

NATIONAL GUIDELINES FOR STATUTORY SERVICES TO CHILD-HEADED HOUSEHOLDS

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FOREWORD: MINISTER OF SOCIAL DEVELOPMENT/ DG

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ACCRONYMS

ACCESS	Alliance for Children's Entitlement to Social Security
AIDS	Acquired Immune Deficiency Syndrome
CBO	Community-Based Organisation
CHH	Child-Headed Household
COGTA	Cooperative Governance and Traditional Affairs
CPO	Child Protection Organisation
CRC	Convention on the Rights of the Child
CSG	Child Support Grant
DOE	Department of Education
DOH	Department of Health
DSD	Department of Social Development
ECP	Eastern Cape Province
ECD	Early Childhood Development
FBO	Faith-Based Organisation
HCBC	Home Community-Based Care
HIV	Human Immunodeficiency Virus
IDP	Integrated Development Plan
NGO	Non-Governmental Organisation
NPO	Non-Profit Organisation
NSNP	National School Nutrition Programme
OVC	Orphans and Vulnerable Children
PEM	Protein Energy Malnutrition Programme
SASSA	South African Social Security Agency
SCCS	Schools as Centres of Care and Support
STIS	Sexual Transmitted Diseases
TB	Tuberculosis
UNICEF	United Nations Children's Fund
UNCRC	United Nations Convention on the Rights of the Child
URC	University Research Company

CHAPTER 1: INTRODUCTION

Children living in child-headed households (CHH) are amongst the most vulnerable children; and the protection of their rights deserves to be the main focus of all individuals and agencies dealing with these children. These children have special needs and are extremely vulnerable to abuse; exploitation; child trafficking; and commercial sex work due to the fact that they do not have an adult to ensure their protection and safety. There is, therefore, a dire need to have guidelines for the statutory services for child-headed households to ensure that their rights are protected.

These guidelines are meant for social workers and other service providers rendering services to child-headed households. The guidelines will inform service delivery to children living in child-headed households and ensure that Section 137 of the Children's Act No. 38 of 2005 as amended is effectively implemented.

1.1 Aims of the Guidelines

The aims of these Guidelines are:

- to provide an understanding of the legal rights of children in child-headed households and highlight State's responsibilities and obligations towards such children as dictated by the international and national instruments, including the Constitution of South Africa, Act No. 108 of 1996 and other relevant legislation and policies;
- to provide a broad picture and overview of the needs of children in child-headed households;
- to identify services, resources and safety nets available for children living in child-headed households;
- to provide guidance to social workers in rendering statutory services to child-headed households;
- to assist in developing and implementing the Strategic Plan of the Department.

Note: The guidelines should be read together with the Children's Act No. 38 of 2005 as amended and the Policy Framework for Orphans and Other Children Made Vulnerable by HIV and AIDS in South Africa.

1.2 General Principles

- a. All proceedings, actions or decisions in the matter concerning a child must-
 - respect, protect, promote and fulfill the child's rights as set out in the Bill of Rights;
 - respect the child's inherent dignity;
 - treat the child fairly and equitably;
 - protect the child from unfair discrimination on any grounds, including on the grounds of the health status or disability of the child or a family member of the child;
 - recognise the child's need for development and to engage in play and other recreational activities appropriate to the child's age;
 - recognise a child's disability and create an enabling environment to respond to the special needs that the child has.
- b. If it is in the best interest of the child, the child's family must be given the opportunity to express their views in any matter concerning the child.
- c. An approach which is conducive to conciliation and problem solving should be followed, a confrontational approach should be avoided and a delay in any action or decision to be taken must be avoided as far as possible.
- d. In all matters concerning the care, protection and well-being of a child the principle that the child's best interest is of paramount importance, must be applied.
- e. Every child that is of such an age, maturity and stage of development as to be able to participate in any matter concerning herself or himself has the right to participate in an appropriate way and views expressed by the child must be given due consideration.

1.3 Definitions

Child:

Any person under the age of 18 years.

Child-Headed Household:

Section 137 of the Children's Act No. 38 of 2005 as amended stipulates the following:

The provincial head of the Department of Social Development may recognise a household as a child-headed household if –

- the parent, guardian or caregiver of the household is terminally ill, has died or has abandoned the children in the households;
- no adult family member is available to provide care for children in the household;
- a child over the age of 16 years has assumed the role of caregiver in respect of the children in the household;
- it is in the best interest of the children in the household.

Orphan:

According to the Children's Act No. 38 of 2005 as amended, an orphan is a child who has no surviving parents to care for him or her. Literature identifies two types of orphans, a 'single orphan' where one parent is deceased and a 'double orphan' where both parents are deceased.

Vulnerable Child:

A child whose survival, care, protection or development may be compromised due to a particular condition, situation or circumstance and which prevents the fulfillment of his or her rights (OVC Policy Framework).

Vulnerable children include amongst others:

- Chronically and / or terminally ill children;
- Orphaned children;
- Children with physical disabilities and incurable diseases;
- Children infected and affected by HIV and AIDS;
- Children from dysfunctional families;
- Children in homes headed by other children;
- Children in poor households and communities;
- Children living and working on the streets.

Caregiver:

This refers to any person other than a parent or guardian, who factually cares for a child and includes-

- a foster parent;
- a person who cares for a child with the implied or expressed consent of a parent or guardian of the child;
- a person who cares for a child whilst the child is in temporary safe care;
- the person at the head of a child and youth care centre where a child has been placed;
- the person at the head of a shelter;
- a child and youth care worker who cares for a child who is without appropriate family care in the community;
- the child at the head of a child-headed household.

Primary Caregiver:

This is a person who has the parental responsibility or right to care for the child and who exercises that responsibility and right. A person older than 16 years, whether or not related to a child, who takes primary responsibility for meeting the daily care needs of that child (Social Assistance Act No.13 of 2004).

Care:

It includes the following:

- Within available means, providing the child with a suitable place to live, living conditions that are conducive to the child's health, development and well-being and the necessary financial support;
- Protecting the child from maltreatment, abuse, neglect, degradation, discrimination, exploitation and any other physical, emotional or moral harm or hazards;
- Guiding, directing and securing the child's education and upbringing in a manner appropriate to the child's age, maturity and stage of development;
- Guiding the behaviour of the child in a humane manner.

Alternative Care:

Means the care of a child in accordance with section (6) of the Children's Act.

Drop in Centre:

A facility providing basic services aimed at meeting the emotional, physical and social development needs of vulnerable children.

Children's Court:

Every magistrate's court with jurisdiction on any matter arising from the application of the Children's Act for the area of its jurisdiction and deals with matters specifically related to the care and protection of children.

Social Worker:

This refers to a person who is registered or deemed to be registered as a social worker in terms of the Social Service Professions Act, 1978 (Act 110 of 1978).

Abuse:

In relation to a child, it means any form of harm or ill-treatment deliberately inflicted on a child, and includes-

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

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.

Exploitation:

In relation to a child, includes-

- all forms of slavery or practices similar to slavery, including debt bondage or forced marriage;
- sexual exploitation;
- servitude;
- forced labour or services;

- child labour prohibited in terms of section 141;
- the removal of body parts.

1.4 Legal Framework

The following are legal frameworks that must be considered when rendering statutory services to child-headed households:

1.4.1 International Legislation

- United Nations Convention on the Rights of the Child;
- Hague Convention on The Protection of Children and Co-operation in Respect of the Inter-country Adoption, 1993;
- African Charter on the Rights of the Child;
- Hague Convention on Civil Aspects of International Child Abduction;
- United Nations Protocol to Prevent Trafficking in Persons;
- International Labour Organisation Convention No. 182 on the Elimination of the Worst Forms of Child Labour.

1.4.2 National Legislation

- The Constitution of the Republic of South Africa, Act 1996 (Act No. 108 of 1996);
- Children's Act (Act No. 38 of 2005 as amended);
- Social Assistance Act (Act No. 13 of 2004);
- Guardianship Act (Act No. 192 of 1993);
- Domestic Violence Act (Act No. 126 of 1998);
- Sexual Offences Act (Act No. 32 of 2007);
- Child Justice Act (Act No. 75 of 2008);
- Publication Act (Act No. 65 of 1996);
- South African Schools Act (Act No. 84 of 1996);
- Wills Act (Act No. 7 of 1953);
- Interstate Succession Act (Act No. 81 of 1987);
- The Administration of Estates Act (Act No. 5 of 2008).

1.5 Defining a child-headed household

Section 137 of the Children's Act No. 38 of 2005 as amended, makes provision for child-headed households and it stipulates the following:

The provincial head of social development may recognise a household as a child-headed household if –

- the parent, guardian or caregiver of the household is terminally ill, has died or has abandoned the children in the households;
- no adult family member is available to provide care for children in the household;
- a child over the age of 16 years has assumed the role of caregiver in respect of the children in the household;
- it is in the best interest of the children in the household.

Section 137 (2) further provides that a child-headed household must function under the general supervision of an adult. This adult may be designated by a children's court, an organ of state or a non-governmental organisation.

1.6 The phenomenon of child-headed households

The phenomenon of child-headed households is complex and multifaceted. It impacts on the societal framework and has profound implications for the well-being of children and the realisation of their rights. It disrupts family and community functioning and affects the rearing and development of children.

A child-headed household, therefore, is a household where in the absence of or as a result of the terminal illness of a parent or caregiver (an adult), a child or youth has assumed the role of a primary caregiver in respect of another child or other children in the household by providing the basic needs such as food, clothing and psychological support.

The growing numbers of orphans place a huge burden of care on extended family networks and communities that traditionally support these children. Due to the overwhelming number of orphans, coupled with poverty, a number of programmatic responses tend to focus on material support aimed at meeting the basic needs of the children. An orphan is defined as a child who has lost one or both parents. The death of a parent impacts negatively on the protection, quality of care, psycho-social well-

being and access to basic services for any affected child. It further increases the child's vulnerability to exploitation and abuse. Research indicates that in addition to psychological distress resulting from the death of one or both parents, orphaned children are more vulnerable to poverty, illness and abuse. They are at higher risk of HIV infection, malnutrition, stigma and isolation. Data suggests that adolescents between ages 12 and 17 years make up the majority of orphaned children in all countries (Children on the Brink, 2004). Girl children are especially vulnerable in the context of HIV and AIDS and child-headed households. Due to gender-based discrimination, girl children are most likely to take care of a terminally ill parent or family member. This deprives them of the right to education and they may be further subjected to child labour. Orphaned girls are also especially vulnerable to sexual exploitation and trafficking.

Households in which children live alone, or are taking on the main responsibilities of care and support, are a reality and inevitable in the context of poverty and HIV and AIDS. It is important therefore that appropriate care and support arrangements are given to children who bear the burden of these adult responsibilities. The Children's Act No. 38 of 2005 as amended makes provision for adult supervision of child-headed households.

In accordance with the South African Constitution Act No. 108 of 1996 and the Children's Act No. 38 of 2005 as amended, the rights of children living in child-headed households are compromised in totality. The loss of a traditional family environment diminishes the child's safety net against abuse, exploitation and violence. Most significantly the child's rights to education, rest, play and recreation are compromised by having to take on adult responsibilities prematurely, taking care of sick and dying caregivers/parents and after their passing on, having to take sole charge of the household.

Key following points are important to remember with regards to child-headed households:

- A child-headed household is one which is led by a child over the age of 16 years. This child takes on responsibilities usually carried out by parents, including providing care to other children;
- Child-headed households have been observed in parts of Africa, which have been badly affected by AIDS. They are a new phenomenon in those areas. The main cause of this change is the large number of young adults dying from AIDS;

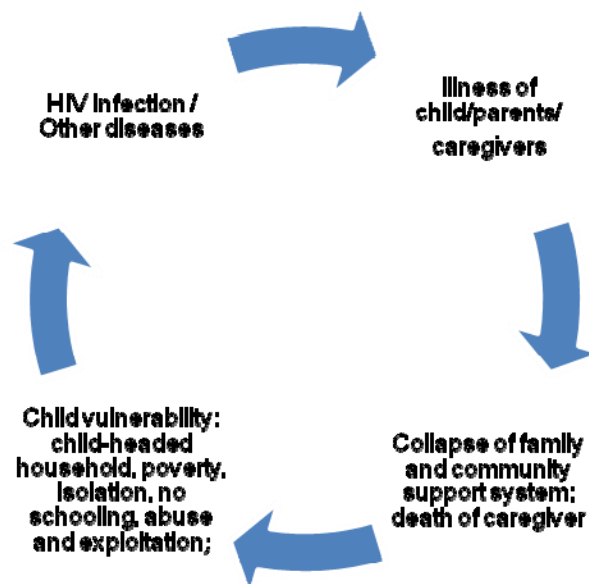
- Some documents state that child-headed households are evidence that the extended family system is collapsing and failing to cope. Research proved that most child-headed households receive support from their extended families. Child-headed households are one way in which the extended family is adapting to cope with problems produced by HIV and AIDS and other factors;
- Child-headed households face a wide range of issues; the most pressing relating to survival needs and poverty;
- Child-headed households can be helped to cope more effectively through intensive levels of support. Effective support mechanisms include visits from community volunteers, intensive levels of material support and training in effective parenting, life skills, technical skills, health care, and education etc.

CHAPTER 2: NEEDS OF CHILD-HEADED HOUSEHOLD

Introduction

The needs of children in child-headed households are complex and diverse. Of importance are their rights and dignity that are compromised. Research indicates that HIV and AIDS is one of the contributing factors to the existence of child-headed households. When the caregiver falls ill, he or she is not able to contribute economically to the household. Also his or her ability to provide emotional security, psychological stability and care to the children is compromised.

Figure 1: Cycle of Vulnerability



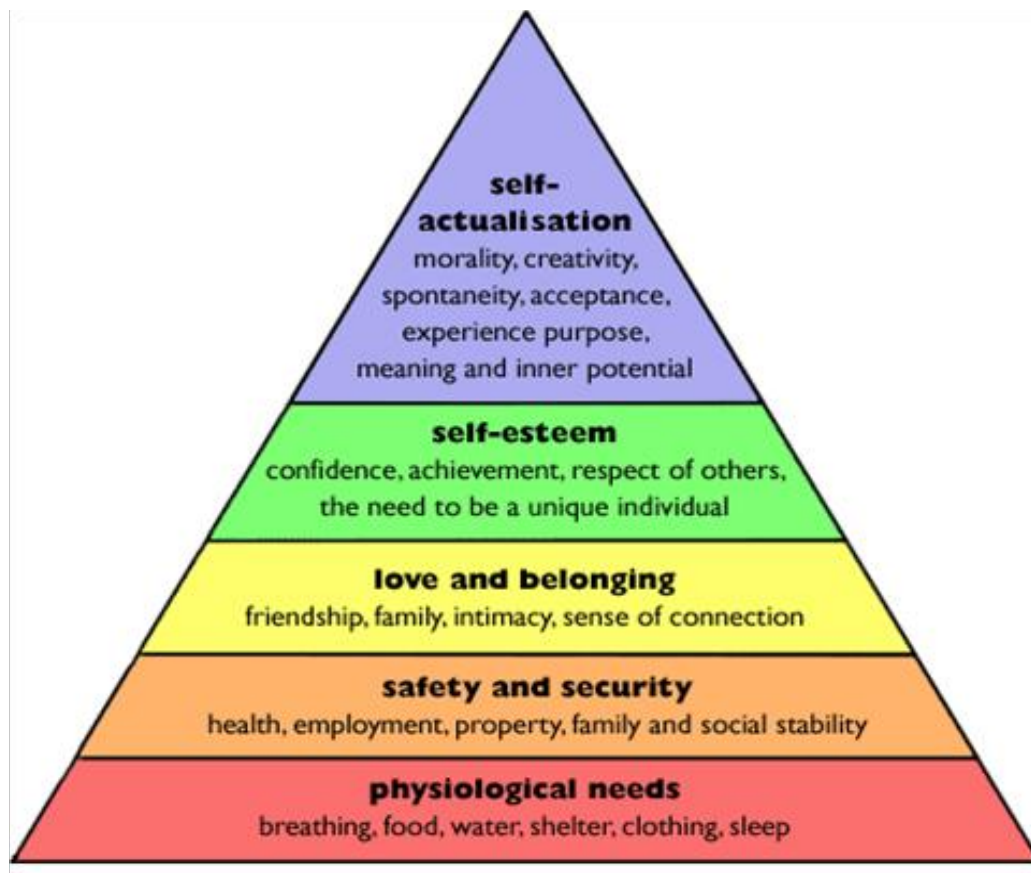
Often older children in child-headed households are found to be fulfilling parenting roles and tasks e.g. Household chores, helping siblings with homework, providing emotional support, taking care of ill parents and providing spiritual guidance to family, siblings etc. They are vulnerable to all types of abuse because the family environment that served as a safety net has been eroded. These children are at risk of contracting HIV and AIDS as a result of possible sexual exploitation. They are often poor; live in poor conditions and are exposed to hard labour. They are at risk of poor education as they quite often lack money to pay for their schooling or that of their siblings. Other risks are unemployability because of poor education and lack of skills; disease; commercial sex work; crime; pregnancy; poor or no shelter and no knowledge about their rights. They are exposed to emotional trauma, as they may have to cope with

multiple losses in the form of death, sibling dispersal, relocation and reconstitution of the family after the death of parents.

2.1 Needs of child-headed households in accordance with Maslow's hierarchy of needs

This section looks at the needs, assistance and protection of children's rights as addressed by Maslow's hierarchy of needs. This hierarchy of needs can also be used to illustrate the needs of children in child-headed households and it provides a guide for caregivers and service providers working with these households to recognise the needs and to plan programmes to address them. These needs are well presented in the following pyramid consisting of five levels:

Figure 2: Maslow's hierarchy of needs



The first lower level is being associated with physiological and biological needs which include need for food, water etc. These are regarded as the strongest needs because if a person were to be deprived of all needs, physiological needs would come first in a person's search for satisfaction. Higher up above physiological needs are safety needs. When physiological needs are met, they no longer control a person's thoughts or behaviour. Security needs become more important and active. Once biological and safety needs are met, people want to overcome feelings of loneliness and isolation. The need to be respected, to feel more confident and valuable is next in the hierarchy. When these are not met the person feels helpless, worthless and inferior. The top levels are termed growth needs and are associated with psychological needs. When all the needs are satisfied, the needs for self-actualisation are activated. The higher needs in this hierarchy only come into focus when the lower needs in the pyramid are met.

For further explanation regarding the cycle of needs in accordance with Maslow's Hierarchy refer to Annexure A. It is imperative for the social workers to have a clear understanding of the hierarchy of needs as outlined by Maslow in order to effectively respond and intervene, which will result in satisfactory outcomes or results to child-headed households.

CHAPTER 3: THE RIGHTS OF CHILDREN IN CHILD-HEADED HOUSEHOLDS AND SERVICES AVAILABLE

Introduction

This section will present the critical rights of children in child-headed households as well as systems and processes to address them. National norms and standards concerning child-headed households relate to some of the critical rights of children in these households. This chapter presents legal mandates for these rights but also provides information on how these rights can be realised. It is important that everyone who works with child-headed households must have knowledge of existing processes and responses and must be able to advise child-headed households accordingly.

National norms and standards concerning child-headed households that need to be adhered to relate to the following:

- Maintaining a safe and nurturing environment;
- Ensuring official birth registration, access to social grants, social and community services and access to education and the development of skills programmes;
- Maintaining and preserving the property belonging to the child-headed household;
- Preventing exposure to harm and protecting the children from community risk factors;
- Accommodating the special needs of a child living in the household including disability, chronic illnesses or other vulnerability issues and obtaining special grants;
- Ensuring the participation of the children living in the household in all matters affecting the functioning of the household;
- The monitoring and supervision of the household by the supervising adult on a regular basis;
- General issues such as, the siblings in a household should as far as is possible and practical remain together.

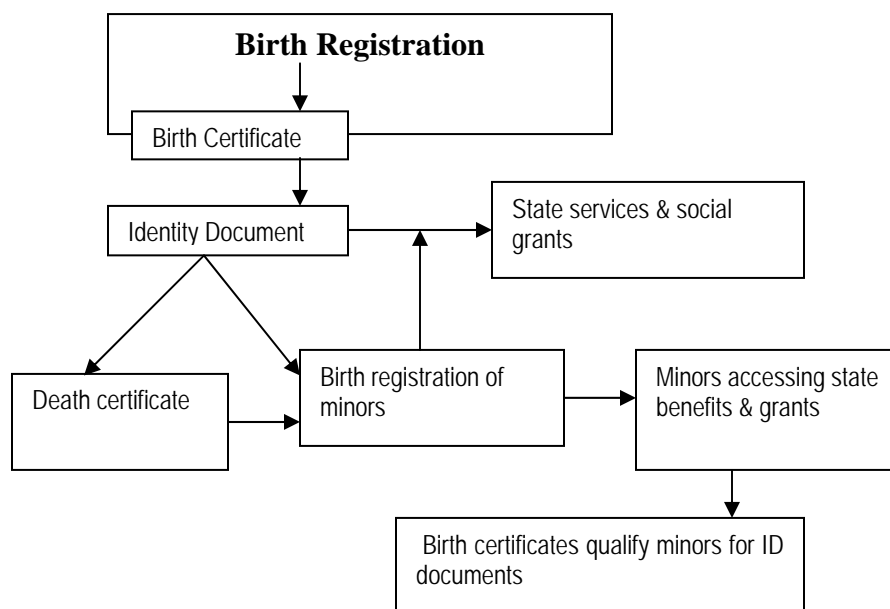
3.1 Right to name and nationality

Section 28(1) (a) of the Constitution of the Republic of South Africa gives children the right to a name and nationality from birth. This not only ensures that children's births are recorded in the population register but also that vulnerable children are able to gain access to available services and social security by having the necessary identification documents.

Children living in child-headed households must enjoy the same rights as other children living with their parents or adults. The Births, Marriages and Deaths Act No. 51 of 1992 provides for the registration of birth, death, marriage and the procedures and requirements to obtain the various certificates, including identity documents. According to this Act, a child must be registered within 30 days of birth by one or both parents. The Act and relevant regulations further provide procedures for late birth registration. It also outlines provisions for determining the surname of a minor based on the marital status of the parents.

Child-headed households are one category of vulnerable children that require assistance in accessing birth registration and the necessary benefits that are aimed at preventing intergenerational marginalisation. Finding children to be in need of documentation, the social worker should refer to the illustrated process below:

The ideal birth registration system should work as follows:



Source: Adapted from ACCESS Report: Rapid Appraisal of Home Affairs Policy and Practice Affecting Children in South Africa (2007)

There are different categories of birth registration and each of these has its own requirements relating to proof of birth. The categories are as follows:

Categories of birth registration and requirements	Supporting documents for proof of birth
1. Births registered within the first 30 days	<p>Maternity certificate or clinic card.</p> <p>In cases of unmarried parents, if the father acknowledges paternity and the child takes his surname, the father's ID is required for birth registration. The unmarried father has to be present at the registration of the birth.</p>
2. Birth registered between 30 days and 12 months after birth (late)	<p>Maternity certificate or clinic card plus written explanation as to why the birth is registered late.</p>
3. Births registered between 1 year and 15 years (late)	<p>An affidavit by a parent or where parents are deceased, by a close relative at least 10 years older than the child – confirming the child's identity status and (one or more of the following):</p> <ul style="list-style-type: none"> - a certificate by hospital or clinic where the child was born – signed by person in charge with an official stamp; - original clinic card with stamp; - confirmation of the child's personal details from the school register of the first school attended by the child (also referred to as the school extract letter) – on school's official letterhead, signed by the principal, with official school stamp; - statement of person who has personal knowledge of the child and who can attest to applicant's parentage (traditional leaders, ward councilor, chief, headman or priest). This person must accompany the applicant and will be separately

	<p>interviewed by an official from the Department of Home Affairs;</p> <ul style="list-style-type: none"> - baptismal certificates obtained within five years of birth; - where the child has been abandoned, a social workers' report will be required.
4. Births registered after 15 years (late)	All of the above requirements; and the application should also include application for an ID.

It is crucial for child-headed households to have documentation and to be assisted in accessing them because through documentation the children will access services available in all government departments.

3.2 Inheritance and Property Rights

Inheritance and property rights are important to child-headed households and the norms and standards do relate to the protection of property rights for children living in these households. When a parent or parents die, the remaining minor children are left facing a number of challenges and the situation is worsened if no plans were made in respect of what should happen to the children and the estate of the parents. Children do not understand what has happened and what is going to happen to them. Remaining relatives and adults are also at a loss regarding what to do with the children if no plans have been made and some relatives may take advantage of the children and take the property that belonged to the deceased parents. One of the challenges facing children whose parents have died is the loss of family property, or a phenomenon known as "property grabbing". Cases have been reported of relatives (even long lost relatives) coming to claim furniture, or take land, use money for themselves and their own children and not those of the deceased. Children living in child-headed households must therefore be enabled to assume responsibility for any property or possessions belonging to the household. Social workers have a role to play in supporting children to maintain and preserve any property belonging to the household.

In order to protect inheritance and property rights of children living in these households, social workers should have an understanding of the following issues: succession planning and guardianship.

Inheritance is property received from a deceased person's estate by heirs and or beneficiaries. Persons entitled by law as heirs and persons chosen by the deceased in his or her will or nominated in a policy are beneficiaries. The inheritance rights of children can be protected by the parents or persons wishing to bequeath property to children by drawing up a will. The issues relating to the drafting of a will are governed by the Wills Act No. 7 of 1953, which also regulates the execution of wills. The Act provides for the formalities required in the execution of a will; the interpretation of wills; the validity of certain wills executed in accordance with the internal law of certain other states and the competency of persons involved in the execution of wills.

3.2.1 What is Succession Planning?

Succession planning is one of the preventative measures aimed at minimising the extreme vulnerability of children once their parent or parents die. It is an approach that ensures that the inheritance rights of the child or children are protected but also it ensures that there is continuity in the lives of the children after the death of their parent or parents. Therefore succession planning should be integrated into service delivery to child-headed households especially in cases where a parent or guardian is terminally ill.

When helping with succession planning, a social worker can target the following people and provide the relevant services and supports:

	Informed Services	Legal Process
Sick parent/caregiver	<ul style="list-style-type: none"> - Counseling on disclosure for children - Creation of memory books and family tree - Addressing income concerns 	<ul style="list-style-type: none"> - Writing will, estate planning - Support and advice with appointing a guardian or guardians, a process that is done at the High Court.
Children	<ul style="list-style-type: none"> - Support with school-fees - Vocational training - Understanding parent's illness - Support to be healthy - Offer counseling 	
Guardians	<ul style="list-style-type: none"> - Training on the needs of the children - Building relationship with children 	<ul style="list-style-type: none"> - Approved by the High Court

Community	<ul style="list-style-type: none"> - Sensitisation on needs of children; - Mobilising support for children; - Dealing with stigma and discrimination; - Building community-based responses. 	
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3.2.2 Appointment of a guardian

The appointment of a guardian before a parent or parents die is one way of ensuring the protection of property and inheritance. In cases where parents are too sick to take care of the children, the Children's Act No. 38 of 2005 provides for mechanisms where other persons who have an interest in the development and well-being of the children can be appointed as guardians for them so that they are able to look after the interest of the children and assist them.

The Children's Act No. 38 of 2005 section 18(2) provides the following description of the role of a guardian:

- to administer and safeguard the child's property and property interests;
- assist and represent the child in administrative and contractual and other legal matters;
- give or refuse any consent required by law in respect of the child, including:
 - consent to the child's marriage;
 - consent to the child's adoption;
 - consent to the child's departure or removal from the Republic;
 - consent to the child's application for a passport;
 - consent to the alienation or encumbrance of any immovable property of the child.

In the acquisition of guardianship, two options could be followed:

Option 1: Appointment through a will

One way of appointing a guardian is set out in the Children's Act No. 38 of 2005. The Act stipulates, in section 27, that a parent who has sole guardianship, may appoint a fit and proper person as the guardian for his or her child in the event of death by stipulating this in a written will. The will must clearly state who will have guardianship of the children and can also include provisions relating to who shall have the care of the child.

Option 2: High Court application

In addition, section 24 of the Children's Act also allows for any person having an interest in the care, well-being and development of the child to apply to the High Court for an order granting guardianship of the child to such person. The application to the High Court is brought by an attorney. This application should be accompanied by a report certifying the reasons why that person must be appointed as a guardian. In order for the High Court to be able to determine the suitability of such a guardian, the report should contain a current analysis of the person's adaptive behaviour, appropriate social skills, education, mental and physical condition.

In cases where a guardian needs to be appointed because the natural guardian of the child is unable to assist the child due to some form of disability, the report should provide a description of the nature and type of disability as well as an explanation of how the disability affects the natural guardian's decision making abilities.

The next step involves filing a petition with the High Court. After this is done, summons will be served to the prospective ward. A hearing will be held at which evidence is presented to prove that the prospective ward is disabled. During this hearing, the potential ward usually has an attorney. The evidence must show that guardianship is appropriate and required. Ultimately, the hearing will decide who or what entity will act as guardian and what the authority of the guardian will be. This process usually takes between two weeks to two months to complete.

The law allows for the appointment of a temporary guardian if there is an urgent need for such appointment; for instance, if the natural guardian has to leave the country for a couple of months and certain decisions need to be made regarding the child whilst the natural guardian is away (e.g. medical treatment). The grounds for such an emergency application should be ascertained and if the High Court decides to grant such temporary or urgent guardianship, it is time limited and has to be reviewed within a specified time period.

These options should be made known, especially to parents who are terminally ill so that they are able to appoint fit and proper persons to look after their children when they pass on. The social worker should assist prospective guardians by referring them to legal aid centres or law clinics to obtain services of attorneys.

Important points to remember:

- Guardianship and care of children can be passed on through a will if the will specifically states this.
- If the will does not state guardianship specifically, or if a person who has sole guardianship dies without a will stipulating who shall have the care and/or guardianship of a child, then persons interested in the care and well-being of children can apply to the High court to be appointed as such.
- To have a caregiver (such as a grandmother, aunt or an uncle) appointed as a guardian, an application will have to be made to the High Court.
- Only guardians (and not caregivers) can assist children to sell immovable property (such as a house) that they may have inherited in a will, or help them to sign documents that relate to the execution of an estate.
- An unmarried mother has sole guardianship of her child.
- If she is a minor herself, her guardian becomes the guardian of her child.

3.2.3 Drawing up a Will

The writing of wills is rarely practiced especially by many African communities because of:

- the belief that preparing for death can cause problems;
- an understanding and belief that the extended family network will take care of the remaining children though most of the time this does not happen in reality. This is due to the breakdown of the extended family, coupled with poverty and the financial burden of caring for orphaned children;
- a belief in the tradition that women and children cannot inherit property but the property is distributed by the remaining elders to whoever is deemed fit to take care of the children after the death of the parents;
- the fact that generally most people are not educated on how to prepare wills and low literacy limits preparation of wills. In rural areas particularly there is very little knowledge and experience with legal issues and there are limited organisations that advise people on their legal rights.

This is where a social worker can assist with information and the practical skills in drawing up wills.

What is a will?

A will is a document containing the directives that the deceased gives on how his/her property should be divided. A will ensures that the testator's wishes are fulfilled regarding the distribution of his/her property. It can save the family a lot of heartache and can certainly ensure that the children grow up in an environment that is in their best interest. A will can also minimise family conflicts that often arise when everyone wants something or everything from the deceased estate. In a domestic partnership, a surviving partner and the children do not risk losing their home and other comforts that they were accustomed to before the death of their loved one. It should be noted that any verbal statements or discussions about distribution of the deceased estate do not constitute a will.

Any person over the age of 16 can make a will, as long as they know and understand what they are doing. In a will you can leave your property to anyone you wish - wives, husbands, children, relatives, friends or strangers. A will must be made in writing and any two people older than 16 years could be used as witnesses (as long as they are not beneficiaries or chosen executors). It must be initialed on every page and signed in full on the last page, in the presence of the witnesses. The person making the will is called the testator. The witnesses must also initial on every page and sign in full on the last page. The testator and the witnesses must all be present at the same time when the will is signed. If these requirements are not met the will shall be regarded as invalid. Anyone can be an heir or beneficiary to the deceased estate as long as that person has no bearing in the "dying" of the person who has made that will.

NB. The old laws provided that unless spouses specifically disinherited each other on divorce, they would be entitled to inherit the estate of the deceased ex-spouse. This has changed. If a person is divorced and dies without a will, the Act assumes that upon divorce, spouses intended to disinherit each other, unless a contrary intention is presented. Therefore if a divorced mother with children dies without leaving a will, the ex-spouse does not automatically inherit her property.

When is a will a valid Will?

- When written by the testator or with instructions from the testator;
- When signed by the testator in the presence of two competent persons;

- When initialed by the testator and witnesses at the foot of each page and signed in full on the last page;
- When it is written in permanent ink or typed, not written in pencil;
- It must be clearly dated;
- If the will consists of more than one page, the testator and witnesses should initial each page other than the page on which the will ends;
- The witnesses may not be executors or beneficiaries;
- When the will is commissioned by a Commissioner of Oaths to verify the testator's identity, if the testator signed the will by making a mark.

An example of a Will

Last Will and Testament of Zodwa Zingitha of 14 Dustpan Village, Ermelo, Mpumalanga

- (1) I hereby cancel all previous wills made by me.
- (2) I appoint as Executor of my estate, my brother, Sipho Zingitha (ID No. 000000000) of 17 Dustpan Village, Ermelo.
- (3) I bequeath the following legacies:
 - (a) to my cousin, Nozi Majozi, (ID No. 000000000) R800 (eight hundred rand) and all my clothes.
 - (b) to Mlawuzi Primary School in Ermelo, the sum of R200 (two hundred rand).
- (4) The rest of my estate I leave to my sister-in law, Nolizwe Zingitha (ID No. 000000000) , nee Ntombela. If she does not survive me, I leave the rest of my estate to my eldest daughter, Noluntu Zingitha (ID No. 000000000).
- (5) Should I die and leave my children as minors, I appoint my brother Sipho Zingitha to be their guardian.

SIGNED by: Zodwa Zingitha, the testator of this will, in the presence of the undersigned witnesses who signed in the presence of the testator and each other, all being present at the same time at Ermelo on 15 February 2010.

.....
Zodwa Zingitha
Testator

As witnesses:

1. Sophie Nduna -----

2. Jane Paul -----

Source: Adapted from: Basic Legal Advice Handbook, Volume 1, South African Women Lawyers Association, 2007.

3.4 Right to protection from abuse, maltreatment and neglect

Section 28 (1)(d) of the Constitution deals with the child's right to be protected against maltreatment, neglect, abuse or degradation. This imposes a duty on private individuals as well as the State. It requires the State to act positively to prevent abuse as well as to ensure protection in the context of legislative and policy protection. The norms and standards relating to children in child-headed households similarly prescribe that such children should not be exposed to any form of violence, abuse, child labour, maltreatment or degradation. It is important for social workers working with child-headed households to ensure that a thorough risk assessment is undertaken before the household can be recognised as a child-headed household. Risk assessment should be an ongoing process at all stages of service delivery. Secondly, social workers should be familiar with procedures relating to reporting abuse and neglect and apply them whenever appropriate.

Child protection laws are not limited to the Children's Act but include the Domestic Violence Act, and the Sexual Offences Act. In particular there are provisions in the Children's Act that criminalise, for instance, child abuse and deliberate neglect; forced marriage and the exploitation of children. The Sexual Offences Act also creates a range of new offences to protect children from sexual abuse, such as sexual exploitation of children, child sex tourism and grooming. Children in child-headed households too are protected by all these laws of the country.

3.4.1 Reporting of an abused or neglected child and child in need of care and Protection:

Section 110 of the Children's Act No. 38 of 2005 as amended outlines the following:

- Any correctional official, dentist, homeopath, immigration official, labour inspector, legal practitioner, medical practitioner, midwife, minister of religion, nurse, occupational therapist, physiotherapist, psychologist, religious leader, social service professional, social worker, speech therapist, teacher, traditional health practitioner, traditional leader or member of staff or volunteer worker at a partial care facility, drop-in centre or child and youth care centre who on reasonable grounds concludes that a child has been abused in a manner causing physical injury, sexually abused or deliberately neglected, must report that conclusion in the prescribed form to a designated child protection organisation, the provincial department of social development or a police official.

- 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.
- A person referred to in the above subsections—
 - must substantiate that conclusion or belief to the provincial department of social development, a designated child protection organisation or police official;
 - who makes a report in good faith is not liable to civil action on the basis of the report.
- A police official to whom a report has been made or who becomes aware of a child in need of care and protection must—
 - ensure the safety and well-being of the child concerned if the child's safety or well-being is at risk;
 - within 24 hours notify the provincial department of social development or a designated child protection organisation of the report and any steps that have been taken with regard to the child.
- The provincial department of social development or the designated child protection organisation to whom a report has been made , must—
 - ensure the safety and well-being of the child concerned, if the child's safety or well-being is at risk;
 - make an initial assessment of the report;
 - unless the report is frivolous or obviously unfounded, investigate the truthfulness of the report or cause it to be investigated;
 - if the report is substantiated by such investigation, without delay initiate proceedings in terms of this Act for the protection of the child; and
 - submit such particulars to the Director-General for inclusion in Part A of the *National Child Protection Register*
- A designated child protection organisation:
 - to whom a report has been made must report the matter to the relevant provincial department of social development. The provincial head of social development must monitor the progress of all matters reported.

- The provincial department of social development or designated child protection organisation which has conducted an investigation as contemplated must report the possible commission of an offence to a police official. The department may:
 - take measures to assist the child, including counseling, mediation, prevention and early intervention services, family reunification and rehabilitation, behaviour modification, problem solving and referral to another suitably qualified person or organisation;
 - if it is in the best interest of the child not to be removed from his or her home or place where he or she resides, but where the removal of the alleged offender from such home or place would secure the safety and well-being of the child, request a police official in the prescribed manner to take the steps to ensure the removal of the offender from the family home.

Procedures to be followed when reporting a case

How: A report may be made verbally, telephonically, in writing, faxed or in person. The prescribed Form should be completed as soon as possible once abuse is identified. Delay in reporting may be detrimental to the child.

Who: Social workers, Teachers, Doctors, Nurses, Institutions, (includes crèches, children's homes, temporary safe care).

To whom: The prescribed Form must be forwarded to the local Department of Social Development where the child resides or the nearest district office. Irrespective of who identified the abuse, a prescribed Form must be completed to ensure the child's safety and well-being.

3.4.2 National Child Protection Register

If a child in a child-headed household is abused or deliberately neglected, a report has to be made to the National Child Protection Register using prescribed procedures. In terms of Section 111 of the Children's Act No. 38 of 2005 as amended, the Director-General must keep and maintain a National Child Protection Register, which consists of Part A and Part B.

The purpose of Part A of the register is to:

- have a record of abuse or deliberate neglect inflicted on specific children;

- have a record of the circumstances surrounding the abuse or deliberate neglect inflicted on the children;
- use information in the Register in order to protect these children from further abuse or neglect;
- monitor cases and services to such children;
- share information between professionals that are part of the child protection team;
- determine patterns and trends of abuse or deliberate neglect of children;
- use the information in the Register for planning and budgetary purposes to prevent the abuse and deliberate neglect of children and protect children on a national, provincial and municipal level.

The purpose of Part B of the Register is to keep a record of persons who are unsuitable to work with children and to use the information in the Register in order to protect children in general against abuse from these persons. In relation to child-headed households, the Act states clearly that no person who has been found unsuitable to work with children may provide services to them and particularly no such persons can be designated as supervising adults for child-headed households. This therefore means that before a social worker, court or child protection organisation may designate a supervising adult, they have to make sure that his or her name does not appear in Part B of the National Child Protection Register. The regulations to the Children's Act provide the necessary procedures to access information from the register.

3.5 Right to Education

Access to education is important for children in child-headed households. Children living in child-headed households who are of school going age must attend school regularly and receive any necessary assistance to enable them to attend school. The South African Schools Act No. 84 of 1996 makes school attendance compulsory for learners between the ages of 7 and 15 years and provides for learners to be exempted from the payment of school fees under certain conditions. The Act stipulates that parents or guardians who do not ensure that their children are at school, and any other person keeping a child who is subject to compulsory schooling out of school (for example because the child must work) commit an offence in terms of the Act. The Act further consists of procedures to waive school fees and these procedures facilitate access to free schooling for the most vulnerable children (Sections 39(4) and 61).

The Education Laws Amendment Act No. 24 of 2005 authorises the Minister of Education to identify categories of schools that may not charge any school fees. The implication is that caregivers and organisations working with child-headed households can identify non-fee paying schools in areas where children live and enrol children in such schools. They can also assist children to apply for school fees to be waived if children attend at schools that charge fees. Orphans and children in foster care, as well as those whose caregivers receive the Child Support Grant (CSG) are always exempt from school fees. In practice, though, very few of the children eligible for exemption have applied for it. Low uptake has been largely a result of parents' ignorance and poor communication on the part of the schools that fail to inform parents of the policy.

Children in child-headed households should be assisted to have access to nutritious food while in school. Introduced in 1994 by government as part of the Reconstruction and Development Programme (RDP), the National School Nutrition Programme (NSNP) provides needy learners with a healthy meal at school to enhance their educational experience. The purpose of the NSNP is to contribute to the quality of education by enhancing pupils' learning capacity (by alleviating hunger), improving school attendance and punctuality and to contribute to general health development. The Department of Education introduced a national ranking system (Quintile system) to measure how poor a school is. Quintile 1 is the poorest of all. National Treasury allocates funding to Quintile 1 schools to enable them to provide feeding programmes to vulnerable children. Social workers and organisations working with child-headed households should find out the ranking of local schools and wherever possible facilitate enrolment of children from child-headed households in schools that offer feeding programmes. The South African Schools Act No. 84 of 1996 provides for the exemption from school fees for learners attending Quintile 1 and 4 schools, including High schools.

For children in child-headed households to access education, social workers can help by -

- providing child-headed households with information that will help them to access schools and ECD programmes;
- writing application letters to school managers requesting children from child-headed households to be exempt from paying schools fees;
- obtain information on the availability of the National School Nutrition Programme and Quintile ranking of local schools for referral purposes.

3.6 Right to Health Care

This section looks at issues which affect the access of orphans and other vulnerable children to health care. Many of the barriers to accessing health care are the same as those which prevent children from accessing education.

Key barriers to access health care for orphans and other vulnerable children are:

- Lack of money;
- Distance to the health facility and availability of transport;
- Lack of time to seek health care;
- Lack of a family caregiver;
- Lack of health knowledge among children and caregivers;
- Negative attitudes and limited skills of some health workers;
- Lack of appropriate services at health care settings.

3.6.1 Consent to Medical Treatment and Surgical Operation: Section 129 of the Children's Act No. 38 of 2005 as amended.

The Children's Act seeks to address issues related to access to medical treatment and surgical operations by children in child-headed households. In the absence of adult caregivers, children in these households may struggle to access certain types of treatment which would otherwise require the consent of a caregiver or guardian. A child living in a child-headed household may consent to his or her medical treatment if:

- the child is over the age of 12 years;
- the child is of sufficient maturity and has the mental capacity to understand the benefits, risks, social and other implications of the treatment.

A child may consent to the performance of surgical operation on him or her if:

- the child is over the age of 12 years;
- the child is of sufficient maturity and has the mental capacity to understand the benefits, risks, social and other implications of the surgical operation;
- the child is duly assisted by his or her parent or guardian.

3.6.2 Consent for HIV-Testing

According to Section 130 of the Children's Act No. 38 of 2005 as amended, no child may be tested for HIV except when it is in the best interest of the child and consent has been given. Consent for HIV-testing on a child may be given by:

- the child, if the child is 12 years of age or older; or under the age of 12 years and is of sufficient maturity to understand the benefits, risks and social implications of such a test;
- the parent or caregiver, the provincial head of social development, a designated child protection organisation arranging the placement of the child; if the child is 12 years of age or older; or under the age of 12 years and is not of sufficient maturity to understand the benefits, risks and social implications of such a test;
- the superintendent or person in charge of a hospital, if the child is 12 years of age or older; or under the age of 12 years and is not of sufficient maturity to understand the benefits, risks and social implications of such a test; and the child has no parent or caregiver and there is no designated child protection organisation arranging the placement of the child;
- the children's court, if consent is unreasonably withheld; or the child or the parent or caregiver of the child is incapable of giving consent.

3.7 The Right to social assistance and social security

Section 27(1) (c) of the Constitution of the Republic of South Africa states that "everyone has the right to access social security, including, if they are unable to support themselves and their dependants". It obliges the State to take reasonable legislative and other measures within its available resources, to achieve the progressive realisation of each of these rights. Children in child-headed households are equally entitled to social assistance in much the same way as children living with adult carers. The equality clause (section 9) and the dignity clause in section 10 provide a platform to advocate for and address the problems of child poverty and exclusion and should be used to protect the rights of children living in child-headed households.

3.7.1 Social Assistance to child-headed households (Grants)

The Department of Social Development provides two main types of grants which may be accessed by children in child-headed households. There are general qualifying requirements for the social grants:

- The applicant must be a South African citizen, permanent resident or refugee (when applying for Foster Care, Disability and Care Dependency grants);
- Be resident in South Africa at the time of application;
- Not be maintained in an institution funded by the state;
- Not be in receipt of another social grant in respect of him/herself.

a. Child Support Grant

- The child and primary caregiver must be a South African citizen and resident in South Africa;
- Applicant must be the primary caregiver of the child(ren) concerned;
- The child(ren) must be under the age of 15 years;
- The applicant and spouse must meet the requirements of the means test;
- Must have 13 digit bar coded ID document (of the caregiver); and 13 digit birth certificate (of the child);
- Cannot apply for more than six non-biological children.

What this means for a child-headed household where a child heading a household is over 16 years is that he or she can apply for CSG on behalf of younger children in the household provided that he/she has a bar-coded ID.

b. Care Dependency Grant

The Care Dependency Grant is payable to children up to the age of 18 years who require permanent home-based care because of severe mental or physical disability. The Grant is subject to a means test..

The applicant:

- Must be South African citizens except for foster parents who have foster children who also qualify for a care dependency grant;
- The applicant and child must be resident in South Africa / permanent resident;
- Age of child must be from 1 to 18 years;
- Must submit a medical / assessment report confirming disability;
- Applicant, spouse and child must meet the requirements of the means test (except for foster parents);
- The care-dependent child(ren) must not be permanently cared for in a State institution;

- Must have 13 digit bar coded ID document (applicant); 13 digit birth certificate (child).

3.7.2 *Other Grants that can improve the income for child-headed households:*

- a. *Disability Grant:* A parent or guardian who is terminally ill, living in a child-headed household can apply for a disability grant, under the following conditions:

The applicant:

- Must be a South African citizen / permanent resident;
 - Must be resident in South Africa at the time of application;
 - Must be between 18 to 59 years of age if a female and between 18 to 64 years of age if a male;
 - Must submit a medical or assessment report confirming disability; and the spouse must meet the requirements of the means test;
 - Must not be maintained or cared for in a State institution;
 - Must not be in receipt of another social grant in respect of him/herself;
 - Must submit a 13 digit bar coded identity document.
- b. *Social Relief of Distress:* Social relief of distress is a temporary provision of assistance intended for persons in such dire material need that they are unable to meet their or their families' most basic needs. In order to qualify for Social Relief of Distress, the applicant must comply with one or more of the following conditions:
- The applicant is awaiting permanent aid;
 - The applicant has been found medically unfit to undertake remunerative work for a period of less than 6 months;
 - The breadwinner is deceased and insufficient means are available;
 - The applicant has been affected by a disaster, and the specific area has not yet been declared a disaster area;
 - The applicant has appealed against the suspension of his or her grant;
 - The person is not a member of a household that is already receiving social assistance;
 - The person is not receiving assistance from any other organisation.

Note that children in child-headed households cannot access a Foster Care Grant. For them to access this grant they will have to be placed in foster care in which case they will cease to be a child-headed household.

3.7.3 Other funds available to certain vulnerable children, including children in child-headed households:

In cases where a deceased parent or parents of minor children were in some form of employment, it is important to explore and find out if they contributed to any fund, policy or scheme where money could be accessed by the beneficiaries. Following are some of the funds that could be explored:

a. The Guardian's Fund

This *Fund*, which is administered by the Department of Justice (under the control of the Master of the High Court), holds monies for children who have no guardians, until they reach the age of 18 years. The Fund accepts monies from any person who carried out business with the deceased. This Fund holds any monies that have remained unclaimed by their rightful owners for a period of five years.

This is how the Fund works:

- Monies for the deceased are held in an account on the books of the Fund in the name of the beneficiary and are invested with the Public Investment Commission;
- The children should be supported to enquire at their local Magistrate Court as it serves as a Master of High Court; and the magistrate is responsible for the day-to-day operation of the Fund;
- The Fund will pay monies out monthly to appointed guardians or curators of minors and any monies that may be required immediately for the maintenance, education and other benefit of the minor; and
- Check Government Gazette every year in September for any unclaimed monies that amount to more than R1000.00 and have been unclaimed for more than five years. If these monies remain unclaimed after 30 years, they are forfeited to the State and the children lose out.

b. Employment-based Contributory Social Benefits

Where deceased parents were employed and contributed to some form of statutory insurance schemes and pension funds, there is usually money that the remaining children, the beneficiaries, could access.

The following funds can be accessed by qualifying vulnerable children, including children in child-headed households:

c. The Compensation Fund:

This is a scheme designed to compensate for disability; loss of earnings; and death. It is structured in the nature of a fully funded insurance scheme.

It benefits children legally and factually dependent on the deceased. These include post humus children; step children; adopted children; children from extra marital relationships; foster children; children from polygamous marriages; any adult child, brother/sister/grandchild unable to earn an income due to disability or still being at school.

In order to claim from this Fund, a guardian currently staying with the child must complete the application forms and submit them to the Claimant Commissioner with the following required documentation: Proof of guardianship, official proof of birth or identity document; affidavit proving relationship to deceased; copy of court order of placement at foster homes. If a guardian dies, the pension is stopped but can be reclaimed by a new guardian.

d. The Mines and Works Compensation Fund

This is a fully funded insurance scheme against TB; pneumoconiosis; permanent obstruction of airways for people working in the mining industry and is administered by the office of the Compensation Commissioner for Occupational Diseases. It benefits all legal and factual dependants of the deceased, i.e. biological; adopted; placed formerly in the deceased care or any ancestral relations of the deceased. In order to claim from this Fund, a claim form must be filled in by the guardian and submitted to the Commissioner. Banking details of the guardian should be provided; or arrangements made with the magistrate to receive and administer the monies.

e. The Unemployment Insurance Fund

This Fund insures employees against temporary unemployment, absence from work and loss of financial support. It is operated as an insurance scheme and is fully funded by employer and employee contributions. It benefits dependent children under 21 years old and under 25 if they are learners wholly and mainly dependent on the deceased; born to unmarried parents and adopted children. In order to

claim from this Fund a prescribed claim form should be filled in by the guardian and submitted to the Commissioner within 6 months of death.

f. The Government Employees Pension Fund:

This is a contribution retirement fund established by the Government Employees Pension Law. It provides benefits for retirement, resignation, ill health, discharge or death of contributing member. It applies to all state employees and regulates benefits but does not administer benefits of those in the security forces, police force and correctional services. It benefits all children of the deceased namely adopted; under 18; full time students; under 22 disabled and factually dependent on the deceased; from extra marital relationships.

In order to claim a prescribed form should be filled in by the guardian and submitted to the employer for processing and submission to the Fund. Documents required are identity documents and official birth certificates of children; birth certificate or identity document of the deceased; death certificate; identity document of claimant and affidavit of guardianship; official notification of bank account; will or court order appointing guardian. (*Source: Social Development and UN Children's Fund: "A Review of Children's Access to Employment based Contributory Social Insurance Benefits" May 2008*).

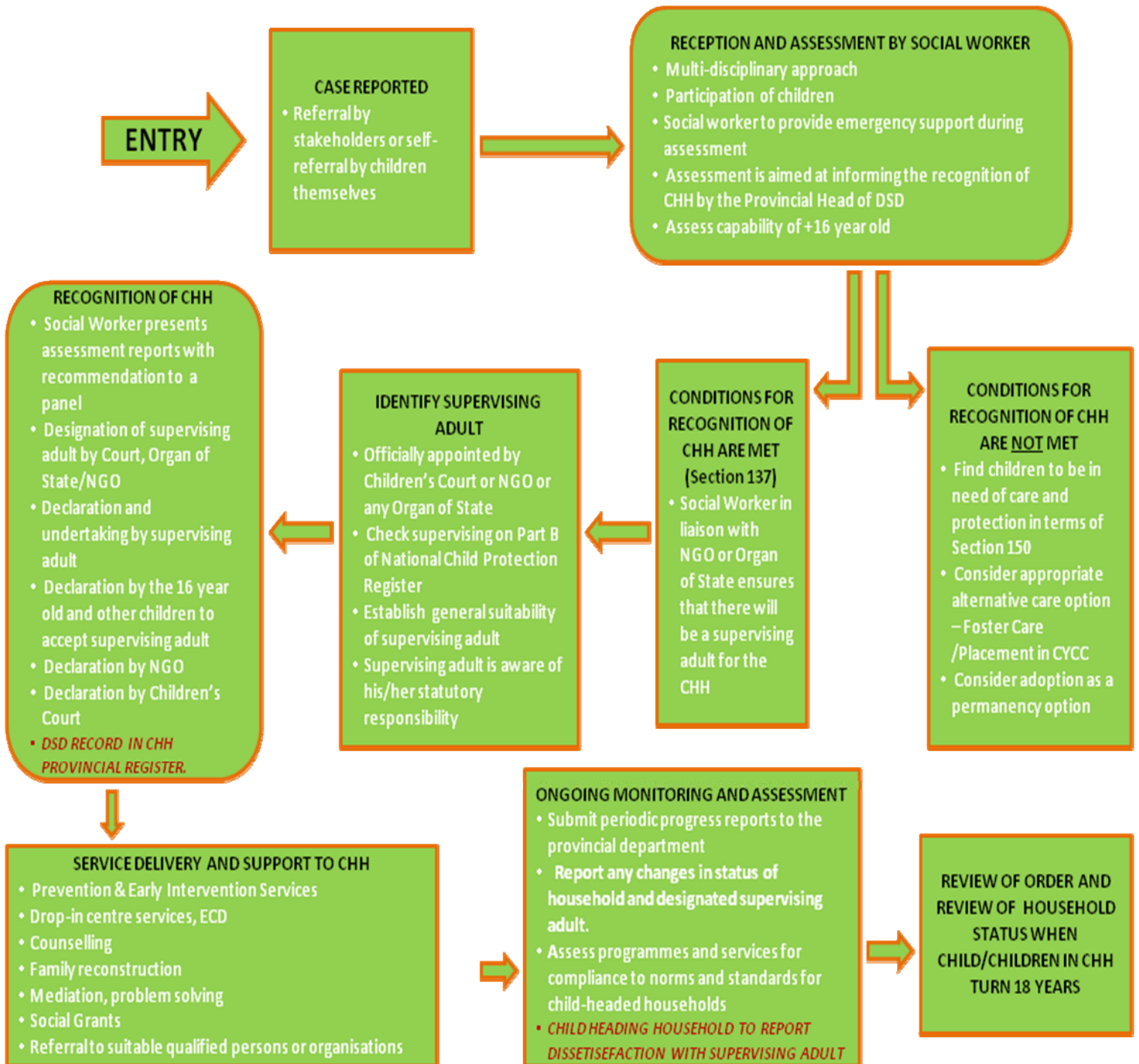
CHAPTER 4: STEPS TO BE FOLLOWED IN RENDERING STATUTORY SERVICES TO CHILD-HEADED HOUSEHOLDS

Statutory services for child-headed households should begin as soon as possible after referral of the household to the social worker. The referral may be made by a child protection organisation, NGO, by an organ of state or any person, persons or group of people with an interest in the well-being of the children. Children can also refer themselves to relevant structures for services.

The responsibility of recognition of child-headed households lies with the Provincial Head of Social Development, who may recognise the child-headed household if the steps listed below are followed.

The following diagram illustrates the steps to be followed in rendering services to child-headed households:

Figure 3: Steps to be followed in rendering services to child-headed households



4.1 Household recognition steps

Step 1: Reception

The process begins with the reception of the children where the social worker immediately ensures the safety, protection and well-being of the children; and ensures that they receive any necessary emergency support they may require. At this stage the social worker gathers initial essential information on the children and the household, records reason for referral as well as details of referral agent and any other information that has been supplied by the referral agent.

Step 2: Assessment

The purpose of the assessment process is to determine if the household meets the criteria for recognition as a child-headed household or to decide whether the children in the household are in need of care and protection; and thereafter take the necessary appropriate actions.

Section 137 of the Children's Act states that a provincial head of social development may recognise a household as a child-headed household if all the following conditions are met:

- The parent, guardian or caregiver of the house is terminally ill, has died or has abandoned the children in the household;
- No adult or family member is available to provide care for the children in the household;
- A child over the age of 16 years has assumed the role of caregiver in respect of children in the household;
- It is in the best interest of the children in the household.

In conducting an assessment, the social worker will examine if the above factors necessary for the recognition of a household as a child-headed household exist. The assessment will utilise a multi-disciplinary approach and the social worker should contact other organisations that have knowledge of the household for more information. The initial assessment should take place within **7 days**.

In addition the following issues must be explored:

- Profile of each child in the household;
- Family history, composition, extended families, and family profile;
- Availability and ability of adult to respond to the needs of the children in the household;

- Reasons children are in a child-headed household;
- Basic care and well-being of children (cleanliness, food and general nutrition);
- Physical and emotional well-being;
- Physical condition, suitability and safety of the current shelter;
- Capacity and willingness of the 16+ year old to care for siblings and to respond appropriately to their needs;
- Feelings of all the children about being in the child-headed household;
- Relationships among children in the household;
- Needs of any child or children with disabilities or chronic illnesses;
- School attendance including Early Childhood Development (ECD) for pre-school children;
- Health and general well-being of children;
- Availability of an adult to act as supervising adult and nature of relationship with children;
- If parent or caregiver is terminally ill, the views of the parent towards a possible supervising adult;
- Gather any relevant information from all organisations that may have provided any type of services and support to the household;
- Cultural and religious aspects;
- Financial and material conditions of the household;
- Safe housing and other environmental factors which may have an impact on the household;
- Availability of community resources.

After 7 working days from referral the social worker compiles an initial assessment report with recommended immediate actions. Actions may include any referral to an organisation for specific services. If at any stage during the assessment it appears that the child(ren)'s safety is at risk or if there is any abuse or maltreatment or that a child or children may suffer from any significant harm, temporary safe care should be considered in terms of Section 150 – 152 of the Children's Act No. 38 of 2005. An appropriate Form should be used for the purposes of placing the child or children in temporary safe care pending comprehensive assessment and a decision on actions to be taken.

After the initial assessment, a more comprehensive assessment should follow, looking in-depth into all issues identified during the initial assessment phase. At this stage the social worker would have established if the conditions for the recognition of the household as a child-headed household exist.

Best interest assessment

The assessment of whether it is in the best interest of children to be in a child-headed household is a key factor that needs to be thoroughly investigated. The following guidelines can be used for such assessment:

When is it "in the best interest" of children to be in a child-headed household?

Various factors can be considered when assessing whether it is in the best interest of children to stay in a child-headed household. These factors include -

- the nature of the personal relationship among the siblings;
- the attitude of the siblings towards being in the child-headed household;
- the capacity of the older sibling to provide for the needs of the younger children, including their emotional and intellectual needs, bearing in mind that many such older siblings had been taking care of their younger siblings during the illness of the parent or caregiver, and hence their ongoing responsibilities are extensions of responsibilities already assumed;
- the likely effect that placement in another setting may have on the children in the household, including the likely effect of any separation from other siblings;
- the need for the child to maintain a connection with his or her siblings and family traditions.

It may not be in the best interest of the children to remain in a child-headed household if the following conditions exist:

- There is a child with a disability or a child who suffers from chronic illness, requiring constant care and there is no support for his or her care;
- If the older child is not of sufficient maturity to take charge of the needs of the children in the household (i.e., the child is not developmentally mature to understand the decision, the responsibilities involved, has unrealistic expectations, lacks experience in caring for a household, making decisions, understanding advice given). *Refer also to Foundation Phase's discussion on "age, maturity and stage of development" and useful tips suggested in determining whether a child is of sufficient maturity;*
- There is no stable home environment – no rules, boundaries, discipline, no sense of family unit which typifies a household;
- There is a threat to the children's safety;

- Being in a child-headed household will deprive the older siblings of opportunities for education, work or other developmental opportunities.

Assessing the capacity of a child heading a household

A second critical factor to be considered during the assessment is the ability of the 16+ year old child to take care of the children in the household. The Children's Act identifies the child heading a household to be a caregiver, and it states that the caregiver is someone who factually cares for a child. Further, the Act defines caring in relation to a child as including:

- Within available means, providing the child with –
 - a suitable place to live;
 - living conditions that are conducive to the child's well-being and development;
 - the necessary financial support;
- Safeguarding and promoting the well-being of the child;
- Protecting the child from maltreatment, abuse, neglect, degradation, discrimination, exploitation and other physical, emotional or moral harm or hazards;
- Respecting, protecting, promoting and securing the fulfilment of, guarding against any infringement of the child's rights set out in the Bill of Rights and the principles set out in Chapter 2 of the Children's Act;
- Guiding, directing and securing the child's education and upbringing, including religious and cultural education and upbringing, in a manner appropriate to the child's age, maturity and stage of development;
- Guiding, advising and assisting the child on decisions to be taken by the child in a manner appropriate to the child's age, maturity and stage of development;
- Guiding the behaviour of the child in a humane manner;
- Maintaining a sound relationship with the child;
- Accommodating any special needs that the child may have;
- Generally ensuring that the best interest of the child is of paramount concern in all matters affecting the child.

The Act and the regulations place certain responsibilities specifically on the child heading the household.

These include the responsibility to:

- Collect and administer any social security grants for the child-headed household or grants in terms of the Social Assistance Act No. 13 of 2004 or any other assistance to which the household is entitled – section 137(5)(a);
- To make day-to-day decisions relating to the household and the children in the household – section 137 (7);
- Together with other children in the child-headed household, given their age and maturity, to report the supervising adult to the organ of state or non-governmental organisation if the child or children are not satisfied with the manner in which the supervising adult is performing his or her duties – section 137 (8).

For any child to undertake such caring responsibilities is a mammoth task. This means that an assessment of the psycho-social well-being of the child heading the household is critical.

The following guidelines can assist a social worker in conducting a developmental assessment of a child heading a household.

The determination of a child-headed household rests on the ability of an older child of 16+ years to run the household. Age 16 is a critical developmental stage that is regarded as a transitional stage of physical and mental human development, occurring between childhood and adulthood. Although adolescents share some basic needs with younger children, they face specific complex challenges compared to younger children because of their physical and psychological development during puberty. Therefore in addition to the “best interest” assessment principle discussed above, it is also important to use the psychological perspective of child development to attempt to assess the developmental capacity of a child heading a household. This developmental perspective identifies indicators for ‘normal’ development, unrealistic expectations as well as red flags that give warning signs that the child may not adequately fulfill the responsibilities of heading a household. At times these warning signs, if detected early and if support is offered, can be addressed (through prevention and early intervention programmes). There are times when these programmes may not successfully address certain behavioural and emotional challenges. In this case the social worker may conclude that it may not be in

the best interest of the children to be in a child-headed household.

The following table and information is presented as a general guide to assist in the assessment but it should be applied individually to each child. The social worker needs to make an assessment on all developmental attributes of the child individually. The social worker must be aware of the developmental age of the child when undertaking the assessment. This is the most important part of the guidelines in determining the suitability of the child in heading the child-headed household.

DEVELOPMENTAL RISK ASSESSMENT ON THE CHILD HEADING A HOUSEHOLD

Developmental age: 15 – 18 years

<i>Normal development</i>	<i>Unrealistic expectation</i>	<i>Warning signs</i>
<ul style="list-style-type: none"> - Physical growth – quick growth, sexual development continues, hormonal changes continue; bridge between childhood and adulthood - Intellectual development: academic strength continues, leadership abilities develop, choices about career and future - Social relationships: though peer pressure exists, at this stage child begins to make personal choices, cross-gender and sexual relationships develop, finds positive ways of expressing love and affection, close relationships with trusted adults are formed; - Language development: can hold conversation and express themselves 	<ul style="list-style-type: none"> - Sometimes impulsive – making decisions that are not necessarily good; - Not to be influenced by peers as peer pressure is critical at this stage; - Not to experiment – sexually, sometimes breaking the rules and experimenting with illegal substances; - Not to be moody, not to sulk and withdraw sometimes. 	<ul style="list-style-type: none"> - Physically immature for their age or compared to their peers. This often leads to rejection by peers and this may cause them to rebel and engage in risky behaviour; - Acting out: aggression, use of violence, offending, sexual promiscuity; - Depression; - Attempted suicide; - Substance abuse; - Dropping out of school; - Early pregnancy; - STI infection; - Persistent feelings of sadness; - Excessive sleep or inability to sleep; - Emotional fatigue; - Social withdrawal from friends or school; - Continuing sense of helplessness and hopelessness about life; - Belief that they lack control of

<p>clearly, remember details, can speak “feeling” language;</p> <ul style="list-style-type: none"> - Problem-solving and reasoning grows, can think about concepts such as fairness, justice; - Moral reasoning: actively involved in developing own value system; - Personal identity: are defining themselves as individuals; - Emotional development: need to feel good and search for intimacy outside family, mood swings occur but under control. 		<p>life choices and difficulty in making decisions;</p> <ul style="list-style-type: none"> - Diminished problem-solving; - Attempts to hurt self; - Sudden changes in personality or behaviour.
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Once the social worker has completed the assessment, a comprehensive assessment report is compiled with recommendations and a **care plan** for children in the household. If all the necessary conditions for the recognition of a household as a child-headed household are met and the social worker has concluded that it is in the best interest of the children to be in such a household and that there is a suitable supervising adult, the process moves to the next step which is the recognition of a child-headed household.

If the social worker concludes that it is **not** in the best interest of the children to be in such a household, then the matter will be dealt with in terms of Section 150 of the Children’s Act. The children will be found to be in need of care and protection. In this case other alternative forms of care will be explored, i.e. placement of children in foster care or at a child and youth care centre. Adoption can also be considered as a permanent option. In these cases it should be clear that these children will not be in a child-headed household and therefore, they will be dealt with according to other appropriate policies and guidelines.

Step 3: Designation of a supervising adult

If the assessment shows that it is in the best interest of the children to be in a child-headed household, the next important step is to find a suitable supervising adult. According to Section 137 (2) of the Children's Act a child-headed household must function under the general supervision of an adult. Such an adult can be designated by:

- A children's court;
- Organ of state; or
- A non-governmental organisation determined by the provincial head of social development.

The following points should be noted about a supervising adult:

- Designation can be done by a non-governmental organisation or any organ of state or a children's court;
- The supervising adult must be a fit and proper person and the designating entity must determine if this person's name does not appear in Part B of the National Child Protection Register;
- The non-governmental organisation or organ of state which identifies the supervising adult must determine that he or she is a fit and proper person and has not been found unsuitable to work with children;
- Before the designation of a supervising adult to a particular child-headed household, the child heading a household and other children that are of sufficient age, maturity and development must be consulted and agree to be supervised by the adult;
- Court or NGO must have a clear 'job description' highlighting responsibilities of the supervising adult including responsibilities contained in Regulations 57 of the Children's Act;
- In addition to not having his or her name appearing in Part B of the National Child Protection Register, the following criteria can be used to establish the suitability of a supervising adult:
 - The prospective supervising adult must be above the age of 18 years;
 - Must undergo an assessment to determine whether he/she is capable of meeting the needs of children living in child-headed households;
 - The person must be committed to caring for the children and sensitive to cultural and religious issues;

- Assess the supervising adult's availability to carry out duties outlined in the regulations 55.
- The prospective supervising adult must demonstrate resourcefulness when confronted with challenges.

Responsibilities of a supervising adult:

The supervising adult must be made aware of his or her statutory responsibilities, which include:

- the collection and administration of money (social security and other grants) and other assistance to which the child-headed household is entitled;
- being accountable to the organ of state or non-governmental organisation that designated him or her to supervise the household;
- consulting the child heading the household and other children in the household provided they are of sufficient age, maturity and stage of development

The supervising adult does not have to reside in the household with the children but should be accessible to the household and visit the household periodically (not less than once every 2 weeks) to support the children and to fulfill the duties prescribed in the regulations to the Act.

The regulations (regulation 55) list the various duties that a supervising adult must fulfill. These include—

- facilitating psychological, social and emotional support to all members of the household when required;
- ensuring that members of the household attend school or an appropriate education programme;
- assisting with the supervision of homework;
- educating the members of the household with regard to basic health, hygiene and sexually transmitted infections;
- assisting with health care requirements including the supervision of the taking of medicines and assistance to members with disabilities;
- assisting members of the household with legal documentation when required;
- compiling a roster, in consultation with the members of the household, indicating the responsibility of various members in relation to domestic chores;

- attempting to reconnect the members of the household with their parents or relatives in consultation with a social worker;
- engaging the members of the household in issues that affect the household;
- ensuring proper provision of resources for such household's basic needs;
- ensuring proper utilisation of available resources and adherence to a financial budget;
- keeping a record of all expenditure of the household;
- being available to the children when they require services after hours;
- utilising available and applicable child protection services to ensure the safety and well-being of the members of the household if and when required;
- reporting incidents of death or abuse to the social worker or social service professional.

It should be borne in mind that a supervising adult may not take any decisions concerning the household and the children in the household without consulting the child heading the household and the other children in the household given their age, maturity and stage of development. This provision once again enhances the principle of child participation in matters affecting children as is provided for in the Children's Act. The social worker therefore has a very important responsibility of making children understand the roles of the supervising adult, as well as the nature of support to expect from him or her. This means that children should be prepared and given age appropriate and culturally appropriate skills to engage with the supervising adult. Similarly the social worker needs to educate and help the supervising adult to understand their tasks and expectations from children. The supervising adult should be helped to understand the principle of child participation and ways in which this can be facilitated.

Where a supervising adult collects and administers money for a child-headed household, such adult is accountable to the organ of state or the non-governmental organisation that designated him or her to supervise the household. For the purposes of accountability the supervising adult must—

- in consultation with the members of the household develop a monthly expenditure plan reflecting available financial resources and payment;
- ensure that the monthly expenditure plan is signed by the child at the head of the household;
- submit the monthly expenditure plan, duly signed by the organ of state or the non-governmental organisation, as the case may be, together with such original document, receipts, invoices and other documentation that may serve as proof of the expenditure incurred.

Step 4: Recognition of the child-headed household

- Provincial Department of Social Development establishes a decision making panel, authorised by the Provincial Head of Department for the purposes of recognising a child-headed household. The panel should consist of the Director, social work manager, canalisation officer and social worker. The panel meetings should take place every six weeks;
- During this stage the social worker presents the assessment report with recommendations and a care plan to the panel;
- The panel decides whether the household meets the criteria of being a child-headed household or not;
- In cases whereby it is not in the best interest of the children to be in a child-headed household, Section 150 of the Children's Act No. 38 of 2005 needs to be applied to ensure the care and protection of the children;
- Provincial DSD, child heading the household, NGO, organ of state or court, which has designated the supervising adult, must sign a declaration on a form.

Step 5: Child-headed Household Provincial Register

Once a household has been officially recognised, the social worker enters the details of the household into the provincial register for child-headed households and provides ongoing monitoring.

Step 6: Service delivery and support to child-headed households

With the support of the social worker, supervising adult, non-governmental organisation, or organ of state, services are delivered to the child-headed household.

Step 7: Ongoing monitoring and assessment of programmes and services to child-headed households

Any NGO or organ of state rendering services to a child-headed household that has been recognised in terms of the Children's Act will have to submit periodic progress reports to the provincial department of social development based on child-headed households' indicators. Provincial DSD will also conduct an assessment of programmes and services as well as compliance to norms and standards for child-headed households.

If at any point during the course of service delivery the situation of the household changes, e.g. the child heading the household does not cope with the responsibility, or is no longer willing to care for the children in the household or if the children live under conditions that are likely to put them at risk of harm or if it appears that it is no longer in the best interest of the children to be in such a household, the children should be dealt with in terms of Section 150 of the Children's Act.

Other changes to be reported and acted on are for example when the status of a supervising adult changes (supervising adult no longer available) or when one of the children in the household no longer resides in the household.

Step 8: Grievance procedure

At any point the child heading the household or, given the age, maturity and stage of development of the other children, such other children, may report the supervising adult to the organ of state or non-governmental organisation if the child or children are not satisfied with the manner in which the supervising adult is performing his or her duties.

Step 9: Reviewing of the Order

Any order issued to the child heading the household in terms of Section 46(1)(b) needs to be reviewed when the child turns 18 years old, depending on the availability of the child and other circumstances of the household.

4.2 Types of services

The following services can be rendered to children living in child-head households based on the assessment of the needs of the children in each household:

- Child Protection Services and necessary police investigations where a crime has been committed against the household e.g. burglary; theft etc;
- Early Childhood Development;
- After School Services;
- Family Preservation Services;
- Parenting Skills;
- Peer Education;
- Gender Based Educational Services;

- Family Enrichment Services;
- Income Generating Projects;
- Community Awareness Raising Programmes;
- Outreach Programmes;
- Life Skills;
- Health Promotion
- Therapeutic Services;
- Respite Care for Children with Disabilities or Chronic Illnesses;
- Psycho-social Support;
- Drop-in Centre Services;
- Education Support;
- Birth Registration;
- Grants Application;
- Health Care;
- Housing support;
- Free Basic Services (Municipal services);
- Succession Planning and Memory Work (where parent, guardian or caregiver is terminally ill);
- Skills Training.

4.3 Other statutory mandated role-players identified by the Act in relation to child-headed households

In addition to the supervising adult and the child heading a household, the Children's Act No. 38 of 2005 identifies the following:

A social worker, who needs to:

- Conduct an investigation to determine if a child in a child-headed household is in need of care and protection as in terms of section 150(2)(b) of the Act, such a child may be found to be a Child in need of care and protection;
- Offer counseling, and take all necessary measures to assist the child, offer prevention, referral and services to any other suitably qualified person or organisation if found to be in need of care and protection.

The children's court, that needs to:

- Designate a supervising adult for a child-headed household (section 137 (2)(a));
- Issue an order placing a child in a child-headed household in the care of a child heading a household under the supervision of an adult person designated by the court (section 46 (1) (b));
- Issue a child protection order, which includes that a child remains in or is returned to the care of a person subject to conditions; gives consent to medical treatment or operation to be performed on a child (section 46 (h)(ii)); instructs a person who has failed to fulfill a statutory obligation toward a child to appear before the court and give reasons for such failure (section 46 (h)(vii)); instructs an organ of state to assist the child in obtaining access to public service to which the child is entitled, failing which to appear through its representative before the court to give reasons for the failure;
- Take the necessary steps against a supervising adult if there is reasonable suspicion that there is misappropriation or maladministration of money.

A non- governmental organisation that needs to:

- Designate a suitable, fit and proper supervising adult for a child-headed household;
- Ensure that adult supervisors are suitably trained and have the necessary competencies and tools to address the needs of child-headed households;
- Take the necessary steps to ensure that an investigation is conducted where there is suspicion that the supervising adult is misappropriating funds belonging to a child-headed household.

Provincial Department of Social Development to:

- Register non-governmental organisations;
- Keep register of persons unfit to work with children (as supervising adults must be fit and proper persons and not be persons unsuitable to work with children);
- Deliver and monitor services to child-headed households;
- Provide necessary services, grants and other supports to child-headed households;
- Take necessary steps to investigate matters where there is a suspicion that the adult supervisor is misappropriating money belonging to a child-headed household.

Annexure A identifies the basic needs of children and what children in child-headed households experience as a result of their situation. It then identifies services that should be delivered to fulfill those unmet needs. Examples of programmes that use adults as supervisors and mentors to vulnerable children including child-headed households are models referred to as Isibindi and Isolabantwana.

CHAPTER 5: INSTITUTIONAL ARRANGEMENTS

The Department of Social Development should provide strategic direction for social service delivery by promoting coordination and collaboration between all stakeholders at all levels, government, non-governmental, civil society, private and labour to effect the realisation and rights of child-headed households.

The realisation of the rights of child-headed households and the advancement of the social development agenda to restore the dignity of people requires a collective and coordinated effort. The requirements of these children need a wide-ranging response and no single ministry, department or sector can be solely responsible for addressing the consequences and challenges faced by the children heading households.

5.1 National Level

The National Department should ensure coordination at National level. They should provide support and strengthen the establishment of coordinating structures at provincial level; create linkages with other coordinating structures for Orphans and Vulnerable Children including child-headed households; lobby for all state departments to have a budget for the implementation of children's issues. They should also develop indicators for the monitoring of the programmes to child-headed households.

5.2 Provincial Level

The Provincial Departments of Social Development should ensure coordination at provincial level. Programmes for child-headed household should be in place and implemented. Progress reports should be forwarded to the National Department of Social Development on a 6 monthly basis. Provincial Departments should also ensure coordination at provincial level, support and strengthen the establishment of coordinating structures at district level, share information about ongoing and new developments and promote information dissemination to all levels.

5.3 District Level/ Regional offices

The District office should ensure coordination at district level; support and strengthen the establishment of coordinating structures at local levels; provide regular feedback to the provincial coordinating mechanism; create linkages with other coordinating structures for children; ensure that child-headed

households access essential services; and build the capacity of all stakeholders to improve service delivery and to realise the rights of child-headed households.

5.4 Local Level

The Local Office of the Department of Social Development coordinates community activities to meet the needs of child-headed households; promotes coordination at community (or ward) level between all stakeholders that are working with and for orphans and vulnerable children to develop a network of care for them; provides regular feedback to the district coordination mechanism; and creates linkages with other coordinating structures for children.

5.5 Overall responsibilities of the Department of Social Development towards child-headed households include:

- Facilitate coordination of service delivery for fulfillment of the rights of child-headed households;
- Provide material assistance to child-headed households;
- Provide psychosocial support to vulnerable children and their families;
- Report any abuse, maltreatment and exploitation of children in child-headed households;
- Mobilise communities to protect, care for and support children;
- Mobilise and distribute resources;
- Support households with safe shelter (e.g. providing locks) in collaboration with relevant partners;
- Establish Child Care Forums (CCFs) at community level. These are structures that are aimed at linking vulnerable children to various services. In other areas they provide direct support to vulnerable children, e.g. they operate feeding schemes, conduct home visits, provide home-based care, etc.
- Provide alternative care options;
- Establish and support poverty alleviation programmes;
- Registration of Non-Profit Organisation (NPOs);
- Establish and maintain partnerships with key stakeholders;
- Establish and strengthen home community-based care and support programmes;

- Capacity building for families, caregivers, community members, volunteers and other service providers;
- Develop legislation, policies and programmes for the protection of child-headed households;
- Establish and strengthen early childhood development programmes that cater for the needs of child-headed households;
- Provide Social Assistance to vulnerable groups including child-headed households;
- To ensure the provision of comprehensive social security services against vulnerability and poverty within the constitutional and legislative framework, and creating an enabling environment for sustainable development;
- Implement policy framework for the prevention and management of child abuse, neglect and exploitation;
- Monitoring and evaluation.

5.6 Other Relevant Stakeholders

The following are relevant stakeholders that could assist in addressing the needs of child-headed households:

5.6.1 Department of Home Affairs

- Promote, facilitate and provide birth, death, marriage and identity documents;
- Provide mobile units in communities for registration purposes to ensure that services are more accessible to the community members, etc.

5.6.2 Department of Education

- Develop mechanisms for school based support system;
- Provide academic support for child-headed households;
- Develop capacity building programmes for educators to enable them to respond holistically to the needs of child-headed households;
- Provide education for all as a priority and key coordinating mechanisms for protecting child-headed households while promoting opportunities for these children;
- Develop and ensure early identification of children in need of care and that referral systems to other relevant service providers e.g. social workers, nurses, etc are in place;

- Develop and implement appropriate life skills programmes for child-headed households;
- Provide Primary School Nutrition Programme and Food fortification;
- Develop and implement early childhood development programmes (Grade R).

5.6.3 Department of Health

- Provide a comprehensive treatment, care and support programme for the management of HIV and AIDS;
- Provide a comprehensive Primary Health Care Service Package;
- Implement the Integrated Management of Childhood Illnesses (IMCI) protocol;
- Implement the Protein Energy Malnutrition Programme (PEM), which provides food supplements to children who are malnourished;
- Implement the Expanded Programme for Immunisation, which provides for routine administration of vaccines against measles, TB, diphtheria, and influenza;
- Implement the Prevention of Mother to Child Transmission of HIV Programmes, which is aimed at the administration of anti-retroviral therapy processes to HIV infected mothers before, during labour and after birth to the newborn baby;
- Coordinate and facilitate access of all children to health services.

5.6.4 Department of Human Settlements

- Ensure that the housing needs of child-headed households are addressed through low cost housing schemes;
- Provide housing, including shelter, to vulnerable children;
- Support initiatives of other government departments.

5.6.5 Department of Cooperative Governance and Traditional Affairs (COGTA)

- Ensure that municipalities understand and fulfill their responsibilities towards children, especially orphans and vulnerable children;
- Develop and implement policies and plans to mainstream issues pertaining to child-headed households in their IDPs;
- Identify municipal focal points to represent children's issues in programme management committees;

- Utilise existing municipal structures and officials (Ward Forums; Community Development Workers) to identify and refer children from child-headed households to services;
- Support and facilitate the engagement between sector departments to implement programmes;
- As part of the implementation of the Municipal Indigent Policy, include child-headed households in Indigent Registers so that they access free basic services;
- Make land, buildings and other facilities available for use in programme delivery;
- In its housing budget, allocate houses to child-headed households;
- Provide proof required for birth – by Ward Councilors, Traditional Leaders;
- Provide infrastructure e.g. early childhood development centres, the provision of land, sport and recreation facilities etc;
- Create safe spaces for vulnerable children (e.g. safe parks, safe streets, safe halls).

The Traditional Authority Structures and Traditional Leaders are well positioned within the community to assist in the identification of child-headed households as well as in promoting and protecting the rights of children living in these households. They can also play a role in educating the communities about the plight of children in child-headed households, thus reducing the stigma and discrimination against these children. They also have access and control of certain assets such as land and buildings that could be used to benefit children in child-headed households. DSD should work in close partnership with COGTA to promote the well-being of children in child-headed households.

5.6.6 Department of Justice and Constitutional Development

- Issue orders for child-headed households;
- Designate supervising adults for child-headed households;
- Protect the rights of children by prosecuting people who infringe on the rights of children;
- Institute and conduct criminal proceedings on behalf of children in child-headed households;
- Place children in alternative care;
- Find children in child-headed households in need of care and protection;
- Administer Guardianship Fund;
- Appoint guardians (High Court);

- Implement the provisions of the Child Justice Act in relation to children from child-headed households who have committed crimes;
- Implement Succession Act and protection of inheritance rights
- Provide legal aid to child-headed households.

5.6.7 Department of Labour

- Protect the rights of child-headed households through the enforcement of legislation related to children e.g. child labour, pornography;
- Provide technical skills with the purpose of providing certification which could lead to the employment of children from child-headed households;
- Through the work of Child Labour Inspectors, enforce the implementation of the ILO Convention 182, which eliminates Worse Forms of Child Labour.

5.6.8 Department of Sports and Recreation

- Provide safe recreational facilities;
- Create opportunities and develop programmes for children in child-headed households to participate in sports and recreation events.

5.6.9 Department of Transport

- Provide safe, affordable and adequate transport for child-headed households;
- Provide accessible transport for children from child-headed households with special needs.

5.6.10 Department of Water Affairs

- Provide safe and clean water to child-headed households;
- Provide safe sanitation services.

5.6.11 South African Police Services

- Investigate crimes against children in child-headed households;
- Prevent the commission of crimes against children;

- Refer children "in need of care and protection" (which includes children in child-headed households) to the Department of Social Development and refer children in conflict with the law to child and youth care centres;
- Certify documents and support applications for birth certificates and identity documents.

5.6.12 Non-governmental Organisations (NGOs), Faith-Based Organisations (FBOs) and Community-based Organisations (CBOs)

- Facilitate early identification of child-headed households;
- Strengthen family and community coping systems;
- Empower families and communities economically;
- Support communities to take collective action;
- Mobilise resources to support child-headed households;
- Provide psychosocial support, spiritual guidance and material assistance;
- Develop and implement community-based care and support programmes for child-headed households;
- Provide alternate care options;
- Build capacity of child-headed households, care workers, community members, volunteers and other service providers to support child-headed households;
- Implement prevention programmes and community education campaigns;
- Establish early childhood development programmes;
- Assist with succession planning;
- Recruit, prepare and monitor supervising adults;
- Facilitate and promote child participation initiatives.

5.6.13 Department of Trade and Industry

- Develop entrepreneurship skills of older, out-of-school children in child-headed households;
- Provide job opportunities.

5.6.14 Academic Institutions

- Undertake research on the contributing factors to the phenomenon of child-headed households. The research findings will assist in designing programmes and services for child-headed

households. Such research will also provide accurate data on the number of child-headed households, which is disaggregated in terms of gender, disability, race, etc;

- Undertake research to measure the impact of the Children's Act on child-headed households;
- Where possible, offer litigation services on behalf of child-headed households.

5.6.15 International NGOs and Donor agencies

- Provide funding support to programmes for child-headed households;
- Develop innovative programmes to support child-headed households;
- Provide advocacy initiatives and lobby government to address the needs of children living in child-headed households;
- Monitor country's compliance to international obligations towards child-headed households;
- Build capacity of local NGOs to provide services to child-headed households;
- Conduct and support research efforts on child-headed households.

CHAPTER 6: MONITORING AND EVALUATION

Introduction

This chapter gives guidance on the monitoring and evaluation process and how it should unfold.

6.1 What is monitoring and evaluation?

Monitoring is a process of collecting information to assess the progress and challenges affecting the service delivery. It is a systematic process of tracking and measuring an activity that has taken place, over a particular period of time. It provides information for:

- making short-term decisions to improve the performance of the programme;
- helping to find out whether the programme is being implemented according to plan;
- advocacy and feedback to stakeholders and beneficiaries;
- improving quality of services to child-headed households.

Evaluation involves looking at the overall performance in the provision of services to child-headed households at the end of the financial year. The focus is on evaluating the plans that were developed at the beginning of the financial year, check whether they were effective in achieving the set targets and improve the quality of life of children in child-headed households. The information gathered will assist in improving the service delivery for children in child-headed households.

6.2 What should be monitored?

The norms and standards related to child-headed households as prescribed in the Children's Act No. 38 of 2005 provide a basis for monitoring and evaluation in that they highlight critical areas of attention for child-headed households. These norms and standards provide as follows:

General

- Siblings in a child-headed household should, as far as is reasonably possible and practicable, remain together;
- The right to family life of any child-headed household should be promoted in accordance with the objectives of the Act;

- The independent functioning of a child-headed household must be promoted as far as is reasonably possible;
- Support to child-headed households must be aimed at enhancing the capacity of the children living in the child-headed household to function as a family.

Safe and nurturing environment for children

- Children must experience safety, support, security and feel cared for while living in a child-headed household, and have their basic needs met;
- Adequate nutrition, water and means for preparing food must be available to meet the basic needs of the children in a child-headed household;
- Adequate care of the health of children living in child-headed households must be undertaken;
- Children living in child-headed households must be able to benefit from the right to rest, leisure and play;
- A child-headed household must respect and nurture the culture, spirit, dignity, individuality, language and development of each child living in that household and children must be encouraged to develop positive social values;
- The resources available to the household must be used equitably to promote the well-being of all children living in a child-headed household;
- Children living in child-headed households must have access to psychosocial support.

Birth registration, social assistance, social and community services, access to education and the development of skills

Children living in a child-headed household—

- must benefit from official registration of their births in terms of the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992);
- must benefit from social assistance, as provided for in the Social Assistance Act, 2004 (Act No. 13 of 2004), where the relevant criteria for access to such social assistance are met;
- may benefit from emergency assistance or aid, as may from time to time be available, including food, goods or transport assistance;
- those who are of school going age, must attend school regularly, and receive any necessary assistance to enable them to access education;

- must have access to social services and community services generally and to resources which promote their capacities and increase their ability to participate in community life;
- must be enabled to develop the skills necessary to participate in social and economic life.

Property

Children living in a child-headed household must be—

- enabled to assume responsibility for any property or possessions belonging to that household;
- assisted to maintain and preserve any property belonging to the household, where such children wish to preserve such property, but may freely dispose of property in the best interest of the household.

Exposure to harm

Children living in a child-headed household—

- should not be exposed to violence, abuse, maltreatment or degradation, sexual abuse or harmful or hazardous forms of child labour;
- must as far as is reasonably possible be protected from community risk factors.

Disability, chronic illness and vulnerability

Child-headed households in which a child with a disability or a chronic illness resides—

- must be assisted to obtain any special grants, assistive devices, educational or
- vocational programmes or other forms of support necessary to ensure the optimal development of such child.

Participation and consultation

Children living in a child-headed household must—

- participate in all matters affecting the functioning of the household;
- be consulted in any investigation by a designated social worker contemplated in section 150(2) and (3) of the Act.

Monitoring and supervision

Children living in a child-headed household—

- must be encouraged to report any change in living arrangements to a designated social worker, an adult appointed in terms of section 137(2) of the Act or any other suitable adult; and
- in respect of whom an adult has been appointed in accordance with section 137(2) of the Act, or in respect of whom an investigation has been concluded in terms of section 150 of the Act, where no finding has been made that the child or children are in need of care and protection, are entitled to be visited on a regular basis, and not less than once every two weeks, for the purposes of monitoring and supervision.

Child heading the household

The child heading the household must give effect to the norms and standards contained in this Annexure to the maximum extent reasonably possible, bearing in mind the child's age, maturity and stage of development, to ensure that other children living in the child-headed household are assured of their rights to survival and development and to protection from harm.

6.3 Indicators for child-headed households

The process of monitoring and evaluation requires that both qualitative and quantitative information is collected. In order to collect such information it is important to have indicators which are evidence of changes that have occurred in a programme. Good indicators:

- Are understandable and clear;
- Reflect programme's strategy i.e. match the desired results to goals;
- Should demonstrate changes within a specific life span or time frame.

6.3.1 Qualitative and quantitative indicators

There are two types of indicators that should be used to track the effectiveness of service delivery. First are the qualitative indicators which relate to the nature of services and other process dimensions such as how the service was delivered. Qualitative indicators will provide more information on the impact of services delivered. Quality improvement service delivery requires that we gather more than the type and frequency of service to include how well the service is delivered. This requires that we identify characteristics of quality which are observable and measurable. For instance: a social worker visits a

child-headed household and finds that a child now attends school daily. This is a quantitative indicator. A qualitative indicator will establish how well the child is doing at school e.g. the improvement in the child's marks. This is observable and measurable through school report cards.

On the other hand quantitative indicators will provide information on the scale or reach of the services. Although quantity is important in tracking service delivery when monitoring and evaluating service delivery to child-headed households, the focus should be on quality of services. The following are important dimensions of quality services:

Safety	Degree to which risks related to the care of children is minimised.
Access	Lack of barriers to accessing services – cultural, geographical, socio-economical, social, etc.
Efficiency	- Degree to which desired results or outcomes are achieved. - Extent to which resources needed to achieve the desired outcomes are minimised.
Continuity	Delivery of ongoing and consistent care as needed, including timely referrals, effective communication among providers.
Appropriateness	Services are adapted to needs or circumstances based on age, community context, disability, culture, etc.
Participation	Of caregivers, children, communities in design, delivery and decision making.
Sustainability	Degree to which services are designed so that they can be maintained at community level and sustained into the foreseeable future.

6.4 A framework for monitoring services to child-headed households

The Children's Act identifies key elements and issues that require monitoring. The following table provides key indicators (qualitative and quantitative) that should guide the collection of data for monitoring and evaluation purposes. These indicators are in line with the:

- Monitoring and Evaluation Framework: Children's Act;

- Monitoring and Evaluation Indicators: HIV and AIDS;
- Monitoring and Evaluation Indicators: M&E Chief Directorate

Key Element in legislation	Issues to monitor	Indicator
Recognition of child-headed household	Process of recognising a household adhered to	Number of child-headed households recognised and registered on the database
Functioning of the household	Promotion of the functioning of the household as a family unit and keeping siblings together as much as possible	<ul style="list-style-type: none"> - Nature of relationships amongst siblings; - Stable emotional support - Material protection for members; - Stable and consistent rules; - Respect given to the child heading the household by siblings.
Safe and nurturing environment for children (Norms and Standards)	<ul style="list-style-type: none"> - Adequate nutrition, water, means of preparing food; - Adequate health care for children; - Right to rest, leisure and play; - Respect for culture, language and development of the child; - Access to psychosocial support 	Number of child-headed households benefiting from following support: <ul style="list-style-type: none"> - Nutritional support (food and nutritional supplements); - Frequency of meals per day; - Material support (clothing, shoes, blankets); - Health care (immunisation, primary health care facilities, reproductive health); - Psychosocial support; - Adequate and safe shelter.

<p>Birth registration, social assistance, social and community services, access to education and the development of skills (Norms and Standards)</p>	<ul style="list-style-type: none"> - Benefit from official registration of their births; - Access to social assistance; - Emergency assistance or aid (food, goods or transport assistance); - Regular school attendance and to access education; - Access to participation in community life; - Skills development to participate in social and economic life. 	<ul style="list-style-type: none"> - % accessing social grants; - No. of successful applications for birth certificates and ID books; - Ratio of school attendance; - % dropping out of school; - No. of children completing primary and secondary school; - No. of out of school getting vocational skills; - No. of out of school getting employment.
<p>Property (Norms and Standards)</p>	<ul style="list-style-type: none"> - Ability to assume responsibility for any property or possessions belonging to the household; - Maintenance and preservation of property belonging to the household and wherever necessary ability to dispose of such property 	<ul style="list-style-type: none"> - No. of children getting legal support to keep household property
<p>Exposure to harm (Norms and Standards)</p>	<ul style="list-style-type: none"> - No exposure to violence, abuse, maltreatment, sexual abuse, harmful or 	<ul style="list-style-type: none"> - No. of cases reported and investigated

	<p>hazardous forms of child labour;</p> <ul style="list-style-type: none"> - Protection from community risk factors. 	
<p>Disability, chronic illness (Norms and Standards)</p>	<ul style="list-style-type: none"> - Assistance to child with disability or chronic illness in a child-headed household to access grants, assistive devices and educational services; - Access vocational programmes or other forms of support to ensure optimal development of the child. 	<ul style="list-style-type: none"> - No. of children with disability; - No. of children with chronic illnesses.
<p>Supervision of the child-headed household</p>	<ul style="list-style-type: none"> - Appointment of supervising adult; - Services and visits by supervising adult. 	<ul style="list-style-type: none"> - % of child-headed households supervised - Increased percentage of child-headed households supervised
<p>Reporting of adult supervisor by child-headed household</p>	<p>Increased percentage of adults that continue to be suitable to supervise child-headed households</p>	<p>% of adults that continue to be suitable to supervise child-headed households</p>

6.5 How should monitoring and evaluation be conducted?

Monitoring of services rendered to children in child-headed households must be conducted by completing the child-headed households monitoring tool monthly, to provide qualitative and quantitative information. Evaluation should be done through narrative quarterly reports indicating the successes and challenges experienced during the quarter, at midyear and end of the year.

6.6 Who should monitor and evaluate?

The two critical role players involved in rendering statutory services to children in child-headed households are service points of the Department of Social Development (DSD) and Child Protection Organisations (CPOs). Both of these role players are expected to monitor and evaluate the services rendered; however DSD also has an overall monitoring obligation. Therefore CPOs should provide periodic reports to DSD on services rendered to child-headed households. Individual social workers employed at local levels must compile and analyse information and statistics relating to services they rendered to these households. Furthermore they are expected to submit monthly, quarterly, midyear and annual reports, which are aimed at informing planning and service delivery. This information is to be forwarded from local to district offices where district reports will be collated and forwarded to the province. Each province will have to compile a comprehensive report based on the monitoring and evaluation framework for child-headed households for submission to the national level. National will be responsible for providing oversight guidance to provinces to ensure effective implementation of provisions of the Act in relation to child-headed households. They will also compile a national report and report to the appropriate national monitoring structures on progress achieved and challenges encountered. From time to time national will conduct provincial visits to support the implementation of the Act and to ensure compliance to the prescribed norms and standards relating to child-headed households.

7. CONCLUSION

The complex and diverse needs of children in child-headed households require a focused and multi-sectoral approach. The National Guidelines for Statutory Services to Child-headed Households have been developed with the aim of harmonising legislation with practice in order to allow children in these households access to essential services, benefits and protections. These Guidelines are also aimed at promoting comprehensive protection of these children. The social worker plays a critical role in the facilitation of access to services for these children from the point of referral to monitoring and evaluation of services rendered. Effective service delivery to children in child-headed households depends on multi-sectoral partnership and collaboration with other sectors. The Guidelines provide information on the nature of services that can be provided by other role players and call upon social workers and the Department of Social Development generally to play a strong advocacy role in soliciting support for child-headed households.

In order to effectively implement Section 137 of the Children's Act No. 38 of 2005, it is important that social workers develop and enhance their knowledge and understanding of relevant legislative frameworks and procedures that promote and protect the rights of children living in child-headed households.

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ANNEXURE A

FUNDAMENTAL HUMAN NEEDS

Fundamental Human Need	What do Child- headed Households Experience	Services and Programmes to Fulfill Child's Needs
Physiological need	<ul style="list-style-type: none"> - Loss of family home; - Reduction or loss of the power to buy and produce food; - Reduction or loss of income; - Shortage of basic clothing; - Deterioration of physical health - Malnutrition; - General decline into state of poverty. 	<ul style="list-style-type: none"> - Unconditional provision of adequate nutritious food; - Provision of adequate and safe shelter; - Provision of adequate and appropriate clothing; - Provision of primary health care; - Provision of opportunities to improve family income; - Poverty alleviation programmes
Safety	<ul style="list-style-type: none"> - Loss of parental protection and guidance; - Exposure to physical and sexual abuse and exploitation; - Loss of physical protection; - Stigmatisation and physical vulnerability; - Lack of protection from hazardous environmental elements. 	<ul style="list-style-type: none"> - Adult caregiver who reliably provides basic protection; - Programmes that minimise children's exposure to danger and environmental hazards; - Eye on the Child Programmes which identify vulnerable children and offer protection and referral services.
Belonging and Love	<ul style="list-style-type: none"> - Loss of parental and /or family love and nurturing; - Loss of siblings, extended family contact due to illnesses, death, family break-up and relocation; - Loss of peer friendships; - Lack of space for expressing emotions; - Loss of opportunities to participate in community life; - Isolation. 	<ul style="list-style-type: none"> - Family support and family preservation programmes; - Peer mentoring services; - Safe space for experimentation with expression of emotion.

Fundamental Human Need	What do Child- headed Households Experience	Services and Programmes to Fulfill Child's Needs
	<ul style="list-style-type: none"> - Loss of cultural and family identity; - Loss or disruption of normal childhood environment; - Emotional trauma leading to identity crisis or development delay; - Loss of sense of belonging. 	<ul style="list-style-type: none"> - Adult caregiver who creates a sense of connectedness which stems from belonging to a family; - Home visitation programmes; - Psychosocial support - Cultural programmes that promote sense of identity and deal with trauma; - Programmes to promote family values, norms and tradition.
Self Esteem	<ul style="list-style-type: none"> - Loss of capacity for participation in family, community, school and peer education activities; - Loss of participation in life due to heightened and continual state of emotional and physical trauma; - Loss of autonomy and control of one's destiny; - Deprivation of human rights; - Loss of freedom of speech and movement; - Loss of choices regarding home, family and marital status for girls. - Loss of capacity to nurture and express creative abilities, inventiveness, and curiosity due to removal from formal school setting or altered roles. - Confusion or impairment of thought processes as a result of tensions between belief systems and experiences. 	<ul style="list-style-type: none"> - Child Participation Programmes where children feel valued - Children's programmes that promote children's rights focusing on family, schools and community; - Life skills programmes that promote independence and self esteem. - Sports and recreational programmes - Families, schools and communities that stimulate and encourage creative expression in many forms, enabling the child to utilise their creative abilities and talents in meaningful ways. - Psychosocial programmes; - Spiritual enrichment programmes; - Cultural programmes that address belief systems.
Self- Actualisation	<ul style="list-style-type: none"> - Understanding of self and environment impaired due to culture of secrecy, school drop-outs and extreme emotional and physical 	<ul style="list-style-type: none"> - Life skills programmes; - Health promoting school programmes; - Psychosocial support;

Fundamental Human Need	What do Child- headed Households Experience	Services and Programmes to Fulfill Child's Needs
	<p>trauma;</p> <ul style="list-style-type: none"> - Loss of inquisitiveness and connection with wider world outside of immediate culture; - Loss of free time and play time due to adult responsibility of sibling and self-care. 	<ul style="list-style-type: none"> - Technical skills programmes; - A sense of understanding and direction; - Career guidance programmes (pathing). - Intergenerational programmes promoting dialogues on cultural practices; - Recreational activities; - Caregivers, communities and society who see the importance of children spending time with friends and who encourage peer group participation; - Income and economic generating projects.

ANNEXURE B

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