



Reference:

Enquiries: L Goosen

12/08/2014

To:

HOD Department of Social Development

MEC Department of Social Development

**FINALISATION OF POLICY ON THE REVIEW, RELEASE AND REINTEGRATION OF SENTENCED RESIDENTS IN
DSD CHILD AND YOUTH CARE CENTRES INTO LESS RESTRICTIVE ALTERNATIVE OR PARENTAL CARE**

The following process was followed in developing the above policy:

- A consultative workshop with delegates of the Provincial Stakeholder's forum was held on 26 March 2014 which included representatives from DSC, SAPS, NPA, Nicro, LASA, the DSD Crime Prevention and Support Programme, Business against Crime and the Directorate Facility Management and Inspections.
- The HOD for Social Development has approved a concept document that mandated the development of this policy.
- A draft policy was developed to give effect to the consultation outcomes of the workshop.
- The draft policy was provided to the following stakeholders for final consultation:
 - Chairperson, Provincial Stakeholder Forum
 - Chairperson, Provincial Child Justice Forum
 - Participants in the consultative workshop held on 26/03/2014
 - HOD of Social Development
 - Regional Directors of Social Development
 - Human Rights Commission
 - The CSPRI (Prof Lucas Muntingh)
- The draft policy was reviewed to include suggestions received.

The policy was finalised and is submitted for approval.

L. Goosen

DIRECTOR: FACILITY MANAGEMENT AND INSPECTIONS

Date: 12/08/2014

**POLICY ON THE REVIEW, RELEASE AND REINTEGRATION OF SENTENCED
RESIDENTS IN DSD CHILD AND YOUTH CARE CENTRES INTO LESS
RESTRICTIVE ALTERNATIVE CARE OR PARENTAL CARE**

JULY 2014

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The MEC's **FOREWORD**

With the enactment of the Children's Act (Act 38 of 2005) sentenced children became the responsibility of the Department of Social Development. Before this said Act it was the responsibility of the Department of Education in terms of the Education Act. Since 2010 DSD has worked accordance of all relevant legislation such as The Constitution, 1996 (Act 108 of 1996), Children's Act, 2005 (Act 38 of 2005) and the Child Justice Act, 2008 (Act 75 of 2008) to ensure the best interest of the child is served and honoured at all times. The Child and Youth Care Centres (CYCC) under the auspice of DSD are now catering for all children within the Child Care and Child Justice sphere.

According legislation a child should only be referred to a Child and Youth Care Centre as a last resort and for the shortest period of time. If the movement of a child is too slow the best interest of the child could be compromised and then the availability of accommodation and bed space also become a critical issue for all parties involved.

A workshop was held on 26 March 2014 at De Novo Substance Abuse Treatment Centre, Kraaifontein with various role-players involved in this field to address the movement of sentenced children in Child and Youth Care Centres that provide a secure care programme. In terms of section 76 (3) (d) of the Child Justice Act "... the child should be released on parole in accordance with Chapter VII of the Correctional Service Act, 1998 (Act 11 of 1998)". This provides for a child who is sentenced to imprisonment to be released on parole, whilst the Child Justice Act does not provide for parole in respect of children who are sentenced to compulsory residence in a Child and Youth Care Centre. Section 3 (b) of the Child Justice Act, 75 of 2008 states on the other hand that a child must not be treated more severely than an adult would have been treated in the same circumstances.

In terms of section 2 of the Correctional Services Act, 1998 a detained person must be provided with the opportunity to keep abreast with the outside world and not to be isolated. This is of critical importance for a person's rehabilitation whilst institutionalized. In the case of children it is even more important to have contact with their immediate family on a regular basis to be reunited as soon as possible at the most appropriate time. The Child and Youth Care Centre must therefore ensure that there is regular contact through holiday leave, visits, telephone calls and communication through letters or other available media. The reintegration and aftercare of a child is thus an integral part of the care plan from the very beginning when he /she enter the facility. To ensure compliance in this regard continuous and effective integrated service delivery between the Child and Youth Care Centre and the Probation Practitioners of DSD is imperative concerning the best interest of a child in alternative care.

Chapter 11 of the Children's Act, 38 of 2005 that deals with children placed in alternative care include children that was sentenced in terms of chapter 10 of the Child Justice Act, 75 of 2008. The HOD of DSD is granted the legal mandate to transfer such a child to less restrictive alternative care and even to discharge the child from the provisions of the Children's Act.

In the case of earlier release as a form of "parole" it needs to be in the best interest of the child, interest of justice, the community and the victim. To support the realization of this the Directorate Facility Management and Inspections embarked upon a consultation process with partners within the criminal justice system.

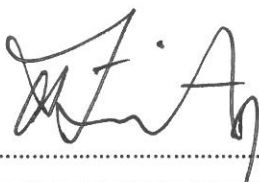
Forthcoming from the mentioned workshop an advisory committee to advise the said Directorate which is called an Integrated Review Panel will be established. This committee, in terms of the designed policy will meet on a quarterly basis to decide on the earlier release of certain sentenced children who completed at least half of their sentence. These children must also have spent at least one year in the Child and Youth Care Centre.

This committee will assess and evaluate individual children's cases guided by:

- The reports from the multi-disciplinary team at the facility on the child's progress in terms of good behaviour, discipline during stay in the centre
- The individual development plan (IDP)
- Provisions of the court (sentencing) order
- Reports from the probation officer or designated social worker.

When a child is aggrieved by the decision they can appeal against it in writing within 90 days to the MEC of the Department of Social Development. When the child is not satisfied they can lodge an appeal to the High Court of the Province in terms of section 177 of the Children's Act.

The legal framework and signed policy is to ensure that a fair process is in place. When a child is released on certain conditions then he /she must be under the supervision of the probation officer – who is the case manager – together with the assistant probation officer. Notwithstanding the sentenced child's earlier release there will still be control over his / her movements and behaviour. A major advantage to this process is the constant movement of children through the child and youth care centres and the availability of vacancies and bed space for others.



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MEC: DEPARTMENT OF SOCIAL DEVELOPMENT

Date: 03/10/2014
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The Background of the Policy

With the legislative responsibility of accommodating sentenced youth sentenced to a Child and Youth Care Centre assigned to Department of Social Development together with the fact that the Department of Social Development is responsible for the administration of the sentences of these youth in terms of the Child Justice Act, Act 75 of 2008 and the Children's Act, Act 38 of 2005, the development and implementation of policies to effectively manage this has become paramount. None of the legislation addresses parole for sentenced youth, since once the child has been sentenced he/she is viewed as a child in alternative care in terms of the Children's Act as all other children that are placed in alternative care.

Child and Youth Care services form part of alternative care for children whom have been removed from parental care and include the following:

- Temporary safe care.
- Foster Care
- Children's homes for children in need of care and protection
- Secure care for awaiting trial youth
- Secure Care for children with behaviour that cannot be managed by the parent/guardian or whom display criminal behaviour
- Secure Care for sentenced youth.
- Treatment centres for the treatment of children with substance abuse problems (These could be part of an adult treatment centre.)

The Children's Act 38 of 2008 places much more emphasis than previous legislation on firstly, the rights of a child within a CYCC, secondly, the types of programmes that the Child and Youth Care Centres (CYCC) must offer, and thirdly, the conditions under which a CYCC must operate. In addition, it gives power to Provincial Departments of Social Development to regulate the establishment and development of CYCC's for all of above types of alternative care (except Foster Care and some types of temporary safe care) either as a stand-alone Centre or as a multi-programme Centre.

Residential care Centres should be competent to deliver an integrated and holistic service to each child and family. Inter-sectorial collaboration as described in Section 5 of the Children's Act should be meticulously applied. Once the child is a "client" within the residential programme, their total programme should become the responsibility of the multi-disciplinary team in the Centre, including the family reunification process. This implies that a child should be placed in a residential programme that is accessible to his/her family and community of origin. The potential for reunification should be given a central place in the assessment process and the subsequent decision-making regarding referral.

International instruments, policy guidelines and legislation w.r.t the protection of children's rights support the principle that placement in a Child and Youth Care Centre or institution should be the disposition of last resort and for the shortest appropriate period. This should be taken into account when policy guidelines are developed for the integration of sentenced residents in Child and Youth Care Centres

ensuring that sentenced children are not treated more severely than adults in the same circumstances and that they remain in the centre for the shortest appropriate period. It includes the following:

- Article 37(b) of the United Nations Convention on the Rights of the Child, 1989 states that the arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.
- The international instruments protecting the rights of children provides for the rights of children deprived of their liberty. The instruments provides for guidelines and the various factors to be taken into consideration when contemplating the imposition of a compulsory residential sentence (“Child Justice Alliance, 2012”).
- The United Nations Rules for the Protection of Juveniles Deprived of their Liberty (“JDL Rules”), 1990 also provides that the deprivation of a child should be a disposition of last resort and for the minimum necessary period and should be limited to exceptional cases.
- Similarly Rule 19 of the United Nations Standard Rules for the Administration of Juvenile Justice (“The Beijing”), 1985” provides that the placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period. Rule 19 restricts institutionalisation in two regards: in quantity (last resort) and in time (minimum necessary period).
- The commentary to the Beijing Rules highlights the fact that progressive criminology advocates the use of non-institutional over institutional treatment and also the fact that little or no difference has been found in terms of the success of institutionalisation as compared to non-institutionalisation. There are many unavoidable adverse influences on an institutionalised individual, especially on children, who are vulnerable to negative influences. These negative effects, the loss of liberty and the separation from the usual social environment are more acute for children than for adults because of their early stage of development. (C. Badenhorst, Research report, “The Second Year of The Child Justice Act’s Implementation: Dwindling numbers” published by the Child Justice Alliance: 2012.)

The National Instruments also stress the need for regular review of placements which is relevant for considering earlier release of sentenced children.

- The IMC (Inter Ministerial Committee for Young People at Risk) Interim Policy Recommendations, which were published in 1996, while recognising that residential care is an essential part of the Child and Youth Care system, indicated that too many children were ending up in residential care.
- Section 28 (2) of the South African Constitution, Act 108 of 1996 provides that a child’s best interests are of paramount importance in every matter concerning the child. With regard to the deprivation of the liberty of children, Section 28 (1) (g) states that children should only be detained as a measure of last resort and for the shortest appropriated period of time. Children should furthermore be treated in a manner that is appropriate to their age.
- The White Paper for Social Welfare, which was published in February 1997, contained a Section on residential care. This provided that where the placement of children through family and community-based programmes is not appropriate in the circumstances, children may be placed in residential Centres. This should be the last option. The White Paper also indicated that residential Centres would be more multi-purpose (or multi-programme) in nature, more flexible and less formal than had they had previously been.

- Section 3 (b) of the Child Justice Act, 75 of 2008 a child must not be treated more severely than an adult would have been treated in the same circumstances.

With the implementation of the Children’s Act, 38 Of 2005 the responsibility or sentenced youth became the responsibility of the Department of Social Development and since December 2012 all new admissions in terms of sentenced youth are done to DSD Western Cape Centre.

It is part of the department’s legislative mandate to render a secure care programme providing developmental, holistic and integrated services to children in conflict with the law in an enabling, caring, safe and secure environment to ensure comprehensive and integrated services to children in conflict with the law and those that display behaviour that cannot be managed by their parents/guardian and/or display criminal behaviour.

This mandate was delegated to the Directorate Centre Management and Inspections within the Department of Social Development which was established on 1 November 2012. The Directorate Facility Management and Inspections must ensure that institutional arrangements are in place to give impetus to the required programmes provided by DSD Child and Youth Care Centres. It includes the mandate to develop, monitor and facilitate the implementation of legislation and provincial policy to protect, empower and support children and youth at risk and in conflict with the law.

As this is the first time that the Department of Social Development takes the responsibility for the management of specifically sentenced youth, it became essential to have a policy in place to manage the release and reintegration of sentenced residents within the required legislative frameworks.

The Child Justice Act 75 of 2008 does not make provision for “parole” for children/youth sentenced to Child and Youth Care Centres. Section 76 (3) (d) only refers to parole in terms of the Correctional Service Act, 111 of 1998 applicable to an imprisonment sentence in terms of Section 76 (3)(c).

The Directorate Facility Management and Inspections embarked upon a collaborative consultation process with Provincial Stakeholders w.r.t the development of a policy that provides for a fair, consistent and responsible review and reintegration process of sentenced residents that will ensure that children/young persons are not treated more severely than adults under the same circumstances and would at the same time consider the interest of justice.

Legislative Framework

- Constitution of the Republic of South Africa, No 108 of 1996
- The White Paper for Social Welfare (1997)
- Children’s Act, No 38 of 2005
- Child Justice Act, No 75 of 2008
- The United Nations Convention on the Rights of the Child (1989)

- United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”), 1985
- African Charter on the Rights and Welfare of the Child
- Final Draft Blue Print for Secure Care Centres

Guiding Principles and Values

- **Accountability:** Everyone who intervenes in the lives of children/young people and their families should be held accountable for the delivery of an appropriate and quality service.
- **Accessibility:** Accessibility of all role players and resources
- **Appropriateness:** All services to children/young people should be the most appropriate for the individual, the family and the community.
- **Integration:** Services to children/young people and their families should be holistic, inter-sectorial and delivered by an appropriated multidisciplinary team wherever possible.
- **Effectiveness and Efficiency:** Services to children/young people and their families should be delivered in the most effective and efficient way possible.
- **Best interest of the child:** In all matters concerning the care, protection and well-being of a child the standard that the child’s best interest is of paramount importance, must be applied.
- **Rights-based:** The rights of children/young people as established in the South African Constitution and the various international conventions ratified by South Africa, shall be protected.
- **Empowerment:** Children and parents are empowered in terms of their roles and responsibilities.
- **Participation of children:** Children and their families should actively participate in all processes. The voice of the child must be heard not only in the courts, but in administrative forums as well.
- **Family centered:** Services should be contextualised within the family, the extended family and the community, and support and capacity building to families should be provided regular developmental assessment and programmes which strengthen the families’ development over time.
- **Continuity of Care and Development:** The changing social, emotional, physical, cognitive and cultural needs of the child/young people person and their family should be recognised and addressed throughout the intervention process. Links with continuing support networks and resources, when necessary, should be encouraged after disengagement from the system. Reunification services should be a joint effort between internal and external colleagues who should cultivate trust and co-operation between them.

- **Continuum of Care and Development:** Children/young people at risk (and their families) should have access to a range of differentiated and integrated services on a continuum of care and development, ensuring access to the least restrictive, least intrusive and most empowering environment and/or programme/s appropriate to their individual developmental and therapeutic needs. It is the policy of the Department of Social Development that each child should be assisted through individualized care to fulfill his or her utmost potential.
- **Equality:** Children must have equal access to available services and every effort should be made to ensure that children receive similar treatment.
- **Family Preservation:** All services should prioritise the goal to have children/young people remain within the family and/or community context wherever possible. When a child/young person is placed in alternative care, services should aim to retain and support communication and relationships between the person and their family (unless proven not to be in their best interests), and maximise the time which the person spends in the care of his/her family.
- **Normalisation:** Children/young people and their family should be actively involved in all the stages of the intervention process.
- **Permanency Planning:** Every child/young people within the Continuum of Care and Development should be provided with the opportunity to build and maintain lifetime relationships within a family and/or community context within the shortest time possible.
- **Restorative Justice:** The approach to children/young people in trouble with the law should focus on restoring societal harmony and putting wrongs right rather than punishment. The child/young person should be held accountable for his or her actions and where possible make amends to the victim.
- **Transitory programme:** Refers to residential care for children who are in trouble with the law and who are waiting for the finalisation of statutory process. This includes young people awaiting trial, awaiting sentence, awaiting transfer, awaiting designation, awaiting placement on the Continuum of Care and awaiting placement with family or friends

Scope of the Policy

The policy applies to state owned and managed Child and Youth Care Centres of the Western Cape Department of Social Development, Directorate Facility Management and Inspection and outsourced Centres that provides a secure care programme for sentence residents as well as role players that placed them in a secure care programme.

Purpose of the Policy

The purpose of the policy is to provide policy guidelines for the review, release and reintegration of sentenced residents in Child and Youth Care Centres through less restrictive alternative care placements as provided in Chapter 11 the Children's Act, 38 of 2005 and Regulations.

Chapter 2

Objectives

- 1.1 To protect children's rights with specific reference to their right to be reunified with their families;
- 1.2 To ensure compliance with National Norms and Standards for Child and Youth Care Centres
- 1.3 To ensure children whom are sentenced are not treated more severely than adults in the same circumstances;
- 1.4 To provide criteria and guidelines for review, earlier release and reintegration of sentenced residents;
- 1.5 To make provision for an integrated review panel to fulfil an advisory function protecting the interest of the child/young person, the interest of justice as well as the interest of the victim; and
- 1.6 To ensure consistency in the management of the review, release and reintegration of sentenced youth.

Policy statement

The policy makes provision for an integrated, inter-sectorial review process that ensures that sentenced residents in Child and Youth Care Centres are not treated more severely than adults in the same circumstances. Criteria are set that allows for consistent and responsible management of the review, release and reintegration of sentenced residents. Requirements for the review, release and reintegration process are provided within prescribed legislative frameworks.

Sentence of compulsory residence in a Child and Youth Care Centre providing a programme in terms of Section 191 (2) (j) of the Children's Act 38 of 2008

In terms of Section 76 of the Child Justice Act 75/2008, there are 2 types of sentences to a Child and Youth Care Centre:

- a) The first involves the sentencing of a child in terms of Section 76(1) and (2) to compulsory residence in a Child and Youth Care Centre which provides a programme referred to in Section 191(2) (j) of the Children's Act. A sentence like this may be imposed for a period not exceeding 5 years or for a period which may not exceed the date on which the child in question turns 21 years of age, whichever date is the earliest.

This is essentially the same as the previous sentence to a reform school in terms of Section 290 of the Criminal Procedure Act, 1977 (Act 51 of 1977).

- b) The second is completely new and is found in Section 76 (3) of the Child Justice Act. It occurs when a Child Justice Court convicts a child of an offence referred to in Schedule 3 and which, if committed by an adult, would have justified a term of imprisonment exceeding 10 years. In such cases the court may, if substantial and compelling reasons exist, in addition to a child and youth care sentence, sentence the child to a period of imprisonment which is to be served after completion of the period of stay in the Child and Youth Care Centre. After completion of the time at the Child and Youth Care Centre, the child must be brought before the child justice court and the manager of the Child and Youth Care Centre must submit a report to the court on the child's progress regarding whether the objectives of sentencing have been achieved and the possibility of the child's reintegration into society.

The court has to then decide, if it is in the interests of justice, either to:

- Confirm the sentence and period of imprisonment originally imposed, upon which the child must immediately be transferred from the Child and Youth Care Centre to the specified prison;
- Substitute that sentence with any other sentence that the court considers to be appropriate in the circumstances; or
- Order the release of the child, with or without conditions.

For the second way of sentencing (that include both a CYCC detention period as well as a prison detention period) Regulation 44 of the Child Justice Act 75/2008 requires that a report must be provided that must correspond substantially with Form 12 of the Annexure.

In terms of the first way of sentencing (Section 76 (1)) the child is sentenced to JUST a Child and Youth Care Centre. The mandates i.t.o the management of the children in a CYCC are then indicated in Chapter 11 of the Children's Act that governs the manner in which a child in alternative care is managed. Children sentenced in terms of Section 76 (1) of the Child Justice Act to compulsory residence at a CYCC ONLY are then regarded as a child in alternative care in terms of the Children's Act 38/2005.

Chapter 11 in Section 167 (1) (b) refers that a child is in alternative care if the child has been placed "in the care of a Child and Youth Care Centre following an order of the court in terms of this Act (Children's Act or SECTION 29 OR CHAPTER 10 OF THE CHILD JUSTICE ACT, 2008.)

In practice this implies that the Head of the Department of Social Development can decide on the release of residents *only* sentenced to a Child and Youth Care Centre in terms of Section 76 (1) of the Child Justice Act 75/2008.

Chapter 11 provides for the following less restrictive placement options that could be taken *at any time* with regard to children in alternative care (including sentenced youth):

- Leave of absence (including holiday leave) – Section 168 (a) by the management of a Child and Youth Care Centre when it is a sentenced child/youth

- Transfer of a child in alternative care to another Child and Youth Care Centre or less restrictive alternative care placement – Section 171 (HOD or delegated authority)
- Removal of a child already in alternative care to temporary safe care for a period not exceeding 6 months – Section 173 (HOD or delegated authority)
- Provisional transfer to less restrictive alternative care such as parental care, integration into another family – Section 174 (HOD or delegated authority)
- Discharge from alternative care – Section 175 (HOD or delegated authority)

Reintegration of residents in Child and Youth Care Centres

Children's rights as stipulated in the constitution must be upheld. Children have the right to be reunified with their family.

As a child has the right to continuity of care after release from the centre, their movement should be facilitated timeously and effectively.

Statutory intervention aimed at providing alternative care which should wherever possible be a temporary measure, followed by reconstruction/aftercare services to enable the client to return to the family or community as quickly as possible.

Sentenced residents will ultimately be reunified or reintegrated into the family and the community, therefore those significant others must be drawn into the management programme of the resident concerned. The recidivism rate is extremely high as most children are not supported after release from the programme.

With reference to Section 194 (2) of the Children's Act 38 of 2005 the following norms and standards apply in terms of reunification and reintegration of children/young persons in a Child and Youth Care Centre:

- Every child should have a care plan which aims to provide life-long relationships with their family or appropriate alternative and re-integration in the family and community within the shortest possible framework.
- Children should receive after-care programmes focusing on support in terms of training and education, employment, independent living, family and community integration and psychosocial support.

Individual plans must be developed for each child who facilitates their well-being within the CYCC and enables them to make a successful transition to new circumstances.

Before a resident can be united with his or her immediate family or other family members and a notice of transfer to less restrictive alternative care or discharge from the provisions of the Children's Act, the probation officer or external social worker rendering family reunification services must compile a report in consultation with the parent, guardian or care giver of the child in whose physical care the resident had been prior to the placement in the CYCC and the child.

The report must be based on a developmental assessment of the child and his/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;
- reflect the incidents of contact by relatives during the period of his/placement in alternative care
- provide a fully motivated recommendation on:
 - The desirability of re-unifying the child with the family
 - The nature of activities which can be employed to promote a conducive environment for the child's development and the development of the strengths and skills of the parents, guardian or care giver.

The external Social Worker or Probation Officer and the CYCC Social Worker must jointly develop a reintegration plan for the resident. The external Social Worker or Probation Officer must take responsibility to ensure that those placed from the CYCC are monitored at least once a month through physical visit for the duration of the transfer order. Feedback with regards compliance with the conditions attached to the transfer order must be given to the Directorate Facility Management and Inspections.

Integrated Review Panel

➤ **Composition of the review panel**

The review panel will consist of the following members:

- Chairperson (Deputy Director: Centre Policy, Planning and Development)
- Directorate Centre Management and Inspections Placement Administrator will fulfil the secretariat functions
- NPA – 1 representative
- Law Society – 1 representative
- Correctional Service – 1 representative
- Department of Justice – 1 representative

Additional:

- Centre Manager (who's resident's case are presented)
- Centre Social Worker (present the specific case to the panel)
- Directorate: Centre Management and Inspections: Social Work Supervisor

Management structures of the above Stakeholders have to nominate a staff member to serve on the Panel as well as a secondment in the absence of the nominee.

If a panel member cannot continue to serve on the review panel the Director: Centre Management and Inspections must be notified in writing and another nomination be made by the management of the relevant Department.

➤ **Role and function of the review panel**

- Attend schedule review meetings
- Advise the Director: Centre Management and Inspections in terms of the earlier release of sentenced residents
- Advise the Director: Centre Management and Inspections in terms of effective functioning of the review system

➤ **Review panel meetings**

- The panel will meet on a quarterly basis.
- Notice of meetings will be sent out at least 14 days in advance.
- A register must be kept and all decisions be recorded.

➤ **Cases that will serve before the panel**

All sentenced children will be reviewed when they have completed half of their sentence period but the following cases must serve before the review panel to make a recommendation to the Head of the Department of Social Development:

- All cases where the resident was convicted of a schedule 3 offence
- Borderline cases where a resident was convicted of schedule 1 and 2 cases which will be identified by the Centre Manager after consultation with the Centre multi-disciplinary team.

In case of less serious offences the Head of the Department of Social Development can make the decision in terms of earlier release based on the required assessment report by the probation officer and report in terms of section 174 of the Children's Act, 38 of 2005 with recommendation by the Multi-disciplinary of the Child and Youth Care Centre endorsed by the Manager of the Centre.

The Review Process

The formal multi-disciplinary review of the IDP (Individual Development Plan) of a resident starts after 6 months in the Child and Youth Care and is thereafter conducted every six months.

Weekly contact with family members, care givers of significant others is allowed as well as visits to the residents in accordance with the visitation policy and procedures to enhance family relationships and reintegration.

The residents as well as the family/ care giver as well as the probation officer or external social worker must participate in the multi-disciplinary review which must also be attended by the probation officer or the external social worker.

Holiday leave as part of the reintegration process is considered after a sentenced resident has been in the Child and Youth Care Centre for 9 months in accordance with the standardised operational procedure for holiday leave of the Directorate Centre Management and Inspections.

All sentenced residents are formally reviewed when they have served half of their sentences with the view of earlier release and reintegration. For this purpose a report by the probation officer or the designated social worker as referred to in paragraph 9 of this document must be submitted to the Centre social worker.

An integrated review panel is conducted to deal with cases of schedule 3 offences and borderline cases as presented by the Manager of the Child and Youth Care Centre.

The probation officer or designated social worker must ensure that the required after-care and support services are rendered after the release of the resident and that the resident complies with the conditions attached to the Section 174 provisional transfer. Should the resident fail to comply a report must immediately submitted to the Directorate Centre Management and Inspections who will revoke the transfer and arrange for re-admission to the Child and Youth Care Centre.

When a resident complies with the conditions of the provisional transfer in terms of Section 174 of the Children's Act the probation officer or designated social worker must provide the Directorate Centre Management with a report before expiring of the allowed six month period in order to confirm the transfer or discharge the resident in terms of Section 175 of the Children's Act.

A resident or person aggrieved by a decision or action in terms of Chapter 11 of the Children's Act, 38 of 2005 may lodge an appeal within 90 days with the MEC of Social Development, who must decide on the appeal within 90 days of the receipt thereof. If a resident or person who is not satisfied with the outcome of an appeal can apply to the High Court to review the decision (Section 177 of the Children's Act).

See process flow chart (Annexure A)

Criteria for Earlier Release

Earlier release, as in the case of “parole” is not a right but a privilege based on positive adaption and behaviour in the Child and Youth Care Centre.

The Centre Manager after consultation with the Child and Youth Care Multi-disciplinary team should determine whether the programme and individual objectives were achieved and the resident meets the criteria.

The best interest of the resident as well as the interest of justice should be considered when the resident is reintegrated back into the community. The interest of the victim should be taken into account.

The following residents can be considered for earlier release:

Sentenced residents whom had completed at least half of his/her sentence, but not less than a year, who has:

- Consistent good behaviour at the Child and Youth Care Centre
- If involved in an incident it was condoned by the MDT of the CYCC following at least 6 months of good behaviour
- The child attends school or at the CYCC and progressed in accordance with his ability
- The child participated in the therapeutic and developmental programmes at the CYCC and showed good progress in terms of his/her individual development plan
- A full care plan/reintegration plan, which is a joint responsibility between the Centre social worker and the probation officer, is in place
- Holiday leave went well and the resident returned from the holiday leave
- MDT review meetings were conducted
- The child can be enrolled in a school/AET or FET centre in the community or for children older than 18 years have a proven employment or learnership
- The home circumstances or those of a significant other or community member in whose care the child will be placed, are viewed as favourable by the probation officer/external social worker and who must submit an assessment report
- The special provisions of the court were adhered to

Children that were sentenced for a period of imprisonment that will continue upon his/her release from the CYCC cannot be considered for provisional transfer to less restrict alternative care but may on good behaviour continue with normal holiday leave twice a year.

Financial Implications

No additional resources are required for purposes of implementation of the policy.

Monitoring and Review of the Policy

The Directorate Centre Management and Inspections of the Department of Social Development will be responsible for the monitoring of the implementation of the policy.


The policy will be reviewed annually.

Policy Implementation date

The policy shall be known as the Western Cape Department of Social Development Policy on the reintegration of sentenced residents of DSD Child and Youth Care Centres into less restrictive alternative care with effect from conclusion of MOU with Stakeholders.

Recommendation

It is recommended that the “Policy on the review, release and reintegration of sentenced residents in DSD Child and Youth Care Centres into less restrictive alternative care or parental care” be accepted.



Ms. L. Goosen
Director: Centre Management & Inspections

Date: 08/09/2014

Recommended/ not recommended / Additional comments:

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.....



Mr. C Jordan
Chief Director: Social Welfare

Date: 30/10/14

Recommendation

It is recommended that the "Policy on the review, release and reintegration of sentenced residents in DSD Child and Youth Care Centres into less restrictive alternative care or parental care" be accepted.

Recommended/ ~~not recommended~~ / Additional comments:

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Mr. M Hewu

Date: 20/11/03


**(Acting) Chief Director: Community and Partnership Development &
Chief Director: Service Delivery Management and Coordination**

I certify that in terms of Provincial Treasury Instruction 2.2.1:

- The financial implications of this submission is noted,
- The submission complies with all the applicable financial statutory requirements,
and
- The submission is therefore in order.

Recommended/ ~~not recommended~~ / Additional comments:

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.....
Mr. J Smith

Date: 3/11/2014

Chief Directorate: Financial Management

Recommendation

It is recommended that the "Policy on the review, release and reintegration of sentenced residents in DSD Child and Youth Care Centres into less restrictive alternative care or parental care" be accepted.

Recommended/ ~~not recommended~~ / Additional comments:

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Ms. M Johnson
Chief Director: Business Planning and Strategy

Date: 4/11/2014

Supported/ ~~not supported~~ / Additional comments:

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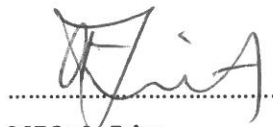


Dr. R MacDonald
(Acting) Head of Department – Social Development

Date: 05/11/2014

Approved / ~~not approved~~ / Additional comments:

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MEC: A. Fritz
Minister for Social Development

Date: 06/10/2014

ANNEXURES:

- Annexure A: Review Process Chart

Annexure A:

