

JOHANNESBURG CHILD WELFARE SOCIETY

COMMENTS ON DRAFT REGULATIONS: CHILDREN'S ACT

CHAPTER 2: SOCIAL, CULTURAL AND RELIGIOUS PRACTICES

3. Consent to undergo a virginity test

- 3(3) It is recommended that the period for retaining of consent forms be extended to at least three years, to facilitate investigation into allegations of malpractice. It may take over a year in any specific case for illegal activities to come to light.

CHAPTER 3: PARENTAL RIGHTS AND RESPONSIBILITIES

- 3(10) There seems to be an unnecessary duplication of the phrase “or any other person or persons having parental rights and responsibilities in respect of the child or children” in clauses (a), (b) and (c).

18. Requirements for persons suitably qualified to mediate disputes

- 18 (1)(c) It makes no sense to refer to persons with a recognised qualification in ECD, child development or child psychology while omitting social work. If the concern is with a possible lack of experience or expertise in child development and/or mediation, then evidence of such expertise should be an additional requirement for all categories of practitioner.

CHAPTER 5: PARTIAL CARE

20. Categories

- 1(b) Many such facilities refer to themselves as ECD centres and it is recommended that the wording “educare or early childhood development centre” be used here.

A “childminder” caring for a few more than six children will need to register her home in terms of this chapter and it is recommended that such a category be added. This would also remind all concerned to plan for the inclusion of this category of care provider, which is often overlooked.

22. National norms and standards

These need to be adapted to cater for “childminders” and informal facilities that are at an early stage of development. Separate rooms for different age groups for example, will often not be possible in such contexts. Provision for “developmentally appropriate toilets” is likely to be impossible in these situations, but special seats and other assistive equipment could be required.

23. Application for registration

The JCWS supports the call from a range of sources for an integrated, one-stop registration process whereby registration of a partial care facility, its ECD programme (if applicable) and its local authority clearance could be carried out simultaneously. This might involve

e.g. a registering panel from the Departments of Education and Social Development in cooperation with one or more local authority officials.

25. Management of partial care facility

25(6) It is recommended that the reference to a “baby hotel” be removed and that no indication be given that such a facility will be sanctioned.

26. Employment of staff

As mentioned below, these regulations need to be adapted, via the creation of a specific set of provisions, to cater for home-based “childminders” caring for more than six children but nevertheless small numbers – perhaps up to ten? In such a context, staff may not be employed at all, and if some assistance is brought in, these requirements are likely to be unrealistic. Provision could be made for developmental programmes to be provided for these caregivers, and for those registering to be automatically linked with such programmes.

27. Closure of partial care facility

There is a need for a process whereby the activities of a partial care facility, *whether registered or unregistered*, can *immediately* be halted *if there is evidence of abuse of children in that facility*. Increasingly we hear reports of centres where several children in succession are known to have been sexually molested or physically injured. A specific form should be in place for the ordering of immediate closure where there is reason to believe that such a situation exists. It should be made very clear that the Department has the power to issue such an order, and there should be a form to direct the engagement of police assistance in its enforcement if the operator fails to obey. Requiring a High Court application for this purpose as could be understood from s85(3) of the Act could cost children their lives or future health and wellbeing. It could also lead to a loss of the evidence needed to proceed with a criminal case where, e.g., a paedophile has been operating a facility. The need for quick action in situations where there are grounds to suspect that there is a risk of immediate harm to children should be dealt with separately in the regulations from the need to assist emerging facilities, over time, to comply with requirements via a developmental approach.

CHAPTER 6: EARLY CHILDHOOD DEVELOPMENT

29. National norms and standards

It is recommended that all health, safety and transport regulations be located with the partial care provisions and that the ECD regulations focus on the ECD programmes as such, and cross-refer where necessary. The parallel provisions here are confusing and cumbersome. In at least one instance they are contradictory (one potty per child for ECD, one potty per five children for partial care). If an ECD programme is being run other than in a partial care facility (e.g. in a child and youth care centre), the relevant facility will in any case be regulated in its own right.

As with partial care, it is recommended that small “childminder” operations not be subjected to the same standards for staffing, training etc. as larger, more formal arrangements and that provision be specifically made in the MEC’s provincial plan for the training and development of such caregivers.

Item 8(e)(2) seems unduly rigid in a context where some children may not be able to understand the main medium of instruction.

Items 8(f)(4) and (12) regarding the accessibility of programmes to vulnerable children in their own homes are welcomed, but these should be linked to a provision that the MEC must include outreach and home-based programmes in his overall plan and provide the necessary resources. Local authorities could also be tasked with ensuring delivery of such services via their IDPs.

30. **Application for registration**

As mentioned above in relation to partial care, the JCWS supports the call from a range of sources for an integrated, one-stop registration process whereby registration of a partial care facility, its ECD programme (if applicable) and its local authority clearance could be carried out simultaneously. This might involve e.g. a registering panel from the Departments of Education and Social Development in cooperation with one or more local authority officials.

32. **Skills**

These requirements are arguably not workable as entry qualifications for informal or home-based care facilities. Again, such facilities should be linked with development opportunities, and staff should be enabled to gain skills over time.

CHAPTER 7: CHILD PROTECTION

35. **National norms and standards**

As mentioned in comments previously submitted, **section (a)** in the proposed norms and standards for child protection actually belongs in the norms and standards for prevention and early intervention, except perhaps in the case of diversion options such as family group conferencing. We remain of the opinion that the inclusion of prevention and early intervention services in the list of activities of designated child protection services in s106 of the Act is highly problematic. While there is a need to limit the number of organisations performing statutory protective services, plan for them carefully and regulate them quite tightly, there should be no such restrictions on the development of prevention and early intervention services, for which there is a need to build extensive country-wide capacity. The difference in approach to these different types of service can be justified by the fact that statutory interventions involve a crossing of boundaries as regards the privacy of individuals and families, as well as the enforcement of limits to people's right to self-determination. Where carried out without the necessary expertise and resources they have the potential to be harmful. They are also for the most part far more costly to the taxpayer than are prevention and early intervention, and hence require a different approach to their planning.

(h) Adoption: It is recommended that an additional clause be added after *clause 17* to state that counselling of the biological parents should include support through a process of reaching decisions about their own and their child's future, after exploring the available options. *Clause 18* should include after-care services to the biological parents. *Clause 21* should read "provide for the counselling of and provision of information to an adult adopted person regarding his or her biological family, and where required the tracing of members of the biological family". An additional *clause 27* is suggested, to read: "provide for support in the implementation of post-adoption agreements".

(i) *Permanency plans: Clause 1* should include a proviso that as far as reasonably possible the plan must be drawn up with the participation of the child, the family and the relevant alternative caregiver. This should not be interpreted to undermine any measures that need to be included in the plan to promote the best interests of the child. The plan should be signed by the relevant family members, service providers and caregivers. If any party refuses to sign, the reasons must be asked for and noted.

36. **Criteria to be met by designated child protection organisations**

The present emphasis is on whether the organisation complies with the requirements of transformation and good governance. While these are essential they in any case apply to all funded NPOs rather than being pertinent specifically to designated child protection organisations. It is suggested that R36(1)(c) be split into two, with each component being developed more fully, as follows:

- (c) That the organisation has the necessary capacity and expertise to deliver statutory services in terms of the Act, in that it meets the following criteria:
- a documented theoretical framework for each type of statutory intervention to be implemented, with clear connections to current official policies and procedures;
 - workloads that conform to recognised norms and standards;
 - sufficient provision for initial and ongoing staff training;
 - sufficient provision for staff support and supervision.
- (d) That the organisation's operation would conform to the MEC's plan for the delivery of child protection services in the relevant province, on the basis of the following considerations:
- that, in the light of statistical data collected by the provincial Department of Social Development from its service offices and child protection NPOs, and by the Department of Justice via the children's courts in the province, the work of the organisation is necessary for and would promote the MEC's plan for the delivery of child protection services in the relevant province;
 - that there are no existing organisations in the organisation's area of operation with which the applicant could join forces in order to prevent duplication and fragmentation of services.

The following additional provisions are recommended:

36(2) If a child protection organisation cannot currently comply with the conditions set out in 32(1)(c), but its services are needed for the implementation of the MEC's plan as referred to in clause (d), provisional registration can be granted on condition that the necessary funding and support will be provided by the Department and/or other funders to make compliance possible within a given period.

36(7) On designating an organisation as a child protection organisation the Head of Department will ensure that the appropriate channels of communication are set up to ensure that the organisation is properly linked with all components of the provincial child protection system, and is collecting and forwarding the necessary data to the DSD to promote planning for and monitoring of the system.

45 All programmes implemented in terms of this Act shall be structured so as to ensure realistic workloads that enable those concerned to receive sufficient attention. In the case of children who have experienced maltreatment, programmes must be designed to work at a sufficient level of intensity to meet the needs of these children and to prevent secondary abuse in the form of erratic, unreliable or unskilled interventions.

39. Request for the removal of an offender

“110(6)(b)” should read “110(7)(b)”.

40. Broad risk assessment framework

40(3)(h) This should read: “Discrepanciescaregiver or between parents and/or caregivers, or contradictions in the accounts given at different times, may either”

40(3)(i) (additional clause) is suggested: “An unexplained delay in seeking medical treatment for a child who is seriously injured should be examined as a possible indicator of abuse or neglect”.

40(4)(b)(vi) Suggested amended wording: “.....emotional damage and, if applicable, that the parent or caregiver is unwilling to address the problem”

41. Criteria for determining suitable persons to investigate child abuse or neglect

41(c) This clause would not be workable as matters stand given the personnel crisis among child protection organisations as well as the lack of accredited training programmes for this field. At the same time it is correct for the regulation to push the sector towards proper training for practitioners. One way to achieve this might be to require that people either have completed *or be enrolled in* an appropriate course (which would need to be attached to an obligation on government for such courses to be set up), and that they *be under the supervision of a person with at least three years’ experience if they do not have such experience themselves.*

43. Conditions for examination or assessment of abused or neglected children and consent of such children

43(1)(a) It is currently not always possible to address children in languages they can understand, especially given the shortage of practitioners and the numbers of immigrant children who are in the country. This could read: “as far as reasonable possible, be addressed in a language”

43(2) This clause or an additional clause should provide for the consent of a parent or caregiver to the examination or assessment and also for the assessment to proceed in the absence of such consent, if this is deemed to be in the best interests of the child. There has over the years been considerable confusion as to the position of health care workers when there is a lack of parental consent, and this needs to be cleared up. In the case of children who are the subject of a care or contact dispute there is a need for an assessment by e.g. a social worker or psychologist to be carried out by a professional in the public service or an NPO, or ordered by the Family Advocate’s office or a court, to avoid the scenario where one party pays a person in private practice to investigate an allegation of maltreatment by the other. This is not an uncommon scenario and there are disputes about the ethics and legalities that apply in such situations. The regulations could provide the necessary clarity.

CHAPTER 8: THE NATIONAL CHILD PROTECTION REGISTER

51. Removal of name from Register

51(3)(b) It is strongly recommended that an additional assessment by a practitioner designated by the court be automatically required for the removal of a person's name from the register. The practitioner concerned should be required to have specific expertise and experience in the field of child abuse. Alternatively, this compulsory assessment could take the place of that contemplated in 51(2)(a)(i).

CHAPTER 11: PREVENTION AND EARLY INTERVENTION

58. National norms and standards

(a) *Outreach services:* Not every registered service will be able to accommodate all these features. It is suggested that the section be phrased so as to provide that the system of services as provided for in the MEC's plan should in its entirety incorporate all these features.

(b) *Education etc. programmes:* Similarly, this list should serve as a picture of the system as a whole. Provision should be specifically included for skills training in non-violent methods of discipline.

(c) *Skills development programmes:* Skills in relation to food production and nutrition should be included.

(d) *Diversion programmes:* The concept of diversion should be expanded to include diversion from the child and youth care system as well as the criminal justice system. Pre-hearing conferences, family group conferencing (FGC) and family preservation programmes are diversion options of this kind. Each of these categories needs to be included in the MEC's plan for purposes of resourcing and coordination. FGC needs to be founded on a clear theoretical model and to be subject to norms and standards in its own right. It is too loosely dealt with in the regulations pertaining to the children's court.

CHAPTER 12: CHILDREN IN NEED OF CARE AND PROTECTION

59. Removal of child to temporary safe care and review of detention

59 (4)(d) It is **very strongly** recommended that this be altered to state that the child, family members and social worker need not be present for the issuing of postponement orders unless there is a specific need for their attendance. Massive amounts of the time of the country's scarce supply of child protection social workers is wasted in unproductive hours spent waiting at the children's court for such orders. This can also be disruptive, distressing and expensive for the children and families concerned.

61. Report by designated social worker

61(2)(b)(5) The possibility of permanency with an unrelated foster parent is not one that should be under consideration at the very beginning of placement, although this may well be appropriate in the case of foster parents who are part of the child's extended family. Such an option would come into play for unrelated persons only after two years of placement. A crucial factor in selecting foster parents is their ability to deal with the temporary nature of foster care and to respect the child's links with his or her immediate and/or extended family. In addition, there is a need to test the relationship between the child and unrelated

foster parents over time before considering a permanent placement. No message should be given at the start of such a placement that the arrangement is permanent.

- 61(d) It is not clear why the child should only be returned to the care of the parent with the consent of the court. This is out of line with s171(6) which requires ratification by the court only if the child will be moving “deeper into the system”.

62. Abandoned or orphaned children

- 62(1) It is recommended that the costs of publishing advertisements in newspapers with regard to abandoned children, for purposes of establishing whether they can be made available for adoption, should accrue to the Department.

CHAPTER 13: ALTERNATIVE CARE

64. Leave of absence

- 64(3) Making the court responsible to receive all reports of leave of absence seems likely to cause an undesirable clogging up of the system. Would it not be more logical for this function to remain with the Department?

66. Provisional transfer

- 66(3) A report recommending provisional transfer will usually be written on the initiative of the social worker who seeks to arrange such a transfer. It is not clear what the origin of “the request” as mentioned in this clause would be.

68. Manner in which children in alternative care must be transferred/discharged

- 68(1)&(2) Children who are transferred from one form of care to another are usually taken to the new destination by the relevant caregivers (biological parents, foster parents, facility staff etc.). Discharge often takes place as a “paper process” after a period spent successfully in the new arrangement. A formal escorting process should be available when necessary but should not be obligatory.

CHAPTER 14: FOSTER CARE

70. Responsibilities of foster parents

- 70(2)(b) It is recommended that it be required that permission be sought before a foster parent can designate the day-to-day care of a foster child to another person.

It is also recommended that a foster parent be required to observe confidentiality with regard to sensitive information relating to the child and his/her family.

71. Responsibilities of foster parents

- 71(4)(a) In our opinion it should not be possible to remove a child in alternative care from the Republic without the permission of the HOD, irrespective of any agreement reached between the foster parents and the biological parent or guardian. Where possible, both the guardian’s and the HOD’s permission should be obtained.

73. Notice of adoption of a foster child

73(2) Provision should also be made for the foster parent to be able to declare his/her **inability** (as opposed to unwillingness) to adopt the child – e.g. by reason of continued need for the foster care grant.

76. Registration – cluster foster care

In our opinion cluster foster care schemes should in no way be conceptualised so that they can be confused with the child and youth care centres, which sometimes take the form of neighbourhood-based group homes that are relatively “family-like” in their structure. The presence of the following elements should specifically exclude a care arrangement from qualifying as a cluster foster care scheme:

- Payment of a salary to a “foster parent”
- Accommodation of the caregiver and children in housing supplied by the scheme
- Shift work arrangements
- An expectation that a child will, as a matter of course, remain with the scheme if the caregiver leaves.

All of these are features of an employer-employee relationship between the scheme and the caregiver. The danger of recognising such arrangements as “cluster foster care” include the following:

- Care that does not in fact amount to integration of a child into a normal family environment is misrepresented as foster care.
- Caregivers who are expected to undertake the duties of child and youth care workers are not recognised as such. They are then unprotected by labour legislation and are also marginalised from opportunities for professional development.
- Child care practice and decisions may be “out of the loop” in terms of policy and professional practice.
- There is a likelihood that such practices will result in under-budgeting by government for the care of the children concerned and for the development of the relevant personnel.

The distinguishing feature of a cluster foster care scheme should be that all members are part of a group in which they are expected to give each other mutual support - including occasional respite care for the children in one another’s units; to regularly come together for group training, consultation and so forth; and to engage in mutually beneficial activities such as cooperative buying, recreational activities etc. They should in other respects operate as normal families who are integrating children in need of care into their own homes and families for as long as is needed. The overall scheme would receive subsidy apart from the Foster Care Grants received.

It is recognised that one reason for operations to set themselves up under the label “cluster foster care” is that very slow and cumbersome bureaucratic process are involved in registering child and youth care centres, municipal regulatory systems being one of the major delaying factors in some provinces. Registration can apparently take up to six years, while many thousands of children are in urgent need of care. Also, organisations may be caught up in the impasse that sometimes occurs when a provincial DSD places a moratorium on the registration of new child and youth care centres, without having a proper plan in place to provide for all children in need. Calling a child and youth care centre a “cluster foster care scheme” neatly evades these problems.

These difficulties can be resolved if:

- there is a proper plan in place in terms of S192(2) of the Act that takes into account the projected need in any given province for placements in child and youth care centres of different categories, and if registration is quickly and proactively carried out with a view to meeting this need;
- it is made possible to fast-track preliminary registration processes, and to allow new and clearly necessary child and youth care centres the space to operate while the municipal red tape is processed. Preference could be given to the “group home” approach, which has many advantages over traditional institutional models.

78. Requirements with which a cluster foster care scheme must comply

78(8) It is recommended that all grants collected by the scheme be handed over directly to the caregivers, and that the combined collection be seen primarily as a facilitative and time-saving measure. This will help ensure that the money reaches the child’s household and is not diverted into running costs; it also helps make for normal family living arrangements rather than creating an institutional set-up with regard to the way household needs are addressed. This would not stand in the way of communal approaches to household purchases.

CHAPTER 15: CHILD AND YOUTH CARE CENTRES (CYCCs)

82. National norms and standards

In item (a)(4) on social worker-to-child ratio, it is recommended that the word “specified” be replaced with “minimum”, and that the words “depending on the nature of the programme and any special needs of the children concerned” be added.

In item (d)(1) it is recommended that it be stated that a care plan, individual development plan and permanency plan may be combined in one document. (Similar provision could perhaps be made for the foster care setting, in relation to the applicable documents including the “foster care plan”.)

84. Access to adequate health care etc.

84(1) It will not always be possible for a facility to engage health care workers as permanent staff members. It is suggested that provision be made for details to be provided of how the necessary health care services are to be accessed.

85. Behaviour management

85(2)(b) There are forms of behaviour which may make it impossible for a CYCC to continue to care for a particular child – notably conduct which places the child or others at unacceptable risk and cannot be contained with the resources at hand. While threats of removal or actual removal should not be part of a regular approach to discipline in a facility, it should be possible to explain the realities involved to the children concerned.

85(2)(o) It is suggested that this clause be deleted. There are many simple and positive behaviour modification techniques which it should be possible for caregivers to use without being subjected to a major decision-making and monitoring process such as suggested here. The prohibitions against humiliation, ridicule, physical punishment, verbal abuse etc. should be sufficient to prevent the inappropriate use of such approaches.

95. Skills

In the context of the current personnel crisis, any given facility may have difficulty in meeting all these criteria. It is suggested that provision be made for a CYCC to continue functioning while striving to meet these criteria.

96. Appointment of management board

It is notoriously difficult to find and retain suitable board members for services of this kind. People's motivations for volunteering for this type of service are varied, and not all are compatible with the needs of the children concerned. While calling for nominations from the community would be a positive approach, the CYCC should only be bound to make appointments from those who come forward if they include suitable candidates. Failing this, it should be possible to seek out people with the requisite skills wherever they can be found.

CHAPTER 16: DROP-IN CENTRES

109. Persons rendering services at a drop-in centre

109(3) It will often not be possible for every staff member or volunteer to speak in a language that can be understood by every child. The organisation as a whole has to strive to ensure the optimum level of language accessibility for those children who are most likely to arrive.

CHAPTER 17: ADOPTION

110. Register on Adoptable Children and Prospective Adoptive Parents

110(1)(a) This list should include the particulars of the registering social worker and his/her employer.

116. Post-adoption agreements

116(1) There are likely to be agreements in which there is not full disclosure e.g. of the address of the adoptive family – the agreement may be subject to contact being arranged via a third party such as an agency. It would not be desirable to exclude this option as this could result in some adopters not being prepared to allow any future communication, which could in turn restrict the available placement options for a given child.

124. Fees

124(2) This should be worded so as to include accredited social workers in private practice.

125. Accreditation to provide adoption services

It is recommended that an Adoption Services Accreditation Office (ASAO) be set up by the Director-General, to decide on minimum requirements for accreditation and to process applications for accreditation by designated child protection organisations and by social workers in private practice, and to monitor the services provided by both categories of service provider. The ASAO should prepare detailed sets of guidelines for practice for both the agency and private practice settings, and should ensure that a tariff of fees appropriate to each setting is in place and is regularly updated and gazetted. The ASAO

should be empowered to set up a reference committee comprising experienced adoption social workers and administrators from the agency and private practice contexts.

125(1)(b) Given the particular ethical and service delivery challenges face by adoption social workers in private practice, at least the following conditions should apply:

- The social worker must satisfy the ASAO that s/he has sufficient training and experience in adoption practice to deliver services without the supports and ethical checks and balances normally provided by an adoption agency.
- S/he must practise at all times within an adoption unit registered by the ASAO. This unit must include at least one other accredited adoption social worker, and must appoint an independent consultant approved by the ASAO. This unit must meet regularly and its proceedings must be recorded.
- The consultant's task is to monitor the operation of the unit and provide assistance in case management and decision-making, particularly in situations where conflicts of interest or other special problems are at issue. S/he may also mediate and assist with conflict resolution within the unit where necessary.
- All matching and placement decisions must be made by the unit as a whole. Such decisions may not be made until applicants have been fully screened and accepted and biological parents have been counselled and have reached a fully informed and thoroughly processed decision to consent to the adoption of the child. If a difference of opinion arises within the unit and is not resolved with the help of the consultant, consultation with an independent accredited adoption social worker or a designated child protection agency accredited to render adoption services must be arranged and recorded.
- Every case must be divided between social workers in the unit to guard against conflicts of interest. The social worker who counsels the biological parent(s) may not also assess the applicant adopters.
- All decisions must be made on the basis of the best interests of the child, who must be regarded as the index client. Respect for and the full upholding of the rights of biological parents must be regarded as intrinsic to a process which ultimately serve the best interests of the child.
- The social worker must have a written contract signed by the client which specifies the nature of the service to be provided, the tariff of fees and the method of payment. Any applicant adopter must indicate his or her understanding of the fact that the payment of fees for an assessment is in no way an indication that s/he will be approved for placement.
- Clients may not be charged for time spent in unit or consultation meetings or for any activity not directly carried out on behalf of the specific client.
- Charges must not exceed those set out in the tariff of fees.
- The consultant must carry out a six-monthly audit of the work of the adoption system. This must include a scrutiny of practice to ensure that all requirements for competent and ethical practice have been observed, and also an examination of fees charged to ensure that these are in line with the tariff mentioned above.

125(2) The requirement for annual accreditation of agencies is unrealistic in terms of the resources that would be required, and out of kilter with other forms of registration provided for in the Act.

CHAPTER 18: INTER-COUNTRY ADOPTION

128. Accreditation

128(3) Again, annual renewal of accreditation for agencies is unrealistic and unnecessary.

DRAFT REGULATIONS PREPARED BY THE DEPARTMENT OF JUSTICE

Chapter II CLERKS OF CHILDREN'S COURTS

Application for appointment as clerk

2(2) and 3(2) should refer also to the National Register for Sex Offenders.

Additional functions of clerk

For 5(b) it is recommended that the following items be included in the register:

- the specific decisions made, including the type of placement ordered for each child (to make it possible to track placement dispositions in each region and to facilitate need-assessment and planning of services).
- in foster care placements, an indication of whether the placement is with relatives or non-relatives.
- the population group and religious/cultural affiliation and language of the child (to monitor accessibility and transformation issues, as well as due consideration of culture and tradition as provided for in S7(f)(ii) of the Act).
- Any other factor to be decided from time to time for monitoring, research and planning purposes.

CHAPTER III CHILDREN'S COURTS

13. Family group conferences

It is not clear whether s69 of the Act covering "pre-hearing conferences", which excludes child abuse cases from such hearings, is intended to include family group conferences and lay forums or is separate from them. If the three concepts are separate, then it is necessary for the regulations to also restrict family group conferences and lay forums to cases which do not involve the alleged physical or sexual abuse of a child - unless it is possible to clearly demonstrate that the proceedings will in no way be open to manipulation by a perpetrator and that the court will have the last word in ensuring the safety of the child.

A family group conference is a specialised intervention which involves the thorough preparation of all parties as well as skilled facilitation according to a structured process. It needs to take place within a programme set up for this purpose. The court should have a list of approved family group counselling programmes in its region. Such programmes should also be built into each MEC's provincial plan for prevention and early intervention services.

14. Lay forums

The proposed (7)(b) should be scrapped – a full report of the proceedings should be presented to the court in all cases and this should not be a discretionary matter.

FORMS

A. DEPARTMENT OF JUSTICE FORMS

Form 6 – medical report on person whose age is estimated

The section on “apparent impairment” should refer separately to psychiatric/psychological impairment and intellectual impairment in place of the term “mental” impairment. These categories should also be included in any other medical forms.

Form 8 – summons re contribution order

There is no need for adversarial phrasing in this form. Instead of saying “..... to show cause why a contribution order/attachment of wages should not be made against you” the form could indicate that a decision will be reached in this regard. Properly handled, the contribution order may be experienced positively by the parent as a means of demonstrating commitment to and responsibility in relation to the child.

B. DEPARTMENT OF SOCIAL DEVELOPMENT FORMS

It is suggested that all forms relating to any type of **consent by children** be phrased in simpler language unless they are going to be translated into all official languages. (Also note typo in virginity testing consent form – “producer”.)

Form 14 Registration (etc.) of partial care facility

It is suggested that a section entitled: “development plan to enable a facility to register” be included.

Closure of facility

As discussed in relation to Chapter 5, there is a need for a form to order immediate closure of a facility where there is evidence of abuse of children in that facility. There should also be a form to direct the police to assist in the closure of the facility should this be necessary.

Form 26 Notification of abuse

It is agreed that a separate form should be completed for each child – however it is important that the Register should be structured so as to link data that relates to one family.

It is suggested that a form be added in which the responsibilities of an adult who is providing support to **child-headed households** are spelled out for person concerned. This form could provide the details of the appointment of such a person.

It is further suggested that the form provide for reporting of child labour and child trafficking among the categories mentioned.

11 August 2008