

Progress Update on Foster Child Grant reforms

Paula Proudlock, Children's Institute, UCT

*Prepared for the Working Group on Foster
Care Reform*

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Working group

- Children's Institute, UCT
- Centre for Child Law, UP
- Child Welfare Johannesburg
- Child Welfare SA
- Child Welfare Pietermaritzburg
- National Association of Child and Youth Care Workers (NACCW)
- Black Sash
- CINDI
- Childline SA

Working Group objectives:

- **timely** and **adequate** grants for orphans living with relatives in poverty,
- **good quality** prevention and early intervention programmes for vulnerable children and families in need of support, and
- **good quality** protection and alternative care services for children in need of protection and/or alternative care.

What the evidence tells us:

- The child protection system is under resourced with regards to **financial** and **human** resources
- South Africa has a **UNIQUELY LARGE** number of orphans as a result of delayed response to the HIV pandemic (3.6 in total, 1.5 maternal and double)
- South Africa has very high levels of violence against children and a very weak child protection system
- While social worker numbers are increasing each year, the increase is not enough to catch up with the size of the two challenges (orphans and violence), and provinces are not being allocated sufficient budget to employ more social workers.

What the evidence tells us:

- The foster care system, which is part of the statutory child protection system, was designed to handle 50 000 to 100 000 cases per year.
- There are currently over 500 000 children in the foster care system – the majority of them orphans in the care of relatives.
- 300 000 (SASSA stats Dec 2014) have expired court orders, indicating that the majority are not receiving supervisory or supportive services from social workers.

We all agree

The use of the under resourced statutory child protection system to provide grants to orphans in the care of relatives is not reasonable or effective because:

- it will never reach the targeted population of orphans with the grants and supportive services that they need, and
- it is crippling the child protection system resulting in abused and neglected children not receiving protection or care, and children in alternative care not receiving family re-integration services.

We all agree

Reform is urgently needed to ensure:

- **timely** and **adequate** grants for orphans living with relatives in poverty,
- **good quality** prevention and early intervention programmes for vulnerable children and families in need of support, and
- **good quality** protection and alternative care services for children in need of protection and/or alternative care.

What we have done so far

- Annual monitoring and reporting on trends in FCG numbers
- Qualitative research on challenges in the foster care system
- Research and recommendations for reform commissioned by DSD
- Court case to stop the mass lapsing
- Court case to attempt to highlight the systemic barriers in the system that need attention
- Media advocacy
- Dialogue and advocacy with DSD Minister, officials, Ministerial committees and advisors
- Awareness raising for MPs (previous committee)
- Drafting of regulations (Extended CSG) and laws (s150 Children's Act)
- Continually raising the challenges in all child protection forums
- Submissions and consultative workshops on draft Children's Act Amendment Bills
- Consultative workshops between civil society and with government

Focus today

Gathering info from each other on latest developments related to foster care reforms:

- Extended CSG
- Children's Act Amendments
- Related policy reform and research processes (HDA/PACT tenders, foster care audit)
- Minister's Independent Foster Care Committee

Understanding the 12 December 2014 court order: Minister of Social Development In Re Centre for Child Law and Others December 2014.

Debating whether and how we can use the court order to further our objectives for reform.

Preparing for dialogue with government tomorrow.

Proposed Extended/Larger CSG for orphans

- Research completed for DSD by CASE and CI (early 2012).
- DDG Social Security indicated support for kinship grant in public (Sept 2012)
- Minister gave approval for proposal to go ahead (end 2012)
- Social Security Directorate asked CI to propose how a kinship grant could operate in practice. CI, CCL, JHB Child Welfare proposed "Extended CSG" – a larger CSG for relatives caring for orphans.(by amending the CSG regulations).
- CI, CCL, NACCW, Child Welfare JHB, Child Welfare SA, Black Sash held civil society consultations on the concept plus consultations with government = general support for the concept but concerns about the details (eligibility, forms of proof required, SASSA readiness, need for screening/checking, amount of the grant)

Proposed Extended/Larger CSG for orphans

- DSD Legal Services gave legal opinion that the Act would have to be amended to give the Minister the authority to differentiate grant amounts for different categories (2013).
- DSD Social Security drafted a proposal and started internal consultations (2013)
- Proposal has been approved by MANCOM and HSD.
- However DSD Welfare Services Directorate has opposed the proposal in public forums, in the draft Second Children's Amendments Bill and in the Draft Policy on Foster Care(2014)
- **Challenge: The proposal for an Extended/Larger CSG is not available in written form for consultation.**

Draft Third Children's Amendment Bill

- July 2013 we met and drafted an amendment to s150(1) (a) that would complement the Extended/Larger CSG proposal
- Proposed that orphans in care of family be moved to s150(2) together with CHHs and child victims of labour – ie not automatically considered in need of care and protection but must be screened by a social services professional to refer for prevention and early intervention services and protection only if necessary.
- Proposal was incorporated by drafter into the draft Third Amendment Bill and submitted to DSD
- Presented at Child Care and Protection Forum (Nov 2013)
- While DSD task team had approved it for presentation, the Chief Director indicated opposition in public.
- Draft Bill handed to DSD Legal Services in 2014 for drafting and getting ready for tabling in Parliament
- **2014: DSD/PACT/HDA tenders: How do these relate to and affect the Third Children's Amendment Bill?**

Draft Second Children's Amd Bill

- DSD proposed it as an "urgent" bill to respond to a number of court cases, harmonise with Sexual Offences Act and respond to a DA pvt members bill.
- Proposed to amend s150(1) (a) to replace words "visible means of support" with "**does not have the ability to support himself or herself and such inability is readily evident, obvious or apparent**".
- Result would be that SWs and Magistrates would need to apply a means test. However no objective means test threshold or formulae was prescribed therefore each SW and Magistrate would use their own judgment = inequality
- CI submission: We opposed the amendment and said it should rather be replaced with the s150 amendment proposed in the Third Amd Bill.
- Jhb Child Welfare submission: Also opposed the amendment
- **DSD did not table the bill in Parliament in 2014**
- **Latest news: DA has re-tabled their pvt members bill with regards to harmonising the Children's Act and Sexual Offences Act. How will DSD respond?**

DSD's Dec 2014 court papers

Extract's from DG's affidavit

- The Dept is undertaking policy review processes that will contribute toward the review of the Children's Act. These include:
 - Conducting an *audit and implementation evaluation* of the foster care programme, and
 - *Assessing the systemic arrangements* that impact on the programme.
 - The Minister appointed *an independent committee* to oversee the implementation of "the activities indicated below" and advise her on the measures that may be put in place to address the challenges experienced with the foster care programme.

DSD's Dec 2014 court papers

Extract's from DG's affidavit

- The evaluation of the foster care system, policy review and Children's Act are going to provide a long term solution and put mechanisms in place "to sustain the implementation of the foster care programme".
- DSD therefore requests an extension of the duration of the Order "for the provinces to continue extending these orders administratively, providing sufficient time to undertake the policy review processes."
- The time for the amendment of the Children's Act "is at this stage unknown to Department". "It is possible that the process of Amending the Act may take 3 years". "However the Ministerial Task Team is endeavouring to amend the legislation."

DSD's Dec 2014 court papers

Extract's from CP3 Integrated Programme to Manage Foster Care 2014 -2018

- Audit of foster care placements and evaluation of foster care programme is being funded by Social Welfare Directorate (1 million) and Social Security Directorate (1 million). Further financial assistance being pursued through Unicef and USAID.
- Project co-ordinator is a senior DSD official (not named in the document).
 - Project Co-ordinator is responsible for managing the Consultative Committee (made up of 2 reps per province) and the Task Team (senior mgnt from National DSD and SASSA who must provide strategic leadership)
- Project manager, Sibongile Khoza (DSD Children's Directorate), will manage the operations of the project with Jane Jooste representing SASSA.

(see pg 9 of CP3 for an organogram of the "governance structure" for the programme
Not clear where the Minister's Independent Foster Care Committee fits in