URhulumente weNtshona Koloni

EzeMfundo

NGOWAKHO

UMgaqo-nkqubo othi Phantsi ngeMpatho-gadalala yaBantwana (Abuse No More Protocol)

weSebe leMfundo leNtshona Koloni

2025

UMGAQO-NKQUBO OTHI PHANTSI NGEMPATHO-GADALALA

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1. **Iingcaciso-magama**

Kulo mgaqo-nkqubo naliphi na igama okanye ibinzina elinikwe intsingiselo, lihlala linaloo ntsingiselo liyinikiweyo apha ngezantsi, ngaphandle kokuba umxholo walatha okunye—

"**umoni ongumfundi otyholwayo**" kuthetha umfundi ekufakwe isimangalo ngakuye;

"**umntwana**[1]", ngokoMthetho waBantwana i-*Children's Act, 2005 (Act 38 of 2005)*, kuthetha umntu ongaphantsi kweminyaka yobudala eyi-18;

"impatho-gadalala yabantwana" kuthetha naluphi na uhlobo lokwenzakaliswa ngabom okanye lokungcungcuthekiswa ngabom okwenziwa emntwaneni okubandakanya**—**

(a) ukuhlasela umntwana okanye ukumenzakalisa ngabom umntwana nangaluphi na olunye uhlobo;
(b) ukumxhaphaza ngokwesondo umntwana okanye ukuvumela umntwana ukuba axhatshazwe ngokwesondo;
(c) ukubhulishwa komntwana ngomnye umntwana;
(d) isenzo sokumsebenzisa umntwana ngendlela yokumxhaphaza; okanye
(e) ukumbeka umntwana esichengeni okanye ukumnyanzelisa ukuba abe kwimeko yokuba abone okanye abe kwindawo enokumenzakalisa ngokwasengqondweni okanye ngokweemvakalelo;

"**isayikholojisti ekwisekethe (*circuit-based psychologist*)**" kuthetha isayikholojisti eqeshwe liSebe leMfundo leNtshona Koloni (iSebe iWCED), ebhaliswe ngokwe-*Health Professions Act, 1974 (Act 56 of 1974),* nelawulwa yi-*Health Professions Council of South Africa;*

"**unontlalontle okwisekethe *(circuit-based social worker*)**" kuthetha unontlalontle oqeshwe liSebe iWCED obhaliswe ngokwesiqendu 17 se-*Social Service Professions Act, 1978 (Act 110 of 1978);*

"**ukuxhatshazwa ngokwesondo ngenjongo yezoshishino/yezorhwebo (*commercial sexual exploitation)***" ngokunxulumene nomntwana kuthetha—

(a) ukuthengwa nokuthengiswa (*procurement)* komntwana ukuba enze imisebenzi yezesondo ngenjongo yokufumana imali, okanye omnye umvuzo kubandakanywa nezenzo zokuthengisa ngomzimba (*prostitution*) okanye izenzo zokwenza nokusasaza imifanekiso yamanyala (*pornography*), kungakhathaliseki nokuba kukho umvuzo ofunyanwayo oyintlawulo okanye okwabelwana ngawo nomthengisi, nomntwana, nomzali/nomgcini/nomnonopheli womntwana, okanye naye nabani na omnye umntu; okanye
(b) ukushishina/ukurhweba ngomntwana (*trafficking a child*) ukwenzela ukuba asetyenziswe kwimisebenzi yezesondo kubandakanywa nokuthengisa ngomzimba nokwenza nokusasaza imifanekiso yamanyala (*prostitution or pornography)*;

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

"**ukohlwaya ngokubetha *(corporal punishment)***", ngokoMthetho i-*South African Schools Act, 1996 (Act 84 of 1996*), kuthetha nasiphi na isenzo sangabom esenziwa emntwaneni esimvisa iintlungu okanye ukuphatheka kakubi emzimbeni nokuba asingako, esiquka kodwa singaphelelanga koku—

(a) ukumbetha *(hitting)*, ukumqhwaba *(smacking*), ukumtsweba (*pinching*) okanye ukumkrwempa *(scratching)* ngesandla okanye ngento *(object*) ,
(b) ukumkhaba *(kicking)*, ukumshukumisa *(shaking)*, ukumgibisela *(throwing)*, ukumgibisela ngezinto, ukumtshisa, ukumtshisa ngomphunga/ngamanzi ashushu, ukumluma, ukumtsala iinwele, ukumbetha entloko emacaleni, ukubatsala okanye ukubatyhala abantwana;
(c) ukunyanzela abantwana bahlale ngeendlela ezingafanelekanga nezingathandekiyo (*stay in uncomfortable positions)*, ukubaselisa amanzi ngomlomo ngokubanyanzela (*forced ingestion*), ukuhlamba imilomo yabantwana ngesepha, ukubavimba ukutya, ubushushu nendawo yokufaka intloko nokubanyanzela ukuba benze imithambo engangqinelani nekharityhulam efanelekileyo kubo njengabafundi okanye ukubalela okanye ukubaqingqela amathuba okusebenzisa ithoyilethi, kunye
(d) nazo naziphi na izenzo ezinenjongo yokucekisa, yokunyelisa, yokusongela *(threaten)*, yokubangela uloyiko okanye yokuthoba isidima nesithozela somfundi.

"ukungahoywa ngabom" ukulungiselela iinjongo zalo mgaqo-nkqubo kunxulumene nesiqendu 110 se-*Children's Act, 2005 (Act 38 of 2005);*

"unontlalontle onyuliweyo" kuthetha unontlalontle oqeshwe ngumbutho onyuliweyo kulo msebenzi ngokoMthetho i-*Children's Act, 2005 (Act 38 of 2005)* ukuba enze iinkonzo zokhuseleko lwabantwana, ofana nalo —
(a) iSebe loPhuhliso loluNtu lePhondo (Provincial *Department of Social Development*)
(b) umbutho wokhuseleko lwabantwana obhalisweyo *(a registered child protection organization*), ofana ne-*Afrikaanse Christelike Vrouevereniging* (*ACVV*), i-*Child Welfare South Africa* okanye i-*Badisa*; okanye
(c) umasipala;

"**ubundlobongela emakhaya** (***domestic violence***)", ngokwe-*Domestic Violence Act*, 1998 (*Act 116 of 1998*), kuthetha—
(a) impatho-gadalala emzimbeni;
(b) impatho-gadalala ngokuxhatshazwa ngokwesondo;
(c) impatho-gadalala ngokweemvakalelo, ngamazwi okanye ngokwasengqondweni;
(d) impatho-gadalala ngokwezemali malunga nokulawulwa kwengeniso, inkcitho nee-akhawunti zebhanki zomntu;
(e) ukoyikiswa (*intimidation);*
(f) ukungcungcuthekiswa/ukuhlukunyezwa (*harrassment);*
  (i) ukuhlukunyezwa/ukungcungcuthekiswa ngokwesondo;
  (ii) impatho-gadalala ngumntu ozalana naye;
(g) impatho-gadalala ngokunyashwa kwelungelo lenkolo yomntu;
(h) ukonakaliswa kwepropati;
(i) impatho-gadalala kubantu abadala;

(j) indlela yokuziphatha enyanzelisa omnye umntu enze isenzo esithile;
(k) indlela yokuziphatha yokulawula okwenziwa ngomnye umntu ukwanelisa iimfuno zakho;
(l) ukubeka umntwana esichengeni sobundlobongela basemakhaya;
(m) ukungena —
  (i) kwindawo yokuhlala esisigxina okanye yethutyana yommangali ngaphandle kwemvume yakhe, apho amaqela achaphazelekayo, engahlali kwindawo efanayo neyakhe okanye
  (ii) kwindawo yomsebenzi okanye kwindawo yokufunda, ngaphandle kwemvume, apho amaqela achaphazelekayo angasebenzi kwindawo yomsebenzi okanye kwindawo yokufunda efanayo neyakhe; okanye
(n) nayiphi na enye indlela yokuziphatha eyoyikisayo enyanzelisa ukuba umntu enze isenzo esithile *(intimidating*), eyintsongelo *(threatening*), ehlukumezayo *(abusive*), enyelisayo/ethoba isidima (*degrading*), ethukayo *(offensive)* okanye ethoba isidima (*humiliating nature*) ngakummangali, apho le ndlela yokuziphatha yonakalisa okanye ikhuthaza inkolelo esengqiqweni yokuba ummangali angangaphatheki kakuhle;

"utitshala" ngokoMthetho i-*South African Schools Act, 1996 (Act 84 of 1996),* kuthetha nawuphi na umntu, kungabandakanywa umntu oqeshwe ngokukodwa ukuba enze imisebenzi eyenziwa emva kweyokufundisa, ofundisa, aqeqeshe abanye abantu okanye obonelela ngeenkonzo zemfundo ezibandakanya unyango lweengcali eziqeqeshiweyo neenkonzo ezimalunga nendlela abantu abafunda ngayo ngokwenzeka kwinkqubo yokufunda nokuphucula iinkqubo zokufunda (*educational psychology services)*, esikolweni ;

"umqeshwa" kuthetha —
(a) utitshala ochazwe ngentla apha;
(b) ilungu elingumsebenzi wasehostele;
(c) ilungu elingumsebenzi wezolawulo;
(d) ilungu elingumsebenzi onika inkxaso okanye umsebenzi okwimvumelwano oqeshwe ngokoMthetho i-*Employment of Educators Act, 1998 (Act 76 of 1998)*; okanyeilungu elingumsebenzi onika inkxaso okanye umsebenzi okwimvumelwano oqeshwe ngokoMthetho weNkonzo kaRhulumente (IsiBhengezo 103 sika-1994) kunye/okanye oqeshwe libhunga lolawulo lesikolo;

"igosa lezobudlelane emsebenzini" kuthetha umqeshwa ovela kwiCandelo : lezoBudlelane eMsebenzini kwaNdlunkulu kwiSebe iWCED owenza umsebenzi wokuphanda isenzo sokuziphatha kakubi *(misconduct*) noqalisa iingxoxo ezimalunga nokuziphatha kakubi ngakumoni otyholwayo *(alleged offender*) oqeshwe liSebe leMfundo leNtshona Koloni (iSebe iWCED);

iyunithi i-*"Family Violence, Child Protection and Sexual Offences (FCS) unit*" kubhekisa kwiyunithi yeNkonzo yamaPolisa oMzantsi Afrika *(South African Police Service (SAPS))* ejongene nokulwa izenzo zolwaphulo-mthetho ezinxulumene nezesondo *(sexual offences*) ngakubantwana, izenzo zolwaphulo-mthetho ezijolise ebantwini (*person-directed crimes*) (apho usapho luchaphazelekayo), ukususwa kwabantwana abangaphantsi kweminyaka

eyi-12 ubudala ngokungekho mthethweni nezenzo zolwaphulo-mthetho ezenziwa kusetyenziswa amajelo eendaba ngezixhobo zethekhinoloji (*electronic media*);

"**ibhunga lolawulo** " kuthetha iqumrhu elisemthethweni elithweswe umsebenzi wokuphatha isikolo sikarhulumente yaye linokwenza kuphela loo misebenzi nezo mbopheleleko zilolu hlobo yaye lisebenzise amalungelo alolu hlobo njengoko emiselwe nguMthetho weZikolo zaseMzantsi Afrika; 1996, (uMthetho 84 ka-1996);

"**umenzakalo wokumbokrwa emzimbeni (*grievous bodily harm*)**" kuthetha isenzo solwaphulo-mthetho esixhomisa amehlo esikukubangela ngenjongo nangokungenankathalo umonakalo emzimbeni womnye umntu;

"ungcungcuthekiso", ngokoMthetho i-*Domestic Violence Act, 1998 (Act 116 of 1998*), kuthetha—

(a) ngaphandle kwengqiqo—
  (i) ukulandela, ukubukela, ukuleqa okanye ukunkqangisa ngenkani ummangali okanye umntu ozalana naye; okanye
  (ii) ukuzulazula ngaphandle okanye kufutshane nesakhiwo okanye kwindawo apho ummangali okanye umntu ozalana naye, ahlala khona, asebenza khona, enza khona imicimbi yakhe, apho afunda khona okanye kwindawo ekwenzeka ukuba abekuyo,

  nokuphembelela inkolelo esengqiqweni kummangali yokuba yena okanye umntu ozalana naye, unokwenzakaliswa okanye kunokonakaliswa iprophathi yabo;

(b) ngokuphindaphindayo, ukunxulumana nommangali ngokusebenzisa iinkonzo zonxibelelwano kusetyenziswa izixhobo zethekhnoloji *(an electronic communications service)*, kungakhathaliseki nokuba ngaba—
  (i) ikhona okanye ayikho incoko; okanye
  (ii) kuhanjiswa nayiphi na ingcaciso kummangali;

(c) ukuthumela, ukuzisa okanye ukubangela ukuba kuziswe ngokuphindaphindayo, iipasile, imbalelwano kusetyenziswa izixhobo zethekhnoloji *(electronic mail)* okanye ezinye izinto kummangali, okanye ukuzishiya apho ziya kufunyanwa khona, zinikwe okanye ziziswe kuye ummangali ukwenzela ukuba aziqwalaselwe ummangali.

(d) ukufikelela okungagunyaziswanga kwimbalelwano yommangali okanye kwimbalelwano kusetyenziswa izixhobo zethekhnoloji yommangali;

(e) ukuzibeka esweni iintshukumo zommangali, imisebenzi okanye imibutho neendibano akuzo ummangali, ngaphandle kwemvume yommangali, kuqukwa, umzekelo, ngokusebenzisa izixhobo zethekhnoloji;

(f) ukungena kuyo nayiphi na inxenye yendawo yokuhlala eyindibanisela *(joint residence)* esetyenziswa ngokukodwa ngummangali okanye kwenye iprophati yommangali, ngaphandle kwemvume yommangali;

(g) ukuphazamisana ngokungekho ngqiqweni nayo nayiphi na iprophati esetyenziswa ngokukodwa ngummangali, okanye eyeyommangali;

(h) ukumxelela ummangali ngembalelwano kusetyenziswa izixhobo zethekhnoloji okanye ukubangela ummangali afumane imbalelwano,—
  (i) ehlukumezayo, ethoba isidima, enentlamba okanye enyelisayo;
  (ii) emngcolisayo okanye emkhubekisayo ummangali ngokumalunga nesidima

nesini sakhe; okanye

(iii) ephembelela inkolelo kummangali yokuba yena okanye umntu ozalana naye unokwenzakaliswa okanye konakaliswe iprophati yabo; okanye

(i) ukuxela imbalelwano kusetyenziswa izixhobo zethekhnoloji, okanye ukwenza imbalelwano ifumaneke, komnye umntu malunga nommangali —

(i) equlethe ingcaciso eyeyabucala (*private nature*);

(ii) emngcolisayo okanye emkhubekisayo ummangali ngokumalunga nesidima nesini sakhe; okanye

(iii) ehlukumezayo, ethoba isidima, ekhubekisayo okanye enyelisayo; okanye;

(iv) ephembelela inkolelo yokuba ummangali okanye umntu ozalana naye unokwenzakaliswa okanye kunokonakaliswa iprophati yakhe;

"**ihostele**" kuthetha indawo ekuhlala kuyo abafundi enxulumene nesikolo.

"**iziko**" kuthetha isikolo sikarhulumente esiqhelekileyo, isikolo semfundo eneemfuno ezizodwa okanye naliphi na iziko eliphantsi kolawulo lweSebe iWCED;

"**ukoyikisa okunyanzelisa ukwenziwa kwesenzo esithile",** ngokwe-*Domestic Violence Act*, 1998 (Act 116 of 1998), kuthetha —

(a) ukwenzakaliswa ngokudlakatheliswa emzimbeni *(physical violence*), okanye umonakalo kwiprophati yommangali okanye yakhe nawuphi na umntu; okanye

(b) izoyikiso eziyintsongelo yokwenzakaliswa ngokudlakatheliswa emzimbeni (*physical violence*), okanye ukonakaliswa kwepropati eyeyommangali, okanye eyomnye umntu;

(c) ukumalela/ukumvimba ummangali okanye nawuphi omnye umntu ilungelo lakhe lenkululeko okanye ukumoyikisa ngokumsongela ukuba abe ngumntu okhululekileyo; okanye

(d) ukuthumela isoyikiso esiyintsongelo, okanye ukubangela ukuba ummangali afumane isoyikiso esiyintsongelo *(threat*) (kuqukwa nembalelwano ethunyelwa ngezixhobo zethekhinoloji), nebangela ukuba umntu abe noloyiko lokwenzakaliswa ngokudlakatheliswa emzimbeni, okanye lokonakaliswa kwepropati yommngali okanye nawuphi omnye umntu eyeyakhe kusetyenziswa imbalelwano ethunyelwa ngezixhobo zethekhinoloji. (*electronic communication*), apho ukuziphatha okukolu hlobo kunenjongo yokumnyanzelisa ummangali ukuba akuphephe ukwenza nantoni na anelungelo lokuyenza ngokomthetho, okanye ukwenza nantoni na angaba nelungelo lokuba akuphephe ukuyenza ngokomthetho;

"umfundi" kuthetha nawuphi na umntu ofumana imfundo okanye ekunyanzelekileyo ukuba afumane imfundo ngokoMthetho weZikolo zaseMzantsi Afrika ; (uMthetho 84 ka-1996)

"**ixhoba elingumfundi**" kuthetha umfundi/umntwana owenza isityholo sempatho-gadalala kubantwana kunye/okanye esokuxhatshazwa ngokwesondo ngakomnye umntu okanye umfundi/umntwana;

"**ukungahoywa**", ngokumalunga nomntwana, kuthetha ukusilela ukwenza imisebenzi

eluxanduva yobuzali *(parental responsibilities*) yokunika umntwana iimfuno ezisisiseko zomzimba, zengqondo, ezeemvakalelo nezentlalo (*physical, intellectual, emotional or social needs);*

"umzali" ngokoMthetho i-*South African Schools Act, 1996 (Act 84 of 1996)* kuthetha—
(a) umzali ozala/othathele kuye umntwana ukuze amkhulise okanye umgcini osemthethweni womfundi
(b) umntu onelungelo ngokomthetho lokumgcina nokumnonophela umfundi, okanye
(c) umntu ovumayo ukuphumeza iimfanelo zomntu ezichazwe kwimihlathana (a) no (b) ezimalunga nemfundo yomfundi;

"**inqununu"** kuthetha utitshala oqeshwe okanye obambele njengentloko yesikolo;

"**isikolo"** kuthetha isikolo sikarhulumente okanye isikolo esizimeleyo esibhalise abafundi ukususela kwiBakala R *(Reception)* ukuya ku-12;

"ikomiti yolawulo yesikolo" kuthetha ikomiti yolawulo yesikolo equlethe inqununu, usekela-nqununu neentloko zezifundo ezindima zazo zicaciswa njengezokuncedisa nokunika inkxaso inqununu ekulawuleni isikolo;

"ukuxhaphaza ngokwesondo" ngokoMthetho i-*Children's Act, 2005 (Act 38 of 2005)],* ngokunxulumene nomntwana kuthetha –
(a) ukuhlukunyezwa ngokwesondo *(sexually molesting*) okanye ukwenzakaliswa komntwana ngokwesondo okanye ukuvumela umntwana ukuba axhatshazwe okanye enzakaliswe ngokwesondo;
(b) ukukhuthaza, ukubangela okanye ukunyanzela umntwana ukuba asetyenziswe njengento eyanelisa omnye umntu ngokwesondo *(sexual gratification of another*);
(c) ukusebenzisa umntwana okanye ukwenza ngabom ukuba abone izenzo zezesondo okanye imifanekiso yamanyala *(sexual activities or pornography);* okanye
(d) ukuthenga okanye ukuvumela ukuba umntwana athengiselwe iinjongo zokuxhatshazwa ngokwesondo ngokushishina/ngokurhweba ngaye (*commercial sexual exploitation*) okanye nangayiphi na enye indlela yokuthatha inxaxheba okanye yokuncedisa ekuxhatshazweni komntwana ngokuthengiselwa iinjongo zokuxhatshazwa ngokwesondo .

"amatyala/izenzo zolwaphulo-mthetho zokuxhaphaza ngokwesondo" kuthetha amatyala/izenzo zolwaphulo-mthetho ngokubanzi nezeemeko ezikhethekileyo ezithile ezenziwa kubantwana nakubantu abakhubazeke ngokwasengqondweni (makujongwe isiHlomelo D ukufumana uluhlu lwala matyala/lwezi zenzo zolwaphulo-mthetho).

"amaZiko azii-*Thuthuzela Care Centres*" abhekisa kumaziko awenza zonke iinkonzo akwiindawo eziziifasilithi zokunonophela impilo (*healthcare facilities*) abonelela ngeenkonzo ezijolise kumaxhoba (*victim-centred services*) ngokwenza iinkonzo zophando zezonyango *(clinical forensic*), ezimalunga nemiba yezengqondo nezentlalo *(psychosocial*) nezinye iinkonzo ezichaphazelekayo ngeenkqubo ezibandakanya amacandelo amaninzi kumaxhoba obundlobongela obusekelwe kwisini;

"**ukushishina/ukurhweba ngabantu (*trafficking in persons*)**", ngokoMthetho i-*Prevention and Combating of Trafficking in Persons Act, 2013 (Act 7 of 2013*), ngokunxulumene nomntwana; kuthetha—

Nawuphi na umntu ozisa (*delivers)*, ogaya (*recruits)*, ohambisa *(transports*), othumela *(transfers*), ogcina *(harbours*), othengisa *(sells),* otshintshisa (*exchanges),* oqeshisa *(leases*) okanye ofumana omnye umntu apha ngaphakathi okanye ngaphaya kwemida yeRiphabliki yoMzantsi Afrika , ngokwenza oku –

(a) isoyikiso esiyintsongelo sokwenzakalisa

(b) isoyikiso esiyintsongelo sokusetyenziswa kwamandla *(force)* okanye ezinye iintlobo zeendlela zokunyanzelisa ukwenziwa kwezenzo ezithile ngomnye umntu

(c) ukuxhatshazwa ngenxa yokuba usesichengeni, ungenakuzikhusela, unokuhlaselwa

(d) ubuqhetseba

(e) inkohliso

(f) ukuthathwa ngogonyamelo komntwana ngaphandle kwemvume ngenjongo zokumxhaphaza (*abduction)*

(g) ukuxhwilwa/ukuqweqwediswa;

(h) ukusetyenziswa gwenxa kwamandla/kwamagunya

(i) ukunikwa okanye ukufunyanwa kweentlawulo okanye izibonelelo ngokuthe ngqo nangokungathanga ngqo ukwenzela ukufumana imvume yomntu ekufuneka umlawule okanye ukuba negunya kuye omnye umntu; okanye

(j) ukunikwa okanye ukufunyanwa kweentlawulo, imbuyiselo, amabhaso, izibonelelo nantoni na eyinzuzo ejoliswe emntwini onobudlelwane obusondeleyo nalo mntu, ukwenzela injongo elulo naluphi na uhlobo okanye imeko yokusetyenziswela ezinye iinjongo, unetyala lesenzo solwaphulo-mthetho lokushishina ngabantu (*trafficking in persons)*.

"**umntu osesichengeni ongenakuzikhusela onokuhlaselwa** ngokwesiqendu 40 soMthetho i-*Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007)*, njengoko ufakelwe izilungiso" kuthetha–

(a) umntwana,

(b) umntu okhubazekileyo ngokwasengqondweni,

(c) umntu obhinqileyo ongaphantsi kweminyaka eyi-25 ubudala —

  (i) ofumana izifundo kwiziko lemfundo eliphakamileyo, kwiyunivesithi okanye kwikholeji njengoko kucacisiwe kwisiqendu 1 soMthetho i-*Higher Education Act, 1997 (Act 101 of 1997);*

  (ii) ofumana uqeqesho lwemfundo yezakhono zokuqeqeshelwa umsebenzi *(vocational training*) kwiziko, ngaphandle kwezikolo ekubhekiswa kuzo kumhlathana (i), njengenxalenye yokuqeshwa kwabo; okanye

  (iii) ohlala kwisakhiwo, kwisitraktsha okanye kwifasilithi efana noko esetyenziselwa ukuhlala ubukhulu becala kwabo nabaphi na aba bantu kubhekiswa kubo kwimihlathana (i) no-(ii);

(d) umntu okhathalelwayo okanye onikwe indawo yokufaka intloko kwifasilithi ebonelela ngeenkonzo kumaxhoba olwaphulo-mthetho;

(e) umntu okhubazekileyo ngokwasemzimbeni, ngokwasengqondweni okanye ngokwezivamvo (*sensory disability*)—

(i) ofumana iinkonzo zokukhathalelwa nenkxaso ekuhlaleni *(community-based care and support services)*, ngaphandle kwezo zelungu losapho;
(ii) ohlala kwisakhiwo, kwisitraktsha okanye kwifasilithi esetyenziswa njengendawo yokuhlala kubantu abakhubazeke ngokwasemzimbeni, ngokwasengqondweni okanye ngokwezivamvo; okanye
(iii) okhathalelwa kwifasilithi ebonelela ngeenkonzo iiyure eziyi-24 kubantu abakhubazeke ngokwasemzimbeni, ngokwasengqondweni okanye ngokwezivamvo; okanye

(f) umntu ongaphezu kweminyaka eyi-60 yobudala —
(i) ofumana iinkonzo zokukhathalelwa nenkxaso ekuhlaleni *(community-based care and support services)*, ngaphandle kwezo zelungu losapho;
(ii) ohlala kwisakhiwo, kwisitraktsha okanye kwifasilithi esetyenziswa njengendawo yokuhlala kubantu abalolu hlobo; okanye
(iii) okhathalelwa kwifasilithi ebonelela ngeenkonzo iiyure eziyi-24 kubantu abalolu hlobo.

2. Isikhokelo semithetho esebenzayo

Isikhokelo semithetho esebenzayo kulo mgaqo-nkqubo yile:

(a) UMthetho i-*Child Justice Act, 2008 (Act 75 of 2008)*
(b) UMthetho i-*Children's Act, 2005 (Act 38 of 2005)*
(c) UMgaqo i-*Code of Conduct for the public service*, njengoko upapashwe kwi-*Chapter 2 of the Public Service Regulations, 2016,* epapashwe *kwiGazethi kaRhulumente No*. 40167 yowe-29 Julayi 2016
(d) UMgaqo-siseko weRiphabliki yoMzantsi Afrika, 1996;
(e) UMthetho i-*Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007),* njengoko ufakelwe izilungiso
(f) UMthetho i-*Domestic Violence Act*, *1998 (Act 116 of 1998)* njengoko ufakelwe izilungiso
(g) ISigqibo i-*Education Labour Relations Council (ELRC) Collective Agreement 3 of 2018*, somhla we-25 Septemba 2018
(h) Uxwebhu i-*Education White Paper 6, 2001: Special Needs Education, Building an Inclusive Education and Training System, 2001*
(i) UMthetho weNgqesho yooTitshala (*Employment of Educators Act*), *1998 (Act 76 of 1998);*
(j) UMthetho i-*Intimidation Act, 1982 (Act 72 of 1982)*
(k) *UMgaqo-nkqubo i-National Policy on HIV/AIDS for Learners and Educators and Students and Educators in Further Education and Training Institutions, opapashwe kwiGazethi kaRhulumente No. 20372 yomhla we-10 Agasti 1999*
(l) UXwebhu i-*National Strategic Plan (NSP) on Gender-Based Violence and Femicide, 2020*
(m) *UMgaqo-nkqubo i-Policy on the Prevention and Management of Learner Pregnancy in Schools, opapashwe kwiGazethi kaRhulumente No. 45580, yomhla we-03 Disemba 2021*
(n) UMthetho i-*Prevention and Combating of Trafficking in Persons Act, 2013 (Act 7 of 2013)*
(o) *UMthetho i-Protection of Harassment Act, 2011 (Act 17 of 2011)*

(p) UMthetho weNkonzo kaRhulumente, 1994 (ISibhengezo 103 sika-1994)
(q) *IMimiselo ePhathelele kuLuleko, ukuNqumamisa nokuGxotha aBafundi kwiZikolo zikaRhulumente eNtshona Koloni, kwiGazethi yeSikhawu yePhondo leNtshona Koloni No. 6939, yomhla we-15 Disemba 2011*
(r) Uxwebhu i-*SAPS National Instructions 3 of 2008*
(s) UMgaqo i-*South African Council of Educators Code of Professional Ethics, 2022*
(t) UMthetho *i-South African Schools' Act, 1996 (Act 84 of 1996)*
(u) UMgaqo-nkqubo woKuhamba iSikolo kwaBafundi weSebe iWCED, 2010
(v) UMgaqo-nkqubo weSebe leMfundo leNtshona Koloni ongoKusingathwa koKukhulelwa kwaBafundi abakwiZikolo zikaRhulumente, (*WCED Policy on Managing Learner Pregnancy in Public Schools), 2003*
(w) UMthetho weMfundo weZikolo zePhondo leNtshona Koloni, 1997 (uMthetho 12 ka-1997)

3. Injongo

Injongo yalo mgaqo-nkqubo yile—
(a) ukunceda bonke abafundi abangamaxhoba okanye abangabenzi bobubi bokuphathwa gadalala kwabantwana, ukungahoywa ngabom okanye naziphi na izenzo zolwaphulo-mthetho zokuxhatshazwa kwabantwana ngokwesondo (*sexual offences*); kunye
(b) nokumisela inkqubo ukulungiselela ootitshala nabasebenzi ukuba—
    (i) baqaphele;
    (ii) bangenelele ngoncedo
    (iii) baxele; yaye
    (iv) banike inkxaso

kwimeko yempatho-gadalala kumntwana, ukungahoywa ngabom kwabantwana abangamaxhoba amatyala ezenzo zolwaphulo-mthetho zokuxhatshazwa ngokwezesondo.

4. Umhlaba oza kufikelelwa

Lo mgaqo-nkqubo usebenza kuzo zonke izikolo zikarhulumente eNtshona Koloni .

5. Intshayelelo

Impatho-gadalala yabantwana, ukungahoywa kwabantwana ngabom nezenzo zokuxhatshazwa ngokwesondo kwabantwana ziingxaki ezixhomis' amehlo ezikhoyo njengangoku phakathi koluntu ekuhlaleni nakumaziko emfundo kuMzantsi Afrika ngokubanzi. Lo mba uyinkxalabo uphakanyiswe nguMongameli uCyril Ramaphosa ngethuba lokubhengeza ubundlobongela nezenzo zolwaphulo-mthetho ezimalunga nezesondo ngakubantwana, oomama nabantu abazii-*LGBTQIA+* njengobhubhane wesibini olandelayo emva kwe-*COVID-19*. Ngenxa yezo zizathu , kuye kwenziwa lo mgaqo-nkqubo ukunceda amaziko eSebe i*WCED,* abaqeshwa nabafundi nabazali/nabagcini/nabanonopheli bakwazi ukujongana nezi ngxaki ngeyona ndlela inobuchule neyimpumelelo.

Iinkqubo zokuxela eziqulethwe kulo mgaqo-nkqubo zingasetyenziswa ngabafundi, ngootitshala, ngabaqeshwa, ngabazali/ngabagcini/ngabanonopheli okanye ngabo nabaphi na abanye abantu. Bonke abaqeshwa beSebe iWCED mabaqinisekise ukuba banolwazi olupheleleyo ngokuqulethwe ngulo mgaqo-nkqubo yaye bayaziqonda kakuhle iindima zabo ekulweni izenzo zempatho-gadalala, ukungahoywa ngabom nezenzo zolwaphulo-mthetho ngokumalunga nokuxhatshazwa ngokwesondo kwabantwana.

Ukusingathwa ngokuyimpumelelo kwezi ngxaki kunokufezekiswa kuphela ukuba ngaba iinkqubo zisekelwe kwisiseko semithetho esiluqilima. Ngako oko, ekuqulunqeni lo mgaqo-nkqubo, yonke imithetho echaphazelekayo malunga nabantwana kuqukwa ne-*NSP on Gender-Based Violence and Femicide, 2020*, ithathelwe ingqalelo yaye isetyenzisiwe.

Iintsika ezintandathu *(six pillars*) ezimiselwe kwi-*NSP on Gender-Based Violence and Femicide, 2020*, zinika iingcebiso kuwo onke amacandelo karhulumente nabantu basekuhlaleni ngokumalunga nolawulo lobundlobongela obusekelwe kwisini ngokubhekiselele kuwo onke amaqela asesichengeni angenakuzikhusela nanokuhlaselwa *(vulnerable groups*), ingakumbi abantwana.

Ezi ntsika zintandathu zezi zilandelayo:
Intsika 1: Ukuphendula ngokuqhubekayo, uQuquzelelo lweeNkqubo noBunkokeli
Intsika 2: UThintelo noKwakha ngokutsha uBunye neMvisiswano phakathi kwaBahlali
Intsika 3: UKhuselo, uKhuseleko noBulungisa
Intsika 4: UKuphendula, uKukhathala, iNkxaso noKuphila
Intsika 5: Amandla ezoQoqosho
Intsika 6: Uphando neeSistim zeNgcaciso

Imithetho echaphazelekayo iqaqambisa umsebenzi oluxanduva lootitshala nabo bangengabo ootitshala abanokurhanela okanye abanokujongana nokuxelwa kwempatho-gadalala, ukungahoywa ngabom nokuxhatshazwa ngokwesondo kwabantwana nomsebenzi wabo **ogunyaziswayo oluxanduva olunyanzelekileyo ngokomthetho** wokuxela ezi zenzo zilolu hlobo ngendlela emiselweyo.

Ukhuseleko lwabantwana ngumsebenzi oluxanduva LOMNTU WONKE, ngoko ke ukutshekishwa **nokungqinisiswa kweenkcukacha nezimo zabo zonke abaqeshwa *(vetting of all staff)*** – nokuba ngaba baqeshwe ngokwemvumelwano yethutyana okanye ngokusisigxina, amavolontiya, ababoneleli-nkonzo, abachaphazelekayo (*stakeholders)* okanye nabani na owenza iinkonzo esikolweni – kunyanzeliswa ngumthetho omiselweyo ukwenzela ukukhusela abantwana.

Lo mgaqo-nkqubo ukwaqaqambisa umsebenzi oluxanduva lwenqununu wokuphumeza, ukulawula nokugcina iinkqubo ezicaciswe ngohlobo lokuba kugcinwe ukuba yimfihlo kweenkcukacha zomntwana nezinto ezilungiselela umntwana ngeyona ndlela ibhetele ngawo onke amaxesha.

6. **Iinkqubo zolawulo**

Ezona zinto zilungiselela umntwana ngeyona ndlela ibhetele (umfundi olixhoba okanye umoni ongumfundi) mazibe zezona zinto zibalulekileyo yaye oku kuya kukhokela indlela ekulawulwa ngayo inkqubo xa kwenziwa ingxelo ngempatho-gadalala, ukungahoywa ngabom okanye ngesenzo solwaphulo-mthetho sokuxhatshazwa ngokwesondo esenziwe kumntwana. Imithetho yolawulo yaseMzantsi Afrika imisela umsebenzi oluxanduva olunyanzelekileyo ngokomthetho lokuxela/lokwenza ingxelo ngezenzo zolwaphulo-mthetho ezilolu hlobo yaye ukusilela ukwenza oku kusisenzo solwaphulo-mthetho.

6.1 **Ukuxela okunyanzelekileyo *(Compulsory reporting*)**

6.1.1 **NgokoMthetho i-*Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007*), njengoko ufakelwe izilungiso**

(a) Wonke umntu unomsebenzi oluxanduva olunyanzelekileyo ngokomthetho lokuxela naluphi na ulwazi, inkolelo esengqiqweni okanye urhano ngesenzo sokuxhatshazwa ngokwesondo esenziwe kumntu osesichengeni ongenakuzikhusela onokuhlaselwa (*vulnerable person*) ochazwe kwisiqendu 40, oquka abantwana nabantu abakhubazeke ngokwasengqondweni (*persons with mental disabilities)*.

(b) Oku kuxela makwenziwe ngoko nangoko.

(c) Oku kuxela makwenziwe kwigosa le-*SAPS*.

(d) Makunikwe zonke iinkcukacha zalo naluphi na ulwazi, inkolelo esengqiqweni okanye urhano ngesenzo sokuxhatshazwa ngokwesondo, xa ziceliwe yi-*SAPS*.

(e) Ukusilela ukuxela sisenzo solwaphulo-mthetho ngokwecandelo 54 (2)(a).

(f) Isohlwayo sokungasixeli isenzo solwaphulo-mthetho yintlawulo yomdliwo (*fine)* okanye ukuvalelwa entolongweni iminyaka emihlanu okanye zombini.

(g) Apho kwenziwe ingxelo ngesenzo solwaphulo-mthetho ngokunyanisekileyo nangentembeko ngokunxulumene nesiqendu 54(2)(*b*) senkolelo esusela kwizizathu ezivakalayo okanye zokurhanela ukuba senzekile isenzo sokuxhatshazwa ngokwesondo, loo mntu akafanele kuqwalaselwa ngokweenkqubo zomthetho zeengxoxo ezimalunga netyala lembambano (*civil*) okanye ityala lolwaphulo-mthetho ngenxa yokwenza ingxelo elolu hlobo.

(h) ICandelo 4 le-*SAPS National Instruction* 3 ka-2008 linika inkcazo ngokuba ngubani na onokuxela isenzo sokuxhatshazwa ngokwesondo yaye ligxininisa ukuxelwa okunyanzelekileyo ngokwesiqendu 54.

(i) Kubalulekile ukuqaphela ukuba ngokwale *National Instruction*, igosa le-*SAPS* alinakumjikisa nabani na oxela ukuba isenzo sokuxhatshazwa ngokwesondo senziwe emntwaneni okanye kumntu okhubazeke ngokwasengqondweni.

6.1.2 **Ngokwesiqendu 110(1) soMthetho i-*Children's Act, 2005 (Act 38 of 2005)*, njengoko ufakelwe izilungiso**

(a) Ngokwesi siqendu abantu abathile abanemfundo yoqeqesho umz. "utitshala", unoxanduva olunyanzelekileyo ngokomthetho lokuxela/lokwenza ingxelo ngesenzo solwaphulo-mthetho (*duty to report)* (Makujongwe isiHlomelo F).

(b) Mabathi ngezizathu ezivakalayo bafikelele kwisigqibo sokuba umntwana uphatheke gadalala ngohlobo olubangela ukwenzakala kwakhe emzimbeni, ukuxhatshazwa kwakhe ngokwesondo okanye ukungahoywa ngabom kwakhe.

(c) Isigqibo esilolu hlobo esithathiweyo masixelwe kwifom emiselweyo (uFom 22).

(d) Isenzo masixelwe kwiSebe loPhuhliso loluNtu lePhondo, kumbutho wokhuseleko lwabantwana okanye kwi-*SAPS*.

(e) Ukusilela ukusixela isenzo ngokwesi siqendu, sisenzo solwaphulo-mthetho. ISiqendu 305 (1)(c) sicacisa ukuba loo mntu unetyala lolwaphulo-mthetho ukuba loo mntu uyasilela ukuthobela isiqendu 110(1).

6.1.3 **Ngokwesiqendu 110(2) soMthetho i-*Children's Act, 2005 (Act 38 of 2005)*, njengoko ufakelwe izilungiso**

(a) Esi siqendu sicacisa ukuba *"Nabani na" othi ngenxa yezizathu ezivakalayo akholelwe ukuba umntwana ufuna unonophelo nokhuseleko"; unokukuxela oko kukholelwa kwakhe, kwisebe lophuhliso loluntu lephondo, kumbutho owenza umsebenzi wokhuseleko lwabantwana okanye kwigosa lasemapoliseni"*.

(b) Akukho sohlwayo simiselwe kwesi siqendu.

(c) Esi siqendu soMthetho i-*Children's Act, 2005 (Act 38 of 2005)*, sivumela ukuba kuthathwe amanyathelo asengqiqweni ngokuba mayixelwe kubani na impatho-gadalala, umzekelo, kunontlalontle onyuliweyo (*designated social worker*), okanye kwi-*SAPS* kodwa oko makube kokunganxulumananga nokuxelwa kanye kwesenzo solwaphulo-mthetho.

(d) Kwimeko yokuxhatshazwa ngokwesondo komntwana, iyunithi ye-*FCS* ye-*SAPS* mayidlale indima yayo.

6.1.4 **Ngokwesiqendu 2B(1) soMthetho i-*Domestic Violence Act*, 1998 (Act 116 of 1998), njengoko ufakelwe izilungiso**

(a) Isiqendu 2B(1) sicacisa ukuba umntu omdala onolwazi, okholelwa okanye orhanela, ngezizathu ezivakalayo, ukuba isenzo sobundlobongela emakhaya (*domestic violence*) senziwe emntwaneni, kumntu okhubazekileyo okanye kumntu omdala, makaluxele olo lwazi, lo nkolelo, olo rhano ngoko nangoko kunontlalontle okanye kwi-*SAPS*.

(b) Ingxelo ekubhekiswa kuyo kwisiqendwana (1)—
   (i) mayenziwe kwifom emiselweyo;
   (ii) makucaciswe izizathu zolo lwazi, zalo nkolelo okanye zolo rhano; nokuba
   (iii) ngendlela emiselweyo, mayingeniswe ifom kunontlalontle okanye kwi-*SAPS*.

(c) Umntu ekubhekiswa kuye kwisiqendwana (1)—
   (i) owenza ingxelo ngokunyanisekileyo nangentembeko, akunakuthathwa nyathelo limalunga netyala lembambano, lolwaphulo-mthetho okanye

nenyathelo loluleko *(civil, criminal or disciplinary action*) ngenxa yale ngxelo, nangona kukho nawuphi na umthetho, umgaqo-nkqubo okanye umgaqo wokuziphatha othintela ukuxelwa kweenkcukacha zobuqu zomntu; nokuba

(ii) unelungelo lokuba igama lakhe ligcinwe liyimfihlo ngaphandle kokuba oko kuyimfuneko ngenye indlela ukulungiselela iinjongo zobulungisa.

(d) Umntu osilelayo ukuthobela lo mqathango wesiqendwana (1), unetyala lolwaphulo-mthetho.

6.1.5 **Ngokwesiqendu 18 soMthetho i-*Prevention and Combating of Trafficking in Persons Act, 2013 (Act 7 of 2013)***

(a) ISiqendu 18(1)(a) sicacisa ukuba nangona kukho nawuphi na umthetho, umgaqo-nkqubo okanye umgaqo wokuziphatha othintela ukuxelwa kweenkcukacha zomntu, NABANI NA owaziyo okanye obefanele ngezizathu ezivakalayo ukuba nolwazi okanye onorhano lokuba umntwana ulixhoba lokuba kushishinwe ngaye (*trafficking*) MAKALUXELE ngoko nangoko olo lwazi, okanye olo rhano kwi-*SAPS,* ukwenzela ukuba kwenziwe uphando.

(b) ISiqendu 18(1)(b) sicacisa ukuba umbutho owenza iinkonzo zokhuseleko lwabantwana onyuliweyo *(designated child protection organization*) othe wadibana nomntwana orhanelwa ukuba ulixhoba lokuba kushishinwe nganye nekungekho ngxelo inikiweyo ngaye kumhlathi (a), mawuwuxele lo mbandela ngoko nangoko kwi-*SAPS* ukwenzela ukuba kwenziwe uphando.

(c) Umntu ekubhekiswa kuye kwisiqendu 18(1)—

(i) makanike izizathu zolo lwazi okanye zolo rhano kwi-*SAPS*;

(ii) owenza ingxelo ngokunyanisekileyo nangentembeko, akafanele kuthathelwa nyathelo limalunga netyala lembambano, lolwaphulo-mthetho okanye loluleko *(civil, criminal or disciplinary action*) ngenxa yale ngxelo, nangona kukho nawuphi na umthetho, umgaqo-nkqubo okanye umgaqo wokuziphatha othintela ukuxelwa kweenkcukacha zobuqu zomntu; nokuba

(iii) unelungelo lokuba igama lakhe ligcinwe liyimfihlo ngaphandle kokuba oko kuyimfuneko ngenye indlela ukulungiselela iinjongo zobulungisa.

6.2 **Iingcebiso ngokubanzi ngokusingathwa kwenkqubo yokuxela**

(a) Makusoloko ngalo lonke ixesha kuthathwa inyathelo lokulungiselela umntwana ngeyona ndlela ibhetele.

(b) Ukuxelwa kwesityholo kuyinkqubo yaye ke ngoko makwenziwe ngenyameko, kuphathwe njengomcimbi o-ethe-ethe noyimfihlo.

(c) Ngethuba lokuxelwa kwesityholo makucaciswe ukuba yimfihlo kwako yaye mazichazwe iziphumo zokuxelwa kwesityholo kwixhoba elingumfundi, o.k.t. ukwenzela ukuba ulincede, unyanzelekile ngokomthetho ukuba uwuxele lo mbandela kwabanye abathathi-nxaxheba abafana nonontlalontle kunye/okanye ne-*SAPS*.

(d) Makuqinisekiswe ukhuseleko lomntwana.

(e) Amanyathelo namaphulo ongenelelo ngoncedo mawabe ngakhawulezileyo (kuqukwa nokuxelwa kwalo mbandela kunontlalontle onyuliweyo kunye/okanye kwi-*SAPS* .

(f) Ulawulo ngempumelelo lwale nkqubo luya kuqinisekisa ukuba umfundi olixhoba, kwakunye nomfundi okanye umqeshwa ongumoni otyholwayo, bakhuselekile kumothuko omkhulu ongaphezulu nongeyomfuneko nasekubeni benziwe amaxhoba ale meko,

(g) Ngethuba lenkqubo yokuxela umfundi olixhoba makangaze naphantsi kwazo naziphi na iimeko abuzwe imibuzo yokungqinisisa ubunyani besityholo, ngenxa yokuba indima katitshala/yomqeshwa/yenqununu kukwamkela nje kuphela ingxelo nokuwugqithisela lo mbandela nokuba kukwi-*SAPS* okanye kukunontlalontle onyuliweyo, njengoko imeko inganjalo.

(h) Ukwenzela ukuthatha isigqibo ngokuba yeyiphi na inkqubo emayilandelwe nokulawulwa ngokufanelekileyo kwenkqubo yokunika ingxelo le ngcaciso ilandelayo yanele:
   (i) Senzekile isenzo sempatho-gadalala.
   (ii) Udidi lwempatho-gadalala.
   (iii) Ngubani orhanelwayo ongumoni.

(i) Ulawulo lwenkqubo yokuxela malube lolukhawuleza kakhulu yaye makungabikho kulibaziseka ekuchazeleni abathathi-nxaxheba abachaphazelekayo umz. i-*SAPS neSebe loPhuhliso loLuntu lePhondo yaye* **makuqhagamshelwane nabo kwangolo suku.**

6.3 **Inkqubo yokuxela impatho-gadalala kumfundi ngomnye umfundi**

(a) Umfundi olixhoba unokusixela isenzo solwaphulo-mthetho esityholwayo nokuba kukomnye umntwana/umfundi (oya kuthi yena emva koko axelele utitshala/umqeshwa) okanye umfundi olixhoba unokusixelela isenzo esityholwayo ngqo kutitshala/kumqeshwa ngokwakhe.

(b) Umfundi olixhoba makangagocagocwa ngemibuzo. Kuphela makufunyanwe ingcaciso efanelekileyo ngeenjongo zokunika ingxelo.

(c) Makucaciswe inkqubo eya kulandela neendima ezahlukeneyo nemisebenzi eluxanduva lomthathi-nxaxheba ngamnye nezizathu zokuba kungani bechaphazeleka kule nkqubo.

(d) Kwangoko kwakuba kuxelwe isenzo solwaphulo-mthetho, makwaziswe okanye makuxelwe kwaba bathathi-nxaxheba balandelayo:
   (i) **Makwaziswe** abazali/abagcini/abanonopheli babo bobabini ixhoba elingumfundi kwakunye nomoni ongumfundi otyholwayo.
   (ii) **Makuxelwe** kwiyunithi ye-*FCS* ye-*SAPS* okanye i-*Thuthuzela Care Centre* (ukuba ikhona kwindawo esiphantsi kolawulo lwayo isikolo) kwimeko yolwaphulo-mthetho lokuxhaphaza ngokwezesondo okanye ukuhlaselwa ngenjongo yokubangela umenzakalo emzimbeni.
   (iii) **Makwaziswe** unontlalontle okwisekethe kwi-ofisi yesithili echaphazelekayo.
   (iv) **Makuxelwe** kunontlalontle onyuliweyo kwimeko yempatho-gadalala kumntwana.

(e) Umfundi ongumoni otyholwayo ophatha gadalala omnye umfundi ngokwasemzimbeni makaxelwe ngendlela emiselweyo kunontlalontle onyuliweyo okanye kwi-*SAPS* xa ukuphathwa gadalala ngokwasemzimbeni kuquka le ndlela yokuziphatha ilolu hlobo:

(i) ukusebenzisa isixhobo esiyingozi komnye umfundi okanye kumqeshwa;
(ii) ukwenza isenzo sokuhlasela omnye umfundi;
(iii) ukoyikisa okuyintsongelo okanye ukubeka engozini ukhuseleko lwabafundi afunda nabo okanye abaqeshwa; okanye
(iv) nokusoloko efunyaniswa enetyala ngokuphinda-phindeneyo lokwenzakalisa emzimbeni abanye abafundi.

(f) Ukuba isenzo solwaphulo-mthetho besikukunyashwa kwemigaqo yokuziphatha yabafundi yesikolo (*school's learner code of conduct*), *iMimiselo eMalunga noKululeka, ukuNqumamisa nokuGxotha aBafundi kwiZikolo zikaRhulumente kwiPhondo leNtshona Koloni epapashwe kwiSongezelelo kwiGazethi yePhondo 6939* yomhla we-15 Disemba 2011 okanye nawuphi na omnye umthetho, ngoko ke makulandelwe amanyathelo enkqubo yomthetho ngokumalunga nokuxoxwa kwetyala, njengoko kuchaziweyo kule Mimiselo ingentla.

(g) Unontlalontle okwisekethe makancedise ekusingatheni nasekunikeni iingcebiso ngenkqubo ukuqinisekisa ukuba bobabini abafundi bafumana inkxaso ngeli thuba.

(h) Umfundi ongumoni otyholwayo oselula ngeminyaka yobudala makanikwe inkxaso. Inkxaso elolu hlobo mayibonwe njengelinge lokuthintela umfundi ongumoni otyholwayo ukuba enze isenzo sempatho-gadalala esisesinye.

(i) Umfundi ongumoni otyholwayo ngempatho-gadalala makagqithiselwe kubathathi-nxaxheba abachaphazelekayo ukufumana inkxaso ngokwasengqondweni nangokwentlalo.

(j) Kubalulekile ukuqinisekisa ukuba unontlalontle *okanye i-SAPS* ithatha inxaxheba ngoko nangoko, ngokuxhomekeke ekuxhomiseni amehlo kwayo impatho-gadalala.

(k) Umfundi olixhoba/ongumoni otyholwayo makagqithiselwe kwiingcali ukufumana iingcebiso kunye/okanye ukufumana inkxaso ngokwasengqondweni nangokwasentlalweni ngunontlalontle okwisekethe apho oko kunako ukwenzeka.

6.3.1 Imigaqo emalunga nolawulo lwamanyathelo oluleko ngakumfundi ongumoni otyholwayo

(a) Umgaqo wokuziphatha wabafundi mawumisele imiqathango ngesenzo solwaphulo-mthetho (ngezenzo zolwaphulo-mthetho).

(b) Inkqubo yezoluleko, engqinelaniswe *neMimiselo eMalunga noKululeka, ukuNqumamisa nokuGxotha aBafundi kwiZikolo zikaRhulumente kwiPhondo leNtshona Koloni kwiSongezelelo seGazethi yePhondo 6939,* yomhla we-15 Disemba 2011, nesiqendu 9 so*Mthetho* i-*South African Schools Act, 1996 (Act 84 of 1996)*, njengoko ufakelwe izilungiso, ingaqhubeka kuphela ukuba kuthe kophulwa imigaqo yokuziphatha kwabafundi yesikolo okanye eminye imithetho.

(c) Kwimeko apho umfundi olixhoba nomfundi ongumoni otyholwayo bekwisikolo esinye, lowo ungumfundi ongumoni otyholwayo unokunqunyanyiswa ngokoMthetho i-*South African Schools Act, 1996 (Act 84 of 1996)*, ngolu hlobo lulandelayo:
   (i) Njengenyathelo lokumlumkisa (*precautionary measure*) yaye kuphela ngenxa yezizathu ezibambekayo, ukuba umfundi utyholwa ngokuziphatha kakubi okuxhomisa amehlo njengoko kuchaziwe kwisiqendu 9(1)(*a*), ngokuxhomekeke ekubeni umfundi unikwe ithuba elisengqiqweni lokuveza izimvo zakhe.

(ii) Ngokukhawuleza yaye kungakhange kuvezwe zimvo ukuba umfundi utyholwa ngokuziphatha kakubi okuxhomisa amehlo njengoko kuchaziwe kwisiqendu 9(1)(*b*) yaye abe ubekwe ityala yi-*SAPS* ngokusemthethweni.

(d) Nakuphi na ukunqunyanyiswa makungagqithi kwithuba leentsuku zesikolo ezisixhenxe ngaphandle kokuba ithuba landisiwe ngemvume yeNtloko yeSebe ngokwesiqendu 9(1B) soMthetho i-*South African Schools Act, 1996 (Act 84 of 1996)*.

(e) Ukuxoxwa kwetyala (*disciplinary hearing*) makuqhutywe libhunga lolawulo zingadlulanga iintsuku ezisixhenxe emva kokunqunyanyiswa komfundi, ngokungqinelana neMimiselo ekubhekiswa kuyo kumhlathana 6.3.1(b) nesiqendu 9(1A) se-*South African Schools Act, 1996 (Act 84 of 1996)*.

(f) Kufuneka kuhlonitshwe ilungelo lomfundi ongumoni otyholwayo lokuxoxwa kwetyala okububulungisa nokungenamkhethe kuqukwa ilungelo lokuveza izimvo zakhe kwiingxoxo zoluleko, ukubizwa kwamangqina, ukuncinwa ngemibuzo nokumelwa ngabameli bomthetho.

(g) Le miqathango mayisetyenziswe nakwindlela iingxoxo ezenziwayo ngayo.

(h) Bobabini umfundi olixhoba nomfundi ongumoni otyholwayo, banelungelo lokumelwa ngabameli bomthetho *(legal representation*) ukuba bakhetha ukumelwa ngolo hlobo.

(i) Xa kuthathwa esona sigqibo sifanelekileyo ngesohlwayo, makuthathelwe ingqalelo:

(i) Iminyaka yobudala nesigaba sokukhula komfundi ongumoni otyholwayo;

(ii) Irekhodi yokuziphatha yomfundi ongumoni otyholwayo nokuzimisela kwakhe ukutshintsha;

(iii) Ukuzisola komfundi ongumoni otyholwayo nokuzimisela kwakhe ukuthatha amanyathelo okulungisa imeko yesenzo solwaphulo-mthetho;

(iv) Iingcebiso ezivela kubaboneleli-nkonzo abaqeqeshiweyo abenza umsebenzi wokunika inkxaso umfundi ongumoni otyholwayo.

(v) Ukuxhomisa amehlo kwesenzo solwaphulo-mthetho, njengoko kuchatshazelwe kwisiqendu 9(1) soMthetho i-*South African Schools Act, 1996 (Act 84 of 1996)*.

(j) Inkqubo elandela emva kweengxoxo zoluleko:

(i) Ibhunga lolawulo linokuwisa isohlwayo esingekho ngaphezu kweentsuku zesikolo ezisixhenxe okanye nasiphi na isohlwayo ezichatshazelwe kumgaqo wokuziphatha.

(ii) Ibhunga lolawulo linokunika iingcebiso malunga nokugxothwa komfundi kwiNtloko yeSebe kwimeko yokuziphatha kakubi okuxhomisa amehlo.

(iii) INtloko yeSebe mayithathe isigqibo zingadlulanga iintsuku ezili-14 sokuba ngaba imgxothe okanye ingamgxothi na umfundi.

(k) Ngokwesiqendu 9(4) soMthetho i-*South African Schools Act, 1996 (Act 84 of 1996)*, umfundi okanye umzali womfundi ogxothiweyo unokufaka isicelo sesibheno ngakweso sigqibo kwiNtloko yeSebe esiya kuMphathiswa weMfundo wePhondo zingadlulanga iintsuku ezili-14 zokufunyanwa kwesaziso sokugxothwa komfundi.

(l) Ukuba kugxothwe umfundi ekufuneka ahambe isikolo ngokunyanzelekileyo, iNtloko yeSebe mayenze amalungiselelo angamanye okuba afakwe kwesinye isikolo *(alternative placement arrangements*) ngokwesiqendu 9(5) soMthetho i-*South African Schools Act, 1996 (Act 84 of 1996)*.

(m) Makusoloko ngalo lonke ixesha, kukhunjulwa ukuba kuthathwe amanyathelo amlungiselela ngeyona ndlela ibhetele umntwana.

UMZOBO 1
INKQUBO YOKUXELA: IMPATHO-GADALALA YOMFUNDI KOMNYE UMFUNDI

KUXELWA ISITYHOLO KUMFUNDI/KUTITSHALA/KUMQESHWA/ KWINQUNUNU

MAKUXELWE NJENGOKO KUGUNYAZISWA YIMITHETHO ESEBENZAYO

INKQUBO YANGAPHANDLE: INKQUBO YEZOBULUNGISA NOLWAPHULO-MTHETHO INKQUBO EMAYILANDELWE

I-SAPS/IYUNITHI I-FCS UNIT/I-TCC/ UNONTLALONTLE ONYULIWEYO

- **I-*SAPS*:** Yamkela yaye iphande ngesikhalazo.
- **IYUNITHI i-*FCS UNIT*:** yiyunithi ekwi-*SAPS* ejongene nokulwa izenzo zokuxhatshazwa ngokwesondo kwabantwana
- **I-*TCC*:** ibonelela ngeenkonzo ezijolise kumaxhoba ezimalunga nezonyango, (*clinical*), ezeenkqubo zophando ngolwaphulo-mthetho (*forensic*), nemiba echaphazela ingqondo nezentlalo (*psychosocial*) neminye imiba echaphazelekayo.
- **UNONTLALONTLE ONYULIWEYO:** Ufumana ifom 22, uphanda ngengcaciso ekwifom emiselweyo yaye aqinisekise ukhuseleko lwexhoba elingumfundi.

MAYIXELWE IMPATHO-GADALALA UKWENZELA UKUFUMANA INKXASO

INKQUBO YANGAPHAKATHI: INKQUBO EMAYILANDELWE LISEBE I-WCED

UNONTLALONTLE OKWISEKETHE / ISAYIKHOLOJISTI EKWISEKETHE

Umfundi olixhoba kunye nomzali/ nomgcini/ nomnonopheli womfundi

Umfundi ongumoni otyholwayo nomzali/nomgcini/ nomnonopheli

Makulandelwe inkqubo yoluleko yebhunga lolawulo ngokumalunga nomgaqo wokuziphathwa kwabafundi

Makubonelelwe ngoku kulandelayo:
- Inkxaso ngokweemvakalelo
- Iingcebiso kubazali/kubagcini/ kubanonopheli
- Ukuthunyelwa kwiingcali ukwenzela ukufumana inkxaso eyongezelelweyo

6.4 **Inkqubo yokuxela impatho-gadalala yomqeshwa kumfundi**

6.4.1 **Imigaqo emalunga nokusingathwa kwamanyathelo oluleko ngomqeshwa oqatshelwe njengomoni otyholwayo**

Ukuthintela impatho-gadalala kubantwana ngootitshala, ukutshekishwa nokungqinisiswa ukuchaneka kweenkcukacha zabaqeshwa beSebe iWCED okanye zabaqeshwa bebhunga lolawulo (governing body employees), njengoko kuchazwe kulo mgaqo-nkqubo kwakunye nakwiSetyhula 0022/2020, yomhla we-25 Matshi 2020, neSetyhula 0001/2023, yomhla we-03 Matshi 2023, kunyanzelekile kuye wonke umntu osebenza ngabantwana. Makutshekishwe yaye kungqinisiswe ukuchaneka kweenkcukacha zootitshala nabaqeshwa abaqeshwe liSebe iWCED nebhunga lolawulo ngokweziHlomelo J, K no-L .

(a) Umfundi olixhoba unokuxela isityholo nokuba kukomnye umntwana/umfundi (oya kuthi emva koko asixele isityholo kutitshala/kumqeshwa) okanye umfundi olixhoba unokusixela isityholo ngqo kutitshala/kumqeshwa ngokwakhe.

(b) Umfundi olixhoba makangagocagocwa ngemibuzo. Kuphela makufunyanwe ingcaciso efanelekileyo ngeenjongo zokunika ingxelo.

(c) Makucaciswe inkqubo eya kulandela neendima kunye nemisebenzi eluxanduva yomthathi-nxaxheba ngamnye nokuba kungani na ukuba befuneka kule nkqubo.

(d) Kwangoko sakuba sixeliwe isityholo, makwaziswe okanye makuxelwe kwaba bathathi-nxaxheba balandelayo:

   (i) **Makwaziswe** abazali/abagcini/abanonopheli bomfundi.

   (ii) **Makuxelwe** kwiyunithi ye-*FCS* ye-*SAPS* okanye i-*TCC* (ukuba ikhona kwindawo esiphantsi kolawulo lwayo isikolo) kwimeko yolwaphulo-mthetho lokuxhaphaza ngokwezesondo okanye yokuhlaselwa ngenjongo yokubangela umenzakalo emzimbeni.

   (iii) **Makuxelwe** kwiCandelo lezoBudlelane eMsebenzini (Directorate: Employee Relations) kanye kwibhunga lolawulo, apho umqeshwa otyholwa eqeshwe libhunga lolawulo.

   (iv) **Makwaziswe** unontlalontle okwisekethe kwi-ofisi yesithili echaphazelekayo.

   (v) **Makuxelwe** kunontlalontle onyuliweyo kwimeko yempatho-gadalala.

6.4.2 **Oku kulandelayo kusebenza kwinkqubo yeSebe i*WCED:***

(a) Ukuba ukuxelwa kwesityholo kuveze ukuba inqununu yiyo engumqeshwa ongumoni otyholwa ngesenzo solwaphulo-mthetho, loo titshala/loo mqeshwa kuxelwe kuye isityholo makazise unontlalontle okwisekethe yaye akuxele oku kwiCandelo lezoBudlelwane eMsebenzini yaye makathumele onke amaxwebhu amalunga nale ngxelo, ukwenzela ukuba bakwazi ukuncedisa ekusingatheni inkqubo.

(b) Utitshala/umqeshwa/inqununu, ekwakuxelwe kuye isityholo, akanako ukwazisa okanye ukumnkqangisa loo mqeshwa ungumoni otyholwa ngesenzo solwaphulo-mthetho ngesimangalo eso phambi kokuba kuqhagamshelwane negosa lezobudlelwane emsebenzini.

(c) Unontlalontle okwisekethe uya kuncedisa iCandelo lozoBudlelwane eMsebenzini ekukhokeleni nasekulawuleni le nkqubo.

(d) Makungabanjwa ntlanganiso nomfundi olixhoba kunye nomqeshwa ongumoni otyholwa ngesenzo solwaphulo-mthetho.

(e) Makungabikho titshala/mqeshwa/nqununu ibuza, iphinde ibuze kwakhona, ingamhoyiyo, imhlalisa bucala okanye imoyikisayo umfundi olixhoba, njengommangali, njengoko oku kunokuphazamisana nenkqubo yobulungisa. Umqeshwa ololu hlobo uya kubekwa ityala lolwaphulo-mthetho yaye oko kuya kubanesiphumo seengxoxo zololuleko okanye zokugxothwa kwakhe.

(f) Ukuba umqeshwa ongumoni otyholwa ngesenzo solwaphulo-mthetho ngumqeshwa oqeshwe ngemvumelwano libhunga lolawulo, lo mqeshi ukhankanyiweyo makathathe amanyathelo ngokwemimiselo yemvumelwano yengqesho (makujongwe kwisiHlomelo H).

(g) Apho umqeshwa ongumoni otyholwa ngesenzo solwaphulo-mthetho eqeshwe libhunga lolawulo, libhunga lolawulo eliya kusingatha iingxoxo zokuxoxwa kwetyala.

(h) Bobabini, umqeshwa ongumoni otyholwa ngesenzo solwaphulo-mthetho nomfundi olixhoba banelungelo lokumelwa ngabameli. (Umoni ongumqeshwa otyholwayo unelungelo lokumelwa ngumbutho *(union)*/ngummeli wezomthetho. Ixhoba elingumfundi otyholwayo liya kumelwa liCandelo lezoBudlelane eMsebenzini.)

(i) Makusetyenziswe umlamli neenkonzo zenkxaso *(intermediary and support services)* ukuncedisa umfundi olixhoba ekunikeni ubungqina ngethuba lokuxoxwa kwetyala liSebe i*WCED* nebhunga lolawulo (ngokweSigqibo i-*ELRC Collective Agreement 3* sika-2018, somhla we-25 Septemba 2018).

(j) Makuqinisekiswe ukuba kukho amalungiselelo endlela yokuhlala ngokwahlukeneyo ukuthintela ukudibana komfundi olixhoba nomqeshwa ongumoni otyholwa ngesenzo solwaphulo-mthetho.

(k) Ngethuba lokuncinwa ngemibuzo kwexhoba, makuthathelwe ingqalelo iminyaka yobudala yokukhula kwexhoba elingumfundi ngokumalunga noko kunokukhethwa nguye ngokubhekiselele kulwimi, ubume beemvakalelo, ithuba lokukwazi ukuzikisa ingqondo nokuqiqa imfuno yexesha lokuthatha ikhefu qho, nexesha lokuqhubeka kodliwano-ndlebe okanye ukuxoxwa kwetyala.

(l) Ukohlwaya ngokubetha kwakhona makubonwe njengempatho-gadalala eyenzeka emzimbeni nakwiimvakalelo yaye ke ngoko makujongwane nako ngokungqinelana nalo mgaqo-nkqubo.

6.4.3 **Ukohlwaya ngokubetha**

(a) Ukohlwaya ngokubetha akuvumelekanga ngokoMthetho weZikolo zaseMzantsi Afrika, 1996 (uMthetho 84 ka-1996)

(b) UMthetho weZikolo zaseMzantsi Afrika, 1996 (uMthetho 84 ka-1996) kwisiqendu 10 ucacisa ukuba: *"Akukho mntu uya kusebenzisa ukohlwaya ngokubetha esikolweni kumfundi. (2) Nawuphi na umntu owaphula isiqendwana (1) unetyala lolwaphulo-mthetho yaye umele ukugwetywa ngesigwebo esingawiselwa isenzo sohlaselo ".*

(c) ISetyhula 0012/2019, yomhla we-09 Matshi 2019, ikuchaza ukohlwaya ngokubetha ngokuthi: *"siso nasiphi na isenzo sangabom esenziwa emntwaneni esimvisa iintlungu okanye ukuphatheka kakubi emzimbeni esisetyenziselwa ukohlwaya okanye ukumlawula. Oku kubandakanya kodwa kungaphelelanga koku: ukumbetha (spanking), ukumqhwaba (slapping), ukumtsweba (pinching), ukumphaxula (paddling) okanye ukumbetha (hitting) umntwana ngesandla okanye nangantoni na; ukumalela okanye ukumqingqela amathuba okuya ethoyilethi, ukumvimba ukutya, into eselwayo, ubushushu nendawo yokufaka intloko, ukumtyhala okanye ukumtsala umntwana ngamandla, ukumnyanzela umntwana enze imithambo. Ngoko ke ayikuko ukubetha nje ngoswazi (caning) kodwa kukwabhekiselele ekubethweni komntu (komfundi) nangayiphi na indlela enokwenzeka ngokomthetho."*

UMZOBO 2
INKQUBO YOKUXELA: UMQESHWA NGEMPATHO-GADALALA KUMFUNDI

KUXELWA ISITYHOLO KUMFUNDI/KUTITSHALA/ KUMQESHWA/KWINQUNUNU

MAKUXELWE NJENGOKO KUGUNYAZISWA YIMITHETHO ESEBENZAYO

INKQUBO YANGAPHANDLE: INKQUBO YEZOBULUNGISA KULWAPHULO-MTHETHO INKQUBO EMAYILANDELWE

I-SAPS/IYUNITHI I-FCS UNIT/I-TCC/ UNONTLALONTLE ONYULIWEYO

- **I-*SAPS*:**
  Yamkela yaye iphande ngesikhalazo.
- **IYUNITHI i-*FCS UNIT*:**
  yiyunithi ekwi-*SAPS* ejongene nokulwa izenzo zokuxhatshazwa ngokwesondo kwabantwana
- **I-*TCC*:**
  ibonelela ngeenkonzo ezijolise kumaxhoba ezimalunga nezonyango, (*clinical*), ezeenkqubo zophando ngolwaphulo-mthetho (*forensic*), nemiba echaphazela ingqondo nezentlalo (*psychosocial*) neminye imiba echaphazelekayo.
- **UNONTLALONTLE ONYULIWEYO:**
  Ufumana ifom 22, uphanda ngengcaciso ekwifom emiselweyo yaye aqinisekise ukhuseleko lwexhoba elingumfundi.

MAKUXELWE KWICANDELO LEZOBUDLELWANE EMSEBENZINI / KWIBHUNGA LOLAWULO UKWENZELA UPHANDO LWANGAPHAKATHI

MAYIXELWE IMPATHO-GADALALA UKWENZELA UKUFUMANA INKXASO

INKQUBO YANGAPHAKATHI: INKQUBO EMAYILANDELWE LISEBE I-WCED

UNONTLALONTLE OKWISEKETHE

Makubonelelwe ngoku kulandelayo kumfundi olixhoba kunye nabazali/ nabagcini/ nabanonopheli babo:

- Inkxaso ngokweemvakalelo
- Iingcebiso
- Ukuthunyelwa kwiingcali ukwenzela ukufumana inkxaso eyongezelelweyo

6.5 **Inkqubo yokuxela ukulungiselela umzali/umgcini/umnonopheli/ilungu losapho okanye elasekuhlaleni kwimpatho-gadalala kumfundi**

(a) Umfundi olixhoba unokuxela isityholo nokuba kukomnye umntwana/umfundi (oya kuthi emva koko asixele isityholo kutitshala/kumqeshwa) okanye umfundi olixhoba unokusixela isityholo ngqo kutitshala/kumqeshwa ngokwakhe.

(b) Umfundi olixhoba makangagocagocwa ngemibuzo. Kuphela makufunyanwe ingcaciso efanelekileyo ngeenjongo zokunika ingxelo.

(c) Makucaciswe inkqubo eya kulandela neendima kunye nemisebenzi eluxanduva yomthathi-nxaxheba ngamnye nokuba kungani na ukuba befuneka kule nkqubo.

(d) Ukuba ukuxelwa kwesityholo kuveza **umzali/umgcini/umnonopheli njengomoni otyholwayo**, kucetyiswa ukuba **makungaqhagamshelwana naye** umzali/umgcini/umnonopheli ongenguye umoni phambi kokuba kubandakanywe unontlalontle onyuliweyo okanye i-*SAPS*, ukwenzela ukuthintela ukoyikiswa komfundi olixhoba.

(e) Kwangoko kwakuba kuxelwe isityholo, makwaziswe okanye makuxelelwe aba bathathi-nxaxheba balandelayo:

  (i) **Makwaziswe** abazali/abagcini/abanonopheli bomfundi abangengabo abenze isenzo solwaphulo-mthetho . **Nakuba kunjalo**.

  (ii) **Makuxelwe** kwiyunithi ye-*FCS* ye-*SAPS* okanye i-*TCC* (ukuba ikhona kwindawo esiphantsi kolawulo lwayo isikolo.) kwimeko yolwaphulo-mthetho lokuxhaphaza ngokwezesondo okanye ukuhlasela ngenjongo yokubangela umenzakalo emzimbeni;

  (iii) **Makwaziswe** unontlalontle okwisekethe kwi-ofisi yesithili echaphazelekayo;

  (iv) **Makuxelwe** kunontlalontle okwisekethe onyuliweyo kwimeko yempatho-gadalala yomntwana.

(f) Abantu abancedisa ixhoba elingumfundi kufuneka bamnike inkxaso ngokumncedisa kwisicelo sokufumana uMyalelo woKhuseleko *(Protection Order)* ngokunjalo, phantsi kweemeko ezithile.

(g) Oku makunikwe ingqwalaselo ngunontlalontle onyuliweyo ukwenzela ukuba umfundi olixhoba abe nokuncediswa ngeli thuba lale nkqubo.

(h) Isikolo masincedise ekuqinisekiseni ukhuseleko lomfundi olixhoba ngokuqhagamshelana nonontlalontle onyuliweyo okanye nezinye ii-arhente zokhuseleko lwabantwana ukwenzela ukuba umfundi olixhoba athunyelwe kwiziko/kwindawo ekhuselekileyo okanye kumntu wosapho ukuba kucingelwa ukuba akukhuselekanga kumfundi olixhoba ukubuyela ekhaya.

(i) Isikolo (ootitshala/abaqeshwa/inqununu) masimnike inkxaso okokoko ngokwasemoyeni (*emotional support*), umfundi olixhoba, sikubeke esweni okuqhubekayo kuye ngokwasentlalweni, ngokweemvakalelo nakwizifundo zakhe.

(j) Makunikwe ingxelo qho kunontlalontle onyuliweyo.

(k) Makwenziwe amalungiselelo okumnika inkxaso eyongezelelweyo ezifundweni ukuba oko kuyimfuneko.

UMZOBO 3

INKQUBO YOKUXELA: YOMZALI/YOMGCINI/YOMNONOPHELI, YELUNGU LOSAPHO OKANYE ILUNGU ELINGUMHLALI NGEMPATHO-GADALALA YOMFUNDI

KUXELWA ISITYHOLO KUMFUNDI/KUTITSHALA/KUMQESHWA/ KWINQUNUNU

INGXELO EGUNYAZISWA YIMITHETHO ESEBENZAYO

INKQUBO YANGAPHANDLE: INKQUBO YEZOBULUNGISA KULWAPHULO-MTHETHO INKQUBO EMAYILANDELWE

I-SAPS/IYUNITHI I-FCS UNIT/I-TCC/ UNONTLALONTLE ONYULIWEYO

- **I-*SAPS*:**
  Yamkela yaye iphande ngesikhalazo.
- **IYUNITHI i-*FCS UNIT*:**
  yiyunithi ekwi-*SAPS* ejongene nokulwa izenzo zokuxhatshazwa ngokwesondo kwabantwana
- **I-*TCC*:**
  ibonelela ngeenkonzo ezijolise kumaxhoba ezimalunga nezonyango, (*clinical*), ezeenkqubo zophando ngolwaphulo-mthetho (*forensic*), nemiba echaphazela ingqondo nezentlalo (*psychosocial*) neminye imiba echaphazelekayo.
- **UNONTLALONTLE ONYULIWEYO:**
  Ufumana ifom 22, uphanda ngengcaciso ekwifom emiselweyo yaye aqinisekise ukhuseleko lwexhoba elingumfundi.

MAYIXELWE IMPATHO-GADALALA UKWENZELA UKUFUMANA INKXASO

INKQUBO YANGAPHAKATHI: INKQUBO EMAYILANDELWE LISEBE I-WCED

UNONTLALONTLE OKWISEKETHE

Makubonelelwe ngoku kulandelayo kumfundi olixhoba kunye nabazali/ nabagcini/ nabanonopheli babo:

- Inkxaso ngokweemvakalelo
- Iingcebiso kubazali
- Ukuthunyelwa kwiingcali ukwenzela ukufumana inkxaso eyongezelelweyo

7. **Abathathi-nxaxheba abachaphazelekayo**

7.1 Unontlalontle okwisekethe kwi-ofisi yesithili uya kunceda utitshala/umqeshwa/inqununu ekuthe kwaxelwa kuyo isenzo solwaphulo-mthetho esityholwayo ukwenzela ukuba ithathe isigqibo ngokuthatha inxaxheba kwezinye ii-arhente ezichaphazelekayo, ezifana nezi zilandelayo:

(a) Abazali/abagcini/abanonopheli bomfundi olixhoba ngokuxhomekeke ekubeni ayingabo abatyholwa ngokuba ngaboni.

(b) Iyunithi ye*SAPS*, i-*FCS unit* okanye i-*TCC* (ukuba ikhona kwindawo esiphantsi kolawulo lwayo isikolo) kwimeko yokuxhatshazwa ngokwesondo okanye ukuhlaselwa nokumbokrwa komntwana ngenjongo yokumenzakalisa emzimbeni.

(c) ICandelo lezoBudlelane eMsebenzini, xa ingabaqeshwa beSebe i*WCED* abatyholwa ngokuba ngaboni.

(d) Ibhunga lolawulo apho umqeshwa otyholwa ngokuba ngumoni eqeshwe libhunga lolawulo

(e) Unontlalontle okwisekethe

(f) Isayikholojisti ekwisekethe

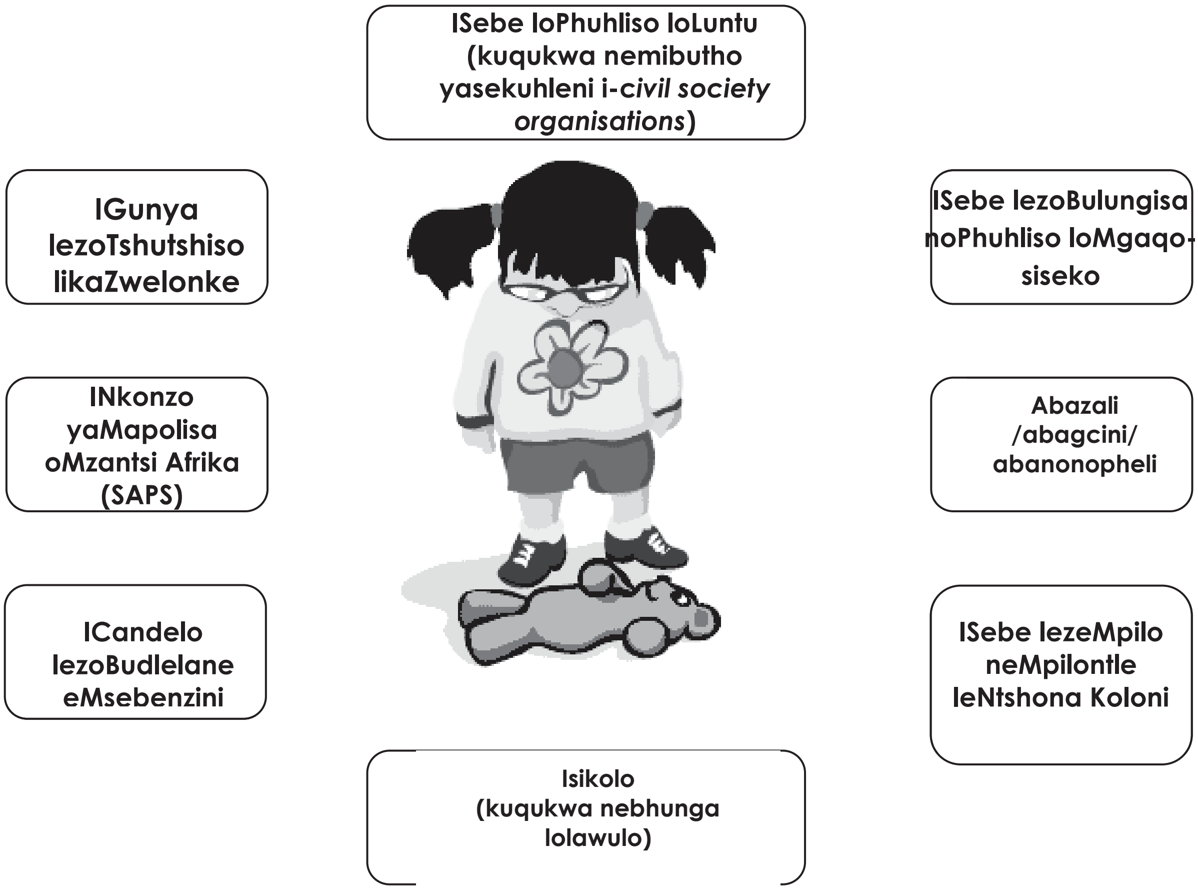
(g) ISebe loPhuhliso loLuntu lePhondo okanye imibutho ejongene nokhuseleko lwabantwana enyuliweyo.

(h) ISebe lezeMpilo neMpilontle leNtshona Koloni

7.2 **Imisebenzi eluxanduva lwabathathi-nxaxheba abachaphazelekayo**

7.2.1 Ukujongana ngokuyimpumelelo nempatho-gadalala kubantwana kufuna inkqubo ebandakanya amacandelo/abathathi-nxaxheba abaninzi *(multi-disciplinary approach*) ukwenzela ukubonelela ngeemfuno zommangali (umfundi olixhoba) ngokupheleleyo. Isicwangciso i-*NSP on Gender-Based Violence and Femicide, 2020, (NSP)* sikhuthaza le nkqubo ukulawula ngendlela ebhetele ubundlobongela obusekelwe kwisini (*gender-based violence*) ngokumalunga nabantwana ezikolweni zethu. Isicwangciso i-*NSP on Gender-Based Violence and Femicide, 2020,* sikwajolise ekuphuculeni ukwenziwa kweenkonzo yaye kungoko sigxininisa kule nkqubo ibandakanya amacandelo/abathathi-nxaxheba abaninzi (*multisectoral and multidisciplinary approach)*.

7.2.2 Ukusingathwa ngendlela eyiyo kwempatho-gadalala ngoko ke kuxhomekeke kwintsebenziswano, nobambiswano phakathi kwabathathi-nxaxheba nababoneleli-nkonzo abahlukeneyo ngethuba lenkqubo yongenelelo ngoncedo, kwaye iziko ngalinye malivelise indlela yokuququzelela olu lawulo ngempumelelo nangokubambisana.



7.2.3 **INkonzo yamaPolisa oMzantsi Afrika *(South African Police Service)***

(a) Yamkela yaye iphande malunga nesimangalo.

(b) Ifumana iingxelo ezifungelweyo kummangali (kumfundi olixhoba), kubazali/kubagcini/kubanonopheli bakhe nakwamanye amangqina achaphazelekayo.

(c) Ibamba ivalele abatyholwa ngesenzo solwaphulo-mthetho.

(d) Imthatha umfundi olixhoba imse kwiziko lezonyango ukwenzela ukuba ahlolwe ngugqirha, apho kunako ukwenzeka.

(e) Ithatha umtyholwa imse enkundleni yamatyala zingadlulanga iiyure eziyi-48 emva kokubanjwa kwakhe okanye zingadlulanga iiyure eziyi-24 emva kokuba ebanjiwe kwimeko yomfundi oneminyaka engaphantsi kweyi-*18 ubudala. (minor)*.

7.2.4 **ISebe lezeMpilo neMpilontle leNtshona Koloni**

(a) Lenza uhlolo lwezonyango olunzulu olwenziwa ngugqirha ukufumana ubungqina *(forensic medical examination)* kwisenzo sokuxhatshazwa ngokwesondo.

(b) Lenza iimvavanyo ezifanelekileyo ezifana nolwe-HIV nolokukhulelwa.

(c) Linika ingxelo ngokukhulelwa kwabantwana abangaphantsi kweminyaka yobudala eyamkelekileyo (*underage pregnancies*) kwi-*SAPS* nakwiSebe loPhuhliso loluNtu lePhondo.
(d) Liqokelela ubungqina obufumaneka kwingxelo kagqirha obuya kusetyenziswa xa kuxoxwa ityala enkundleni yamatyala.
(e) Libonelela ngamayeza ukukhusela impilo yomfundi olixhoba.
(f) Lirekhoda konke okufunyanisiweyo kuxwebhu lwezonyango nezomthetho (*medico-legal document) (J88*) oluhamba nengxelo efungelweyo eyi-afidavithi u–212 (4).

7.2.5 **ISebe lezoBulungisa noPhuhliso loMgaqo-siseko**
(a) Likhusela abantwana ekubeni baphathwe gadalala ngokungaphezulu ngomyalelo weNkundla yaBantwana, ngokuqala kugqithwe kwiiKhomishina zeeNkundla zaBantwana *(Commissioners of Children's Courts)*.
(b) Likhusela umntwana kwimpatho-gadalala ngokusebenzisa iMiyalelo yoKhuselo (*Protection Order)* (imiyalelo ezizithintelo *(interdicts))*.
(c) Libonelela ngeenkundla ezichaphazelekayo ukuzisa umoni otyholwayo
(d) kwinkundla yamatyala.
(e) Libiza amangqina aze kuvela enkundleni.
(f) Libonelela ngeetoliki ukwenzela ukuba kuxoxwe amatyala ngolwimi olukhethwa ngumfundi olixhoba kunye nongolwimi lomoni otyholwayo.

7.2.6 **Oonontlalontle beSebe loPhuhliso loLuntu lePhondo nemibutho yokhuseleko lwabantwana enyuliweyo**
(a) Baqinisekisa ngokhuseleko lomfundi olixhoba.
(b) Baphanda ngesiganeko apho kunyanzelekileyo ukuba benjenjalo yaye baqulunqe ingxelo eya kwiNkundla yaBantwana okanye kwiNkundla yoLwaphulo-mthetho *(Children's Court or Criminal Court)*.
(c) Babonelela ngoko nangoko ngenkonzo yokuthomalalisa umothuko *(trauma debriefing*) kunye/okanye ngeengcebiso zethuba elide ngokuthe ngqo okanye ngokusebenzisa umbutho ongekho phantsi kolawulo lukarhulumente.
(d) Bancedisa ngokulungiselela umfundi olixhoba kunye nabazali/nabagcini/nabanonopheli bakhe, malunga nenkqubo yenkundla yamatyala.
(e) Babonelela ngeenkonzo zokudibanisa umntwana olixhoba nosapho lwakhe.

7.2.7 **IGunya lezoTshutshiso likaZwelonke *(National Prosecuting Authority*)**
(a) Linika uncedo ngokusebenzisa ii-*Thuthuzela Care Centres (TCC)* (ukuba likhona iziko layo elikhoyo kwindawo esikuyo isikolo).
(b) Ii-*TCCs* ngamaziko aneenkonzo zonke (*one-stop centres*) asekelwe kwiifasilithi zononophelo lwezempilo (*health care facilities*) nezibonelela iinkonzo ezijolise kumaxhoba (*victim-centred services*) ezizezi ntlobo: iinkonzo zohlolo ngabezonyango ukufumana ubungqina *(clinical forensic),* iinkonzo ezinxulumene nokusebenza kwengqondo nemiba yezentlalo (*psychosocial*) nezinye iinkonzo ezichaphazelekayo ngendlela yeenkqubo ezibandakanya amacandelo/abathathi-nxaxheba abaninzi *(multi-disciplinary approach*) kumaxhoba obundlobongela obusekelwe kwisini.

(c) Libonelela ngabatshutshisi abaqeqeshiweyo nabanezakhono ukutshutshisa umbandela oziswa enkundleni.
(d) Liqhagamshelana nomfundi olixhoba ukulungiselela ukuthethwa kwetyala.
(e) Abatshutshisi bazisa amaxhoba angabafundi ngemiqathango yokhuseleko efumanekayo enkundleni.
(f) Amagosa enza amalungiselelo okuxoxwa kwetyala azii-*court preparation officers* aqeshwe yi-*NPA* ancedisa ekulungiseleleni abafundi abangamaxhoba kwinkqubo yasenkundleni.

7.2.8 **ICandelo lezoBudlelane eMsebenzini**
(a) Liphanda zonke izimangalo, liqinisekise ukuba luthathelwa ingqalelo ukhuseleko lomfundi olixhoba, ubomi bakhe babucala nokugcinwa kweenkcukacha zakhe ziyimfihlo ngawo onke amaxesha.
(b) Liyamnqumamisa ngoko nangoko umqeshwa weSebe iWCED ongumoni otyholwa ngesenzo solwaphulo-mthetho, njengenyathelo lokumlumkisa, apho kukho ubungqina obaneleyo bokwenjenjalo.
(c) Lazisa umqeshwa weSebe i*WCED* ngesityholo abekwa zona.
(d) Liyaqhubeka ngophando malunga noluleko ngendlela ekhusela ezo zinto zimlungiselela ngeyona ndlela ibhetele umfundi neemfuno ezizodwa zomfundi olixhoba (zabafundi abangamaxhoba) nezomnye umntwana olingqina (zabantwana abangamangqina).

7.2.9 **Ibhunga lolawulo**
(a) Lincedisa ngophando nangeengxoxo zetyala ngesityholo sempatho-gadalala (sesenzo sokuxhatshazwa ngokwesondo okanye ezinye izityholo zezenzo zempatho-gadalala) ezenziwe ngumqeshwa.
(b) Liququzelela iingxoxo zokuthethwa kwetyala ngoko nangoko yaye lenze isigqibo malunga nokupheliswa kwemvumelwano yengqesho yaloo mqeshwa, ngokuxhomekeke kwisiphumo sokuxoxwa kwetyala.

8 Ukujongisiswa kwakhona komgaqo-nkqubo

Lo mgaqo-nkqubo mawujongisiswe kwakhona xa kukho imfuneko yoko okanye xa kuthe kwatshintsha iimeko ezifana nezibhengezo (*pronouncements*) zemithetho eqingqiweyo kunye/okanye imimiselo (*regulations*) nezithintelo zebhajethi.

Mna……………………………..……………………(igama) oyiNtloko yeSebe leMfundo eNtshona Koloni, ngokwenjenje ndiyawuvuma umgaqo-nkqubo othi *Phantsi ngeMpatho-gadalala, 2025*. ……………………………………………………..…………………………(isignitsha) …..……………………………………………… (umhla)

Umgaqo-nkqubo othi phantsi ngempatho-gadalala Iinombolo zoqhagamshelwano ezibalulekileyo

Iinombolo zoqhagamshelwano zeSebe iWCED	
UNdlunkulu weSebe iWCED	0861 819 919
IZiko leeFoni leZikolo eZikhuselekileyo zeSebe iWCED	0800 45 46 47
IProgram yeMpilo neMpilo Qete yaBasebenzi	0800 111 011
ICandelo lezoBudlelwane eMsebenzini	021 467 2849/6
ISithili seMfundo i-*Metro North Education District*	021 938 3000
ISithili seMfundo i-*Metro Central Education District*	021 514 6700
ISithili seMfundo i-*Metro South Education District*	021 370 2000
ISithili seMfundo i-*Metro East Education District*	021 900 7000
ISithili seMfundo i-West Coast Education District	021 860 1200
ISithili seMfundo i-*Cape Winelands Education District*	023 348 4600
ISithili seMfundo i-*Overberg Education District*	028 214 7300
ISithili seMfundo i-*Eden & Central Karoo Education District*	044 803 8300
Ezinye iinombolo ezingahlawulelwayo ezifanelekileyo:	
INkonzo yamaPolisa oMzantsi Afrika	10111
ISebe loPhuhliso loLuntu leNtshona Koloni	0800 220 250
U-*Childline*	116
Iziko i-*Gender-Based Violence Command Centre*	0800 428 428
Inombolo ye-*Human Trafficking Hotline*	0800 222 777
I-*South African Depression and Anxiety Group*	0800 567 567
Inombolo ye-*Cape Mental Health Helpline*	0800 456 789

Iziko ledatha leenkonzo zenkxaso zengingqi

Inkxaso ye-ofisi yesithili (ikomiti yesekethe)

Igosa	Igama	Inombolo yefoni: (eye-ofisi)	Inombolo yeselula
Unontlalontle okwisekethe			
Isayikholojisti ekwisekethe			
Umphathi wesekethe			

Inkxaso ekuhlaleni

Umbutho okanye isebe	Umntu emakuqhagamshelwane naye	Inombolo yefoni: (eye-ofisi)	Inombolo yeselula
I-*SAPS*			
Isuphavayiza kanontlalontle weSebe loPhuhliso loluNtu			
Umbutho wokhuseleko lwabantwana onyuliweyo (umzekelo u-*Child Welfare ACVV*, *u-Badisa*, njalo-njalo.)			
Iyunithi i-*FCS unit*			
I-*NGO*			
Isibhedlele i-*Day Hospital*/iklinikhi yezempilo/ I-*TCC*			

Annexure C

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: ☐ Father ☐ Mother ☐ Grandfather ☐ Grandmother ☐ Step father ☐ Step mother ☐ Foster father ☐ Aunt ☐ Uncle ☐ Foster mother ☐ Sibling ☐ Caregiver ☐ Professional: social worker/police officer/teacher/caregiver/priest/dr/ volunteer ☐ Other (specify)Other (specify)
Street Address (include postal code): Postal Code:	

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

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)

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☐ Injury to internal organs ☐ Head injuries ☐ No visible injuries (elaborate)

☐ Poisoning (specify) ☐ Other Behavioral or physical (specify)

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

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

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			☐ 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):	Date		
☐ Yes ☐ No	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

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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

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Amatyala azizenzo zolwaphulo-mthetho ezinxulumene nabantwana nabantu abakhubazeke ngokwasengqondweni

ISahluko 2 soMthetho i-*Criminal Law (Sexual Offences and Related Matters) Amendment Act* (*Amendment Act*, 2007) *(Act 32 of 2007)*, njengoko ufakelwe izilungiso, siqulethe ezi zenzo zolwaphulo-mthetho, ziqhelekileyo, zichaphazela abantu abadala, nabantwana nabantu abakhubazeke ngokwasengqondweni njengabamangali:

ISiqendu 3	Udlwengulo
ISiqendu 4	Udlwengulo ngokunyanzeliswa
ISiqendu 5(1) no-(2)	Ukuhlukunyezwa ngokuphatha-phathwa kumalungu angasese nokubhekiselele kulwabelwano ngesondo
ISiqendu 6	Ukuhlukunyezwa kokuphatha-phathwa ngokunyanzeliswa kumalungu angasese nokubhekiselele kulwabelwano ngesondo
ISiqendu 7	Ukuhlukunyezwa ngokunyanzeliswa ukuba uziphatha-phathe kumalungu angasese nokubhekiselele kulwabelwano ngesondo
ISiqendu 11A	Ukuboniswa imifanekiso yamanyala okuhlukumezayo
ISiqendu 12(1)(a)	Umbulo (ukungena kwelungu lesini kwelinye ngokwesondo)
ISiqendu 12(1)(b)	Umbulo (ulwaphulo-mthetho ngokwesondo)
ISiqendu 14A	Ukoyikiswa ngokuhlukunyezwa ngokwesondo

ISahluko 3 soMthetho i-*Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007*) njengoko ufakelwe izilungiso, siqulethe izenzo zolwaphulo-mthetho ezinxulumene ngokukhethekileyo nabantwana:

ISiqendu 15	Izenzo ezimalunga nokwabelana ngezesondo ngemvumelwano ngokungenisa ilungu lesini kwelinye kunye nabantwana abathile
ISiqendu 16	Izenzo zokuhlukunyezwa zokwabelana ngesondo ngemvumelwano kunye nabantwana abathile
ISiqendu 17(1)	Ukuxhatshazwa ngokwesondo komntwana
ISiqendu 17(2)	Ukubandakanyeka kwizenzo zokuxhatshazwa komntwana ngokwesondo
ISiqendu 17(3)(a-b)	Ukuncedisa ngokukhuthaza ukuxhatshazwa ngokwesondo komntwana
ISiqendu 17(4)	Ukufumana inzuzo ekuxhatshazweni komntwana ngokwesondo
ISiqendu 17(5)	Ukuphila ngomvuzo owuhlawulelwa ngokuxhatshazwa komntwana ngokwesondo
ISiqendu 17(6)(a-b)	Ukukhuthaza iihambo ezinenjongo ephandle yokuzibandakanya kwezesondo nabantwana
ISiqendu 17(7)	Ukukuxhasa ngokuphandle, ukupapasha, ukukhuthaza okanye ukuxhasa ukuxhatshazwa komntwana ngokwesondo
ISiqendu 18(1)	Ukukhuthaza ubudlelwane ngokweemvakalelo nokwenziwa kwezenzo kubantwana abangenakuzikhusela ngenjongo yokulungiselela amathuba okubaxhaphaza ngokwesondo (*grooming*).

ISiqendu 18(2)	Ubudlelwane ngokweemvakalelo nokwenziwa kwezenzo kumntwana ongenakuzikhusela ngenjongo yokulungiselela amathuba okumxhaphaza ngokwesondo (*grooming*).
ISiqendu 19	Ukumvezela okanye ukumbonisa okanye ukwenza ukuba kubonakale okanye kuboniswe kuye imifanekiso yamanyala neyenza umdla wokwabelana ngesondo kumntwana okanye imifanekiso yamanyala
ISiqendu 19A(1)	Ukudala, ukwenza okanye ukuvelisa imifanekiso yamanyala ebandakanya abantwana ngayo nayiphi na indlela engekuko ukusebenzisa umntwana njengoko kuchatshazelwe kwisiqendu 20(1)
ISiqendu 19A(2)	Ukuncedisa okanye ukuququzelela ukudala, ukwenza okanye ukuvelisa imifanekiso yamanyala ebandakanya abantwana
ISiqendu 19A(3)	Ukubanayo kuye imifanekiso yamanyala ebandakanya abantwana
ISiqendu 19A(4)	Ukuhambisa, ukwenza kufumaneke, ukudlulisa (*transmitting*), ukubonelela ngokuthengisa , ukuthengisa, ukubonelela ngokuthenga , ukuthenga, ukufumana, ukukhuphela (*downloading*) imifanekiso okanye ukubukela ngokungekho mthethweni, imifanekiso yamanyala ebandakanya abantwana.
ISiqendu 19A(5)	Ukuncedisa okanye ukuququzelela ukuhambisa, ukwenza kufumaneke, ukudlulisa (*transmitting*), ukubonelela ngokuthengisa, ukuthengisa, ukufuna ukuthenga, ukuthenga, ukufumana, ukukhuphela (*downloading*) imifanekiso okanye ukubukela ngokungekho mthethweni, imifanekiso yamanyala ebandakanya abantwana.
ISiqendu 19A(6)	Ukwenziwa okanye ukuququzelelwa kokwenziwa korhwebo/koshishino ngezemali okungekho mthethweni, kusaziwa ukuba urhwebo/ushishino olu loluhlobo luya kuququzelela ulwaphulo-mthetho lweziqendu 19A (1) ukuya ku (5)
ISiqendu 20(1)	Ukusebenzisa umntwana kwimifanekiso yamanyala ebandakanya ukusetyenziswa kwabantwana
ISiqendu 20(2)	Ukufumana inzuzo evela kwimifanekiso yamanyala ebandakanya ukusetyenziswa kwabantwana
ISiqendu 20(3)	Ukuya, ukujonga okanye ukuthatha inxaxheba ngokungekho mthethweni, kwimisebenzi yobugcisa obenziwa esidlangalaleni ebandakanya ukusetyenziswa kwabantwana kwimifanekiso yamanyala
ISiqendu 20(4)(a)	Ukugaya ngokungekho mthethweni umntwana ngenjongo yokudala, yokwenza okanye yokuvelisa imifanekiso yamanyala nebandakanya ukusetyenziswa kwabantwana
ISiqendu 20(4)(b)	Ukugaya ngokungekho mthethweni umntwana ngenjongo yokuthatha inxaxheba kwizenzo zemisebenzi yobugcisa obenziwa esidlangalaleni ezibandakanya imifanekiso yamanyala nezibandakanya ukusetyenziswa kwabantwana
ISiqendu 21(1)	Ukunyanzelisa okanye ukwenza ukuba umntwana abone izenzo zolwaphulo-mthetho zokuxhatshazwa ngokwesondo
ISiqendu 21(2)	Ukunyanzelisa okanye ukwenza ukuba umntwana abone isenzo sokwabelana ngesondo

ISiqendu 21(3)	Ukunyanzelisa okanye ukwenza ukuba umntwana abone isenzo sokuziphulula/sokuziphatha-phatha amalungu esini ukulola umdla wokwabelana ngesondo
ISiqendu 22	Ukubonisa umntwana okanye ukwenza kubonakale kuye umntwana amalungu omzimba esini, impundu, okanye amabele omntu obhinqileyo

ISahluko 4 soMthetho i-*Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007*) njengoko ufakelwe izilungiso, siqulethe amatyala azizenzo ezinxulumene ngokukodwa nabantu abakhubazeke ngokwasengqondweni:

ISiqendu 23(1)	Ukuxhatshazwa ngokwesondo kwabantu abakhubazeke ngokwasengqondweni
ISiqendu 23(2)	Ukubandakanywa kwisenzo sokuxhatshazwa ngokwesondo komntu okhubazeke ngokwasengqondweni
ISiqendu 23(3)(*a-b*)	Ukuncedisa ngokukhuthaza ukuxhatshazwa ngokwesondo kwabantu abakhubazeke ngokwasengqondweni
ISiqendu 23(4)	Ukufumana inzuzo ngokuxhatshazwa ngokwesondo kwabantu abakhubazeke ngokwasengqondweni
ISiqendu 23(5)	Ukuphila ngengeniso efumaneka ngokuxhatshazwa ngokwesondo kwabantu abakhubazeke ngokwasengqondweni
ISiqendu 23(6)(1-2)	Ukukhuthaza iihambo ezinenjongo ephandle yokuzibandakanya kwezesondo kubantu abakhubazeke ngokwasengqondweni
ISiqendu 24(1)	Ukukhuthaza ubudlelwane ngokweemvakalelo nokwenziwa kwezenzo kubantu abangenakuzikhusela ngenjongo yokubalungiselela ukubaxhaphaza ngokwesondo abantu abakhubazeke ngokwasengqondweni
ISiqendu 24(2)	Ukwakha ubudlelwane ngokweemvakalelo nokwenziwa kwezenzo kubantu abangenakuzikhusela ngenjongo yokubalungiselela ukubaxhaphaza ngokwesondo abantu abakhubazeke ngokwasengqondweni
ISiqendu 25	Ukubonisa okanye ukwenza kubonakale imifanekiso yamanyala kusetyenziswa abantwana okanye imifanekiso yamanyala kubantu abakhubazeke ngokwasengqondweni
ISiqendu 26(1)	Ukusebenzisa abantu abakhubazeke ngokwasengqondweni ngenjongo yokwenza imifanekiso yamanyala.
ISiqendu 26(2)	Ukufumana inzuzo ngokusebenzisa abantu abakhubazeke ngokwasengqondweni ngenjongo yokwenza imifanekiso yamanyala (*pornography*).

ISahluko 7 soMthetho i-*Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007*) njengoko ufakelwe izilungiso, uqulethe ezi zenzo zolwaphulo-mthetho zilandelayo:

ISiqendu 54(2)	Ukusilela ukuxela ulwazi, inkolelo ngezizathu esengqiqweni okanye urhano lokuba kwenziwe isenzo solwaphulo-mthetho ngokwesondo kumntu ongenako ukuzikhusela njengoko kuchaziwe kwsiqendu 40

ISiqendu 54(3)	Ukusilela ukuxela nalo naluphi na ulwazi lokuba kwenziwe naso nasiphi na isenzo solwaphulo-mthetho esikwisiqendu 19A okanye ukuba nesizathu sokurhanela ukuba isenzo solwaphulo-mthetho esilolu hlobo senziwe okanye mhlawumbi siya kwenziwa, kwi-*SAPS* ngoko nangoko nokusilela ukunika zonke iinkcukacha ngolwazi okanye urhano olulolu hlobo, ngokwesicelo se-*SAPS,*
ISiqendu 55(a)	Iinzame zokwenza isenzo solwaphulo-mthetho ngokwesondo ngokwalo Mthetho
ISiqendu 55(b)	Ukwenza iyelenqe lokwenza isenzo solwaphulo-mthetho ngokwesondo ngokwalo Mthetho
ISiqendu 55(c)	Ukunceda, ukukhuthaza ukwenzisa, ukucenga, ukuphembelela, ukuyalela, ukulawula ukunika iingcebiso, ukuthenga omnye umntu ukuba enze isenzo solwaphulo-mthetho ngokwesondo ngokwalo Mthetho

UMthetho i-*Films and Publications Act, 1996 (Act 65 of 1996),* njengoko ufakelwe izilungiso, uqulethe ezi zenzo zolwaphulo-mthetho zilandelayo:

ISiqendu 24E (1-2)	Izithintelo, izenzo zolwaphulo-mthetho nezohlwayo zokuhanjiswa kweefoto neefilim zabucala ezimalunga nezesondo
ISiqendu 24F	Izithintelo, amatyala nezohlwayo zokwenziwa kweefilim nokuhanjiswa kweefilim neefoto ezibonisa ukuxhatshazwa ngokwesondo nobundlobongela ebantwaneni
ISiqendu 24G	Izithintelo, izenzo zolwaphulo-mthetho nezohlwayo ngepropaganda ukulungiselela imfazwe, ukukhuthaza isenzo solwaphulo-umthetho sobundlobongela obunokubakho, nokukhuthazwa kwentiyo esekelwe kuphawu lweqela elithile elaziwayo *(identifiable group characteristic*) noluquka ukukhuthaza isenzo solwaphulo-mthetho esibangela umonakalo.

UMthetho *i-Cybercrimes Act, 2020 (Act 19 of* 2020), uqulethe ezi zenzo zolwaphulo-mthetho zilandelayo:

ISiqendu 14	Ukuxelwa komyalezo kusetyenziswe izixhobo zethekhinoloji (*data message*) okukhuthaza ukonakaliswa kwepropathi okanye owobundlobongela
ISiqendu 15	Ukuxelwa komyalezo kusetyenziswe izixhobo zethekhinoloji (*data message*) oyintsongelo yokoyikisa abantu ngokonakaliswa kwepropathi okanye owobundlobongela
ISiqendu 16	Ukuxelwa/ukuboniswa komyalezo kusetyenziswe izixhobo zethekhinoloji (*data message*) onomfanekiso wabantu abahamba ze, imifanekiso yezenzo zokwabelwana ngesondo neyamalungu angasese

UMthetho *i-Prevention and Combatting of Trafficking in Persons, 2013 (Act* 7 of 2013) njengoko ufakelwe izilungiso, unezi zenzo zolwaphulo-mthetho zilandelayo:

ISiqendu 4(1)	Nawuphi na umntu ohambisa, ogaya, othutha, ogqithisela, ogcina ngokuyimfihlo, othengisa, otshintshiselana, oqeshisa okanye, ofumana omnye umntu ngaphakathi okanye ngaphaya kwemida yeRiphabliki yoMzantsi Afrika, ngokwenza oku- (a) isoyikiso esiyintsongelo sokwenzakalisa; (b) isoyikiso esiyintsongelo okanye ukusebenzisa amandla okanye ezinye iindlela zokunyanzelisa; (c) ukuxhatshazwa kokuba ungenako ukuzikhusela ; (d) ubuqhophololo; (e) inkohliso; (f) ukuthathwa ngogonyamelo komntwana ngaphandle kwemvume ngenjongo zokumxhaphaza (*abduction* (g) ukuxhwilwa/ukuqweqwediswa; (h) ukusetyenziswa kwamandla egunya ukuxhaphaza abanye; (i) ukunika okanye ukufumana intlawulo okanye iinzuzo ngqo nangokungathanga ngqo ukwenzela ukufumana imvume yomntu onolawulo okanye onegunya komnye umntu; okanye j) ukunika okanye ukufumana ngokuthe ngqo nangokungathanga ngqo iintlawulo okanye imbuyiselo, imivuzo, iinzuzo okanye nayo nayiphi na into elungiselela inzuzo ethile ejoliswe kumntu okanye kwilungu losapho lalo mntu okanye nawuphi na omnye umntu osondele kakhulu ngokuzalana nalo mntu, ukwenzela injongo yayo nayiphi na indlela okanye udidi lokuxhatshazwa, unetyala lesenzo solwaphulo-mthetho lokushishina ngabantu.
ISiqendu 4(2)(a)	Nawuphi na umntu- a) othathela kuye, oququzelele okanye ofumene umntwana ongengowakhe ukuba amkhulise njengowakhe, ngendlela esemthethweni, okanye engekho mthethweni... ngaphakathi okanye ngaphaya kwemida yeRiphabliki yoMzantsi Afrika, ngenjongo yokuxhatshazwa kwalo mntwana okanye komnye umntu ngalo naluphi na uhlobo okanye indlela, unetyala lokwenza isenzo solwaphulo-mthetho.
ISiqendu 4(2)(b)	Nawuphi na umntu- b) otshatisa umtshato onyanzelisa ukutshatiswa komntu nomnye umntu, ngaphakathi okanye ngaphaya kwemida yeRiphabliki yoMzantsi Afrika, ngenjongo yokuxhatshazwa kwalo mntwana okanye komnye umntu ngalo naluphi na uhlobo okanye indlela, unetyala lokwenza isenzo solwaphulo-mthetho.

UMthetho i-*Children's Act ,2005 (Act 38 of 2005)* njengoko ufakelwe izilungiso, uqulethe ezi zenzo zolwaphulo-mthetho zilandelayo:

Ukuxhatshazwa ngokwesondo kuchazwa ngokuthi:

(a) ukumhlukumeza okanye ukumnukuneza ngokwesondo umntwana okanye ukuvumela ukuba umntwana ahlukunyezwe/anukubezwe ngokwesondo (*sexually molested*) okanye axhatshazwe ngokwesondo

(b) ukukhuthaza, ukucenga okanye ukunyanzela umntwana ukuba asetyenziselwe ukwanelisa omnye umntu ngokwesondo,

Umntwana olahlwe tya, uchazwa njengokuba ngumntwana —

(a) oshiyiweyo ngumzali, ngumgcini okanye ngumnonopheli;

(b) ngaphandle kwesizathu angenalo unxibelelwano nomzali, nomgcini, nomnonopheli, ithuba leenyanga ezi-3 ubuncinane; okanye

(c) ukuba kufanelekile, ongenalwazi lokuba uphi na umzali, umgcini okanye umnonopheli yaye loo ngcaciso ayinako ukuqinisekiswa ngabasemagunyeni abachaphazelekayo.

ISiqendu 305 (1) Umntu unetyala lolwaphulo-mthetho ukuba loo mntu wenze esi senzo sichasene nesithintelo esimiselwe kwisiqendu 12(2), (3), (4), (6), (7) okanye (8):

ISiqendu 12(2) Umntwana ongaphantsi kweminyaka yobudala eyeyona isezantsi yokutshata emiselwe ngumthetho makanganikezelwa ngenjongo yokumtshatisa okanye yokumngejisa nomnye umntu ukulungiselela umtshato okanye apho abantwana bangaphezulu kweminyaka yobudala eyeyona isezantsi, abanakutshatiswa okanye bangejiswe nomnye umntu ukulungiselela umtshato ngaphandle kwemvume yabo.

ISiqendu 12(3) Kuthintelwe ukususwa kwamalungu esini okanye ulwaluko lwabasetyhini

ISiqendu 12(4) Kuthintelwe ukuhlolwa kobuntombi (*virginity testing)* kubantwana abakubudala obuyiminyaka engaphantsi kwe-16

ISiqendu 12(6) Iziphumo zokuhlolwa kobuntombi azinakuchazwa elubala ngaphandle kwemvume yomntwana lowo

ISiqendu 12(7) Umzimba womntwana ohlolwe ubuntombi bakhe, awunakufakwa zimpawu

ISiqendu 12(8) Ulwaluko lwabantwana abangamakhwenkwe abangaphantsi kweminyaka eyi-16 lungenziwa kuphela phantsi kweemeko ezithile.

ISiqendu 305 (3) Umzali, umgcini womntwana, omnye umntu onoxanduva lokuba ngumzali nolwamalungelo ngokumalunga nomntwana, umntu ononophela umntwana (*caregiver*) okanye umntu ongenaluxanduva lokuba ngumzali nolwamalungelo malunga nomntwana kodwa ononophela umntwana ngokuzithandela ngexesha elingamiselwanga, ngokwethutyana (*temporarily*) okanye ngamanye

amaxesha (*partially*), unetyala lokwenza isenzo solwaphulo-mthetho ukuba lo mzali okanye lo mnonopheli womntwana okanye omnye umntu-

(a) umphethe gadalala okanye akamhoyi ngabom umntwana; okanye

(b) uyamlahla tya umntwana

ISiqendu 305 (4) Umntu onoxanduva ngokusemthethweni lokumlondoloza *(maintain)* umntwana unetyala lesenzo solwaphulo-mthetho ukuba lo mntu uthe enako ukukwenza oku wasilela ukubonelela umntwana ngokutya okwaneleyo, iimpahla, indawo yokuhlala noncedo lwezonyango.

ISiqendu 305 (5) Umntu ongumnini, umqashisi (*lessor*), umphathi , umqeshi *(tenant)* okanye umhlali (*occupier)* wawo nawaphi na amasango apho kwenzeka isenzo sokushishina ngomntwana ngenjongo yokumxhaphaza ngokwesondo unetyala lolwaphulo-mthetho ukuba loo mntu, uthe akufumana ingcaciso yokwenzeka kweso senzo, wasilela ukuthatha amanyathelo asengqiqweni ngokukhawuleza ukunika ingxelo ngesenzo esenzekileyo kwi-*SAPS*.

Izenzo zolwaphulo-mthetho zoMthetho ongabhalwanga (*common law*) ezinokufaneleka:

- Ukubulawa komntu
- Ukuzama ukubulala umntu
- Ukuhlaselwa komntu ngenjongo yokubangela umenzakalo emzimbeni
- Ukuhlaselwa komntu *(Assault)*
- Ukonakaliswa kwepropati (*Malicious damage to property*)
- Ukuthotywa isidima nokunyashwa kwamalungelo omntu (*Crimen injuria)*
- Ukuxhwilwa/ukuqweqwediswa

Isikhokelo esibanzi sokuhlolwa kweempawu *(indicators*) zempatho-gadalala nesinika iingcebiso xa kuthathwa isigqibo ngabo bonyuliweyo ngeenkonzo zokhuseleko lwabantwana emazibonelelwe

1. **Injongo yesi sikhokelo sibanzi sokuhlolwa kweempawu zempatho-gadalala njengoko kuchatshazelwe kwisiqendu 142 (c) soMthetho i-*Children's Act)* (*Act 38 of 2005*) kukubonelela ngesikhokelo esiyiMimiselo *(the General Regulations Regarding Children*, epapashwe *kwiGazethi kaRhulumente No* 33076 yomhla we-01 Apreli 2010) ukwenzela oku kulandelayo:**
   (a) Ukuqatshelwa kwabantwana abaphethwe gadalala okanye abangahoywanga ngabom;
   (b) Ukuhlolwa kweempawu zempatho-gadalala ukunika inkxaso ekuthathweni kwesigqibo malunga nokuxhatshazwa nokungahoywa ngabom ngezizathu ezivakalayo [njengoko kuchatshazelwe kwiSiqendu 110 soMthetho i-*Children's Act, 2005 (Act 38 of 2005)];*
   (c) Uphando lisebe lophuhliso loluntu lephondo okanye ngumbutho wokukhuseleko lwabantwana owenza lo msebenzi kwakuba kufunyenwe ingxelo yempatho-gadalala okanye yokungahoywa ngabom komntwana; nokuba
   (d) Amanyathelo okhuseleko afanelekileyo makathathwe ngokumalunga nomntwana.
   (e) Ukuxelwa ngumntwana kwempatho-gadalala okanye ukungahoywa ngabom; okanye
   (f) Inkcazo emalunga nendlela yokwenzeka kwempatho-gadalala eqaphelekayo okanye imbali yempatho-gadalala okanye ukungahoywa ngabom evela kwingqina emalunga nempatho-gadalala kubantwana.

2. **Isikhokelo esibanzi sokuhlolwa kweempawu (*indicators)* zempatho-gadalala siquka esi sikhokelo silandelayo ngokwe-*Regulation 35(2)* kwi-*General Regulations Regarding Children*, epapashwe *kwiGazethi kaRhulumente No* 33076 yomhla we-01 Apreli 2010) *:***

(a) **Ubukho beempawu *(indicators*) zempatho-gadalala emzimbeni**	(b) **Ubukho beempawu *(indicators*) zeemvakalelo nendlela yokuziphatha zempatho-gadalala emzimbeni, ngokwasengqondweni okanye ukuxhatshazwa ngokwesondo**	(c) **Ubukho beempawu *(indicators)* zokukhula komntwana zempatho-gadalala ngokuxhatshazwa emzimbeni, ngokwasengqondweni okanye ngokwesondo**	(d) **Ubukho beempawu zokungahoywa ngabom komntwana**
• Ukugruzuka kulo naliphi na ilungu lomzimba • Iimpawu zokuxhakamfulwa ezingalweni, esifubeni okanye ebusweni	• Ulaka/umsindo ogqithisileyo • Ukungafuni komntwana ukuba kusondele emzimbeni kuye umntu omdala • Unxunguphalo • Ukukruquka ngokulula	• Ukungabinako ukukhula ngokwezigaba zokukhula ezifanelekileyo • Ukusilela ukufezekisa imimiselo yokukhula ngokwasemzimbeni	• Ukunqaphela • Iinwele ezibubomvurha/ ezimbatshileyo ezigqagqeneyo • Izilonda ezijikeleze umlomo

• Umahluko kumbala wokugruzuka • Amehlo amnyama • Iimpawu zebhanti • Ukukrazuka kolusu olujikeleze indlebe okanye olungemva kwendlebe • Iimpawu zesigarethi okanye ezokutsha • Amanxeba • Izigxala • Ukophuka kwamathambo • Umenzakalo wasentloko • Ukuxhuzula okungabangelwa sisigulo sokuxhuzula okanye amaqondo aphezulu obushushu aphakamileyo • Ukozela • Ukuphefumla okungaqhelekanga • Ukugabha • Iintlungu • Ubushushu/ifiva • Ukungazinzi	• Uloyiko oluzingileyo lwabantu abaqhelileyo umntwana okanye lweemeko ezithile • Ukuba lusizi • Izenzo/iindlela zokuziphatha ezinxulumene nokuzibulala • Ukuzenzakalisa/ukuzisika kumalungu omzimba/emzimbeni • Iingcinga ezizingileyo zoloyiko, iimvakalelo zonxunguphalo, ukucaphuka ngaphandle kwesizathu • Ukungalukhathaleli ucoceko nempilo yakho buqu • Ukubonisa indlela yokuziphatha/ulwazi lokuziphatha ngokwesondo nolungafanelekanga ngokwentlalo nangokweminyaka yobudala bomntwana • Ukubhulisha okanye ukubhulishwa • Ukungafuni okanye ukoyika ukukhulula okanye ukufumbela iimpahla ezininzi	nangokwasengqo-ndweni • Ukuba likheswa • Ukuthintitha • Ukungafuni ukuthatha inxaxheba kwimisebenzi yamaqela • Ubuqhitala • Ukungakwazi ukulawula iintshukumo zezihlunu ezincinane zamalungu omzimba okanye ukubhideka • Ukubanako ukukhula ngokwezigaba zokukhula ngokubonakalayo kwabantwana xa bengekho kwikhaya labo	• Ukugcinwa okungengako kwamanzi ngumzimba kwimiphambili yezandla okanye emilenzeni • Isisu esidumbe okanye esiqine kancinci • Ulusu olucekethekileyo noluchachambi-leyo • Ukuba mnyama kolusu ingakumbi kumalungu aziingalo nemilenze • Izihlunu eziceketheke ngokungaqhele-kanga • Ukungakhuli ngokwezigaba zokukhula eziqhelekileyo • Ukubhitya • Ukubhideka • Ukungakwazi ukucinga ngokuphanga-leleyo • Ukukruquka ngokulula • Ubuvila obugqithisileyo • Ukuba likheswa • Izilonda kwiindawo olala ngazo • Ukuqina kwezihlunu nemisipha okubangela ukulimala kwamalungu omzimba

3. **Umntu othi, ngenxa yobukho bezi mpawu kubhekiswe kuzo kummiselwana (2) arhanele ukuba umntwana uxhatshazwe ngokwesondo, okanye uxhatshazwe ngendlela ebangela umenzakalo emzimbeni okanye ukungahoywa ngabom komntwana, makayihlole imeko engqonge oko yomntwana ngokungqinelana nesi sikhokelo silandelayo:**
   (a) Iimpawu ezininzi zinokungabhekisi ngqo kwimpatho-gadalala okanye ukungangahoywa ngabom;

(b) Iimpawu ezidibeneyo okanye ezibonisa ukwenzeka ngendlela ethile ngokuchasene nophawu olunye olunganxulumanga nezinye, ziya kunika inkxaso xa kuthathwa isigqibo ngempatho gadalala okanye ngokungahoywa ngabom komntwana;

(c) Ingcaciso namaxesha athe ngqo azo naziphi na izehlo, iindawo apho zenzeke khona nemayibhalwe phantsi, inokunika inkxaso koku ukulungiselela ukuthathwa kwesigqibo ngokumalunga nempatho-gadalala okanye ukungahoywa ngabom komntwana nemeko engqonge ukwenzeka kwazo izehlo ezenzekileyo, nemazibhalwe phantsi, zinokunika inkxaso xa kuthathwa isigqibo ngempatho-gadalala okanye ukungahoywa ngabom komntwana;

(d) Impatho-gadalala inokwenziwa ngaphandle kwenjongo kodwa ukusilela ngakwindima yomzali/yomgcini/yomnonopheli ukuthintela impatho-gadalala yomntwana, kungathathwa njengokulinganayo nokungahoywa komntwana ngabom.

(e) Impatho-gadalala inokwenzeka emzimbeni, ngokwasengqondweni okanye ngokuhlukunyenzwa ngokwesondo *(physical, psychological or sexual)* kungekho zimpawu zibonakalayo ngaphandle yaye kuxhaphake ukuba zibe zikho ukuba umntwana usoloko exela izoyikiso zentsongelo yokwenzakaliswa okanye zokohlwaywa;

(f) Izehlo ezingephi eziluthotho nokuba zeziphi na, ezinokuthi ziqwalaselwa ngazodwa, nezingenakuchazwa njengempatho-gadalala, okanye ukungahoywa ngabom, zinokuquka impatho-gadalala okanye ukungahoywa ngabom komntwana xa zithathelwe ingqalelo ngokuhlangeneyo;

(g) Iminyaka yobudala yomntwana, ubuyena nesimo seemvakalelo somntwana mazithathelwe ingqalelo.

(h) Ukungangqinelani kwinkcazo yezehlo yomntwana kunye nabazali/nabagcini/nabanonopheli bakhe, kunokubonelela okanye kunokuyinciphisa inkxaso ukulungiselela ukuthathwa kwesigqibo ngempatho-gadalala okanye ukungahoywa ngabom komntwana.

(i) Nakuphi na ukulibaziseka okungenasizathu ekufuneni unyango ukwenzela umntwana othe wenzakala ngokuxhomisa amehlo, makuthathelwe ingqalelo njengophawu lwempatho-gadalala okanye lokungahoywa komntwana.

Umsebenzi oluxanduva lokunika ingxelo okunyanzelekileyo ngokomthetho

Isiqendu 54 soMthetho i-*Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007)*, njengoko ufakelwe izilungiso, sicacisa ukuba:

(1) Umntu onolwazi, onenkolelo esengqiqweni okanye onorhano lokuba isenzo solwaphulo-mthetho sokuxhaphaza ngokwesondo senziwe kumntu ongenakuzikhusela njengoko sicaciswa kwisiqendu 40, makaluxele olo lwazi, lo nkolelo isengqiqweni okanye olo rhano ngokukhawuleza kwigosa lasemapoliseni.

(2) (a) Umntu osilelayo ukuxela ulwazi, inkolelo esengqiqweni okanye urhano olulolu hlobo njengoko kuchatshazelwe kwisiqendwana (1) unetyala lolwaphulo-mthetho yaye umele ukugwetyelwa ukuhlawula umdliwo (fine) okanye ukuvalelwa entolongweni ithuba elingagqithanga kwiminyaka emihlanu okanye zombini umdliwo (fine) kunye nokuvalelwa entolongweni okulolu hlobo

(b) Umntu enezizathu ezivakalayo othi ayixele lo nkolelo isengqiqweni okanye olo rhano akayi kuthwaliswa xanduva lwayo nayiphi na inkqubo yolawulo lolwaphulo-mthetho ngokwenza le ngxelo ilolu hlobo."

(3) Nawuphi na umntu onolwazi lokwenziwa kwesenzo salo nolwaphi na ulwaphulo-mthetho ekubhekiswa kuso kwisiqendu 19A okanye onesizathu sokurhanela ukuba isenzo solwaphulo-mthetho senziwe, siyenziwa okanye siya kwenziwa mhlawumbi, ngokungekho mthethweni okanye ngaphandle kwenjongo, osilelayo:

(a) ukuxela olo lwazi, olo rhano ngoko nangoko kwi-SAPS okanye,

(b) ukunika, kwakuba kuceliwe yi-SAPS, zonke iinkcukacha zolo lwazi, okanye olo rhano, unetyala lolwaphulo-mthetho

ISiqendu 110 soMthetho i-*Children's Act* (uMthetho 38 ka-2005) njengoko sifakelwe izilungiso sicacaisa ukuba:

(1) *"Naliphi na igosa leenkonzo zokulungiswa kwezimilo (correctional official), ugqirha wamazinyo (dentist), igosa lezonyango (homeopath), igosa eliyi-immigration official, umhloli oyi-labour inspector, igosa lezomthetho (legal practitioner), igosa lezonyango elingugqirha (medical practitioner), umbelekisi (midwife), umfundisi wezenkolo (minister of religion), unesi, igosa eliyi-occupational therapist, igosa elilipolisa, ifiziyotherapisti (physiotherapist), isayikholojisti (psychologist), inkokeli yezenkolo, igosa leenkonzo zoluntu eliqeqeshiweyo (social service professional), unontlalontle (social worker), itherapisti i-speech therapist, utitshala, ipraktishina yezonyango ngesintu i-traditional health practitioner, inkokeli yezemveli (traditional leader) okanye ilungu elingumsebenzi okanye umsebenzi olivolontiya kwifasilithi yononophelo eyi-partial care facility, kwiziko i-drop-in centre okanye iziko lononophelo lwabantwana nolutsha (child and youth care centre) nothi ngezizathu ezivakalayo, agqibe kwelokuba umntwana uphatheke gadalala ngendlela ebangela umenzakalo emzimbeni, uxhatshazwe ngokwesondo okanye akakhange ahoywe ngabom, makanike ingxelo ngeso sigqibo kwifom emiselweyo kumbutho wokhuseleko lwabantwana onyuliweyo, kwisebe lophuhliso lwentlalo lephondo okanye kwigosa lasemapoliseni.*

(2) *Nabani na othi ngenxa yezizathu ezivakalayo akholelwe ukuba umntwana ufuna unonophelo nokhuseleko; unokuyixela inkolelo yakhe kwisebe lophuhliso loluntu lephondo, kumbutho wokhuseleko lwabantwana onyuliweyo okanye kwigosa lasemapoliseni".*

ICandelo 4 le-*SAPS National Instruction* 3 ka-2008 licacisa ukuba:

(1) *Isenzo solwaphulo-mthetho sokuxhaphaza ngokwesondo esirhanelekayo sisoloko sixelwa–*
  - (a) *lixhoba lesenzo solwaphulo-mthetho*
  - (b) *lilungu losapho, ngumhlobo okanye ngugxa wexhoba; okanye*
  - (c) *ngumntu othe wasibona sisenzeka okanye ofumene ingcaciso malunga nokwenzeka kwesenzo solwaphulo-mthetho.*

(4) *umntu oxela–*
  - (i) *olwakhe ulwazi lokuba isenzo solwaphulo-mthetho sokuxhaphaza ngokwesondo senziwe kumntwana okanye kumntu okhubazeke ngokwasengqondweni; okanye*
  - (ii) *inkolelo esengqiweni okanye urhano lokuba isenzo solwaphulo-mthetho senziwe kumntu okhubazeke ngokwasengqondweni, ngenxa yomsebenzi oluxanduva olunyanzelekileyo ngokomthetho lokwenza oko, ngokweSiqendu 54 soMthetho i-Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007), njengoko ufakelwe izilungiso, unokukwenza oku ngamanye amaxesha ngenxa yokoyika ukuba atshutshiswe ukuba uyasilela ekwenzeni oko.*

(5) *Ukuba umntu (ekubhekiswa kuye kumhlathana (4) uxela olo lwazi okanye lo nkolelo yakhe okanye urhano lwakhe lulolu hlobo kwigosa lasemapoliseni, ilungu elifumana lo ngxelo alinako ngaphantsi kwayo nayiphi na imeko ukumjikisa loo mntu olulo hlobo. Ilungu elilolu hlobo malithathele ingqalelo le ngcaciso ilandelayo yaye–*
  - (a) *Ukuba ilungu lonelisekile kukuba kukho izizathu ezivakalayo zokukholelwa ukuba isenzo esilolu hlobo ngokwenene senziwe, lithatha ingxelo efungelweyo kulo mntu eyazisa ingcaciso enikwe ngulo mntu, livule idokethi ukwenzela uphando lwesenzo solwaphulo-mthetho ekurhanelwa ukuba senzekile yaye libhalise idokethi kwisistim i-Crime Administration System (CAS); okanye*
  - (b) *Ukuba ilungu alanelisekanga kukuba kukho izizathu ezivakalayo zokukholelwa ukuba isenzo solwaphulo-thetho esilolu hlobo senziwe ngokwenene, lithethana ne-Community Service Centre Commander neya kwenza ingxelo ebhaliweyo kwincwadi eyi-Occurence Book yeengxelo kunye nezizathu zokuba kungani na inkumanda ingonelisekanga kukuba kukho izizathu ezivakalayo zokukholelwa ukuba isenzo esilolu hlobo senziwe ngokwenene yaye inike inombolo i-entri yokubhaliweyo i-Occurence Book entry, kumntu owenze ingxelo ukwenzela ukuba abe nako ukufunyanwa apho akhoyo yaye kudliwane naye indlebe ukuba kubonakala ukuba oku kuyimfuneko.*

Isiqendu 2A soMthetho woBundlobongela eMakhaya *(The Domestic Violence Act, 1998 (Act 116 of 1998)* , njengoko ufakelwe izilungiso, sicacisa ukuba:

(1) UMphathiswa ngesaziso esikwiGazethi, unyula nawuphi na umntu—

(a) okwiqela okanye okudidi lwabantu; okanye

(b) oqeshwe kwiqela okanye kudidi lwee-entithi, njengegosa (*functionary*).

(2) Igosa, elithi ngethuba lokwenza umsebenzi walo okanye umsebenzi wokwenza imisebenzi yalo, lifumane ingcaciso, eya kuthi emva kokuhlolwa kwayo lilo, ibangele ukuba kukholelwe okanye kurhaneleke ngezizathu ezivakalayo ukuba umntwana, umntu okhubazekileyo okanye umntu omdala, angaba ngummangali njengoko kucatshelwe kwisiqendu 1—

(a) malithi ngaphandle kokulibazisa—

(i) lizalise ingxelo kwifom emiselweyo ecacisa izizathu zenkolelo okanye zorhano olulo hlobo; nokuba

(ii) ngendlela emiselweyo lingenise ingxelo kulo—

(aa) unontlalontle; okanye

(bb) ilungu le-SAPS;

(b) malenze uhlolo lweempawu eziyingxaki njengoko kuchatshazelwe kwisiqendu 18B; yaye

(c) linokuthi, emva kokuhlolwa kweempawu ekubhekiswa kuzo kumhlathi (b), libonelele okanye lithumele ummangali kwezinye iinkonzo ezingaphezulu njengoko kuchatshazelwe kwisiqendu 18B

(3) Igosa ekubhekiswa kulo kwisiqendwana (2)—

(a) elenza ingxelo ekubhekiswa kuyo kwisiqendwana (2) (a), ngentembeko nangokunyanisekileyo, *akunakuthathwa nyathelo ngakulo limalunga netyala lembambano, lolwaphulo-mthetho okanye inyathelo loluleko (civil, criminal or disciplinary action) ngokusekelwe* kwingxelo, nakuba kukho nawuphi na umthetho, umgaqo-nkqubo okanye umgaqo wokuziphatha othintela ukuxelwa kweenkcukacha zomntu buqu; nokuba

(b) linelungelo lokuba igama lalo ligcinwe liyimfihlo ngaphandle kokuba inkqubo yezobulungisa ifuna ukuba kwenziwe ngenye indlela.

Isiqendu 2B soMthetho i-*Domestic Violence Act* (*Act 116 of 1998*), njengoko ufakelwe izilungiso, sicacisa ukuba:

(1) Kwiimeko, ezingezizo ezo zichatshazelwe kwisiqendu 2A(2), umntu omdala onolwazi, okanye okholelwa okanye orhanela ngezizathu ezivakalayo ukuba isenzo sobundlobongela emakhaya (domestic violence) senziwe emntwaneni, kumntu okhubazekileyo okanye kumntu omdala, makaluxele olo lwazi, lo nkolelo, olo rhano ngoko nangoko kunontlalontle okanye ku-SAPS.

(2) Ingxelo ekubhekiswa kuyo kwisiqendwana (1) kufuneka —

(a) yenziwe kwifom emiselweyo

(b) icacise izizathu zolo lwazi, zalo nkolelo okanye zolo rhano; yaye

(c) ngendlela emiselweyo, mayingeniswe kunontlalontle okanye kwilungu le-SAPS.

(3) *Umntu ekubhekiswa kuye kwisiqendwana (1)—*

(a) *owenza ngentembeko nangokunyanisekileyo ingxelo ekubhekiswa kuyo kwisiqendwana (2) (a), akunakuthathwa nyathelo ngakuye limalunga nomthetho wembambano, wolwaphulo-mthetho okanye inyathelo loluleko ngokusekelwe kule ngxelo, nakuba kukho nawuphi na umthetho, umgaqo-nkqubo okanye umgaqo wokuziphatha othintela ukuxelwa kweenkcukacha zomntu buqu; nokuba*

(b) *unelungelo lokuba igama lakhe ligcinwe liyimfihlo ngaphandle kokuba inkqubo yezobulungisa ifuna ukuba kwenziwe ngenye indlela.*

(4) *Umntu osilelayo ukuthobela umqathango wesiqendwana (1), unetyala lolwaphulo-thetho.*

ISiqendu 18 soMthetho i-*Prevention and Combating of Trafficking in Persons Act, 2013 (Act 7 of 2013)*, sicacisa ukuba:

(1) (a) *Nangona kukho nawuphi na umthetho, umgaqo-nkqubo okanye umgaqo wokuziphatha othintela ukuxelwa kweenkcukacha zomntu, nabani na owaziyo okanye obefanele ngezizathu ezivakalayo ukuba nolwazi okanye onorhano lokuba umntwana ulixhoba lokuba kushishinwe ngaye (trafficking) makaluxele ngoko nangoko olo lwazi, okanye olo rhano kwigosa lasemapoliseni ukwenzela ukuba kwenziwe uphando.*

(b) *Umbutho wokhuseleko lwabantwana onyuliweyo othi udibane nomntwana ekurhaneleka ukuba ulixhoba loshishino ngabantu (trafficking) nokungakhange kunikwe ngxelo ngaye njengoko kuchaziwe kumhlathi (a), mawuthi, ngoko nangoko umxele kwigosa lasemapoliseni umntwana ukwenzela ukuba kwenziwe uphando.*

(3) Umntu ekubhekiswa kuye kwisiqendwana (1)—

(a) makanike izizathu zolo lwazi okanye olo rhano kwigosa lasemapoliseni;

(b) owenza ingxelo ngokunyanisekileyo nangentembeko, akunakuthathwa nyathelo ngakuye limalunga netyala lembambano, okanye inyathelo loluleko ngenxa yale ngxelo, nangona kukho nawuphi na umthetho, umgaqo-nkqubo okanye umgaqo wokuziphatha othintela ukuxelwa kweenkcukacha zobuqu zomntu; nokuba

(c) unelungelo lokuba igama lakhe ligcinwe liyimfihlo ngaphandle kokuba oko kuyimfuneko ngenye indlela ukulungiselela iinjongo zobulungisa.

Imiqathango ngokumalunga ne-*National Register for Sex Offenders*

ISiqendu 46 soMthetho i-*Criminal Law* (*Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007)* , njengoko ufakelwe izilungiso, sicacisa ukuba:

(1) Umqeshwa oqeshwe ngumqeshi ekuqaleni kwesi Sahluko, othe wagwetywa okanye owathi wagwetywa ngenxa yesenzo solwaphulo-mthetho sokuxhaphaza ngokwesondo [esenziwe kumntwana okanye kumntu okhubazeke ngokwasengqondweni], okanye orhanelwa ukuba wenze isenzo solwaphulo-mthetho sokuxhaphaza ngokwesondo [esenziwe kumntwana okanye kumntu okhubazeke ngokwasengqondweni], othathelwe amanyathelo omthetho ngokwesiqendu 77(6) okanye 78(6) se-Criminal Procedure Act, 1977, (Act 51 of 1977) kungakhathaliseki nokuba ngaba isenzo solwaphulo-mthetho esilolu hlobo senziwa na okanye kurhaneleka ukuba senziwa ngethuba lokuqeshwa kwakhe, noneenkcukacha ezifakiweyo okanye emazifakwe kwiRejista, makathi ngaphandle kokulibazisa, akuxele oko kugwetya kwakhe okanye eso siphumo soko kumqeshi wakhe.

(2) Umqeshwa othe emva kokuqalisa ukusebenza kwesi Sahluko, afake isicelo sokuqeshwa, makathi akuba egwetyiwe ngenxa yesenzo solwaphulo-mthetho sokuxhaphaza ngokwesondo [esenziwe kumntwana okanye kumntu okhubazeke ngokwasengqondweni], okanye orhanelwa ukuba wenze isenzo solwaphulo-mthetho sokuxhaphaza ngokwesondo [esenziwe kumntwana okanye kumntu okhubazeke ngokwasengqondweni], othathelwe amanyathelo omthetho ngokwesiqendu 77(6) okanye 78(6) se-Criminal Procedure Act, 1977, (Act 51 of 1977) noneenkcukacha ezifakiweyo okanye emazifakwe kwiRejista, makakuxele oko kugwetywa kwakhe okanye eso siphumo soko xa esenza isicelo sokuqeshwa.

ISiqendu 47 soMthetho i-*Criminal Law* (*Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007)*, njengoko ufakelwe izilungiso, sicacisa ukuba:

(1) Ibhunga elinegunya lokukhupha iilayisenisi (licensing authority) alinakuyikhupha ilayisensi ukwenzela okanye ukuvuma ulawulo okanye ukwenziwa komsebenzi yiyo nayiphi na i-entithi, umsebenzi wezoshishino okanye urhwebo ngokumalunga nokubekwa phantsi kweliso okanye ukunonotshelwa [komntwana okanye umntu okhubazeke ngokwasengqondweni] ongumntu osesichengeni nongenakho ukuzikhusela, ingakhange iqinisekise ngendlela yokwenza isicelo kwiRejistra, sesatifikethi esimiselweyo (prescribed certificate), sokuba ingaba zirekhodiwe na okanye azirekhodwanga iinkcukacha zomntu ololu hlobo kwiRejista.

(2) Umntu othi, emva kokuqalisa ukusebenza kwesi Sahluko, afake isicelo selayisenisi echatshazelwe kwisiqendwana (1) kwibhunga elinegunya lokukhupha ilayisensi, noneenkcukacha ezifakiweyo okanye eziza kufakwa kwiRejista, makaxele ukuba yena ukhe wagwetyelwa isenzo solwaphulo-mthetho sokuxhaphaza ngokwesondo okanye urhanelwa ukuba ukhe wenza isenzo solaphulo-mthetho sokuxhaphaza ngokwesondo ngokuthi kuthathwe amanyathelo omthetho ngokwesiqendu 77(6) okanye 78(6) se-Criminal Procedure Act, 1977 (Act 51 of 1977).

Isikhokelo ngabaqeshwa abangaboni beSebe iWCED

1. Ukulawulwa kwempatho-gadalala kubantwana, ukungahoywa ngabom kwabantwana nezenzo zolwaphulo-mthetho ezimalunga nezesondo ngakubantwana ngumqeshwa weSebe i*WCED,* kuya kukhokelwa ngala maxwebhu alandelayo:
   (a) UMthetho i-*Employment of Educators Act, 1998 (Act 76 of 1998)*
   (b) UMthetho i-*National Education Policy Act, 1996 (Act 27 of 1996)*
   (c) UMthetho i-*South African Schools Act, 1996 (Act 84 of 1996)*
   (d) ISigqibo i-*ELRC Collective Agreement 3* sika-2018, somhla we-25 Septemba 2018 esibonelela ngenkqubo yokwenziwa kophando *(inquiries)* enyanzelekileyo ngabalamli *(arbitrators)* kwimeko yenyathelo loluleko ngakootitshala abafunyaniswe beziphethe kakubi ngokuxhaphaza abantwana ngokwesondo.
   (e) ISetyhula 0011/2019, yomhla we-09 Matshi 2019
   ISikhokelo seenqununu esingendima yazo yokunika ingxelo nokulawula izityholo zokuziphatha kakubi, iingxoxo zoluleko noxambuliswano olungokugxothwa emsebenzini okungenziwanga ngobulungisa.
   (f) ISetyhula 0012/2019, yomhla we-09 Matshi 2019
   Ukuthintelwa kokohlwaya ngokubetha
   (g) ISetyhula 0015/2023, yomhla we-06 Apreli 2023
   Imigaqo engokulawulwa nokunikwa kwengxelo ngezenzo zokuziphatha kakubi ngokwezesondo

2. UMthetho wezeNgqesho yooTitshala, 1998 (uMthetho 76 ka-1998), njengoko ufakelwe izilungiso nguMthetho oFakela iZilungiso kwiMithetho yezeMfundo (*Education Laws Amendment Act, 2000*), (uMthetho 53 ka-2000) ukucacisa ukuziphatha kakubi okuxhomisa amehlo kwisiqendu 17(1) ngokuthi:

17(1) ***Utitshala*** *makagxothwe ukuba yena ufunyaniswe enetyala loku –*
   (a) ubusela, ukunyoba, ubuqhopholo, okanye isenzo sobuqhetseba ngokumalunga neemviwo okanye iiripoti zokupasa kwabafundi;
   (b) ukwenza isenzo sokuxhatshazwa ngokwesondo kumfundi osesikolweni, kumfundi okwiziko lemfundo ephakamileyo okanye komnye umqeshwa;
   (c) ukuba nobudlelwane bezesondo nomfundi osesikolweni, apho aqeshwe khona;
   (d) ukumbokra/ukumhlasela okuxhomisa amehlo, ngenjongo yokumenzakalisa emzimbeni (grievous bodily harm) umfundi osesikolweni, umfundi okwiziko lemfundo ephakamileyo okanye omnye umqeshwa;
   (e) ukubanaso kuye isiyobisi esinxilisayo, esingekho mthethweni okanye esibangela ulahlekelwa ziingqondo; okanye
   (f) ukubangela ukuba umfundi enze nasiphi na isenzo kwezi zichatshazelwe kwimihlathi (a) ukuya ku-(e).

3. Inkqubo yokusingathwa kolawulo lokuziphatha kakubi okuxhomisa amehlo (kuqukwa nempatho-gadalala kubantwana) okunxulumene **nabaqeshwa benkonzo karhulumente** imiselwe ngumthetho kwiSigqibo 1 sango-2013 *(Public Service Co-ordinating Bargaining Council),* somhla we-28 June 2013. Inkqubo yoluleko iyafana naleyo katitshala yaye ukuba ufunyaniswe enetyala lezenzo zolwaphulo-mthetho ezilolu hlobo, uya kugxothwa.

Isikhokelo malunga naboni abangabaqeshwa abaqeshwe libhunga lolawulo

1. Ukulawulwa kwempatho-gadalala kubantwana, ukungahoywa ngabom kwabantwana nezenzo zolwaphulo-mthetho ezimalunga nezesondo ngakubantwana ngumqeshwa oqeshwe libhunga lolawulo, kuya kukhokelwa ngala maxwebhu alandelayo:

   (a) UMthetho i-*Employment of Educators Act, 1998 (Act 76 of 1998)*
   (b) ISetyhula 0011/2019, yomhla we-09 Matshi 2019
   ISikhokelo seenqununu esingendima yazo yokunika ingxelo nokulawula izityholo zokuziphatha kakubi, iingxoxo zoluleko noxambuliswano olungokugxothwa emsebenzini okungenziwanga ngobulungisa
   (c) ISetyhula 0012/2019, yomhla we-09 Matshi 2019
   Ukuthintelwa kokohlwaya ngokubetha
   (d) ISetyhula 0035/2021, yomhla we-23 Juni 2021
   Ukuthintela ukuqeshwa kwakhona kwababengootitshala nababengabaqeshwa benkonzo karhulumente ngaphambili abagxothwayo okanye abathathwa njengalahlayo enkonzweni.
   (e) ISetyhula 0015/2023, yomhla we-06 Apreli 2023
   Imigaqo engokulawulwa nokunikwa kwengxelo ngezenzo zokuziphatha kakubi ngokwesondo

2. Amabhunga olawulo makaqinisekise ukuba abenzi-sicelo abaqwalaselelwa ukuqeshwa, abafunyaniswanga benetyala lesenzo solwaphulo-mthetho ngakubantwana ngokoMthetho i-*Criminal Law (Sexual Offences and Related Matters Act, 2007* (Act 32 of 2007), njengoko ufakelwe izilungiso, okanye uMthetho i-*Children's Act, 2005* (*Act 38 of 2005)*.

3. **Bonke abaqeshwa** abasebenza ezikolweni (kuqukwa namavolontiya nabantu abangasebenzi ngokuthe ngqo nabantwana, abafana nabapheki, oonogadi nonoogada) mabatshekishwe (*screened)* ngokumalunga ne-*National Child Protection Register* ne-*Sexual Offenders Register*.

4. Inqununu mayizalise iFom 29 yaye iyithumele kuMlawuli-Jikelele weCandelo loPhuhliso loLuntu ukungqinisisa ukuba ingaba amagama abo bonke abaqeshwa okanye amavolontiya akwi-*National Child Protection Register*.

5. Sisenzo solwaphulo-mthetho, umntu anokohlwayela sona ngokuvalelwa entolongweni ithuba elifikelela kwiminyaka eli-10 okanye umdliwo *(fine)* ukuvumela umntu afikelele kubantwana ukuba umntu ubhengezwe njengongafanelekanga ukuba asebenze ngabantwana (ngokumalunga nesiqendu 305(1)(c) soMthetho i-*Children's Act, 2005* (*Act 38 of 2005)*.

6. Umntu ofunyaniswe engafanelekanga ukuba asebenze ngabantwana angagxothwa ukuba akayixelanga le ngcaciso ilolu hlobo kumqeshi.

7. Amabhunga olawulo makaqinisekise ukuba iimvumelwano zengqesho zenza amalungiselelo emiqathango yoluleko ngomqeshwa malunga nezityholo zempatho-gadalala kubantwana, ukungahoywa ngabom kwabantwana nezenzo zolwaphulo-mthetho ngokuxhatshazwa ngokwesondo kwabantwana.

8. Iingcebiso ukulungiselela imigaqo ngokuqulethwe kwiimvumelwano zengqesho *(employment contract):*
   (a) **Ukunqunyanyiswa:** "Umqeshi unokumnqumamisa umqeshwa emsebenzini nakweyiphi imeko phambi okanye emva kokuba ekhutshiwe emsebenzini ngenxa yokuziphatha kakubi ngokwemiqathango emiselwe ngumqeshi. Umqeshi uya kwazisa umqeshwa ngencwadi ebhaliweyo ngokunqunyanyiswa kwakhe, izizathu zokunqunyanyiswa nokuba ngaba ukunqunyanyiswa kuya kuba nayo okanye kungabinayo intlawulo."
   (b) **Ukupheliswa kwemvumelwano:** "umqeshi unokuthi ngokukhawuleza ayiphelise imvumelwano ngokuxhomekeke kwimiqathango emayithathelwe ingqalelo ngokumalunga nayo nayiphi na imithetho."
   (c) **Izohlwayo:** Ngokuxhomekeke kubunjani besenzo solwaphulo-mthetho, kucetyiswa *ukuba kufundwe u-Schedule 1-2 we-Employment of Educators Act, 1998* (Act 76 of 1998). Umqeshi unokuwisa izohlwayo nokuba zeziphi na kwezi zilandelayo:
      (i) Ukugxothwa ngoko nangoko
      (ii) Ukugxothwa kunye nentlawulo njengenye indlela ukulungiselela ithuba lokwazisa umqeshi ngokuyishiya inkonzo komqeshwa.
      (iii) Uxwebhu olubhaliweyo olusisilumkiso ngesenzo sokuziphatha kakubi kunye
      (iv) Noxwebhu olubhaliweyo olusisilumkiso lokugqibela ngesenzo sokuziphatha kakubi kunye
      (v) nokuncitshiswa komvuzo.

9. Kwimeko apho kuthe kwakho iingxoxo zoluleko, makuqalwe kuqwalaselwe ezo zinto zilungiselela umntwana ngeyona ndlela ibhetele:
   (a) Makuqinisekiswe ukhuseleko lomntwana ngethuba lokuxoxwa kwetyala
   (b) Makuqinisekiswe ukuba umntwana unako ukufikelela kumntu ongumlamli/ongumncedi kungajongwanga iminyaka yobudala yomntwana
   (c) Umntwana unelungelo lokukhetha nawuphi na umntu ukuba ahambe naye ukufumana inkxaso ngethuba lokuxoxwa kwetyala;
   (d) Ngethuba lokubuzwa imibuzo komntwana, makuthathelwe ingqalelo iminyaka yobudala yokukhula komntwana, nokuba kukhethwe ulwimi olulungiselela umntwana, ubume bakhe ngokweemvakalelo, ithuba lokuzikisa ingqondo nokukwazi kwakhe ukuqiqa, imfuno yamathuba ekhefu arhoqo nexesha lokuxoxwa kwetyala.
   (e) Makuqinisekiswe ukuba akhona amathuba ekhefu arhoqo ukulungiselela umntwana; yaye
   (f) Makuqinisekiswe ukuba ikhona indibano yokufumana ingcaciso ukuba kuyimfuneko.

Isikhokelo malunga nokubandakanyeka kwamajelo eendaba (*media*)

1. Makufundwe iSetyhula 0019/2024, yomhla we-20 Juni 2024, ngokumalunga nokuphunyezwa koMgaqo wokuZiphatha kumaKhasi oNxibelelelwano (*Western Cape Government Social Media Code of Conduct)*.

2. Makwaziswe ngoko nangoko umlawuli wesithili ngokuqala kugqithwe kumphathi wesekethe ngomba/ngemeko enako ukubangela ukuba nomdla kwamajelo eendaba.

3. Makubhekiswe **<u>yonke</u> imibuzo yamajelo eendaba** kwiCandelo lezoNxibelelwano kuNdlunkulu weSebe iWCED;

4. Makwaziswe bonke abaqeshwa abachaphazelekayo ukuba bayithumele yonke imibuzo yamajelo eendaba kwiCandelo lezoNxibelelwano kuNdlunkulu weSebe iWCED;

5. **Amagama exhoba elingumfundi nomfundi ongumoni otyholwayo mawagcinwe eyimfihlo ngawo onke amaxesha.**

Annexure J

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)

Annexure L

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)