care centre to report the absence of a child without permission to the manager of the centre.
- The absence must be reported within an hour of the discovery of the incident in terms of regulation 77(e).
- The manager of the centre must report the incident to the institution social worker, the case manager and the child's parent, guardian or caregiver immediately but within 24 hours.
- The centre manager, as the child's caregiver in terms of the definition of a caregiver, must lodge a missing person's report with the nearest police immediately but within 24 hours using a SAPS 55(A). In addition, an electronic search may be initiated by visiting missingchildren.org.za or missingkids.co.za.
- The SAPS emergency line is 10111 and the contact details for the SAPS Missing Persons Bureau are as follows:

Head Office	012 393 2005
Gauteng /Limpopo/North West	011 670 6316
Western Cape	021 918 3452
Free State / Northern Cape	051 503 2862
Eastern Cape	041-394 6640
KwaZulu-Natal	031-325 4757
Mpumalanga	013-249 1138

9.15. Reporting of absence of a child from foster care without permission

- It is the responsibility of a foster parent to report the absence of a child without permission to the case manager.
- The absence must be reported within 24 hour of the discovery of the incident.
- The foster parent must lodge a missing person's report with the nearest police immediately but within 24 hours using a SAPS 55(A). In addition, an electronic search may be initiated by visiting missingchildren.org.za or missingkids.co.za.

Chapter 10 Adoptions in South Africa

10. Introduction

Adoption is a statutory process subject to state sanction and strict legal procedures. It is practised as the most effective means of providing a child with a permanent, safe and healthy environment with positive support. It connects children to nurturing family relationships intended to last a lifetime.

It is a legal process facilitated through the children's court process by adoption social workers and presiding officers. Only certain persons are allowed to render adoption services while guided by certain procedures and prescripts; however, other professionals are not prohibited from rendering relevant professional services in connection with adoption in terms of section 250(2). These professionals may include attorneys, psychologists or health practitioners.

Adoption of a child may only take place if a child is adoptable and the prospective adoptive parent is a fit and proper person to be entrusted with the care of the adopted child. Adoption bestows full parental responsibilities and rights (including guardianship) on the adoptive parent in respect of the child and the adoptive parent should for all purposes be seen as the parent of the adopted child.

10.1. Provision of adoption services

Adoption is a designated child protection service in terms of section 105(5)(vi). Designated child protection services may only be provided by the National or provincial Department of Social Development, or a designated child protection organisation.

The National Department of Social Development is responsible for accrediting designated child protection organisations and adoption social workers to provide national or inter-country adoption services in terms of section 251.

An organisation wishing to provide adoption services has to be designated to become a designated child protection organisation before it may be accredited to provide adoption services. Organisations that provide services at the provincial level must be designated by the provincial Department of Social Development, and national organisations must be designated by the National Department of Social Development. An organisation that applies for accreditation to provide adoption services must meet the following criteria, and their adoption services must:

- (a) *Be rendered by relevant service providers who are adequately qualified, registered and experienced.*
- (b) *Take the child's needs into account.*
- (c) *Provide for assessment of the child.*
- (d) *Include awareness campaigns to promote adoption as part of child protection services.*
- (e) *Be based on appropriately formulated and implemented policy and procedures.*
- (f) *Ensure that the child and his or her family, within their respective abilities, are actively involved in all stages of the adoption process.*
- (g) *Be based on an inter-sectoral and multi-disciplinary approach.*
- (h) *Take account of and address the changing social, physical, cognitive and cultural needs of the child and his or her family throughout the intervention process, before and after adoption.*
- (i) *Ensure that all avenues to maintain the child within his or her own family are explored before adoption is considered.*
- (j) *Ensure, where applicable, that the child's family of origin or adoptive family has access to a variety of appropriate resources and support.*
- (k) *Be based on permanency planning for children qualifying for adoption.*
- (l) *Ensure that adoption is dealt with by expert adoption social workers functioning within a statutory accredited adoption system.*
- (m) *Ensure that children who are to be adopted are not discriminated against with regard to race, gender, language, religion, disability or any other status and that the biological parents of children who are to be adopted are not discriminated against.*
- (n) *Ensure that the child is involved in the decision-making process during adoption procedures.*
- (o) *Ensure that inter-country adoption is considered as an alternative means of permanent care for a child when a suitable adoptive or foster family cannot be found nationally.*
- (p) *Ensure that the standards of inter-country adoption conform to the Hague Convention on Inter-country Adoption.*
- (q) *Ensure that inter-country adoption does not result in financial gain for those involved.*
- (r) *Ensure that inter-country adoption is effected by the Central Authority.*
- (s) *Provide for the recruitment, assessment and preparation of adoptive parents.*
- (t) *Provide for the counselling of the child, his or her biological parents and the adoptive parents.*
- (u) *Where applicable, provide for aftercare services to the adoptive family.*
- (v) *Provide for the management of enquiries and interpretation of issues regarding descent and origin, accompanied by counselling of all parties.*
- (w) *Provide for the tracing by an adult adopted person of his or her biological parents.*

- (x) *Ensure that the particular needs of the child are matched with the special strengths of the adoptive family through appropriate assessment and preparation of the parties involved.*
- (y) *Provide for assistance to prospective adoptive parents to assess their capacity to adopt and helping them to understand what parenting of an adopted child entails.*
- (z) *Provide for assistance to adoptive parents to develop their personal and parenting skills.*
- (aa) *Provide for services to biological parents focusing on crisis intervention and life skills.*

10.2. A child who may be adopted (section 230)

Only children who are adoptable and available for adoption may be adopted. Section 230 lists children who may be adopted and they include:

- *A child who is an orphan and has no guardian or caregiver who is willing to adopt him or her.*
- *A child whose parent's whereabouts cannot be established.*
- *A child who has been abandoned.* An abandoned child is defined in section 1 of the Act as a child who has obviously been deserted by the parent, guardian or caregiver, or who has, for no apparent reason, had no contact with the parent, guardian, or caregiver for a period of at least three months.
- *A child whose parent or guardian has abused or deliberately neglected him or her, or has allowed the child to be abused or deliberately neglected.*
- *A child in need of a permanent alternative placement.*
- *A child who is a stepchild to the spouse of the child's biological parent.*

A parent may give consent for his or her child to be adopted. That child should also be regarded as an adoptable child.

A child may be made available for adoption only if it in his or her best interest, if he or she is adoptable and if the necessary consent has been granted or dispensed with.

10.3. The best interest of the child is of paramount importance (section 7 and 9)

In order to ensure that the best interest of the child are maintained as required by the Constitution and sections 7 and 9 of the Children's Act, the adoption social worker has to assess the child's needs, development, education, and other psychosocial aspects against the

influence of the adoption on the child. All factors highlighted in section 7 should be considered, including:

- (a) *The nature of the personal relationship between the child and the parents, caregiver or person relevant in those circumstances.*
- (b) *The attitude of the parents, or any specific parent, towards the child; and the exercise of parental responsibilities and rights in respect of the child.*
- (c) *The capacity of the parents, or any specific parent, or of any other caregiver or person, to provide for the needs of the child, including emotional and intellectual needs.*
- (d) *The likely effect on the child of any change in the child's circumstances, including the likely effect on the child of any separation from both or either of the parents, or any brother or sister or other child, or any other caregiver or person, with whom the child has been living.*
- (e) *The practical difficulty and expense of a child having contact with the parents, or any specific parent, and whether that difficulty or expense will substantially affect the child's right to maintain personal relations and direct contact with the parents, or any specific parent, on a regular basis.*
- (f) *The need for the child to remain in the care of his or her parent, family and extended family; and to maintain a connection with his or her family, extended family, culture or tradition.*
- (g) *The child's age, maturity and stage of development, gender, background and any other relevant characteristics of the child.*
- (h) *The child's physical and emotional security and his or her intellectual, emotional, social and cultural development.*
- (i) *Any disability that a child may have or chronic illness from which a child may suffer.*
- (k) *The need for a child to be brought up within a stable family environment and, where this is not possible, in an environment resembling as closely as possible a caring family environment.*
- (l) *The need to protect the child from any physical or psychological harm that may be caused by;*
 - (i) *subjecting the child to maltreatment, abuse, neglect, exploitation or degradation or exposing the child to violence or exploitation or other harmful behaviour; or*
 - (ii) *exposing the child to maltreatment, abuse, degradation, ill-treatment, violence or harmful behaviour towards another person;*
- (m) *Any family violence involving the child or a family member of the child.*
- (n) *Which action or decision would avoid or minimise further legal or administrative proceedings in relation to the child.*

According to section 157(3), adoption should be considered a desirable option for very young children who have been orphaned or abandoned. The child should be placed in adoption as early as possible to enhance bonding and reduce adjustment problems.

If a designated social worker would like to make an abandoned or orphaned child available for adoption, such social worker must cause an advertisement to be published in at least one local newspaper circulating in the area where the child has been found, calling upon any person to claim responsibility for the child.

In determining whether a child has been abandoned or orphaned for purposes of finding that child to be in need of care and protection, a presiding officer must:

- (a) Be satisfied that the child has been abandoned or orphaned. An abandoned child is a child who has obviously been deserted by the parent, guardian or caregiver, or has not had contact with the parent, guardian, or caregiver for a period of at least three months for no apparent reason. An orphaned child on the other hand means a child who has no surviving parent caring for him or her.
- (b) Be furnished with a copy of the advertisement mentioned above and be satisfied that, for the purposes of;
 - (i) finding that child to be in need of care and protection, a period of at least one month has lapsed since the publication of the advertisement; or
 - (ii) making the child available for adoption, a period of at least three months has lapsed since the publication of the advertisement, and that no person has claimed responsibility for the child.
- (c) Have regard, in the case of an orphaned child, to the death certificate or certificates of the child's parent or parents, guardian or caregiver, obtained by the social worker concerned, or, if such certificate cannot be obtained, to an affidavit by a person or persons who can testify to the death of the child's parent, guardian or caregiver; and
- (d) Have regard, in the case of an abandoned child, to an affidavit, setting out the steps taken to trace the child's parent, guardian or caregiver by the social worker concerned to the effect that the child's parent, guardian or caregiver cannot be traced, and an affidavit by any other person, if any, who can testify to the fact that the child has had no contact with his or her parent, guardian or caregiver for a period of at least three months.

A child found by the children's court to be a child in need of care and protection in terms of section 150 may, among other options, be placed in adoption.

10.4. A person who may adopt a child (section 231)

Section 231 provides for different categories of persons who qualify to adopt a child. *A child may be adopted:*

(a) *Jointly by:*

(i) *A husband and wife.* The Marriage Act provides for marriage between a man and a woman and does not provide for same-sex couples to enjoy the status and the benefits associated with the responsibilities that marriage accords to opposite sex couples. The Civil Union Act remedies this situation and makes provision for civil union or partnership between same sex couples. Furthermore, Section 9 of the Constitution contains the equality clause in terms of which everyone is equal before the law and has the right to equal protection and benefit of the law. The state is therefore forbidden to unfairly discriminate directly or indirectly against anyone on a number of grounds set out in section 9(3) of the Constitution. These include, *inter alia*, gender and sexual orientation. Section 13(2)(b) of the Civil Union Act No. 17 of 2006 states that any reference to husband, wife or spouse in any other law, including the common law, includes a civil union partner. This means that reference to *husband and wife* above includes partners in a civil union.

(ii) *Partners in a permanent domestic life-partnership.* This refers to partners living together outside marriage in a relationship that is similar to, or has most of the characteristics of, a marriage. These partnerships may be same-sex or heterosexual in nature.

(iii) *Other persons sharing a common household and forming a permanent family unit.*

(b) *By a widower, widow, divorced or unmarried person.*

(c) *By a married person whose spouse is the parent of the child or by a person whose permanent domestic life-partner is the parent of the child.*

(d) *By the biological father of a child born out of wedlock.*

(e) *By the foster parent of the child.*

(f) *By a family member who has given notice to the clerk of the children's court that he or she is interested in adopting the child.*

10.4.1. Suitability of the applicant (section 231)

A person qualifies to adopt a child if he or she complies with the following conditions in terms of section 231(2):

(a) *If that person is found to be a fit and proper person to be entrusted with full parental responsibilities and rights.* Full parental responsibilities and rights referred to include the responsibility and right to:

- (i) **Care for the child** in line with the definition of care in section 1.
- (ii) **Maintain contact with the child.** Contact entails maintaining a personal relationship with the child, and if the child lives with someone else, communicating with the child on a regular basis.
- (iii) **To act as a guardian of the child.** According to section 18(3): *A guardian has the responsibility to administer and safeguard the child's property and property interest, to assist the child in administrative, contractual and other legal matters, to consent to the child's departure from the republic, application for passport and the alienation or encumbrance (sale or transfer) of any immovable property.*
- (iv) **To contribute to the maintenance of the child.** Economic considerations, although not to be overemphasised at the expense of other factors, need to be taken into account in order for adoptive parents to comply with the requirement to take care of the child's educational, health and physical needs. A child should be taken into a family that is reasonably sound economically so as not to burden a family that already has financial difficulties. The financial circumstances of the family must be fully investigated, therefore looking at their present and future ability to maintain the adopted child until the child becomes self-sufficient.

Subsidised adoption, as desirable as it may be, it is not yet applicable in South Africa and can therefore not be regarded as an option.

Notwithstanding this, section 231(4) states that a person may not be disqualified from adopting a child by virtue of his or her financial circumstances. This means that the adoptive parent may be eligible to receive state assistance to financially care for the child. However, adoption social workers should ensure that the adoption is in the best interest of the child.

In instances where the adoptive parents separate or divorce, they are obliged by law to contribute to the maintenance of the adopted child.

(b) Furthermore, the adoptive parent should not be a person declared unsuitable to work with children or enlisted in Part B of the National Child Protection Register or the National Register for Sex offenders.

- (c) The adoptive parent should be assessed by an adoption social worker and should be found to be fit and proper, as well as able and willing to undertake, exercise and maintain all the rights and responsibilities mentioned above. A fit and proper person refers to a person who has been assessed by an adoption social worker and approved against the criteria of honesty, integrity, reputation, competence and capability to be entrusted with the care or protection of a child. The assessment should also take into account the person's level of emotional maturity, moral values and personality traits. Other factors include the physical health, age, as well as the stability of the relationship between the parents, and among family members. The prospective adoptive parent's social position and social functioning within his or her particular social group and the wider community must be assessed and reported on. Character references from the community are required from neutral sources, usually from professionals and unrelated acquaintances. Home visits and interviews by the social worker are essential to the investigation to gather the required information.
- (d) The adoptive parent should be over the age of 18 years. Caution should be exercised when a child is placed under the care of a person between 18 and 21 years of age. This should only be done under extremely compelling and extenuating circumstances. Young persons in this age range are in a life phase where they experience, physical, psychological and social transition into adulthood. They need to acquire skills and resources necessary for transition into adulthood, undertake careers, enter the labour market and make serious life choices. Placing the responsibilities of raising a child and childcare on them might limit their life chances and opportunities and premature transition into adulthood.

10.4.2. Religion and culture

It is necessary for the adoption social worker to adequately analyse the religious and cultural aspects of the child and his or her family in relation to those of the prospective adoptive parents. Section 231(3) encourages adoption social workers to consider the cultural and community diversity of the adoptable child and the prospective adoptive parent in the assessment process. When facilitating transcultural and transracial adoptions the adoption social worker should address and prepare the adoptive parents of the child's emotional, social and cultural development and identity, which the child might question later in life.

10.5. Register on Adoptable Children and Prospective Adoptive Parents (RACAP) (section 232)

The purpose of the Register on Adoptable Children and Prospective Adoptive Parents (RACAP) is to keep a record of adoptable children and fit and proper prospective adoptive parents. The

details of unmatched children who have been screened and declared adoptable and the details of unmatched prospective adoptive parents who have been assessed and found to be fit and proper to adopt a child are placed on this register for the purpose of matching children and prospective adoptive parents. Prospective adoptive parents are encouraged to provide their preferences in respect of the child they wish to adopt.

The RACAP is kept at the National Department of Social Development. It is a national repository of data on adoptable children and prospective adoptive parents who are citizens or permanent residents of the Republic. Adoption social workers must forward details of prospective adoptive parents and adoptable children to the Director-General in forms identical to Form 58 and Form 59 respectively. The Director-General has delegated this function to the Director: Adoption.

The details of an adoptable child are kept on the register until such time that the child is adopted. In terms of section 261(5)(g) and section 262(5)(g), Inter-country adoption may only be considered if a child's name has been on the RACAP for at least 60 days and no fit and proper adoptive parent for the child is available in the Republic.

The details of a prospective adoptive parent are kept on the RACAP for a period of three years; thereafter, registration has to be renewed. Registration of a prospective adoptive parent on RACAP ceases in terms of section 233(5)(c):

- (i) *on written notice of withdrawal being given to the Director-General;*
- (ii) *on the death of the registered person;*
- (iii) *on cancellation by the Director-General if the registered person is no longer-*
 - (aa) *a fit and proper person to be entrusted with full parental responsibilities and rights in respect of a child; and*
 - (bb) *willing and able to undertake, exercise and maintain those responsibilities and rights.*
- (iv) *if the registered person is no longer a citizen or permanent resident of the Republic;*
- (v) *if a child contemplated in section 150 is removed from the care of that registered person; or*
- (vi) *if the registered person is convicted of an offence involving violence.*

The RACAP is a confidential register and only persons authorised by the Director-General may have access to it. These persons are listed in section 232(6) and they include:

- (a) Officials in the National Department of Social Development designated by the Director-General.*
- (b) A provincial HOD or an official of a provincial Department of Social Development designated by the head of that department.*
- (c) A child protection organisation accredited in terms of section 251 to provide adoption services.*
- (d) A child protection organisation accredited in terms of section 259 to provide inter-country adoption services.*

10.6. Types of adoption: Disclosed and undisclosed. (post adoption agreements) (section 234)

There are two types of adoption: disclosed (open) and undisclosed/non-disclosed (closed) adoption. A disclosed or open adoption is one where the person giving up the child for adoption knows the person who wishes to adopt his or her child. Their details and identity may be disclosed to the prospective adoptive parent(s) and vice versa. This type of adoption is common in family and stepparent adoptions.

Section 234 provides for a post-adoption agreement that may be concluded between the child's parent or guardian and the prospective adoptive parent(s) with the help of the adoption social worker. The agreement should be concluded before an adoption application is made to a children's court and must be in the best interest of the child. In circumstances where the child is old or matured enough to understand the implications of such an agreement, the child must give consent.

The post-adoption agreement as contemplated in section 234(1) takes effect only if it is made an order of court and it may provide for:

- (a) Communication, including visitation between the child and the parent or guardian concerned and such other person as may be stipulated in the agreement after the application for adoption is granted.*
- (b) The provision of information, including medical information, about the child.*

A non-disclosed or closed adoption is one where there is no disclosure of identity and personal details between the parent or guardian of the child and the prospective adoptive parent(s). Due to the fact that there is no contact or communication among parties, section 248 provides mechanisms for parties to access the adoption register in order to trace birth parents and adopted children.

10.7. Adoption register (section 247)

An adoption register is a register that is kept at the National Department of Social Development. It contains records pertaining to:

- (a) The registration numbers allocated to records of adoption cases.*
- (b) The personal details of adopted children, their biological parents and their adoptive parents.*
- (c) Particulars of successful appeals against and rescissions of adoption orders.*
- (d) All other prescribed information in connection with adoptions. This information is contained in regulation 105.*

10.7.1. Access to the adoption register (section 248)

Section 248 provides a list of persons who may access the adoption register, and they include:

- (a) An adopted child after the child has reached the age of 18 years.*
- (b) The adoptive parent of an adopted child after the child has reached the age of 18 years.*
- (c) The biological parent or a previous adoptive parent of an adopted child after the child has reached the age of 18 years, but only if the adoptive parent and the adopted child give their consent in writing.*

The register may also be accessed for any official purposes subject to conditions determined by the Director-General; by an order of court, if the court finds that such disclosure is in the best interest of the adopted child; or for purposes of research, provided that no information that would reveal the identity of an adopted child or his or her adoptive or biological parent(s) is revealed.

According to section 248(3) and (4), an adopted child or adoptive parent may have access to any medical information concerning the adopted child or the biological parents of the child if that information directly relates to the health of the adopted child at any time before the child turns 18 years old.

10.8. Adoption of a child where a parent consents to the adoption

10.8.1. Counselling

Any parent intending to put up a child for adoption must receive counselling by an adoption social worker as stipulated in section 233(4). The counselling should outline all other alternative care arrangements available, such as care by relatives, foster care, shared care or cluster

foster care; highlight the risks, benefits and consequences of adoption; identify the reasons and decision for giving up a child for adoption; and explain the legal and emotional consequences related to adoption. The legal implications include probable change of name and surname. If the adoption is closed in nature, the consequences of termination of all parental responsibilities and rights should be explained and the fact that the adoption will be a permanent, non-reversible arrangement.

In circumstances where a single parent consents to the adoption of the child, the consent of the other parent should be sought by the adoption social worker and counselling should also be offered to that parent.

If the adoptable child is ten years or older, or is matured enough to understand the implications of the adoption, that child must also receive counselling.

In the case of an open adoption both the consenting parent and the prospective adoptive parent(s) should receive counselling on the implications, risks and benefits of entering into a post-adoption agreement.

It is also important to counsel the prospective adoptive parents to identify and understand the reasons for adopting; to explain all the risks, benefits and long-term consequences of adoption, as well as the implications of being entrusted with the full parental responsibilities and rights in respect of the child as outlined in section 18. The adoptive parents must be made aware of their rights and responsibilities towards the child in the event of separation, divorce or death of one of the adoptive parents.

If the adoptable child has any special needs, chronic illness or disability, all those should be disclosed to the prospective adoptive parents. The prospective adoptive parents should not be pressured to adopt a certain child and they should as far as possible specify the type of child they wish to adopt as this decision has long-term consequences.

If the adoptive parents have children or any significant others close to them or living with them, these people should, as far as possible, be prepared for the adoption.

Adoption social workers and agencies should be careful not to induce or place undue pressure upon a parent to adopt a child. Adoptive parents should be given all alternatives, including foster care, artificial insemination and surrogacy, and their decision to adopt should be an informed decision.

10.9. Application for adoption (Section 239 and Regulation 99)

An application for the adoption of a child may be lodged by the prospective adoptive parent in a form identical to **Form 60** and must be lodged with the clerk of the court in the district where the child is resident. An abandoned baby not yet discharged from hospital “resides” in the district of that hospital for all intents and purposes because that is where the child ordinarily stays. If that child is transferred to temporary safe care, that temporary safe care is where the child ordinarily resides and the children’s court in that district will facilitate the adoption.

The application must be accompanied by the following:

- (i) The original birth certificate or identity document of the child.
- (ii) A certified copy of the identity document of each applicant.
- (iii) Where (i) and (ii) are not available, a sworn statement by an adoption social worker.
- (iv) In the case of a foster child, the written statement of the foster parent(s) contained in **Form 41**.
- (v) Where applicable, the written consent of the parent(s)/guardian and the child attested to before a presiding officer.
- (vi) Where the applicant(s) wish to receive the child into his or her (or their) care, a report from an adoption social worker that the applicant(s) is/are a potentially suitable prospective adoptive parent(s).
- (vii) A report, by an adoption social worker containing:
 - a) information on whether the child is adoptable as contemplated in section 230(3);
 - b) information on whether the adoption is in the best interest of the child; and
 - c) medical information in relation to the child.

Due to the permanent nature of adoption, the report should be comprehensive and cover all details of the adoptable child, the child’s parent(s), caregiver or guardian and the prospective adoptive parents as outlined in Annexure 21.

- (viii) An assessment of the prospective adoptive parents stating whether they are fit and proper, capable and willing to undertake, exercise and maintain parental responsibilities and rights.
- (ix) A letter by the provincial HOD recommending the adoption of the child (Annexure 7). Before the HOD issues a recommendation letter, the application for adoption must be considered by an adoption panel. The panel may be constituted using the attached framework of Terms of Reference (Annexure 21). After considering the application, the panel must make a recommendation to the HOD or the person to whom the function has been delegated.

According to section 239(3), an applicant has no access to any documents lodged with the court by other parties except with the permission of the court.

10.9.1. The role of the clerk of the children's court when an application for the adoption of a child is brought before a children's court (section 239 (2))

When an application for the adoption of a child is brought before a children's court, the clerk of the children's court must submit to the court:

- a) any consent for the adoption of the child filed with the clerk of the children's court in terms of section 233(6).
- (b) any information on the name of any person whose consent would have been necessary but is not necessary in terms of section 236, and the grounds on which such person's consent is not required.
- (c) any written statement by a person who has consented to the adoption of a child in terms of section 233 and wants the court to dispense with any other person's consent on the grounds set out in section 236.
- (d) a report on any failure by a person mentioned in (c) above to respond to the request of the clerk of the children's court to provide a statement.
- (e) any other information that may assist the court or that may be prescribed.

10.9.2. The role of the clerk of the children's court in gathering information for proposed adoption (section 237 and regulation 104)

When a child becomes available for adoption, the clerk of the children's court must take steps to establish the name and address of each person whose consent for the adoption is required in terms of section 233. The clerk of the children's court must request the relevant accredited child protection organisation or the relevant adoption social worker to provide him or her with the name and address of such persons.

If the name or address of the person whose consent for adoption is required is unknown, the relevant accredited child protection organisation or the relevant adoption social worker may employ a tracing agency or may place an advert in a newspaper in order to obtain the required details.

The clerk of the children's court must take reasonable steps to establish the name of any person whose consent would have been necessary but is not necessary in terms of section 236, and the grounds on which such person's consent is not required.

A person who has consented to the adoption of a child in terms of section 233 and who wants the court to dispense with any other person's consent on grounds set out in section 236, must submit a statement to that effect to the clerk of the children's court.

A clerk of the children's court may request the Department of Home Affairs to disclose any information contained in the registration of the birth of a child, including the identity and other particulars of a person who has acknowledged being the father or the mother of the child.

If a social worker involved in the proposed adoption of a child obtains information regarding the identity and whereabouts of a person whose consent is required, that social worker must without delay submit a report containing that information to the clerk of the children's court.

10.9.3. Notice of proposed adoption to persons whose consent is required (section 238)

When a child becomes available for adoption, the presiding officer must, without delay, cause the sheriff to serve a notice on each person whose consent to the adoption is required in terms of section 233.

The notice must:

- (a) inform the person whose consent is sought of the proposed adoption of the child; and
- (b) request that person to either consent or withhold consent to the adoption, or, if that person is the biological father of the child to whom the mother is not married, request him to consent to or withhold consent for the adoption, or to apply for the adoption of the child in terms of section 239.

If a person on whom a notice to give consent has been served fails to comply with the request contained in the notice within 30 days, that person must be regarded as having consented to the adoption.

10.10. Consent to adoption (section 233)

Before a child may be considered to be adoptable and be placed on the RACAP, the necessary consent should be given by:

- (a) *Each parent of the child, regardless of whether the parents are married or not. If the parent is a child, that parent must be assisted by his or her guardian.* For example, if the mother of the child that is to be adopted is 16 years old, the parent or guardian of that 16-year-old mother should give consent to the adoption. The 16-year-old is a minor in terms of section 17 and cannot be regarded as a guardian. The 16-year-old's parent should act as the guardian of the baby. According to section 18(3)(c), only the guardian may consent to the child's adoption.
- (b) *Any other person who holds guardianship in respect of the child.*
- (c) *The child, if the child is:*
 - (i) *10 years of age or older; or*
 - (ii) *Under the age of 10 years, but is of an age, maturity and stage of development to understand the implications of such consent.*

Consent to adoption must be a voluntary decision. The person giving consent must not be rewarded by consideration in cash or in kind. The biological mother of a child receiving compensation for reasonable medical expenses incurred in connection with her pregnancy, birth of the child and follow-up treatment or reasonable expenses incurred for counselling, should not be penalised for failing to give or withdrawing her consent.

If a parent of a child wishes the child to be adopted by a particular person, the parent must state the name of the person in the consent. Before that person may be eligible to adopt the child, he or she must be assessed by the adoption social worker in terms of section 231(2) and be found to be willing and fit and proper to adopt the child.

Consent to adoption may be given inside or outside the Republic. If it is given in the Republic, it must be signed by the parent consenting to the adoption of his or her child in a form identical to Form 61 and the child if that child is over the age of ten years in a form identical to Form 62. Any other person who holds guardianship in respect of the child should give consent in a form identical to Form 63. The International Social Services (ISS) office within the National Department of Social Development, in liaison with other ISS offices or competent international organisations, may assist in obtaining the relevant consent if consent is given outside the Republic.

The consent must be signed in the presence of a presiding officer. Consent to an adoption may be facilitated by any presiding officer of a children's court in any district. The presiding officer is required to inform the person giving the consent of the effect of an adoption order and of the

right to withdraw the consent within 60 days. Regulation 101 states that the presiding officer should verify the consent provided by the consenting parties in either Form 61, 62 or 63, whichever the case may be.

If consent to adoption is given outside the Republic, it must be signed in the presence of an officer in the service of a South African diplomatic or consular mission, or by a judge, magistrate, justice of the peace or public officer of the country concerned in terms of regulation 100. The presiding officer, who presides over the matter within the Republic, must verify the identity of the person giving such consent against a valid identity document or a valid passport.

10.11. Freeing order (section 235)

The National or provincial Department of Social Development, a child protection organisation accredited in terms of section 251 to provide adoption services or an adoption social worker may apply to the children's court to issue an order freeing a parent or person whose consent to the adoption of the child is required in terms of section 233 from exercising parental responsibilities and rights in respect of the child pending the adoption of the child.

The parent or person whose consent to the adoption of the child is required in terms of section 233 must support an application for a freeing order.

A freeing order must authorise a child protection organisation accredited in terms of section 251 to provide adoption services or a person to exercise parental responsibilities and rights in respect of the child pending the adoption of that child.

A freeing order lapses under the following circumstance:

- If the child has not been adopted within a period of 12 months and there is no reasonable prospects that the child will be adopted.
- If the freeing order is terminated by the court on the grounds that it is no longer in the best interest of the child.
- If the child, child's parent or person who consented to the adoption withdraws such consent within 60 days.

A freeing order relieves a parent or person from the duty to contribute to the maintenance of the child pending the adoption, unless the court orders otherwise.

10.12. When consent is not required

Section 236 regulates circumstances under which consent is not required.

The consent of a parent or guardian of the child to the adoption of the child is not necessary if that parent or guardian;

- (a) is incompetent to give consent due to mental illness;*
- (b) has abandoned the child, or if the whereabouts of that parent or guardian cannot be established, or if the identity of that parent or guardian is unknown;*
- (c) has abused or deliberately neglected the child, or has allowed the child to be abused or deliberately neglected;*
- (d) has consistently failed to fulfil his or her parental responsibilities towards the child during the last 12 months;*
- (e) has been divested by an order of court of the right to consent to the adoption of the child; or*
- (f) has failed to respond to a notice of the proposed adoption within 30 days of service of the notice.*

Consent to the adoption of a child is not required if:

- (a) the child is an orphan and has no guardian or caregiver who is willing and able to adopt the child; and*
- (b) the court is provided with certified copies of the child's parent's or guardian's death certificate or such other documentation as may be required by the court.*

The consent of the biological father of the child is not necessary if:

(a) He is not married to the child's mother or was not married to her at the time of conception or at any time thereafter, and has not acknowledged that he is the biological father of the child. He can acknowledge that he is the biological father of the child by doing the following:

- i. Giving a written acknowledgment that he is the biological father of the child either to the mother or the clerk of the children's court before the child reaches the age of six months.*
 - ii. Voluntarily paying maintenance in respect of the child.*
 - iii. Paying damages in terms of customary law.*
 - iv. Causing particulars of himself to be entered in the registration of birth of the child in terms of section 10(1)(b) or section 11(4) of the Births and Deaths Registration Act, 1992 (Act 51 of 1992).*
- (b) The child was conceived from an incestuous relationship between that biological father*

and the mother.

- (c) *The court, following an allegation by the mother of the child, finds on a balance of probabilities that the child was conceived as a result of the rape of the mother – provided that such a finding shall not constitute a conviction for the crime of rape.*

A children's court may, on a balance of probabilities, make a finding as to the existence of grounds on which a parent or person is excluded in terms of this section from giving consent to the adoption of a child.

10.13. Unreasonable withholding of consent (Section 241)

If a parent or person required to give consent in terms of section 233(1) withholds consent for the adoption of a child a children's court may, despite the absence of such consent, grant an order for the adoption of the child if the court finds that:

- (a) *consent has unreasonably been withheld; and*
(b) *the adoption is in the best interest of the child.*

In determining whether consent is being withheld unreasonably, the court must take into account all relevant factors, including:

- (a) *the nature of the relationship between the child and the person withholding consent during the last two years and any findings by a court in this respect; and*
(b) *the prospects of a sound relationship developing between the child and the person withholding consent in the immediate future.*

10.14. Withdrawal of consent (regulation 102)

A parent or guardian who wishes to withdraw the consent must do so in writing, in a form identical to **Form 64**, in the presence of any presiding officer within 60 days of such consent.

A child who wishes to withdraw the consent must do so in writing, in a form identical to **Form 65**, in the presence of any presiding officer with 60 days of such consent.

10.15. Consideration of an adoption application by the children's court (Section 240)

When considering an application for the adoption of a child, the children's court must take into account all relevant factors, including:

- (a) The religious and cultural background of the child, the child's parent and the prospective adoptive parent.
- (b) All reasonable preferences expressed by the child's parent as stated in the consent.
- (c) A report by an adoption social worker.

10.16. Order of adoption

A children's court considering an adoption application may make an order for the adoption of a child only if:

- (a) *The adoption is in the best interest of the child.*
- (b) *The prospective adoptive parent complies with section 231(2).*
- (c) *Subject to section 241, consent for the adoption has been given in terms of section 233.*
- (d) *Consent has not been withdrawn in terms of section 233(8).*
- (e) *Section 231(7) has been complied with, in the case of an application for the adoption of a child in foster care by a person other than the child's foster parent.*

10.17. Effects of an adoption order

An adoption order changes the status of the adopted child and has consequences for the adoptive parents and the child's parent or guardian.

Except when provided otherwise in the adoption order or in a post-adoption agreement confirmed by the court an adoption order terminates:

- (a) *All parental responsibilities and rights any person, including a parent, stepparent or partner in a domestic life partnership, had in respect of the child immediately before the adoption.*
- (b) *All claims to contact with the child by any family member of a person referred to in paragraph (a).*
- (c) *All rights and responsibilities the child had in respect of a person referred to in paragraph (a) or (b) immediately before the adoption.*
- (d) *Any previous order made in respect of the placement of the child.*

An adoption order:

- (a) *Confers full parental responsibilities and rights in respect of the adopted child upon the adoptive parent.*
- (b) *Confers the surname of the adoptive parent on the adopted child, except when otherwise provided in the order.*
- (c) *Does not permit any marriage or sexual intercourse between the child and any other*

person which would have been prohibited had the child not been adopted.

(d) *Does not affect any rights to property the child acquired before the adoption.*

An adopted child must for all purposes be regarded as the child of the adoptive parent and an adoptive parent must for all purposes be regarded as the parent of the adopted child.

10.18. Procedure for recording information in the adoption register (section 247 & regulation 105)

Section 247 and regulation 105 outline the process to be followed in registering adoptions in the adoption register.

After the adoption has been finalised and the children's court has issued an adoption order, the clerk of the children's court must submit the original of the following documents to the Adoption Registrar at the National Department of Social Development for the purposes of registering the adoption in the adoption register:

- a) The application for adoption (Form 60).
- b) Every consent to the adoption as may be required (Form 61/62/63).
- c) The original order of adoption and two copies thereof.
- d) The child's identity document or birth certificate or where these are not available, a sworn statement to that effect by an adoption social worker.
- e) A copy of the record of the adoption inquiry and other prescribed documents relating to the adoption.

Upon receipt of these documents, the adoption registrar must verify them for accuracy and compliance with the Act and register such information in the adoption register. After completion of the registration, the adoption registrar must sign and enter the date of registration (stamp) and the registration number on each order of adoption. Thereafter, the adoption registrar must forward a copy of the registered adoption order and the original identity document or birth certificate of the child to the adoptive parents. The remaining registered copy of the adoption order must be forwarded to the relevant clerk of the children's court. The adoption registrar keeps the original order of adoption.

10.19. Recording of the adoption in the births register (section 245)

After receiving the copy of the registered adoption order and the original identity document or birth certificate of the child, the adoptive parent must apply to the Department of Home Affairs to record the adoption and, where applicable, record the change of surname of the child in the births register.

The application must be accompanied by:

- (a) The relevant adoption order as registered by the adoption registrar.
- (b) The original birth certificate of the child.
- (c) The prescribed birth registration form.
- (d) The fee prescribed in terms of any applicable law, if any.

10.20. Rescission of the adoption order (section 243)

Rescission of the adoption order is a court process of nullifying or withdrawing the adoption order. There are circumstances or reasons that may necessitate an adoption order being nullified or reversed. An adoption order may be rescinded by a High Court or a children's court.

The adopted child, a parent of the adopted child, any other person who had guardianship in respect of the child immediately before the adoption, or the adoptive parent of the child may lodge an application for the rescission of an adoption order. The application must be lodged within two years of the date of the adoption.

An adoption order may be rescinded based on the following reasons:

- a) If the applicant for rescission is a parent of the child whose consent was required for the adoption order to be made, but whose consent was not obtained; or
- b) If, at the time of making the adoption order, the adoptive parent did not qualify as such in terms of section 231.

After receiving an application for rescission of an adoption order, the court must notify certain parties of the application. These people include:

- a) The adoptive parent of that child, if any other person brings the application.
- b) All persons who have consented to the adoption in terms of section 233 or who have withheld consent to the adoption in terms of section 241, if the child or the adoptive parent brings the application.
- c) The Central Authority in the case of an inter-country adoption.
- d) Any other person whom the court finds has sufficient interest in the matter.

An adoption order may be rescinded only if it is in the best interest of the child.

10.21. Effect of rescission

The adoption rescission order has implications for the child, the adoptive parents, as well as the child's parent, guardian or caregiver who had parental rights and responsibilities immediately before the adoption.

As from the date on which the adoption rescission order takes effect, the effects of the adoption order as set out in section 242(2) and (3) no longer apply in respect of the child concerned. This means that the adoptive parents are divested of the parental responsibilities that were conferred by the adoption order and the adopted child is no longer regarded as their child.

A rescission order restores all responsibilities and rights that a parent, guardian or caregiver had immediately before the adoption, as well as other matters terminated by section 242(1) in respect of the child.

When rescinding an adoption order the court may make an appropriate placement order in respect of the child concerned or order that the child be kept in temporary safe care until an appropriate placement order can be made.

10.22. Inter-country adoption

South Africa acceded to the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. The Children's Act gives effect to this Convention and introduced a new chapter on inter-country adoption. This chapter makes provision for South African citizens to adopt children outside the Republic and South African children to be adopted by non-South Africans. For more information on inter-country adoption procedures, please refer to the Practice Guidelines on Intercountry Adoption.

ANNEXURES

ANNEXURE 1

ASSESSMENT REPORT FORMAT

Provincial/DCPO Logo

Name of Service Point/District Office/DCPO:

DSD file number		DCPO File number		Court File Number	
ASSESSMENT CONDUCTED BY:					
Surname and full names:					
Qualifications:					
SACSSP registration number:					
Office Postal Address:					
Telephone number:					
Signature:					
Date:					
1. CLIENT IDENTIFYING INFORMATION					
NAME:				CASE/ REF. NO:	
ID NO:			REFERRAL SOURCE:		
Presenting problem/ Issue of concern:					
Specify type of engagement	Office interview		Telephone		Other (specify)
	Home visit		School		
Name of Person(s) participating in the assessment:					
Relationship with client:					
2. SOCIAL HISTORY (Always make an assessment based on person-family context)					
2.1. Family history/ background					
2.2. Interpersonal relationships and communication aspects (partner, children, family)					
2.3. Support systems (family and community resources)					
2.4. Critical event (nature and response and impact on current functioning)					
2.5. Role changes (before/ after critical event)					
2.6. Cultural and religious factors					

2.7.	Problem solving techniques/ methods applied
2.8.	Social habits (chemical and substance abuse, criminal tendencies, sexual orientation (if not identified in 2.2.))
2.9.	Employment history
2.10.	Environmental factors (client-family-community living conditions)
3. MEDICAL AND PHYSIOLOGICAL FACTORS	
3.1.	History and development of medical/physiological condition including disability)
3.2.	Disclosure to significant others
3.3.	Implications/ demands of the illness/ condition/ disability
3.4.	Coping mechanisms
3.5.	Motivation for medical treatment/ rehabilitation/ continuing care/ after care
4. EDUCATIONAL FACTORS	
4.1.	Educational history
4.2.	Educational performance
4.3.	Risk assessment
5. TENTATIVE ASSESSMENT	
5.1.	Problems/ issues/ needs/strengths
	Nature of problem/ issues/ needs/strengths Contributing factors Duration, Severity and urgency of response
5.2.	Person and situation
	Personal-family strengths and weaknesses Situational strengths and challenges (obstacles) Risk assessment
5.3.	Person-Issue-Situation
	Assessment outcome (describe problem/ issues/ needs identifies) Assumptions/ hypothesis
6. EVALUATION:	
7. INTERVENTION PLANNING	
7.1.	Client/ family expectations
7.2.	Action plan
	Client tasks/ action steps Social worker tasks/ action steps Plans to evaluate the intervention process (specify how/ when/ where)
8. DETAILS OF SUPERVISOR	
Full names and surname: Date: SACSSP registration number: Signature:	

ANNEXURE 2:

DEVELOPMENTAL ASSESSMENT TOOL:

INSTRUMENT:

Underlying thinking is that if a child has a strong sense of belonging, mastery, independence and generosity he or she is more likely to make a positive contribution to society. The purpose of the developmental assessment is to determine his or her strengths and needs in relation to these four developmental areas. The assessment also needs to include other developmental needs, specifically physical needs, which include health and basic care needs, as the meeting of these needs is essential to the child's survival and well-being.

1. IDENTIFYING DETAILS OF CHILD BEING ASSESSED

Case number	
Name	
Surname	
Date of birth	
Age	
Sex	
Social worker/case manager	

Details of parents/carers

Name	
Surname	
Date of birth	
Relationship to child	
Contact details	
Name	
Surname	
Date of birth	
Relationship to child	
Contact details	

Current family and home situation (e.g. family structure including siblings and their whereabouts, other significant adults and their whereabouts)

--

2. ASSESSMENT INFORMATION

Date of formal assessment meeting:

--

People present at assessment:

Name	Relationship to child

Other people/information sources consulted for this assessment:

3. DEVELOPMENTAL AREA: PHYSICAL AND EMOTIONAL WELL-BEING

General health

- Are there any health conditions and impairments? How are these being addressed?
- Is the child's carer responsive to his or her health care needs and are the necessary health services accessed timeously when needed? For example, immunisations, dental care, eye care.
- Does the child have access to health advice and information, including information on drug and alcohol use and sexual health?
- Is the child involved in decision-making around his or her health?
- For the HIV positive child, does the child understand the implications of his or her HIV positive status and information on how to look after his or her own health?

Physical development

- Is the child's physical development normal for his or her age/stage of development, including fine motor skills and gross motor skills?

Nutrition

- Does the child have balanced, nutritious and regular meals?
- Is the child involved in the preparation of meals?
- Do meals reflect the child's cultural roots and practices e.g. eating with hands? If the child needs health care is this available?

Clothing

- Does the child have sufficient clothes that are weather and age appropriate?
- Is the child given opportunities to decide on what clothes to buy and wear?

Emotional development

- What is the child's general emotional state e.g. positive, unhappy, fearful?
- Are there any psychological difficulties evident?

- Where the child has experienced trauma/death of parents, what psycho-social support have they received?

4. DEVELOPMENTAL AREA: BELONGING

Safety:

- Is the child safe where he or she lives, at school and in his or her neighbourhood?
- Does the child feel safe in these environments?

Identity – personal and family:

- Does the child have a birth certificate, ID etc.?
- Does the child have memories and knowledge of personal and family origins, including family stories and personal articles?
- Does the child have space to keep his or her own things (especially children in residential care)?

Identify – cultural:

- Does the child know about his or her own cultural identity?
- Is the child comfortable with his or her cultural identity?
- Does he or she have opportunities to express their preferred cultural identity?

Identify – religious/spiritual:

- What is the child's religious/spiritual identity?
- Does the child feel comfortable with this identity?
- Does he or she have opportunities for practicing his or her preferred religious/spiritual identity?

Positive communication:

- Do the child and his or her carers listen to and talk to each other?
- Does the child seek help, advice, and guidance from his or her carer when needed?

Caring relationships:

- Is the child offered support from birth family members, personal carers and other significant adults?
- Does the child accept this support?
- What contact arrangements does the child have with birth family members, friends and significant others?

Carer support:

- Does the child receive personal time, physical care and encouragement from the carer?

Positive relationships with peers:

- Who are the child's friends? What kinds of things do they do together?
- Does the carer approve of these friendships?
- Do these friendships encourage positive or anti-social/destructive behaviour?

Boundaries for daily living:

- Does the child receive constant supervision and are his or her whereabouts monitored according to reasonable behaviour guidelines?
- What is the child's daily routine? Does it provide the necessary boundaries for daily living? For example, time for self-care, schooling/homework; chores; recreation; spiritual practices, etc.
- Does the child respect these boundaries?
- Does the child have role models that model positive behaviour and support for positive activities?

5. DEVELOPMENTAL AREA: MASTERY

Actively engaged in learning:

- Is the child involved in learning opportunities at school?
- How is the child progressing at school? (Attendance, educational attainment, results)
- What does the child most enjoy at school? What does he or she least enjoy?
- Does the child submit homework on time?
- Is the child involved in other activities to develop his or her life skills?

Supportive environments:

- Does the child have encouraging and nurturing relationships with teachers and activity leaders which stimulate his or her learning and skill achievements?

Carer's involvement in learning:

- Do carers actively support the child to succeed in school and with other learning opportunities at home or elsewhere? For example, attendance of school meetings; homework supervision/support; encouragement of reading.
- Do the child's carers encourage him or her to do his or her best at school, at work or in other activities? Have they offered him or her recognition for doing so?

Motivation to achieve:

- Does the child do his or her best to learn and master new life skills or realise personal goals?
- What does the child want for him- or herself in the future? What are his or her hopes and dreams, and how does he or she see him- or herself realising these?

Cultural competence:

- Does the child interact positively with children of different racial, ethnic and cultural backgrounds?

6. DEVELOPMENTAL AREA: INDEPENDENCE

Planning and decision-making:

- Does the child exercise positive planning, choose from a number of options when making decisions, and attempt to solve his or her problems?

Personal power:

- Does the child express his or her feelings in a way that takes account of others?
- Is he or she able to have a say over things that happen in his or her life?

Responsibility:

- Does the child demonstrate age appropriate self-care? This includes physical care (e.g. bathing, teeth brushing) and other life skills, such as cleaning up after themselves and preparation of meals.

- Is the child aware of what constitutes a healthy life-style? Is the child able to exercise self-control, or does he or she engage in reckless or impulsive activities including substance misuse?
- Does the child accept personal responsibility for his or her actions?

Activity programmes:

- Does the child participate in any structured community activities, hobbies, interests, clubs or societies?
- If not, what opportunities are there in the community for the child to participate in?

Positive view of personal future:

- Does the child demonstrate a positive view of his or her culture or spiritual identity?
- Does the child find the world interesting and enjoyable?
- Does the child believe that he or she has a place in the world?
- Does the child demonstrate optimism about the future?

7. DEVELOPMENTAL AREA: GENEROSITY

Service to others:

- What kinds of things does the child do for others without expecting reward or without being told to do so?
- Is the child engaged in specific opportunities to help others in his or her: Daily living environment? Neighbourhood? Wider community?

Peaceful conflict resolution:

- How does the child resolve conflicts? Is this done through compromise without physical aggression or resorting to hurtful action of language?

Caring:

- Does the child value helping others and considering the needs of others?

Honesty:

- Does the child understand the difference between truth and lies and is he or she truthful to the extent of his or her understanding? (Ages 3 – 5)
- Does the child show that he or she can tell the truth even when it is not easy? (12+)

Respect:

- Does the child show respect to others?

8. CONCLUSIONS, SOLUTIONS AND ACTIONS

Now the assessment is complete, conclusions, solutions and actions need to be recorded. This needs to be done together with the child or young person and their carer, and take into account their ideas, solutions and goals.

Developmental Area: Physical and emotional well-being

Strengths and resources:

Needs/worries:

Changes wanted (*desired outcome*):

Actions to effect change (*including who is responsible and the time-frame*):

Developmental Area: Belonging

Strengths and resources:

Needs/worries:

Changes wanted (*desired outcome*):

Actions to effect change (*including who is responsible and the time-frame*):

Developmental Area: Mastery

Strengths and resources:

Needs/worries:

Changes wanted (*desired outcome*):

Actions to effect change (*including who is responsible and the time-frame*):

Developmental Area: Independence

Strengths and resources:

Needs/worries:

Changes wanted (*desired outcome*):

Actions to effect change (*including who is responsible and the time-frame*):

Developmental Area: Generosity

Strengths and resources:

Needs/worries:

Changes wanted (*desired outcome*):

Actions to effect change (*including who is responsible and the time-frame*):

9. AGREED ACTIONS

This table provides a summary of the actions agreed on. It provides the basis for reviews of the developmental plan.

Desired outcome	Action	Who will do this?	By when?

ANNEXURE 3:

SAFETY ASSESSMENT TOOL



SOUTH AFRICAN

SAFETY ASSESSMENT TOOL

Note: Complete a separate assessment form for each child.

Name of organisation										Date of safety assessment									
										DD	MM	YYYY							
Referral Name																			
Family Name																			
Family Address																			
Name of the child assessed:										Child Birth Date									
										DD	MM	YYYY							
ID Number of child assessed:																			
	Names of other children assessed in the family										Date of birth								
1.											DD	MM	YYYY						
2.											DD	MM	YYYY						
3.											DD	MM	YYYY						

4.		DD	MM	YYYY
5.		DD	MM	YYYY
6.		DD	MM	YYYY

Any additional names? Yes No If yes, write names at the end of this form.

	Names of parent(s)/caregiver(s) assessed	ID number	Relationship to child(ren)	Contact details
1.				
2.				
3.				
4.				

NOTE

- The social worker has to explore and analyse information collected for all sections in the safety assessment tool to be able to make an informed decision regarding the safety of the child.
- Parent/caregiver: refer to definitions as described in manual.

SAFETY ASSESSMENT (Y = yes; N = no; S = suspected)

Y N S	SECTION 1: TYPE OF REPORTED /SUSPECTED MALTREATMENT (Tick all relevant types. Can be more than one)	
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	1. Physical abuse	
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	2. Sexual abuse	
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	3. Emotional abuse	
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	4. Child neglect	
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	5. Exploitation	
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	6. Inappropriate social, cultural and religious practices	
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	7. Abandonment/orphaned child/unaccompanied minor	
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	8. Street child	
	Documents/ evidence available on the following: <input type="checkbox"/> Child has been examined by a medical doctor <input type="checkbox"/> Child disclosed abuse <input type="checkbox"/> Report has been made to the SAPS	
Yes No	SECTION 2: CHILD VULNERABILITY (Tick all relevant types. Can be more than one)	
<input type="checkbox"/> <input type="checkbox"/>	1. <input type="checkbox"/> Age 0-6 years 2. <input type="checkbox"/> Reasoning capacity and insight 3. <input type="checkbox"/> Mental disabilities/disorder 4. <input type="checkbox"/> Physical disability or chronic illness 5. <input type="checkbox"/> Provocative/ challenging behaviour 6. <input type="checkbox"/> Non-assertive, passive or withdrawn	7. <input type="checkbox"/> Powerless and defenceless 8. <input type="checkbox"/> Isolated and invisible 9. <input type="checkbox"/> Inability to communicate 10. <input type="checkbox"/> Inability to meet basic needs 11. <input type="checkbox"/> Scapegoat/ blaming 12. <input type="checkbox"/> Accessibility by perpetrator and relationship with the child

Yes No	SECTION 3: SAFETY THREATS (Tick all relevant types. Can be more than one)
<input type="checkbox"/> <input type="checkbox"/>	1. Parent/caregiver caused serious physical harm to the child or threatened to cause serious physical harm in the current investigation, as indicated by:
	<input type="checkbox"/> Serious injury or abuse to the child, other than accidental
	<input type="checkbox"/> Parent/caregiver expresses fears that he or she will maltreat the child
	<input type="checkbox"/> Parent/caregiver shows a lack of self-control
	<input type="checkbox"/> Parent/caregiver threatens to cause harm or retaliate against the child
	<input type="checkbox"/> Parent/caregiver uses excessive discipline or physical force towards the child
	<input type="checkbox"/> The child is a drug-exposed infant
	<input type="checkbox"/> Domestic animal abuse is evident
<input type="checkbox"/> <input type="checkbox"/>	2. Parent/caregiver does not protect child from serious harm or threatened harm by other adults or children in the home. This may include physical, emotional or sexual abuse or neglect.
<input type="checkbox"/> <input type="checkbox"/>	3. Parent/caregiver's explanation for the injury to the child is questionable or does not correlate with the type of injury, and the nature of the injury suggests that the child's safety may be imminent concern.
<input type="checkbox"/> <input type="checkbox"/>	4. Parent/caregiver fails to meet the child's basic needs for supervision, food, clothing, medical, dental or mental health care.
<input type="checkbox"/> <input type="checkbox"/>	5. Parent/caregiver currently abuses alcohol, drugs or substances, which seriously impairs his or her ability to supervise, protect or care for the child.
<input type="checkbox"/> <input type="checkbox"/>	6. Parent/caregiver views the child or acts towards the child in a predominantly negative way, which results in the child being a danger to self or others, for example acting aggressively or being extremely withdrawn and/or suicidal.
<input type="checkbox"/> <input type="checkbox"/>	7. Parent/caregiver's emotional, developmental or cognitive status seriously impairs his or her current ability to supervise, protect, or care for the child.
<input type="checkbox"/> <input type="checkbox"/>	8. Parent/caregiver has a distorted perception of the behaviour/needs of a child.
<input type="checkbox"/> <input type="checkbox"/>	9. Current circumstance, combined with information suggesting a parent/caregiver's history of previous maltreatment of the child in his care, suggests that the child's safety may be of immediate concern.
<input type="checkbox"/> <input type="checkbox"/>	10. Child sexual abuse is suspected and the circumstances indicate that the child's safety may be of immediate concern.
<input type="checkbox"/> <input type="checkbox"/>	11. The family refuses access to the child or there is reason to believe that the family is about to flee.
<input type="checkbox"/> <input type="checkbox"/>	12. The physical living conditions and/or the immediate community are hazardous and immediately threatening to the health and/or safety of the child, and the parent/caregiver is unable or unwilling to protect the child in these circumstances.
	Note: When identifying safety interventions, indicate how any immediate threat will be addressed.

<input type="checkbox"/>	<input type="checkbox"/>	13. Partner/adult conflict/violence exists in the home, which places the child at risk of serious physical and/or emotional harm or neglect.		
<input type="checkbox"/>	<input type="checkbox"/>	14. The child is fearful of the parent/caregiver, other family members or other people living in or having access to the family home.		
<input type="checkbox"/>	<input type="checkbox"/>	15. Other (specify):		
		SECTION 4: PROTECTIVE CAPACITIES		
		(If no safety threats are present, skip to section 6)		
		Mark all that apply		
Yes	No			
		Child:		
<input type="checkbox"/>	<input type="checkbox"/>	1. Child has the cognitive, physical, and emotional capacity to participate in safety interventions.		
		Parent/caregiver:		
		Name of parent(s)/caregiver(s) responsible for safety of child:	Relationship to the child:	ID number:
1.				
2.				
3.				
<input type="checkbox"/>	<input type="checkbox"/>	2. At least one parent/caregiver in the home is willing and able to take action to protect the child. If yes, specify who:		
<input type="checkbox"/>	<input type="checkbox"/>	3. At least one parent/caregiver has the cognitive, physical, and emotional capacity to participate in safety interventions. If yes, specify parent/caregiver:		
<input type="checkbox"/>	<input type="checkbox"/>	4. At least one parent/caregiver has a willingness to recognise and to deal with problems and threats placing the child in imminent danger. If yes, specify parent/caregiver:		
<input type="checkbox"/>	<input type="checkbox"/>	5. At least one parent/caregiver has the ability to access and use resources to provide necessary safety interventions. If yes, specify parent/caregiver:		

<input type="checkbox"/> <input type="checkbox"/>	6. At least one parent/caregiver has supportive relationships with one or more persons who iswilling to participate in safety planning, AND the parent/caregiver is willing and able to accept their assistance. If yes, specify parent/caregiver:
<input type="checkbox"/> <input type="checkbox"/>	7. At least one parent/caregiver is willing to accept the involvement of the worker and/or other community agencies. If yes, specify parent/caregiver:
<input type="checkbox"/> <input type="checkbox"/>	8. There is evidence of a healthy relationship between at least one parent/caregiver and child. If yes, specify parent/caregiver:
<input type="checkbox"/> <input type="checkbox"/>	9. At least one parent/caregiver is aware of and committed to meeting the needs of the child. If yes, specify parent/caregiver:
<input type="checkbox"/> <input type="checkbox"/>	10. At least one parent/caregiver has history of effective problem solving. If yes, specify parent/caregiver:
	11. Other
<p>SECTION 5: SAFETY INTERVENTIONS</p> <ul style="list-style-type: none"> • If no safety threats are present, skip to section 6. • If one or more safety threats are present, consider whether safety interventions 1-8 will allow the child to remain in the present home. In this case, check the item number for all safety interventions that will be implemented. • If there are no safety interventions that will allow the child to remain in the home, consider item 9. • If interventions 1–9 do not adequately ensure the child’s safety, continue to item 10. <p>ATTACH THE SAFETY PLAN WHICH PROVIDES DETAILS OF THE SELECTED INTERVENTION(S) FOR THE SAFETY OF THE CHILD, AS DESCRIBED BELOW.</p> <p>Mark all that apply:</p>	
	<input type="checkbox"/> 1. Direct service intervention by child protection worker <input type="checkbox"/> 2. Use of extended family, neighbours, community elders, or other individuals in the community as resources to ensure the child’s safety. <input type="checkbox"/> 3. The use of community agencies or services as safety resources. <input type="checkbox"/> 4. Parent/caregiver with protective capacities appropriately protects child from the alleged

	<p>perpetrator or irresponsible parent/caregiver.</p> <p><input type="checkbox"/> 5. Alleged perpetrator leaves the home, either voluntarily or in response to the consideration of legal action.</p> <p><input type="checkbox"/> 6. Non-offending parent/caregiver moves to a safe environment with the child.</p> <p><input type="checkbox"/> 7. Legal intervention is planned or initiated with the aim of keeping the child in the family home.</p> <p><input type="checkbox"/> 8. Other (specify)</p>
	<p><input type="checkbox"/> 9. Parent/caregiver voluntarily agrees to place the child outside the home.</p>
	<p><input type="checkbox"/> 10. Child placed in protective custody because interventions 1-9 do not adequately ensure the child's safety.</p>

	<p>SECTION 6: SAFETY DECISION</p> <p>Indicate whether a child is safe by checking the conclusion that accurately reflects this statement:</p>
	<p>CONDITIONS FOR JUDGEMENT ON SAFETY ASSESSMENT</p> <p>A worker should indicate a safety threat only under the following conditions by indicating yes or no:</p>
Yes No	
<input type="checkbox"/> <input type="checkbox"/>	<p>1. The behaviour, family condition or situation is out of control – there is nothing internal to the family to control the threat.</p>
<input type="checkbox"/> <input type="checkbox"/>	<p>2. The behaviour, family condition or situation is specific, can be observed, can be described – this is not intuitive or an interpretation.</p>

<input type="checkbox"/>	<input type="checkbox"/>	3. The behaviour, family condition or situation could result in severe harm to a vulnerable child.
<input type="checkbox"/>	<input type="checkbox"/>	4. The behaviour, family condition or situation as a threat to safety either is active or could become active at any time.
<input type="checkbox"/>	<input type="checkbox"/>	5. Parents/caregivers do not possess or do not actively employ protective capacities sufficient to control the threat – they do not, will not or cannot protect their children.
<input type="checkbox"/>	<input type="checkbox"/>	6. Sufficient information has been collected and analysed to support the identification of a safety threat; sufficient information provides a basis for bringing into question whether a s can or will protect a child from the threat.
<p>The safety decision-making process is concerned with reaching a conclusion about a child’s safety in his or her home. Judgement on whether people other than the parent(s)/caregiver(s) can protect a child is concerned with safety planning, not safety assessment. The final decision of the safety assessment is the conclusion about the status of a child’s safety within his or her home, or related to the presence of threats and the parents’/caregivers’ protective capacities.</p> <p>Identify the safety decision by indicating the appropriate category below. The decision should be based on the assessment of all safety threats, protective capacities, safety interventions, and any other information known about the case.</p>		
<input type="checkbox"/>	1. Safe	<p>No safety threats are identified at this time. Based on currently available information, there are no children likely to be in immediate danger of serious harm.</p> <p>The decision can be made to either close the case or refer to other services.</p>
<input type="checkbox"/>	2. Safe: Threats are present, but child is not vulnerable according to Section 2 of this tool.	<p>One or more safety threats are present, but the child is not vulnerable in the context of this safety assessment. Protective safety interventions have been planned or taken that immediately mitigate the identified safety threats. Based on protective interventions, the child will remain in the home at this time, for as long as the safety interventions mitigate the danger.</p> <p>SAFETY PLAN IS REQUIRED FOR THE CHILD TO REMAIN IN THE HOME. ATTACH SAFETY PLAN TO REPORT.</p>

<input type="checkbox"/>	3. Safe: Presence of threats with vulnerable child, but sufficient protective capacities exist	<p>One or more safety threats are present, the child is vulnerable, but protective capacities exist. Protecting safety interventions have been planned or taken that immediately mitigate the identified safety threats. Based on protecting interventions, child will remain in the home at this time, for as long as the safety interventions mitigate the danger.</p> <p>SAFETY PLAN IS REQUIRED FOR THE CHILD TO REMAIN IN THE HOME. ATTACH SAFETY PLAN TO REPORT.</p>
<input type="checkbox"/>	4. Unsafe	<p>One or more safety threats are present, the child is vulnerable and protective capacities are insufficient. Placement in alternative care is the only protecting intervention possible for one or more children. Without placement, one or more children will likely be in danger of immediate or serious harm.</p>
<p>Yes No</p> <input type="checkbox"/> <input type="checkbox"/>	<p>All children involved have been assessed.</p> <hr/> <p>Children assessed – refer to page 1</p>	

Completed by:	Surname/ name:	
	Signature:	
	Date:	
Supervisor's review/approval of social worker judgement:	Surname / name:	Stamp of organisation
	Signature:	

	Date:	

ANNEXURE 4:

RISK ASSESSMENT TOOL



SOUTH AFRICAN

ACTUARIAL RISK ASSESSMENT TOOL

Note: Complete a separate assessment form for each family.

Name of organisation		Date of safety assessment		
		DD	MM	YYYY
Family Name				
Parent/ Caregiver	Name(s)	ID number(s)		
Family Address				
	Names of children in the family	Date of birth		
1.		DD	MM	YYYY
2.		DD	MM	YYYY
3.		DD	MM	YYYY

4.		DD	MM	YYYY
5.		DD	MM	YYYY
6.		DD	MM	YYYY

Source(s) of information:

NOTE

- **The social worker completes the scoring of the assessment tool as follows:**
 - Start to complete the category of maltreatment or suspected maltreatment (either abuse, neglect or exploitation) that was the reason for reporting the case
 - Then complete the other two categories separately
 - Score all three categories of maltreatment
 - Consider overriding conditions as indicated in the tool
 - Formulate a final professional judgement as indicated in the tool.
- **Parent/caregiver: refer to definitions as described in manual.**

ABUSE		S	NEGLECT		S	EXPLOITATION		S
A1	Current report is for abuse		N1	Current report is for neglect		E1	Current report is for exploitation	
	a. No	0		a. No	0		a. No	0
	b. Yes	1		b. Yes	1		b. Yes	1
A2	Number of previous child protection investigations		N2	Number of previous child protection investigations		E2	Number of previous child protection investigations	
	a. None	0		a. None	0		a. None	0
	b. One	1		b. One	1		b. One	1
	c. Two	2		c. Two	2		c. Two	2
	d. Three or more (number: ___)	3		d. Three or more (number: ___)	3		d. Three or more (number: ___)	3
A3	Family previously received CPS		N3	Family previously received CPS		E3	Family previously received CPS	
	a. No	0		a. No	0		a. No	0
	b. Yes	1		b. Yes	1		b. Yes	1
A4	Number of children abused		N4	Number of children neglected		E4	Number of children exploited	
	a. None	0		a. None	0		a. None	0
	b. One or more	2		b. One or more	1		b. One or more	2
A5	Age of youngest child in the home		N5	Age of youngest child in the home		E5	Age of youngest child exploited	
	a. Two or older	0		a. Two or older	0		a. Two or older	0
	b. Under two	1		b. Under two	1		b. Under two	1
A6	Characteristics of the child(ren) (max. score = 3)		N6	Characteristics of the child(ren) (max. score = 3)		E6	The child is involved in the following activities (max score = 10)	
	a. None of the below	0		a. None of the below	0		a. None of the below	0
	b. Criminal or acting out behaviour	1		b. Medically fragile/ failure to thrive	1		b. Child labour	1
							c. Sexual exploitation	1

	c. Developmental or physical disability	1		c. Developmental or physical disability	1		d. Child trafficking	1	
	d. Mental health/behavioural problem	1		d. Foetal alcohol syndrome	1		e. Illegal adoption	1	
	e. Significant behaviour that is not developmentally related	1					f. Forced marriage	1	
							g. Removal of body parts	1	
							h. Commissioned offences	1	
							i. The child is an:		
							- Unaccompanied minor	2	
							- Foreign child	1	
A7	Prior injury to a child resulting from child abuse		N7	Parent/caregiver provides physical and/or emotional care inconsistent with child's needs		E7	Parent/caregiver's response to exploitation (max. score = 3)		
	a. No	0		a. No	0		a. Not applicable	0	
	b. Yes	1		b. Yes	1		b. Blames the child	1	
	c. Suspected	1					c. Justifies the situation	2	
							d. Denies the situation	2	
A8	Parent/caregiver's response to abusive incident (max. score = 3)		N8	Parent/caregiver has a past or current mental health problem					
	a. Appropriate response	0		a. No	0				
	b. Blames child for symptoms	1		b. Yes	1				
	c. Denies knowledge of symptoms	2							
	d. Justifies abuse of child	2							
	e. Does not acknowledge abuse; hides the abuse	2							

A9	Domestic violence in the home in the past			N9	Parent/caregiver has past or current substance problem (max. score = 2)						
	a. No	0			a. No	0					
	b. Yes	2			b. Alcohol (current or past)	1					
	Number of incidents: —				c. Drugs (current or past)	1					
A10	Characteristics of the parent/caregiver (max. score = 3)			N10	Housing of parent/caregiver (max. score 2)						
	a. None of the characteristics below is present	0			a. Physically safe	0					
	b. Provides insufficient emotional support	1			b. Physically unsafe	1					
	c. Employs excessive / inappropriate discipline	1			c. Homeless at time of investigation	2					
	d. Employs overly controlling/abusive/restrictive/unfair behaviour towards child	1									
A11	Parent/caregiver has a history of abuse/neglect as a child										
	a. No	0									
	b. Yes	1									
A12	One or both parent(s)/caregiver(s) has past or current substance problem										
	a. No	0									
	b. Yes	1									

TOTAL ABUSE RISK SCORE: Maximum = 22				TOTAL NEGLECT SCORE: Maximum = 16				TOTAL EXPLOITATION SCORE: Maximum = 21			
--	--	--	--	---	--	--	--	--	--	--	--

SCORED RISK LEVEL

Assign the family's scored risk level based on the **highest** score on the neglect, abuse or exploitation indexes, using the following as a measure:

Abuse score	Neglect score	Exploitation score	Scored risk level
<input type="checkbox"/> 0-1	<input type="checkbox"/> 0-1	<input type="checkbox"/> 0-1	Low
<input type="checkbox"/> 2-5	<input type="checkbox"/> 2-5	<input type="checkbox"/> 2-5	Moderate
<input type="checkbox"/> 6-8	<input type="checkbox"/> 6-8	<input type="checkbox"/> 6-8	High
<input type="checkbox"/> 9+	<input type="checkbox"/> 9+	<input type="checkbox"/> 9+	Very high

Indicate final risk level:

Scored risk level	Scored risk level	Scored risk level
<input type="checkbox"/> Low	<input type="checkbox"/> Low	<input type="checkbox"/> Low
<input type="checkbox"/> Moderate	<input type="checkbox"/> Moderate	<input type="checkbox"/> Moderate
<input type="checkbox"/> High	<input type="checkbox"/> High	<input type="checkbox"/> High
<input type="checkbox"/> Very high	<input type="checkbox"/> Very high	<input type="checkbox"/> Very high

OVERRIDING CONDITIONS Tick 'yes' if a condition indicated below is applicable in this case. If any condition is applicable, override scored risk levels of 'low', 'moderate' and 'high' to a final risk level of very high. 'Very high' indicates that immediate further action is needed.

<input type="checkbox"/> Yes	<input type="checkbox"/> No	A sexual abuse case AND the perpetrator is likely to have access to the child victim
<input type="checkbox"/> Yes	<input type="checkbox"/> No	Non-accidental injury to a child under the age of two
<input type="checkbox"/> Yes	<input type="checkbox"/> No	Severe non-accidental injury to any child
<input type="checkbox"/> Yes	<input type="checkbox"/> No	Parent(s)/caregiver(s) action or failure to take action has resulted in the death of a child due to abuse or neglect (previous or current) and still have other children in their care
<input type="checkbox"/> Yes	<input type="checkbox"/> No	A suspicion of child trafficking

PROFESSIONAL JUDGEMENT BY THE SOCIAL WORKER. If, in the social worker's judgment, the perceived risk level may be

higher than that indicated on the scored risk level, then he or she may adapt the score to one level higher.

Indicate whether a scored risk level has been adapted and substantiate your decision.

Yes

No

Indicate the changed risk level: Moderate High Very high

Motivation: _____

Completed by:	Surname/name:	
	Signature:	
	Date:	
Supervisor's review/approval of social worker judgement:	Surname/name:	Stamp of organisation
	Signature:	
	Date:	

ANNEXURE 5:

COVER PAGE FOR THE CHILDREN’S COURT REPORT

Provincial/DCPO Logo

Name of Service Point/District Office/DCPO:

REPORT BY A DESIGNATED SOCIAL WORKER TO BE CONSIDERED BY THE CHILDREN’S COURT

DSD file number		DCPO File number	Court File Number
Type of report	Purpose of report	✓ Tick	
Section 155(2)	Bringing a child before the children’s court for a decision on whether the child is in need of care or not.		
Section 159	Extension of court order		
Section 170	Child absconding from alternative care		
Section 171 (6)	Transfer of a child from the care of a person to a child and youth care centre		
	Transfer of a child from the care of a child and youth care centre to a secure care or more restrictive child and youth care centre.		
Section 239(1)(b)	Application for an adoption order		

Professional report by

Surname:

Full names:

Qualifications:

SACSSP registration number:

Office Postal Address:

Telephone number:

Date:

Signature:

This report has been verified for proficiency and compliance with Regulation 55 and/or relevant prescriptions of the Children’s Act 38 of 2005.

Countersigned by the Supervisor.

Details of the supervisor:

Surname:

Full names:

Qualifications:

SACSSP registration number:

Telephone number:

Date:

Signature:

ANNEXURE 6:

AUDIT FORM: MANAGEMENT OF STATUTORY SERVICES IN TERMS OF THE CHILDREN'S ACT

(The purpose of this form is to monitor, investigate, verify and scrutinise the statutory services in terms of the Children's Act)

<p>For office use</p> <p>Details of the case audit team</p> <p>Name and surname of the audit team leader:</p> <p>Date of audit:</p> <p>Signature:</p> <p>Name and surname of the case audit team member :</p> <p>Date of audit:</p> <p>Signature:</p>
<p>Details of the organisation</p> <p>Name of the organisation:</p> <p>Address:</p> <p>Telephone number:</p> <p>Fax Number:</p> <p>E-mail address:</p>
<p>Details of the case manager</p> <p>Name and surname:</p> <p>Post number:</p> <p>Name and address of service office:</p> <p>File number:</p>
<p>Details of supervisor</p> <p>Name and surname:</p> <p>Name and address of service office:</p>

SECTION 1: ORGANISATIONAL STATUTORY CASE MANAGEMENT AUDIT CHECKLIST

1=Poor(below expected outcome)

2=Average (satisfactory with minor improvement necessary)

3=Good (satisfactory)

PART A: ADMINISTRATION

Function	Rating (tick)			Recommendation
	1	2	3	
1. Organisational case filing system				
2. Organisational case archiving system				
3. Organisational case management system (including information management system, registers, registries and management of records)				
4. Organisational case-flow management system (processes from reception, intake, assessment, referral, intervention and termination)				
5. Documentation:				
5.1. Organisational business plan (for the current year)				
5.2. Organisational structure vs demand for services vs caseloads				
5.3. Organisational strategic plan				
5.4. Organisational annual report (including reporting mechanisms)				
5.5. Statutory Social Work Component annual plans				
5.6. Case managers' individual workplans				
5.7. Case managers' annual reports				
5.8. Records of staff meetings				

PART B: SUPPORT FOR CASE MANAGERS

Function	Rating (tick)			Recommendation
	1	2	3	
6. Availability of social auxiliary workers				
7. Availability of administrative staff				
8. Availability of supervisors				
9. Volunteers				
10. Staff ratios in relation to norms and standards				
10.1. Social worker: supervisor ratio				
10.2. Social worker: caseload ratio				
11. Availability of resources				
11.1. Computers				
11.2. Telephone/cellphone				
11.3. E-mail				
11.4. Internet				
11.5. Office space				
11.6. Office furniture				
11.7. Access to information (books, journals, dictionaries etc.)				
11.8. Stationery				
11.9. Orientation and induction of new staff				

PART C: TRAINING AND CAPACITY BUILDING

Function	Rating (tick)			Recommendation
	1	2	3	
12. In-service training (including workshops, conferences, non-certificate training)				
13. Individual supervision				

Function	Rating (tick)			Recommendation
	1	2	3	
14. Group supervision (group supervision intended for capacity building)				
15. Specialised professional training (including short courses, certificates, degrees)				
16. Capacity building on organisational policies, guidelines, protocols etc.				

PART D: POLICIES RELEVANT TO STATUTORY CASE MANAGEMENT

Function	Rating (tick)			Recommendation
	1	2	3	
17. Availability of statutory documents including Acts, policies, guidelines, protocols, etc.				
18. Disciplinary policy (including policy on professional misconduct)				
19. Orientation and induction policy				

Remarks and recommendation:

--

SECTION 2: STATUTORY CASE AUDIT CHECKLIST

1=Poor

2=Average

3=Good

PART A: ADMINISTRATION

Function	Rating (tick)			Recommendation
	1	2	3	
1. Record-keeping				
1.1 Intake form available and fully completed.				
1.2 Process notes.				
1.3 Supervision reports/notes.				
1.4 Progress reports (only if file has been opened for more than 12 months)				
1.5 Closing report (only if file is closed or pended)				
1.6 Filing: documents organised and filed properly (sub-files for reports, documents, court documents and supervision reports/notes; filing from the back of the file with the most recent documents at the top)				
1.7 Documentation: relevant life documents available(copies of ID, birth certificates, death certificates, medical reports, marriage certificates etc)				

Function	Rating (tick)			Recommendation
	1	2	3	
1.8 Official statutory documentation:				
a. Minutes of court proceedings				
b. Court order/s				
c. Extension order/s				
d. Administrative order/s.				
e. Children's court report/s				
f. Report/s for the movement of the child.				
g. Affidavits				
h. Application forms				
i. Consent forms				
j. RACAP registration form ⁴⁹				
k. Letter in terms of section 239 (1)				
l. CPR and SOR clearance certificate ⁵⁰				
2. Statistics				
2.1. Case manager's diary updated				
2.2. Case manager's monthly stats submitted.				

PART B INTERVENTION

Function	Rating (tick)			Recommendation
	1	2	3	
3. PROCEDURAL INTERVENTION (adherence to correct procedures and processes)				
3.1. Intake process followed				
3.2. Initial assessment of the child and family done				

⁴⁹ RACAP (Register on Adoptable Children and Prospective Adoptive Parents)

⁵⁰ CPR (Child Protection Register)

SOR (Sexual Offenders Register)

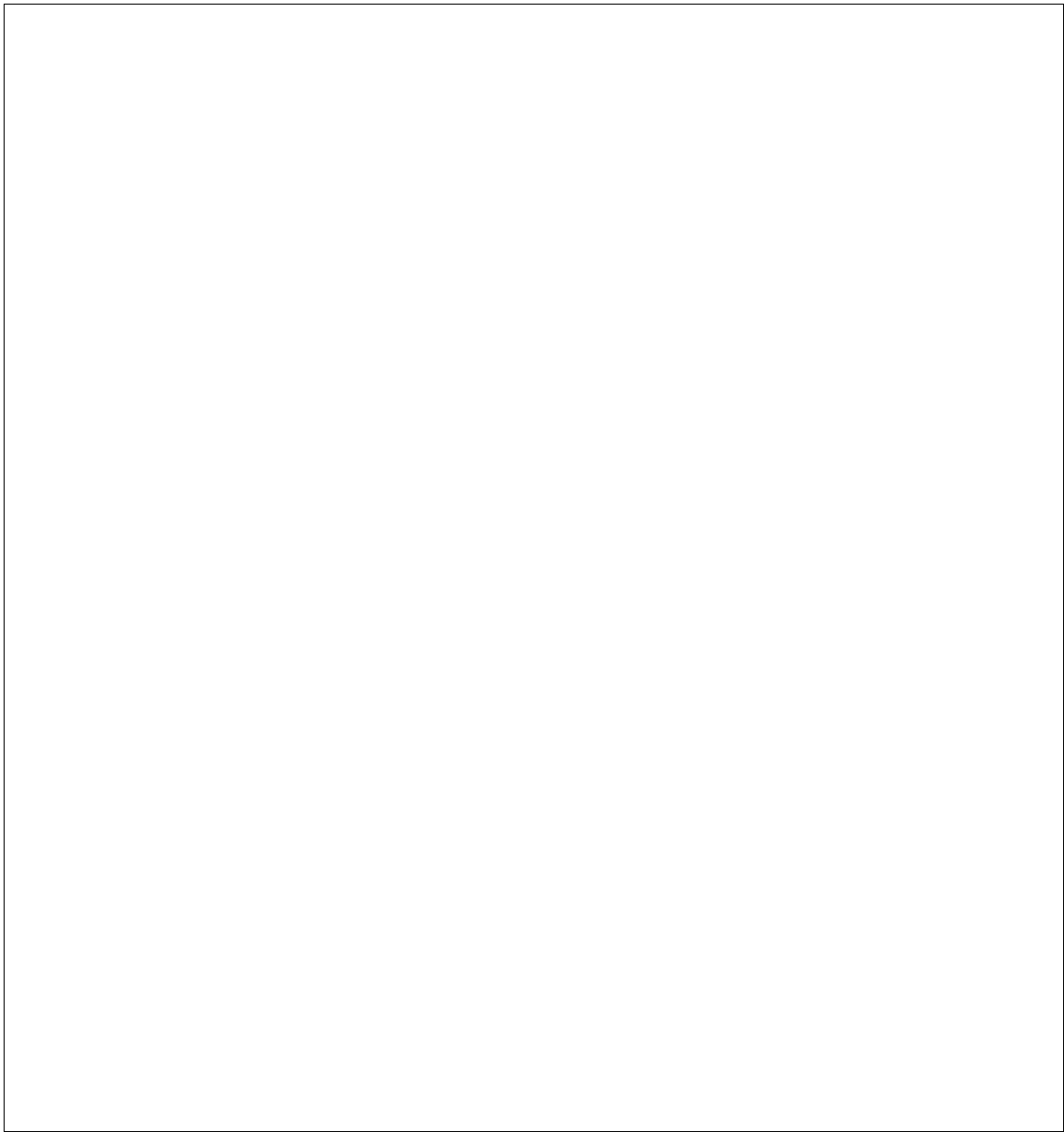
Function	Rating (tick)			Recommendation
	1	2	3	
3.3. Consultation:				
3.3.1. Office interviews				
3.3.2. Home visits (including visits to school, church, prison, workplace, clinic etc)				
3.3.3. Other forms of contact (telephone, e-mail, sms, etc)				
3.4. Pre-statutory services (including assessment, information gathering, requests for consent to adoption, placement of advertisements, RACAP registration, section 239 (1) letter, CPR and SOR clearance, family preservation services, report writing, requests for services from other professionals etc)				
3.5. Court preparation (for the child and family where applicable)				
3.6. Attendance of court proceedings				
3.7. Placement of the child				
4. THERAPEUTIC INTERVENTION				
4.1. Holistic assessment of the child				
4.2. Individual development plan (IDP)				
4.3. Care plan				
4.4. Permanency plan				
4.5. Individual therapy and counselling				
4.6. Group therapy				
4.7. Multi-disciplinary team discussions/meetings.				
4.8. Case conference (case discussions with the Social				

Function	Rating (tick)			Recommendation
	1	2	3	
Work discipline)				
4.9. Family reunification				
4.10. Handover and archiving of files				
4.11. Referral for further services				
4.12. Termination (only for cases where services were terminated)				
4.13. After care (only for cases where services were terminated)				

PART C: CASE MANAGEMENT

Function	Rating (tick)			Recommendation
	1	2	3	
5. Compliance with legislation				
6. Supervision/ consultation:				
6.1. Individual supervision				
6.2. Group supervision (Staff meetings should not be included here, only social work group supervision of cases, including case discussions)				
6.3. Supervision files and supervision reports/notes				

Remarks and recommendations



ANNEXURE 7:

ADOPTION RECOMMENDATION LETTER

Logo of the Provincial Department of Social Development

File number:

Enquiries:

THE PRESIDING OFFICER

NAME & ADDRESS OF CHILDREN'S COURT

XXXXXX

XXXXXXXX

Sir/Madam

RECOMMENDATION OF AN ADOPTION APPLICATION IN TERMS OF SECTION 239 (1) (d) OF THE CHILDREN'S ACT 38 OF 2005.

An adoption application in respect of the adoptable child by the prospective adoptive parent/s below has been received by this office and is supported:

Details of the adoptable child

Surname:

Full names:

Gender:

Date of birth:

Details of prospective adoptive parent/s

Parent 1

Parent 2

Surname:

Surname:

Full names:

Full names:

Gender:

Gender:

Identity number:

Identity number:

The adoption application is recommended due to the following:

- The child is adoptable and the adoption is in his /her best interest.
- The prospective adoptive parent(s) is/are suitable and can be entrusted with full parental responsibilities and rights in respect of the child.
- The names of the child and the prospective adoptive parent(s) are registered on the Register on Adoptable Children and Prospective Adoptive Parents (RACAP).

Thanking you in advance for your co-operation.

PROVINCIAL HEAD OF SOCIAL DEVELOPMENT

DATE:

ANNEXURE 8

REPORT FOR EXTENSION OF ALTERNATIVE CARE ORDER IN TERMS OF SECTION 159



social development

Department:
Social Development
REPUBLIC OF SOUTH AFRICA

(INCLUDE COVER PAGE & DETAILS OF CARE GIVERS)

**REPORT FOR EXTENSION OF ALTERNATIVE CARE ORDER IN TERMS OF SECTION 159
OF THE CHILDREN'S ACT 38 OF 2005 AS AMENDED**

1. IDENTIFYING DETAILS OF THE CAREGIVER

a) Foster care

Name and surname	ID number	Address

b) Child and youth care centre

Name of the child and youth care centre	Address

1.1. Dependent child(ren) of the foster parent(s)

Full name(s)	Gender	Date of birth/identity number

1.2. Other persons living with the foster family

Full name(s)	Gender	Date of birth/identity number

1.3. Children in alternative care

Names of child(ren)	DOB	Gender	Name of the School/Partial care	Grade/ECD

1.4. Full residential address of the alternative caregiver

1.5. Details of designated organisation:

Name of the organisation (DSD/CPO/Other dept): _____

Reference number: _____

Magisterial district: _____

Court reference Number: _____

2. INTRODUCTION (Describe the reasons for finding the child(ren) in need of care, previous statutory interventions of the child(ren) in alternative care and duration of the current placement)

3. PRESENT CIRCUMSTANCES OF THE CAREGIVER

3.1. Foster care (Provide information on the work and finances, religious, social, physical, psychological aspects circumstances of the foster parents' own children and family relationships in the foster family, with special reference to the foster children)

3.2 CHILD AND YOUTH CARE CENTRES (Describe the programmes provided)

4. VIEWS OF THE CAREGIVER REGARDING THE CHILD(REN) IN ALTERNATIVE CARE (Reflect emotions, feelings, preferences, personal needs and any other relevant observations)

4.1. Support and services that were provided to the caregivers (Indicate the type of support and services provided to the caregivers whilst the child was still in alternative care)

Date	With whom	Types of services and support

5. VIEWS OF THE CHILD(REN) CONCERNED (Reflect emotions, feelings, preferences, personal needs and any other relevant observations by child(ren))

5.1. Services and support rendered to the children in alternative care(As indicated in the care plan)

Date	With whom	Types of services and support

5.2. Progress made by the child(ren) since the placement

5.3. Do the reasons for the removal of the child(ren) still exist?

5.4. Educator / ECD practitioner's impressions of the concerned child(ren) progress and adjustment (Provide a school report, interviews conducted with teachers/ principal)

6. VIEWS OF THE PARENT(S)/FAMILY MEMBER (Reflect emotions, feelings, preferences, personal needs and any other relevant observations)

6.1. Contact between caregiver, parent(s)/ family member and the concerned child(ren) (Frequency, nature of interaction)

6.2. Support and services provided to the parents.

Date	With whom	Types of support and services

6.3 If the parents are deceased, was the possibility of adoption discussed and considered? (Give reasons for not considering the option)

7. RESULTS ACHIEVED THROUGH SERVICE RENDERING

8. EVALUATION

9. CARE PLAN (attach reviewed care plan)

Short-term

Long-term

10. CONCLUSION

11. RECOMMENDATION

SOCIAL WORKER: _____

RANK: _____

DATE: _____

ORGANISATION:

Name: _____

Address: _____

Reference Number: _____

ANNEXURE 8A

SECTION 159(1): EXTENSION OF DURATION OF A FOSTER CARE ORDER IN TERMS OF THE CHILDREN’S ACT, 2005.

(Attach provincial logo)

DSD file no:
DCPO/Org file no
Children’s Court ref no:

NOTE:

- A separate form must be issued for each child.
- This extension order is not a transfer order and must be issued separately from a transfer order in terms of section 171 of the Children’s Act 38 of 2005.

In terms of the judgement of the North Gauteng High Court in the matter of the Centre for Child Law, the Minister of Social Development and Others on 10 May 2011, the Members of the Executive Council for Social Development in the provinces have been ordered to direct social workers to extend foster care orders administratively following the procedure that was previously provided for in terms of the Child Care Act, 74 of 1983. Accordingly, it is hereby ordered that the validity of the court order issued by _____ on _____ or extension thereof dated _____, by which

NAME OF THE CHILD _____ ID NO/DATE OF BIRTH _____

was placed in the care of: _____

NAME(S) OF FOSTER PARENT(S) _____ ID NO _____

under supervision of _____ is hereby extended to _____ or until the child is lawfully transferred or discharged.

Take note that the child mentioned above turns 18 years old on _____

Your return date for submission of the *Section 159(1)/Section 186(1)(c) of the Children’s Act 38 of 2005 report/ Section 176(2) of the Children’s Act 38 of 2005 application is _____.

Given at _____ on _____

SIGNATURE OF DESIGNATED OFFICIAL _____ RANK _____

DATE: _____



*Delete whichever is not applicable

CONTACT DETAILS OF THE FOSTER PARENT(S)

Tel no: _____ Cell no: _____

Physical Address:

Postal Address:

ATTACHED DOCUMENTS: (Tick next to the attached documents)

- Certified copy of the foster parent's ID book.
- Certified copy of the child's birth certificate/ID.

TYPE OF FOSTER CARE PLACEMENT (Tick where applicable)

- Related foster care placement.
- Unrelated foster care placement.

ANNEXURE 9

APPLICATION FOR A CHILD IN ALTERNATIVE CARE TO LEAVE THE REPUBLIC

File number: _____

Court ref no: _____

1. Particulars of the child in alternative care in respect of whom approval is sought

Full name of the child concerned	
Date of birth	
ID number	
Name of school and grade	

2. Particulars of caregiver (Temporary safe, foster parent or manager of a child and youth care centre)

Name of caregiver	
Identity number	
Employment	
Address	
Telephone number	
Cell phone number	

3. Details regarding child's parent(s)/guardian(s)

Name(s) of biological parents	Biological mother	Biological father
Identity number		
Employment		
Address		
Telephone number		
Cell phone number		

4. Reasons for application for consent to remove child from the Republic

5. Provide details of the period of absence from the Republic of South Africa

Date of departure from RSA	
Date of arrival in the destination country	
Date of departure from the destination country	
Date of arrival in RSA	

6. Stipulate the means of travelling (e.g. car, bus, aeroplane)

7. Details of an authorised person in whose care the child will be during the period specified above

Name and surname	
Relationship (e.g. foster parent, manager of sports team)	
ID number	
Physical address	
Contact numbers	

8. Addresses where the child will reside during the visit (Please attach the itinerary)

Date	Address

ANNEXURE 10

APPROVAL FOR A CHILD IN ALTERNATIVE CARE TO LEAVE THE REPUBLIC

9. Recommendation

It is recommended/not recommended that approval be granted in terms of Section 169 of the Children's Act 38 of 2005 to _____

born _____ to leave the Republic from _____

to _____.

Attach the following documents:

Written consent from the biological parent(s). If they are untraceable, provide a social worker's affidavit. If the parent(s) are mentally incapable to give consent, attach a doctor's letter confirming the mental status of the parent(s).

Itinerary

Signatures

Designated social worker:	Supervisor:
Date:	Date:

PLEASE NOTE: Within a month of the child's return, a designated social worker must compile a short report for submission to the Department of Social Development's Statutory Services Unit within your area. The report must indicate that the child is returned to the Republic of South Africa.

For Departmental use only

The Head of Department

Department of Social Development

(INSERT THE POSTAL ADDRESS OF YOUR RESPECTIVE PROVINCE)

ANNEXURE 11

APPROVAL FOR TRANSFER OF A CHILD IN ALTERNATIVE CARE

(REGULATION 62(1))

(SECTION 171(1)) OF CHILDREN'S ACT 38 OF 2005)

By virtue of the powers vested in the HOD of Social Development and delegated to the undersigned in terms of section 171 of the Children's Act, 38 of 2005 as amended, it is hereby ordered in terms of section 171 of the said Act that: the under-mentioned child(ren) who was/were placed in the custody of

Under the supervision of:

By a court order or extension order thereof, dated:

Be transferred to:

Foster care: _____

Residential care programme (child and youth care): _____

Parental care: _____

under the supervision of: _____

On condition that the prescribed requirements of section 171 determined on the attached annexure hereto are complied with.

Until: _____ or his/her/their order(s) is/are extended in terms of section 159 or until he/she/they be otherwise lawfully discharged or transferred.

NAME(S) OF CHILD(REN)	DATE OF BIRTH/ID NO

GIVEN AT _____ ON THIS ____ DAY OF _____

SIGNATURE

LEVEL

OFFICE STAMP

ANNEXURE 12

**REMOVAL OF A CHILD ALREADY IN ALTERNATIVE CARE
(REGULATION 62(1))**

(SECTION 173) OF THE CHILDREN’S ACT 38 OF 2005)

By virtue of the powers vested in the HOD of Social Development and delegated to the undersigned in terms of section 173 of the Children’s Act, 38 of 2005, it is hereby ordered that:

NAME OF CHILD: _____

DATE OF BIRTH/ID NO: _____

Placed in foster care/child and youth care centre: _____

Address: _____

On a court order or any extension thereof, which expires on: _____

be taken to a temporary safe care, namely: _____

with effect from: _____

and be kept therein, pending any action by the HOD in terms of section 173 of the Children’s Act within 6 months from date thereof, which will be _____

GIVEN AT _____ ON THIS _____ DAY OF _____

SIGNATURE

RANK

OFFICE STAMP

ANNEXURE 13

**APPROVAL FOR DISCHARGE FROM ALTERNATIVE CARE
(REGULATION 61)**

(SECTION 175) (OF THE CHILDREN’S ACT 38 OF 2005)

By virtue of the powers vested in the HOD of Social Development and delegated to the undersigned in terms of section 175 of the Children’s Act, 38 of 2005 ?, it is hereby ordered that:

The child(ren)/ who was/were removed to the care of: _____

under supervision of _____

be discharged from the effects of the court order or subsequent variation/extension of such an order.

NAME(S) OF CHILD(REN)	DATE OF BIRTH/ID NO

GIVEN AT _____ ON THIS _____ DAY OF _____

SIGNATURE

RANK

OFFICE STAMP

ANNEXURE 14

ALTERNATIVE CARE SUPERVISION SERVICES

I/We _____ hereby declare (tick where applicable)

- That the contents of the report were discussed with me/us.
- That I am/we are aware of the fact that I am/we are entitled to participate in proceedings of the review of the child(ren) concerned.
- That I am/we are aware that the extension of the order for a further period is recommended.
- That I am/we are aware that a transfer is recommended.
- That I am/we are aware that a discharge is recommended.
- I am/we are satisfied/not satisfied with the recommendation of the social worker.

Signed at _____ on this _____ day of _____

Foster mother: _____

Foster father: _____

Manager of a cluster foster care scheme:

Manager of the child and youth care centre:

I _____ (social worker) hereby declare that the contents of the report dated _____ were discussed with Mr/Mrs _____

Signed at _____ on this _____ day of _____

ANNEXURE 15

**APPLICATION FOR EXTENSION OF PLACEMENT IN ALTERNATIVE CARE
BEYOND 18 YEARS OF AGE**

(Regulation 63)

[SECTION 176 OF THE CHILDREN'S ACT 38 OF 2005 AS AMENDED]

TO: The Head of the Provincial Department of Social Development

..... (Province)

..... (Address)

.....

.....

File number: _____

Court ref no: _____

Dear Sir / Madam

In terms of section 176 of the Children's Act, 38 of 2005 as amended, I
..... (full names and surname) wish to apply for an extension
of the period for which I have been placed in alternative care until the completion of my
education or training. I understand that I may not continue to reside in alternative care beyond
the end of the year in which I reach the age of 21 years. A certified copy of one of the following
documents is attached as verification of my identity and proof of age (mark with an "x"):

- Birth certificate (only if not in possession of identity document or passport)
- Identity document
- Other

I am currently placed in alternative care with the following person/place/centre

..... (name)

..... (address)

.....

.....

.....

.....

..... (contact person)

..... (tel. no.)

Date on which placement in alternative care is due to expire:

Nature of alternative care (mark with an "x"):

- Foster care
- Child and youth care centre

The following documents are attached in support of my application:

- An original signed letter from my current alternative caregiver to the effect that he/she/they* is/are* willing and able to care for me; and
- An original signed letter from the head of my education or training facility indicating that I have the capability to complete my education or training.

(* - delete whichever is not applicable)

I declare that my continued stay in alternative care is necessary to enable me to complete my education or training.

My postal address is:

.....

.....

.....

.....

.....

My other contact details (telephone numbers or email address) are:

.....

.....

Yours sincerely

(Signature of applicant)

(Date)

ANNEXURE 15A:

APPROVAL FOR A CHILD TO REMAIN IN ALTERNATIVE CARE IN TERMS OF SECTION 176 OF THE CHILDREN'S ACT

Provincial Logo

By virtue of the powers vested in the Minister of Social Development in terms of section 176 of the Children's Act 38 of 2005 and delegated to the undersigned, approval is hereby granted to the under mentioned person to remain in the care of:

NAME(S) OF FOSTER PARENT(S) (Complete if applicable)	ID NO

NAME OF INSTITUTION (Complete if applicable)	REGISTRATION NO

under the supervision of: _____

until _____ in order to complete his/her education and training.

NAME OF PERSON IN ALTERNATIVE CARE	DATE OF BIRTH/ID NO

--	--

GIVEN AT _____ ON THIS _____ DAY OF _____

SIGNATURE

RANK

<p>OFFICE STAMP</p>

ANNEXURE 16

ABSCONDMENT REPORT IN TERMS OF SECTION 170 OF THE CHILDREN'S ACT 38 OF 2005 AS AMENDED



social development

Department:
Social Development
REPUBLIC OF SOUTH AFRICA

ABSCONDMENT REPORT IN TERMS OF SECTION 170 OF THE CHILDREN'S ACT 38 OF 2005 AS AMENDED

1. IDENTIFYING DETAILS

a) Foster care

Name and surname	ID number	Address

b) Child and youth care centre

Name of the child and youth care centre	Address

c) Child(ren) in alternative care

Names of child(ren)	DOB	Gender	Name of the School/Partial	Grade/Partial care/ECD

			care	programme

2. INTRODUCTION

3. CURRENT POSITION OF THE CHILD(REN) CONCERNED AND REASONS FOR ABSCONDMENT (Include school progress/present adjustment in alternative care)

4. CURRENT POSITION OF FAMILY OF ORIGIN (Provide information on the relationship between the parent(s) and the child(ren), work and finances, religious, social, physical and psychological aspects)

5. WAS THE CAREGIVER INFORMED ABOUT THE APPREHENSION OF THE CHILD?

- Yes
- No

6. THE REACTION OR ATTITUDE OF THE CAREGIVER TOWARDS THE APPREHENSION OF THE CHILD?

7. EVALUATION

8. PLAN OF ACTION (Indicate the steps that will be put in place to minimise the re-occurrence of abscondment)

9. RECOMMENDATION

SOCIAL WORKER: _____

RANK: _____

DATE: _____

ORGANISATION: _____ **Name:** _____

Address: _____

Reference Number: _____

ANNEXURE 17

TRANSFER REPORT IN TERMS OF SECTION 171 AND 174 OF THE CHILDREN'S ACT 38 OF 2005



social development

Department:
Social Development
REPUBLIC OF SOUTH AFRICA

TRANSFER REPORT IN TERMS OF SECTION 171 AND 174 OF THE CHILDREN'S ACT 38 OF 2005

1. IDENTIFYING PARTICULARS

(a) Foster care

Name and surname	ID number	Address

(b) Child and youth care centre

Name of the child and youth care centre	Address

(c) Child(ren) concerned

Name of child(ren)	DOB	Gender	Name of the School/Partial care/ECD	Grade/Partial care/ECD programme

(d) Parent(s)

Name and surname	ID number	Address

(e) Sibling(s)/child(ren)

Name of child(ren)	DOB	Gender	Name of the School/Partial care	Grade/ECD

2. INTRODUCTION

3. BACKGROUND OF THE CHILD(REN)

4. CURRENT CIRCUMSTANCES OF THE CONCERNED CHILD(REN) (Include school progress/present adjustment in alternative care)

5. VIEWS OF THE CHILD(REN) CONCERNED (Reflect emotions, feelings, preferences, personal needs and any other relevant observations)

5.1. Services and support rendered to the children in alternative care (as indicated in the care plan)

Date	With whom	Types of services and support

5.2. Progress made by the child(ren) since the placement (Refer to the care plan)

6. CURRENT CIRCUMSTANCES OF THE PARENTS (Provide information on the relationship between the caregiver, the child and the parent(s), work and finances, religious, social, physical and psychological aspects)

6.1 Views of the parent(s) (Reflect emotions, feelings, preferences, personal needs and any other relevant observations)

6.2. Contact between caregiver, parent(s) and the concerned child(ren) (frequency and nature of interaction)

6.3. Services and support provided to the parent(s)/ family member

Date	With whom	Types of services and support

7. PRESENT CIRCUMSTANCES OF THE CAREGIVER

7.1. Foster care (Provide information on the relationship between the foster parent, the child and the parent(s), work and finances, religious, social, physical and psychological aspects)

7.2. Child and youth care centres (Describe the programmes provided)

7.3. Views of the caregiver regarding the child(ren) in alternative care (Reflect emotions, feelings, preferences, personal needs and any other relevant observations)

7.4. Support and services that were provided to the caregivers (indicate the type of support and services provided to the caregivers whilst the child was still in alternative care)

Date	With whom	Types of services and support

8. MOTIVATION FOR THE TRANSFER

9. EVALUATION

10. PLAN OF ACTION (Attach reviewed care plan)

11. RECOMMENDATION

SOCIAL WORKER: _____

RANK: _____

DATE: _____

ORGANISATION: _____ Name: _____

Address: _____

Reference Number: _____

ANNEXURE 18

APPLICATION FOR LEAVE OF ABSENCE FROM ALTERNATIVE CARE REPORT IN TERMS OF SECTION 168



social development

Department:
Social Development
REPUBLIC OF SOUTH AFRICA

APPLICATION FOR LEAVE OF ABSENCE FROM ALTERNATIVE CARE REPORT IN TERMS OF SECTION 168 OF THE CHILDREN'S ACT 38 OF 2005

1. IDENTIFYING PARTICULARS OF CAREGIVERS

(a) Foster care

NAME AND SURNAME OF FOSTER PARENT	ID NUMBER	ADDRESS

(b) Child and youth care centre

NAME OF THE CHILD AND YOUTH CARE CENTRE	ADDRESS

c) Children in alternative care

Names of child(ren)	DOB	Gender	Name of the School/Partial care	Grade/Partial care/ECD programme

2. BACKGROUND

3. REASONS FOR APPLICATION

4. CURRENT CIRCUMSTANCES OF THE PARENT(S)(Relationships, housing, employment and finances, physical and psychological aspects, schooling and supervision)

5. EVALUATION

6. ACTION PLAN

7. RECOMMENDATION

SOCIAL WORKER: _____

RANK: _____

DATE: _____

ORGANISATION:

Name: _____

Address: _____

Reference Number: _____

ADDENDUM TO LEAVE OF ABSENCE REPORT FOR CHILDREN IN ALTERNATIVE CARE
IN TERMS OF SECTION 168 OF THE CHILDREN'S ACT 38 OF 2005 ?

I/We, _____, parent(s) of the
child(ren) concerned, agree hereby to the period of _____ leave of absence
and to act in a responsible manner. I/We will not harm the child(ren)'s physical mental or social
well-being in any way within my/our abilities.

I/We acknowledge that the social worker may have access to the child(ren) in order to monitor
the leave of absence and that a progress report will be written in accordance with the findings.

I/We undertake to ensure that the child(ren) will return to the caregiver on the last day of the
leave of absence.

Signed at _____ on this _____ day of _____

(Parent) (Parent)

Social worker/Manager

I/We, _____, alternative caregiver of the children
concerned hereby agree that the children be granted leave of absence
to _____ residing at
_____ for the period
_____ to _____.

Signed at _____ on this _____ day of _____.

(Alternative caregiver) (Social worker/Manager)

ANNEXURE 19

APPROVAL OF LEAVE OF ABSENCE IN ALTERNATIVE CARE

REGULATION 58(1))

(SECTION 168(1)) OF CHILDREN'S ACT 38 OF 2005)

In terms of Section 168 (1) leave of absence is hereby granted to the under-mentioned child(ren):

NAME(S) OF CHILD(REN)	DATE OF BIRTH/ID NO

In the care of _____ temporary safe care/child and youth care centre/foster care to go on holiday leave as from: _____ to: _____

into the care of:

residing at:

on the following conditions:

GIVEN AT _____ ON THIS _____ DAY OF _____

SIGNATURE

RANK

OFFICE STAMP

ANNEXURE 20

APPLICATION FOR DISCHARGE OF A CHILD FROM ALTERNATIVE CARE



social development

Department:
Social Development
REPUBLIC OF SOUTH AFRICA

DISCHARGE FROM ALTERNATIVE CARE IN TERMS OF SECTION 175 OF THE CHILDREN'S ACT 38 OF 2005 AS AMENDED

2. IDENTIFYING DETAILS

a) Foster care

NAME AND SURNAME	ID NUMBER	ADDRESS

b) Child and youth care centre

NAME OF THE CHILD AND YOUTH CARE CENTRE	ADDRESS

c) Children in alternative care

Names of child(ren)	DOB	Gender	Name of the School/Partial care	Grade/Partial care/ECD programme

2. INTRODUCTION (Initial reason for removal, current statutory position and any movement of child(ren))

3. SERVICES RENDERED

(Was the child placed in terms of Section 171 or 168 with parents? Were family reunification services rendered successfully? Attach family reunification services report.)

CURRENT SITUATION

What is the current position of the family? What is the reason for discharging? Is the child still in school? (Indicate the independent living programmes the child has been linked to.)

EVALUATION

RECOMMENDATION

SOCIAL WORKER: _____

RANK: _____

DATE: _____

ORGANISATION:

Name: _____

Address: _____

Reference Number: _____

ANNEXURE 21

REPORT FOR APPLICATION FOR ADOPTION OF A CHILD [SECTION 239 (b)]

Provincial/DCPO Logo

Name of Service Point/District Office/DCPO:

DSD file number	DCPO File number	Court File Number
Professional report by		
Surname:		
Full names:		
Qualifications:		
SACSSP registration number:		
Office Postal Address:		
Telephone number:		
Date:		
Signature:		
This report has been verified for proficiency and compliance with section 239 and relevant prescriptions of the Children's Act 38 of 2005.		
Countersigned by the Supervisor		
Details of the supervisor:		
Surname:		
Full names:		
Qualifications:		
SACSSP registration number:		

Telephone number:

Date:

Signature:

ATTACHED DOCUMENTS:

- 1.
- 2.
- 3.
- 4.

1. IDENTIFYING DETAILS

1.1. IDENTIFYING DETAILS OF THE CHILD

Surname	
Full names	
Date of birth	
ID number	
Address	
Name of school/education institution	

1.2. IDENTIFYING DETAILS OF SIBLING(S)

1.2.1. Sibling 1

Surname	
Full names	
Date of birth	
ID number	
Address	
Name of school/education institution	

1.2.2. Sibling 2

Surname	
Full names	
Date of birth	
ID number	
Address	
Name of school/education institution	

1.3. IDENTIFYING DETAILS OF THE BIOLOGICAL PARENT(S)

1.3.1. Parent 1

Surname	
Full names	
Date of birth	
ID number	
Address	
Name and address of employer	

1.3.2. Parent 2

Surname	
Full names	
Date of birth	
ID number	
Address	
Name and address of employer	

1.4. IDENTIFYING DETAILS OF THE PROSPECTIVE ADOPTIVE PARENT(S)

1.4.1. Parent 1

Surname	
Full names	
Date of birth	
ID number	
Address	

ANNEXURE 22

TERMS OF REFERENCE FOR PANEL TO ASSESS APPLICATIONS FOR ADOPTION

ITEM	REMARKS
<p>1. Processes preceding the adoption panel meeting.</p>	<p>The adoption panel must consider an adoption application within 14 days of submission of the application.</p> <p>The adoption application must be accompanied by the following as contemplated in section 239 of the Act:</p> <ul style="list-style-type: none"> (x) The original birth certificate or identity document of the child. (xi) A certified copy of the identity document of each applicant. (xii) Where (i) and (ii) are not available, a sworn statement by an adoption social worker. (xiii) In the case of a foster child, the written statement of the foster parent(s) contained in Form 41. (xiv) Where the applicant(s) wish to receive the child into his/her/their care, a report from an adoption social worker that the applicant(s) is/are a potentially suitable prospective adoptive parent(s). (xv) A report, by an adoption social worker containing: <ul style="list-style-type: none"> • information on whether the child is adoptable as contemplated in section 230 (3); • information on whether the adoption is in the best interest of the child; and • medical information relating to the child. <p>Due to the permanent nature of adoption, the report should be comprehensive and cover all details of the adoptable child, the child's parent(s), caregiver(s) or guardian(s) and the prospective adoptive parent(s).</p> (xvi) An assessment of the prospective adoptive parent(s) on whether they are fit and proper, capable and willing to undertake, exercise and maintain parental responsibilities and rights. (xvii) A letter confirming that the details of the adoptive parent(s)

	<p>are not in Part B of the national Child Protection register or the Sexual Offenders Register and, for inter-country applications, a police clearance certificate.</p> <p>(xviii) Where applicable, proof that the details of the adoptable child have been placed on the Register for Prospective Adoptive Parents and Adoptable Children.</p> <p>(xix) In case of an application for inter-country adoption, proof that the child's details have been placed on the RACAP for the prescribed period.</p>
<p>2. Purpose of the panel.</p>	<p>The purpose of the adoption panel is:</p> <ul style="list-style-type: none"> • To consider adoption applications. The use of a panel is more advantageous than an individual assessment of the application due to diversity of ideas, experiences and expertise possessed by different panel members; • To share ideas, experiences and advice on adoption matters; • To provide expert advice to adoption social workers who present cases for application for adoption; • To advise the HOD or the person to whom the function of issuing the adoption recommendation letter has been delegated on each presented case; and • To ensure that all adoption applications and reports are proficient and comply with all the criteria stated in section 239 before the application and report is presented in court.
<p>3. Powers of the panel members.</p>	<p>The panel members have the power to make recommendations to the person authorised to issue recommendation letters and to provide expert advice to adoption social workers.</p>
<p>4. Constitution of the adoption panel.</p>	<p>Depending on the demand for the services of the adoption panel, the geographical factors, expenses, etc., the constitution of the panel may be at the district or the provincial level.</p> <p>The Chairperson and the secretary are permanent members of the adoption panel. The function of the chairperson is:</p> <ul style="list-style-type: none"> • To facilitate and control the proceedings of the adoption panel meetings;

- To provide feedback and panel recommendations to the person authorised by the HOD to issue adoption recommendation letters; and
- To ensure that adoption recommendation letters are issued within seven days after the adoption application has been presented at the adoption panel meeting.

It is advisable for the person responsible for issuing adoption recommendation letters to chair the adoption panel meetings. This would facilitate the immediate issuing of recommendation letters if the application is approved by the panel and reduce bureaucracy and red tape.

The function of the secretary is to facilitate all administrative matters and processes, before, during and after the adoption panel meetings. These functions may include, among other things:

- Checking that the application complies with the prescribed criteria;
- Preparing and sending an annual plan for adoption panel meetings;
- Sending out reminders to adoption panel members;
- Recording the proceedings of adoption panel meetings; and
- Sending out minutes of the meetings a week after the meeting.

Deputies may be nominated to facilitate the functioning of the panel in the absence of the permanent members.

In addition to the permanent members, the panel may constitute of the following:

- Interested adoption social workers;
- Adoption social workers presenting cases on application

	<p>for adoption; and</p> <ul style="list-style-type: none"> • The provincial/district coordinator for child protection or adoption services.
5. Frequency of meetings.	The frequency of meetings will be determined by the need and demand.
6. Dispute resolution mechanisms (among panel members)	The chairperson is responsible for facilitating meetings effectively and applying dispute resolution techniques in instances where conflict arises. In the event of a dispute, the aggrieved party must lay a complaint or forward an appeal in writing to the next level of authority.
6.1. Appeal of the adoption panel decision.	Depending on the jurisdiction of the panel, appeals should be addressed starting at the lowest local level and moving through the levels. Complaints or appeals may be directed to the regional Director/Manager responsible for services to children, then the provincial Director/Manager responsible for services to children, thereafter, the Provincial Head of Social Development. The Director for Adoptions or the Central Authority at the national level should only be consulted as a matter of last resort and after all efforts to resolve the dispute have been exhausted.
7. Proceedings of the adoption panel meetings	<ul style="list-style-type: none"> • The proceedings of the meetings must be guided by an agenda that must be sent to the members before the meeting. • Proceedings must be recorded and minutes be provided to members a week after the meeting. • Proceedings must be directed and facilitated by a chairperson. • A register of members attending the meeting must be kept for each meeting. • Where applicable, video or teleconferencing may be explored for adoption social workers who are unable to attend panel meetings.
8. Attendance of panel meetings.	Participants must attend the meetings at their own cost, unless prior arrangements have been made or an agreement has been reached with the programme manager, chairperson or whoever is responsible

	for finance and budget.
9. Issuing of the adoption recommendation letter.	<p>The adoption recommendation letter must be signed by the provincial HOD or the person delegated by the HOD in terms of section 311 of the Children's Act.</p> <p>The secretary must forward relevant documents and a copy of the signed recommendation letter to the canalisation officer in the district where the child resides.</p>

ANNEXURE 23

SECTION 172 DETERMINATION OF CHANGE IN RESIDENTIAL CARE PROGRAMME OF A CHILD

NOTE:

A SEPARATE FORM MUST BE USED FOR EACH CHILD

REFERENCE NUMBER:

DEPT:

NGO:

NAME AND SURNAME OF SOCIAL WORKER:

By virtue of the powers conferred upon the provincial head of social development and delegated to the undersigned, in terms of section 311 of the Children's Act 38 of 2005 as amended, it is hereby determined in terms of section 172 of the said Act;

that the child _____ (name of child) born on _____ (date of birth)

who was placed in the care of: _____ (**name of child and youth care centre**)

under a therapeutic programme in terms of section _____

is transferred to the care of _____ (**if applicable, name of child and youth care centre**)

is placed under a new therapeutic programme in terms of section _____

an additional residential care programme in terms of section _____ (mention the additional programme) will be applied to the child

DEPARTMENT OF SOCIAL DEVELOPMENT

Given at _____ (**place**) on _____

Name of Canalisation Officer: _____

Rank



ANNEXURE 24: APPLICATION FOR PLACEMENT OF A CHILD IN A CHILD AND YOUTH CARE CENTRE IN TERMS OF SECTION 158(3)



social development

Department:
Social Development
REPUBLIC OF SOUTH AFRICA

The Centre Manager

My Reference Number:

Your Reference Number:

Enquiries: Ms/Mrs/Mr: _____

Telephone number: _____

E-mail address: _____

Dear Sir/Madam

In terms of Section 158(3) an application is hereby made for the placement of a Child in your Child and Youth Care for the following child(ren).

A panel discussion was held on _____ (date); after careful deliberations it was concluded that in terms of the needs of this child(ren) the programmes that you are offering will be best suited for the child(ren) concerned.

Attached please find the panel discussion report.

SOCIAL WORKER

DATE