



**Western Cape  
Government**

Education

# **Abuse No More Protocol of the Western Cape Education Department**

Dealing Effectively with Child Abuse,  
Deliberate Neglect and Sexual Offences against Children

## **Message from the Western Cape Minister of Education, Debbie Schäfer**

The Abuse No More document for dealing with child abuse was developed in 1999 by the WCED in co-operation with other departments and non-governmental organisations to develop a guide for the management of child abuse. The document was officially launched in 2001 by the then Education MEC, now Premier, Helen Zille. Since then various developments relating to the care and protection of children culminated in the updating of existing and promulgation of new legislation such as the Children's Act, 38 of 2005, Sexual Offences and Related Matters Act, 32 of 2007, Child Justice Act, 75 of 2008. This has also resulted in amendments to WCED policies. For this reason the child abuse protocol document needed to be amended to be in alignment with the relevant legislation and policy documents.

Child abuse, deliberate neglect and sexual offences against children are serious challenges that currently exist in communities and educational institutions throughout South Africa. Because of their high prevalence this protocol has been developed to help institutions, employees and learners of the Western Cape Education Department (WCED) to deal with the problem in the most efficient and effective way.

Intervening effectively in the lives of children and their families that are victims of abuse is not the sole responsibility of any single agency or professional group, but rather is a shared community concern. Educators have a special role to play in dealing with this problem, along with doctors, nurses and social workers. In fact, people in these professions are required by law to respond to signs of child abuse.

I particularly welcome the focus on minimising trauma to victims by ensuring that they do not have to repeat the details of the traumatic incident, and ensuring that evidence is collected in the best possible way to maximise the chances of successful convictions.

I wish to thank all WCED staff and other parties including government departments and NGO's involved for their hard work in drafting our new policy document.

Child protection is the moral responsibility of every WCED employee – indeed of every member of society. The WCED therefore supports the policy and procedures in this document and encourages co-operation to ensure the achievement of their objectives.



Debbie Schäfer, MPP  
Minister of Education  
October 2014

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# Section 1

## 1.1 Introduction

Child abuse, deliberate neglect and sexual offences against children are serious problems that currently exist in communities and educational institutions throughout South Africa. Because of their high prevalence, this protocol has been developed to help institutions, employees and learners of the Western Cape Education Department (WCED) to deal with the problem in the most efficient and effective way.

The reporting procedures contained in this protocol may be used by learners, educators, employees, parents, caregivers or any other person. All WCED employees must therefore ensure that they are fully conversant with the content of this protocol and that they have a clear understanding of their roles in combating child abuse and sexual offences against children.

Effective management of these problems can be achieved only if procedures are based on a strong legal foundation. Therefore, in drafting this protocol, all relevant legislation regarding children has been considered and applied. The legislation highlights the responsibility of educators who may suspect or deal with disclosures of child abuse and sexual offences against children, and the educators' mandatory duty to report such incidents in the prescribed manner.

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

## 1.2 Purpose and Scope

1.2.1 The purpose of the protocol is to:

- (a) assist all learners who are victims or perpetrators of child abuse, deliberate neglect or any sexual offences
- (b) prescribe an approach for educators and employees of the Western Cape Education Department to –
  - (i) identify;
  - (ii) intervene;
  - (iii) report; and
  - (iv) provide support

in cases of child abuse, deliberate neglect and to children who are victims of sexual offences.

1.2.2 This protocol applies to all public schools in the Western Cape Education Department

## 1.3 Legislative Framework

- 1.3.1 Constitution of the Republic of South Africa, 1996
- 1.3.2 Child Justice Act, 2008 (Act 75 of 2008)
- 1.3.3 Children's Act, 2005 (Act 38 of 2005)
- 1.3.4 Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007)
- 1.3.5 National Education Policy Act, 1996 (Act 27 of 1996)
- 1.3.6 South African Schools Act, 1996 (Act 84 of 1996)
- 1.3.7 Western Cape Provincial School Education Act, 1997 (Act 12 of 1997)
- 1.3.8 The Employment of Educators Act, 1998 (Act 76 of 1998)
- 1.3.9 Public Service Act, 1994 (Proclamation 103 of 1994)
- 1.3.10 SAPS National Instructions 3 of 2008 (Part 4)
- 1.3.11 Inclusive Education White Paper 6, 2001
- 1.3.12 Ethical Code for Educators, SACE
- 1.3.13 Public Service Code of Conduct
- 1.3.14 Policy on HIV/AIDS for Learners and Educators and Students and Educators in Further Education and Training Institutions, Government Gazette 20372, dated 10 Augustus 1999
- 1.3.15 Policy on Learner Attendance (Circular 29 of 2010)
- 1.3.16 Regulations relating disciplining, suspension and expulsion of learners in Public Schools in the Western Cape Extraordinary Provincial Gazette No. 6939, 15 December 2011, Western Cape Education Department Circular 0018 of 2012
- 1.3.17 Policy on Management of Learner Pregnancy in Public Schools, Western Cape Education Department, Circular 0121 of 2003

## Section 2

### 2. DEFINITIONS

In this protocol, any word or expression to which a meaning has been assigned, bears the meaning assigned to it and, unless the context otherwise indicates –

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

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

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

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

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

**“corporal punishment”** means “Any deliberate act against a child that inflicts pain or physical discomfort used to punish or contain him/her. This includes, but is not limited to, spanking, slapping, pinching, paddling or hitting a child with a hand or with an object; denying or restricting a child’s use of the toilet; denying meals, drink, heat and shelter, pushing or pulling a child by force, forcing the child to do exercise.”;

**“deliberate neglect”** for purposes of this document relates to Section 110 of the *Children’s Act, 2005 (Act 38 of 2005)*;

**“designated social worker”** means a social worker in the employment of –

- (a) the Department of Social Development;
- (b) a registered child protection organisation, such as the ACVV (Afrikaner Christelike Vroue Vereeniging), Child Welfare or Badisa; or
- (c) a municipality;

**“educator”** means any person, excluding a person who is appointed to exclusively perform extracurricular duties, who teaches, educates or trains other persons or who provides professional educational services, including professional therapy and education psychological services, at a school;

**“employee”** means

- (a) an educator as defined above;
- (b) a member of a hostel staff;
- (c) a member of an administrative staff;
- (d) a support staff-member or contract worker, as well as any educator appointed under the *Employment of Educators Act, 1998 (Act 76 of 1998)*; or
- (e) a member of support staff or a contract worker appointed under or the *Public Service Act, 1994 (Act 103 of 1994)* and/or appointed by the school governing body;

**“Employee Relations”** means the Directorate: Employee Relations of the WCED;

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

**“institution”** means an ordinary public school, special public school or any other institution within the jurisdiction of the WCED. **“school”** means a public school or an independent school which enrolls learners from grade R (Reception) to grade twelve;

**“learner”** means any person receiving education or obliged to receive education in terms of the South African Schools Act;

**“learner victim”** means a person who makes the allegation of child abuse and/or of a sexual offence against another person or another learner (child);

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

**“parent”** means –

- (a) the parent or guardian of a learner;
- (b) the person legally entitled to the custody of a learner, or
- (c) the person who undertakes to fulfil the obligations of a person referred to in subparagraphs (a) and (b) towards the learner’s education at school;

**“principal”** means an educator appointed or acting as head of a school;

**“SAPS”** means South African Police Services;

**“school governing body”** means a statutory body vested with the governance of a public school and it may perform only such functions and obligations and exercise such rights as prescribed by the *South African Schools Act*;

**“school management team”** means the management team of a school comprising the Principal, Deputy Principal and Heads of Department whose defined role is to assist and support the Principal in the management of the school;

**“school social worker”** means a social worker in the employ of the WCED that is registered under *Section 17 of the Social Service Professions, 1978 (Act 110 of 1978)*;

**“sexual abuse”** [as defined in the *Children’s Act, 2005 (Act 38 of 2005)*], in relation to a child, means –

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

**“sexual offences”** means both general and specific offences against children and mentally disabled persons (see Annexure D for a comprehensive description of these offences).

## Section 3

### 3. MANAGEMENT PROCEDURES

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

#### 3.1 Compulsory Reporting

##### 3.1 (a) Section 54 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007)

- (i) In terms of this section every person has a duty to report;  
“Knowledge that a sexual offence had been committed against a child”  
or  
“Knowledge, reasonable belief or suspicion that a sexual offence had been committed against a person who is mentally disabled”;
- (ii) The report must be immediate; and
- (iii) It must be to a police official.
- (iv) Failure to report under this section is a criminal offence (Section 54 1(b) and 2(b)).
- (v) The penalty for non-reporting is a fine or imprisonment of 5 years or both a fine and imprisonment.
- (vi) Where a report is made in ‘good faith’ in relation to Section 2(b), (“a reasonable belief or suspicion of a sexual offence committed on a mentally disabled person”), that person shall not be liable for any civil or criminal proceedings as a result of such a report.
- (vii) Part 4 of the SAPS National Instruction 3/2008 sets out who may make a report of a sexual offence and reiterates compulsory reporting under Section 54 of Act 32 of 2007.
- (viii) It is important to note that in terms of this National Instruction, a SAPS official may not turn anyone away who reports a sexual offence committed on a child or a person who is mentally disabled.

##### (b) Section 110 (1) of the Children’s Act, 2005 (Act 38 of 2005) (as amended)

- (i) In terms of this section certain professionals e.g. “Teacher”, has a duty to report (See Annexure F for a full list);
- (ii) They must on reasonable grounds conclude that the child has been abused in a manner causing physical injury, sexual abuse or deliberate neglect;
- (iii) Conclusion must be reported in the prescribed form (Form 22); and
- (iv) It must be reported to the “Provincial Department of Social Development or a Police Official”.
- (v) Failure to report under this section is a criminal offence. Section 305 (1) (c) states that a person is guilty of an offence if that person fails to comply with Section 110(1).



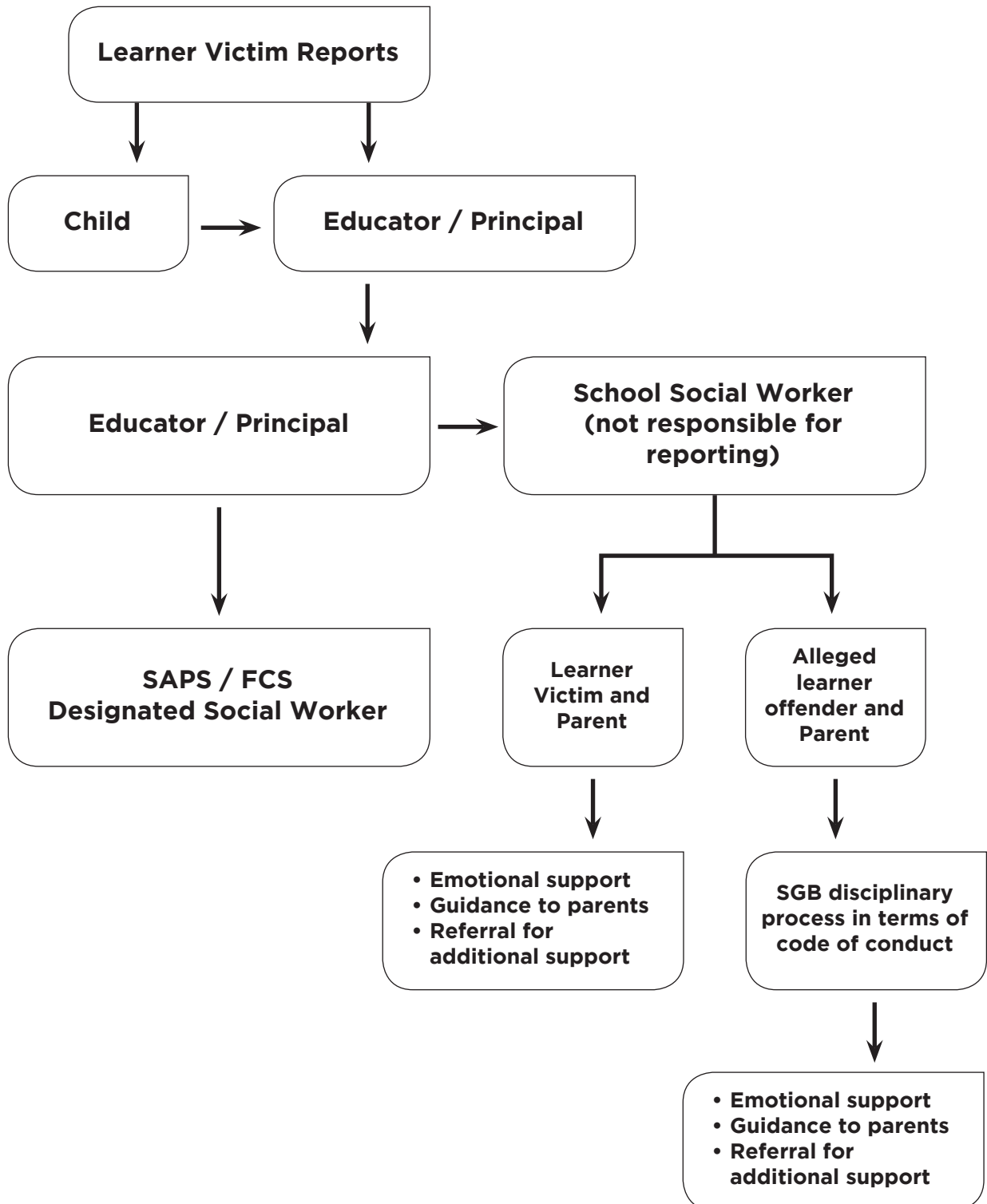
**(c) Section 110 (2) of the Children's Act, 2005 (Act 38 of 2005) (as amended)**

- (i) In terms of this subsection "Any person" who on "reasonable grounds believes that a child is in need of care and protection"; may report belief (not compulsory, has a discretion); to the "Provincial Department of Social Development, a designated child protection organisation or a police official".
- (ii) There is no penalty for this section because it is not compulsory to report.
- (iii) Abuse in terms of the Children's Act creates a discretion as to whom the abuse must be reported to e.g. SAPS or a designated social worker, but not in relation to the actual reporting of the offence.
- (iv) In the case of a sexual offence, SAPS (FCS Unit) must be involved.

## **3.2 Disclosure**

- 3.2
- (a) Always act in the best interest of the child.
  - (b) Disclosure is a process and it must be managed with care, sensitivity and confidentiality.
  - (c) At the time of disclosure clarify confidentiality and explain the consequences of the disclosure to the learner victim, i.e. that in order to help him/her, you are legally obliged to report the case to other role-players such as a social worker and/or SAPS.
  - (d) Ensure the safety of the child.
  - (e) Actions and interventions must be immediate (including reporting the matter to SAPS and/or a designated social worker).
  - (f) Effective management of the process will ensure that the learner victim, alleged learner offender and employee are protected from additional and unnecessary emotional trauma and victimisation, as the case may be.
  - (g) During the disclosure process, the learner victim must under no circumstances be questioned to verify the truthfulness of the allegation, since the educator/principal's role is merely to receive the report and to further report the matter to either SAPS or a designated social worker, as the case may be.
  - (h) It is sufficient to know that there was an abuse, what type of abuse and who the suspected perpetrator is in order to decide which process to follow and adequately manage the disclosure process.
  - (i) If a report is made to an educator and the educator reports it to a principal, then the principal should not question the learner again but should rather immediately assist in involving the relevant role-players.
  - (j) The management of the disclosure process is immediate and there should be no delays in involving the relevant role-players, e.g. SAPS and DSD should be contacted on the same day that the disclosure is made.

Diagram 1: DISCLOSURE PROCESS –  
**Learner on Learner disclosure**



### 3.3 Learner on Learner Disclosure

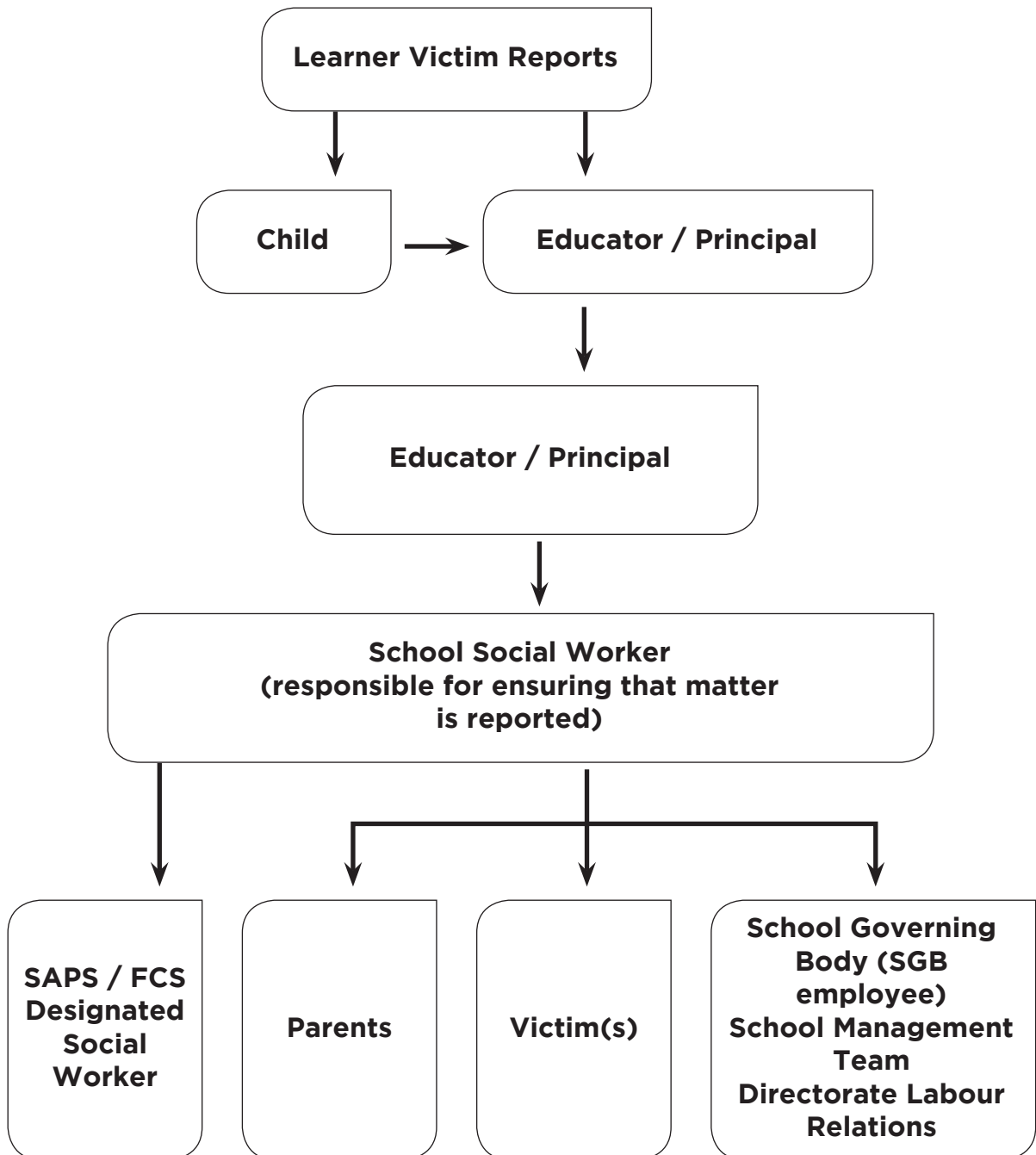
- (a) Disclosure can be made by a learner victim to either another child (learner) [who would in turn disclose to an educator] or the learner victim can disclose directly to an educator.
- (b) The learner victim must not be cross examined. Only obtain information relevant for reporting purposes.
- (c) Explain the procedure that will follow and the different roles and responsibilities of each stakeholder and why they are relevant to the process.
- (d) As soon as the disclosure has been made, notify the following role-players immediately:
  - (i) SAPS ([FCS] Family Violence Child Protection and Sexual Offences Unit) in the case of a sexual offence;
  - (ii) a designated social worker in the case of abuse other than a sexual offence;
  - (iii) the school social worker in the area; and
  - (iv) the parents of both the learner victim as well as the alleged learner offender.
- (e) A child offender (learner) who physically abuses another learner should be reported in the prescribed manner to a designated social worker or the police when the physical abuse constitutes behaviour such as:
  - (i) using a dangerous object against another learner or staff member;
  - (ii) committing an act of assault;
  - (iii) threatening or endangering the safety of fellow learners or educators; and
  - (iv) repeatedly being found guilty of physically harming other learners.
- (f) If the transgression was in violation of the School's Learner Code of Conduct, the Regulations Relating to Disciplining, Suspension and Expulsion of Learners at Public Schools in the Western Cape (Provincial Gazette 6939, dated 11 December 2011 or any other legislation, then due process in relation to disciplinary hearings, as stated in the above mentioned Regulations should be followed.
- (g) The Learner Code of Conduct must make provision for the transgression.
- (h) The school social worker must assist in managing and guiding the process to ensure that both learners are supported during this period.
- (i) Young alleged offenders need to be supported.
- (j) Such support should be seen as an attempt to prevent the alleged offender from committing further abuse.
- (k) The alleged learner offender must be referred to relevant role-players for emotional support and therapy.
- (l) It is important to ensure that the social worker or SAPS become involved as soon as possible, depending on the seriousness of the abuse.
- (m) The learner victim must be referred for counselling and/or psycho-social support by the school social worker where applicable.

### 3.4 Guidelines regarding the management of disciplinary measures against a learner being the alleged perpetrator

- (a) The Learner Code of Conduct must make provision for the transgression(s).
- (b) The disciplinary process, aligned with the Regulations Relating to Disciplining, Suspension and Expulsion of Learners at Public Schools in the Western Cape (Provincial Gazette 6939, dated 11 December 2011, can only take place if there has been a transgression of the school's Learner Code of Conduct or other legislation.
- (c) In a situation where the learner victim and the alleged learner offender are at the same school, the alleged perpetrator may be suspended for 7 days, awaiting a disciplinary hearing.
- (d) The disciplinary hearing should take place according to a prescribed procedure, in the Regulations as referred to in subparagraph 3.4(b).
- (e) The individual's right to a fair and reasonable hearing should be honoured.
- (f) These principles should also apply to the way in which arguments are presented.
- (g) In deciding the most appropriate sanction, take into consideration:
  - (i) The age and developmental phase of the learner;
  - (ii) Learner's disciplinary record and willingness to change;
  - (iii) Learner's regret and willingness to put the offence right; and
  - (iv) Recommendations from professional service providers supporting the alleged learner offender.

- (h) Both the learner victim and the alleged learner offender have the right to legal representation should they choose to have such representation.
- (i) Always remember to act in the best interest of the child.

**Diagram 2: DISCLOSURE PROCESS –  
WCED Employee on Learner disclosure**



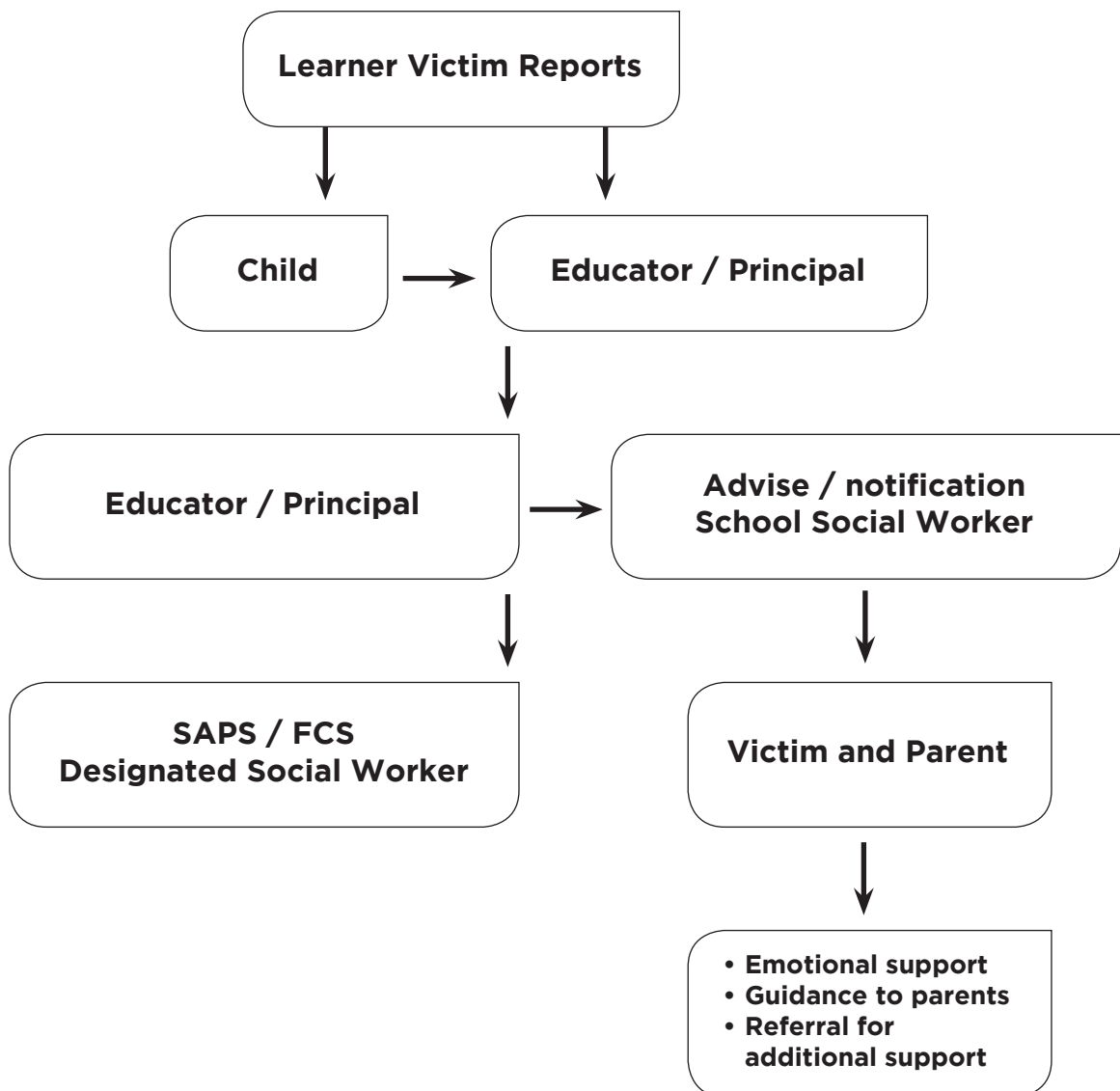
### **3.5 Guidelines regarding the management of disciplinary measures against an employee identified as an alleged offender.**

- (a) Disclosure can be made by a learner victim to either another child (learner) [who would in turn disclose to an educator] or the learner victim can disclose directly to an educator.
- (b) The learner victim must not be cross examined. Only obtain information relevant for reporting purposes.
- (c) Explain the procedure that will follow and the different roles and responsibilities of each stakeholder and why they are relevant to the process.
- (d) As soon as the disclosure has been made, notify the following role-players immediately:
  - (i) The school social worker (to assist in the managing of the process);
  - (ii) SAPS (FCS [Family Violence, Child Protection and Sexual Offences Unit]) in the case of a sexual offence;
  - (iii) A designated social worker or SAPS in the case of abuse other than a sexual offence;
  - (iv) Directorate: Employee Relations or the School Governing Body (SGB), where the alleged employee offender was employed by them; and
  - (v) The parents of the learner victim.
- (e) If the disclosure has revealed that the Principal is the alleged employee offender, the educator to whom the disclosure was made must inform the School Social Worker or the relevant Circuit Team and forward all documents pertaining to the report, so that they can assist in managing the process.
- (f) The Principal or educator, to whom the disclosure was made, may not inform or confront the alleged employee offender of the complaint before contact has been made by a Labour Relations Officer.
- (g) The School Social Worker should also be informed to assist with getting the Directorate: Employee Relations involved and to further assist with guiding and managing the process of reporting.
- (h) Do not hold a meeting with the learner victim and alleged employee offender.
- (i) The Principal must inform other staff members that there is a report, without disclosing the identity of the learner victim or the alleged employee offender and specific details of the disclosure. If the principal is the alleged offender then the deputy principal should fulfil this role.
- (j) If the alleged employee offender is an employee contracted in the service of the SGB, the said employer should act upon the conditions of the service contract. (Refer to Annexure H)
- (k) Where the alleged employee offender is employed by the SGB, an SGB hearing will take place.
- (l) Corporal punishment should also be seen as physical and emotional abuse and therefore should be dealt with in terms of this policy.
- (m) Both the alleged employee offender and the learner victim are entitled to representation.
- (n) Make use of an intermediary to assist the learner victim in giving evidence during the SGB hearing.
- (o) Ensure separate seating arrangements to avoid contact between the learner victim and alleged employee offender.
- (p) Be aware of the learner victim's developmental age with regard to: questioning, concentration, the need for regular breaks, language, emotional status and time of interview or hearing.

### **3.6 Corporal punishment**

- (a) Corporal punishment is not allowed at any South African School and is as such expressly prohibited.
- (b) The National Education Policy Act, 1996 (Act 27 of 1996) states that: "No person shall administer corporal punishment or subject a student to psychological or physical abuse at any educational institution".
- (c) The South African Schools Act, 1996 (Act 84 of 1996) states in section 10:
  - "(1) No person may administer corporal punishment at a school to a learner;
  - (2) Any person who contravenes subsection (1) is guilty of an offence, and liable on conviction to a sentence which could be imposed for assault".

Diagram 3: DISCLOSURE PROCESS –  
**Parent, Family Member or Community Member  
on Learner disclosure**



### **3.7 Disclosure Process: Parent, Family Member or Community Member offence on Learner**

- (a) Disclosure can be made by a learner victim to either another child (learner) [who would in turn disclose to an educator] or the learner victim can disclose directly to an educator.
- (b) The learner victim must not be cross-examined. Only obtain information relevant for reporting purposes.
- (c) Explain the procedure that will follow and the different roles and responsibilities of each stakeholder and why they are relevant to the process.
- (d) If the disclosure reveals a parent as the alleged perpetrator it is advised not to contact the other parent before the designated social worker or SAPS become involved, in order to prevent intimidation of the learner victim.
- (e) As soon as the disclosure has been made, notify the following role-players immediately:
  - (i) SAPS FCS Unit in the case of a sexual offence;
  - (ii) a designated social worker in the case of abuse other than a sexual offence; and
  - (iii) the school social worker in your area.
- (f) It may be advisable for the learner victim to obtain a Protection Order as well, under certain circumstances.
- (g) This should be brought to the attention of the designated social worker so that the learner victim can be assisted during this process.
- (h) The school must assist in ensuring the safety of the learner victim by communicating with the designated social worker or other child protection agency in order to have the learner victim sent to a place of safety or a family member if it is deemed unsafe for the learner victim to return home.
- (i) The School (principal and educators) must provide continuous emotional support to the learner victim and monitor the learner victim's social, emotional and academic functioning.
- (j) Provide regular feedback to the designated social worker.
- (k) Arrange for additional academic support if necessary.

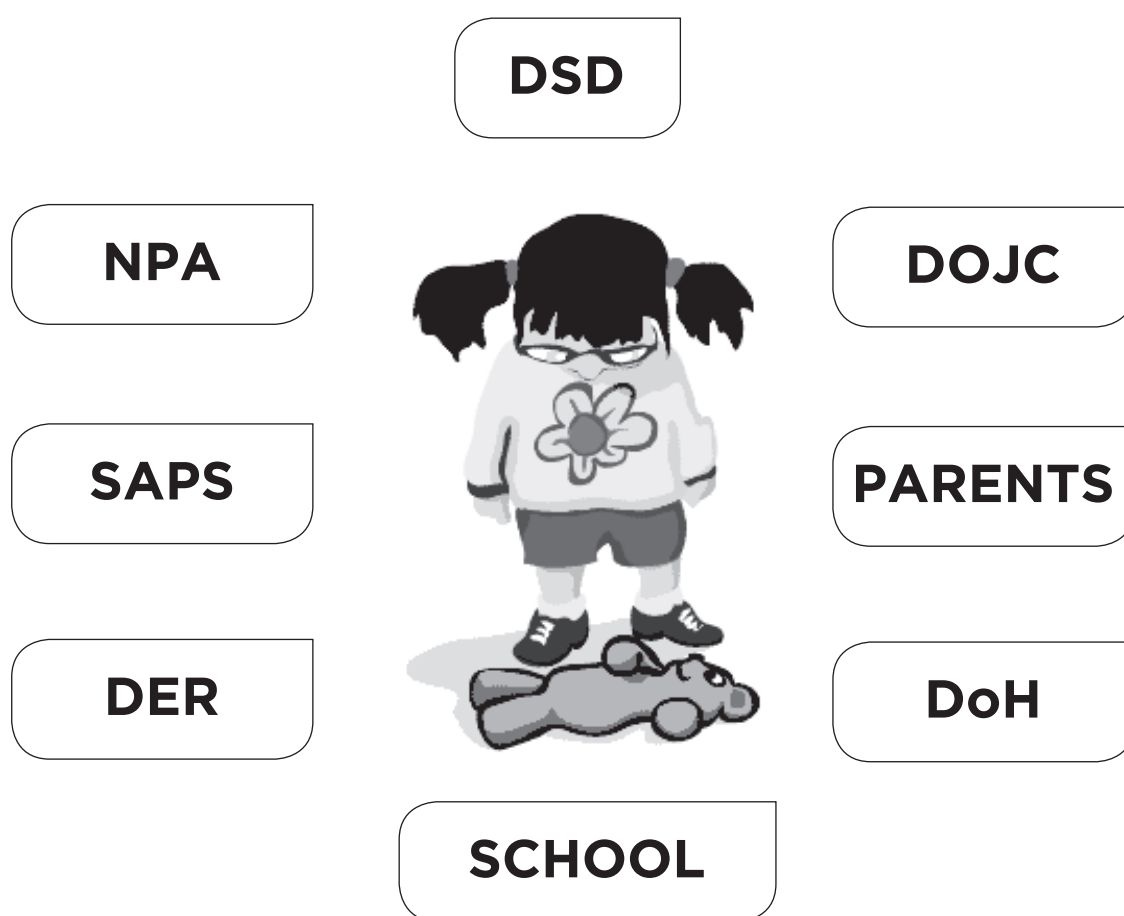
### **3.8 Role-players that can be contacted depending on the type of offence or the circumstances**

- (a) The school social worker at the Education District Office will help the principal and the employee to decide on the involvement of other relevant agencies, e.g.:
  - (i) The Department of Social Development
  - (ii) Social Welfare Service Providers in the community
  - (iii) The designated child protection organisation
  - (iv) The school psychologist
  - (v) SAPS in the area where the report/ disclosure was made e.g. within the school's jurisdiction. SAPS will in turn contact the FCS Unit in the case of a sexual offence
  - (vi) Employee Relations, when employees are the alleged offenders
  - (vii) The SGB where the alleged employee offenders are employed by this body
  - (viii) The learner victim's parent(s) provided that they are not the alleged offenders
  - (ix) The Department of Health school nurse (if available), or (if applicable) the Medical Practitioner at a health care facility
  - (x) Education for Learners with Special Education Needs (ELSEN) school nurse
  - (xi) The Thuthuzela Care Centre closest to the school

## Section 4

### 4. RESPONSIBILITIES OF THE RELEVANT ROLE-PLAYERS

- a) Dealing effectively with child abuse demands a multi-disciplinary approach in order to provide for the needs of the complainant (learner victim) holistically.
- b) The effective management of abuse therefore depends on collaboration, co-ordination and co-operation between the various role-players and service providers during the intervention process, and each institution should formulate a way to liaise effectively with all of them.



#### 4.1 South African Police Service

- (a) Receive and investigate complaint.
- (b) Obtain sworn statements from the complainant (learner victim), his/her parents and other relevant witnesses.
- (c) Arrest the alleged offenders.
- (d) Take learner victim for a medical examination where applicable.
- (e) Take the accused to court within 48 hours after arrest or 24 hours after arrest in the case of a minor.



## **4.2 Medical Services**

- (a) Conduct forensic medical examination in the case of a sexual offence.
- (b) Administer relevant tests such as HIV and pregnancy.
- (c) Collect forensic evidence to be used in a court case.
- (d) Provide medication to protect the health of the learner victim.
- (e) Record all findings on a medico-legal document (J88) with an accompanying 212 (4) affidavit.

## **4.3 Department of Justice and Constitutional Development**

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

## **4.4 Social Workers of the Department of Social Development and Designated Child Protection Organisations**

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

## **4.5 National Prosecuting Authority**

- (a) Provide assistance through the Thuthuzela Care Centres (if one exists in the school's jurisdiction).
- (b) Prosecutors to prosecute the matter when it gets to court.
- (c) Consult with the learner victim in preparation for trial.
- (d) Court Preparation Officers employed by the NPA to assist with preparing learner victims for the court process.

## **4.6 Directorate: Employee Relations of the Western Cape Education Department**

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

## **4.7 School Governing Body (SGB)**

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

The Western Cape Education Department (WCED) is responsible for public schooling in the province, from Grades R to 12, as well as Further Education and Training (FET) in the FET colleges. The WCED operates in eight Education Districts with a Head Office in Cape Town.

<b>Location</b>	<b>Telephone</b>	<b>Fax</b>
WCED Head Office	021 467 2000	021 467 2996
Metro Central Education District	021 514 6700	021 659 4413
Metro East Education District	021 900 7000	021 903 9484
Metro North Education District	021 938 3000	021 938 3180
Metro South Education District	021 370 2000	021 372 1856
Cape Winelands Education District	023 348 4600	023 342 4138
Eden & Central Karoo Education District	044 803 8300	044 873 2253
Overberg Education District	028 214 7300	028 214 7400
West Coast Education District	021 860 1200	021 860 1231

WCED Call Centre:	0861 923 322
WCED: Directorate Employee Relations	021 467 2846
WCED Safe Schools Call Centre	0800 45 46 47

**DISTRICT OFFICE SUPPORT (CIRCUIT TEAM)**

Official	Name	Tel. No. (office)	Cellphone No.
School social worker			
Psychologist			
IMG Manager			
Circuit Team Manager			

**COMMUNITY RESOURCES**

Organisation or Department	Contact Person	Tel. No. (office)	Cellphone No.
SAPS			
Dept. of Social Development			
Welfare Organisation (e.g. Child Welfare, Badisa, etc.)			
FCS			
NGO			
Day Hospital / Health Clinic			

**FORM 22A**  
**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

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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.

<b>Source of report (do not identify person)</b>			
<input type="checkbox"/> Victim	<input type="checkbox"/> Relative	<input type="checkbox"/> Parent	<input type="checkbox"/> Neighbour/friend
<input type="checkbox"/> Professional (specify) .....			
<input type="checkbox"/> Other (specify) .....			
<b>Date Reported to child protection organisation:</b>		<b>DD</b>	<b>MM CCYY</b>

1. 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:							

2. CATEGORY OF CHILD IN NEED OF CARE AND PROTECTION		
<input type="checkbox"/> Street child	<input type="checkbox"/> Child labour	<input type="checkbox"/> Child trafficking
<input type="checkbox"/> Commercial sexual exploitation	<input type="checkbox"/> Exploited children	<input type="checkbox"/> Child abduction

3. OTHER INTERVENTION – CONTACT PERSON TRUSTED BY CHILD	
Surname:	Name:
Address:	Telephone number:
Other children interviewed: <input type="checkbox"/> Yes <input type="checkbox"/> No    Number :	

(\*) = Complete if available or applicable

<b>SURNAME OF CHILD:</b>	
<b>FULL NAMES OF CHILD:</b>	

4. ALLEGED ABUSER						
4.1) Surname				Full Name(s)		
Date of Birth:	DD	MM	CCYY	Gender:	M	F
ID No:				Age:		
* Passport No:				* Drivers license:		
Also known as:				<b>Relationship to child:</b> <input type="checkbox"/> Father <input type="checkbox"/> Mother <input type="checkbox"/> Grand father <input type="checkbox"/> Grand mother <input type="checkbox"/> Step father <input type="checkbox"/> Step mother <input type="checkbox"/> Foster father <input type="checkbox"/> Foster mother <input type="checkbox"/> Uncle <input type="checkbox"/> Aunt <input type="checkbox"/> Sibling <input type="checkbox"/> Caregiver <input type="checkbox"/> Professional: social worker/police officer/teacher/caregiver/priest/dr/volunteer <input type="checkbox"/> Other (specify)		
Street Address (include postal code):						
Postal Code:						
<b>4.2) WHEREABOUTS OF ALLEGED PERPETRATOR:</b> <input type="checkbox"/> Section 153 (Request for removal by SAPS) <input type="checkbox"/> Still in home  <input type="checkbox"/> In hospital (Name/Place.....) <input type="checkbox"/> In detention (Place.....)  <input type="checkbox"/> Living somewhere else <input type="checkbox"/> Whereabouts unknown <input type="checkbox"/> Un-identified						

5. PARENTS OF CHILD (If other than above)						
Surname: Father / Step-father				Full name(s)		
Date of Birth:	DD	MM	CCYY	Gender:	M	F
ID no:				Age:		
Surname: Mother / Step-mother				Full name(s)		
Date of Birth:	DD	MM	CCYY	Gender:	M	F
ID no:				Age:		
Also known as:				Names and ages of siblings or other children if helpful for tracking		
Street Address (include postal code):						Postal Code:

(\*) = Complete if available or applicable

<b>SURNAME OF CHILD:</b>	
<b>FULL NAMES OF CHILD:</b>	

<b>6. ABUSE</b>										
<b>Date of Incident:</b>			<b>Date unknown:</b>		<b>Episodic/ongoing from (date)</b>			<b>Reported to CPR:</b>		
DD	MM	CCYY			DD	MM	CCYY	DD	MM	CCYY
<b>Place of incident:</b> <input type="checkbox"/> Child's home <input type="checkbox"/> Field <input type="checkbox"/> Tavern <input type="checkbox"/> School <input type="checkbox"/> Friend's place <input type="checkbox"/> Partial Care <input type="checkbox"/> ECD Centre <input type="checkbox"/> Neighbour <input type="checkbox"/> Child and youth care centre <input type="checkbox"/> Other (specify) <input type="checkbox"/> Foster home <input type="checkbox"/> Temporary safe care										
<b>6.1) TYPE OF ABUSE (Tick only the one that indicates the key motive of intent)</b>										
Physical			Emotional		Sexual			Deliberate neglect		
<b>6.2) INDICATORS (Check any that apply)</b>										
<b>PHYSICAL:</b> <input type="checkbox"/> Abrasions <input type="checkbox"/> Bruises <input type="checkbox"/> Burns/Scalding <input type="checkbox"/> Fractures <input type="checkbox"/> Other physical illness <input type="checkbox"/> Cuts <input type="checkbox"/> Welts <input type="checkbox"/> Repeated injuries <input type="checkbox"/> Fatal injury (date of death) <input type="checkbox"/> Injury to internal organs <input type="checkbox"/> Head injuries <input type="checkbox"/> No visible injuries (elaborate) <input type="checkbox"/> Poisoning (specify) <input type="checkbox"/> Other Behavioural or physical (specify)										
<b>EMOTIONAL:</b> <input type="checkbox"/> Withdrawal <input type="checkbox"/> Depression <input type="checkbox"/> Self destructive aggressive behaviour <input type="checkbox"/> Corruption through exposure to illegal activities <input type="checkbox"/> Deprivation of affection <input type="checkbox"/> Exposure to anti-social activities <input type="checkbox"/> Exposure to family violence <input type="checkbox"/> Parent or care giver negative mental condition <input type="checkbox"/> Inappropriate and continued criticism <input type="checkbox"/> Humiliation <input type="checkbox"/> Isolation <input type="checkbox"/> Threats <input type="checkbox"/> Development Delays <input type="checkbox"/> Oppression <input type="checkbox"/> Rejection <input type="checkbox"/> Accusations <input type="checkbox"/> Anxiety <input type="checkbox"/> Lack of cognitive stimulation <input type="checkbox"/> Mental, emotional or developmental condition requiring treatment (specify)										
<b>SEXUAL:</b> <input type="checkbox"/> Contact abuse <input type="checkbox"/> Rape <input type="checkbox"/> Sodomy <input type="checkbox"/> Masturbation <input type="checkbox"/> Oral sex area <input type="checkbox"/> Molestation <input type="checkbox"/> Non contact abuse (flashing, peeping) <input type="checkbox"/> Irritation, pain, injury to genital <input type="checkbox"/> Other indicators of sexual molestation or exploitation (specify)										
<b>DELIBERATE NEGLECT:</b> <input type="checkbox"/> Malnutrition <input type="checkbox"/> Medical <input type="checkbox"/> Physical <input type="checkbox"/> Educational <input type="checkbox"/> Refusal to assume parental responsibility <input type="checkbox"/> Neglectful supervision <input type="checkbox"/> Abandonment										
<b>6.3) Indicate overall degree of Risk to child:</b>										
<input type="checkbox"/> Mild <input type="checkbox"/> Moderate <input type="checkbox"/> Severe <input type="checkbox"/> Unknown										
<b>6.4) When applicable, tick the secondary type of abuse Multiple Abuse:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No										
Sexual			Physical		Emotional			Deliberate Neglect		
Brief explanation of occurrence(s) (including a statement describing frequency and duration)										

(\*) = Complete if information is available or applicable

<b>SURNAME OF CHILD:</b>	
<b>FULL NAMES OF CHILD:</b>	

<b>7. MEDICAL INTERVENTION (*)</b>		
<b>Treated outside hospital:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>Examined by:</b> <input type="checkbox"/> Doctor <input type="checkbox"/> Reg. Nurse	<b>Hospitalised:</b> <input type="checkbox"/> For assessment <input type="checkbox"/> For treatment <input type="checkbox"/> As place of safety
<b>Where (name of Hospital)</b>	<b>Contact person</b>	<b>Telephone Number</b>

<b>8. CHILDREN'S COURT INTERVENTION (*)</b>			
<b>Removal of child to temporary safe care (Section 152):</b> <input type="checkbox"/> Yes <input type="checkbox"/> No		<b>Date</b> <div>MM      DD      CCYY</div>	

<b>9. SAPS: (ACTION RELATED TO ALLEGED ABUSER(S)) - (*)</b>				
<b>Reported to SAPS:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>Charges laid:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>Date</b> <div>DD      MM      CCYY</div>		
<b>CASE NR</b>	<b>Police Station</b>	<b>Telephone Nr</b>		
<b>Name of Police Officer</b>		<b>Rank of Police Officer</b>		

<b>10. CHILD KNOWN TO WELFARE ORGANISATION/ SOCIAL DEVELOPMENT?</b>		
<b>10.1) Child known to welfare?:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No		
<b>Name of Organisation</b>	<b>Contact number</b>	<b>Reference number</b>

<b>11. DETAILS OF PERSON WHO REPORTS ALLEGED ABUSE (Refers to a profession, mandatory obliged to report child abuse)</b>		
<b>Name of informant</b>	<b>Employer</b>	
<b>Employer Address</b>	<b>Work Telephone Nr</b>	<b>Fax Number</b>
<b>Email Address</b>		

(\*) = Complete if information is available or applicable

<b>SURNAME OF CHILD:</b>	
<b>FULL NAMES OF CHILD:</b>	

CAPACITY  Section 110 (1)	Caregiver	Correctional Official	Child and Youth Care Centre	Dentist	Doctor	Drop in Centre
	Homeopath	Labour Inspector	Legal Practitioner	Midwife	Member of staff – partial care facility	Medical Practitioner
	Minister of Religion	Nurse	Occupational Therapist	Psycho- logist	Police Official	Physio- therapist
	Religious leader		Social service professional		Social worker	
	Speech therapist		Shelter		Traditional leader	
	Teacher		Traditional health practitioner		Volunteer Worker – partial care facility	
	Other (specify)					

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

Signature of person reporting alleged abuse: \_\_\_\_\_

Date: \_\_\_\_\_

<p align="center"><b>Official Stamp of Department / child protection organisation</b></p>          
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**Offences Relating to Children and Mentally Disabled Persons as Contemplated in the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007)**

**Chapter 2 of Act 32 of 2007 contains some general offences that are applicable to adults, children and mentally disabled persons as complainants:**

Section 3	Rape
Section 4	Compelled rape
Section 5(1) and (2)	Sexual assault
Section 6	Compelled sexual assault
Section 7	Compelled self-sexual assault
Section 12	Incest

**Chapter 3 of Act 32 of 2007 contains offences specifically relating to children:**

Section 15	Acts of consensual sexual penetration with certain children
Section 16	Acts of consensual sexual violation with certain children
Section 17(1)	Sexual exploitation of a child
Section 17(2)	Involved in the sexual exploitation of a child
Section 17(3)(a)	Furthering the sexual exploitation of a child
Section 17(3)(b)	Furthering the sexual exploitation of a child
Section 17(4)	Benefitting from the sexual exploitation of a child
Section 17(5)	Living from the earnings of the sexual exploitation of a child
Section 17(6)(a)	Promoting child sex tours
Section 17(6)(b)	Promoting child sex tours
Section 18(1)	Promoting sexual grooming of children
Section 18(2)	Sexual grooming of a child
Section 19	Exposing or displaying or causing the exposure or display of child pornography or pornography to a child
Section 20(1)	Using a child for child pornography
Section 20(2)	Benefitting from child pornography
Section 21(1)	Compelling or causing a child to witness sexual offences
Section 21(2)	Compelling or causing a child to witness a sexual act
Section 21(3)	Compelling or causing a child to witness self-masturbation
Section 22	Exposing or displaying or causing the exposure or display of genital organs, anus or female breasts to a child

## **Chapter 4 of Act 32 of 2007 contains offences specifically relating to mentally disabled persons:**

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

## **Chapter 7 of Act 32 of 2007**

Section 54(1)	Failure to immediately report knowledge that a sexual offence has been committed against a child
Section 54(2)	Failure to immediately report knowledge, reasonable belief or suspicion that a sexual offence has been committed against a person who is mentally disabled
Section 55(a)	Attempt to commit a sexual offence in terms of this Act
Section 55(b)	Conspires to commit a sexual offence in terms of this Act
Section 55(c)	Aids, abets, induces, incites, instigates, instructs, commands, counsels or procures another person to commit a sexual offence in terms of this Act
Section 71(1)	Trafficking in persons for sexual purposes
Section 71(2)	Involvement in trafficking in persons for sexual purposes
Section 71(6)	Commercial carrier bringing a person into or removing a person from the republic without the required travel documents

## Broad Risk Assessment Framework to Guide Decision-Making in Provision of Designated Child Protection Services [Section 35 of the Regulations of the Children's Act, 2005 (Act 38 Of 2005)]

- 1) The aim of the broad risk assessment framework contemplated (in Section 142 (c) of the Children's Act) is to provide guidelines (Section 35 of the Regulations of Children's Act) for:**
- (a) Identification of children who are being abused or deliberately neglected;
  - (b) Assessment of risk factors to support a conclusion of abuse and neglect on reasonable grounds [as contemplated in Section 110 of the Children's Act, 2005 (Act 38 of 2005)];
  - (c) Investigation by a provincial department of social development or a designated child protection organisation upon receipt of a report of the abuse or neglect of the child; and
  - (d) Appropriate protective measures to be taken in respect of a child.
  - (e) A disclosure of abuse or deliberate neglect by the child; or
  - (f) A statement relating to a pattern or history of abuse or deliberate neglect from a witness relating to the abuse of a child.
- 2) The broad risk assessment framework includes the following guidelines [Regulation 35(2) of the Children's Act, 2005 (Act 38 of 2005)]:**

<b>(a) The presence of indicators of physical abuse</b>	<b>(b) The presence of emotional and behavioural indicators of physical, psychological or sexual abuse</b>	<b>(c) The presence of developmental indicators of physical, psychological or sexual abuse</b>	<b>(d) The presence of indicators of deliberate neglect</b>
<ul style="list-style-type: none"> <li>• Bruises in any part of the body</li> <li>• Grasp marks of the arms, chest or face</li> <li>• Variations in bruising colour</li> <li>• Black eyes</li> <li>• Belt marks</li> <li>• Tears around or behind the eyes</li> <li>• Cigarette or other burn marks</li> <li>• Cuts</li> <li>• Welts</li> <li>• Fractures</li> <li>• Head injuries</li> <li>• Convulsions that are not due to epilepsy or high temperature</li> <li>• Drowsiness</li> <li>• Irregular breathing</li> <li>• Vomiting</li> <li>• Pain</li> <li>• Fever</li> <li>• Restlessness</li> </ul>	<ul style="list-style-type: none"> <li>• Aggression</li> <li>• Physical withdrawal when approached by adults</li> <li>• Anxiety</li> <li>• Irritability</li> <li>• Persistent fear of familiar people or situations</li> <li>• Sadness</li> <li>• Suicidal actions or behaviour</li> <li>• Self-mutilation</li> <li>• Obsessive behaviour</li> <li>• Neglect of personal hygiene</li> <li>• Age of child demonstrating socially inappropriate sexual behaviour or knowledge</li> <li>• Active or passive bullying</li> <li>• Unwillingness or tearfulness to undress or wearing layers of clothing</li> </ul>	<ul style="list-style-type: none"> <li>• Failure to thrive</li> <li>• Failure to meet physical and psychological developmental norms</li> <li>• Withdrawal</li> <li>• Stuttering</li> <li>• Unwillingness to partake in group activities</li> <li>• Clumsiness</li> <li>• Lack of co-ordination or orientation</li> <li>• Observable thriving of children away from their home environment</li> </ul>	<ul style="list-style-type: none"> <li>• Underweight</li> <li>• Reddish scanty hair</li> <li>• Sores around the mouth</li> <li>• Slight water retention on the palm or in the legs</li> <li>• Extended or slightly hardened abdomen</li> <li>• Thin and dry skin</li> <li>• Dark pigmentation of skin, especially on extremities</li> <li>• Abnormal thin muscles</li> <li>• Developmental delay</li> <li>• Lack of fatty tissue</li> <li>• Disorientation</li> <li>• Intellectual disability</li> <li>• Irritability</li> <li>• Lethargy</li> <li>• Withdrawal</li> <li>• Bedsores</li> <li>• Fractures</li> </ul>

**3) A person who, due to the presence of indicators referred to in sub regulation (2), suspects that a child has been sexually abused, or abused in a manner causing physical injury or deliberately neglected, must assess the total context of the child's situation in accordance with the following guidelines:**

- (a) Many indicators may be non-specific to abuse or neglect;
- (b) A cluster or pattern of indicators as opposed to a single isolated indicator will provide support for a conclusion of abuse or neglect;
- (c) Information about specific times of any incidents, places where incidents have taken place and the context within which incidents have taken place, which must be noted in writing, may provide support for a conclusion of abuse or neglect;
- (d) Abuse may be unintentional, but failure on the part of the parent or care-giver to prevent abuse of the child may amount to neglect;
- (e) Abuse may be physical, psychological or sexual without any visible indicators and is likely to exist if the child continuously reports threats of harm or punishment;
- (f) A series of minor incidents, any of which may, when considered in isolation, not amount to abuse or neglect, may constitute abuse or neglect when considered together;
- (g) The child's age, personality and temperament should be taken into account;
- (h) Discrepancies in the rendition of incidents by the child and his or her parents or care-givers may either provide or diminish support for a conclusion of abuse or neglect; and
- (i) Any unexplained delay in seeking medical treatment for a child who is seriously injured, should be considered as a possible indicator of abuse or neglect.

## **Duty to Report in Terms of Section 54 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007) and Section 110 of the Children's Act, 2005 (Act 38 of 2005)**

### **Section 54 of Act 32 of 2007:**

- (1) (a) A person who has knowledge that a sexual offence has been committed against a child must report such knowledge immediately to a police official.
- (b) A person who fails to report such knowledge as contemplated in paragraph (a), is guilty of an offence and is liable, on conviction, to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment.
- (2) (a) A person who has knowledge, reasonable belief or suspicion that a sexual offence has been committed against a person who is mentally disabled must report such knowledge, reasonable belief or suspicion immediately to a police official.
- (b) A person who fails to report such knowledge, reasonable belief or suspicion as contemplated in paragraph (a), is guilty of an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment.
- (c) A person who in good faith reports such reasonable belief or suspicion shall not be liable to any civil or criminal proceedings by reason of making such report.

### **Section 110 of Act 38 of 2005 as amended:**

- (1) "Any correctional official, dentist, homeopath, labour inspector, legal practitioner, medical practitioner, midwife, minister of religion, nurse, occupational therapist, police official, physiotherapist, psychologist, religious leader, social service professional, social worker, speech therapist, teacher, traditional health practitioner, traditional leader or member of staff or volunteer worker at a partial care facility, shelter, drop-in centre or child and youth care centre"
  - The above mentioned persons must have reasonable grounds to conclude that the child has been abused in a manner causing physical injury, sexual abuse or deliberate neglect.
- (2) "Any person who on reasonable grounds believes that a child is in need of care and protection may report that belief to the provincial department of social development, a designated child protection organisation or a police official."

### **Part 4 of SAPS National Instruction 3 of 2008:**

- (1) the alleged commission of a sexual offence is usually reported by –
  - (a) the victim of the offence;
  - (b) a family member, friend or colleague of the victim; or
  - (c) a person who witnessed or received information about the commission of the offence.
- (4) a person reporting his or her –
  - i) knowledge that a sexual offence has been committed against a child or a mentally disabled person; or
  - ii) reasonable belief or suspicion that a sexual offence has been committed against a mentally disabled person, as a result of the legal duty to do so in terms of Section 54 of the Act (32 of 2007), may sometimes do so out of fear of being prosecuted if he or she fails to do so.
- (5) If a person (referred to in subparagraph (4)) reports such knowledge or his or her suspicion to a police official, the member receiving the report may under no circumstances turn such person away. Such a member must consider the information and –
  - (a) If the member is satisfied that there are reasonable grounds to believe that such an offence was indeed committed, take an affidavit from the person setting out the information provided by that person, open a docket for the investigation of the offence that was allegedly committed and register the docket on the CAS (Case Administration System); or
  - (b) If the member is not satisfied that there are reasonable grounds to believe that such an offence was indeed committed, consult with the Community Service Commander who must make a comprehensive OB (Occurance Book) entry of the report and the reasons why the Commander is not satisfied that there are reasonable grounds to believe that such an offence was indeed committed and provide the number of the OB entry to the person who made the report to enable him or her to be located and be interviewed if this turns out to be necessary.

## **Sanctions – Serious Misconduct of Educators Employed by WCED Regarding the Management of Child Abuse, Deliberate Neglect and Sexual Offences**

The Employment of Educators Act, 1998 (Act 76 of 1998), as amended by the Education Laws Amendment Act, 2000 (S. 10 OF Act 53 of 2000) defines Serious Misconduct in Section 17(1) thus:

- **An educator** must be dismissed if she or he is found guilty of –
  - (a) Theft, bribery, fraud or an act of corruption in regard to examinations or promotional reports;
  - (b) Committing an act of sexual assault on a learner, student or other employee;
  - (c) Having a sexual relationship with a learner of the school where she or he is employed;
  - (d) Seriously assaulting, with the intention to cause grievous bodily harm to, a learner, student or other employee;
  - (e) Illegal possession of an intoxicating, illegal or stupefying substance; or
  - (f) Causing a learner or a student to perform any of the acts contemplated in paragraphs (a) to (e).
- The process for managing serious misconduct (including child abuse) related to public service personnel is legislated in resolution 7/2000 (Public Service Co-ordinating Bargaining Council). The disciplinary process is similar to that of an educator and if found guilty such offenders will be dismissed.

## Guidelines to School Governing Bodies regarding the Management of Child Abuse, Deliberate Neglect and Sexual Offences

1. Guidelines regarding the provision for punitive measures against staff employed by the School Governing Body due to misconduct in terms of this policy document.
- 1.1 School Governing Bodies need to ensure that applicants being considered for appointment have not been found guilty of an offence against a child in terms of the Sexual Offences Act, 2007 (Act 32 of 2007) or the Children's Act, 2005 (Act 38 of 2005).
  - SGB Clearance Certificates
    - All staff working at schools must be screened against both the National Child Protection Register and the Sexual Offenders Register. Everyone must be screened – including volunteers and people who do not work directly with children, such as cooks, gardeners and caretakers. The principal should complete the **Form 29** and send it to the Director-General of Social Development to check if the names of the staff or volunteers are on the National Child Protection Register.
    - It is an offence, punishable by up to 10 years in prison, or a fine, or both, to allow someone access to children if the person has been declared unsuitable to work with children [Section 305 (1)(c)]. A person found unsuitable to work with children could be dismissed if he or she does not disclose that information to an employer.
- 1.2 School Governing Bodies should ensure that contracts with employees make provision for disciplinary measures regarding allegations of child abuse, deliberate neglect and sexual offences made against an employee.
- 1.3 Suggestions for stipulations within the contract:
  - **Suspension:** “the employer may suspend the employee from work in any event before or after the employee has been charged with misconduct, on conditions determined by the employer. The Employer will notify the employee in writing of the suspension, the reasons for the suspension and whether the suspension will be with or without pay.”
  - **Ending of Contract:** “the Employer can immediately end the contract on conditions being acknowledged in terms of any legislation.”
  - **Sanctions:** depending on the nature of the offence, it is advisable to consult the Employment of Educators Act, 1998 (Act 76 of 1998) (Schedules 1-2). The Employer may impose any of the following sanctions:
    - Immediate dismissal;
    - Dismissal with pay as alternative for a notice period;
    - Final written warning;
    - Written warning; and
    - Reduction in pay.
- 1.4 Ensuring the best interest of the child during disciplinary hearings:
  - Ensure the safety of the child during the hearing process;
  - Ensure that the child has access to an intermediary irrespective of the child's age;
  - The child has the right to choose any person to accompany him/her for support during the hearing process;
  - When questioning consideration should be given to the child's developmental age, preference in terms of language, emotional status, concentration and cognitive ability;
  - Ensure regular breaks for the child; and
  - Ensure debriefing should it be needed.

**Guidelines to School Management Teams and School Governing Bodies regarding the Management of the Involvement of the Public Media**

- Inform the District Director via the Circuit Team Manager of a situation which bears the potential to alarm the interest of the media;
- Refer first time enquiries to the Head of Communication at the WCED;
- Decide on a person that would act as the spokesperson on behalf of the school in all further deliberations with the media;
- Ensure that staff members, parents and learners involved, refer all media enquiries to the spokesperson;
- The identity of the victim and alleged perpetrator should be kept confidential at all times;
- Be concise and only reveal essential information; and
- Make sure to focus on the support that is being given to the victim and his/her parents, as well as the alleged learner offender.



**Directorate: Employee Relations' Guidelines on the Management of Child Abuse, Deliberate Neglect and Sexual Offences**

The management of child abuse, deliberate neglect and sexual offences against children by an employee of the WCED will be guided by the following legislation:

- National Education Policy Act, 1996 (Act 27 of 1996);
- South African Schools Act, 1996 (Act 84 of 1996); and
- Employment of Educators Act, 1988 (Act 76 of 1988).

**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: .....

**Notes:**

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