



The National Child Protection Register

Departments of Social Development & Justice & Constitutional Development

PRESENTATION TO PORTFOLIO COMMITTEE on SOCIAL DEVELOPMENT

15 MAY 2012

Contents

The presentation will:

1. Introduce the Children's Framework/ Regime applicable in South Africa, to protect children;
2. Review the Roles of the Departments of Social Development and Justice and Constitutional Development in the implementation of the National Child Protection Register (hereafter referred to as the Register) as determined by the Children's Act 38 of 2005;
3. Report on the implementation of the Register;
4. Inform the Portfolio Committee on the management and governance structures put in place;
5. Deal with the implementation challenges and initiatives relating to the Child Protection Register; and
6. Make some concluding observations.

Introduction

- (a) This presentation is in response to the invitation dated 26 April 2012, received from the Portfolio Committee on Social Development to brief this Committee on 'successes and/ outcomes and challenges encountered' by the Department of Social Development and the Department of Justice and Constitutional Development in the implementation of the Register
- (b) South African children live in a country that has a Constitution with the highest regard for their rights and for the equality and dignity of everyone. Despite the best efforts of the South African Government and civil society to protect children from abuse, neglect and exploitation, it is a fact that they still remain vulnerable. To this end, Government implements the Child Protection Register amongst others, as an instrument for the protection of children.
- (c) A coordinated inter-disciplinary, multi-sectoral approach is required to address violence against and abuse of children in South Africa.



Children's Framework/ Regime

- (a) The Government of the Republic of South Africa, regards the promotion and protection of children's rights and responsibilities, as of paramount importance.
- (b) Since 1994, a specific Children's Framework has been put into place to protect and promote children's rights in our communities.
- (c) In spite of this fact, children continue to be abused, neglected and exploited.
- (d) Therefore, a more intensive effort is needed to fight this scourge.

KEY INTERNATIONAL INSTRUMENTS IN THE PROTECTION OF CHILDREN'S RIGHTS

(a) RSA is a signatory or has ratified the following key international instruments:

- (i) Universal Declaration of Human Rights;
- (ii) The United Nations Convention on the Rights of the Child;
- (iii) The Optional Protocol on the Sale of Children, Child Trafficking and Child Pornography;
- (iv) The Optional Protocol on the involvement of Children in Armed Conflict;
- (v) The Hague Convention on the Civil Aspects of International Child Abduction;
- (vi) The African Charter on the Rights and Welfare of the Child; and
- (vii) The Worst forms of Child Labour Convention.

(b) The Constitution of the RSA gives a baseline as follows:

- (a) Section 28.
- (b) Every child has the right -
 - (i) to a name and a nationality from birth;
 - (ii) to family care or parental care, or to appropriate alternative care when removed from the family environment;
 - (iii) to basic nutrition, shelter, basic health care services and social services;
 - (iv) to be protected from maltreatment, neglect, abuse or degradation;
 - (v) to be protected from exploitative labour practices;

THE CONSTITUTION, 1996, CONTINUED:



- **The Constitution's baseline, continued:**

Section 28 cont.:

(vi) not to be required or permitted to perform work or provide services that -

1. are inappropriate for a person of that child's age; or
2. place at risk the child's well-being, education, physical or mental health or spiritual, moral or social development;
3. not to be detained except as a measure of last resort, in which case, in addition to the rights a child enjoys under sections 12 and 35, the child may be detained only for the shortest appropriate period of time, and has the right to be -
4. kept separately from detained persons over the age of 18 years; and
5. treated in a manner, and kept in conditions, that take account of the child's age;

(vii) to have a legal practitioner assigned to the child by the state, and at state expense, in civil proceedings affecting the child, if substantial injustice would otherwise result; and

(viii) not to be used directly in armed conflict, and to be protected in times of armed conflict.

THE CONSTITUTION, 1996, CONTINUED:



- **The Constitution's baseline, continued:**
Section 28 cont..

- (c) A child's best interests are of **paramount** importance in every matter concerning the child.
- (d) In this section "child" means a person under the age of 18 years.

(e) Section 12:

- (i) Everyone has the right to freedom and security of the person which includes the rights to be free from all forms of violence from either public or private sources; and not to be treated or punished in a cruel, inhuman or degrading way.
- (ii) Everyone has the right to bodily and psychological integrity, which includes the rights to make decisions concerning reproduction and to security in and control over their body.

LEGISLATIVE PROVISIONS TO IMPLEMENT RIGHTS:



Government has adapted our legislative frameworks accordingly as follows:

- (a) The Criminal Law Amendment (Sexual Offences and Related Matters) Act, 2007 (Act No 32 of 2007), implemented in phases as from December 2007;
- (b) The Children's Act, 2005 (Act No 38 of 2005), implemented on 1st April 2010;
- (c) The Child Justice Act, 2008 (Act No 75 of 2008), implemented on 1st April 2010;
- (d) The Social Assistance Amendment Act (Act No. 5 of 2010) implemented in September 2010;
- (e) The Domestic Violence Act, 1998 (Act No 116 of 1998);
- (f) The Maintenance Act, 1998 (Act No 99 of 1998); and
- (g) The Prevention and Combating of Trafficking in Persons Bill, at present being deliberated upon by the Portfolio Committee on Justice and Constitutional Development.

The Children's Act, 2005 (Act No 38 of 2005):



- (a) **The Children's Act, 2005 (Act No. 38 of 2005) provides for a coordinated and integrated approach for government departments and civil society organizations to provide an effective response system for child victims and those at risk of abuse, neglect & exploitation.**
- (b) The implementation of the Children's Act 38 of 2005 is important as this Act provides, amongst others, for the implementation Child Protection Register, which is provided for in Chapter 7 of the Act.
- (c) The Children's Courts are provided for in Chapter 4 of the Act.
- (d) However, the implementation of the Act itself is very recent and the implementation there-of, has started to indicate some challenges.
- (e) The challenges are being addressed in a co-ordinated way, by Government and the various Departments concerned.
- (f) We further appreciate the support of the Hon members of the ~~Portfolio Committee~~ in this endeavour.

Children's Framework/ Regime



- (a) Governance and co-ordination structures:
 - (i) First National Plan of Action for Children developed and implemented since 1997, under lead of the erstwhile Office on the Rights of the Child, in the Presidency;
 - (ii) The updated National Plan of Action for Children, is being reconsidered at present by the Children's Rights Advisory Committee, under Chair of the Department of Women, Children and People with Disabilities.

Children's Framework/ Regime



Various governance and co-ordination structures, continued:

- (iii) National Children's Rights Advisory Council, under lead of the Department of Women, Children and People with Disabilities;
- (iv) National Child Care and Protection Forum, under lead of the National Department of Social Development;
- (v) Intersectoral Steering Committee on Child Justice, under lead of the Department of Justice and Constitutional Development;

Children's Framework/ Regime



Various governance and co-ordination structures, continued:

- (vi) National Intersectoral Steering Committee on Sexual Offences, under lead of DoJCD;
- (vii) National Intersectoral Trafficking Steering Committee, under lead of DoJCD; and
- (viii) National Anti-Rape Task Team, under lead of the National Prosecution Authority.

The National Child Protection Register (CPR)



The NCPR consists of two parts:

- (a) Part A must have a record of all the reports of abuse or deliberate neglect of a child, all convictions of all persons on charges involving the abuse or deliberate neglect of a child and all findings by a children's court that a child is in need of care and protection because of the abuse and deliberate neglect of the child (See: Section 114 of the [Act](#))
- (b) Part B must have a record of persons who are unsuitable to work with children and to use the information in the register (part B) in order to protect children in general against abuse from these persons (See: Section 118 of the [Act](#))
- (c) All children who have been abused and form part of an investigation relating to any form of child abuse which is physical, emotional, sexual or deliberate neglect must be entered onto Part A of the National Child Protection Register.

Purpose of the CPR (cont.)

The purpose of the National Child Protection Register includes:

- (a) To have a record of abuse or deliberate neglect inflicted on specific children;
- (b) To have a record of the circumstances surrounding the abuse or deliberate neglect inflicted on the children;
- (c) To use the information in the register in order to protect these children from further abuse or neglect;
- (d) To monitor cases and services to such children;
- (e) To share information between professionals that are part of the child protection team; and
- (f) To keep a record of persons found unsuitable to work with children

Roles and Responsibilities

(a) The Department of Social Development:

Must keep and maintain the National Child Protection Register.

(b) The Department of Justice and Constitutional Development, through the courts:

- Provide the Department of Social Development with all convictions of all persons on charges involving child abuse or deliberate neglect, including the details of the child involved, as well as details of persons found to be unsuitable to work with children.

(c) Other Stakeholders who have a role in the maintenance and implementation of the Register, particularly in the vetting with their personnel who have access or work directly with children, are:

- Department of Basic Education;
- South African Police Service;
- Department of Health;
- Department of Correctional Services;
- Child Protection Organizations;
- Municipalities; and
- Disciplinary Fora

Reporting to the CPR

- (a) Chapter 7 of the Children's Act, 2005 provides that the Department of Social Development must register the names of persons found guilty of crimes against children, including murder, rape, assault and sexual offences: as well as persons not found guilty, but declared by the court as persons found unsuitable to work with children.
- (b) The names and details of such convicted offenders or persons found unsuitable to work with children must be submitted to the National Department of Social Development by the courts and disciplinary Fora, by means of the forms 25 and 28 of the Regulations to the Children's Act, 2005.

Reporting to the CPR cont.

- (c) Forms are received by the National Department of Social Development where after the relevant information is entered onto the Register.
- (d) Information received on unsuitability is vetted against the information recorded on the Child Protection Register
- (e) Once unsuitability is confirmed, the affected person is informed of his/her status as well as his/her right to appeal/review, in writing.
- (f) Every person who has been found unsuitable to work with children, has a right to appeal to or request a review of the finding to a higher court, or a lower court should the finding have been made by a Forum.

Reporting to the CPR cont.

- (g) A person may also apply for the removal of his name from the Register if certain conditions are met and the person has been rehabilitated.
- (h) The duration of the appeal/ review of the matter is subject to court processes.
- (i) The application as well as the outcome of this appeal/ review, must be reported to the Director-General of Social Development, who will remove or confirm the name of the said person on the Register, dependent on the outcome of the appeal or review.
- (j) Confidentiality of the information on the Register is maintained by limiting access to the register to the Director-General of Social Development or through an order of court

Reporting to the CPR cont.

Reporting process of unsuitability findings:



Inter-Departmental Progress

- (a) Since the legislation came into effect as from the 1st April 2010, efforts have been made to develop new systems and to refine others, which has impacted on the reporting obligations.
- (b) The utilization of the Child Protection Register, is as follows:
 - (i) Number of children on the CPR Part A who have been reported to be abused : 19 830
 - (ii) Number of persons on the CPR with convictions and reported to be unsuitable to work with children: 438 (1/4/2010-31/3/2012)
 - (iii) Number of persons lodging inquiries to the Department of Social Development on whether their details appear on the Register:
 - Received- 36 763 (up till 31/3/2012)
 - Screened- 11 986 (1/4/10-31/3/2012)
 - (iv) Number of child protection organizations screened -1716 (1/4/2010-31/3/2012)
 - (v) The Department of Social Development does not find organisations unsuitable to work with children, but certain individuals working for organisations.



Progress with implementation:

Will be presented in two (2) phases:

- A. Department of Social Development; and
- B. Department of Justice and Constitutional Development

A. Department of Social Development:



1. Resources:

1.1 Human Resources and Infrastructure:

(a) Dedicated CPR Unit at National Department of Social Development with a capacity of 2 permanent and 6 contract employees

(b) One Dedicated CPR Coordinator at Provincial Level

1.2 Financial resources:

(a) The CPR has been set up with funds made available from the Integrated Justice System



Department of Social Development cont.

2. Capacity Building and Training

- (a) Consultations with Magistrates and social workers were held in provinces (600 persons);
- (b) Consulted numerous departments- Department of Basic Education, South African Police Services, Department of Public Services Administration on Part B of the CPR and the need to report; and
- (c) Numerous fora were also consulted on the need to report to Part B of the CPR.
 - (i) These included :
 - 1. ECD Forum;
 - 2. Disability Forum;
 - 3. CIDA;
 - 4. Welfare Services Forum; and
 - 5. MINMEC Social Development.

Department of Social Development cont.



3. Public Awareness and Communication

- (a) The Department of Social Development, as part of the Implementation of the Children's Act, embarked on a public awareness campaign which included the awareness raising about the importance of compliance with the Child Protection Register Part A and Part B.



Department of Social Development cont.

- (b) Pamphlet on the Child Protection Register was developed and distributed.
- (c) Children's Act simplified for children developed with the assistance of UNICEF and distributed.
- (d) Practice notes developed on reporting mechanisms on the Child Protection Register and distributed to social workers and magistrates.
- (e) The Green Ribbon campaign as part of the Annual Child Protection Campaign, which is coordinated by the Department of Social Development in collaboration with other departments and civil society, was used to promote the reporting of various sectors on the Child Protection Register. This process is ongoing.



Department of Social Development cont.

4. Monitoring

- (a) The Department of Social Development carries out visits to provinces to monitor the functioning of the CPR System.
- (b) The Electronic CPR system is utilized as a monitoring tool.
- (c) 6 monthly meetings to discuss the implementation of the Child Protection Register is held with the 9 provincial Child Protection Coordinators.
- (d) The Department also meets on a bi-monthly basis with the Department of Justice and Constitutional Development to discuss progress, challenges and possible solutions regarding implementation of the Children's Act, 2005 as a whole, including the National Child Protection Register.

Challenges: Department of Social Development:



- (a) **Prior to the Children's Act, 2005**, the Justice, Crime Prevention and Security Cluster Departments did not keep information regarding victims of crime in dockets or charge sheets, neither has the Criminal Record Bureau such information. Therefore the gathering of the historical information on persons convicted of crimes against children, from April 2005 to March 2010, is proving difficult. The Departments are working on a systemic solution in this regard.
- (b) The focus is on **current convictions** and the strengthening of information received.
- (c) **Our advocacy and awareness-raising** has not reached all implementers of the Act at the same level as yet:
 - (i) As a result, there are some forums, such as the Disciplinary Forums, who are not submitting findings on persons found unsuitable to work with children.
 - (ii) Courts submit information without findings made against the person which means the order has to be requested from the court again.
 - (iii) Members of the public do not understand the requirements of the Children's Act regarding CPR Part B and therefore the enquiries received are mostly incomplete and have to be referred back for more information.

Department of Social Development: Challenges cont.



- (d) **Additional human resources** is required for the administration of the Act, both in Social Development and Justice and Constitutional Development, due to inadequate financial resources and inadequate existing expertise, but the Departments are working on the additional resourcing requirements.
- (e) In addition, staff turnover in the provincial departments of Social Development has impacted on the implementation of the Child Protection Register.
- (f) Lack of IT support in provinces experiencing technical problems when capturing cases. IT staff are dedicated to SITA projects such as SDIMS.
- (g) **Intervention by JCPS Cluster:**
 - (i) JCPS Cluster is addressing these challenges through the Integrated Justice System (IJS) Board, which now reports directly to the Director-General of the Department of Justice and Constitutional Development.
 - (ii) We are putting in place systems to ensure capacity to capture the required information.



B. Department of Justice and Constitutional Development:

1. Resources:

1.1 Human Resources and Infrastructure

- (a) 385 Magistrates' Courts are deemed to be Children's Courts in terms of section 42 of the Children's Act.
- (b) 161 permanent children's court clerks appointed.
- (c) Legal Aid SA provides legal advice to indigent persons in civil matters, legal representation is available in matters pertaining to children.

Department of Justice and Constitutional Development, continued:



- (d) Other Dedicated Services at Court Level -2010/2011:
 - (i) 224 Child Witness Testifying Rooms;
 - (ii) 324 CCTV's- fitted courtrooms; and
 - (iii) 49 One-Way Mirror- fitted courtrooms.
- (e) Upon the availability of additional funds, another 217 children's court clerk positions will be created incrementally, as currently, every children's court does not have its own dedicated children's court clerk.
- (f) However, where no dedicated clerk is available, the civil or family law clerk will perform these duties.
- (g) Details of where these services are located, will be submitted in a separate document.

Department of Justice and Constitutional Development: Training:



Period	Type of training	Number trained	Performance Plan
2010	Workshops in 9 provinces for Children's Court Clerks on implementation of the Children's Act, focussing on the Child Protection Register	270 clerks	30 per province
2010/2011	Formal training to Children's Court Clerks by Justice College	150 clerks	As nominated by Court Managers.
2010/2011	Justice College Seminars for Presiding Officers' in the Children's Court	186	Now to be taken over by SAJEI

Department of Justice and Constitutional Development: Training:



Period	Type of training	Number trained	Performance Plan
2011/12	9 decentralised <i>ad hoc</i> courses held on the Children's, Sexual Offences and Child Justice legislation	285 clerks	Clerks in charge of such courts and who had not been trained before, were targeted
Weekend of 10 and 11 March 2012	National Conference for Regional Court Magistrates, including issues pertaining to the CPR and unsuitability findings relating to convictions	180 Regional Court Magistrates	SAJEI will take over training of Judiciary. However, DoJCD is supporting in terms of intersectoral implementation of legislation.
Weekend of 18 and 19 March 2012	National Conference for District Court Magistrates, including Presiding Officers of Children's Courts	130 Regional Court Magistrates	SAJEI will take over training of Judiciary. However, DoJCD is supporting in terms of intersectoral implementation of legislation.

Department of Justice and Constitutional Development cont.



(h) During 2010/11, the Department issued two Circulars to Clerks of the Children's Court on the implementation responsibilities in terms of the Children's Act, 2005, including the completion of the forms required in terms of the Child Protection Register.

(i) During 2011/12, the Department furthermore developed and disseminated a guide on the process of submission of form 25's and 28's of the Children's Act Regulations to the National Registrar of the Child Protection Register at Social Development.

(j) The Act, Regulations, Circular and Guide form part of the training material for Children's Court Clerks.

(k) Plans for training for 2012/13, include nine decentralised training sessions by Justice College for Clerks of the Children's Court.

(l) SAJEI will train the Judiciary, and DoJCD will support such training as part of intersectoral implementation of the legislation

Department of Justice and Constitutional Development cont.



3. Public Awareness and Communication

- (a) A Frequently Asked Questions booklet has been developed on the Children's Act 38 of 2005 and distributed nationwide. This booklet included information on the CPR.
- (b) Braille booklets on information pertaining to the Children's Act 38 of 2005 has also been developed and will be launched during Child Protection Week 2012, which takes place from 28 May to 3 June 2012.
- (c) Children's Act pamphlets have been developed in 7 official languages and are currently being distributed to courts.

Department of Justice and Constitutional Development cont.



- (d) A dedicated email address (children@justice.gov.za) was created in 2011 and has received 165 E-mails from members of the public since its inception.
- (e) A frequently asked questions webpage on the Children's Act 38 of 2005 was also launched in 2011, and has since received 14 359 visits
- (f) The website address was also published on the Child Rights International Information Network, which caters to international publicity and there was an increase in the fourth Quarter 2011/12 visits to the website

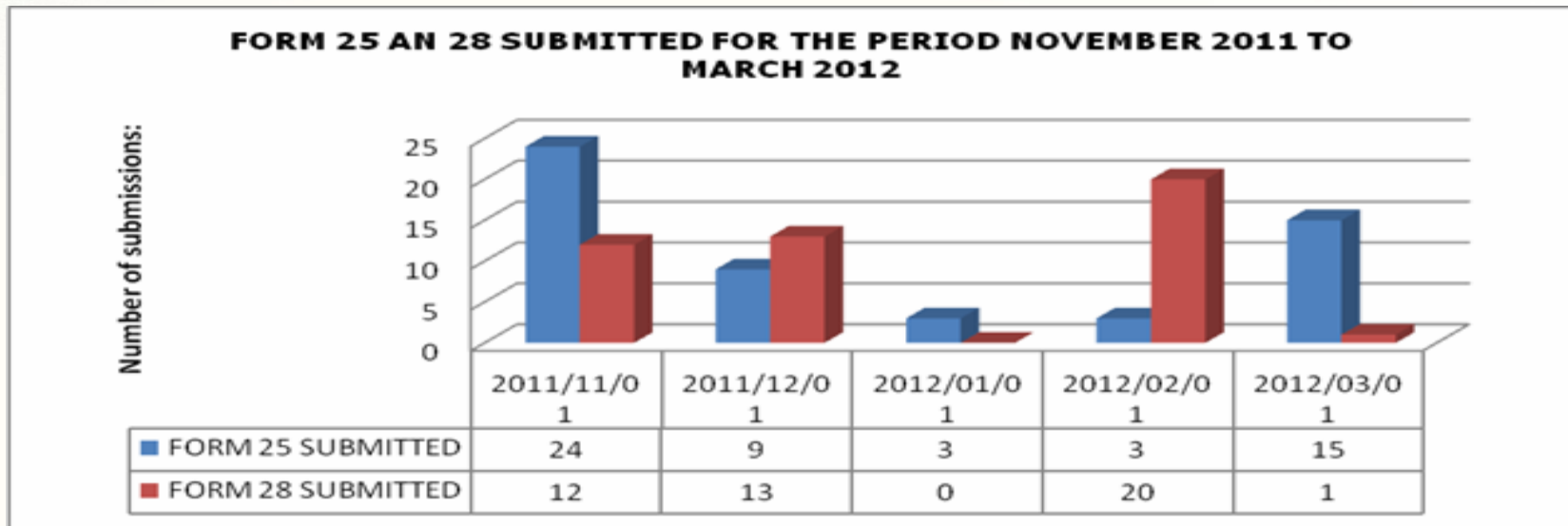
Department of Justice and Constitutional Development cont.



4. Monitoring

- (a) The monitoring of the submission of form 25's and 28's has been added to the Manual Children's Court Data Collection Tool.
- (b) A similar field is in the process of being added to the Manual Regional Court Data Collection Tool.
- (c) An Integrated Case Management System for children's courts to track these matters from entry up to finalisation, has also been developed and will be piloted in two Children's Courts during 2012/13, before rolling out to all courts. The criteria for choosing the pilot courts, are one court in an urban area and one court in a rural area, as well as the volume of cases going through such a court.
- (d) The Department has furthermore established a Children's Act Working Group consisting of the various role-players who are implementing the Children's Act, 2005, and who meet on a regular basis to discuss progress with implementation, such as:
 - (i) The Chief Family Advocate;
 - (ii) The nine Regional Offices of the Department;
 - (iii) Legal Aid SA;
 - (iv) Justice College; and
 - (v) The Judiciary.

Department of Justice and Constitutional Development cont.



(a) This table illustrates that since the submission of form 25's and 28's has been added to the Department of Justice and Constitutional Development's Children's Court tool in November 2011, a total of 54 Form 25's have been submitted as well as a total of 46 form 28's.

(b) Form 28 had an increase of submissions during February 2012, with a submission rate of 43% which reflects a 15% increase from the December 2011 submissions.

Challenges: Department of Justice and Constitutional Development:



- (a) **Continuous training** and retraining of the Judiciary, the NPA, the Criminal and Children's Court Clerks regarding section 120(4), and the obligation to submit the prescribed forms, will be continued.
- (b) **Two Registers:** The existence of both the National Register of Sex Offenders and the CPR has created duplication of information and usage of resources in most instances.
- (c) **Limited Human Resources:** The additional human resources needed for the administration of the legislation, is being given attention progressively, as funds become available.
- (d) **Development of Intervention Plan on Historical Information:** The DOJ&CD has furthermore drafted an intervention plan with regards to populating the Register with historical information. The intervention plan however requires the assistance and input from various other Departments for implementation, with whom we are consulting.



Way forward

- (a) Ongoing training of personnel in provinces on Reporting on the Child Protection Register Part A and B;
- (b) Strengthen technical support at national and provincial departments to ensure that the register is functional;
- (c) Improved use of electronic options for the capturing and storing of data;
- (d) Strengthen the capacity of the CPR units at both national and provincial Departments to meet the requirements of the Children's Act by employing permanent staff assigned to the units.

Way forward



- (e) In order to obtain the retrospective data for the past five years as required by the Children's Act Regulations, an integrated budget from all departments will be negotiated in order to obtain the necessary information.
- (f) Continue with public awareness campaigns about the responsibility of reporting from all entities named in the Children's Act but particularly from forums which deal with disciplinary issues involving parties working with children.
- (g) Improved reporting from the Criminal and Children's Courts in relation to the information required by the CPR.
- (h) Improved inter-departmental collaboration on the CPR.

Conclusions:

- (a) Research to be done to within the next 2 to 3 years, in order to establish the impact of the two Registers on children and inform the possible recommendations regarding the combination of the two (2) Registers.
- (b) In addition, investigate the possibility of combining the two Registers, i.e., Child Protection Register Part B and the National Register for Sex Offenders, implemented in terms of Chapter 6 of the Criminal Law Amendment (Sexual Offences and Related Matters) Act, 2007.
 - (i) The benefits would be:
 1. Streamlining the implementation of the Register/s and the protection of children;
 2. Using resources optimally in the administration of one Register;
 3. Awareness-raising and advocacy regarding the reporting-obligations in terms of the Register, would be streamlined .



Conclusions:

(c) Monitoring of the persons' names on the National Child Protection Register and the Sexual Offences Register, will need attention, in order to ensure that they do not, in fact, have any contact with children.

(d) Monitoring and supervising of children's names on the Child Protection Register, by social workers, is also key.



Recommendation:

The Social Development Portfolio Committee to note the progress made on the implementation of the National Child Protection Register and to support the way forward.

Thank you