



Western Cape
Government

Education

FOR YOU



THE WESTERN CAPE EDUCATION DEPARTMENT
PROTOCOL FOR MANAGING CHILD ABUSE, DELIBERATE
NEGLECT AND SEXUAL OFFENCES AGAINST CHILDREN

“ABUSE NO MORE” | 2025



**Western Cape
Government**

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Western Cape Education Department
Directorate: Inclusive and Specialised
Education

ABUSE NO MORE PROTOCOL

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1. Definitions

In this protocol, any word or expression to which a meaning has been assigned shall bear that meaning assigned to it hereunder and, unless the context indicates otherwise—

“alleged learner offender” means the learner against whom a complaint has been laid;

“child”¹, in terms of the Children’s Act, 2005 (Act 38 of 2005), means a person under the age of 18 years;

“child abuse” means any form of harm or ill-treatment deliberately inflicted on a child and includes—

- (a) assaulting a child or inflicting any other form of deliberate injury to a child;
- (b) sexually abusing a child or allowing a child to be sexually abused;
- (c) bullying by another child;
- (d) a labour practice that exploits a child; or
- (e) exposing or subjecting a child to behaviour that may harm the child psychologically or emotionally;

“circuit-based psychologist” means a psychologist employed by the Western Cape Education Department (WCED), registered in terms of the Health Professions Act, 1974 (Act 56 of 1974), and regulated by the Health Professions Council of South Africa;

“circuit-based social worker” means a social worker employed by the WCED who is registered in terms of section 17 of the Social Service Professions Act, 1978 (Act 110 of 1978);

“commercial sexual exploitation” in relation to a child means—

- (a) the procurement of a child to perform sexual activities for financial or other reward, including acts of prostitution or pornography, irrespective of whether that reward is claimed by, payable to or shared with the procurer, the child, the parent/guardian/caregiver of the child, or any other person; or
- (b) trafficking a child for use in sexual activities, including prostitution or pornography;

“corporal punishment”, in terms of the South African Schools Act, 1996 (Act 84 of 1996), means any deliberate act against a child that inflicts pain or physical discomfort, however light, which includes but is not limited to—

- (a) hitting, smacking, slapping, pinching or scratching with the hand or any object;
- (b) kicking, shaking, throwing, throwing objects at, burning, scalding, biting, pulling hair, boxing ears, pulling or pushing children;
- (c) forcing children to stay in uncomfortable positions, forced ingestion, washing children’s mouths out with soap, denying meals, heat and shelter, forcing a child to do exercises which are not in accordance with the curriculum applicable to the learner or denying or restricting a child’s use of the toilet; and
- (d) any acts which seek to belittle, humiliate, threaten, induce fear or ridicule the dignity and person of a learner;

¹ Throughout this protocol the words “child” and “learner” are used interchangeably relative to the context.

"deliberate neglect" for the purposes of this protocol relates to section 110(1) of the Children's Act, 2005 (Act 38 of 2005);

"designated social worker" means a social worker in the employ of an organisation, designated in terms of the Children's Act, 2005 (Act 38 of 2005), to perform child protection services, such as—

- (a) the Provincial Department of Social Development;
- (b) a registered child protection organisation, such as the Afrikaanse Christelike Vrouevereniging (ACVV), Child Welfare South Africa or Badisa; or
- (c) a municipality;

"domestic violence", in terms of the Domestic Violence Act, 1998 (Act 116 of 1998), means—

- (a) physical abuse;
- (b) sexual abuse;
- (c) emotional, verbal or psychological abuse;
- (d) economic abuse;
- (e) intimidation;
- (f) harassment;
 - (i) sexual harassment;
 - (ii) related person abuse;
- (g) spiritual abuse;
- (h) damage to property;
- (i) elder abuse;
- (j) coercive behaviour;
- (k) controlling behaviour;
- (l) to expose a child to domestic violence;
- (m) entry into a complainant's—
 - (i) permanent or temporary residence without their consent, where parties do not share the same residence; or
 - (ii) workplace or place of study, without their consent, where the parties do not share the same workplace or place of study; or
- (n) any other behaviour of an intimidating, threatening, abusive, degrading, offensive or humiliating nature towards a complainant, where such conduct harms or inspires the reasonable belief that harm may be caused to the complainant;

"educator", in terms of the South African Schools Act, 1996 (Act 84 of 1996), means any person, excluding a person who is appointed to exclusively perform extracurricular duties, who teaches, educates or trains other persons or who provides professional educational services, including professional therapy and education psychological services, at a school;

"employee" means—

- (a) an educator as defined above;
- (b) a member of hostel staff;
- (c) a member of administrative staff;
- (d) a support staff member or contract worker appointed in terms of the Employment of

Educators Act, 1998 (Act 76 of 1998); or

- (e) a support staff member or contract worker appointed in terms of the Public Service Act, 1994 (Proclamation 103 of 1994), and/or appointed by the governing body of the school;

"employee relations officer" means an employee from the Directorate: Employee Relations at the WCED Head Office whose function it is to investigate misconduct and initiate misconduct proceedings against an alleged offender in the employ of the WCED;

"Family Violence, Child Protection and Sexual Offences (FCS) unit" refers to a unit of the South African Police Service (SAPS) that fights against sexual offences against children, person-directed crimes (where the family is involved), the illegal removal of children under the age of 12 and crimes facilitated through electronic media;

"governing body" means a statutory body vested with the governance of a public school that may perform only such functions and obligations and exercise such rights as prescribed by the South African Schools Act, 1996 (Act 84 of 1996);

"grievous bodily harm" means a serious criminal offence involving intentionally or recklessly causing severe physical harm to another person;

"harassment", in terms of the Domestic Violence Act, 1998 (Act 116 of 1998), means—

- (a) the unreasonable—
 - (i) following, watching, stalking, pursuing or accosting of the complainant or a related person; or
 - (ii) loitering outside of or near the building or place where the complainant or a related person resides, works, carries on business, studies or happens to be, which inspires the belief in the complainant that they or a related person may be harmed or their property may be damaged;
- (b) to repeatedly contact the complainant by means of an electronic communications service, irrespective whether or not—
 - (i) a conversation ensues; or
 - (ii) any information is conveyed to the complainant;
- (c) the repeated sending or delivering of packages, communications or other objects to the complainant, or leaving them where they may be found by, given to, or brought to the attention of, the complainant;
- (d) the unauthorised access to a complainant's communication or electronic communication;
- (e) the monitoring or tracking of the complainant's movements, activities or interpersonal associations without the complainant's consent, including, for example, by using technology;
- (f) to enter any part of the joint residence that is exclusively used by the complainant or other property of the complainant, without the complainant's permission;
- (g) to unreasonably interfere with any property that is exclusively used by or is in the possession of the complainant;
- (h) to disclose an electronic communication to the complainant, or cause the

- complainant to receive a communication, which—
- (i) is abusive, degrading, offensive or humiliating;
 - (ii) violates or offends the sexual integrity or dignity of a complainant; or
 - (iii) inspires the belief in the complainant that they or a related person may be harmed or their property may be damaged; or
- (i) to disclose an electronic communication, or to make a communication available, to another person concerning a complainant, which—
- (i) contains information of a private nature;
 - (ii) violates or offends the sexual integrity or dignity of a complainant;
 - (iii) is abusive, degrading, offensive or humiliating; or
 - (iv) inspires the belief in the complainant that they or a related person may be harmed or their property may be damaged;

"hostel" means residential accommodation for learners linked to a school;

"institution" means an ordinary public school, special public school or any other institution within the jurisdiction of the WCED;

"intimidation", in terms of the Domestic Violence Act, 1998 (Act 116 of 1998), means—

- (a) physical violence, or damage to property belonging, to a complainant or any other person;
- (b) threats of physical violence, or damage to property belonging, to a complainant or any other person;
- (c) to deprive the complainant or any other person of their liberty or threatening to do so; or
- (d) conveying a threat, or causing a complainant to receive a threat, which induces fear of physical violence, or damage to property belonging to a complainant or any other person through electronic communication,

where such conduct is intended to compel a complainant to abstain from doing anything that they have a lawful right to do, or to do anything that they have a lawful right to abstain from doing;

"learner²" means any person receiving education or obliged to receive education in terms of the South African Schools Act, 1996 (Act 84 of 1996);

"learner victim" means a learner/child who makes the allegation of child abuse and/or of a sexual offence against another person or learner/child;

"neglect", in relation to a child, means a failure in the exercise of parental responsibilities to provide for the child's basic physical, intellectual, emotional or social needs;

"parent", in terms of the South African Schools Act, 1996 (Act 84 of 1996) means—

- (a) the biological or adoptive parent or legal guardian of a learner;
- (b) the person legally entitled to the custody of a learner; or

² Throughout this protocol the words "child" and "learner" are used interchangeably relative to the context.

- (c) the person who undertakes to fulfil the obligations of a person referred to in subparagraphs (a) and (b) towards the learner's education;

"principal" means an educator appointed or acting as the head of a school;

"school" means a public school or an independent school which enrolls learners from Grades R (Reception) to 12;

"school management team" means the management team of a school comprising the principal, deputy principal and departmental heads whose defined roles are to assist and support the principal in the management of the school;

"sexual abuse", in terms of the Children's Act, 2005 (Act 38 of 2005), in relation to a child, means—

- (a) sexually molesting or assaulting a child or allowing a child to be sexually molested or assaulted;
- (b) encouraging, inducing or forcing a child to be used for the sexual gratification of another person;
- (c) using a child in or deliberately exposing a child to sexual activities or pornography; or
- (d) procuring or allowing a child to be procured for commercial sexual exploitation or in any way participating or assisting in the commercial sexual exploitation of a child;

"sexual offences" mean both general and specific offences against children and persons with mental disabilities (see Annexure D for a list of these offences);

"Thuthuzela Care Centres" refer to one-stop centres based at healthcare facilities that provide victim-centred services in the form of clinical forensic, psychosocial and other relevant services in a multidisciplinary manner to gender-based violence victims;

"trafficking in persons", in terms of the Prevention and Combating of Trafficking in Persons Act, 2013 (Act 7 of 2013), in relation to a child means—

Any person who delivers, recruits, transports, transfers, harbours, sells, exchanges, leases or receives another person within or across the borders of the Republic of South Africa, by means of—

- (a) a threat of harm;
- (b) the threat or use of force or other forms of coercion;
- (c) the abuse of vulnerability;
- (d) fraud;
- (e) deception;
- (f) abduction;
- (g) kidnapping;
- (h) the abuse of power;
- (i) the direct or indirect giving or receiving of payments or benefits to obtain the consent of a person having control or authority over another person; or
- (j) the direct or indirect giving or receiving of payments, compensation, rewards, benefits or any other advantage, aimed at either the person or someone in close relationship

to that person, for the purpose of any form or manner of exploitation, is guilty of the offence of trafficking in persons;

"vulnerable person", in terms of section 40 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007), as amended, means—

- (a) a child,
- (b) a person with a mental disability,
- (c) a female under the age of 25 who is—
 - (i) receiving tuition at a higher education institution, university or college as defined in section 1 of the Higher Education Act, 1997 (Act 101 of 1997);
 - (ii) receiving vocational training at any institute, other than an institution referred to in subparagraph (i), as part of their employment; or
 - (iii) living in a building, structure or related facility used primarily as a residence for any of the persons referred to in subparagraphs (i) and (ii);
- (d) a person who is being cared for or sheltered in a facility that provides services to victims of crime;
- (e) a person with a physical, intellectual or sensory disability who—
 - (i) receives community-based care and support services, other than from a family member;
 - (ii) lives in a building, structure or facility used primarily as a residence for persons with physical, intellectual or sensory disabilities; or
 - (iii) is cared for in a facility providing 24-hour care to persons with physical, intellectual or sensory disabilities; or
- (f) a person who is 60 years of age or older who—
 - (i) receives community-based care and support services, other than from a family member;
 - (ii) lives in a building, structure or facility used primarily as a residence for such persons; or
 - (iii) is cared for in a facility providing 24-hour care to such persons.

2. **Legislative framework**

The legislative framework for this protocol is:

- (a) Child Justice Act, 2008 (Act 75 of 2008)
- (b) Children's Act, 2005 (Act 38 of 2005)
- (c) Code of Conduct for the public service, as published in Chapter 2 of the *Public Service Regulations, 2016*, published in *Government Gazette* No. 40167 of 29 July 2016
- (d) Constitution of the Republic of South Africa, 1996
- (e) Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007), as amended
- (f) Domestic Violence Act, 1998 (Act 116 of 1998), as amended
- (g) Education Labour Relations Council (ELRC) Collective Agreement 3 of 2018, dated 25 September 2018
- (h) Education White Paper 6: Special Needs Education, Building an Inclusive Education and Training System, 2001
- (i) Employment of Educators Act, 1998 (Act 76 of 1998)

- (j) Intimidation Act, 1982 (Act 72 of 1982)
- (k) *National Policy on HIV/AIDS for Learners and Educators in Public Schools and Students and Educators in Further Education and Training Institutions*, published in Government Gazette No. 20372 of 10 August 1999
- (l) National Strategic Plan (NSP) on Gender-Based Violence and Femicide, 2020
- (m) *Policy on the Prevention and Management of Learner Pregnancy in Schools*, published in Government Gazette No. 45580 of 03 December 2021
- (n) Prevention and Combating of Trafficking in Persons Act, 2013 (Act 7 of 2013)
- (o) Protection from Harassment Act, 2011 (Act 17 of 2011)
- (p) Public Service Act, 1994 (Proclamation 103 of 1994)
- (q) *Regulations relating to Disciplining, Suspension and Expulsion of Learners at Public Schools in the Western Cape*, published in Provincial Gazette Extraordinary No. 6939 of 15 December 2011
- (r) SAPS National Instruction 3 of 2008
- (s) South African Council for Educators Code of Professional Ethics, 2022
- (t) South African Schools Act, 1996 (Act 84 of 1996)
- (u) WCED Policy on Learner Attendance, 2010
- (v) WCED Policy on Managing Learner Pregnancy in Public Schools, 2003
- (w) Western Cape Provincial School Education Act, 1997 (Act 12 of 1997)

3. **Purpose**

The purpose of this protocol is to—

- (a) assist all learners who are victims or perpetrators of child abuse, deliberate neglect or any sexual offences; and
- (b) prescribe an approach for educators and employees to—
 - (i) identify;
 - (ii) intervene;
 - (iii) report; and
 - (iv) provide support
 in cases of child abuse, deliberate neglect and to children who are victims of sexual offences.

4. **Scope**

This protocol applies to all public schools in the Western Cape.

5. Introduction

Child abuse, deliberate neglect and sexual offences against children are serious problems that currently exist in communities and education institutions throughout South Africa. This concern was raised by President Cyril Ramaphosa when he declared violence and sexual offences against children, women and the LGBTQIA+ community as the second pandemic following COVID-19. Subsequently, this protocol has been developed to help WCED institutions, employees, learners and parents/guardians/caregivers to deal with these problems in the most efficient and effective way.

The reporting procedures contained in this protocol may be used by learners, educators, employees, parents/guardians/caregivers or any other persons. All WCED employees must therefore ensure that they are fully familiar with the contents of this protocol and that they have a clear understanding of their role in combating child abuse, deliberate neglect and sexual offences against children.

The effective management of these problems can be achieved only if procedures are based on a strong legal foundation. Therefore, in drafting this protocol, all relevant legislation regarding children, including the *NSP on Gender-Based Violence and Femicide, 2020*, have been considered and applied.

The six pillars set out in the *NSP on Gender-Based Violence and Femicide, 2020*, guide all spheres of government and civil society on the management of gender-based violence in respect of all vulnerable groups, particularly children.

The six pillars are as follows:

Pillar 1: Accountability, Coordination and Leadership

Pillar 2: Prevention and Rebuilding Social Cohesion

Pillar 3: Protection, Safety and Justice

Pillar 4: Response, Care, Support and Healing

Pillar 5: Economic Power

Pillar 6: Research and Information Systems

The relevant legislation highlights the responsibility of educators and non-educators who may suspect or deal with disclosures of child abuse, deliberate neglect and sexual offences against children, and their **mandatory duty to report** such incidents in the prescribed manner.

Child protection is EVERYONE'S responsibility, therefore the **vetting of all employees** – whether employed on contract or in a permanent position, volunteers, service providers, stakeholders or anyone rendering a service at a school – is mandatory by law in order to protect children.

This protocol also highlights the responsibility of the principal to implement, manage and sustain the procedures set out in such a manner that the confidentiality and best interests of the child are maintained at all times.

6. Management procedures

The best interests of the child (learner victim or alleged learner offender) must be the overriding factor and will govern how the process is managed when a report of child abuse, deliberate neglect or sexual offence is made. South African legislation places a mandatory duty to report such incidents and failure to do so is a criminal offence.

6.1 Compulsory reporting

6.1.1 In terms of section 54 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007), as amended

- (a) Every person has a duty to report any knowledge, reasonable belief or suspicion of a sexual offence committed against a vulnerable person (as defined in section 40 of this Act, which includes children and persons with mental disabilities).
- (b) The report must be immediate.
- (c) The report must be to SAPS.
- (d) All particulars of any knowledge, reasonable belief or suspicion of a sexual offence must be furnished, at the request of SAPS.
- (e) Failure to report is a criminal offence in terms of section 54(2)(a).
- (f) The penalty for non-reporting is a fine or imprisonment of five years or both.
- (g) Where a report is made in good faith in relation to section 54(2)(b) of a reasonable belief or suspicion of a sexual offence, such a person shall not be liable to any civil or criminal proceedings as a result of making such report.
- (h) Part 4 of the SAPS National Instruction 3 of 2008 sets out who may make a report of a sexual offence and reiterates compulsory reporting in terms of section 54.
- (i) It is important to note that in terms of SAPS National Instruction 3 of 2008, a SAPS official may not turn anyone away who reports a sexual offence committed against a child or a person with a mental disability.

6.1.2 In terms of section 110(1) of the Children's Act, 2005 (Act 38 of 2005), as amended

- (a) In terms of this section certain professionals, e.g. an educator, have a duty to report (see Annexure F).
- (b) They must on reasonable grounds conclude that the child has been abused in a manner causing physical injury, sexual abuse or deliberate neglect.
- (c) Such conclusion must be reported on the prescribed form (Form 22 as per Regulation 33 of the *General Regulations Regarding Children*, published in *Government Gazette* No. 33076 of 01 April 2010).
- (d) It must be reported to the Provincial Department of Social Development, a designated child protection organisation or SAPS.
- (e) Failure to report in terms of this section is a criminal offence. Section 305(1)(c) states that a person is guilty of an offence if that person fails to comply with section 110(1).

6.1.3 In terms of section 110(2) of the Children's Act, 2005 (Act 38 of 2005), as amended

- (a) This section states that *"Any person who on reasonable grounds believes that a child is in need of care and protection may report that belief to the provincial department of social development, a designated child protection organisation or a police official"*.
- (b) There is no penalty set out in this section.
- (c) This section of the Children's Act, 2005 (Act 38 of 2005), allows for discretion as to whom the abuse must be reported to e.g. a designated social worker or SAPS, but not in relation to the actual reporting of the offence.
- (d) In the case of a sexual offence, the SAPS's FCS unit must be involved.

6.1.4 In terms of section 2B(1) of the Domestic Violence Act, 1998 (Act 116 of 1998), as amended

- (a) Section 2B(1) states that an adult person who knows, believes or suspects on reasonable grounds, that an act of domestic violence has been committed against a child, a person with a disability or an older person, must report such knowledge, belief or suspicion as soon as possible to a social worker or SAPS.
- (b) The report referred to in subsection (1) must—
 - (i) be made in the prescribed form;
 - (ii) set out the reasons for such knowledge, belief or suspicion; and
 - (iii) in the prescribed manner be submitted to a social worker or SAPS.
- (c) A person referred to in subsection (1)—
 - (i) who makes the report in good faith, is not liable to civil, criminal or disciplinary action on the basis of the report, despite any law, policy or code of conduct prohibiting the disclosure of personal information; and
 - (ii) is entitled to have their identity kept confidential, unless the interests of justice require otherwise.
- (d) A person who fails to comply with subsection (1) is guilty of an offence.

6.1.5 In terms of section 18 of the Prevention and Combating of Trafficking in Persons Act, 2013 (Act 7 of 2013)

- (a) Section 18(1)(a) states that despite any law, policy or code of conduct prohibiting the disclosure of personal information, ANY PERSON who knows or ought reasonably to have known or suspected that a child is a victim of trafficking MUST immediately report that knowledge or suspicion to SAPS for investigation.
- (b) Section 18(1)(b) states that a designated child protection organisation which comes in contact with a child who is suspected of being a victim of trafficking and who has not been reported as provided for in paragraph (a), must immediately report the matter to SAPS for investigation.
- (c) A person referred to in section 18(1)—
 - (i) must provide reasons for that knowledge or suspicion to SAPS;
 - (ii) who makes the report in good faith, is not liable to civil or disciplinary action on the basis of the report, despite any law, policy or code of conduct prohibiting the disclosure of personal information; and
 - (iii) is entitled to have his/her identity kept confidential if his/her safety is at risk as a result of the report, unless the interests of justice require otherwise.

6.2 General guidelines for handling the disclosure process

- (a) Always act in the best interests of the child.
- (b) The disclosure of an allegation is a process and must be managed with care, sensitivity and confidentiality.
- (c) During the disclosure of an allegation, clarify confidentiality and explain the consequences of the disclosure of an allegation to the learner victim, i.e. that in order to help him/her, you are legally required to report the matter to other role players such as a social worker and/or SAPS.
- (d) Ensure the safety of the child.
- (e) Actions and interventions must be immediate (including reporting the matter to a designated social worker and/or SAPS).
- (f) Effective management of the process will ensure that the learner victim as well as the alleged learner or employee offender are protected from additional and unnecessary emotional trauma and victimisation.
- (g) During the disclosure process, the learner victim must under no circumstances be questioned to verify the truthfulness of the allegation, since the educator/employee/principal's role is merely to receive the report and to further report the matter to either a designated social worker or SAPS, as the case may be.
- (h) In order to decide which process to follow and adequately manage the reporting process, the following information is sufficient:
 - (i) There was an abuse.
 - (ii) The type of abuse.
 - (iii) Who the suspected offender is.
- (i) The management of the reporting process is immediate and there must be no delays in involving the relevant role players, e.g. SAPS and the Provincial Department of Social Development **must be contacted on the same day**.

6.3 Process for learner on learner abuse

- (a) A learner victim can disclose an allegation to either another child/learner (who would in turn disclose the allegation to an educator/employee) or the learner victim can disclose the allegation directly to an educator/employee themselves.
- (b) The learner victim must not be cross-examined. Only obtain the information relevant for reporting purposes.
- (c) Explain the procedure that will follow and the different roles and responsibilities of each stakeholder and why they are relevant to the process.
- (d) As soon as an allegation has been disclosed, inform or report to the following role players:
 - (i) **Inform** the parents/guardians/caregivers of both the learner victim as well as the alleged learner offender.
 - (ii) **Report** to the SAPS's FCS unit or a Thuthuzela Care Centre (TCC) (if one exists in the school's jurisdiction) in the case of a sexual offence or assault with the intent to cause grievous bodily harm.
 - (iii) **Inform** the circuit-based social worker at the relevant district office.
 - (iv) **Report** to a designated social worker in the case of child abuse.

- (e) An alleged learner offender who physically abuses another learner must be reported in the prescribed manner to the designated social worker or SAPS when the physical abuse constitutes behaviour such as—
 - (i) using a dangerous object against another learner or employee;
 - (ii) committing an act of assault;
 - (iii) threatening or endangering the safety of fellow learners or employees; or
 - (iv) repeatedly being found guilty of physically harming other learners.
- (f) If the offence was in violation of the school's learner code of conduct, the *Regulations relating to Disciplining, Suspension and Expulsion of Learners at Public Schools in the Western Cape*, published in *Provincial Gazette Extraordinary* No. 6939 of 15 December 2011, or any other legislation, then due process in relation to disciplinary hearings, as stated in the abovementioned Regulations, must be followed.
- (g) The circuit-based social worker must assist in managing and guiding the process to ensure that both learners are supported during this period.
- (h) Young, alleged learner offenders must be supported. Such support must be seen as an attempt to prevent the alleged learner offender from committing further abuse.
- (i) The alleged learner offender must be referred to the relevant role players for psychosocial support.
- (j) It is important to ensure that the designated social worker and SAPS become involved as soon as possible, depending on the seriousness of the abuse.
- (k) The learner victim/alleged learner offender must be referred for counselling and/or psychosocial support by the circuit-based social worker and circuit-based psychologist, where applicable.

6.3.1 **Protocols for managing disciplinary measures against an alleged learner offender**

- (a) The learner code of conduct must make provision for the offence(s).
- (b) The disciplinary process, aligned with the *Regulations relating to Disciplining, Suspension and Expulsion of Learners at Public Schools in the Western Cape*, published in *Provincial Gazette Extraordinary* No. 6939 of 15 December 2011, and section 9 of the South African Schools Act, 1996 (Act 84 of 1996), as amended, can only take place if there has been a transgression of the school's learner code of conduct or other legislation.
- (c) In a situation where the learner victim and the alleged learner offender are at the same school, the alleged learner offender may be suspended in terms of section 9(1) of the South African Schools Act, 1996 (Act 84 of 1996), as follows:
 - (i) As a precautionary measure and only on reasonable grounds if the learner is accused of serious misconduct as listed in section 9(1)(a), provided that the learner has been granted a reasonable opportunity to make representations.
 - (ii) Immediately and without representations if the learner is accused of serious misconduct as listed in section 9(1)(b) and has been formally charged by SAPS.
- (d) Any suspension must not exceed seven school days unless extended with the approval of the Head of Department in terms of section 9(1B) of the South African Schools Act, 1996 (Act 84 of 1996).
- (e) A disciplinary hearing must be conducted by the governing body within seven school days after the suspension of the learner, in accordance with the Regulations referred

to in subparagraph 6.3.1(b) and section 9(1A) of the South African Schools Act, 1996 (Act 84 of 1996).

- (f) The alleged learner offender's right to a fair and reasonable hearing must be honoured, including the right to state a case, to call witnesses, to cross-examine and to be represented.
- (g) These principles must also apply to the way in which arguments are presented.
- (h) Both the learner victim and the alleged learner offender have the right to legal representation, should they choose to have such representation.
- (i) When deciding on the most appropriate sanction, the following must be taken into consideration:
 - (i) The age and developmental phase of the alleged learner offender.
 - (ii) The alleged learner offender's disciplinary record and willingness to change.
 - (iii) The alleged learner offender's regret and willingness to put the offence right.
 - (iv) Recommendations from professional service providers supporting the alleged learner offender.
 - (v) The seriousness of the offence, as contemplated in section 9(1) of the South African Schools Act, 1996 (Act 84 of 1996).
- (j) Procedure following disciplinary proceedings:
 - (i) The governing body may impose a suspension of no longer than seven school days or any other sanction contemplated in the code of conduct.
 - (ii) The governing body may recommend expulsion to the Head of Department in cases of serious misconduct.
 - (iii) The Head of Department must decide within 14 days whether or not to expel a learner.
- (k) In terms of section 9(4) of the South African Schools Act, 1996 (Act 84 of 1996), a learner or the parent of a learner who has been expelled may appeal against the decision of the Head of Department to the Provincial Minister of Education within 14 days of receiving the notice of expulsion.
- (l) If a learner who is subject to compulsory attendance is expelled, the Head of Department must make alternative placement arrangements in terms of section 9(5) of the South African Schools Act, 1996 (Act 84 of 1996).
- (m) Always remember to act in the best interests of the child.



DIAGRAM 1 REPORTING PROCESS: LEARNER ON LEARNER ABUSE

**AN ALLEGATION IS DISCLOSED TO A
LEARNER/EDUCATOR/EMPLOYEE/PRINCIPAL**

**REPORT AS MANDATED
BY LEGISLATION**

**EXTERNAL ROUTE: CRIMINAL
JUSTICE SYSTEM
PROCESS TO FOLLOW**

**SAPS/FCS UNIT/TCC/
DESIGNATED SOCIAL WORKER**

- **SAPS:**
Receives and investigates complaint.
- **FCS UNIT:**
SAPS unit that fights against sexual offences against children.
- **TCC:**
Provides victim-centred services in the form of clinical forensic, psychosocial and other relevant services.
- **DESIGNATED SOCIAL WORKER:**
Receives the Form 22, investigates the information on this designated form and ensures the safety of the learner victim.

INFORM FOR SUPPORT

**INTERNAL ROUTE: WCED
PROCESS TO FOLLOW**

**CIRCUIT-BASED SOCIAL WORKER /
CIRCUIT-BASED PSYCHOLOGIST**

**Learner victim
and parent/
guardian/
caregiver**

**Alleged learner
offender
and parent/
guardian/
caregiver**

**Follow the
governing body
disciplinary
process in terms
of the learner
code of conduct**

Provide the following:

- Emotional support
- Guidance to parents/guardians/caregivers
- Referral for additional support

6.4 Process for employee on learner abuse

6.4.1 Protocols for managing disciplinary measures against an employee identified as an alleged offender

To prevent the abuse of children by educators, WCED employees or governing body employees, vetting as described in this protocol as well as Circular 0022/2020, dated 25 March 2020, and Circular 0001/2023, dated 03 March 2023, is compulsory for anyone who has access to learners. Educators and employees employed by the WCED and governing body must be vetted as per Annexures J, K and L.

- (a) A learner victim can disclose an allegation to either another child/learner (who would in turn disclose the allegation to an educator/employee) or the learner victim can disclose the allegation directly to an educator/employee themselves.
- (b) The learner victim must not be cross-examined. Only obtain the information relevant for reporting purposes.
- (c) Explain the procedure that will follow and the different roles and responsibilities of each stakeholder and why they are relevant to the process.
- (d) As soon as an allegation has been disclosed, inform or report to the following role players:
 - (i) **Inform** the parents/guardians/caregivers of the learner.
 - (ii) **Report** to the SAPS's FCS unit or a TCC (if one exists in the school's jurisdiction) in the case of a sexual offence or assault with the intent to cause grievous bodily harm.
 - (iii) **Report** to the Directorate: Employee Relations or the governing body, in cases where the alleged employee offender is employed by the governing body.
 - (iv) **Inform** the circuit-based social worker at the relevant district office.
 - (v) **Report** to a designated social worker in the case of child abuse.

6.4.2 The following applies to the WCED process:

- (a) If the disclosure of an allegation has revealed that the principal is the alleged employee offender, the educator/employee to whom the disclosure of the allegation was made must inform the circuit-based social worker and report it to the Directorate: Employee Relations and must forward all documents pertaining to the report, so that they can assist in managing the process.
- (b) The educator/employee/principal to whom the disclosure of an allegation was made, may not inform or confront the alleged employee offender about the complaint before contact has been made by an employee relations officer.
- (c) The circuit-based social worker will assist the Directorate: Employee Relations in guiding and managing the process.
- (d) Do not hold a meeting with the learner victim and alleged employee offender.
- (e) No educator/employee/principal must question, re-question, ignore, isolate or intimidate a learner victim, as complainant, as this could interfere with the course of justice. Such employee will be charged criminally which could result in a disciplinary hearing or dismissal.

- (f) If the alleged employee offender is employed by the governing body, the said employer must act upon the conditions of the employment contract (refer to Annexure H).
- (g) Where the alleged employee offender is employed by the governing body, a governing body hearing will take place.
- (h) Both the alleged employee offender and the learner victim are entitled to representation. (The alleged employee offender is entitled to a union/legal representative. The alleged learner victim will be represented by the Directorate: Employee Relations.)
- (i) Intermediary and support services must be used to assist the learner victim in giving evidence during the WCED and governing body hearings (as per ELRC Collective Agreement 3 of 2018, dated 25 September 2018).
- (j) Ensure separate seating arrangements to avoid contact between the learner victim and alleged employee offender.
- (k) During questioning, consideration must be given to the learner victim's developmental age, preference in terms of language, emotional status, concentration span, cognitive ability, the need for regular breaks and the time of the interview or hearing.
- (l) Corporal punishment must also be seen as physical and emotional abuse and must, therefore, be dealt with in terms of this protocol.

6.4.3 Corporal punishment

- (a) Corporal punishment is prohibited in terms of the South African Schools Act, 1996 (Act 84 of 1996).
- (b) The South African Schools Act, 1996 (Act 84 of 1996) states in section 10:
"(1) No person may administer corporal punishment at a school to a learner. (2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a sentence which could be imposed for assault".
- (c) Circular 0012/2019, dated 09 March 2019, defines corporal punishment as *"any deliberate act against a child that inflicts pain or physical discomfort to punish or contain him/her. This includes, but is not limited to, spanking, slapping, pinching, paddling or hitting a child with a hand or any other object; denying or restricting a child's use of the toilet; denying meals, drink, heat or shelter; pushing or pulling a child with force; forcing the child to do exercise. It is, therefore, not just about caning but also refers to an assault on a person (learner) in any manner whatsoever."*



DIAGRAM 2 REPORTING PROCESS: EMPLOYEE ON LEARNER ABUSE

**AN ALLEGATION IS DISCLOSED TO A
LEARNER/EDUCATOR/EMPLOYEE/PRINCIPAL**

**REPORT AS MANDATED
BY LEGISLATION**

**EXTERNAL ROUTE:
CRIMINAL JUSTICE
SYSTEM
PROCESS TO FOLLOW**

**SAPS/FCS UNIT/TCC/
DESIGNATED SOCIAL
WORKER**

- **SAPS:**
Receives and investigates complaint.
- **FCS UNIT:**
SAPS unit that fights against sexual offences against children.
- **TCC:**
Provides victim-centred services in the form of clinical forensic, psychosocial and other relevant services.
- **DESIGNATED SOCIAL WORKER:**
Receives the Form 22, investigates the information on this designated form and ensures the safety of the learner victim.

**REPORT TO THE
DIRECTORATE:
EMPLOYEE
RELATIONS /
GOVERNING BODY
FOR INTERNAL
INVESTIGATION**

INFORM FOR SUPPORT

**INTERNAL ROUTE: WCED
PROCESS TO FOLLOW**

**CIRCUIT-BASED SOCIAL
WORKER**

**Provide the following to
the learner victim and
their parents/guardians/
caregivers:**

- Emotional support
- Guidance
- Referral for additional support

6.5 Process for parent/guardian/caregiver, family member or community member on learner abuse

- (a) A learner victim can disclose an allegation to either another child/learner (who would in turn disclose the allegation to an educator/employee) or the learner victim can disclose the allegation directly to an educator/employee themselves.
- (b) The learner victim must not be cross-examined. Only obtain the information relevant for reporting purposes.
- (c) Explain the procedure that will follow and the different roles and responsibilities of each stakeholder and why they are relevant to the process.
- (d) As soon as an allegation has been disclosed, inform or report to the following role players:
 - (i) **Inform** the parents/guardians/caregivers of the learner. **However**, if the disclosure of an allegation reveals a **parent/guardian/caregiver as the alleged offender**, it is advised that the non-offending parent/guardian/caregiver is **not contacted** before the designated social worker or SAPS become involved, in order to prevent intimidation of the learner victim.
 - (ii) **Report** to the SAPS's FCS unit or a TCC (if one exists in the school's jurisdiction) in the case of a sexual offence or assault with the intent to cause grievous bodily harm.
 - (iii) **Inform** the circuit-based social worker at the relevant district office.
 - (iv) **Report** to a designated social worker in the case of child abuse.
- (e) The persons assisting the learner victim must also support them with an application for a Protection Order, under certain circumstances.
- (f) This must be brought to the attention of the designated social worker so that the learner victim can be assisted during this process.
- (g) The school must assist in ensuring the safety of the learner victim by communicating with the designated social worker or other child protection agencies in order to have the learner victim sent to a place of safety or a family member, if it is deemed unsafe for the learner victim to return home.
- (h) The school (educators/employees/principal) must provide continuous emotional support to the learner victim and monitor the learner victim's social, emotional and academic functioning.
 - (i) Regular feedback must be provided to the designated social worker.
 - (j) Additional academic support must be arranged if necessary.



DIAGRAM 3

REPORTING PROCESS: PARENT/GUARDIAN/CAREGIVER, FAMILY MEMBER OR COMMUNITY MEMBER ON LEARNER ABUSE

**AN ALLEGATION IS DISCLOSED TO A LEARNER/EDUCATOR/
EMPLOYEE/PRINCIPAL**

**REPORT AS MANDATED BY
LEGISLATION**

**EXTERNAL ROUTE: CRIMINAL
JUSTICE SYSTEM
PROCESS TO FOLLOW**

**SAPS/FCS UNIT/TCC/
DESIGNATED SOCIAL WORKER**

- **SAPS:**
Receives and investigates complaint.
- **FCS UNIT:**
SAPS unit that fights against sexual offences against children.
- **TCC:**
Provides victim-centred services in the form of clinical forensic, psychosocial and other relevant services.
- **DESIGNATED SOCIAL WORKER:**
Receives the Form 22, investigates the information on this designated form and ensures the safety of the learner victim.

INFORM FOR SUPPORT

**INTERNAL ROUTE: WCED
PROCESS TO FOLLOW**

CIRCUIT-BASED SOCIAL WORKER

**Provide the following to the
learner victim and their parents/
guardians/ caregivers:**

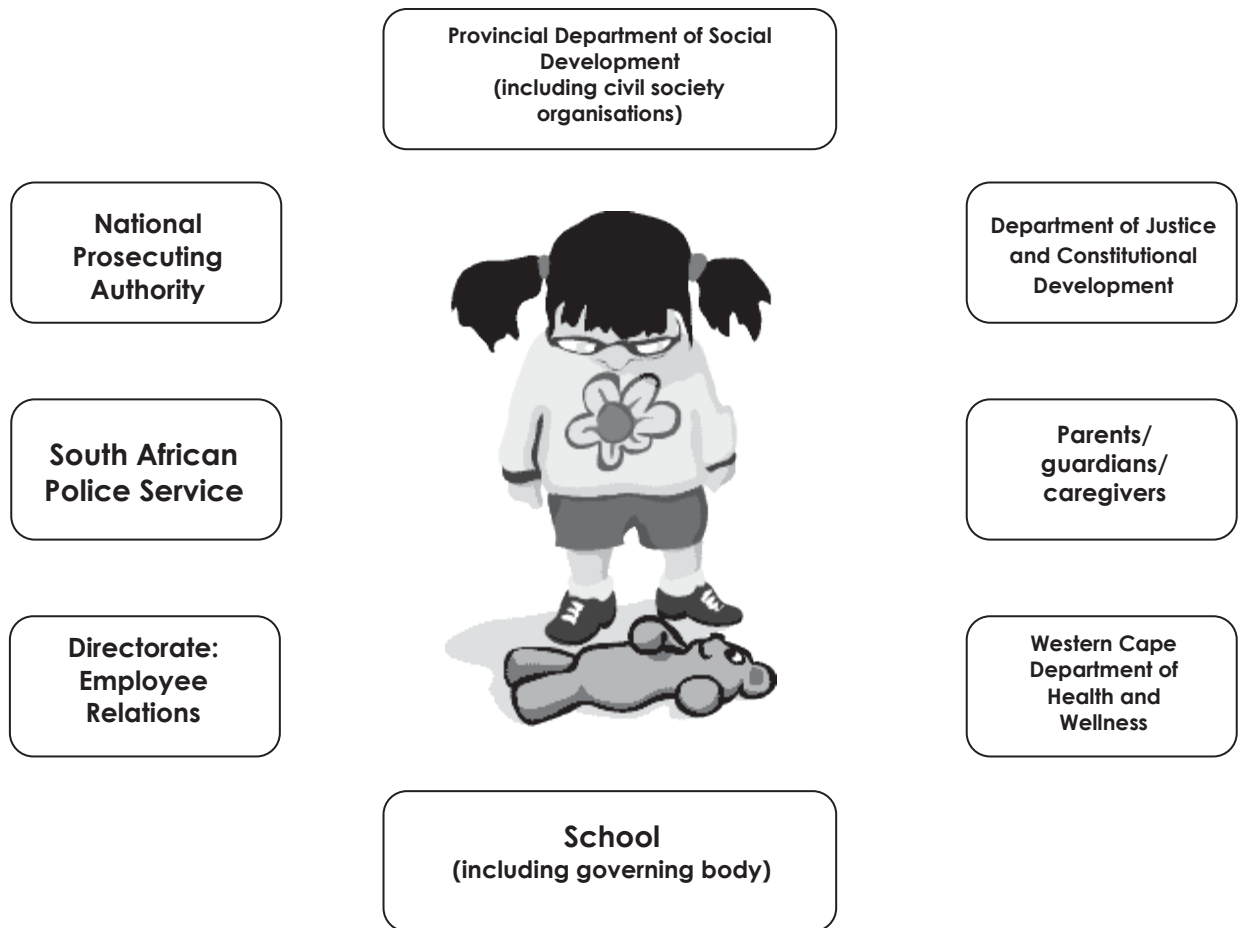
- Emotional support
- Guidance
- Referral for additional support

7. Relevant role players

- 7.1 The circuit-based social worker at the district office will assist the educator/employee/principal to whom an allegation was disclosed, to decide on the involvement of other relevant agencies, such as the following:
- (a) The learner victim's parents/guardians/caregivers, provided that they are not the alleged offenders
 - (b) The SAPS's FCS unit or a TCC (if one exists in the school's jurisdiction) in the case of a sexual offence or assault with the intent to cause grievous bodily harm
 - (c) The Directorate: Employee Relations, when WCED employees are the alleged offenders
 - (d) The governing body, when the alleged employee offender is employed by the governing body
 - (e) The circuit-based social worker
 - (f) The circuit-based psychologist
 - (g) The Provincial Department of Social Development or designated child protection organisations
 - (h) The Western Cape Department of Health and Wellness.

7.2 Responsibilities of the relevant role players

- 7.2.1 Dealing effectively with child abuse demands a multisectoral and multi-disciplinary approach in order to provide for the needs of the complainant (learner victim) holistically. The *NSP on Gender-Based Violence and Femicide, 2020*, encourages this approach to better manage gender-based violence in respect of children in our schools. The *NSP on Gender-Based Violence and Femicide, 2020*, also calls for improved service delivery, hence the emphasis on a multisectoral and multidisciplinary approach.
- 7.2.2 The effective management of abuse therefore depends on collaboration, coordination and cooperation between the various role players and service providers during the intervention process, and each institution must formulate a way to liaise effectively with each other.



7.2.3 South African Police Service

- (a) Receives and investigates complaint.
- (b) Obtains sworn statements from the complainant (learner victim), his/her parents/guardians/caregivers and other relevant witnesses.
- (c) Arrests the alleged offender(s).
- (d) Takes the learner victim for a medical examination, where applicable.
- (e) Takes the accused to court within 48 hours after arrest or 24 hours after arrest in the case of a minor.

7.2.4 Western Cape Department of Health and Wellness

- (a) Conducts a forensic medical examination in the case of a sexual offence.
- (b) Administers the relevant tests, such as HIV and pregnancy.
- (c) Reports underage pregnancies to SAPS and the Provincial Department of Social Development.
- (d) Collects forensic evidence to be used in a court case.
- (e) Provides medication to protect the health of the learner victim.
- (f) Records all findings on a medico-legal document (J88) with an accompanying 212(4) affidavit.

7.2.5 **Department of Justice and Constitutional Development**

- (a) Protects children from further abuse by an order of the Children's Court, via the Commissioners of Children's Courts.
- (b) Protects children from abuse by way of Protection Orders (interdicts).
- (c) Provides relevant courts to bring the alleged offender to trial.
- (d) Subpoenas witnesses to appear in court.
- (e) Provides interpreters so that the proceedings can take place in the preferred language of the learner victim and the alleged offender.

7.2.6 **Social workers from the Provincial Department of Social Development and designated child protection organisations**

- (a) Ensure the safety of the learner victim.
- (b) Investigate the incident where compelled to do so and compile a report for the Children's Court or the Criminal Court.
- (c) Provide immediate trauma debriefing and/or long-term counselling directly or through a non-governmental organisation.
- (d) Assist by preparing the learner victim and parents/guardians/caregivers regarding court procedures.
- (e) Render reunification services to the learner victim and his/her family.

7.2.7 **National Prosecuting Authority**

- (a) Provides assistance through a TCC (if one exists in the school's jurisdiction).
- (b) TCCs are one-stop centres based at healthcare facilities that provide victim-centred services in the form of clinical forensic, psychosocial and other relevant services in a multi-disciplinary manner to victims of gender-based violence.
- (c) Provides trained and skilled prosecutors to prosecute the matter when it gets to court.
- (d) Consults with the learner victim in preparation for trial.
- (e) Prosecutors inform learner victims of the protective measures available at court.
- (f) Court preparation officers employed by the National Prosecuting Authority assist with preparing learner victims for the court process.

7.2.8 **Directorate: Employee Relations**

- (a) Investigates all complaints, ensuring that the learner victim's safety, privacy and confidentiality are maintained at all times.
- (b) Suspends an alleged WCED employee offender immediately, as a precautionary measure, where there is sufficient evidence to do so.
- (c) Serves charges on the WCED employee.
- (d) Proceeds with a disciplinary inquiry in a manner which protects the interests and the special needs of the learner victim(s) and other child witness(es).

7.2.9 **Governing body**

- (a) Assists with an investigation and hearing regarding the allegation(s) of abuse (sexual offences or other abuses) by an employee.
- (b) Convenes a hearing as soon as possible and makes a decision concerning the termination of the employment contract of such an employee, depending on the outcome of the hearing.

8. Review

This protocol must be reviewed when the need arises or in the case of changed circumstances, such as pronouncements by legislation and/or regulations and budgetary constraints.

I.....(name) Head of Department for Education in the Western Cape hereby approve the *Abuse no more protocol, 2025*.

.....(signature)

..... (date)

Abuse no more protocol
Important contact numbers

WCED contact numbers	
WCED Head Office	0861 819 919
WCED Safe Schools Call Centre	0800 45 46 47
Employee Health and Wellness Programme	0800 111 011
Directorate: Employee Relations	021 467 2849/6
Metro North District Office	021 938 3000
Metro Central District Office	021 514 6700
Metro South District Office	021 370 2000
Metro East District Office	021 900 7000
West Coast District Office	021 860 1200
Cape Winelands District Office	023 348 4600
Overberg District Office	028 214 7300
Eden and Central Karoo District Office	044 803 8300
Other relevant toll-free numbers	
South African Police Service	10111
Western Cape Department of Social Development	0800 220 250
Childline	116
Gender-Based Violence Command Centre	0800 428 428
Human Trafficking Hotline	0800 222 777
South African Depression and Anxiety Group	0800 567 567
Cape Mental Health Helpline	0800 456 789

Database of local support services

District office support (circuit team)

Official	Name	Tel. no. (office)	Cell no.
Circuit-based social worker			
Circuit-based psychologist			
Circuit manager			

Community support

Organisation or department	Name of contact person	Tel. no. (office)	Cell no.
SAPS			
Western Cape Department of Social Development social work supervisor			
Designated child protection organisation (e.g. Child Welfare, ACVV, Badisa, etc.)			
FCS unit			
NGO			
Day hospital/health clinic/TCC			

FORM 22

REPORTING OF ABUSE OR DELIBERATE NEGLECT OF CHILD
(Regulation 33)
[SECTION 110 OF THE CHILDREN'S ACT 38 OF 2005]

**REPORTING OF ABUSE TO PROVINCIAL DEPARTMENT OF SOCIAL DEVELOPMENT,
DESIGNATED CHILD PROTECTION ORGANISATION OR POLICE OFFICIAL**

NOTE: A SEPARATE FORM MUST BE COMPLETED FOR EACH CHILD

TO: The Head of the Department

Pursuant to section 110 of the Children's Act, 2005, and for purposes of section 114(1)(a) of the Act, you are hereby advised that a child has been abused in a manner causing physical injury/ sexually abused/ deliberately neglected or is in need of care and protection.

Source of report (do not identify person)				☐ Victim	☐ Relative	☐ Parent
☐ Neighbour				☐ friend	☐ Professional (specify)	
☐ Other (specify)						
Date Reported to child protection organisation:				DD	MM	CCYY
1. INFORMANT: (DETAILS OF PERSON WHO REPORTS ALLEGED ABUSE)						
Surname				Full name(s)		
Gender:	M	F		Date of Birth:	DD	MM
						CCYY
Age / Estimated Age:				Relationship to Child:		
* ID no:				* Passport no:		
Contact no:						
2. CHILD: (COMPLETE PER CHILD)						
Surname				Full name(s)		
Gender:	M	F		Date of Birth:	DD	MM
						CCYY
School Name:				Grade:	Age / Estimated Age:	
* ID no:				* Passport no:		
Contact no:						
3. PARENTS OF CHILD (If other than above)						
Surname: Father / Step-father				Full name(s)		
Date of Birth:	DD	MM	CCYY	Gender:	M	F
ID number:				Age:		

Surname: Mother / Step-mother				Full name(s)		
Date of Birth:	DD	MM	CCYY	Gender:	M	F
ID number:				Age:		
Names and ages of siblings or other children if helpful for tracking						
Surname		Full names			Age/Date of birth	
Street Address (include postal code):					Postal Code:	
4. CAREGIVER INFORMATION (If not same as trusted person or parent(s) of child)						
Surname:				Name:		
Physical Address:				Postal address		
Relationship to child:						
Telephone number:				Mobile:		
5. NATURE OF REPORT						
☐ Child abuse ☐ Child labour ☐ Child trafficking ☐ Child living and begging on the street ☐ Commercial sexual exploitation ☐ Exploited children ☐ Child abduction						
6. OTHER INTERVENTION – CONTACT PERSON TRUSTED BY CHILD						
Surname:				Name:		
Physical address:				Telephone number:		
Other children interviewed: ☐ Yes ☐ No				Number:		
7. ALLEGED PERPETRATOR						
7.1) Surname				Full Name(s)		
Date of Birth:	DD	MM	CCYY	Gender:	M	F

ID No:	Age:
* Passport No:	* Drivers license number:
Also known as:	Relationship to child:
Street Address (include postal code):	☐ Father ☐ Mother ☐ Grandfather
	☐ Grandmother ☐ Step father ☐ Step mother
	☐ Foster father ☐ Aunt ☐ Uncle
	☐ Foster mother ☐ Sibling ☐ Caregiver
Postal Code:	☐ Professional: social worker/police officer/teacher/caregiver/priest/dr/volunteer
☐ Other (specify) Other (specify)	

7.2) WHEREABOUTS OF ALLEGED PERPETRATOR:

☐ Section 153 (Request for removal by SAPS) ☐ Still in home

☐ In hospital (Name/Place.....)

☐ In detention (Name/Place.....)

☐ Living somewhere else (Address.....)

☐ Whereabouts unknown ☐ Un-identified

8. ABUSE								
Date of Incident:			If date unknown (mark with X here):	Episodic		Reported to CPR:		
DD	MM	CCYY		Yes	No	DD	MM	CCYY

Place of incident: ☐ Child's home ☐ Field ☐ Tavern ☐ School

☐ Friend's place ☐ After school centre ☐ ECD Centre ☐ Neighbour ☐ Private hostel

☐ Child and youth care centre ☐ Foster home ☐ Temporary safe care

☐ temporary respite care ☐ Other (specify)

8.1) TYPE OF ABUSE (Tick only the one that indicates the key motive of intent)

Physical	Emotional	Sexual	Deliberate neglect
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8.2) INDICATORS (Check any that apply)

PHYSICAL: ☐ Abrasions ☐ Bruises ☐ Burns/Scalding ☐ Fractures

☐ Other physical illness ☐ Cuts ☐ Welts

☐ Repeated injuries ☐ Fatal injury (date of death)

☐ Injury to internal organs ☐ Poisoning (specify)	☐ Head injuries ☐ Other Behavioral or physical (specify)	☐ No visible injuries (elaborate)
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EMOTIONAL: ☐ Withdrawal ☐ Depression ☐ Self destructive aggressive behaviour

☐ Corruption through exposure to illegal activities ☐ Deprivation of affection
☐ Exposure to anti-social activities ☐ Exposure to family violence
☐ Parent or care giver negative mental condition ☐ Inappropriate and continued criticism
☐ Humiliation ☐ Isolation ☐ Threats ☐ Development Delays ☐ Oppression
☐ Rejection ☐ Accusations ☐ Anxiety ☐ Lack of cognitive stimulation

☐ Mental, emotional or developmental condition requiring treatment (specify)

SEXUAL: ☐ Contact abuse ☐ Rape ☐ Sodomy

☐ Masturbation ☐ Oral sex area ☐ Molestation
☐ Non-contact abuse (flashing, peeping) ☐ Irritation, pain, injury to genital
☐ Other indicators of sexual molestation or exploitation (specify)

DELIBERATE NEGLECT: ☐ Malnutrition ☐ Medical ☐ Physical ☐ Educational

☐ Refusal to assume parental responsibility ☐ Neglectful supervision ☐ Abandonment
☐ Child living and begging on the street

8.3) Indicate overall degree of risk to child:

☐ Mild ☐ Moderate ☐ Severe ☐ Unknown

8.4) Where applicable, tick the secondary type of abuse or multiple abuse: ☐ Yes ☐ No

Sexual	Physical	Emotional	Deliberate Neglect
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Brief explanation of occurrence(s) (including a statement describing frequency and duration)

9. MEDICAL INTERVENTION (*)			
Examined by:	Treatment received:	Where (name of hospital, clinic, private doctor):	Hospitalised:
☐ Doctor ☐ Reg. Nurse	☐ Yes ☐ No	 	☐ For assessment ☐ For treatment

			☐ As temporary safe care (place of safety)
Contact person:	Contact person:	Contact person:	Contact person:
Telephone No:	Telephone No:	Telephone No:	Telephone No:

10. CHILDREN'S COURT INTERVENTION (*)			
Removal of child to temporary safe care (Section 152): ☐ Yes ☐ No		Date	
		MM	DD CCYY

11. SAPS: (ACTION RELATED TO ALLEGED ABUSER(S)) - (*)				
Reported to SAPS:		Charges laid:		Date
☐ Yes ☐ No	☐ Yes ☐ No	DD	MM	CCYY
CASE NR	Police Station		Telephone Nr	
Name of Police Officer		Rank of Police Officer		

12. CHILD KNOWN TO DESIGNATED CHILD PROTECTION ORGANISATION (DCPO)/ SOCIAL DEVELOPMENT (DSD)?		
12.1) Child known to DCPO/DSD: ☐ Yes ☐ No		
Name of DCPO/DSD Office:	Contact number	Reference number
13. DETAILS OF PERSON WHO REPORTS ALLEGED ABUSE (Refers to a professional or mandatory obliged to report child abuse in terms of Section 110(1))		
Surname:	Name:	Name of employer:
CAPACITY		
Employer Address	Work Telephone Nr	Fax Number
Email Address		

(*) = Complete if information is available or applicable

I declare that the particulars set out in the above mentioned statement are true and correct to the best of my knowledge.

Signature of official: _____

Date: _____

Official Stamp

Offences relating to children and persons with mental disabilities

Chapter 2 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007), as amended, contains some general offences that are applicable to adults, children and persons with mental disabilities as complainants:

Section 3	Rape
Section 4	Compelled rape
Section 5(1) and (2)	Sexual assault
Section 6	Compelled sexual assault
Section 7	Compelled self-sexual assault
Section 11A	Harmful disclosure of pornography
Section 12(1)(a)	Incest (sexual penetration)
Section 12(1)(b)	Incest (sexual violation)
Section 14A	Sexual intimidation

Chapter 3 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007), as amended, contains offences specifically relating to children:

Section 15	Acts of consensual sexual penetration with certain children
Section 16	Acts of consensual sexual violation with certain children
Section 17(1)	Sexual exploitation of a child
Section 17(2)	Involved in the sexual exploitation of a child
Section 17(3)(a–b)	Furthering the sexual exploitation of a child
Section 17(4)	Benefitting from the sexual exploitation of a child
Section 17(5)	Living from the earnings of the sexual exploitation of a child
Section 17(6)(a–b)	Promoting child sex tours
Section 17(7)	Advocating, advertising, encouraging or promoting the sexual exploitation of a child
Section 18(1)	Promoting sexual grooming of children
Section 18(2)	Sexual grooming of a child
Section 19	Exposing or displaying or causing the exposure or display of child pornography or pornography to a child
Section 19A(1)	Creating, making or producing child pornography in any manner, other than by using a child as contemplated in section 20(1)
Section 19A(2)	Assisting or facilitating the creation, making or production of child pornography
Section 19A(3)	Possession of child pornography
Section 19A(4)	Unlawfully distributing, making available, transmitting, offering for sale, selling, offering to procure, procuring, accessing, downloading or viewing of child pornography
Section 19A(5)	Unlawfully assisting or facilitating the distribution, making available, transmitting, offering for sale, selling, offering to procure, procuring, accessing, downloading or viewing of child pornography

Section 19A(6)	Unlawfully processing or facilitating a financial transaction, knowing that such a transaction will facilitate a contravention of sections 19A(1) to (5)
Section 20(1)	Using a child for child pornography
Section 20(2)	Benefitting from child pornography
Section 20(3)	Unlawfully attending, viewing or participating in a live performance involving child pornography
Section 20(4)(a)	Unlawfully recruiting a child for the purpose of creating, making or producing child pornography
Section 20(4)(b)	Unlawfully recruiting a child for the purpose of participating in a live performance involving child pornography
Section 21(1)	Compelling or causing a child to witness sexual offences
Section 21(2)	Compelling or causing a child to witness a sexual act
Section 21(3)	Compelling or causing a child to witness self-masturbation
Section 22	Exposing or displaying or causing the exposure or display of genital organs, anus or female breasts to a child

Chapter 4 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007), as amended, contains offences specifically relating to persons with mental disabilities:

Section 23(1)	Sexual exploitation of persons with mental disabilities
Section 23(2)	Being involved in the sexual exploitation of persons with mental disabilities
Section 23(3)(a–b)	Furthering the sexual exploitation of persons with mental disabilities
Section 23(4)	Benefitting from the sexual exploitation of persons with mental disabilities
Section 23(5)	Living from the earnings of the sexual exploitation of persons with mental disabilities
Section 23(6)(1–2)	Promoting sex tours with persons with mental disabilities
Section 24(1)	Promoting sexual grooming of persons with mental disabilities
Section 24(2)	Sexual grooming of persons with mental disabilities
Section 25	Exposing or displaying or causing the exposure or display of child pornography or pornography to persons with mental disabilities
Section 26(1)	Using persons with mental disabilities for pornographic purposes
Section 26(2)	Benefitting from using persons with mental disabilities for pornographic purposes

Chapter 7 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007), as amended, contains the following offences:

Section 54(2)	Failure to immediately report knowledge, reasonable belief or suspicion that a sexual offence has been committed against a person who is vulnerable as defined in section 40
Section 54(3)	Failure to report any knowledge of the commission of any offence in section 19A, or having a reason to suspect that such an offence has been or is being or will probably be committed, to SAPS as soon as

	possible and failure to furnish, at the request of SAPS, all particulars of such knowledge or suspicion
Section 55(a)	Attempts to commit a sexual offence in terms of this Act
Section 55(b)	Conspires to commit a sexual offence in terms of this Act
Section 55(c)	Aids, abets, induces, incites, instigates, instructs, commands, counsels or procures another person to commit a sexual offence in terms of this Act

Films and Publications Act, 1996 (Act 65 of 1996), as amended, contains the following offences:

Section 24E(1–2)	Prohibitions, offences and penalties on the distribution of private sexual photographs and films
Section 24F	Prohibitions, offences and penalties on the filming and distribution of films and photographs depicting sexual assault and violence against children
Section 24G	Prohibitions, offences and penalties on propaganda for war, incitement of imminent violence and advocacy of hatred based on an identifiable group characteristic and that constitutes incitement to cause harm

Cybercrimes Act, 2020 (Act 19 of 2020), contains the following offences:

Section 14	Disclosure of a data message which incites damage to property or violence
Section 15	Disclosure of a data message which threatens persons with damage to property or violence
Section 16	Disclosure of a data message of an intimate image

Prevention and Combating of Trafficking in Persons Act, 2013 (Act 7 of 2013), as amended, contains the following offences:

Section 4(1)	Any person who delivers, recruits, transports, transfers, harbours, sells, exchanges, leases or receives another person within or across the borders of the Republic of South Africa by means of— (a) a threat of harm; (b) the threat or use of force or other forms of coercion; (c) the abuse of vulnerability; (d) fraud; (e) deception; (f) abduction; (g) kidnapping; (h) the abuse of power; (i) the direct or indirect giving or receiving of payments or benefits to obtain the consent of a person having control or authority over another person; or (j) the direct or indirect giving or receiving of payments, compensation, rewards, benefits or any other advantage, aimed at either the person or an immediate family member of that person or any other person in close relationship to that
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person, for the purpose of any form or manner of exploitation, is guilty of the offence of trafficking in persons.

Section 4(2)(a) Any person who adopts a child, facilitated or secured through legal or illegal means ... within or across the borders of the Republic of South Africa, for the purpose of the exploitation of that child or other person in any form or manner, is guilty of an offence

Section 4(2)(b) Any person who concludes a forced marriage with another person, within or across the borders of the Republic of South Africa, for the purpose of the exploitation of that child or other person in any form or manner, is guilty of an offence

Children's Act, 2005 (Act 38 of 2005), as amended, contains the following offences:

Sexual abuse, defined as—

- (a) sexually molesting or assaulting a child or allowing a child to be sexually molested or assaulted;
- (b) encouraging, inducing or forcing a child to be used for the sexual gratification of another person;
- (c) using a child in or deliberately exposing a child to sexual activities or pornography; or
- (d) procuring or allowing a child to be procured for commercial sexual exploitation or in any way participating or assisting in the commercial sexual exploitation of a child;

An abandoned child is defined as a child who—

- (a) has been deserted by a parent, guardian or caregiver;
- (b) for no apparent reason, had no contact with the parent, guardian or caregiver for a period of at least three months; or
- (c) has, if applicable, no knowledge as to the whereabouts of the parent, guardian or caregiver and such information cannot be ascertained by the relevant authorities;

Section 305(1) A person is guilty of an offence if that person commits an act in contravention of the prohibitions set out in subsections 12(2), (3), (4), (6), (7) or (8):

Section 12(2) A child below the minimum age set by law for a valid marriage may not be given out in marriage or engagement and where they are above the minimum age may not be given out in marriage or engagement without their consent

Section 12(3) Genital mutilation or female circumcision is prohibited

Section 12(4) Virginity testing of children under the age of 16 is prohibited

Section 12(6) The results of a virginity test may not be disclosed without the consent of that child

Section 12(7) The body of a child who has undergone virginity testing may not be marked

Section 12(8) Circumcision of male children under the age of 16 may only be done under certain circumstances

Section 305(3)	A parent, guardian, other person who has parental responsibilities and rights in respect of a child, caregiver or person who has no parental responsibilities and rights in respect of a child but who voluntarily cares for a child either indefinitely, temporarily or partially, is guilty of an offence if that parent or caregiver or other person— (a) abuses or deliberately neglects the child; or (b) abandons the child.
Section 305(4)	A person who is legally liable to maintain a child is guilty of an offence if that person, while able to do so, fails to provide the child with adequate food, clothing, lodging and medical assistance
Section 305(5)	A person who is the owner, lessor, manager, tenant or occupier of any premises on which the commercial sexual exploitation of a child has occurred is guilty of an offence if that person, on gaining information of that occurrence, fails to promptly take reasonable steps to report the occurrence to SAPS

Common law offences that may be applicable:

- Murder
- Attempted murder
- Assault with the intent to cause grievous bodily harm
- Assault
- Malicious damage to property
- Crimen injuria
- Kidnapping

Broad risk assessment framework to guide decision-making in the provision of designated child protection services

1. **The aim of the broad risk assessment framework contemplated in section 142(c) of the Children's Act, 2005 (Act 38 of 2005), is to provide guidelines (the *General Regulations Regarding Children*, published in *Government Gazette* No. 33076 of 01 April 2010) for the following:**
 - (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 Children's Act, 2005 (Act 38 of 2005))
 - (c) Investigation by the Provincial Department of Social Development or a designated child protection organisation 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
 - (e) A disclosure of abuse or deliberate neglect by the child
 - (f) A statement relating to a pattern or history of abuse or deliberate neglect from a witness relating to the abuse of a child.
2. **The broad risk assessment framework includes the following guidelines (as per Regulation 35(2) of the *General Regulations Regarding Children*, published in *Government Gazette* No. 33076 of 01 April 2010):**

(a) The presence of indicators of physical abuse	(b) The presence of emotional and behavioural indicators of physical, psychological or sexual abuse	(c) The presence of developmental indicators of physical, psychological or sexual abuse	(d) The presence of indicators of deliberate neglect
• Bruises on any part of the body • Grasp marks on the arms, chest or face • Variations in bruise colour • Black eyes • Belt marks • Tears around or behind the ears • Cigarette or other burn marks • Cuts • Welts • Fractures • Head injuries • Convulsions that are not due to epilepsy or high temperature • Drowsiness • Irregular breathing • Vomiting	• 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 • Demonstrating socially inappropriate sexual behaviour or knowledge for the age of the child	• Failure to thrive • Failure to meet physical and psychological developmental norms • Withdrawal • Stuttering • Unwillingness to partake in group activities • Clumsiness • Lack of coordination or orientation • Observable thriving of child away from their home environment	• Underweight • Reddish 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, especially on extremities • Abnormally thin muscles • Developmental delays • Lack of fatty tissue • Disorientation • Intellectual disability • Irritability • Lethargy

• Pain • Fever • Restlessness	• Active or passive bullying • Unwillingness or fearfulness to undress or wearing layers of clothing		• Withdrawal • Bedsores • Contractures
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3. **A person who, due to the presence of the indicators referred to above, suspects 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 in accordance with the following guidelines:**

- Many indicators may be non-specific to abuse or neglect.
- A cluster or pattern of indicators, as opposed to a single isolated indicator, will provide support for a conclusion of abuse or neglect.
- Information about the specific times of any incidents, places where incidents have taken place and the context within which incidents have taken place, which must be noted in writing, may provide support for a conclusion of abuse or neglect.
- Abuse may be unintentional, but failure on the part of the parent/guardian/caregiver to prevent abuse of the child may amount to neglect.
- 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.
- 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.
- The child's age, personality and temperament must be taken into account.
- Discrepancies in the rendition of incidents by the child and his/her parents/guardians/caregivers may either provide or diminish support for a conclusion of abuse or neglect.
- Any unexplained delays in seeking medical treatment for a child who is seriously injured must be considered as a possible indicator of abuse or neglect.

Legislative duty to report

Section 54 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007), as amended, states that:

- (1) A person who has knowledge, reasonable belief or suspicion that a sexual offence has been committed against a person who is vulnerable as defined in section 40 must report such knowledge, reasonable belief or suspicion immediately to a police official.
- (2) (a) A person who fails to report such knowledge, reasonable belief or suspicion as contemplated in subsection (1), is guilty of an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment.
- (b) A person who in good faith reports such reasonable belief or suspicion shall not be liable to any civil or criminal proceedings by reason of making such report.
- (3) Any person who, having knowledge of the commission of any offence referred to in section 19A, or having a reason to suspect that such an offence has been or is being or will probably be committed and unlawfully and intentionally fails to—
 - (a) report such knowledge or suspicion as soon as possible to SAPS; or
 - (b) furnish, at the request of SAPS, all particulars of such knowledge or suspicion, is guilty of an offence.

Section 110 of the Children's Act, 2005 (Act 38 of 2005), as amended, states that:

- (1) 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, must report that conclusion in the prescribed form to a designated child protection organisation, the provincial department of social development or a police official.
- (2) Any person who on reasonable grounds believes that a child is in need of care and protection may report that belief to the provincial department of social development, a designated child protection organisation or a police official.

Part 4 of SAPS National Instruction 3 of 2008 states that:

- (1) *The alleged commission of a sexual offence is usually reported by—*
 - (a) *the victim of the offence;*
 - (b) *a family member, friend or colleague of the victim; or*
 - (c) *a person who witnessed or received information about the commission of the offence.*

- (4) *A person reporting his/her—*
 - (i) *knowledge that a sexual offence has been committed against a child or a person with a mental disability; or*
 - (ii) *reasonable belief or suspicion that a sexual offence has been committed against a person with a mental disability, as a result of the legal duty to do so in terms of section 54 of Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007), as amended, may sometimes do so out of fear of being prosecuted if he/she fails to do so.*

- (5) *If a person (referred to in subparagraph (4)) reports such knowledge or his/her belief or suspicion to a police official, the member receiving the report may under no circumstances turn such a person away. Such a member must consider the information and—*
 - (a) *if the member is satisfied that there are reasonable grounds to believe that such an offence was indeed committed, take an affidavit from the person setting out the information provided by that person, open a docket for the investigation of the offence that was allegedly committed and register the docket on the Crime Administration System (CAS); or*
 - (b) *if the member is not satisfied that there are reasonable grounds to believe that such an offence was indeed committed, consult with the Community Service Centre Commander who must make a comprehensive Occurrence Book entry of the report and the reasons why the commander is not satisfied that there are reasonable grounds to believe that such an offence was indeed committed and provide the number of the Occurrence Book entry to the person who made the report to enable him/her to be located and be interviewed if this turns out to be necessary.*

Section 2A of the Domestic Violence Act, 1998 (Act 116 of 1998), as amended, states that:

- (1) *The Minister may, by notice in the Gazette, designate any other person—*
 - (a) *belonging to a class or category of persons; or*
 - (b) *who is in the employ of any class or category of entities, as a functionary.*

- (2) *A functionary, who in the course of the performance of their duties or the exercise of their functions obtains information which, after evaluation by them, causes them to believe or suspect on reasonable grounds, that a child, a person with a disability or an older person, may be a complainant as contemplated in section 1—*
 - (a) *must without delay—*
 - (i) *complete a report in the prescribed form setting out the reasons for such belief or suspicion; and*
 - (ii) *in the prescribed manner submit the report to—*
 - (aa) *a social worker; or*
 - (bb) *a member of SAPS;*

- (b) must conduct a risk assessment as contemplated in section 18B; and
 - (c) may, after the evaluation of the risk assessment referred to in paragraph (b), provide or refer the complainant for further services as contemplated in section 18B.
- (3) A functionary referred to in subsection (2)—
- (a) who makes the report, referred to in subsection (2)(a), in good faith, is not liable to civil, criminal or disciplinary action on the basis of the report, despite any law, policy or code of conduct prohibiting the disclosure of personal information; and
 - (b) is entitled to have their identity kept confidential, unless the interests of justice require otherwise.

Section 2B of the Domestic Violence Act, 1998 (Act 116 of 1998), as amended, states that:

- (1) In circumstances, other than those contemplated in section 2A(2), an adult person who knows, or believes or suspects on reasonable grounds, that an act of domestic violence has been committed against a child, a person with a disability or an older person, must report such knowledge, belief or suspicion as soon as possible, to a social worker or SAPS.
- (2) The report referred to in subsection (1) must—
- (a) be made in the prescribed form;
 - (b) set out the reasons for such knowledge, belief or suspicion; and
 - (c) in the prescribed manner be submitted to a social worker or a member of SAPS.
- (3) A person referred to in subsection (1)—
- (a) who makes the report in good faith, is not liable to civil, criminal or disciplinary action on the basis of the report, despite any law, policy or code of conduct prohibiting the disclosure of personal information; and
 - (b) is entitled to have their identity kept confidential, unless the interests of justice require otherwise.
- (4) A person who fails to comply with subsection (1), is guilty of an offence.

Section 18 of the Prevention and Combating of Trafficking in Persons Act, 2013 (Act 7 of 2013), states that:

- (1) (a) Despite any law, policy or code of conduct prohibiting the disclosure of personal information, any person who knows or ought reasonably to have known or suspected that a child is a victim of trafficking must immediately report that knowledge or suspicion to a police official for investigation.
- (b) A designated child protection organisation which comes in contact with a child who is suspected of being a victim of trafficking and who has not been reported as provided for in paragraph (a), must immediately report that child to a police official for investigation ...
- (3) A person referred to in subsection (1)—
- (a) must provide reasons for that knowledge or suspicion to a police official;
 - (b) who makes the report in good faith, is not liable to civil or disciplinary action on the basis of the report, despite any law, policy or code of conduct prohibiting the disclosure of personal information; and

- (c) is entitled to have his/her identity kept confidential if his/her safety is at risk as a result of the report, unless the interests of justice require otherwise.

Provisions in relation to the National Register for Sex Offenders

Section 46 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007), as amended, states that:

- (1) An employee in the employ of an employer at the commencement of this Chapter, who is or was convicted of a sexual offence [against a child or a person with a mental disability], or is alleged to have committed a sexual offence [against a child or a person with a mental disability] and who has been dealt with in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977 (Act 51 of 1977), irrespective of whether or not such offence was committed or allegedly committed during the course of his/her employment, and whose particulars are included or are to be included in the Register, must without delay disclose such conviction or finding to his/her employer.
- (2) An employee who, after the commencement of this Chapter, applies for employment, must, if he/she has been convicted of a sexual offence [against a child or a person with a mental disability] or is alleged to have committed a sexual offence [against a child or a person with a mental disability] and who has been dealt with in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977 (Act 51 of 1977), and whose particulars are included or are to be included in the Register, disclose such conviction or finding when applying for employment.

Section 47 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007), as amended, states that:

- (1) A licensing authority may not grant a licence to or approve the management or operation of any entity, business concern or trade in relation to the supervision over or care of a person [child or a person with a mental disability] who is vulnerable without having determined, by way of an application to the Registrar for a prescribed certificate, whether or not the particulars of such person have been recorded in the Register.
- (2) A person who, after the commencement of this Chapter, applies for a licence contemplated in subsection (1) to a licensing authority, and whose particulars are included or are to be included in the Register, must disclose that he/she has been convicted of a sexual offence or that he/she is alleged to have committed a sexual offence and has been dealt with in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977 (Act 51 of 1977).

Guidelines for WCED employee offenders

1. The management of child abuse, deliberate neglect and sexual offences against children by an employee of the WCED will be guided by the following:
 - (a) Employment of Educators Act, 1998 (Act 76 of 1998)
 - (b) National Education Policy Act, 1996 (Act 27 of 1996)
 - (c) South African Schools Act, 1996 (Act 84 of 1996)
 - (d) ELRC Collective Agreement 3 of 2018, dated 25 September 2018
Providing for compulsory inquiries by arbitrators in cases of disciplinary action against educators charged with sexual misconduct in respect of learners
 - (e) Circular 0011/2019, dated 09 March 2019
Guidelines for principals on their role in reporting and managing alleged misconduct, disciplinary hearings and unfair dismissal disputes
 - (f) Circular 0012/2019, dated 09 March 2019
Prohibition of corporal punishment
 - (g) Circular 0015/2023, dated 06 April 2023
Protocol for managing and reporting sexual misconduct

2. The Employment of Educators Act, 1998 (Act 76 of 1998), as amended by the Education Laws Amendment Act, 2000 (Act 53 of 2000), defines serious misconduct in section 17(1) as follows:

17(1) **An educator** must be dismissed if he or she is found guilty of—

 - (a) theft, bribery, fraud or an act of corruption in regard to examinations or promotional reports;
 - (b) committing an act of sexual assault on a learner, student or other employee;
 - (c) having a sexual relationship with a learner of the school where he or she is employed;
 - (d) seriously assaulting, with the intention to cause grievous bodily harm to a learner, student or other employee;
 - (e) illegal possession of an intoxicating, illegal or stupefying substance; or
 - (f) causing a learner or a student to perform any of the acts contemplated in paragraphs (a) to (e).

3. The process for managing serious misconduct (including child abuse) related to **public service employees** is legislated in Public Service Coordinating Bargaining Council Resolution 1 of 2013, dated 28 June 2013. The disciplinary process is similar to that of an educator and if found guilty, such offenders will be dismissed.

Guidelines for governing-body-appointed employee offenders

1. The management of child abuse, deliberate neglect and sexual offences against children by a governing-body-appointed employee will be guided by the following:
 - (a) Employment of Educators Act, 1998 (Act 76 of 1998)
 - (b) Circular 0011/2019, dated 09 March 2019
Guidelines for principals on their role in reporting and managing alleged misconduct, disciplinary hearings and unfair dismissal disputes
 - (c) Circular 0012/2019, dated 09 March 2019
Prohibition of corporal punishment
 - (d) Circular 0035/2021, dated 23 June 2021
Prevention of re-employment of former educators and public servants dismissed or deemed dismissed for misconduct or deemed resigned
 - (e) Circular 0015/2023, dated 06 April 2023
Protocol for managing and reporting sexual misconduct
2. Governing bodies must ensure that applicants being considered for appointment have not been found guilty of an offence against a child in terms of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007), as amended, or the Children's Act, 2005 (Act 38 of 2005).
3. **All employees** working at schools (including volunteers and people who do not work directly with children, such as cooks, gardeners and caretakers) must be screened against both the National Child Protection Register and the National Register for Sex Offenders.
4. The principal must complete Form 29 and send it to the Director-General: Social Development to verify whether the names of any employees or volunteers are on the National Child Protection Register.
5. It is an offence, punishable by up to 10 years in prison, or a fine, or both, to allow someone access to children if the person has been declared unsuitable to work with children in terms of section 305(1)(c) of the Children's Act, 2005 (Act 38 of 2005).
6. A person found unsuitable to work with children could be dismissed if he/she does not disclose such information to an employer.
7. Governing bodies must ensure that employment contracts make provision for disciplinary measures regarding allegations of child abuse, deliberate neglect and sexual offences against an employee.

8. Suggestions for stipulations within employment contracts:
- (a) **Suspension:** "The employer may suspend the employee from work in any event before or after the employee has been charged with misconduct, on conditions determined by the employer. The employer will notify the employee in writing of the suspension, the reasons for the suspension and whether the suspension will be with or without pay."
 - (b) **Ending of contract:** "The employer can immediately end the contract on conditions being acknowledged in terms of any legislation."
 - (c) **Sanctions:** Depending on the nature of the offence, Schedules 1–2 of the Employment of Educators Act, 1998 (Act 76 of 1998), must be consulted. The employer may impose any of the following sanctions:
 - (i) Immediate dismissal
 - (ii) Dismissal with pay as alternative for a notice period
 - (iii) Final written warning
 - (iv) Written warning
 - (v) Reduction in pay.
9. In the event of a disciplinary hearing, the best interests of the child must take precedence:
- (a) Ensure the safety of the child during the hearing process.
 - (b) Ensure that the child has access to an intermediary, irrespective of the child's age.
 - (c) The child has the right to choose any person to accompany him/her for support during the hearing process.
 - (d) During questioning, consideration must be given to the child's developmental age, preference in terms of language, emotional status, concentration span, cognitive ability, the need for regular breaks and the time of the hearing.
 - (e) Ensure regular breaks for the child.
 - (f) Ensure debriefing if needed.

Guidelines regarding the involvement of the media

1. Please refer to Circular 0019/2024, dated 20 June 2024, regarding the implementation of the Western Cape Government Social Media Code of Conduct.
2. Inform the district director, via the circuit manager, of a situation that has the potential to attract media attention as soon as possible.
3. Refer **all media enquiries** to the Directorate: Communication at the WCED Head Office.
4. Inform all relevant employees to refer all media enquiries to the Directorate: Communication at the WCED Head Office.
5. **The identities of the learner victim and alleged offender must be kept confidential at all times.**

FORM 29
Inquiry by employer to establish whether person's name appears in
Part B of National Child Protection Register
 (Regulation 44)
 [SECTION 126 OF THE CHILDREN'S ACT 38 OF 2005]

TO: The Director-General
 Department of Social Development
 Private Bag xxx
 PRETORIA 0001

Dear Sir/Madam

In terms of section 126 of the Children's Act 38 of 2005, I
 (full names and surname)

wish to inquire whether the name of a person in my employ or that I wish to employ appears in Part B of the National Child Protection Register. A certified copy of one of the following documents is attached as verification of my identity (mark with an 'x'):

- ☐ birth certificate (only if not in possession of identity document or passport)
☐ identity document
☐ passport

In the event that his/her name is included in Part B of the Register, kindly furnish reason why this was done.

Please note that section 126 of the Act requires you to respond to this inquiry within 21 working days.

Name of business:

Physical address of business:

Postal address of business:

Telephone numbers of business:

Position held or to be held by person:

Personal details of person employed or to be employed.

Full names:

Surname:

Physical address:

Postal address:

Telephone number:Alias or nickname:

ID number:Passport number:

Yours sincerely

.....
 (Signature)

Date:

FORM 7
[Regulation 17(1)]
APPLICATION FOR CERTIFICATE BY PERSON IN RESPECT OF OWN PARTICULARS
Section 44 of the Criminal Law (Sexual Offences and Related Matters)
Amendment Act, 2007 (Act No. 32 of 2007) (the Act)

Date:

NOTE 1: In terms of section 44 of the Act an application for a certificate, stating whether or not the particulars of a person mentioned in the application are recorded in the National Register for Sex Offenders may be made by—

- (a) an employer in respect of an employee;
- (b) a licensing authority in respect of an applicant;
- (c) a relevant authority in respect of an applicant;
- (d) an employee contemplated in respect of his or her own particulars;
- (e) a person contemplated applying for a licence or approval to manage or operate any entity, business concern or trade in relation to the supervision over or care of vulnerable persons in respect of his or her own particulars;
- (f) a person contemplated in section 48(2) applying to become a foster parent, kinship care-giver, temporary safe care-giver or adoptive parent in respect of his or her own particulars; or
- (g) any person whose particulars appear on the Register in respect of his or her own particulars.

NOTE 2: A fingerprint report of applicant must be attached to this form (a fingerprint report can be obtained from any police station)

1. PARTICULARS OF APPLICANT		
Title:		
Full names and surname:		
Indicate any other surnames:		
Indicate any known alias or nickname:		
Profession or trade:		
Date of birth:		
Age:		
Identity number/passport number:		
Driver's licence number:		
Home address/last known physical address:		
Any other contact details (including postal address):		
Telephone number:	Cell number:	E-mail address:
Type of sexual offence:		
Date and place of conviction:	Date:	Place:
Date and place of sentence:	Date:	Place:
Sentence imposed:		
Reason for applying for certificate:		

.....
SIGNATURE OF APPLICANT

(If application is not submitted electronically)

FORM 8

[Regulation 17(2)]

APPLICATION FOR CERTIFICATE BY PERSON/ LICENCING AUTHORITY/ RELEVANT AUTHORITY IN
RESPECT OF PARTICULARS OF ANOTHER

Section 44 of the Criminal Law (Sexual Offences and Related Matters)

Amendment Act, 2007 (Act No. 32 of 2007) (the Act)

Date:

NOTE 1: In terms of section 44 of the Act an application for a certificate, stating whether or not the particulars of a person mentioned in the application are recorded in the National Register for Sex Offenders may be made by—

- (a) an employer in respect of an employee;
- (b) a licensing authority in respect of an applicant;
- (c) a relevant authority in respect of an applicant;
- (d) an employee contemplated in respect of his or her own particulars;
- (e) a person contemplated applying for a licence or approval to manage or operate any entity, business concern or trade in relation to the supervision over or care of vulnerable persons in respect of his or her own particulars;
- (f) a person contemplated in section 48(2) applying to become a foster parent, kinship care-giver, temporary safe care-giver or adoptive parent in respect of his or her own particulars; or
- (g) any person whose particulars appear on the Register in respect of his or her own particulars.

NOTE 2: A fingerprint report of the person on whose behalf this application is submitted, must be attached to this form (a fingerprint report can be obtained from any police station).

1. PARTICULARS OF APPLICANT		
*1.1	Title:	
	Full names and surname:	
	Profession or trade:	
	Identity number/passport number:	
	Contact details (including postal address):	
	Telephone number:	Cell number:
	Reason for applying for certificate:	
*1.2	If licensing authority or relevant authority as defined in the Act applies for certificate, please state:	
	Name of licensing authority/relevant authority:	
	Business address of licensing authority/relevant authority:	
	Details of contact person applying on behalf of licensing authority/relevant authority:	
	Title:	
	Full names and surname:	
	Profession or trade:	
	Identity number/passport number:	
	Contact details (including postal address):	
	Telephone number:	Cell number:
	Reason for applying for certificate:	

*Delete whichever is not applicable

2. PARTICULARS OF PERSON		
Title:		
Full names and surname:		
Indicate any other surnames:		
Indicate any known alias or nickname:		
Profession or trade:		
Date of birth:		
Age:		
Identity number/passport number:		
Driver's licence number:		
Home address/last known physical address:		
Any other contact details (including postal address):		
Telephone number:		Cell number:

.....
SIGNATURE OF APPLICANT
(If application is not submitted electronically)

