

Section 1

1.1 Introduction

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

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

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

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

1.2 Purpose and Scope

1.2.1 The purpose of the protocol is to:

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

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

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

1.3 Legislative Framework

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