IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

ln the matter between:

Friends of South Africa ECD Forum & 4 Others

(Applicant)

and

MEC for Education: KwaZulu-Natal & 7 Others

(Respondent)

with

Equality Collective NPC

(*Amicus Curiae*)

Bundle prepared at sajustice.caselines.com

(Advocate)
(Advocate)

DOCUMENT PRESENTED FOR FILING:

1. COURT ORDER DATED:

2. COURT ORDER DATED:

SET DOWN FOR HEARING ON: 23 June 2026

Index

000: Applicants' Practice Note, Draft Order, and Heads of Argument (23 June 2026)

Page	Document	Date	Office of the Chief Justice	HIGH COURT
000-1 - 000-8	Practice_Note_and_Draft_Order_23_June_2026_2026.06.17.12.24.pdf	17 June 2026		
000-9 - 000-52	23_June_2026_Heads_of_Argument_2026.06.17.12.23.pdf	17 June 2026		

001: Amicus Curiae's Practice Note and Heads of Argument (23 June 2026)

Page	Document	Date	Office of the Chief Justice	HIGH COURT
001-1 - 001-2	(Amicus Practice Note) FOSA and Others v MEC for Education and Others	17 June 2026		
001-3 - 001-27	(Equality Collective Amicus Written Submissions) FOSA and others v MEC for Education in KZ	17 June 2026		

002: Amended Notice of Motion (23 June 2026)

Page	Document	Date	Office of the Chief Justice	HIGH COURT
002-1 - 002-9	Duplicate_Amended_Notice_of_Motion7_13359_2025.10.07.15.36.pdf	20 October 2025		

003: Certificate of Urgency, Notice of Motion (Old), with Founding Affidavit and Annexures "NS 1" – "NS 20", with Confirmatory Affidavits

Page	Document	Date	Office of the Chief Justice	HIGH COURT
003-1 - 003-4	CERTIFICATE_OF_URGENCY_2025.05.22.09.36.pdf	22 May 2025		
003-5 - 003-14	Notice_of_Motion_Long_Form_2025.05.14.08.38.pdf	22 May 2025		
003-15 - 003-64	Founding_Affidavit_2025.05.17.12.39.pdf	22 May 2025		
003-65 - 003-67	NS_1_2025.05.17.12.40.pdf	22 May 2025		

003-68 - 003-88	NS_2_2025.05.17.12.41.pdf	22 May 2025		
003-89 - 003-106	NS_3_2025.05.17.12.42.pdf	22 May 2025		
003-107 - 003-112	NS_4_2025.05.17.12.42.pdf	22 May 2025		
003-113 - 003-120	NS_5_2025.05.18.12.55.pdf	22 May 2025		
003-121 - 003-128	NS_6_2025.05.18.12.55.pdf	22 May 2025		
003-129 - 003-133	NS_7_2025.05.18.12.56.pdf	22 May 2025		
003-134 - 003-136	NS_8_2025.05.18.12.56.pdf	22 May 2025		
003-137 - 003-139	NS_9_2025.05.18.12.58.pdf	22 May 2025		
003-140 - 003-144	NS_10_2025.05.18.13.00.pdf	22 May 2025		
003-145 - 003-147	NS_11_2025.05.18.13.00.pdf	22 May 2025		
003-148 - 003-150	NS_12_2025.05.18.13.01.pdf	22 May 2025		
003-151 - 003-153	NS_13_2025.05.18.13.01.pdf	22 May 2025		
003-154 - 003-160	NS_14_2025.05.22.16.34.pdf	22 May 2025		
003-161 - 003-163	NS_15_2025.05.18.13.04.pdf	22 May 2025		
003-164 - 003-166	NS_16_2025.05.18.13.05.pdf	22 May 2025		
003-167 - 003-195	NS_17_2025.05.22.16.35.pdf	22 May 2025		
003-196 - 003-201	NS_18_2025518_1163_2025.05.18.13.06.pdf	22 May 2025		
003-202 - 003-205	NS_19_2025.05.18.13.06.pdf	22 May 2025		
003-206 - 003-214	NS_20_2025.05.18.13.07.pdf	22 May 2025		
003-215 - 003-219	Bonisiwe_Mthembu_Confirmatory_Affidavit_2025.05.18.13.13.pdf	22 May 2025		
003-220 - 003-224	Nonkonzo_Madlala_Confirmatory_Affidavit_2025.05.18.13.13.pdf	22 May 2025		

003-225 - 003-229	Thembekile_Ndlovu_Confirmatory_Affidavit_2025.05.18.13.14.pdf	22 May 2025		
003-230 - 003-234	Lawrence_Mngomezulu_Confirmatory_Affidavit_2025.05.18.13.15.pdf	22 May 2025		
003-235 - 003-239	Mandulo_Khuzwayo_Confirmatory_Affidavit_2025.05.18.13.16.pdf	22 May 2025		
003-240 - 003-244	Zandile_Hlongwa_Confirmatory_Affidavit_2025.05.18.13.16.pdf	22 May 2025		

004: Supporting Affidavit of S Linderboom, with Annexures "SL 1" – "SL 3"

Page	Document	Date	Office of the Chief Justice	HIGH COURT
004-1 - 004-28	Sheniece_Linderboom_Supporting_Affidavit_2025.05.19.20.49.pdf	22 May 2025		
004-29 - 004-39	SL_1_2025.05.19.20.50.pdf	22 May 2025		
004-40 - 004-43	SL_2_2025.05.19.20.51.pdf	22 May 2025		
004-44 - 004-99	SL_3_2025.05.19.20.52.pdf	22 May 2025		

005: Supplementary Affidavit of N Sibisi, with Annexures "NS 21" – "NS 43", and with Confirmatory Affidavits

Page	Document	Date	Office of the Chief Justice	HIGH COURT
005-1 - 005-33	N_Sibisi_Supplementary_Affidavit_2025.10.07.15.37.pdf	20 October 2025		
005-34 - 005-37	NS_21_2025.10.07.15.40.pdf	20 October 2025		
005-38 - 005-42	NS_22_2025.10.07.15.41.pdf	20 October 2025		
005-43 - 005-51	NS_23_2025.10.07.15.41.pdf	20 October 2025		
005-52 - 005-62	NS_24_2025.10.07.15.42.pdf	20 October 2025		
005-63 - 005-65	NS_25_2025.10.07.15.43.pdf	20 October 2025		
005-66 - 005-69	NS_26_2025.10.07.15.44.pdf	20 October 2025		
005-70 - 005-72	NS_27_2025.10.07.15.44.pdf	20 October 2025		
005-73 - 005-75	NS_28_2025.10.07.15.45.pdf	20 October 2025		
005-76 - 005-78	NS_29_2025.10.07.15.45.pdf	20 October 2025		
005-79 - 005-81	NS_30_2025.10.07.15.45.pdf	20 October 2025		
005-82 - 005-87	NS_31_2025.10.07.15.46.pdf	20 October 2025		
005-88 - 005-91	NS_32_2025.10.07.15.46.pdf	20 October 2025		

005-92 - 005-94	NS_33_2025.10.07.15.47.pdf	20 October 2025		
005-95 - 005-98	NS_34_2025.10.07.15.47.pdf	20 October 2025		
005-99 - 005-107	NS_35_2025.10.07.15.48.pdf	20 October 2025		
005-108 - 005-117	NS_36_2025.10.07.15.48.pdf	20 October 2025		
005-118 - 005-130	NS_37_2025.10.07.15.49.pdf	20 October 2025		
005-131 - 005-133	NS_38_2025.10.07.15.50.pdf	20 October 2025		
005-134 - 005-136	NS_39_2025.10.07.15.50.pdf	20 October 2025		
005-137 - 005-144	NS_40_2025.10.07.15.51.pdf	20 October 2025		
005-145 - 005-148	NS_41_2025.10.07.15.51.pdf	20 October 2025		
005-149 - 005-152	NS_42_2025.10.07.15.52.pdf	20 October 2025		
005-153 - 005-156	NS_43_2025.10.07.15.52.pdf	20 October 2025		
005-157 - 005-161	ShenieceLinderboom_ConfirmatoryAffidavit_2025.10.09.12.22.pdf	20 October 2025		
005-162 - 005-166	BonisiweMthembu_ConfirmatoryAffidavit_2025.10.09.12.23.pdf	20 October 2025		
005-167 - 005-171	LawrenceMngomezulu_ConfirmatoryAffidavit_2025.10.09.12.23.pdf	20 October 2025		
005-172 - 005-176	ManduloMaxwellKhuzwayo_ConfirmatoryAffidavit_2025.10.09.12.24.pdf	20 October 2025		
005-177 - 005-181	NonkonzoMadlala_ConfirmatoryAffidavit_2025.10.09.12.25.pdf	20 October 2025		
005-182 - 005-186	NomfundoDube_ConfirmatoryAffidavit_2025.10.09.12.28.pdf	20 October 2025		
005-187 - 005-191	NokuzolaPhungula_ConfirmatoryAffidavit_2025.10.09.12.29.pdf	20 October 2025		
005-192 - 005-196	NtombenhleMvuyana_ConfirmatoryAffidavit_2025.10.09.12.31.pdf	20 October 2025		
005-197 - 005-201	BeautyGuguMtshali_ConfirmatoryAffidavit_2025.10.09.12.32.pdf	20 October 2025		

005-202 - 005-206	ThembekileNdlovu_ConfirmatoryAffidavit_2025.10.09.12.26.pdf	20 October 2025		

006: Further Supplementary Affidavit of N Sibisi, with Annexures "NS 44" – "NS 49", and with Confirmatory Affidavits

Page	Document	Date	Office of the Chief Justice	HIGH COURT
006-1 - 006-18	N_Sibisi_Further_Supplementary_Affidavit_63552_2026.06.01.08.36.pdf	17 June 2026		
006-19 - 006-32	NS_44_63721_2026.06.01.08.37.pdf	17 June 2026		
006-33 - 006-36	NS_45_63746_2026.06.01.08.37.pdf	17 June 2026		
006-37 - 006-40	NS_46_6383_2026.06.01.08.38.pdf	17 June 2026		
006-41 - 006-43	NS_47_64523_2026.06.01.08.45.pdf	17 June 2026		
006-44 - 006-53	NS_48_63840_2026.06.01.08.38.pdf	17 June 2026		
006-54 - 006-62	NS_49_63858_2026.06.01.08.39.pdf	17 June 2026		
006-63 - 006-67	B_Mthembu_Confirmatory_Affidavit_64126_2026.06.01.08.41.pdf	17 June 2026		
006-68 - 006-72	T_Ndlovu_Confirmatory_Affidavit_64010_2026.06.01.08.40.pdf	17 June 2026		
006-73 - 006-77	N_Madlala_Confirmatory_Affidavit_64057_2026.06.01.08.41.pdf	17 June 2026		
006-78 - 006-82	L_Mngomezulu_Confirmatory_Affidavit_63940_2026.06.01.08.40.pdf	17 June 2026		
006-83 - 006-87	M_Khuzwayo_Confirmatory_Affidavit_63921_2026.06.01.08.39.pdf	17 June 2026		

007: Amicus Curiae Application (18 May 2026)

Page	Document	Date	Office of the Chief Justice	HIGH COURT
007-1 - 007-9	Amicus Notice of Motion	12 May 2026		
007-10 - 007-35	Amicus Founding Affidavit	12 May 2026		
007-36 - 007-39	_EC_01_Equality_Collective_Amicus_Application_Board_Resolution_-_FINAL_1__2025.12.11.11.18	12 May 2026		

007-40 - 007-71	_EC02__Real_Reform_for_ECD_-_Supporting_Organisations_1__20251211_9196_2025.12.11.11.19	12 May 2026		
007-72 - 007-213	_EC_03__national-integrated-ecd-policy-web-version-final-01-08-2016a_1__20251211_9203_2025	12 May 2026		
007-214 - 007-279	_EC_04___Naturing_care_framework_1__2025.12.11.11.26	12 May 2026		
007-280 - 007-351	_EC_05__ecdc-2021-report_1__20251211_9284_2025.12.11.11.28 (1)	12 May 2026		
007-352 - 007-383	_EC_06__South_Africas_2030_Strategy_for_Early_Childhood_Development_Programmes_FINAL_2025.	12 May 2026		
007-384 - 007-529	_EC_07_Thrive_By_Five_Technical_Report_Revised_1-September_2022_FINAL_1__2025.12.11.11.29	12 May 2026		
007-530 - 007-543	_EC_08__Ally,_Parker_and_Peacock_-_Litigation_and_social_mobilisation_for_ECD__1__1__20251	12 May 2026		
007-544 - 007-547	_EC_09__R4ECD_framework_-_short_2__1__1__2025.12.11.11.31	12 May 2026		
007-548 - 007-575	_EC_10__Fredman,_Donati_and_Naicker_-_New_beginnings_-_The_right_to_equality_and_early_chi	12 May 2026		
007-576 - 007-583	_EC_11__Letter_requesting_consent_to_intervene_in_KZN_subsidy_matter_Final__2__1__2025.12.	12 May 2026		
007-584 - 007-587	_EC_12__Response_to_CCL_re_amicus_040825__1__1__20251211_9333_2025.12.11.11.33	12 May 2026		
007-588 - 007-590	Amicus_Curiae__Proof_of_Service_in_Friends_of_ECD_v_MEC_for_Education_Case_No_2025-06755_2	12 May 2026		
007-591 - 007-659	_Conrad_Barberton__Expert_Affidavit_with_CV_annexed_2025.12.11.11.38	12 May 2026		
007-660 - 007-689	_Expert_Affdavit__Wiedaad_Slemming_2025.12.11.11.39	12 May 2026		
007-690 - 007-696	_Notice_of_Set_Down__Amicus_Application_18_May_2026 57_125455_2026.05.07.14.56 (18 May 2026)	12 May 2026		
007-697 - 007-699	CCL Amicus Admission Court Order	17 June 2026		

008: Draft Orders and Court Orders

Page	Document	Date	Office of the Chief Justice	HIGH COURT
008-1 - 008-4	Part_A_Court_Order7_122158_2026.06.17.14.26.pdf	17 June 2026		
008-5 - 008-9	2025-067855 order issued by Registrar on 6.08.25_2025.08.06.15.31.pdf	20 October 2025		
008-10 - 008-14	Court Order Granted 2025-067855 date 18 May 2026_2026.06.10.11.26.pdf	17 June 2026		
008-15 - 008-18	Draft Order_2025.05.25.10.39	12 May 2026		
008-19 - 008-22	Draft Order_2025.08.05.15.24	12 May 2026		

009: Notices

Page	Document	Date	Office of the Chief Justice	HIGH COURT
009-1 - 009-11	ECD_Subsidy_Litigation_Rule_16A_Notice_2025.05.26.11.33	12 May 2026		
009-12 - 009-15	NOTICE_TO_ABIDE_2025.05.30.12.10	12 May 2026		
009-16 - 009-24	Part_B_Notice_of_Set_Down_6_August_2025_202564_115359_2025.06.04.13.56	12 May 2026		
009-25 - 009-33	Served_Notice_of_Set_Down_Part_B_2025.08.12.07.57	12 May 2026		
009-34 - 009-38	2025-067855_Notice_of_Removal_from_Unopposed_Roll_2025.10.28.15.49	12 May 2026		
009-39 - 009-45	Served_Notice_of_Removal_2025.10.31.09.28	12 May 2026		
009-46 - 009-50	Notice_of_Set_Down__Unopposed__23_June_2026_202656_112825_2026.05.06.13.29	12 May 2026		
009-51 - 009-59	Served_Notice_of_Set_Down_Part_B_2025.08.12.07.57.pdf	20 October 2025		

010: Old Notices and Amendments

Page	Document	Date	Office of the Chief Justice	HIGH COURT
010-1 - 010-6	Notice_of_Intention_to_Amend_2025.07.23.15.07	12 May 2026		

010-7 - 010-15	Amended_NOM_ito_Rule_28_7__202585_95021_2025.08.05.11.50	12 May 2026		
010-16 - 010-24	Duplicate_Amended_Notice_of_Motion7_13359_2025.10.07.15.36	12 May 2026		

011: Proofs of Service

Page	Document	Date	Office of the Chief Justice	HIGH COURT
011-1 - 011-3	First_Respondent_Return_of_Service_2025521_6838_2025.05.21.08.12.pdf	22 May 2025		
011-4 - 011-6	Second_Respondent_Return_of_Service_2025.05.21.08.14.pdf	22 May 2025		
011-7 - 011-9	Third_Respondent_Return_of_Service_2025521_6221_2025.05.21.08.22.pdf	22 May 2025		
011-10 - 011-12	Fourth_Respondent_Return_of_Service_2025521_6250_2025.05.21.08.25.pdf	22 May 2025		
011-13 - 011-15	Fifth_Respondent_Return_of_Service_2025.05.21.17.35.pdf	22 May 2025		
011-16 - 011-18	Sixth_Respondent_Return_of_Service__2025.05.21.17.37.pdf	22 May 2025		
011-19 - 011-21	Seventh_Respondent_Return_of_Service__2025.05.21.17.38.pdf	22 May 2025		
011-22 - 011-24	Eighth_Respondent_Return_of_Service_2025.05.21.17.39.pdf	22 May 2025		
011-25 - 011-27	Notice_of_Set_Down_Proof_of_Email_Service__May_2026__2026.05.13.08.13.pdf	17 June 2026		
011-28 - 011-30	Applicants__Proof_of_Email_Service_64159_2026.06.01.08.42.pdf	17 June 2026		
011-31 - 011-33	Proof_of_Email_Service_17_June_2026_2026.06.17.12.25.pdf	17 June 2026		

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

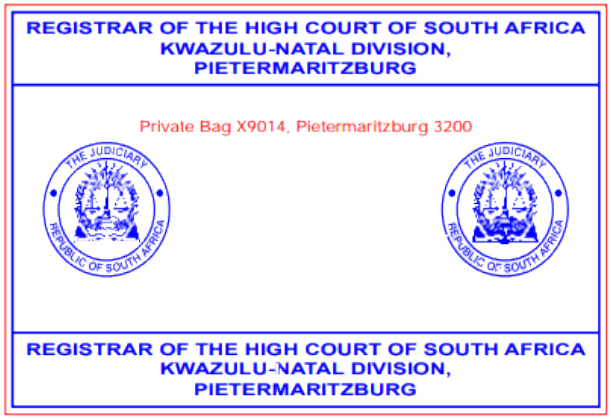
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Practice Notes

NOTE: **This document was filed electronically by the Registrar on 17/6/2026 at 12:24:09 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant



and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent
MINISTER OF SOCIAL DEVELOPMENT	Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

APPLICANTS' PRACTICE NOTE FOR THE HEARING ON 23 JUNE 2026

In satisfaction of this Practice Note, the following background is important for this Court to be directed to the precise relief sought:



1. There is no opposition from the respondents.
2. Counsel has prepared heads of argument for the convenience of this Court.
3. The draft order that will be sought by the applicants on 23 June 2026 is attached to this practice note.

Dated at **DURBAN** on this **17TH** day of **JUNE** 2026.



LEGAL RESOURCES CENTRE
Attorneys for the Applicants
1st Floor, CBI Building
635 Peter Mokaba Road
DURBAN,
4001
Tel: 031 301 7572
Ref: ED11-25
Email: sheniece@lrc.org.za / kiara@lrc.org.za

C/O M BHYAT ATTORNEYS
401 Prince Albert Street
Pietermaritzburg, 3201
Tel: 083 578 6059
Email: mohammed@mbhyat.co.za

TO: **THE REGISTRAR OF THE ABOVE COURT**

AND TO: **THE FIRST TO NINTH RESPONDENTS**
State Attorney (KwaZulu-Natal)
6th Floor, MetLife Building
391 Anton Lembede Street
Durban
C/O State Attorney (KwaZulu-Natal Satellite Office)
2nd Floor, Magistrate's Court Building
302 Church Street
Pietermaritzburg
REF: 35/002095/25/F/P44/hvl



IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant



and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent
MINISTER OF SOCIAL DEVELOPMENT	Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

APPLICANTS' DRAFT ORDER

Having read the documents filed on record, having heard counsel and having considered the matter —

AN ORDER IN THE FOLLOWING TERMS IS MADE:

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL, DIVISION,
PIETERMARITZBURG

1. Declaring and recognising that all children have a right to early childhood development.

1A. Declaring that the first to third respondents' irregular and inconsistent payment of ECD subsidies to qualifying ECD centres is unlawful, unconstitutional and invalid insofar as this conduct infringes the right to early childhood development of children.

2. The first to third respondents are directed to file a searchable report, within one month of the date of the court order, under oath, of the names and addresses of all ECD centres in KZN that are recipients of the conditional grant or equitable share subsidies, setting out the total subsidy amounts that are outstanding in respect of each centre and in that report to detail how they will remediate such non-payment.

2A. The first to third respondents are directed to pay the full outstanding amounts owed to each ECD centre listed in the report within one week of filing the report.

3. The first to third respondents are directed to file an updated version of the reports referred to in prayer 2 above, before the last day of every third month until all payments are up to date and the order is fully complied with, or alternatively, for a time period prescribed by this court.

4. The applicants be granted leave thereafter, within 30 days, and before the last day of every subsequent month, to deliver an affidavit in answer to the reports and may thereafter set the matter down for further, other or alternative relief, as supported by their affidavits and this application.



5. The first to third respondents are directed to ensure that, within three months of the date of the court order, a signed TPA agreement is concluded with each of the ECD centres that are recipients of the conditional grant or equitable share subsidies, and that each agreement clearly sets out the terms and timeframes for the payment of the subsidy in respect of each ECD centre.

6. Directing those respondents who oppose this affidavit to pay the costs of this application, including the costs of two counsel, each on scale C, such costs to be paid jointly and severally amongst them.

_____

BY ORDER OF THE COURT

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

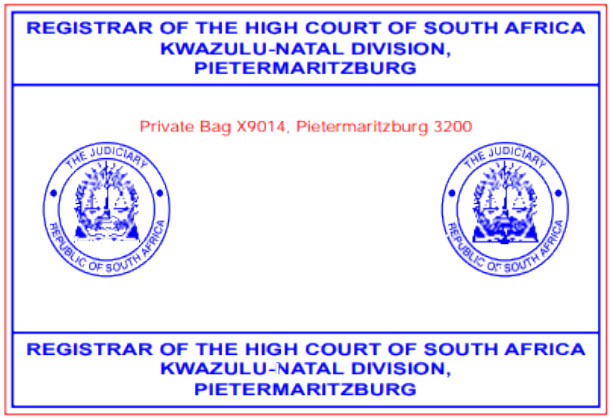
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Heads of Argument

NOTE: **This document was filed electronically by the Registrar on 17/6/2026 at 12:23:03 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent
MINISTER OF SOCIAL DEVELOPMENT	Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

APPLICANTS' HEADS OF ARGUMENT

Table of Contents



A. INTRODUCTION 4

B. BACKGROUND 6

Funding of centres 7

C. APPROPRIATE RELIEF 8

Relief: Declaration of the right to early childhood development 9

Constitutional foundation of ECD 10

Legislative framework of ECD 12

Norms and Standards 15

Policy framework 17

Relief: Declaration of invalidity 19

The failure to pay subsidies 19

Impact on children, centres, and the ECD sector 22

Relief: Direction that the KZNDoE must pay 23

Budget and the Financing of ECD 24

Subsidy Frameworks 24

Regulations 27

Relief: Structural and supervisory interdict 27

Attempts to engage with the KZNDoE 29

Relief: Direction that the KZNDoE must enter into Transfer Payment Agreements 30

D. COSTS 31

E. CONCLUSION 31

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

A. INTRODUCTION

1. This is an unopposed application, against the KwaZulu-Natal Department of Education ("KZNDoE"), brought by the applicants to address the systemic deprivation of early childhood development ("ECD") services in underserved communities and, consequently, the stifled development of young children in the province.

2. The state's financial support of ECD centres is intended to increase access to these services for poor children, who would otherwise not be able to realise these rights. The consequence of withholding support is the denial of access to this right and a failure by the state to fulfil its statutory and constitutional obligations.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

3. The KZNDoE's ongoing irregular payment and non-payment of the subsidy has thereby created insurmountable resource constraints at ECD centres throughout the province. It has disrupted the provision of ECD services to the young children who attend, with each missed payment resulting in an untenable breach of constitutional, statutory, and contractual obligations.

4. The applicants seek the following declaratory, structural, mandatory, and supervisory relief, *inter alia*:

   4.1. Recognising that all children have a right to ECD, grounded in various constitutional rights.

   4.2. That the KZNDoE's ongoing conduct relating to the administration and execution of the ECD subsidy system is declared unlawful, unconstitutional,

and invalid insofar as it infringes this right to ECD, by restricting and deteriorating the provision of ECD services at affected centres.

4.3. For the KZNDoE to be directed to file a report listing the particulars of all subsidised centres in KwaZulu-Natal, including the outstanding amounts owed to each centre, and the KZNDoE's corresponding remediation plan.

4.4. That the KZNDoE is directed to pay the listed centres their respective amounts in full.

4.5. That the KZNDoE is directed to file updated versions of the report and that the applicants are granted leave to respond to the reports and set the matter down for further relief, if necessary.



5. The *amicus curiae* will make submissions in support of the relief sought by the applicants, arguing that the Constitution, interpreted in light of international law, contains a right to ECD that encompasses a holistic package of components, and outlining the content of the right to ECD in more detail. It further contends that the state has corresponding duties to support ECD through stable and transparent funding arrangements. These submissions will assist the Court in crafting a just and equitable remedy and provide necessary insight to interpret any reports filed in terms of a structural interdict. To this extent, the Applicants will not deal with those submissions in these heads. However, we ask this Court not to deem such an abandonment of those issues.

6. These heads will thus:

6.1. provide a background to the case; and

6.2. set out the basis for each form of relief sought in the notice of motion.

B. BACKGROUND

7. The holistic delivery of all components of ECD is vital for the fulfilment of many children's rights embedded in the Constitution and the Children's Act. However, as a result of the mass poverty in KwaZulu-Natal, parents and guardians of young children aged zero to five are often unable to provide ECD services at home.

8. There is a heightened prevalence of malnutrition in South Africa — especially stunting, which is the most common form of malnutrition and affects physical and cognitive development, giving affected children a higher likelihood of starting school with developmental delays, and performing poorly at school. Stunting is also linked to future unemployment and chronic conditions such as obesity, hypertension, and diabetes in adulthood.[1] Sufficiently resourced ECD centres help address this devastating reality by providing poor children with adequate sources of nutrition outside of their homes. ECD centres also promote higher immunisation coverage because most early learning programmes are within 30 minutes of the nearest clinic.[2]

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

9. ECD centres in poor and marginalised communities are thus a vital contact point for young children to access many ECD components, such as care, education, and nutrition, which lay the foundation for a child's future success. The absence of these essential services during the crucial early years of a child's life is detrimental to their development, causing irreversible harm to their prospects.

[1] Supporting Affidavit, page 6, paragraph 12. Hall K, Almeleh C, Giese S, Mphaphuli E, Slemming W, Mathys R, Droomer L, Proudlock P, Kotze J, and Sadan M "South African Early Childhood Review 2024" Cape Town: Children's Institute University of Cape Town and Ilifa Labantwana, page 26.
[2] Supporting Affidavit, page 6, para 12. Ibid, page 12.

10. The ECD centres that cater to children in these communities operate from modest budgets comprised mainly of the ECD subsidy provided by the KZNDoE, with a minimal fee contribution coming from parents and guardians due to their own financial constraints. Subsequently, centres are fully dependent on the reliable payment of ECD subsidies from the KZNDoE, and without this, are unable to deliver quality ECD services to the young children in their care. It is imperative, then, that the KZNDoE is held accountable for payment of the subsidy.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

11. The matter remains unopposed, and thus no material dispute of fact arises. However, the relevant factual background will be summarised below.

Funding of centres

12. To access the state subsidy, ECD centres are required to register with the KZNDoE. If successful, a centre is meant to enter into a signed transfer payment agreement ("TPA") with the KZNDoE, setting out the terms and timeframes for payment. They are thereafter subsidised on a per-child basis, taking into account the number of eligible children at a centre and the number of days per year children attend.[3] At the time this application was instituted, registered centres were receiving R17 per day for each qualifying child who attended, a rate that had not increased since 2019. While not officially communicated by the KZNDoE, it is inferred that this amount has since increased to either R18.95 per child for 201 days (for centres funded from the equitable share) and R21.10 for 264 days (for

[3] Founding Affidavit, page 12, paragraph 32. Centres either receive funding from the Early Childhood Development Grant, a conditional grant which is paid quarterly, or from the KZNDoE's equitable share which is paid monthly.

centres funded from the conditional grant). The nationally prescribed rate is R24 per child per day.

13. The precise amount that a centre receives within a particular financial year is detailed in an indicative budget allocation and circulated to the centre at the start of a financial year. This document sets out the centre's per-child allocation and its total monthly and annual allocations. The applicant centres received their indicative budget allocations for 2025/2026 between three and five months *after* the financial year had begun. It was only from their own calculations that they were then able to decipher that they were being paid R18.95 per child per day, as opposed to the typical R17.[4] The lack of communication regarding this change led to considerable confusion within centres beforehand, as they were unable to determine why the amounts had increased.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

C. APPROPRIATE RELIEF

14. In Part B of this application, the applicants ask the Court to make an order for the following, to remedy the KZNDoE's breach of its constitutional, statutory, and contractual obligations:

    14.1. First, to declare that all children have a right to early childhood development in terms of section 38 of the Constitution.

    14.2. Second, to declare that the KZNDoE's irregular and inconsistent payment of subsidies to qualifying ECD centres violates children's constitutional rights and is invalid in terms of section 172(1)(a) of the Constitution.

[4] 7 October 2025 Supplementary Affidavit, pages 19-23; paragraphs 46, 51, 58; annexure "NS 41" – "NS 43".

14.3. Third, to direct the KZNDoE to file a report listing the particulars of all subsidised centres in the province and the respective amounts owed to each centre, as well as detailing the plans to make payments.

14.4. Fourth, to direct the KZNDoE to pay all outstanding amounts listed in the report, within one week thereafter;

14.5. Fifth, to direct the KZNDoE to file updated versions of the report detailing progress with payments. The applicants should be granted leave to deliver answers to the reports and to set the matter down for further relief.

14.6. Sixth, directing the KZNDoE to enter into signed, comprehensive TPAs with every subsidised ECD centre within three months of the order.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

15. The third to sixth forms of relief are sought in terms of section 172(1)(b) of the Constitution.

Relief: Declaration of the right to early childhood development

16. Section 38 of the Constitution states that "anyone listed in this section has the right to approach a competent court, alleging that a right in the Bill of Rights has been infringed or threatened, and the court may grant appropriate relief, including a declaration of rights."

17. The applicants submit that this Court should declare that all children have a right to early childhood development, which includes the right of every child to be provided with the essential ECD components that make up the content of this right.

18. This self-standing right arises from a consolidated reading of the Constitution and the Children's Act.

Constitutional foundation of ECD

19. The holistic delivery of the "essential package" of ECD components or services is a necessary precondition for the fulfilment of many constitutional rights of children and the subsidiary rights embedded in the Children's Act.



20. A right to ECD is not mentioned by name in the Constitution, but it is implicit in the many rights which the Bill of Rights vests in children. This application relies on the following constitutional rights, obligations, and values as a basis:
    20.1. The Constitution is the supreme law of the Republic, and law or conduct inconsistent with it is invalid, and the obligations imposed by it must be fulfilled.[5]
    20.2. All constitutional obligations must be performed diligently and without delay.[6]

21. A right to ECD is not mentioned by name in the Constitution, but it is implicit in the many rights which the Bill of Rights vests in children.
    21.1. Section 28 of the Bill of Rights sets out the rights of children. Children enjoy a right to Section 28(1) guarantees, amongst others, the rights to family care or parental care, or to appropriate alternative care when removed from the family environment, to basic nutrition, shelter, basic health care services and

[5] Section 2.
[6] Section 237.

social services, to be protected from maltreatment, neglect, abuse or degradation[7]

21.2. Children's best interests are paramount.[8]and section 28(2) provides that in all matters concerning a child, a child's best interest are of paramount importance.

21.3. The right to life.[9] Section 11 of the Constitution guarantees everyone the right to life. The Constitutional Court has ruled that the right to life includes the right to have food, water, and social security. These are positive obligations which are placed on the state, which means that the state must take positive steps to meet these obligations.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL, DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL, DIVISION,
PIETERMARITZBURG

21.4. The right to dignity and dignity as a value.[10]

21.5. Equality before the law and the right to equal protection and benefit of the law[11]

21.6. Section 27(1)(a) and (b) of the Constitution provides the right to access healthcare services, sufficient food, and water.[12]

21.7. Section 29 contains the immediately realisable right to a basic education.[13]

---

[7] Section 28(1).

[8] Section 28(2).

[9] Section 11. The Constitutional Court in *Minister of Health and Others v Treatment Action Campaign and Others (No 2)* [2002] ZACC 15has ruled that the right to life includes the right to have food, water, and social security. These are positive obligations which are placed on the state, which means that the state must take positive steps to meet these obligations.

[10] Section 10 of the Bill of Rights states: "Everyone has inherent dignity and the right to have their dignity respected and protected." The Constitutional Court has ruled that the right to dignity is inherent in the right to life:

> "The right to life, thus understood, incorporates the right to dignity. So the rights to human dignity and life are entwined. The right to life is more than existence, it is a right to be treated as a human being with dignity: without dignity, human life is substantially diminished. Without life, there cannot be dignity." (*S v Makwanyane and Another* [1995] ZACC 3 at para 326)

[11] Section 9(1).

[12] Section 27(1)(a) and (b).

[13] Section 29(1)(a). Applicant submits that this is precisely what the young children receive at the ECD centres is precisely that. Apart from sustenance towards their development, these children also receive the basics of an early education.

22. It follows *prima facie*, therefore, that the failure to provide funding for the ECD programmes is in direct contravention of the above constitutional rights that vest in children. They directly impact a child's right to sufficient food and nutrition and indirectly affect their rights to a basic education and accessing healthcare services.

23. But the contravention goes deeper. It also results in a failure by the state to comply with its statutory duties.



24. And the state acknowledges this. The Children's Act is the subsidiary legislation that gives effect to the rights of children. I deal with this next.

Legislative framework of ECD

25. Recognising the aforesaid rights as a cumulative basis for setting out what we submit ought to be a self-standing right to ECD, the Children's Act sets out the contents of the right to ECD. In applying the Act, the rights which a child has in terms of this Act supplement the rights which a child has in terms of the Bill of Rights.

26. And all organs of state in any sphere of government and all officials, employees, and representatives of an organ of state must respect, protect, and promote the rights of children contained in this Act.

27. I submit that the Children's Act, in giving content to the current cumulative right to ECD, sets out the basis for this Court to declare that such right exists as a standalone right.

28. The long title of the Children's Act is "to give effect to certain rights of children as contained in the Constitution; … to provide for early childhood development". In its preamble, the Act states that:

    28.1. every child has the rights set out in section 28 of the Constitution;

    28.2. the State must respect, protect, promote, and fulfil those rights;

    28.3. the United Nations has, in the Universal Declaration of Human Rights, proclaimed that children are entitled to special care and assistance;

    28.4. the need to extend particular care to the child has been stated in the Geneva Declaration on the Rights of the Child, in the United Nations Declarations on the Rights of the Child, in the Convention on the Rights of the Child, and in the African Charter on the Rights and Welfare of the Child, recognised in the Universal Declaration organisations concerned with the welfare of children.



29. Some of the objects of the Act, in terms of sub-sections 2(c) and (d), are to:

    29.1. give effect to the Republic's obligations concerning the well-being of children in terms of international instruments binding on the Republic; and

    29.2. make provision for structures, services, and means for promoting and monitoring the sound physical, psychological, intellectual, emotional, and social development of children.

30. In implementing this Act, organs of state in the national, provincial, and, where applicable, local spheres of government that are subject to any specific section of this Act and regulations allocating roles and responsibilities, must fulfil their obligations in an integrated, coordinated, and uniform manner.

31. Further, where competing social and economic needs exist, organs of state in the national, provincial, and, where applicable, local spheres of government must, in the implementation of this Act, take reasonable measures to the maximum extent of their available resources to achieve the realisation of the objects of this Act.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

32. By extension of the purpose of the Act, the allocation of such services is an immediately realisable one that is not subject to progressive realisation based on the availability of resources. This is evident when going through the further material and applicable sections of the Act.

33. The general principles surrounding the Act are as follows. All proceedings concerning the child must:

    33.1. respect, protect, promote and fulfil the child's rights set out in the Bill of Rights, the best interests of the child standard set out in section 7, and the rights and principles set out in this Act, subject to any lawful limitation

    33.2. respect the child's inherent dignity; and

    33.3. recognise a child's need for development and to engage in play and other recreational activities appropriate to the child's age.

34. In applying the Act, the rights which a child has in terms of this Act supplement the rights which a child has in terms of the Bill of Rights. And all organs of state in any sphere of government and all officials, employees, and representatives of an organ of state must respect, protect, and promote the rights of children contained in this Act.

35. Chapter 6 of the Act sets out the section on ECD. I highlight below some of the essential aspects, and these matters will be dealt with further in legal argument. As stated above, I submit at the outset that this demonstrates that the Legislature has recognised the importance of ECD by making specific provision for it in a Chapter in the Children's Act.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

36. The issue is that ECD is not considered as a standalone justiciable right, but as rights found cumulatively.

37. Section 91(1) of the Children's Act characterises early childhood development as "the process of emotional, cognitive, sensory, spiritual, moral, physical, social and communication development of children from birth to school-going age." ECD services are then defined in section 91(2) as regular services provided by someone other than a child's parent or caregiver that are intended to promote early childhood development, until a child reaches school-going age.

Norms and Standards

38. Section 94 of the Act places an obligation on the Minister to determine national norms and standards for early childhood development programmes by regulation

after consultation with interested persons and the Ministers of Education, Finance, Health, Provincial and Local Government, and Transport.

39. These norms and standards were determined and were placed as an annexure to the 2010 Regulations. The National Norms and Standards for Early Childhood Development Programmes sets out six broad norms and standards. These are:

39.1. The provision of appropriate developmental opportunities.

39.2. Programmes aimed at helping children to realise their full potential.

39.3. Caring for children in a constructive manner and providing support and security.



39.4. Ensuring development of positive social behaviour.

39.5. Respect for and nurturing of the culture, spirit, dignity, individuality, language, and development of each child.

39.6. Meeting the emotional, cognitive, sensory, spiritual, moral, physical, social, and communication development needs of children.

40. In order to provide appropriate developmental opportunities, the programme must be delivered by members of staff who have the knowledge and training to deliver developmental programmes and be appropriate to the developmental stages of children.

41. The care of children, according to the norms and standards, requires programmes that must adhere to policies, procedures, and guidelines related to health, safety, and nutrition. These include,

41.1. Safe and clean toilet facilities;

41.2. At least one meal a day provided, of which should adhere to the needs of the

child's nutritional requirements;

41.3. Staff must be adequately trained and possess knowledge and skills to recognise children's serious illnesses and how to deal with those.

Policy framework

42. I submit that there can be no doubt about the position of the state in recognising ECD as a self-standing right because our government has recognised these arguments in policy, since 2015.



43. The National Integrated Early Childhood Development Policy ("NIECDP") was developed by the Department of Social Development ("DSD") with the goal of increasing access to subsidised ECD services for poor children. It states that "[g]overnment recognises early childhood development as a fundamental and universal human right to which all young children are equally entitled without discrimination."[14]

44. The principles underpinning the implementation of the NIECDP include a "human rights-based approach to early childhood development,"[15] which is described as follows:

> *"[The NIECDP] is grounded in, and seeks to give effect to, the Government of South Africa's international, regional and national legal commitments to recognise, respect, protect and promote the universal rights of all young children and their caregivers protected by*

[14] Paragraph 1.3.1 of the NIECDP.
[15] Page 50 of NIECDP. United Nations, 2002; United Nations, 2010.

international, regional and national law."[16]

45. It expressly recognises a child's universal right to life, survival and development in terms of international law, and states that the government has a legal obligation to ensure that ECD services are provided to support the realisation of this right.[17]

46. To effectively enforce this obligation, the Policy calls for "a strong early childhood development system made up of policies and laws, in terms of which responsibilities are spelt out and role players can be held accountable for the realisation of the universal enjoyment of young children's rights."[18]



47. The policy defines ECD programmes as "Programmes that provide one or more forms of daily care, development, early learning opportunities and support to children from birth until the year before they enter formal school."

48. The full complement of constitutional rights set out above, when adequately delivered, collectively make up ECD. Due to the interconnectedness of these rights, the absence of any one component of ECD (or the non-delivery of the corresponding constitutional right), may prevent a child from accessing ECD altogether during the crucial early stages of their life.[19]

---

[16] Page 50 of NIECDP.
[17] Page 50 of NIECDP.
[18] Page 50 of the NIECDP.
[19] *Skole-Onsersteuningsentrum NPC and Others v Minister of Social Development and Others*, paragraph 17.

49. While our courts have already established the individual importance of these rights for children and recognised the interdependence of the components of development that necessitate a holistic approach to ECD, it is appropriate for this Court to recognise the rights as a unified right to ECD that can be enforced against the state.

50. Accordingly, I submit that a declarator that a self-standing right to ECD exists and that every child has a right to ECD is an appropriate remedy.



Relief: Declaration of invalidity

51. Section 172(1)(a) of the Constitution requires that a court declare any law or conduct that is inconsistent with the Constitution invalid to the extent of its inconsistency.

52. Consequently, we submit that this Court is enjoined to declare the KZNDoE's failure to regularly and consistently pay subsidies to qualifying ECD centres throughout KwaZulu-Natal is unlawful, unconstitutional, and invalid to the extent that it has infringed the right to ECD of children.

The failure to pay subsidies

53. The first and second applicants were established in response to a breakdown in the regular payment of ECD subsidies to qualifying centres, which began in April

2022, following the ECD function shift from the Department of Social Development to the Department of Basic Education ("DBE").[20]

54. Since the function shift, there were a few initial glitches, which have since snowballed into a widespread and ongoing failure to pay ECD subsidies to qualifying centres in KwaZulu-Natal. Payments became exceedingly erratic in September 2023, without warning or explanation from the KZNDoE.[21]

55. The payment histories of the applicant centres illustrate a systemic pattern of neglect rather than isolated incidents.[22]



56. Although the current subsidy amount — whether it is R18.95, R20.10, or R24 per child per day — is wholly inadequate to deliver the necessary package of ECD services, centres do rely heavily on the subsidy to remain operational.[23]

57. The contractual obligation for the KZNDoE to pay these subsidies arises from the TPAs that are intended to be entered into with each registered centre. These TPAs, however, are not uniformly applied, with many centres not having them and the KZNDoE not adhering to the payment date terms. Those who have signed TPAs also continue to experience payment interruptions without recourse.[24]

[20] Founding Affidavit; page 14; paragraph 40.
[21] Supporting Affidavit; page 22; paragraph 68.
[22] Founding Affidavit; pages 18-19, 21-22, 25-26; paragraph 56, 63, 76.
[23] Supporting Affidavit; page 22; paragraph 69.
[24] Supporting Affidavit; page 25; paragraph 81-82.

58. This has led to increased confusion regarding when centres should expect payment, since TPAs typically indicate mid-month, whereas in practice, payment is made at month-end. It enables the KZNDoE to avoid accountability by hiding behind these unenforceable timeframes when payments are delayed.

59. While the state's duty to pay subsidies does not merely arise from TPAs, but primarily from its constitutional obligations towards children, the management of these agreements is indicative of severe administrative dysfunction within the KZNDoE.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

60. Furthermore, there are additional payments referred to as "back pay" that are outstanding. Back pay is intended to top up payments to centres that were paid the equitable share grant amount of R18.95 per child for 201 days, and those that were paid R20.10 per child for 264 days, when the subsidy amounts from 1 April 2025 to 31 March 2026 should be the nationally prescribed rate of R24 per child per day for 264 days. The new per child allocation amounts to R6336 based on the new rate amounts. Back pay was received by some centres in February and March 2026. Payment of back pay has also not been uniform, as it has only been received by a select few centres. Again, this was without warning or explanation.[25]

61. Recent back payments made therefore constitute retrospective adjustments to correct this discrepancy in the per-child allocation for the 2025/2026 financial year, rather than current or ongoing subsidy payments. However, in the absence of this being communicated to centres that are receiving back pay, it has created a false

[25] 2 June 2026 Supplementary Affidavit; pages 6-8; paragraph 18-27.

impression that the KZNDoE is paying subsidies in the ordinary course. These centres are therefore not alerted to the non-payment of their subsidies.[26]

Impact on children, centres, and the ECD sector

62. The funding increases access to an "essential package" of ECD services, which includes:[27]

    62.1. nutritional support;

    62.2. primary caregiver support;

    62.3. social services and protection;

    62.4. health care services; and

    62.5. early care and educational programmes.



63. Since the transition to DBE and the KZNDoE's irregular payment of the subsidy, many centres in the province, including the applicant centres, have suffered severe resource constraints that have interrupted the continued provision of quality ECD services that form part of this package. The facts have been set out in the affidavits. However, to assist this Court, the Applicants attach a table of incidents to these heads of argument.

64. A month or even consecutive months without the payment of the subsidy forces a centre to cut back on services to an extent that is detrimental to the children who attend and could result in long-term disadvantages.

[26] 2 June 2026 Supplementary Affidavit; pages 6-8; paragraph 18-27.
[27] Founding Affidavit; page 13; paragraph 36.

65. The impact of the KZNDoE's irregular payment and non-payment of subsidies on the provision of ECD services is best illustrated by the experiences of individual ECD centres. These heads highlight a few significant harms emerging from the applicants' founding, supporting, and supplementary affidavits.

66. Attached to these heads of arguments is TABLE A which sets out the a summary of incidents and failures by the KZNDoE to conduct itself within its constitutional obligations.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

67. The conduct of the KZNDoE is undisputed and this application lies unopposed despite all the attempts set out to engage with the department. Accordingly, and respectfully, based on the uncontested facts this Court is empowered to declare such conduct inconsistent with the Constitution.

Relief: Direction that the KZNDoE must pay

68. Section 172(1)(b) empowers the court, when deciding a constitutional matter within its power, to make any order that is just and equitable. Constitutional relief must be effective.[28]

69. Given the nature of the rights in question and the collective impact of these rights on the development of young children in KwaZulu-Natal, the most crucial remedial action is for the KZNDoE to make full payments of all outstanding ECD subsidies to qualifying centres, and to continue to do so consistently.

[28] *Hoffman v South African Airways* [2000] ZACC 17.

70. The relief sought cannot infringe on the separation of powers doctrine as the applicants merely ask this Court to direct the State to fulfil its constitutional obligations.[29]

Budget and the Financing of ECD

71. Section 93 of the Act deals with the provision of funding towards ECD programmes. According to this section:



71.1. The MEC for education may, from money appropriated by the relevant provincial legislature, provide and fund early childhood development programmes for that province.

71.2. An early childhood development programme must be provided in accordance with this Act and comply with the above-prescribed national norms and standards.

72. The funding of early childhood development programmes must be prioritised in communities where families lack the means of providing proper shelter, food, and other basic necessities of life to their children.

Subsidy Frameworks

73. Subsidies are funded from both the Early Childhood Development Grant ("ECDG"), a conditional grant administered by the DBE, and by Provincial Education Departments ("PEDs") using a portion of their provincial equitable share. As a

[29] Doctors for Life International v Speaker of the National Assembly and Others [2006] ZACC 11.

conditional grant, funding provided through the ECDG is strictly ring-fenced and must be used by PEDs within the parameters set out by the DBE. The allocation and use of the ECDG is governed in terms of the ECD Conditional Grant Framework, revised each year by the DBE and included annually within Annexure W2 to the Division of Revenue Bill.

74. The most recent framework sets the value of the ECD subsidy drawn from the ECDG at R17 per qualifying child per day at registered ECD centres, and R6 per qualifying child per session attending non-centre ECD establishments. These subsidies have not increased since 2019. The allocation made towards the ECDG under the Division of Revenue Bill B7 of 2025 has been reported to increase the subsidy allocated per child at registered ECD centres to R24.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

75. However, underspending on the ECDG remains a significant issue. The most recent Conditional Grants Expenditure Report presented to the National Council of Provinces' Appropriations Committee on 16 October 2024 revealed that, on average, provinces are only spending 42% of the ECDG grant allocated to them.

76. The framework also details the process that must be followed in applying for ECD funding and in paying subsidies out to ECD centres and non-centre establishments in broad terms. While PEDs are left to determine the finer details of this process in their own business plans, the framework does clearly require the subsidy payments to be calculated using centre and non-centre establishments' enrolment figures at the start of the year and paid out on a quarterly basis.

77. PEDs also contribute towards ECD subsidies using a portion of their provincial equitable share. These funds are allocated at the discretion of PEDs, and the exact allocation thereof differs between provinces.

78. It goes on to state that ensuring the right to life, survival, and development includes the need to consider budgets for different groups of children within the current generation, while also taking future generations into account by developing sustainable multi-year revenue and spending projections.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

79. ECD centres are required to register under the Children's Act. If registration is successful, the centre then qualifies to access the state subsidy. If the ECD centre does not, however meet the registration requirements, they are largely left to fend for themselves and operate using the fees received from parents, which are negligible in poor communities.

80. Subsidies are granted to ECD centres on a per capita basis, taking into account the number of children in attendance at the centre and the number of days children spend at the centre during the year. If an ECD centre is located in a designated municipal ward that has been identified for the targeting of subsidies, all children in attendance at the centre are subsidised. If it is located outside of these areas, only the children in attendance whose parents or caregivers pass a means test will be subsidised. The subsidy value will also vary between centre and non-centre establishments.

Regulations

81. According to the General Regulations Regarding Children, 2010; GN R261 in GG 33076 of 01 April 2010 ("2010 Regulations"), regulation 28 subjects all ECD programmes to assessment and monitoring of norms and standards of the provision of ECD. All assessment and monitoring visits must be followed by a full report and development plan that must be submitted to the provincial head of social development and the management of the early childhood development programme. Assessment and monitoring of early childhood development programmes must take place every two years.



Relief: Structural and supervisory interdict

82. The Applicants submit that structural relief is both necessary and appropriate in the circumstances. The conduct of the KZNDoE illustrates consistent and systemic failure, even on its own conduct leading up to this hearing through its failures to adhere to Part A of this application.

83. Ordinary relief would not be effective and it will cost in further litigation in the Applicants approaching this Court for relief over again.

84. The applicants instead submit that this Court should:

    84.1. Direct the KZNDoE to file a searchable report, within one month of the date of the court order, under oath, of the names and addresses of all ECD centres in the province that are recipients of the ECD subsidy, setting out the total amounts owed to each centre and detailing how they plan to remedy the non-payment.

84.2. Further direct the KZNDoE to file updated versions of the reports, detailing progress with payments, before the last day of every third month until all payments are up to date, the order is fully complied with, or for a time prescribed by this Court.

84.3. Additionally, grant the applicants leave thereafter, within 30 days, and before the last day of every subsequent month, to deliver an affidavit in response to the reports, and to set the matter down for further or alternative relief as supported by their affidavits and this application.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

85. The Applicants submit that supervisory orders or structural interdicts are appropriate in circumstances where non-compliance with the order will be serious, or where it appears the relevant organ of state is inattentive or incompetent.[30]

86. Furthermore, supervisory orders are appropriate where organs of state have not heeded declaratory orders.[31]

86.1. Already declaratory orders about the importance of individual rights. Education, right to life cannot be limited, equality, dignity.

86.2. Despite understanding the role that subsidies play in protecting those rights, they have still failed to pay on time, which disregards the importance of those declarations, in addition to disregarding the nature of non-derogable rights.

[30] Cora Hoexter and Glen Penfold Administrative Law in South Africa, 3rd Edition 2021 (Juta) page 464, with reference to Kent Roach and Geoff Budlender 'Mandatory Relief and Supervisory Jurisdiction: When is it Appropriate, Just and Equitable' (2005) 122 SALJ 325 at 333-334.
[31] *TAC 2* para 129.

Attempts to engage with the KZNDoE

87. Both the first and second applicants have repeatedly engaged with the KZNDoE regarding the payment issues experienced widely by their respective ECD-centre networks. Below is a chronological table of steps the Applicants and its attorneys took to engage with the KZNDoE and the opportunities it had to remedy these issues

88. Attached to these heads is **TABLE B**, which set out a chronology of instances in which the Applicants sought to engage with the KZNDoE.



89. This court will note, upon considering the chronology of correspondence, that throughout these extensive emails and attempts at engagement with the KZNDoE, clear timeframes for payment were repeatedly requested and consistently ignored.

90. The Applicants have exhausted all communication channels to try to uncover why the KZNDoE is not paying subsidies. However, the KZNDoE has yet to acknowledge and address the devastating effects of non-payment on staff, parents, and most significantly, the young children at affected centres.[32]

91. There can be no impeding on the separation of powers since the remedy sought seeks to hold the KZNDoE accountable for its obligations in the Childrens Act.

92. Section 92 of the Act sets out the state's strategy concerning ECD. It places an obligation on:

[32] Founding Affidavit; page 34; paragraph 107.

92.1. The Minister, after consultation with interested persons and the Ministers of Education, Finance, Health, Provincial and Local Government, and Transport, must include in the departmental strategy a comprehensive national strategy aimed at securing a properly resourced, coordinated and managed early childhood development system, giving due consideration as provided in section 11, to children with disabilities or chronic illnesses.

92.2. The MEC, in this instance within KwaZulu-Natal, for basic education must maintain a record of all the early childhood development programmes registered in the province; and within the national strategy referred to in subsection (1), provide for a provincial strategy aimed at a properly resourced, coordinated and managed early childhood development system.



92.3. The MEC for basic education must compile a provincial profile at the prescribed intervals to make the necessary information available for the development and review of the strategies referred to in subsections (1) and (2).

93. For these reasons, we submit that it would be just and equitable for this Court's direction that the KZNDoE pay all outstanding subsidies to registered ECD centres, to be coupled with this supervisory order.

Relief: Direction that the KZNDoE must enter into Transfer Payment Agreements

94. The Court should further direct, in terms of section 172(1)(b) that the KZNDoE enter into signed TPAs with each subsidised ECD centre, within three months of the court order. These TPAs should clearly set out the terms and timeframes for the payment of the subsidy to the respective centres.

95. The lack of accountability that is permitted through the absence of clear timeframes for payment and avenues for escalating issues and failures is indefensible. It further left the applicants with no option but to eventually resort to litigation to try to secure payments. This is unsustainable, and enforceable contracts are appropriate in these circumstances.

D. COSTS

96. The respondents have not opposed this application. However, the continued transgressions by the KZNDoE, including the recalcitrance that was demonstrated following the Jikela J order, warranted the preparation of two additional supplementary affidavits. Such costs of the unopposed application are still persisted with on scale C.



E. CONCLUSION

97. Without alternative income sources, many centres have limited or removed the provision of snacks and meals for children, knowing that for many, the meals and snacks provided at a centre are their only sources of nutrition for the day. It has hindered their ability to make necessary infrastructure upgrades, often compromising children's safety. The number of staff is also reduced due to the inability to pay salaries, and centres are unable to afford new educational materials and toys.

98. The disruption to these essential services signals a complete denial for poor children, who are entirely dependent on ECD centres for the realisation of their right to ECD.

99. Consequently, the Applicant seeks an order in terms of the attached draft order prayed.

_____

MZF Suleman

Counsel for Applicants

Chambers, Durban

Cell: 072 060 5054

email: suleman@ubunyechambers.co.za

17 June 2026

TABLE A: LIST OF INCIDENTS AT ECD CENTRES AND THEIR IMPACT

Name of ECD Centre	Harm Suffered
Sakhokwethu Crèche	Reliance on the principal's personal funds to provide food; inability to pay staff salaries consistently; deferred maintenance and infrastructure improvements; inability to provide adequate play equipment and educational materials; reduced capacity to enrol additional vulnerable children despite community need.[1]
Phumelela Crèche	Loss of staff due to non-payment of salaries, leaving one practitioner responsible for 51 children; inability to purchase educational materials, mattresses and bedding; risk of eviction due to rental arrears; threat of closure and loss of ECD services for enrolled children.[2]
Zenzeleni Crèche	Reliance on personal loans and family support to provide food and meet operational expenses; inability to carry out essential maintenance and repairs;

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

[1] Founding Affidavit; page 14-20; paragraph 40-57.
[2] Founding Affidavit; page 15-23; paragraph 44-70. 7 October 2025 Supplementary Affidavit; page 21; paragraph 51-53.

	damaged infrastructure posing safety risks to children and staff; continued indebtedness despite subsequent payments.[3]
Sinamuva Crèche	Deterioration in the nutritional quality of meals provided to children; inability to comply with recommended nutritional standards; increased risk of adverse developmental and health outcomes associated with poor nutrition.[4]
Umusa Uyasilandela ECD Centre	Inability to maintain adequate security measures, resulting in repeated break-ins, theft, and vandalism; diversion of resources away from children's needs; consideration of closure due to ongoing financial strain.[5]
Zamani Pre-School	Exhaustion of the principal's personal resources to sustain operations; inability to provide sufficiently nutritious meals; ongoing risk of closure if payment irregularities persist.[6]

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

[3] Founding Affidavit; page 24-26; paragraph 74-80.
[4] Founding Affidavit; page 30-31; paragraph 85-90. 7 October 2025 Supplementary Affidavit; page 22; paragraph 55
[5] Founding Affidavit; page 32; paragraph 94-97.
[6] Founding Affidavit; page 33-34; paragraph 99-100.

Nomafu Day Care	Reliance on high-interest informal loans to sustain operations; accumulation of unsustainable debt; threats to the principal's personal safety and the centre's infrastructure; risk to the centre's long-term sustainability.[7]
Daluxolo Day Care Centre	Reduction in meals and nutritional support provided to children; deterioration of the emotional and learning environment due to staff stress and uncertainty; children becoming withdrawn, unsettled and less engaged; disruption of trusting caregiver-child relationships.[8]
Othandweni Crèche	Suspension of lunch provision and periods without meals being provided by the centre; reliance on staff and parents to supplement children's nutrition; continued deprivation of adequate nutrition for vulnerable children.[9]
Bajabulile ECD	Inability to provide sufficient learning materials and maintain a stable educational environment; particular

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

[7] Founding Affidavit; page 34-35; paragraph 103-104.
[8] 7 October 2025 Supplementary Affidavit; pages 21-23; paragraph 62-63, 69.
[9] 7 October 2025 Supplementary Affidavit; page 22; paragraph 64-65.

	disruption to children with autism and other disabilities who depend on consistency, routine and specialised support.[10]



[10] 7 October 2025 Supplementary Affidavit; page 23; paragraph 67-68.

TABLE B: LIST OF CORRESPONDENCE AND ENGAGEMENT WITH KZNDOE

Date	Summary of Engagement	Response
01-Feb-24	The applicants' attorneys (LRC) sent a letter on behalf of the KZN ECD Alliance to KZNDoE demanding immediate payment of outstanding subsidies to certain ECD centres and reason for the delay.[1]	No response.
10-Jun-24	Letter from FOSA to KZNDoE regarding subsidy payments that were in breach of the TPAs and Children's Act.[2]	28 June 2024 response from KZNDoE inviting FOSA to a meeting.
09-Jul-24	KZN ECD Alliance follow-up letter to KZNDoE requesting date for payment.[3]	11 July 2024 response from KZNDoE noting that correspondence was forwarded to the Finance Directorate.
18-Jul-24	Email chain between FOSA and KZNDoE regarding reasons for delays with payments owed on 15 June 2024.[4]	16 August 2024 email from KZNDoE committing to payments for at least two months by the following week, and promising continued

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

[1] Founding Affidavit; page 34; paragraph 108; Annexure "NS 7".
[2] Founding Affidavit; page 34-35; paragraph 109; Annexure "NS 8" and "NS 9".
[3] Founding Affidavit; pages 35; paragraph 111; Annexure "NS 10" and "NS 11".
[4] Founding Affidavit; pages 35-36; paragraph 112-113; Annexure "NS ".

		updates on the matter. KZNDoE did not follow through with this.
11-Sep-24	FOSA marched with around 450 ECD practitioners to DBE national offices, and handed a memorandum to Elijiah Mahlanga.[5]	No response to the requests in the memorandum.
10-Oct-24	Letter from KZNDoE apologising for cancelled meeting and indicating that subsidies had been placed on the agenda for 29 November 2024 Provincial Integrated ECD Committee meeting.[6]	
17-Oct-24	Email follow-up from FOSA to Elijiah Mahlanga.[7]	No response,.
29-Oct-24	Letter from LRC to KZNDoE, demanding payment and reasons for delays.[8]	No response.
Nov-24	Email chain between LRC and Michael Wilter, special advisor from DBE, following the GroundUp article[9] that mentioned the letter of demand. LRC queried why KZNDoE had failed to respond.[10]	Michael Wilter responded on 25 November indicating that KZNDoE would revert with feedback. KZNDoE did not respond.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

[5] Founding Affidavit; page 36; paragraph 114; Annexure “NS 12” and “NS 13”.
[6] Founding Affidavit; page 36; paragraph 116; Annexure “NS 14”.
[7] Founding Affidavit; page 37; paragraph 117; Annexure “NS 15”.
[8] Founding Affidavit; page 37; paragraph 118; Annexure “NS 16”.
[9] Founding Affidavit; pages 37; paragraph 119; Annexure “NS 18”.
[10] Founding Affidavit; pages 37-38; paragraph 121; Annexure “NS 19”.

16-Apr-25	Third letter of demand from LRC to KZNDoE, requesting payment by 25 April 2025 to applicant centres and a list of all subsidised centres in the provinces with the outstanding amounts owed to each.[11]	No response.
14-May-25	Application launched, Part A heard on 26 May 2025.	No opposition from respondents.
26-May-25	Order from Jikela J on Part A, directing the KZNDoE to pay the applicant centres within 10 court days.[12]	KZNDoE did not comply on time.
06-Aug-25	Email chain between LRC and state attorney, following granting of order.[13]	
26-May-25	Olsen J order granting the applicants leave to supplement their papers and amend their relief.[14]	
04-Jun-25	LRC email reminding the state attorney of the deadline for payment with notice of set down for Part B attached.[15]	No response.
09-Jun-25	LRC email requesting clarity on outstanding payments in respect of the Jikela J order.[16]	No response.

[11] Founding Affidavit page 38; paragraph 122; Annexure "NS 20".
[12] 7 October 2025 Supplementary Affidavit; page 3; paragraph 4; Annexure "NS 21".
[13] 7 October 2025 Supplementary Affidavit; page 6; paragraph 11; Annexure "NS 23".
[14] 7 October 2025 Supplementary Affidavit; page 3; paragraph 5; Annexure "NS 22".
[15] 7 October 2025 Supplementary Affidavit; page 6-7; paragraph 13-14; Annexure "NS 24".
[16] 7 October 2025 Supplementary Affidavit; page 7; paragraph 15; Annexure "NS 25".

13-Jun-25	Email chain between LRC and state attorney informing the KZNDoE of outstanding payments in respect of the Jikela J order and request for timeline.[17]	Response that the issue had been forwarded to the KZNDoE's accounts section for payment. Date for payments not provided.
13-Jun-25	LRC request for precise date for when payments could be expected.[18]	No response.
17-Jun-25	LRC email to new state attorney on record for respondents, with all previous correspondence.[19]	Automatic "out-of-office" response indicating new state attorney on record until 27 June 2025.
17-Jun-25	LRC follow-up to state attorney recording instructions to pursue contempt application against KZNDoE for noncompliance with Jikela J order.[20]	No response.
18-Jun-25	LRC email to state attorney to correct the inaccuracies on the spreadsheet.[21]	19 June 2025 email from state attorney with forwarded email from KZNDoE dated 23 May 2025, and spreadsheet of

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

[17] 7 October 2025 Supplementary Affidavit; page 7-8; paragraph 16; Annexure “NS 26”.
[18] 7 October 2025 Supplementary Affidavit; page 8; paragraph 17; Annexure “NS 27”.
[19] 7 October 2025 Supplementary Affidavit; page 8; paragraph 18-19; Annexure “NS 29”.
[20] 7 October 2025 Supplementary Affidavit; pages 9-11; paragraph 20-24; Annexure “NS 30” and “NS 31”.
[21] 7 October 2025 Supplementary Affidavit; page 11; paragraph 25; Annexure “NS 32”.

		payments to the applicant centres which was inaccurate and incomplete.[22]
23-Jun-25	LRC follow-up to request a response.[23]	No response.
25-Jun-25	LRC follow-up to the original state attorney, requesting response to previous correspondence.[24]	No response.
27-Jun-25	LRC email to state attorney requesting clarity on subsidy amounts.[25]	No response.
02-Jul-25	LRC email to new state attorney on record for respondents, with all previous correspondence.[26]	No response.
07-Jul-25	LRC follow-up to state attorney and request for clarity on outstanding payments from previous financial years, and respondents' instructions in terms of Part B of the litigation.[27]	8 July 2025 reply that correspondence had been forwarded to the KZNDoE, who would not oppose Part B but had not provided instructions to abide. No response was provided.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

[22] 7 October 2025 Supplementary Affidavit; page 9-11; paragraph 21-24; Annexure "NS 31".
[23] 7 October 2025 Supplementary Affidavit; page 11; paragraph 25; Annexure "NS 33".
[24] 7 October 2025 Supplementary Affidavit; page 11; paragraph 26; Annexure "NS 34".
[25] 7 October 2025 Supplementary Affidavit; page 12; paragraph 29; Annexure "NS 35".
[26] 7 October 2025 Supplementary Affidavit; page 8; paragraph 18-19; Annexure "NS 29".
[27] 7 October 2025 Supplementary Affidavit; page 12-13; paragraph 31; Annexure "NS 36".

25-Jul-25	Minutes of Integrated Provincial Meeting between KZNDoE, FOSA and KZN ECD Alliance. The intention was to ask for clarity from the KZNDoE around payments from previous financial years still owed to centres.[28]	Relevant officials from KZNDoE did not attend the meeting despite the request from the applicants. The ECD Director and Chairperson asked for a written request from FOSA for a separate meeting.
19-Aug-25	FOSA letter to Minister of Basic Education noting concerns with the ECD subsidy.[29]	No written response. KZNDoE confirmed via telecom that they had received the letter from the Minister and had been instructed to address the issues therein.
18-Sep-25	FOSA written request for meeting with stakeholders from KZNDoE.[30]	No response.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

[28] 7 October 2025 Supplementary Affidavit; page 15; paragraph 41; Annexure "NS 37".
[29] 7 October 2025 Supplementary Affidavit; page 16; paragraph 43-44; Annexure "NS 39".
[30] 7 October 2025 Supplementary Affidavit; page 16; paragraph 43; Annexure "NS 38".

IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

In the matter between:

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant
And	
MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWA-ZULU NATAL	Sixth Respondent
MINISTER OF SOCIAL DEVELOPMENT	Seventh Respondent
MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS	Eighth Respondent
And	
EQUALITY COLLECTIVE NPC	Amicus Curiae

AMICUS CURIAE'S PRACTICE NOTE FOR THE UNOPPOSED HEARING ON 23 JUNE 2026

---

1 The Equality Collective NPC has been admitted as an amicus curiae in these proceedings.

2 The Equality Collective supports the unopposed relief sought by the applicants in Part B of their amended notice of motion, as reflected in the draft order prepared by the applicants.

3 The Equality Collective has filed heads of argument, accompanying this practice note, to assist the court.

Dated at PRETORIA on this 17th day of June 2026.



KARABO OZAH

CENTRE FOR CHILD LAW
Attorneys for the
amicus curiae
Room 4-31 Law Building
University of Pretoria
Pretoria
Tel: 012 420 4501
Fax: 012 420 4499
Per email: karabo.ozah@up.ac.za/
tshegofatso.mothapo@up.ac.za
Ref: C0644
C/O SHEPSTONE AND WYLIE ATTORNEYS
First Floor ABSA House
15 Chatterton Road
Pietermaritzburg
3200
Tel: 033 355 1797
Email: jmanuel@wylie.co.za

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

In the matter between:

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant
And	
MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWA-ZULU NATAL	Sixth Respondent
MINISTER OF SOCIAL DEVELOPMENT	Seventh Respondent
MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS	Eighth Respondent
And	
EQUALITY COLLECTIVE NPC	Amicus Curiae

AMICUS CURIAE'S HEADS OF ARGUMENT

TABLE OF CONTENTS

INTRODUCTION 3
THE RIGHT TO EARLY CHILDHOOD DEVELOPMENT 5
The significance of early childhood development 5
Children's right to development in international law 7
The implicit right to early childhood development in our Constitution 8
There is precedent for the recognition of this implicit right 13
The duty to fund ECD programmes consistently, transparently, and equitably 15
THE DECLARATORY RELIEF 18
STRUCTURAL RELIEF 22
CONCLUSION 25

001-4

INTRODUCTION

1 This application concerns the systemic failure by the KwaZulu-Natal Department of Education (KZNDoE) to pay early childhood development (ECD) subsidies to registered ECD centres in KwaZulu-Natal. This failure is not merely administrative in character but constitutes an ongoing, compound violation of the constitutional rights of young children during a critical developmental stage.[1]

2 Although Part B of the application is unopposed, it raises important constitutional questions concerning the nature and content of a child's right to early childhood development, and the state's obligations to give effect to that right. These are questions that merit careful judicial consideration irrespective of the absence of opposition. These heads of argument are filed to assist this Court, demonstrating that the relief sought by the applicants is competent and appropriate.

3 The Equality Collective NPC (the Equality Collective) has been granted leave to intervene as amicus curiae in these proceedings.[2] The Equality Collective is an activist and community lawyering organisation based in the rural Eastern Cape, whose work centres marginalised communities, especially women and children. One of its three streams of work is the right to early childhood development. The Equality Collective helped to found the Real Reform for ECD movement (RR4ECD) and serves as its secretariat. The RR4ECD collaborates with over 1 000 ECD practitioners, and more than 300 organisations across five provinces, with the collective aim of achieving an enabling legal, policy and regulatory environment for the provision and expansion of ECD services.[3]

---

1 Equality Collective Founding Affidavit ("Amicus FA") p 000-18, para 16.
2 Pietermaritzburg High Court Order by the Honourable Marion AJ, p 000697-699. The paragraphs granting admission can be found at 2-3.
3 Amicus FA pp 000-15 – 000-16, paras 9–10.

4 These heads of argument will address each of the following issues in turn:

4.1 First, the right to ECD, including its constitutional basis, content and significance, and the international law framework that informs its interpretation;

4.2 Second, why the relief sought in Prayer 1 and Prayer 1A, Part B of the Amended Notice of Motion[4] (the declaratory relief) is appropriate and necessary with particular reference to the Court's powers under sections 38 and 172 of the Constitution, and the grounds on which the Court's discretion should be exercised in favour of the declaratory relief; and

4.3 Third, the nature and appropriateness of the structural relief sought in Prayers 2 – 4, Part B of the Amended Notice of Motion[5] (the structural relief) with reference to the expert evidence on the developmental harm caused by irregular ECD subsidy payments, and the need for transparency and accountability at the provincial level in the administration of ECD funding.

5 The Equality Collective aligns itself with the applicants' submissions and does not repeat them. Its purpose is to provide the broader normative and evidentiary architecture that underpins the relief sought. The submissions draw on the expert evidence of Professor Wiedaad Slemming of the Children's Institute, University of Cape Town[6] and Mr Conrad Barberton of Cornerstone Economic Research.[7]

4 Amended Notice of Motion, Part B, p 001-5 – 007-6.
5 Amended Notice of Motion, Part B, p 001-5 – 001-6.
6 Slemming Expert Affidavit pp 000-660 – 000-689.
7 Barberton Expert Affidavit pp 000-591 – 000-659.

THE RIGHT TO EARLY CHILDHOOD DEVELOPMENT

The significance of early childhood development

6 Early childhood development – defined as the period from birth to school-going age[8] – is a critical phase of rapid growth and development that has lifelong consequences. Professor Slemming's expert affidavit, based on current scientific knowledge and evidence, explains the importance of this period:[9]

6.1 A child's early environments, experiences and relationships fundamentally shape brain architecture and developmental pathways, influencing health, wellbeing, capacities and achievements throughout their life course – and that of the next generation.

6.2 The timing of these processes is critical: the early years present a crucial window of opportunity that can either be maximised or neglected.

6.3 Adverse conditions such as poverty (frequently embedded in structural inequities), food insecurity, poor health, unresponsive caregiving and limited early learning opportunities can result in compromised development with compounding effects that may be irreversible, leaving affected children at risk of not reaching their lifetime potential.[10]

7 To survive, develop and thrive, young children need: (i) early learning opportunities; (ii) responsive caregiving; (iii) adequate nutrition; (iv) good health; (v) safety and security; (vi) opportunities for rest, leisure and play; and (vii) opportunities to participate in cultural life.[11] The first five components are reflected in the

---

8 Children's Act 38 of 2005, section 91(1).
9 Slemming Expert Affidavit p 000-671 – 000-672, para 9; Amicus FA p 000-18, para 16.
10 Slemming Expert Affidavit pp 000-671 – 000-672, paras 9 – 10.
11 Slemming Expert Affidavit p 000-674, paras 16 – 17.

international Nurturing Care Framework,[12] and all seven are recognised in South Africa's National Integrated ECD Policy 2015.[13] Research shows that quality interventions during the early years have positive effects in adulthood across several domains, including physical growth, movement, learning and communication.[14]

8 Children in KwaZulu-Natal are in particular need. KZN has the highest child poverty rate of any province. Only 58% of children aged 3–5 attend any ECD programme, compared to 70% nationally. In 2021, only 30% of the sampled 4–5 year-olds attending ECD in KZN were developmentally "on track", versus 45% nationally.[15]

9 Systemic inequality is entrenched from the earliest age. In 2023, only 720 000 of the 1.88 million children eligible for the government subsidy actually received it.[16] Currently, 1.3 million children aged 3–5 have no access to any ECD programme, and disadvantaged communities are the worst affected.[17]

10 Within KZN specifically, the provincial allocation for pre-Grade R ECD is the lowest of all nine provinces at approximately R909 per poor child in 2024/25. That is 26% below the national average of R2 501 per poor child. This structural underfunding compounds the harm caused by irregular and inconsistent payment of the subsidies that are allocated.[18]

11 For these reasons, early childhood development is fundamentally significant. The profound and irreversible consequences of neglecting the early years, compounded

---

12 WHO, World Bank, UNICEF, Partnership for Maternal, Newborn and Child Health, "Nurturing Care for Early Childhood Development Framework", Amicus FA Annexure "EC04" pp 000-216 – 000-280.
13 Department of Social Development, "National Integrated ECD Policy 2015", Amicus FA Annexure "EC03" pp 000-98 – 000-101.
14 Slemming Expert Affidavit p 000-672, para 10.
15 Amicus FA pp 000-022, paras 27–28; Slemming Expert Affidavit pp 000-682 - 000-683, para 35.
16 Department of Basic Education, "South Africa's 2030 Strategy for Early Childhood Development Programmes", Amicus FA Annexure "EC06" p 000-376.
17 Id p 000-363; Amicus FA p 000-021, para 24.
18 Amicus FA pp 000-022 – 000-23, para 24.

by systemic underfunding and inequality, establish that access to quality ECD is not a policy preference but a constitutional imperative.

Children's right to development in international law

12 Children's right to development is well-established in international law. The United Nations Convention on the Rights of the Child (UNCRC)[19] and the African Charter on the Rights and Welfare of the Child (ACRWC)[20] both recognise children's right to development. Article 6 of the UNCRC[21] and Article 5 of the ACRWC[22] ground this right in the right to life, imposing a duty on every state to ensure, to the maximum extent possible, the survival and development of the child. South Africa has ratified both instruments.[23]

13 This right to development must be understood holistically.[24] The UN Committee on the Rights of the Child, in General Comment No. 5, interprets "development" in Article 6 of the UNCRC as a "*holistic concept, embracing the child's physical, mental, spiritual, moral, psychological and social development*".[25]

14 General Comment No. 7 provides explicit recognition of early childhood as a critical period for development, noting that "*the early childhood period is the one of most*

---

19 United Nations Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 ("UNCRC").

20 African Charter on the Rights and Welfare of the Child (adopted 11 July 1990, entered into force 29 November 1999) OAU Doc CAB/LEG/24.9/49 (1990) ("ACRWC").

21 Article 6 of the UNCRC provides that:

> *"1. States Parties recognize that every child has the inherent right to life.*
> *2. States Parties shall ensure to the maximum extent possible the survival and development of the child."*

22 Article 5 of the ACRWC provides that:

> *"1. Every child has an inherent right to life. This right shall be protected by law.*
> *2. States Parties to the present Charter shall ensure, to the maximum extent possible, the survival, protection and development of the child."*

23 South Africa ratified the UNCRC on 16 June 1995. It ratified the ACRWC on 7 January 2000.

24 UN Committee on the Rights of the Child, *General Comment No. 5 (2003): General Measures of Implementation of the Convention on the Rights of the Child* (27 November 2003) UN Doc CRC/GC/2003/5 ("General Comment No. 5"), para 12.

25 Id.

extensive (and intensive) parental responsibilities related to all aspects of children's well-being" and that states must take "*all possible measures to improve perinatal care for mothers and babies, reduce infant and child mortality, and create conditions that promote the well-being of all young children during this critical phase of their lives*."[26]

15 In addition, Article 29(1)(a) of the UNCRC Article 11(2)(a) of the ACRWC direct that education shall be aimed at "*the development of the child's personality, talents and mental and physical abilities to their fullest potential*". Of particular relevance is the UN Committee of Experts' most recent Concluding Observations on South Africa, where the Committee expressed concern at the insufficient availability of early childhood education.[27]

The implicit right to early childhood development in our Constitution

16 Section 39(1)(b) of the Constitution provides that when interpreting the Bill of Rights, a court "*must consider international law*". This obligation applies to both binding and non-binding international instruments, including so-called "soft" international law.[28] In *Sonke Gender Justice*, the Constitutional Court explained that while "soft" law instruments are non-binding, "*they offer a useful tool for interpreting the obligations found in related binding instruments*".[29]

---

[26] UN Committee on the Rights of the Child, 'General Comment No. 7 (2005): Implementing Child Rights in Early Childhood' (1 November 2005) UN Doc CRC/C/GC/7 ("General Comment No. 7") at para 20.

[27] Committee on the Rights of the Child "Concluding observations on the combined third to sixth periodic reports of South Africa" (11 March 2024) UN Doc CRC/C/ZAF/CO/3-6, page 13

[28] *S v Makwanyane and Another* 1995 (3) SA 391 (CC) ("*S v Makwanyane*") at paras 34-35; *Glenister v President of the Republic of South Africa* 2011 (3) SA 347 (CC) ("*Glenister*"); *Sonke Gender Justice NPC v President of the Republic of South Africa and Others* [2020] ZACC 26; 2021 (3) BCLR 269 (CC) ("*Sonke Gender Justice*") at paras 55 – 70.

[29] *Sonke Gender Justice* id at para 65.

17 When interpreted consistently with international law, our Bill of Rights encompasses an implicit right to early childhood development.

17.1 This right is directly grounded in the intertwined constitutional rights to dignity (section 10) and life (section 11), interpreted in light of Article 6 of the UNCRC and Article 5 of the ACRWC.

17.2 Together, these rights create an "*umbrella*" right to life, survival and development, including development in early childhood.[30]

17.3 This umbrella right finds further expression in the range of other rights afforded to all children, including equality (section 9), environmental rights (section 24), socio-economic rights (sections 26 – 27), the right to basic education (section 29(1)(a)), the specific rights of children (section 28(1)) and the paramountcy principle (section 28(2).

18 The right to life is the starting point. Under both the UNCRC and ACRWC, a child's right to development is explicitly connected with their right to life. The right to life in the South African Constitution therefore offers a natural constitutional "home" for the right to ECD. Our jurisprudence on the right to life has already embraced a richer conception that goes beyond mere existence. In ***S v Makwanyane***, O'Regan J held:

> *"The right to life was included in the Constitution not simply to enshrine the right to existence. It is not life as mere organic matter that the Constitution cherishes, but the right to human life: the right to live as a human being, to be part of a broader community, to share in the experience of humanity. … The right to life is central to such a society."*[31]

[30] Amicus FA pp 000-26 – 000-28, paras 40 – 42; Nurina Ally and Tatiana Kazim, "Constitutionalising the right to early childhood development in South Africa", Annexure "EC09" pp 000-544 and 000-547.

[31] *S v Makwanyane and Another* (CCT3/94) [1995] ZACC 3; 1995 (6) BCLR 665; 1995 (3) SA 391; [1996] 2 CHRLD 164; 1995 (2) SACR 1 ("*S v Makwanyane*") at para 325.

19 In support of this richer conception, O'Regan J explicitly invoked the right to dignity, which she described as "entwined" with the right to life. The right to life is "a *right to be treated as a human being with dignity: without dignity, human life is substantially diminished.*"[32]

20 The right to dignity assists in interpreting the right to life to include a broader right to development for all children, including in early childhood. Further support is found in Sachs J's judgment in ***S v M***:

> *"Every child has his or her own dignity. […] Individually and collectively all children have the right to express themselves as independent social beings, to have their own laughter as well as sorrow, to play, imagine and explore in their own way, to themselves get to understand their bodies, minds and emotions, and above all to learn as they grow how they should conduct themselves and make choices in the wide social and moral world of adulthood.*"[33]

21 Under the umbrella right to early childhood development are interconnected component rights – the "*spokes*" of the umbrella. These include rights to early learning; responsive caregiving; adequate nutrition; good health; safety and security and a healthy environment; rest, leisure and play; and participation in cultural life.[34] These spokes find concrete expression in the Bill of Rights:

21.1 The right to early learning arises from sections 10 and the right to a basic education in 29(1)(a) of the Constitution, interpreted in light of Articles 6 and 29 of the UNCRC, and Articles 5 and 11(2)(a) of the ACRWC. Articles 29(1)(a) of the UNCRC and 11(2)(a) of the ACRWC direct that education shall be "*directed to the development of the child's personality, talents and mental and physical abilities to their fullest potential*". Early learning is the

---

[32] Id at para 326.

[33] *S v M* (CCT 53/06) [2007] ZACC 18; 2008 (3) SA 232 (CC); 2007 (12) BCLR 1312 (CC); 2007 (2) SACR 539 (CC) ("*S v M*") at paras 18 – 19.

[34] Amicus FA pp 000-27 – 000-28; Nurina Ally and Tatiana Kazim, "Constitutionalising the right to early childhood development in South Africa", Amicus FA Annexure "EC09" pp 000-544 and 000-547.

foundational phase of the right to basic education. Without quality early learning, children cannot benefit fully from formal schooling. This is consistent with the Constitutional Court's jurisprudence, which has recognised that the right to a basic education is not confined to a period of time in school, but affords all children and adults a right to a basic education that promotes the development of the human person.[35]

21.2 The right to responsive caregiving is found in section 28(1)(b) of the Constitution, read with Articles 5, 18, 20 and 27 of the UNCRC. General Comment 7 describes babies and infants as "*active social agents, who seek protection, nurturance and understanding from parents or other caregivers, which they require for their survival, growth and well-being*".[36] General Comment 7 further recognises the early childhood period as the "*period of most extensive (and intensive) parental responsibilities related to all aspects of children's well-being*" and requires states to "*render appropriate assistance to parents, legal guardians and extended families in the performance of their child-rearing responsibilities"*.[37] The state has a duty to support caregivers, including through funded ECD services.

21.3 The right to adequate nutrition is protected by sections 27 and 28(1)(c) of the Constitution, interpreted in light of Articles 6 and 24 of the UNCRC. Our courts have also held that the right to basic nutrition is also a component

21.4 The right to good health also flows from section 28(1)(c) of the Constitution, read with Articles 6 and 24 of the UNCRC. Poor nutrition during the

---

35 *AB and Another v Pridwin Preparatory School and Others* (CCT294/18) [2020] ZACC 12; 2020 (9) BCLR 1029 (CC); 2020 (5) SA 327 (CC) ("*Pridwin*") at paras 160 - 163 citing the United Nations Educational, Scientific and Cultural Organization World Declaration on Education for All, 1990.

36 General Comment 7 at para 16.

37 General Comment 7 at para 20.

foundational years nutrition weakens immune systems and lowers energy. Moreover, as Professor Slemming explains, four in ten young children in South Africa remain at risk of poor developmental outcomes due to extreme poverty and/or stunting – risks that funded ECD programmes help to mitigate.[38]

21.5 The right to safety and security is grounded in sections 28(1)(c), (d) and 24 of the Constitution, interpreted in light of Articles 19, 24 and 27 of the UNCRC. General Comment 7 highlights the particular vulnerability of young children to neglect and abuse and its long-term impacts.[39]

21.6 The right to rest, leisure and play is found in sections 10, 11, 16 and 29(1)(a) of the Constitution, read with Articles 6, 29 and 31 of the UNCRC. As General Comment 7 states, "*play is one of the most distinctive features of early childhood*".[40] General Comment 17 further affirms that play "*is particularly significant in the early years of schooling*" and "*an important means through which children learn.*"[41]

21.7 The right to participate in cultural life derives from section 31(1) of the Constitution, interpreted in light of Article 31 of the UNCRC. For young children in poor communities, adequately resourced ECD centres are a critical vehicle for realising this right.

22 The Constitutional Court has held that "*constitutional rights are mutually interrelated and interdependent and form a single constitutional value system*".[42] As a result, a

---

38 Stemming Expert Affidavit p 000-678 – 000-679 para 28.
39 General Comment 7, para 36(a).
40 General Comment 7, para 34.
41 U*N Committee on the Rights of the Child, 'General Comment No. 17 (2013) on the Right of the Child to Rest, Leisure, Play, Recreational Activities, Cultural Life and the Arts (Art. 31)'* (17 April 2013) UN Doc CRC/C/GC/17 (General Comment 17), para 27.
42 *De Reuck v Director of Public Prosecutions, Witwatersrand Local Division* [2003] ZACC 19; 2004 (1) SA 406 (CC); 2003 (12) BCLR 1333 (CC) at para 55.

rights, including children's rights, should be understood as forming part of an interconnected whole.[43]

23 The connecting thread, that ties each of these components of the umbrella right together, is the right and principle in section 28(2) of the Constitution that "***a child's best interests are of paramount importance in every matter concerning the child.***"

24 The section 9 right to equality and the prohibition on unfair discrimination further reinforce these protections.[44] Deficiencies in early childhood development entrench inequality and poverty.[45] Conversely, successful interventions in this crucial stage of development can help to dismantle patterns of structural disadvantage and unlock human potential.[46]

There is precedent for the recognition of this implicit right

25 Such recognition of rights and obligations that are implicit (and not expressly stated) in the Constitution is not new. Our courts have previously recognised:

25.1 A right to family life as an incident of the section 10 right to dignity, even though not expressly stated in the Constitution, in ***Dawood v Minister of Home Affairs***;[47]

---

43 *Teddy Bear Clinic or Abused Children and Another v Minister of Justice and Constitutional Development and Another* [2013] ZACC 35; 2013 (12) BCLR 1429 (CC); 2014 (2) SA 168 (CC); 2014 (1) SACR 327 (CC) at para 68.

44 Sandra Fredman, Georgina Donati and Sara Naicker "New beginnings: The right to equality and early childhood care and education" (2022) 38 SAJHR 167; Amicus FA Annexure "EC10" p 000-550.

45 Slemming Expert Affidavit p 000-675, paras 18 - 20.

46 Id.

47 *Dawood and Another v Minister of Home Affairs and Others ; Shalabi and Another v Minister of Home Affairs and Others; Thomas and Another v Minister of Home Affairs and Others* (CCT35/99) [2000] ZACC 8; 2000 (3) SA 936 (CC); 2000 (8) BCLR 837 (CC).

25.2 The right of independent candidates to stand for election in ***New Nation Movement v President of the Republic of South Africa***;[48]

25.3 The duty to establish an independent corruption-fighting body as an incident of the state's section 7(2) constitutional obligations in ***Glenister II***;[49] and

25.4 The duty to protect the welfare of individual animals as an incident of the section 24 right to an environment not harmful to health or well-being in ***NSPCA v Minister of Justice***.[50]

26 Our courts have already recognised the role of ECD programmes in realising an "*interwoven network of socio-economic rights*". In ***SA Childcare***, Plasket JA acknowledged that:

> *"Early Childhood Development and Partial Care facilities (collectively, ECDs) play an important role in the progressive realization of an interwoven network of socioeconomic rights guaranteed by the bill of rights that forms part of our Constitution. These include the fundamental rights to social assistance in terms of s 27(1)(c), of children to basic nutrition in terms of s 28(1)(c) and of the paramountcy of the best interests of children in terms of s 28(2)."*[51]

27 The government's National Integrated ECD Policy 2015,[52] has gone further by expressly recognising early childhood development as "*a fundamental and universal human right"* in itself, *"to which all young children are equally entitled without discrimination*".[53]

---

48 *New Nation Movement NPC and Others v President of the Republic of South Africa and Others* (CCT110/19) [2020] ZACC 11; 2020 (8) BCLR 950 (CC); 2020 (6) SA 257 (CC).
49 *Glenister v President of the Republic of South Africa*.
50 *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another* [2016] ZACC 46; 2017 (1) SACR 284 (CC); 2017 (4) BCLR 517 (CC).
51 *Minister of Social Development v SA Childcare (Pty) Ltd & Others; MEC, Social Development, Eastern Cape & Others v SA Childcare (Pty) Ltd & Others* (Case no. 71/2021) [2022] ZASCA 119 (29 August 2022) ("*SCA Childcare SCA*") at para 1.
52 Department of Social Development, "National Integrated ECD Policy 2015", Amicus FA Annexure "EC03" pp 000-98 – 000-101.
53 Id at p 000-95.

28 As a result, there is no impediment to granting express judicial recognition of the right to early childhood development in these proceedings. This point is developed further below, in demonstrating why a declarator to this effect is appropriate, just and equitable relief in the circumstances.

The duty to fund ECD programmes consistently, transparently, and equitably

29 ECD programmes are one of the primary mechanisms by which the right to early childhood development is realised.

30 ECD programmes provide not only stimulation for early learning, but also much-needed nutritional support, responsive caregiving, and opportunities to play and participate in cultural life. They also provide safe and secure environments for young children while their parents or primary caregivers are at work, and offer a point of access for health interventions such as deworming, early identification of disabilities, and referrals to specialists.[54]

31 The state therefore has duties to support ECD programmes through stable and transparent funding arrangements. Mr Barberton provides a comprehensive explanation of the genesis and workings of this ECD subsidy programme in his affidavit.[55]

32 The pool of funds for ECD subsidies are provided by the national government, through the equitable share and conditional grants. Provincial education departments are primarily responsible for administering these subsidies and ensuring that they are paid to qualifying ECD programmes.[56]

---

[54] Amicus FA p 000-28 para 43.
[55] Barberton Expert Affidavit pp 000-591 – 000-659.
[56] Barberton Expert Affidavit p 000-595 para 9 and p 000-615 para 46.

33 Section 7(2) of the Constitution requires the state to "*respect, protect, promote and fulfil the rights in the Bill of Rights.*" This imposes a positive obligation on the state to take reasonable and effective measures to promote and protect rights.[57]

34 The Constitutional Court has made clear what this positive duty demands in the context of socio-economic rights. In ***Grootboom***, the Court held that reasonableness requires the state to devise "*a comprehensive and workable plan*" to give effect to socio-economic rights, and that a failure to address those in desperate need renders a programme of implementation unreasonable.[58]

35 Therefore, the existence of an ECD subsidy programme is not enough. The programme must also be reasonably implemented through stable, predictable and consistent payments, as "*[a]n otherwise reasonable programme that is not implemented reasonably will not constitute compliance with the state's obligations*".[59]

36 The state also has a negative obligation not to interfere with or diminish the existing enjoyment of rights, which is an immediate obligation, not subject to qualifications of reasonableness and progressive realisation.[60] Our courts have recognised that where children are currently enjoying state-provided benefits, such as school nutrition, any sudden withdrawal or discontinuation of those benefits is a breach of the state's negative duties that must be justified under section 36 of the Constitution.[61]

---

57 *Glenister v President of the Republic of South Africa* [2011] ZACC 6; 2011 (3) SA 347 (CC); 2011 (7) BCLR 651 (CC) at para 189.
58 *Government of the Republic of South Africa and Others v Grootboom and Others* [2000] ZACC 19; 2001 (1) SA 46 (CC); 2000 (11) BCLR 1169 (CC) ("*Grootboom*") at paras 38 and 44.
59 Id at para 42.
60 *Governing Body of the Juma Masjid Primary School and Others v Essay NO and Others (Centre for Child Law and Another as Amici Curiae* [2011] ZACC 13; 2011 (8) BCLR 761 (CC); 2011 (8) BCLR 761 (CC) at paras 57 – 58.
61 *Equal Education and Others v Minister of Basic Education and Others* [2020] ZAGPPHC 306; [2020] 4 All SA 102 (GP); 2021 (1) SA 198 (GP) at paras 45 – 47.

37 Therefore, the state not only has a positive obligation to provide stable funding arrangements for qualifying ECD programmes, but it also has a negative obligation not to disrupt or discontinue payments of ECD subsidies to eligible programmes in such a way that would deprive children of their existing enjoyment of those programmes and the services they provide.

38 This duty to ensure stable and transparent funding arrangements is further reinforced by:

38.1 The section 1(d) constitutional values of accountability, responsiveness and openness;

38.2 The section 237 obligation on the state to perform its constitutional obligations diligently and without delay; and

38.3 The section 195 values and principles governing the public administration, including the duty to ensure that the public administration is development-oriented and promotes the efficient, economic and effective use of resources.

39 The applicants' uncontested evidence of erratic and delayed payments of ECD subsidies demonstrates that the KwaZulu-Natal Department of Education has fallen short of its constitutional obligations.

40 Mr Barberton's expert evidence on the workings of ECD budgets and subsidies reveals a specific dimension of this failure: KZN's per capita provincial allocation for ECDs is already the lowest of all nine provinces.[62] This structural underfunding is compounded by the irregular and inconsistent payment of the subsidies, contributing

[62] Barberton Expert Affidavit p 000-630, para 72.

to "*worsening inequality and ultimately results in lower levels of access to programmes for children in KwaZulu-Natal*". [63]

41 The intersection of structural underfunding and payment irregularity is therefore not merely a policy shortfall. It violates the umbrella right to ECD and of each component right. In addition, it may breach the right to equality in section 9 of the Constitution, as it disproportionately disadvantages children in poor, rural KZN communities who are already among the most vulnerable.

THE DECLARATORY RELIEF

42 Two distinct constitutional powers animate the declaratory relief sought by the applicants.

43 The declaration of constitutional invalidity sought in prayer 1A (declaring that the irregular and inconsistent payment of ECD subsidies to qualifying centres is unlawful, unconstitutional and invalid)[64] is a mandatory order under section 172(1)(a). A court has no discretion to refuse such an order once constitutional invalidity is established.[65]

44 The declaration of rights sought under Prayer 1, declaring and recognising that all children have a right to ECD,[66] invokes the Court's discretionary jurisdiction under section 38 of the Constitution.

45 Section 38 of the Constitution permits anyone acting in terms of its sub-sections to approach a competent court for "appropriate relief" to enforce a right in the Bill of

---

63 Barberton Expert Affidavit pp 000-630 – 000-631, para 72.
64 Amended Notice of Motion, Part B, p 001-5 – 001-6.
65 *Rail Commuters Action Group v Transnet Ltd t/a Metrorail* 2005 (2) SA 359 (CC) at paras 107 – 108.
66 Amended Notice of Motion, Part B, p 001-5.

Rights. A declaration of rights is explicitly included as a form of appropriate relief that a court *may* grant. The question is whether that discretion should be exercised by this Court.

46 The value of a declaratory order in a constitutional democracy is well established. In ***Rail Commuters Action Group v Transnet Ltd t/a Metrorail***,[67] the Constitutional Court confirmed that declaratory relief enables courts to clarify the law, while leaving it to the executive and legislative branches to decide how to respond:

> *"It should also be borne in mind that declaratory relief is of particular value in a constitutional democracy which enables courts to declare the law, on the one hand, but leave to the other arms of government, the executive and the legislature, the decision as to how best the law, once stated, should be observed."*[68]

47 A declaration of rights accordingly provides legal certainty. It assists parties in understanding whether conduct complies with constitutional standards. A declaration can also confirm that a right exists, explain its scope and whether it has been violated. This can guide future behaviour, inform policy decisions, and promote accountability.[69]

48 The Constitutional Court in ***Minister of Health v Treatment Action Campaign***[70] further emphasised that even a straightforward declaratory order issued against a government department can significantly influence public policy, and that the government is constitutionally bound to comply with such orders.

> *"There is also no merit in the argument advanced on behalf of government that a distinction should be drawn between declaratory and mandatory orders against government. Even simple declaratory*

---

67 *Rail Commuters Action Group v Transnet Ltd t/a Metrorail* (CCT 56/03) [2004] ZACC 20; 2005 (2) SA 359 (CC); 2005 (4) BCLR 301 (CC) ("*Rail Commuters*").

68 Id at para 108.

69 C Mbazira, 'Enforcing the Economic, Social and Cultural Rights in the South African Constitution as Justiciable Individual Rights: The Role of Judicial Remedies', PhD Thesis (University of the Western Cape, 2007), page 298.

70 *Minister of Health and Others v Treatment Action Campaign and Others* (No 2) (CCT8/02) [2002] ZACC 15; 2002 (5) SA 721 (CC); 2002 (10) BCLR 1033 (CC) ("*Minister of Health v Treatment Action Campaign*").

> *orders against government or organs of state can affect their policy and may well have budgetary implications. Government is constitutionally bound to give effect to such orders whether or not they affect its policy and has to find the resources to do so."*[71]

49 In ***MEC for Education: KwaZulu-Natal v Pillay***,[72] the majority per Langa CJ confirmed the symbolic and psychological value of a declaration of rights. Even where the declaration does not alter the legal positions of the parties or regulate future conduct, the Court held that a declarator affirms the constitutional violation and provides public recognition of the right that was infringed. It serves as a warning against similar future violations and contributes to the development of constitutional norms. Langa CJ accordingly held that:

> *"The declarator is simply a reflection of this Court's findings. A failure to grant a declarator would, to my mind, fail to vindicate [the applicant]'s right and would therefore not qualify as effective relief."*[73]

50 Similarly, in ***Mohamed v President of the Republic of South Africa***,[74] where the applicants had been unlawfully removed from the country and no practical relief could be granted, the Constitutional Court nonetheless issued a declaratory order affirming constitutional principles and clarifying the limits of state power. It held that "*quite apart from the particular interest of the applicants in this case, there are important issues of legality and policy involved and it is necessary that we say plainly what our conclusions as to those issues are*."[75]

51 The following considerations, viewed in light of this jurisprudence, ought to guide the Court's exercise of its discretion in relation to Prayer 1.

---

71 Id at para 99.
72 *MEC for Education: Kwazulu-Natal and Others v Pillay* (CCT 51/06) [2007] ZACC 21; 2007 (3) BCLR 287 (CC); 2007 (2) SA 106 (CC); (2007) 28 ILJ 133 (CC).
73 Id at para 115.
74 *Mohamed and Another v President of the Republic of South Africa and Others* (CCT 17/01) [2001] ZACC 18; 2001 (3) SA 893 (CC); 2001 (7) BCLR 685 (CC); 001 (2) SACR 66 (CC).
75 Id at para 71.

52 First, our ECD jurisprudence is still developing. There is, as yet, no authoritative judgment squarely addressing the content of the existence of the right to ECD as a self-standing justiciable right. This Court has an opportunity to provide the normative architecture that defines the contours of the right, drawing on the constitutional framework, relevant legislation and international law. As the Court found in ***Rail Commuters***, declaratory relief serves a constitutionally important clarificatory function by declaring, with binding authority, what the law requires, and enabling state actors to decide on their conduct accordingly.[76]

53 Second, a declaratory order moves the right from aspiration to enforceability. As already noted, the National Integrated ECD Policy explicitly recognises ECD as "*a fundamental and universal human right*".[77] Yet the evidence in this case demonstrates systemic neglect of the funding and administrative obligations necessary to realise this right. A declaratory order makes clear that future breaches may be subjected to judicial scrutiny. As ***Minister of Health v Treatment Action Campaign*** held, even a declaratory order can significantly influence public policy, and the government is constitutionally bound to comply.[78]

54 Third, a declaration of rights is a permissible means of enforcing constitutional rights under section 38 of the Constitution. While a declarator does not compel specific action, it clarifies the legal position. This litigation became necessary, in part, because the state's ECD policies have not translated into regular, timely and equitable subsidy payments to ECD centres in KwaZulu-Natal. However, policies are not rights. A declaratory order would provide authoritative clarity on the content of the right to ECD and the state's corresponding obligations.

---

[76] *Rail Commuters* at para 108.
[77] Department of Social Development, "National Integrated ECD Policy 2015", Amicus FA Annexure "EC03" p 000-95.
[78] *Minister of Health v Treatment Action Campaign* at para 99.

55 Fourth, the non-opposition of the state does not diminish the value of the declarator. The very facts of this case demonstrate that lip service is paid to ECD rights while the funding obligations that implement them are systematically neglected. A declarator would serve to ensure that future failures to these obligations will be legally actionable. As ***Mohamed v President of the Republic of South Africa*** illustrates, declaratory relief enables a court to pronounce on important issues of legality and policy.[79] This should apply even where the respondent does not contest the relief.

56 Finally, the declarator will also provide guidance for the structural relief sought by the applicants and any future litigation to enforce that order. The structural relief may require the parties to return to court to seek further relief to give effect to that order or to address non-compliance. A declaration of rights, in these proceedings, will assist in narrowing the scope for future disputes between the parties.

STRUCTURAL RELIEF

57 The structural relief sought in Prayers 2, 2A, 3 and 4 of the Amended Notice of Motion[80] is comprised of: a mandatory reporting order, an immediate payment order, a periodic compliance monitoring mechanism, and a reserved right for the applicants to apply for further relief. This section addresses why that relief is not only appropriate, but constitutionally necessary in the circumstances of this case, having particular regard to Mr Barberton's expert evidence.

58 The structural relief has three interlocking purposes:

---

[79] *Mohamed v President of the Republic of South Africa* at para 71.
[80] Amended Notice of Motion, Part B, p 001-5 – 001-6.

58.1 To ensure transparency as to which ECD centres are owed subsidies, and in what amounts;

58.2 To compel the payment of outstanding subsidies to qualifying centres; and

58.3 To establish an ongoing accountability mechanism under which the Court retains supervisory jurisdiction to ensure compliance.

59 Section 172(1)(b) of the Constitution empowers a court, when granting an order in constitutional matters, to make "any order that is just and equitable". This power is broad. It authorises courts to fashion remedies that go beyond declaratory orders, and retain jurisdiction over the implementation of those remedies.

60 In ***Mwelase v Director-General for the Department of Rural Development and Land Reform***, the Constitutional Court confirmed the legitimacy of structural orders accompanied by reporting obligations. The Court held that where persistent institutional functionality is impaired to an "*extensive and sustained degree*", the remedy must be directed at "*institutional dysfunction and other blockages that imperil rights at a systemic level*".[81] Where systemic dysfunction has been established, structural interdicts enable the Court to retain oversight to ensure that reporting mechanisms address systemic functioning.

61 Mr Barberton's expert evidence reinforces why a structural interdict, with its attendant reporting requirements and supervisory jurisdiction, is appropriate to address systemic functioning in this case. His evidence strongly suggests that the irregular and inconsistent payment of ECD subsidies in KZN is not a series of isolated administrative lapses, but a systemic failure of institutional functioning.[82]

---

[81] *Mwelase and Others v Director-General for the Department of Rural Development and Land Reform and Another* (CCT 232/18) [2019] ZACC 30; 2019 (11) BCLR 1358 (CC) ; 2019 (6) SA 597 (CC) ("*Mwelase*") at paras 69 - 71.

[82] Barberton Expert Affidavit, pp 000-596 – 000-597, paras 10-11.

62 The KZNDoE administers its ECD subsidy payments through mechanisms that are not publicly disclosed. As Mr Barberton states:

> "*I do not have first-hand knowledge of the precise mechanisms and systems that KwaZulu-Natal currently uses to manage the payment of ECD subsidies to ECD programmes, as this information is not currently publicly available.*" [83]

63 This opacity is constitutionally problematic. Section 195(1)(g) of the Constitution requires that the public administration be transparent, and that information be available to the public. A court cannot effectively supervise compliance with an order to pay what is owed if neither the court nor the applicants know what is owed.[84] The lack of transparency is compounded by the respondents' election not to file any affidavits in these proceedings, not even an explanatory affidavit.

64 Moreover, information from the KZNDoE on the extent of the payment backlog to ECD programmes is a precondition for effective relief. Mr Barberton makes the point that the structural relief proposed by the applicants *"would help to ensure greater transparency and accountability on this issue and would allow for proper diagnosis of the bad management practices that have contributed to these delayed and erratic payment*s."[85]

65 The evidence presented by the applicants, and reinforced by Mr Barberton, demonstrates a consistent pattern of irregular and delayed subsidy payments by the KZNDoE.[86] In this context, a once-off order to pay outstanding amounts would be ineffective in addressing the broader problem, unless it was coupled with a mechanism to identify the quantum of the outstanding payments, to give a clear understanding of the magnitude of the problem and the further interventions that are

---

83 Barberton Expert Affidavit p 000-635, para 80.7.
84 Barberton Expert Affidavit p 000-635, para 80.7.
85 Barberton Expert Affidavit p 000-636, para 80.10.
86 Barberton Expert Affidavit p 000-636, para 80.8.

required to address it. This is the kind of mechanism anticipated by the structural relief orders.

CONCLUSION

66 What happens in the first five years of a child's life shapes their developmental trajectory into adulthood. As Professor Slemming's expert affidavit establishes,[87] and as the Equality Collective's broader submissions on the right to ECD make clear, this is a critically sensitive period of rapid neurological and developmental growth. Deprivation during these years is not a temporary setback. Its effects can be irreversible, and affect health, cognition, social development, and life outcomes. [88]

67 ECD subsidies are a crucial mechanism to give effect to the right to early childhood development. Delayed and erratic subsidy payments violate that right and threaten children's development. For these reasons, the Equality Collective supports the relief sought by the applicants.

CHRIS MCCONNACHIE
MBALI NCHABELENG

Counsel for the amicus curiae
Chambers, Sandton
17 June 2026

[87] Slemming Expert Affidavit p 000-672, para 10.
[88] Slemming Expert Affidavit pp 000-671 – 000-672, paras 9 – 10.

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

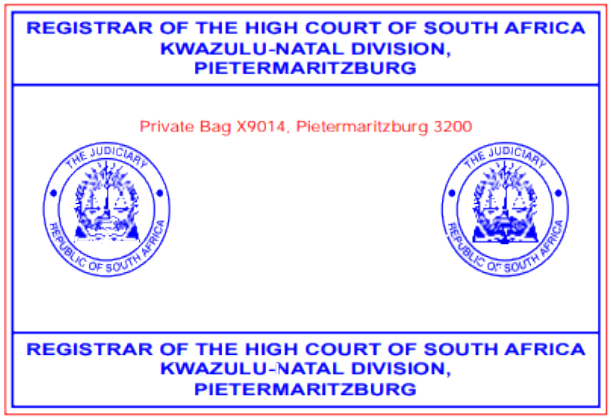
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Amended Notice

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:35:59 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

1

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

AMENDED NOTICE OF MOTION IN TERMS OF RULE 28(7)

PART A

TAKE NOTICE that the applicants will make application to this Court on the ~~26th~~ day of May 2025, at 09h30, for an Order in terms of **PART A**, as follows.



1. The applicant's non-compliance with the Uniform Rules of Court is condoned and the matter is heard on an urgent basis in terms of Rule 6(12) (a).

2. Directing the first to third respondents to pay the third to fifth applicants, forthwith and no later than 5 (five) days from the date of this Order, all outstanding Early Childhood Development Grant subsidies owed to them.

3. Directing that the costs of the application, are to be paid by those respondents who oppose this application, such costs to include the costs of two counsel, each on scale C, to be paid jointly and severally amongst those who oppose.

TAKE NOTICE FURTHER THAT that the accompanying affidavits of **NKOSINATHI SIBISI and SHENIECE LINDERBOOM** will be used in support thereof.

TAKE NOTICE FURTHER that the applicants have appointed **LEGAL RESOURCES CENTRE** at which they will accept notice and service of all process in these proceedings.

TAKE NOTICE FURTHER that if you intend opposing PART A of this application you are required:

(a) to notify applicant's attorney in writing by 16 May 2025;

(b) and on or before 21 May 2025 to file your answering affidvaits if any; and

(c) further that you are required to appoint in such notification an address referred to in rule 6(5)(b) at which you will accept notice and service of all documents in these proceedings.



If no such notice of intention to oppose be given, the application will be made on the 26th of May 2025 at 09h30 or so soon thereafter as counsel may be heard.

PART B

TAKE NOTICE that the above applicants intend to make further application to this Court, on a date to be arranged with the Registrar, for the following orders:

1. Declaring and recognising that all children have a right to early childhood development.

1A. Declaring that the first to third respondents' irregular and inconsistent payment of ECD subsidies to qualifying ECD centres is unlawful, unconstitutional and

invalid insofar as this conduct infringes the right to early childhood development of children.

2. The first to third respondents are directed to file a searchable report, within one month of the date of the court order, under oath, of the names and addresses of all ECD centres in KZN that are recipients of the conditional grant or equitable share subsidies, setting out the total subsidy amounts that are outstanding in respect of each centre and in that report to detail how they will remediate such non-payment.



2A. The first to third respondents are directed to pay the full outstanding amounts owed to each ECD centre listed in the report within one week of filing the report.

3. The first to third respondents are directed to file an updated version of the reports referred to in prayer 2 above, before the last day of every third month until all payments are up to date and the order is fully complied with, or alternatively, for a time period prescribed by this court.

4. The applicants be granted leave thereafter, within 30 days, and before the last day of every subsequent month, to deliver an affidavit in answer to the reports and may thereafter set the matter down for further, other or alternative relief, as supported by their affidavits and this application.

5. The first to third respondents are directed to ensure that, within three months of the date of the court order, a signed TPA agreement is concluded with each

of the ECD centres that are recipients of the conditional grant or equitable share subsidies, and that each agreement clearly sets out the terms and timeframes for the payment of the subsidy in respect of each ECD centre.

6. Directing those respondents who oppose this affidavit to pay the costs of this application, including the costs of two counsel, each on scale C, such costs to be paid jointly and severally amongst them.



TAKE NOTICE FURTHER THAT the accompanying affidavits of **NKOSINATHI SIBISI** and **SHENIECE LINDERBOOM** will be used in support thereof.

TAKE NOTICE FURTHER that the applicants have appointed the **LEGAL RESOURCES CENTRE** at which address they will accept notice and service of all process in these proceedings.

TAKE NOTICE FURTHER that if you intend opposing PART B this application you are required:

(a) to notify applicant's attorney within ten days of receiving this application

(b) and within fifteen days after you have so given notice of your intention to oppose the application, to file your answering affidavits, if any; and

(c) further that you are required to appoint in such notification an address referred to in rule 6(5)(b) at which you will accept notice and service of all documents in these proceedings.

If no such notice of intention to oppose be given, the application will be made on the 6th day of August 2025 at 09H30 or so soon thereafter as counsel may be heard.

DATED at **DURBAN** this **6th** day of **OCTOBER** 2025.



LEGAL RESOURCES CENTRE
Attorneys for the Applicants
1st Floor, CBI Building
635 Peter Mokaba Road
DURBAN,
4001
Tel: 031 301 7572
Ref: ED11-25
Email: sheniece@lrc.org.za / kiara@lrc.org.za
C/O M BHYAT ATTORNEYS
401 Prince Albert Street
Pietermaritzburg, 3201
Tel: 083 578 6059
Email: mohammed@mbhyat.co.za

TO: **THE REGISTRAR OF THE ABOVE COURT**

AND TO: **THE FIRST TO NINTH RESPONDENTS**
State Attorney (KwaZulu-Natal)
6th Floor, MetLife Building
391 Anton Lembede Street

6

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl



COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

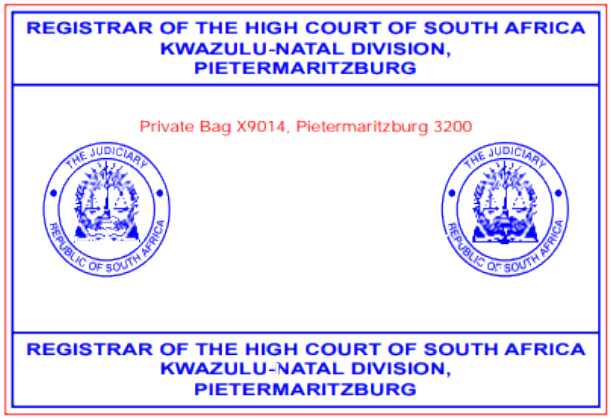
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Certificate

NOTE: **This document was filed electronically by the Registrar on 22/5/2025 at 9:36:08 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9016, Pietermaritzburg 3200
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

CERTIFICATE OF URGENCY



I, Muhammad Zakaria Suleman, an advocate of the High Court and legal practitioner, practicing at Ubunye Chambers, Durban, confirm that I have drafted the founding affidavit and notice of motion in the above matter. I certify that this matter is sufficiently urgent to be placed on the motion roll on 26 May 2025.

Muhammad Zakaria Suleman

13 May 2025

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant

and

MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Notice of Motion (Long Form)

NOTE: **This document was filed electronica Registrar on 14/5/2025 at 8:38:00 AM South African Standar ST). The time and date the document was filed by the party is presented on the header of each page of this document.**

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Private Bag X9014, Pietermaritzburg 3200

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.



IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO:

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant
and	
MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent
MINISTER OF SOCIAL DEVELOPMENT	Seventh Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

NOTICE OF MOTION

PART A

TAKE NOTICE that the applicants will make application to this Court on the 26th day of May 2025, at 09h30, for an Order in terms of **PART A**, as follows.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

1. The applicant's non-compliance with the Uniform Rules of Court is condoned and the matter is heard on an urgent basis in terms of Rule 6(12)(a).

2. Directing the first to third respondents to pay the third to fifth applicants, forthwith and no later than 5 (five) days from the date of this Order, all outstanding Early Childhood Development Grant subsidies owed to them.

3. Directing that the costs of the application, are to be paid by those respondents who oppose this application, such costs to include the costs of two counsel, each on scale C, to be paid jointly and severally amongst those who oppose.

TAKE NOTICE FURTHER THAT that the accompanying affidavits of **NKOSINATHI SIBISI and SHENIECE LINDERBOOM** will be used in support thereof.

TAKE NOTICE FURTHER that the applicants have appointed **LEGAL RESOURCES CENTRE** at which they will accept notice and service of all process in these proceedings.

2

TAKE NOTICE FURTHER that if you intend opposing PART A of this application you are required:

(a) to notify applicant's attorney in writing by 16 May 2025;

(b) and on or before 21 May 2025 to file your answering affidvaits if any; and

(c) further that you are required to appoint in such notification an address referred to in rule 6(5)(b) at which you will accept notice and service of all documents in these proceedings.



If no such notice of intention to oppose be given, the application will be made on the 26th of May 2025 at 09h30 or so soon thereafter as counsel may be heard.

PART B

TAKE NOTICE that the above applicants intend to make further application to this Court, on a date to be arranged with the Registrar, for the following orders:

1. Declaring and recognising that all children have a right to early childhood development.

2. The first to third respondents are directed to file a searchable report, within one month of the date of the court order, under oath, of the names and addresses of all ECD centres in KZN that are recipients of the conditional grant or equitable share subsidies, setting out the total subsidy amounts that are outstanding in respect of each centre and in that report to detail how they will remediate such non-payment.

3. The first to third respondents are directed to file an updated version of the reports referred to in prayer 2 above, before the last day of every subsequent month until all payments are up to date and the order is fully complied with.

4. The applicants be granted leave thereafter, within 30 days, and before the last day of every subsequent month, to deliver an affidavit in answer to the reports and may thereafter set the matter down for further, other or alternative relief, as supported by their affidavits and this application.



5. The first to third respondents are directed to ensure that, within three months of the date of the court order, a signed TPA agreement is concluded with each of the ECD centres that are recipients of the conditional grant or equitable share subsidies, and that each agreement clearly sets out the terms and timeframes for the payment of the subsidy in respect of each ECD centre.

6. Directing those respondents who oppose this affidavit to pay the costs of this application, including the costs of two counsel, each on scale C, such costs to be paid jointly and severally amongst them.

TAKE NOTICE FURTHER THAT the accompanying affidavits of **NKOSINATHI SIBISI and SHENIECE LINDERBOOM** will be used in support thereof.

TAKE NOTICE FURTHER that the applicants have appointed the **LEGAL RESOURCES CENTRE** at which address they will accept notice and service of all process in these proceedings.

TAKE NOTICE FURTHER that if you intend opposing PART B this application you are required:

(a) to notify applicant's attorney within ten days of receiving this application

(b) and within fifteen days after you have so given notice of your intention to oppose the application, to file your answering affidavits, if any; and



(c) further that you are required to appoint in such notification an address referred to in rule 6(5)(b) at which you will accept notice and service of all documents in these proceedings.

If no such notice of intention to oppose be given, the application will be made on the at 09H30 or so soon thereafter as counsel may be heard.

DATED at Durban this 13th day of May 2025.

5

LEGAL RESOURCES CENTRE
Attorneys for the Applicants
1st Floor, CBI Building
635 Peter Mokaba Road
DURBAN,
Tel: 03[illegible] 7572
Ref: ED11-25
Email: sheniece@lrc.org.za / kiara@lrc.org.za
C/O M BHYAT ATTORNEYS
401 Prince Albert Street
Pietermaritzburg, 3201
Tel: 083 578 6059
Email: mohammed@mbhyat.co.za

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

AND TO: **THE REGISTRAR OF THE ABOVE COURT**

AND TO: **THE MEMBER OF THE EXECUTIVE COUNCIL, DEPARTMENT OF EDUCATION, KWAZULU-NATAL**

First Respondent

Anton Lembede Building

247 Burger Street

Pietermaritzburg

6

AND TO: **HEAD OF DEPARTMENT FOR THE KWAZULU-NATAL DEPARTMENT OF EDUCATION**

Second Respondent

Anton Lembede Building

247 Burger Street

Pietermaritzburg

AND TO: **DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION**



Third Respondent

Anton Lembede Building

247 Burger Street

Pietermaritzburg

AND TO: **MINISTER OF BASIC EDUCATION**

Fourth Respondent

Sol Plaatje House

222 Struben Street

Pretoria

AND TO: **MINISTER OF FINANCE**

Fifth Respondent

40 Church Square

Old Reserve Bank Building

2nd Floor

7

Pretoria

AND TO: **MEMBER OF THE EXECUTIVE COUNCIL FOR FINANCE, KWAZULU-NATAL**

Sixth Respondent

330 Langalibalele Street

Natalia Building

2nd Floor

Pietermaritzburg



AND TO: **MINISTER OF SOCIAL DEVELOPMENT**

Seventh Respondent

134 Pretorius Street

HSRC Building

North Wing

Pretoria

AND TO: **MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**

Eighth Respondent

87 Hamilton Street

Arcadia

Pretoria

8

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

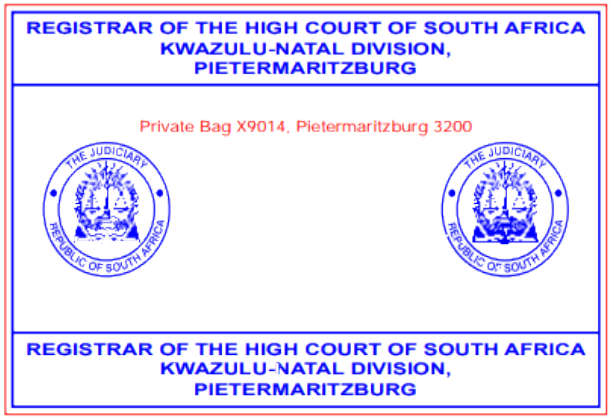
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Founding Affidavit

NOTE: **This document was filed electronically by the Registrar on 17/5/2025 at 12:39:35 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant
and	
MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent
MINISTER OF SOCIAL DEVELOPMENT	Seventh Respondent
MINISTER OF COOPERATIVE GOVERNANCE	

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

AND TRADITIONAL AFFAIRS Eighth Respondent

FOUNDING AFFIDAVIT

CONTENTS

A. OVERVIEW AND PURPOSE 3
B. RELIEF SOUGHT 5
C. PARTIES 6
Applicants 6
Respondents 8
D. LEGAL STANDING 11
E. FACTUAL BACKGROUND 11
F. FAILURE BY STATE TO FULFIL ITS OBLIGATIONS 38
G. THE REQUIREMENTS FOR A MANDAMUS ARE SATISFIED 39
The applicants have a clear right 40
There is a reasonable apprehension of harm 40
No reasonable alternative remedy 41
H. DECLARATORY ORDER NECESSARY 42
I. STRUCTURAL ORDER NECESSARY 42
J. URGENCY AND EXPEDIENCY 45
K. CONCLUSION 47

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

I, the undersigned,

NKOSINATHI SIBISI

state under oath the following:

1. I am an adult male and the chairperson of the Friends of South Africa Early Childhood Development Forum ("FOSA"), the first applicant in this application. I am also the principal of the Sinamuva Crèche and the Early Childhood Development Centre ("Sinamuva"), referred to below.



2. I am duly authorised to depose to this affidavit on behalf of the applicants. Resolutions confirming this are attached hereto as "**NS 1**".

3. The contents of this affidavit are within my personal knowledge, except where the context indicates otherwise, and are to the best of my belief both true and correct. Where I make legal submissions, I do so on the advice of my legal representatives.

A. OVERVIEW AND PURPOSE

4. Early childhood development ("ECD") is a comprehensive approach to programmes and policies for children from birth to five years of age. Its purpose is to protect the rights of children to develop their full cognitive, emotional, social and physical potential.

NS
NOM

5. Early childhood is an important period where a child's brain undergoes rapid development and lays the foundation for future learning, health, and behaviour. A significant number of ECD services are provided through ECD centres. The Department of Basic Education ("DBE") is responsible for co-ordinating ECD centres. These are regulated by the Children's Act 38 of 2005 and the National Integrated Early Childhood Development Policy, 2015 ("NIECDP").

6. However, hundreds of ECD centres in KwaZulu-Natal ("KZN") are not receiving the financial support they are entitled to from the state. The non-payment of subsidies owing to these ECD centres is having a devastating impact on tens of thousands of children aged between birth and five years old.

7. I am advised that the irregular or non-payment of subsidies goes against the objectives which the Children's Act 38 of 2005, seeks to achieve through its ECD programme and undermines the Constitution of the Republic of South Africa, 1996 ("The Constitution").

8. The affected children's constitutional rights to nutrition, care, and ECD are being infringed. If the breach continues, it will cause devastating, irreparable harm to their lives. This is not in their best interests and, it is contrary to the constitutional, statutory and international law obligations outlined in the affidavit by our attorneys of record. I refer in this regard to the affidavit accompanying mine, from Sheniece Linderboom, which sets out the legal framework in support of this application.

9. The failure by the respondents relates to the irregular, delayed and outstanding equitable share and conditional grant payments owed to the respective ECD

003-20

centres in terms of Transfer Payment Agreements ("TPAs") signed between the provincial department and the ECD centre.

B. RELIEF SOUGHT

10. As outlined in the notice of motion, this application seeks the following relief:

10.1. **PART A** seeks urgent and immediate relief for the [illegible] applicants in the form of a mandatory interdict for the payment of all outstanding subsidies for ECD. This relief is sought pending the outcome of the relief in **PART B.**



10.2. **PART B** seeks a declarator and systemic relief through a structural interdict requiring the state to file a report to this Court dealing with the extent to which it remains in breach of its obligations in respect of numerous other ECD centres and a plan to overcome these deficiencies. This relief is as set out in the Notice of Motion, and I do not repeat it here.

11. The remainder of this affidavit will be structured as follows:

11.1. First, I set out the parties to this application.

11.2. Second, I will set out the legal standing of the applicants.

11.3. Third, I set out the factual background to this application, the steps taken to resolve the matter, and the impact of non-payment of subsidies on affected children.

003-21

11.4. Fourth, I establish that the requirements for a final interdict are satisfied.

11.5. Fifth, I discuss the remaining relief in the notice of motion, including the declaratory order and the structural interdict sought against the respondents calling on them to report and remedy their breach of their obligations.



C. PARTIES

Applicants

12. The first applicant is the **FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM ("FOSA").** Its postal address is PO BOX 481724, Qualbert, 4078 care of its attorneys of record, the Legal Resources Centre ("LRC"), Durban.

13. FOSA is a registered non-profit organisation ("NPO") with NPO registration number 064-282. In terms of its constitution, annexed hereto as "**NS 2**", two of the primary objectives of FOSA are to serve as a mouthpiece and provide an advocacy role for ECD centres in South Africa, and to implement policies and guidelines that pertain to the DBE and the Children's Act.

14. FOSA has a presence throughout the province with a district chairperson representing each of the eleven districts of KZN which are eThekwini South, eThekwini North, Amajuba, Harry Gwala, iLembe, Ugu, uMgungundlovu, uMkhanyakude, uThukela, Umzinyathi, Zululand and King Cetshwayo. FOSA has

NS
003-22

a membership of 517 ECD centres. A copy of the membership list is annexed hereto as "**NS 3**".

15. The second applicant is the **KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE ("KZN ECD ALLIANCE")**. The KZN ECD Alliance consists of three main bodies; The South African Association of Early Childhood Development, the South African Congress and the South African Agency for ECD.

16. The KZN ECD Alliance is a community-based voluntary association that has established a network of ECD centres throughout KZN with the primary aim of advocating for the affected ECD centres in poor communities that have been plagued by the ongoing subsidy payment issues. It has worked alongside these centres to promote and advance their interests with the intention of rectifying the detrimental impact of the non-payment on the functioning of the centres. A copy of the KZN ECD Alliance's Terms of Reference document is annexed hereto as "**NS 4**".

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

17. The third applicant is **SAKHOKWETHU CRÈCHE ("SAKHOKWETHU").** Sakhokwethu is a registered NPO with registration number 032-433, located in Edendale H, Pietermaritzburg, uMgungundlovu District. The principal of Sakhokwethu is Bonisiwe Mthembu.

18. The fourth applicant is **PHUMELELA CRÈCHE ("PHUMELELA")**. Phumelela is a registered non-profit organisation ("NPO") with NPO registration number 047-572, located in Edendale, Pietermaritzburg, uMgungundlovu District. The chairperson of Phumelela is Ms Nonkonzo Madlala.

N.J
NNM

19. The fifth applicant is **ZENZELENI CRÈCHE ("ZENZELENI")**. Zenzeleni is a registered non-profit organisation ("NPO") with NPO registration number 032-848, situated in Edendale, Pietermaritzburg, uMgungundlovu District. The principal of Zenzeleni is Ms Thembekile Ndlovu.

Respondents

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

20. The first respondent is **THE MEMBER OF THE EXECUTIVE COUNCIL, DEPARTMENT OF EDUCATION, KWAZULU-NATAL**. The first respondent is cited as the nominal respondent on behalf of the KwaZulu-Natal Government in its Department of Education and is the bearer of the constitutional and statutory powers and duties of the Member of the Executive Council ("MEC") of Education of KwaZulu-Natal.

21. The second respondent is the **HEAD OF DEPARTMENT FOR THE KWAZULU-NATAL DEPARTMENT OF EDUCATION**. The Head of Department is cited as the administrative head of the KwaZulu-Natal Department of Education ("KZNDoE"). The KZNDoE is responsible for the administration, registration and funding of education institutions in KwaZulu-Natal.

22. The third respondent is the **DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION.** The Director of ECD is cited as the oversight head of the ECD services in the KwaZulu-Natal Department of Education. The KZNDoE is responsible for the

administration, registration and funding of ECD centres in KwaZulu-Natal. This application will be served on the first, second and third respondents at Anton Lembede Building at 247 Burger Street in Pietermaritzburg.

23. The fourth respondent is the **MINISTER OF BASIC EDUCATION**. The Minister of Education is cited in her official capacity as the political head of the National Department of Basic Education ("**DBE**") (situated at the Union Buildings, Pretoria) and is the person responsible for the acts and omissions of officials within the DBE. In terms of section 85(2) of the Constitution and the National Education Policy Act 27 of 1996, the Minister is responsible for developing and implementing national education policy, as well as monitoring and evaluating all levels of education. This application will be served on the fourth respondent at her offices at the Union Buildings, Sol Plaatjie House, 222 Struben Street, Pretoria. The Minister is cited for any interest that she may have in the matter, but no relief is sought against her.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

24. The fifth respondent is the **MINISTER OF FINANCE** cited herein in his official capacity as the political head of National Treasury and the person responsible for the acts and omissions of officials within National Treasury. The Minister of Finance is also responsible for the financial management, governance, budgeting processes, and development of economic policy within National Treasury. The fifth respondent is cited based on his interest in the relief sought in this matter, and no relief is sought directly against him. His offices are situated at 40 Church Square, Old Reserve bank Building, 2nd Floor, Pretoria, where the papers will be served.

25. The sixth respondent the **MEMBER OF THE EXECUTIVE COUNCIL FOR FINANCE: KWAZULU-NATAL**. The sixth respondent is cited herein in his official capacity as the political head of the KwaZulu-Natal Provincial Department of Finance and the person responsible for the acts and omissions of officials within this Department. He is also responsible for the administration of financial legislation in KwaZulu-Natal. The sixth respondent is cited based on his interest in the relief sought in this matter, and no relief is sought directly against him. The application will be served at the office of the department at 330 [illegible] Street, Natalia Building, 2nd Floor, Pietermaritzburg, 3201.



26. The seventh respondent is the **MINISTER OF SOCIAL DEVELOPMENT.** The Minister is cited in his official capacity as the political head of the Department of Social Development ("**DSD**") and the person responsible for the acts and omissions of officials within National DSD. The Minister is cited in terms of the Children's Act insofar as it requires intervention by the Minister in terms of the Act, although no direct relief is sought against them. This application will be served on the seventh respondent at their offices at the HSRC Building, North Wing, 134 Pretorius Street, Pretoria.

27. The eighth respondent is the **MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS.** The Minister is cited in their interministerial capacity. This application will be served on the eighth respondent at their offices at 87 Hamilton Street, Arcadia, Pretoria. No direct relief is sought against this Minister who is cited herein on the basis of a potential interest in the subject matter of this application.

D. LEGAL STANDING

28. The applicants have the necessary standing to litigate this matter:

28.1. Firstly, in terms of sections 38(a), (b), (c), and (d) of the Constitution of the Republic of South Africa, 1996.

28.2. Secondly, in terms section 15 of the Children's Act, in the public interest and on behalf of children affected by the failure to fund the ECD programmes.



29. The applicants bring this application:

29.1. In their own interest, as organisations that have as one of their vision, mission or purpose, to secure and ensure the right to early childhood development;

29.2. In the interest of the affected children at the three applicant ECD centres and across the province of KwaZulu-Natal;

29.3. On behalf of the affected ECD centres in KwaZulu-Natal who have been, and will continue to be, affected by the inadequate provision of resources and who lack the necessary resources to act in their own name;

29.4. On behalf of its members; and

29.5. In the public interest.

E. FACTUAL BACKGROUND

30. In what follows, I first set out how ECD centres are funded. Then I set out the challenges the applicants have faced with the provision of ECD. I then show how

the problem extends far beyond these three centres and across the province. Finally, I set out the efforts made to address the problem.

Funding of ECD Centres

31. I am advised that ECD centres are required to register under section 81 and 95 of the Children's Act. If registration is successful, the centre qualifies to access the state subsidy.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

32. Subsidies are granted to ECD centres on a per capita basis taking into account the number of children in attendance at the centre and the number of days children spend at the centre during the year. If an ECD centre is located in a designated municipal ward identified for the targeting of subsidies, all children in attendance at the centre are subsidised. If it is located outside these areas, only the children in attendance whose parents or caregivers pass a means test will be subsidised. The subsidy value will also vary between centre and non-centre establishments.

33. Subsidies are funded from both the Early Childhood Development Grant ("ECDG"), a conditional grant administered by the DBE, paid quarterly, and by Provincial Education Departments ("PEDs") using a portion of their provincial equitable share, which is then paid monthly. The most recent framework sets the value of the ECD subsidy drawn from the ECDG at R17 per qualifying child per day at registered ECD centres, and R6 per qualifying child per session attending non-centre ECD establishments. These subsidies have not increased since 2019.

34. If the ECD centre does not however meet the registration requirements, they are largely left to fend for themselves and operate using the fees received from parents, which are negligible in poor communities.

35. The funding is therefore critical for the ECD centres to function. Without funding, many ECD centres face the real prospect of having to close. The three ECD centres highlighted next illustrates these ongoing violations of rights by the government.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

36. The funding itself supports the provision of, or access to, the components which make up the "essential package" of ECD services, which include:

(a) nutritional support;

(b) primary caregiver support;

(c) social services and protection;

(d) health care services; and

(e) early care and educational programmes.

37. This is recognised in law as detailed in the affidavit of Sheniece Linderboom. I turn next to deal with the position of the applicants, each of whom is facing severe obstacles because of the non-payment of the ECD grants by the government.

Sakhokwethu Crèche

38. Sakhokwethu is an ECD centre in Edendale H, Pietermaritzburg. It first opened in 1996 and registered as an NPO in 2004, with registration number 032-433. Bonisiwe Mthembu has been the principal of Sakhokwethu since 2022. The

accuracy of the information about Sakhokwethu in this affidavit is confirmed by the confirmatory affidavit of Ms Mthembu which is filed together with this affidavit.

39. The centre can accommodate up to 80 children but currently has 48 children enrolled, 28 of whom are eligible to receive the ECD subsidy. The children are between the ages of zero and five and are expected to pay R230 a month in respect of fees.

40. In any given month, the centre should receive R8258 a month which funds approximately 60% of the children. This leaves the ECD subsidy as the centre's primary income source for the month. Initial glitches with the equitable share monthly payments emerged following the ECD function shift from the Department of Social Development ("DSD") to the DBE in April 2022.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

41. The payments became exceedingly erratic and unreliable in 2023 and continue to be so. Ms Mthembu uses her personal funds to supplement the minimal fees received in months the subsidy is not paid. This money is then used to purchase food for the children as a priority. Food is prioritised overpaying staff and carrying out required maintenance.

42. There are four staff members at the centre. They have gone many months either not receiving a salary at all or only receiving half-pay. There is a cleaner/cook, an ECD practitioner for the four-year-old class, and two ECD practitioners for the zero to three-year-old classes.

N.S

43. Ms Mthembu, as principal, should also receive a salary. With the failure to pay out the funding, she now rarely gets a salary. Instead, she uses her other income source to support the centre, receiving little to no remuneration for her efforts. The last time she was able to pay the staff was in December of 2024. Part-timers, like the gardener, are paid from the centre's petty cash fund. Two of these staff members are new. They replaced two staff members who had to leave for employment with a more reliable income source as they were the breadwinners of their families.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

44. Ms Mthembu is aware of many children in the community who are not accessing ECD services because of not being able to afford the R230 monthly fee she charges. Instead of being safeguarded within an ECD centre, Ms Mthembu regularly encounters young children loitering at a nearby dumpsite. She has tried to devise ways to give these children access to her services — such as a reduced fee of R150 a month paid after the Child Social Grant ("CSG") is received.

45. This, however, has never been feasible for the centre to implement. In months when a subsidy inevitably goes unpaid, it results in far too many children to care for and more salaries to pay without a sufficient income. These considerations keep her from enrolling the full 80 children that are allowed at the centre.

46. The funds from Ms Mthembu's consulting business have managed to sustain the centre thus far. However, she is currently R8000 in debt and cannot afford to make any further personal contributions. On 9 May 2025, she paid interest on this loan of R1750. Ms Mthembu's contributions have ensured that the children have not been deprived of food, due to the prioritisation of purchasing groceries

N.S

with the limited funds. The centre provides breakfast, a snack and lunch. Ms Mthembu has avoided asking parents to send snacks out of fear that poorer children will be left hungry.

47. Ms Mthembu would like to plant a vegetable garden to free up some of the funds spent on groceries so she can afford to pay staff and perform maintenance. However, the fence and the gate lack stability to keep the many goats roaming the area from entering the garden, which would make growing vegetables pointless. This additional maintenance to stop goats from eating the produce would need to be carried out first.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

48. The prioritisation of food results in other necessities being neglected, such as maintenance. These issues compound and maintenance becomes more expensive with the passage of time. Once the subsidy is received, only 20% can be used for maintenance which is never sufficient.

49. The centre needs to build a new gate as the current one collapses whenever there is rain. There is also no jungle gym for the children to play on outside — just a frame needing repairs, a slide and swing. Ms Mthembu paid for the timber to complete the jungle gym, using her personal funds to transport the timber to the centre in a bakkie.

50. She cannot however afford the labour as general workers request payment on the same day. Any renovations that require expensive implements cannot be secured through lay-by, as there is no certainty that the subsidy will be received

in the following month. There is also a shortage of indoor toys at the centre, but the centre cannot afford to buy any.

51. Collecting fees and covering costs in months like April and December is especially challenging. Almost all the parents choose not to send their children to the centre in these months due to the large number of holidays and therefore do not pay fees. It is not possible for the centre to remain open for the few who may need childcare when there is minimal income and staff cannot be paid.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL, DIVISION,
PIETERMARITZBURG

52. Ms Mthembu has four children, two of whom are minors and two majors who are unemployed. They are all dependent on her as the breadwinner for the family and live in her home in Pinetown. Ms Mthembu cannot afford the transport from Pietermaritzburg to Pinetown, to see her children over the weekend, unless the payment comes through. If they are unpaid, she must use her personal funds to support the centre rather than on transport costs home, which, by comparison, seems like a frivolous expense.

53. As stated above, payment irregularities were increasingly severe from 2023 onwards. The monthly stipend owed to the centre went unpaid for four consecutive months from March to June of 2023. In July, payment was received for March to May. In August, September and October 2023, no money was received. In November 2023, one instalment was paid, covering the outstanding June payment, followed by nothing in December 2023.

54. In January 2024, payment for July, August and September of 2023 was made, followed by no payment in February 2024. Two separate payments were received

N.S
003-33

in March 2024, covering October and November 2023. The December 2023 payment was received in April of 2024. Payment for January, February and March 2024 remain unpaid for the 2023/2024 financial year.

55. In May of 2024, payment for April 2024 was received. This was the new subsidy amount for the 2024/2025 financial year:

55.1. Nothing was received in June and July 2024, followed by a double payment in August that covered the outstanding May and June 2024 payments.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

55.2. Nothing was received in September 2024.

55.3. In October 2024, the July payment was made, followed by two separate payments for August and September, made in November 2024.

55.4. In December 2024, the October payment was received.

55.5. In January 2025, the November 2024 payment was made.

55.6. In February, the December 2024 payment was made.

55.7. In March, payment for January 2025 was made.

55.8. Lastly, payment for February was received in April 2025.

55.9. No payment has been received for March or April 2025.

56. The payment history of Sakhokwethu is summarised in the table below:

Month	Paid/Unpaid	Date Paid	Amount
March 2023	Paid	9 July 2023	R7119
April 2023	Paid	9 July 2023	R7119
May 2023	Paid	9 July 2023	R7119

NS

June 2023	Paid	13 November 2023	R7200
July 2023	Paid	31 January 2024	R7119
August 2023	Paid	31 January 2024	R7119
September 2023	Paid	31 January 2024	R7119
October 2023	Paid	7 March 2024	R7119
November 2023	Paid	18 March 2024	R7119
December 2023	Paid	30 April 2024	R7119
January 2024	Unpaid	[redacted]	
February 2024	Unpaid		
March 2024	Unpaid		
April 2024	Paid	22 May 2024	R8258
May 2024	Paid	28 August 2024	R8258
June 2024	Paid	28 August 2024	R8258
July 2024	Paid	15 October 2024	R8258
August 2024	Paid	11 November 2024	R8258
September 2024	Paid	15 November 2024	R8258
October 2024	Paid	10 December 2024	R8258
November 2024	Paid	31 January 2025	R8258
December 2024	Paid	14 February 2025	R8258
January 2025	Paid	7 March 2025	R8258
February 2025	Paid	9 May 2025	R8258
March 2025	Unpaid	[redacted]	
April 2025	Unpaid		



57. The table indicates that April 2024 was the only month in the last two years when payment was not delayed. Delays have ranged from one to six months (such as July 2023), with the average delay being three to four months.

58. The inconsistent payment practices demonstrate a pattern by the KZNDoE that spans years, which has been harmful to the children surrounding Sakhokwethu and to those within.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

59. With reliable payments, Ms Mthembu would be able to double the enrolment of the centre without demanding full payment of fees. This would keep more children from the community in a safe environment, while also allowing them to benefit from adequate ECD services. She would further be able to improve the standard of services offered by purchasing indoor and outdoor toys, hiring trained staff she could retain, and improving safety at the school with new fencing and a gate.

Phumelela Crèche

60. Phumelela is an ECD centre located in Edendale, uMgungundlovu District, KwaZulu-Natal. It was established in 1997 by the current chairperson, Ms Nonkonzo Madlala, and registered as an NPO on 23 March 2006 under registration number 047-572. Ms Nonkonzo Madlala has been the chairperson of Phumelela Crèche since 1 April 2020, after serving as principal since the establishment of the centre.

61. Phumelela provides essential ECD services to children from the local community, with the principal, overseeing its operations. The centre is allowed to accommodate 45 children, all of whom are eligible for the subsidy, and currently

NS

has 51 children enrolled. Phumelela faces severe financial constraints that threaten its ability to continue providing these services. The accuracy of the information about Phumelela in this affidavit is confirmed by the confirmatory affidavit of Ms Nonkonzo Madlala, which is filed together with this affidavit.

62. Phumelela charges school fees of R200 per month for children younger than 18 months, and R250 per month for children between 18 months and two years. The centre struggles financially due to inconsistent payments from parents and outstanding payments from the KZNDoE.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

63. The payment history of Phumelela is summarised in the table below:

Month	Paid/Unpaid	Date Paid	Amount
December 2023	Paid	31 January 2024	R9 966
January 2024	Paid	8 February 2024	R9 966
February 2024	Paid	17 March 2024	R9 966
March 2024	Paid	30 April 2024	R9 966
April 2024	Paid	22 May 2024	R12 814
May 2024	Paid	27 August 2024	R12 814
June 2024	Paid	28 August 2024	R12 814
July 2024	Paid	2 September 2024	R12 814
August 2024	Paid	15 October 2024	R12 814
September 2024	Paid	15 November 2024	R12 814
October 2024	Paid	10 December 2024	R12 814
November 2024	Paid	9 May 2025	R18 824
December 2024	Unpaid		

January 2025	Unpaid	[redacted]
February 2025	Unpaid	
March 2025	Unpaid	
April 2025	Unpaid	

64. The table indicates that Phumelela received its last subsidy payment on 9 May 2025 for the month of November 2024. This effectively means that Phumelela has not received payment for December 2024 to March 2025.



65. Phumelela tries to ensure that children receive two nutritious meals a day. In the mornings and afternoons, children are provided with porridge for breakfast and a cooked meal at lunch. Parents are requested to pack snacks for their children, but many parents are unable to afford to do this. This means that for the vast majority, the only sustenance and nutrition given to these young children during the day is that which they receive at the ECD centre.

66. Phumelela employs four staff members: the principal, an ECD practitioner responsible for children between zero and three years old, a cook, and a cleaner. The last payment of salaries was made in May 2025 for the month of November 2024. Salaries for December 2024 to March 2025 are still outstanding

67. One practitioner has not shown up for work since 21 March 2025 due to non-payment of her salary. The principal is now the sole ECD practitioner, alternating between two groups of children. She balances this workload by teaching the older children in the morning and then leaving them outside to play under the watch of

the cook or cleaner. She then focuses her attention on the younger children. The cook and cleaner have continued to arrive for work despite not being for months, but the principal is doubtful they will come to work without pay for much longer.

68. Phumelela rents its premises from the Holy Bible Focus Church International at a monthly rental of R700. The lack of payment has prevented the centre from paying its rent and utilities for four months, with the last rent payment made in October of 2024.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL, DIVISION,
PIETERMARITZBURG

69. The landlord has threatened to evict them several times if rent is not paid. Phumelela cannot afford to enter into a new lease agreement given the centre's current financial position and has no alternate site to continue its operations if they are evicted. This would leave the children of Phumelela without childcare and access to essential ECD services as there are only three ECD Centres that are close to Phumelela and provide services to neighbouring communities.

70. Funds received from parents are used primarily for food, but these contributions are inconsistent and insufficient. When food runs out, the principal and the chairperson of the crèche, Ms Madlala, often provide meals for the children at their own expense. The principal and chairperson have both approached the local SPAR and Shoprite for donations/sponsorship but have not been successful. The centre is also unable to afford security and garden services, compromising the safety and upkeep of the premises.

71. There is an urgent need for new and additional sheets and foam mattresses, as the existing ones are insufficient, old and deteriorating. There are, however, no

funds available for their replacement. This leaves many children sharing foam mattresses during naps. The principal and chairperson may have to purchase these mattresses using their own money. The inability to purchase educational toys and learning materials negatively affects the quality of education provided to the children.

72. Phumelela plays a central role in providing ECD services within the surrounding Edendale community. The financial difficulties it faces pose a serious risk to its continued operation.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Zenzeleni Crèche

73. Zenzeleni is an ECD centre located in Edendale, uMgungundlovu District, KwaZulu-Natal. It was established in September 2015, with NPO registration number 032-848. The ECD Centre has submitted all required information and is waiting for the certificate from the KZNDoE.

74. Zenzeleni operates under the leadership of Ms Thembekile Ndlovu, who took on the role of principal in 2021 and is also a mother of three. The accuracy of the information about Zenzeleni in this affidavit is confirmed by the confirmatory affidavit of Ms Ndlovu which is filed together with this affidavit. Currently, Zenzeleni is allowed to accommodate 75 children, all of whom are eligible for funding, and has 76 children enrolled.

75. Zenzeleni charges a monthly school fee of R250 for children who wear nappies, and R180 for children who do not wear nappies. Fees, however, are not

003-40

consistently paid due to the poverty in the surrounding area, with an average of between R4000 and R5000 received from fees in a month.

76. Further to the issue of minimal school fees, is the pattern of unreliable and inconsistent subsidy payments from the KZNDoE, which can be traced back to 2023. The last month that Zenzeleni received a grant payment for was November 2024, which was received on 9 May 2025. This effectively means that Zenzeleni has not received funding for December 2024 to April 2025, as outlined in the table below.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Month	Paid/Unpaid	Date Paid	Amount
January 2024	Paid	7 March 2024	R14 238
February 2024	Paid	14 April 2024	R14 238
March 2024	Paid	23 April 2024	R14 238
April 2024	Paid	24 May 2024	R15 946
May 2024	Paid	27 August 2024	R15 946
June 2024	Paid	28 August 2024	R15 946
July 2024	Paid	15 October 2024	R15 946
August 2024	Paid	11 November 2024	R15 946
September 2024	Paid	15 November 2024	R15 946
October 2024	Paid	10 December 2024	R15 946
November 2024	Paid	9 May 2025	R15 946

December 2024	Unpaid	[redacted]
January 2025	Unpaid	
February 2025	Unpaid	
March 2025	Unpaid	
April	Unpaid	

77. Zenzeleni endeavours to provide children with adequate nutrition throughout the day. The cook at Zenzeleni prepares porridge in the morning, followed by snacks brought from home. However, poorer children often arrive without these snacks, leaving the principal with no option but to ask children to share or she must buy them food from her own pocket. At lunchtime, the children receive a cooked meal.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

78. Zenzeleni employs two ECD practitioners. Additionally, Zenzeleni employs someone to watch over the children, a cook, and the principal. Despite their critical roles, staff have not been paid since December 2024, leading to discontent among employees, with one educator threatening to resign due to non-payment.

79. The failure by the KZNDoE to make regular subsidy payments has placed Zenzeleni in an untenable position, affecting its operations in multiple ways. Staff members have not received salaries since December 2024, resulting in uncertainty and the likelihood of resignations. The heavy financial burden has forced the principal of Zenzeleni to borrow money from friends and family to cover expenses such as groceries and transport money so she can deliver the monthly claim forms to the DBE offices in Pietermaritzburg. She has further resorted to

asking her only employed son, who currently supports their entire household, to make purchases, like gas canisters, for the centre so they can continue cooking.

80. Repairs needed to the building, including fixing holes in the roof that leak during heavy rains and floods, remain unattended, posing safety risks to the children and staff. Zenzeleni has had to divert funds meant for operational expenses to purchase groceries at the expense of ignoring essential maintenance.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

81. Zenzeleni has sought external assistance and has received some donations from individuals and organisations. These once-off donations have included food supplies, crayons, a table, and a jungle gym. While these contributions have alleviated some burdens, they are not sufficient to cover essential financial obligations, particularly staff salaries and infrastructural maintenance.

82. Zenzeleni is pivotal to the provision of ECD services in Edendale, yet its sustainability is under threat due to inconsistent and unreliable subsidy payments from the KZNDoE. Without immediate assistance, Zenzeleni risks losing staff and being unable to provide essential services to the children who rely on it.

Broader Impact

83. The payment irregularities exhibited regarding the above centres are not isolated experiences, but just a few examples that illustrate the KZNDoE's breach of their responsibility towards centres that currently have outstanding payments.

84. In reality, there are ECD centres throughout the province that have experienced a breach in payment at some point in the past few years that has provoked a

lasting impact on their financial stability and continued operation. Annexed hereto as annexure NS 5, dated 13 May 2025 is a table that captures 280 known ECD centres that are owed outstanding subsidy payments at the time of signing this affidavit. (Some information on the table is missing. It has not been possible to gather all the required information from all of the far-flung centres due to the urgency of the matter. Our attorneys will endeavour to provide an updated, complete table at the hearing of this matter.) The often-devastating consequences for children at these affected centres persist long after the breach is remedied, along with the uncertainty of whether the next payment will be made timeously.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Sinamuva Crèche and Pre-School ECD Centre

85. In addition to being the chairperson of FOSA, I am also the principal of Sinamuva Crèche and Pre-School ECD Centre ("Sinamuva"), where approximately 60% of the enrolled children have parents who are still in school and rely on the CSG for support. The poverty that affects the children at Sinamuva, has forced me to deal with the effects of inconsistent payments on the operation of Sinamuva and the well-being of children.

86. Delayed or missed payments have left the centre with insufficient funds to provide adequate nutrition. As a result, children are fed limited meals, often lacking essential nutrients like protein, dairy, and vegetables.

87. Previously, groceries were bought in bulk, in accordance with the Department of Health's "Nutrition Guidelines for Early Childhood Development Programmes" ("Nutrition Guidelines"). I attach hereto the relevant pages of the Nutrition

Guidelines as annexure NS 6, as the guidelines are 80 pages and will unnecessarily make the application voluminous.

88. Bulk nutritious produce is now an unaffordable luxury. Poor nutrition during these foundational years weakens children's immune systems, making them more susceptible to illnesses such as colds and infections. It also causes children's energy levels to drop, making it difficult for them to regulate themselves in a constructive manner. This could exacerbate developmental challenges and increase the risk of long-term health issues.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

89. Sinamuva's limited funding has forced the centre to cut back on educational materials, preventing the provision of a stimulating learning environment, which is crucial for cognitive and social development. With resources stretched thin, the centre has had to prioritise basic needs like food, leaving little to invest in early childhood education tools such as books, toys, and learning supplies.

90. Additionally, staff salaries have been reduced, creating stress and instability among the caregivers, further affecting the quality of care and education provided to the children. These financial constraints threaten the centre's ability to provide the comprehensive support children in vulnerable communities need to thrive.

91. Another centre that can attest to similar consequences due to the lack of consistent funding from the KZNDoE, is Umusa Uyasilandela ECD Centre ("Umusa"), a centre which has been forced to operate under severe financial strain, with a devastating impact on the quality of services provided to the children. The confirmatory affidavit of Mr Mngomezulu has been filed together

with this affidavit, confirming the accuracy of the information herein in relation to Umusa.

92. Without the consistent, reliable payment of the stipend from the first to third respondents, the centre has struggled to pay salaries and retain staff, leading to resignations and a lack of qualified new practitioners, which disrupts the continuity of education and care for the children.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

93. This has been compounded by administrative errors, such as the failure to change Umusa's banking details to Standard Bank from iThala Bank (which has frozen all bank accounts due to its pending liquidation) and has resulted in Umusa not being paid since 2024, when they first applied for the bank change.

94. The lack of resources has also impacted the children's well-being. With insufficient funds for maintenance, the centre went months without an outdoor gate, putting children at risk until the principal of the centre, Lawrence Mngomezulu, could afford to use his own funds to purchase and install the gate.

95. Installing the gate was necessary for the children's safety and to protect the school's toilets from being damaged and defaced by locals who prefer to use the school's flush toilets instead of the pit toilets which most residents have at their homes. The use of the centre's toilets by locals after hours was a recurring problem due to there being no gate or security guard. Moreover, in 2024, there was a break-in to the centre's storeroom through the roof which resulted in bulk grocery items being stolen from the centre.

96. The centre has been unable to provide adequate nutrition for the children, forcing Mr Mngomezulu to use personal funds to buy groceries. Without proper meals, the children's health and development are compromised, making them more vulnerable to illnesses and unable to benefit holistically from ECD services.

97. Mr Mngomezulu has seriously considered closing the centre, which would leave many children without access to ECD services, significantly hindering their development and future opportunities. Parents would not be able to afford alternative care, with the next closest centre not being within walking distance, or unregistered and therefore unfunded. The persistent financial issues and administrative failures have created a situation where the children's basic needs and educational opportunities are at risk, exacerbating the challenges of an already vulnerable community.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

98. The non-payment of subsidies by the KZNDoE has also had severe repercussions for Zamani Pre-School ("Zamani"), threatening its continued operation and the well-being of its children. Despite accommodating 170 children, the centre currently serves only 92 children due to the financial strain caused by inconsistent subsidy payments. Staff salaries have been delayed or unpaid for months, leading to a loss of key personnel, such as the security guard who stopped reporting for work in October 2024 following successive unpaid salaries.

99. The lack of funding has compromised the children's nutrition and educational resources. Without reliable payments, the centre has had to rely on small, infrequent payments from parents to purchase groceries, rather than shopping in bulk, which are often insufficient to cover basic needs. This has forced the centre

to deviate from the Nutrition Guidelines and has limited the ability to provide essential educational materials, such as printed worksheets. In some cases, even printer ink has become unaffordable.

100. Mandulo Khuzwayo, the principal of Zamani, has had to use loans and his own funds to support the centre, causing financial hardship in his personal life. A confirmatory affidavit by Mr Khuzwayo is filed together with this affidavit to confirm the accuracy of the information herein. This led to him being evicted from his home and forced him to live apart from his children. If the subsidy payments remain inconsistent, the centre faces closure, which would leave many children without access to essential ECD services.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Nomafu Day Care

101. Nomafu Day Care ("Nomafu") is another centre that has suffered in the wake of ongoing irregular subsidy payments. Although the centre can accommodate 82 children, its enrolment has dropped to 49 due to the lack of funding that has led to the principal of Nomafu, Zandile Hlongwa, asking parents to pay fees, which they are unable to do. A confirmatory affidavit by Ms Hlongwa confirming the accuracy of the information herein is filed together with this affidavit.

102. The parents of the children who remain still struggle to pay fees on time because of unemployment, forcing the centre to rely on irregular day-to-day income for food purchases. This financial strain has led to the resignation of two practitioners in December 2024 and the inability to afford additional staff, such as a gardener or security guard. Currently, there is one additional staff member who works with Ms Hlongwa at the centre.

003-48

103. The centre also has difficulty sourcing food, with bulk shopping becoming impossible. Ms Hlongwa has resorted to borrowing money from "*amashonisa*" or loan sharks in the past year to keep the centre operational. When the subsidy remained unpaid in the following months and repayment of the loan was not possible, Ms Hlongwa received threats against her safety and damage to the centre's property if she failed to repay the loans and accumulated interest. She has also personally lent money to the centre despite being a single mother who supports six minor children.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

104. The non-payment of subsidies has left Ms Hlongwa struggling to pay for her own transport to the centre and her children's school fees, adding to her personal stress. Despite these challenges, she has continued to run the centre out of respect for her late parents who opened it, but the ongoing financial issues threaten the sustainability of Nomafu and its capacity to provide quality ECD services to the community.

105. These circumstances highlight the tragic consequences of the inconsistent payment of ECD subsidies on the applicant centres and on ECD centres across the province.

106. Ultimately, I am advised that this leads to the direct contravention of the Constitution, the Children's Act, international legal instruments and the norms and standards on ECD. These contraventions are in no way in the best interests of the child, which I am advised are paramount, and results in the non-fulfilment to a child's right to ECD. These legal matters and the legal framework are fully set

003-49

out in the affidavit of Sheniece Linderboom of the Legal Resources Centre, the attorneys for the applicants. The legal framework substantiates why the conduct of the respondents are, firstly, inconsistent with the rights in the Bill of Rights, and secondly, fail to fulfil the statutory obligations set out in the Children's Act, its norms and standards and international law. This will be canvassed during legal argument at the hearing of this matter.

Steps taken to resolve the matter

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

107. The KZN ECD Alliance and FOSA have repeatedly engaged the KZNDoE on the payment issues experienced widely by their respective ECD-centre networks, confirming that the KZNDoE is aware of the non-payment of the subsidy to several ECD centres throughout the province of KZN. However, the KZNDoE is yet to acknowledge and address the impact that the non-payment has on the staff, the parents and most significantly, the young children at affected centres, or resolve the problem.

108. Representatives from KZN ECD Alliance first approached the LRC in December 2023, which was followed by further consultations to gather information from affected centres. On 1 February 2024, our attorneys wrote a letter of demand to the KZNDoE seeking compliance and clarity. No response was received. In March 2024, however, payments were made to most of the centres cited in the letter. A copy of this letter is annexed hereto as "**NS 7** ".

109. On 10 June 2024, FOSA wrote to the KZNDoE regarding the unfair practice of withholding the subsidy, noting that this was in violation of both the TPA and the Children's Act, and requested a meeting. A copy of the letter is annexed hereto

NS
12:42PM

as "**NS 8** ". The KZNDoE responded in a letter dated 28 June 2024 noting that it was planning a meeting with the KZN ECD Alliance on 5 July 2024 and invited FOSA to attend. A copy of this letter is annexed hereto as "**NS 9** ".

110. On 5 July 2024, I attended the meeting alongside FOSA and KZN ECD Alliance representatives. The issue of the non-payment of subsidies was raised and the extent of non-payments explained in detail, but no answers were provided as to the reasons for the delay.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

111. On 9 July 2024, the KZN ECD Alliance wrote to the KZNDoE noting its unhappiness with the responses received from the KZNDoE at the meeting of 5 July 2024 and requested details as to why the subsidies had not been paid, and a commitment regarding when subsidies would be paid. A copy of this letter is annexed hereto as "**NS 10** ". On 11 July 2024, the KZNDoE responded noting that the correspondence had been forwarded to the Finance Directorate for a response. A copy of the letter is annexed hereto as "**NS 11** ".

112. In an email sent on 18 July 2024, FOSA queried the issue of outstanding equitable share subsidies that, in terms of the TPAs, should have been paid on 15 June 2024. In reply, the KZNDoE informed FOSA that the matter would be referred to Finance for a response, as they did not have information on the cause of the delayed payments. A copy of the email chain is annexed hereto as "**NS 12** ".

113. On 16 August 2024, the KZNDoE responded and tendered an apology for the delayed payment. The email also stated that the KZNDoE was "*doing its utmost*

NS

to secure sufficient funding to cover at least May and June's equitable share by next week, while also exploring the possibility of establishing and communicating potential payment dates as requested by the ECD associations". The KZNDoE committed to providing an update on progress by 22 August 2024, including a promise to provide continued updates on the matter. A copy of this email is annexed hereto as "**NS 13** ".

114. On 11 September 2024, FOSA together with approximately 450 ECD practitioners from KwaZulu-Natal, Mpumalanga and Eastern Cape, participated in an organised gathering outside of the DBE national office in Pretoria. A memorandum was handed to Mr Elijah Mahlanga, the Chief Director of Communications. Some of the demands set out in the memorandum included:

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

1. *"Promptness of subsidy payments to all ECD centres which are due, for ECD centres to be able to performs their duties effectively and efficiently.*
2. *"Clear mandate and functions of [KZN]DOE in the ECD sector to be communicated and known by all parties [i]nvolved."*

115. A copy of the memorandum is annexed hereto as "**NS 14** ".

116. On 10 October 2024, the KZNDoE sent a letter to FOSA and the KZN ECD Alliance wherein they apologised for the cancellation of a previously scheduled meeting and stated that the topic of unpaid subsidies had been added to the agenda for the Provincial Integrated ECD Committee meeting which was tentatively scheduled for 29 November 2024. A copy of this letter is annexed hereto as "**NS 15**".

117. On 17 October 2024, FOSA sent an email to Mr Elijah Mahlangu to follow up on a response to the memorandum he accepted at the gathering on 11 September 2024. No response was received. A copy of the email is annexed hereto as "**NS16**".

118. On 29 October 2024, our attorneys wrote to the KZNDoE seeking reasons for their failure to pay the subsidies by 15 November 2024 in accordance with the transfer payment agreements, and a commitment that outstanding payment be paid by 30 November 2024. No response was received. A copy of this letter together with its annexures is annexed hereto as "**NS 17** ".

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

119. On 15 November 2024, our attorneys were contacted by Mr Michael Wilter, special advisor to the Minister of Basic Education, requesting a copy of the letter of demand (dated 29 October 2024) referenced in a GroundUp article. A copy of the GroundUp article is annexed hereto as "**NS 18** ".

120. During the phone conversation our attorneys confirmed that several payment runs had been paid between the period of 29 October and 15 November, however, the KZNDoE had failed to provide a formal written response. Mr Wilter further asked that our attorneys resend the letter to the MEC for Education in KwaZulu-Natal.

121. Our attorneys resent the letter of demand as requested, and on 21 November 2024 sent an email to Mr Wilter querying why a response had not yet been received. Mr Wilter responded to the email on 25 November 2024 and advised

N.S

17/5/2025 12:39:35 PM

that the National Department of Basic Education would engage with KZNDoE for a response and revert as soon as possible. This email chain is annexed hereto as "**NS 19** ". No response has been received to date.

122. On 16 April 2025, our attorneys again wrote to the KZNDoE reiterating our request for reasons for the failure to pay the subsidies in accordance with the agreements and requesting a commitment that outstanding payments be paid by 25 April 2025. No response was received. A copy of this letter together with its annexures is annexed hereto as "**NS 20** ".

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

123. Despite being obligated to provide funding to registered ECD centres in terms of the TPAs and the Children's Act, the KZNDoE is failing to do so, which has cut off support to thousands of young children throughout the province. Although the applicants have attempted to engage the KZNDoE on this issue, there has been no justifiable reason provided for the ongoing violation that has prevented the adequate provision of ECD services.

124. The failures by the KZN Department of Education in respect of the Applicant centres have been demonstrated above and are illustrative of a broader, systemic failing.

F. FAILURE BY STATE TO FULFIL ITS OBLIGATIONS

125. At the outset, I am advised that the failure to pay subsidies timeously, or at all, is in contravention of section 172(1)(a) of the Constitution. The state has failed to fulfil its obligations in terms of the Constitution and specific rights in the Bill of

Rights, the Children's Act, government's own policy and international law. This has been discussed in the affidavit of Sheniece Linderboom and will be dealt with further in argument at the hearing of this matter.

126. While the state recognises the right to ECD, it does not conduct itself in a manner that upholds such a right. It is therefore breaching its obligations.

127. The inconsistent and delayed payment of the grant has a direct and lasting effect on children, both directly and indirectly. The effect of non-payment means ECD practitioners not attending, schools not being maintained, and most importantly, children not being fed.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

128. It is for this reason that an interdict, in the form of a mandamus, and further relief is sought. I deal with the relief in the sections that follow.

G. THE REQUIREMENTS FOR A MANDAMUS ARE SATISFIED

129. The applicants seek mandatory final interdicts against the first to third respondents, in the form of a *mandamus*:

129.1. Directing them to pay the applicants within 5 days of the granting of the order in the following amounts:

129.1.1. R37 873 to Sakhokwethu Crèche and ECD Centre;

129.1.2. R94 120 to Phumelela Crèche ECD Centre; and

129.1.3. R79 730 to Zenzeleni Crèche.

The applicants have a clear right

130. The applicants have a clear right to the relief sought. Not only is there a right to ECD, but there are clear rights and obligations that are set out in the Children's Act that require protection and fulfilment.

131. The KZNDoE have entered into and signed TPAs with the applicants that require the payment of the ECD subsidies. The applicants are not in breach of their respective TPAs and the KZNDoE has not communicated any breach on the part of the applicants. Therefore, they are compelled to comply with the TPAs.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

132. The affected children have clear constitutional rights to nutrition, health and education, and the state acknowledges it has a responsibility to provide support to ECD centres to ensure these rights are realised when it enters into TPAs with ECD centres.

133. Access to ECD centres in under-resourced areas serves as a vital contact point for the provision of these constitutional rights. The consequences on these rights in early childhood development not being fulfilled have far reaching impact on the child for when they reach school going age and into adulthood. For example, the prevalence of stunting is significantly lower among children who attend ECD centres. Stunting causes developmental delays impacting on the child's realisation of the right to basic education, nutrition and health.

There is a reasonable apprehension of harm

134. The rights that the applicants seek to protect are being injured or can reasonably be expected to be injured.

135. As is demonstrated above, the KZN government's failure to make timely and consistent payments to the ECD centres is having a severe impact on the affected children's rights to nutrition, dignity, safety and security and ultimately their right to development. It is also imposing an untenable financial burden on the principals, the staff and their parents, which leads to the sacrifice of the correct provisioning of nutrition, learning supplies, safety, and a positive environment in which to develop. This violates the rights of the children to dignity, nutrition, and the right to development. This violation is detailed above and is ongoing.



136. The timely and consistent payment of the ECD subsidy is necessary to stop the harm from continuing and to mitigate the harm already caused.

<u>No reasonable alternative remedy</u>

137. As is clear from above, the applicants have made every attempt to resolve the impasse and requested payment of the outstanding subsidy payments individually, through the FOSA and KZN ECD Alliance, and through our attorneys.

138. There is no other reasonable remedy available to the applicants. The Children's Act sets out that this Court is the appropriate forum in these circumstances and consequently, I am advised, that no alternative remedy exists.

139. The requirements for a mandatory interdict have been satisfied.

N.S

H. DECLARATORY ORDER NECESSARY

140. It is necessary to declare that our law recognises ECD as a right. Notwithstanding the legal framework described in the affidavit of Sheniece Linderboom, and government's own laws and statute on this, government has not met its obligations.

141. As set out in the supporting affidavit, the legal framework sets out why a child's right to ECD is a self-standing right and the applicants therefore ask this Court to grant a declarator affirming the right to ECD.



142. At the very least, this will serve to remind government of its own statutory and constitutional commitments in this regard. Similarly, it will enable any future breaches of such right to be immediately justiciable in courts of law.

143. However, such a declarator is also a necessary requirement for granting a structural interdict, which I deal with next.

I. STRUCTURAL ORDER NECESSARY

144. The applicants also seek structural interdicts.

145. In full, the prayers seek an order directing the first to third respondents to:

145.1. Declaring and recognising that all children have a right to early childhood development.

145.2. The first to third respondents are directed to file a searchable report, within one month of the date of the court order, under oath, of the names and addresses of all ECD centres in KZN that are recipients of the conditional grant or equitable share subsidies, setting out the total subsidy amounts that are outstanding in respect of each centre and in that report to detail how they will remediate such non-payment.

145.3. The first to third respondents are directed to file an updated version of the reports referred to in prayer 2 above, before the last day of every subsequent month until all payments are up to date and the order is fully complied with.



145.4. The applicants be granted leave thereafter, within 30 days, and before the last day of every subsequent month, to deliver an affidavit in answer to the reports and may thereafter set the matter down for further, other or alternative relief, as supported by their affidavits and this application.

145.5. The first to third respondents are directed to ensure that, within three months of the date of the court order, a signed TPA agreement is concluded with each of the ECD centres that are recipients of the conditional grant or equitable share subsidies, and that each agreement clearly sets out the terms and timeframes for the payment of the subsidy in respect of each ECD centre.

145.6. Directing those respondents who oppose this affidavit to pay the costs of this application, including the costs of two counsel, each on scale C, such costs to be paid jointly and severally amongst them.

146. I submit that the factual background in this affidavit makes clear that:

146.1. The first to third respondents, despite being aware of the situation and the number of unpaid centres, have failed to respond appropriately, or with urgency.

146.2. The first to third respondents have reneged on their commitments to pay, communicate updates, and communicate reasons for the delay.

146.3. These delays have been consistent, sometimes months long, and resulted in a lack of confidence that payment in future will be made consistently.

146.4. The respondents are either unable or unwilling to plan, budget and implement the necessary steps to process the payments of ECD subsidies timeously.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

147. This justifies a supervisory order directing them to report regularly to court on the steps taken to remedy the breach. In fact, I am advised, when reading the supporting affidavit of Sheniece Linderboom, that the steps taken and conduct of the respondents makes a structural interdict necessary.

148. I further believe that the conduct of the respondents requires them to report back to the Court on the extent to which it has complied with the court's order. This will prevent the ongoing violations and systemic failures that the respondents have committed. Based on the above facts, the applicants have reason to believe that a structural interdict is a suitable remedy.

149. Further, this Court, as upper guardian of children, has a duty to consider the ongoing effects of the inconsistent and persistent failure by the state to provide

003-60

funding for ECD services. I am advised that it is also within this context that this court consider the appropriateness of granting a structural interdict as a measure to ensure this vulnerable group are protected.

J. URGENCY AND EXPEDIENCY

150. The failure to pay subsidies constitutes an ongoing denial of rights to social assistance, basic nutrition, and the paramountcy of the affected children's best interests. Non-payment results in a contraction of the ECD sector and the closure of ECD centres. The urgency increases with each day that the subsidies remain unpaid.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

151. Further, each non-payment results in the violation of children's rights in terms of the Constitution, the Children's Act, international law and government policy.

152. The first five years of a child's life are crucial to their development, which is why each day of early childhood should be spent building a solid foundation for a child to rely on. The holistic services provided at sufficiently resourced ECD centres are dedicated to laying this foundation for a child's future success. Relief in the ordinary course will thus be too late.

153. Children will have been denied access to quality ECD services for months and will have fallen behind others in their age group, causing irreversible harm to their development and prospects.

003-61

154. Attempts to engage with the Department to find a non-litigious solution have been unsuccessful. It is a convoluted process that determines which centres will be paid, in which month. The intermittent payments that have been received do not diminish the urgency of this application. ECD centres need reliable payments and cannot continue to incur debt with vendors and not pay staff. The subsidy and the minimal fees are used entirely on monthly expenditure, and ECD centres do not have savings to carry into the next month. Directing the respondents to develop a plan to establish clear timelines will assist in this regard.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL, DIVISION,
PIETERMARITZBURG

155. Practically, Part A of the notice of motion seeks immediate payment, within [illegible] of the order being granted. By having the matter set down on 26 May 2025, it will allow the respondents sufficient time to deliver an answering affidavit. It will also permit the court to properly read the papers and thereafter, if granted, allow sufficient time to enforce the order and ensure the above ECD centres are paid before the next month's funds are due.

156. A letter of demand, annexure "NS 20", was sent by the applicants on 16 April 2025. To date, no response has been received.

157. I am advised that issues surrounding children are inherently urgent. It is urgent enough not to be placed on the ordinary roll. This is because:

157.1. The lack of funding by the respondent is a constitutional issue that directly infringes on children's rights. These rights include the immediately realisable rights contained in the Children's Act.

157.2. The respondents' failure to fund the ECD centres is having a real impact on children as it deprives them of sufficient nutrition, prejudices

their access to safe facilities, and limits the availability of ECD practitioners.

157.3. The principals of these ECD centres are running out of personal savings and are resorting to means that are now placing themselves at peril.

158. If Part A is heard in the ordinary course, it will have long lasting damaging effects on these learners. For a child that is 3 to 5 years old, waiting for an ordinary hearing date means they would go without sufficient food and nutrition for months on end (if unopposed) or a year (if opposed). This translates to a large part of their crucial formative years being stunted by lack of access to obligatory government funding. There is much research that this stunting has long term implications on the development of children in all aspects of life.



159. If this matter is opposed, then it would be in the interest of justice to have the matter judicial managed in order to regulate the further conduct of the matter. However, in relation to Part A, I ask this court to grant an order directing that the matter be heard on an urgent basis.

K. CONCLUSION

160. Considering what is set out above, I submit that the Applicants have made out a case for the relief sought. Therefore, I pray for an order as set out in the Notice of Motion.

NS
003-63

NKOSINATHI SIBISI

I hereby certify under oath that the Deponent acknowledged that he knows and understands the contents of this affidavit, that it is to the best of his knowledge both true and correct, and that he has no objection to the making of the prescribed oath which he considers to be binding on his conscience. This affidavit was signed in my presence at DURBAN on this 13TH day of May 2025 and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

COMMISSIONER OF OATHS

NOTHANDO NANDI MAPHOSHE
COMMISSIONER OF OATHS
PRACTICING ATTORNEY
REPUBLIC OF SOUTH AFRICA
635-641 PETER MOKABA RIDGE, OVERPORT, DURBAN
KWAZULU NATAL, SOUTH AFRICA
TEL: 031 201 9366/7 FAX: 086 613 1028

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

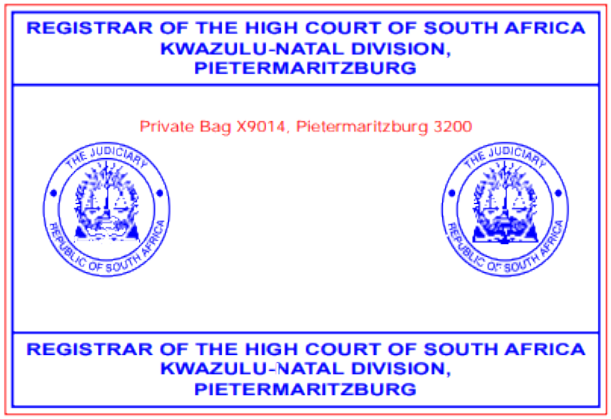
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 01

NOTE: **This document was filed electronically by the Registrar on 17/5/2025 at 12:40:24 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

RESOLUTION

I, the undersigned, MR NKOSINATHI SIBISI, the chairperson of FOSA, do hereby resolve as follows:

1. That I have been authorised to depose to any affidavit or other documents to advance the proposed litigation on behalf of the members of FOSA.
2. The proposed litigation refers to the litigation instituted on behalf of FOSA, the KZN ECD Alliance and 3 others against the KZN Department of Education and others.
3. That the Legal Resources Centre (Durban) is instructed and authorised to institute legal proceedings on behalf of the applicants.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Signed at Durban on 13th of MAY 2025.

NKOSINATHI SIBISI

CHAIRPERSON

N.S
003-67

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

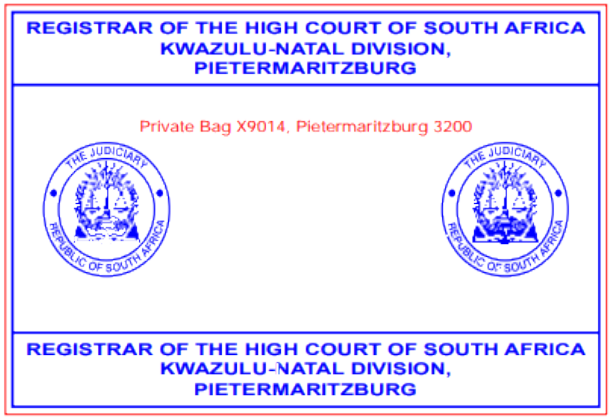
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 02

NOTE: **This document was filed electronically by the Registrar on 17/5/2025 at 12:41:24 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

FRIENDS OF SA ECD FORUM

CONSTITUTION

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Pelado Bldg A9016, Pietermaritzburg 3200
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG



1 | Page
CHIEF DIRECTORATE NON-PROFIT ORGANISATIONS
DEPT OF SOCIAL DEVELOPMENT
27 Jan 2025
CERTIFIED AS A TRUE COPY

17/5/2025 12:41:24 PM
CERTIFIED AS A TRUE COPY
27 Jan 2025
CHIEF DIRECTORATE NON-PROFIT ORGANISATIONS
DEPT OF SOCIAL DEVELOPMENT

TABLE OF CONTENTS

Interpretations....page3
Captions, gender, singular and plural....page3
Purpose....page4
Name....page4
Vision....page4
Mission....page4
Objectives....page4-5
Legal status and proceedings....page5
Business format....page5
Non-Profit-Organization....page5
Income and Property....page5-6
Forum's Assets....page6
SARS....page6
Membership of Friends of KZN ECD Forum....page7
Benefits of Forum Members....page7
Discipline of members....page7-8
Governing structure and mechanisms of governance....page8-10
Powers of the Organization....page10-11
Meetings....page11-16
Vote of no confidence....page16-17
Elections....page17
Elections Disputes....page17
Finances and Reports....page17-18
Amendments to the Constitution....page 18
Dissolution/closing down....page 18

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

CERTIFIED AS A TRUE COPY
27 Jan 2025
CHIEF DIRECTORATE NON-PROFIT ORGANISATIONS
DEPT OF SOCIAL DEVELOPMENT

17/5/2025 12:41:24 PM

1 INTERPRETION

The following terms referred to in this Constitution shall have the following meanings:

1.1 "CONSTITUTION" shall mean this Constitution as subscribed to by the members of the Friends of SA ECD Forum.

1.2 Friends of SA ECD Forum shall mean Friends of South African ECD Forum

1.3 FOSA shall mean Friends of SA ECD Forum

1.4 "MEMBERSHIP" shall mean an Organization (NPO/NGO) /ECD Centre/ECD Practitioner/ ECD Proffectionals/ECD Activist that has been accepted as member in terms of clause 12 of this constitution and whose membership fee in terms of clause 12 of this constitution is fully paid up.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

1.5 Board shall mean President/Chairperson, Deputy President/Vice Chairperson, General Secretary/Secretary, Deputy Secretary, Treasurer, elected/appointed by members of the organization.

1.6 Board of Management shall mean the Executive Committee appointed/elected by members of the organization.

1.7 "REPRESENTATIVE OF A MEMBER" shall mean an employee or official of a member designated by such a member to represent the member in the execution of the business of the FORUM.

1.8 "WORK GROUP" shall mean a group nominated from representatives of members of the Forum to address specific topics beneficial to the Forum.

1.9 "SHUTDOWN" shall mean outage.

1.10 "AGM" shall mean Annual General Meeting

2 CAPTIONS, GENDER,SINGULAR AND PLURAL

2.1 Titles and captions used in this Constitution are for the convenience only and shall not be used in the interpretation of any terms of this Constitution.

2.2 Words reffering to the masculine gender shall also include the other genders and vice versa.

2.3 Words reffing to the singular shall also include the plural and vice versa

N.S

17/5/2025 12:41:24 PM

CERTIFIED AS A TRUE COPY

27 Jan 2025

CHIEF DIRECTORATE NON-PROFIT ORGANISATIONS
DEPT OF SOCIAL DEVELOPMENT

3 PURPOSE

The purpose of Friends of SA ECD Forum shall be to ECD Organizations, ECD Centres, ECD Supervisors/Principals, ECD Centre founders, ECD practitioners, ECD Proffessional and ECD Activists to meet together to exchange ideas, to improve and promote the ECD programmes or service in KwaZulu Natal. To formulate policy, to consult with the authorities; and generally to make KwaZulu Natal (KZN) Province an improved and more attractive for the ECD sector, where the world class ECD programmes/services are provided for the benefit of children.

4 NAME

4.1 The organisation hereby constituted will be called Friends of SA ECD Forum

4.2 Its shortened name will be FOSA Hereinafter referred to as the organization

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

5 VISION

- To be the organization of choice for the ECD Centre's in South Africa
- To advocate for the development of South African ECD facilities into world class facilities.
- To advocate for the empowerment of ECD staff and to foster good working relation between the ECD Supervisors, staff members, ECD Centre Committees and parents of children.

6 MISSION

- **(Building our future leaders)** because children are the future of the Country.
- To serve as the mouth piece of Early Childhood Centre's in South Africa.
- To adopt best business practices in the ECD Centre's

7 OBJECTIVES

7.1 To serve as a mouthpiece and provide advocacy role for the ECD's in South Africa

7.2 To Develop and update database of all ECD's in the Country funded and unfunded, registered and un-registered.

7.3 To develop a platform for ECD's to discuss their affairs

7.4 To attend to challenges of local forums, Districts and Provinces

7.6 To coordinate meetings with the Department of Education on ECD's critical matters on behalf of ECD's in the District, Province, and National

7.7 To play an oversight role on ECD's functionality in the District, Province and National

7.8 To effectively implement policies and guidelines that pertain to Department of Education and the children's act

N.S

17/5/2025 12:41:24 PM

CERTIFIED AS A TRUE COPY

27 Jan 2025

CHIEF DIRECTORATE NON-PROFIT ORGANISATIONS
DEPT OF SOCIAL DEVELOPMENT

7.9 To facilitate the transformative path of the ECD's

7.10 To improve the level of communication and collaboration between the department of Education and the ECD sector.

8 LEGAL STATUS AND PROCEEDINGS

8.1 Friends of SA ECD Forum is a body corporate with perpetual succession

8.2 The Friends of SA ECD Forum shall be capable in law of suing and being sued, and of acquiring, holding and alienating movable and immovable property, and borrowing and of doing and performing such other acts as bodies corporate may lawfully do and perform.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

8.3 All legal proceedings and legal actions by or against the Forum shall be instituted in the name of the Forum.

8.4 The Forum fully indemnifies the Forum Executive, for all losses and expenses, they may sustain in consequence of any action or proceeding instituted by or against them when acting on behalf of the Forum.

8.5 Members of the organization do not become liable for any of the obligations and liabilities of the Organization solely by virtue of their status as members of the Organization.

9 BUSINESS FORMAT

Friends of SA ECD Forum is a Non-Profit Organization and is not a Political Party

10 NON-PROFIT ORGANIZATION

10.1 The Friends of SA ECD forum is not formed and does not exist for the purpose of carrying out any business that has the objective of making any profit for personal gain of the organization or its members.

10.2 The income and assets of Friends of SA ECD Forum shall be used solely for the investments and for the promotion of Vision, Mission and the objectives for which the organization is established for.

10.3 A friend of SA ECD Forum is not a Political party but a Non-Profit Organization.

11 INCOME AND PROPERTY

11.1 Organizations income and property are not distributable to its members or office bearers. The only time it can do this is when its pays for work that the member or office bearer has done for the organization. The payment must be reasonable amount for that has been done.

11.2 Members or office bearers have no rights in the property or other assets of the organization solely by virtue of their being members of the organization.

N.S

CERTIFIED AS A TRUE COPY
17/5/2025 12:41:24 PM
27 Jan 2025
CHIEF DIRECTORATE NON-PROFIT ORGANISATIONS
DEPT OF SOCIAL DEVELOPMENT

11.3 Members or office bearers of the Organization do not have rights over the things that belong to the organization.

12 FORUM'S ASSETS

12.1 Members or office bearers have no rights in the property and any other assets of the organization solely by virtue of their being members or office bearers of the organization.

12.2 All Assets/Property of the organization must be bought in the name of Friends of SA ECD Forum.

12.3 A Committee together with members of the organization will determine what property, equipment, stationery and any other assets that are need in the Organization to be able to function.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

12.4 All assets of Friends of SA ECD Forum will be procured through three quotations systems were the Executive Committee will get three quotations from different suppliers or producers. After that the Executive Committee will decide which of the suppler or producer is offering good quality product or service that will benefit the Organization.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

13 SARS

13.1 The Organization must apply for section 18 (a) status with the South African Receiver of Revenue (SARS) for exemption and as a public benefit organization, at least three persons who accept fiduciary responsibility for the organization will not be connected persons in relation to each other and no single person directly or in directly control the decisions making powers relating to the organization.

13.2 No donation will be accepted which is recoverable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donations, including any misrepresentation with regards to tax deductibility thereof in terms of section 18 (a),

Provided that a donor other than donor which is approved public benefit organization or an institution, board or body which is exempt from tax in terms of section 10 (1) (i) which as its sole or principal object the carrying on of any public benefit activity, may not impose any conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation.

13.3 The public benefit organization will not be a party to or does not knowingly emit, or has not knowingly permitted, itself to be used as part of any transaction, operation or scheme of which the sole or main purpose is the reduction, postponement or avoidance of liability for any tax, duty which, but such transaction, operation or scheme would have been or would become payable by an person under this act or any other act administered by the Commissioner.

NS

003-75

17/5/2025-12:41:24 PM

CERTIFIED AS A TRUE COPY

27 Jan 2025

CHIEF DIRECTORATE NON-PROFIT ORGANISATIONS
DEPT OF SOCIAL DEVELOPMENT

14 MEMBERSHIP OF FRIENDS OF KZN ECD FORUM

14.1 Friends of SA ECD Forum membership is open to any ECD Organization, ECD Centre's, ECD founders, ECD Principals/Supervisors, ECD Practitioners, ECD Activists, and other ECD Professionals' in the Country with an interest in supporting the aims and objectives of the Friends of KZN ECD Forum.

14.2 All members shall comply with the following membership requirements

14.3 Regularly pay affiliation fee as decided at Forums local, district, Provincial and National meetings

14.4 Conducts themselves in an exemplary manner

14.5 Subjects themselves to this Constitution of Friends of SA ECD Forum

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

15 Benefits of Forum Members

15.1 Friends of SA ECD Forum values the power of networking as the most vital key to strengthen the ECD development to our young children and we invite you to grow with us

15.2 Invest in your ECD through our network of professionals, sharing your standards of excellence and success.

15.3 Access to our member's database which is a great network for hundreds of ECD Organizations, ECD Centre's, ECD practitioners' and professionals.

15.4 Extend your ECD network and advertise your ECD profile for your newly launched ECD Centre's

15.5 Engage with ECD specialist and professionals at our network events

15.6 Advance your professional and personal skills with Forum seminars and workshops

15.7 Participate in our exclusive breakfast, and luncheons honoring Government dignitaries to extend your business network.

15.8 Share your success stories and your professional knowledge with other ECD, Centre's, members of the Forum.

15.9 Participate in the formulation of ECD policies

15.10 Receive capacity building for your staff, committee members, etc.

15.11 Enjoy the legal benefits of being represented in disputes involving the running of your ECD Centre, registration of the ECD Centre, labor issues etc.

15.12 Participate in joint activities organized by the Friends of SA ECD Forum concerning the development and promotions of the ECD sector in South Africa.

N.S

17/5/2025 12:41:24 PM
CERTIFIED AS A TRUE COPY
27 Jan 2025
CHIEF DIRECTORATE NON-PROFIT ORGANISATIONS
DEPT OF SOCIAL DEVELOPMENT

16 DISCIPLINE OF MEMBERS

16.1 Members who create or encourage dissension and strife in their own Local Forum/Association or any other part of the Forum or who continuously rail against the Constitution or of the Organizations' appointments, representatives/ officeholders or who otherwise violate the Constitution may have a complaint laid against them by another member with the Disciplinary Committee. This shall be in writing.

16.2 A member who fails to attend the meeting of the organization, or who fails to meet the obligations of the organization as provided by the Constitution for three consecutive months without adequate reasons, and having been visited by the Executive or delegated team, during the above mentioned period, shall have his/her name removed from membership roll. A letter signed by the Chairperson and Secretary informing him/her of his/her removal shall be sent electronically or sent to his/her last known address by the Secretary. A member, who was removed, will follow procedures of the Organization in order to be re-instated as a member.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION,
PIETERMARITZBURG

16.3 Each Local Forum/Association, District, Provincial and National structure must appoint a Disciplinary and Appeals Committee of 5 people to deal with disciplinary issues in the organization. These Committees shall meet to elect the Committee Convener amongst themselves. These Committees will serve the period of 3 Years. These members may be re-elected as long as they are needed.

16.4 Any person that is subject of a written complaint or appeal shall be notified in writing of the procedures to be followed by the relevant committee in reasonable time to prepare for any hearing.

16.5 The Disciplinary Committee shall meet within 21 Days of a complaint being lodged. Any person requested to attend a Disciplinary Committee shall be entitled to be accompanied by a friend or representative and to call witnesses. The disciplinary Committee has the power to take appropriate disciplinary action on behalf of the organization, including the termination of membership or exclusion from organization's premises.

16.6 The outcome of the disciplinary hearing shall be put in writing to the person who lodged the complaint and to the person against whom the complaint was made within 14 days following the hearing.

16.7 There shall be a right of appeal within 14 days of receipt of the disciplinary committee decision. The appeal can be lodged:

16.7.1 Against the Disciplinary committee's findings or the sanctions imposed or both

16.7.2 Against the Committee's refusal to admit a new witness

16.7.3 The appeals committee has the power to uphold or to dismiss the findings or sanctions imposed by the disciplinary committee.

16.7.4 The appeals Committee shall consider the appeal within 21 Days of the Secretary receiving the appeal. The Committee shall have the maximum of 5 members which shall not include members involved with the initial disciplinary hearing. The individual who submitted the appeal shall be entitled to be accompanied by a friend or other representative and to call witnesses. The decision of the Appeals Committee shall be final and binding on all parties.

17 GOVERNING STRUCTURE AND MECHANISM OF GOVERNANCE

17.1 The Office bearers will oversee the organization. The Office bearers will be made up of five members. They are the board of governance of the organization. However the organization may decide to elect additional members where ever the need may arise.

17.2 Term of office: Office bearers will serve for the period of three years. They can however stand for re-election for another term in office again and again after that for so long as their services are needed and they are ready to give their services.

N.S

17/5/2025-12:41:24 PM
CERTIFIED AS A TRUE COPY
27 Jan 2025
CHIEF DIRECTORATE NON-PROFIT ORGANISATIONS
DEPT OF SOCIAL DEVELOPMENT

17.3 Vacancies: The Office bearers must, as reasonably soon as possible, appoint someone to fill in any vacancy that reduced the number of Office bearers.
17.4 Resignation: An office Bearer may resign from office in writing.
17.5 Disqualification or Removal: If an Office Bearer does not attend three meetings in a row, without having applied for and obtaining leave of absence from the Board, then the Board will find a new member to take that person's place.

17.6 Structures

Local Level
Chairperson
Deputy Chairperson
Secretary
Deputy Secretary
Treasure
Additional members not exceeding three

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

District Level
Chairperson
Deputy Chairperson
Secretary
Deputy Secretary
Treasure
All Chairperson's of Local Forums/Associations within the District

Provincial level
Provincial Chairperson
Provincial Deputy Chairperson
Secretary
Deputy Secretary
Treasurer
All District Chairpersons within the Province

National level
President
Deputy President
Secretary General
Deputy Secretary General
Treasurer General
All Provincial Chairpersons

17.7 Duties of Office Bearers
17.7.1 Chairperson/President

- To be responsible for the general welfare of the organization
- Be an Executive Officer of the Organization
- See that the various systems of operation function effectively and assist where necessary

17/5/2025 12:41:24 PM

CERTIFIED AS A TRUE COPY

27 Jan 2025

CHIEF DIRECTORATE NON-PROFIT ORGANISATIONS
DEPT OF SOCIAL DEVELOPMENT

- Chair all organizations meetings and Executive meetings
- Attend and report on meetings with stakeholders
- Together with treasure and Secretary become bank signatories
- Be the Custodian of the Vision and Mission of the Organization
- To be the ex-officio member of commissions, sub-committees, ad-hoc committees and task teams.
- To delegate any member of the Board to perform some duties and responsibilities on-behalf of Organization and for the benefit of the Organization.
- The chairperson has the privilege of the deciding vote when votes are tide

17.7.2 Deputy Chairperson/President

- To deputize the Chairperson/President and to perform delegated responsibilities as assigned to him/her by the Chairperson/President.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

17.7.3 Secretary/Secretary General

- Be the administrative officer of the Organization
- Be the head communicator and liaison officer of the organization
- Be responsible for recording and minute taking at all organizations meetings
- Together with treasure and Chairperson/President be bank signatories
- Assist the Chairperson/President with the dissemination of all necessary information to the members of Organization
- Is the point-person for the organization especially in the Coordination of projects undertaken by the Organization.

17.7.4 Deputy Secretary/Deputy Secretary General

To assist the Secretary and to perform delegated responsibilities as assigned to him/her by the Secretary

17.7.5 Treasure

- Be responsible for the financial management of the Organization
- Be responsible for working out and executing plans for fundraising, preparing annual budgets and other organizations planned financial exercises of the organization.
- Be the financial accounting Officer of the Organization
- Ensure the presentation of annual audited financial statements of the Organization

17.7.6 Additional Members

- Shall perform all such duties as delegated to them by the Executive

18 POWERS OF THE ORGANIZATION

18.1 The Board shall carry out the powers on behalf of the organization and they shall manage the affairs of the organization in accordance with the resolutions of the members as shall be taken from time to time at General Meetings/ Conferences of the organization.
18.2 The board is responsible for making decisions, and acting on such decisions, which it believes it needs to make in order to achieve the objectives of the organization as stated in point 4 of this constitution. However, such decisions and their activities may not be against the resolutions of the members or be against the law of the Republic of South Africa.
18.3 The Board shall have the general powers and authority to:
18.3.1 Raise funds or invite and receive contributions
18.3.2 Buy, hire or exchange for any property that it needs to achieve its objectives
18.3.3 Make by-laws for proper governance and management of the organization.
18.3.4 Form sub-committees as and when necessary for proper functioning of the organization.

17/5/2025-12:41:24 PM

CERTIFIED AS A TRUE COPY

27 Jan 2025

CHIEF DIRECTORATE NON-PROFIT ORGANISATIONS
DEPT OF SOCIAL DEVELOPMENT

18.4 If the Board thinks it is necessary, then it can decide to set up one or more sub-committees. It may decide to do this to get some work done quickly. Or it may want a sub-committee to do an inquiry, for example.
18.5 The Board may delegate any of its powers or functions to a sub-committee provided that:
18.5.1 Such delegation and conditions are reflected in the minutes for a meeting.
18.5.2 At least one Office Bearer serves in the sub-committee
18.5.3 There are three or more people on a sub-committee
18.5.4 The sub-committee must regularly report back to the Board on its activities.
18.6 The Board must in advance approve all expenditure incurred by the subcommittee and may revoke the delegation or amend the conditions of the delegation.

19 MEETINGS

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

19.1 Annual General Meeting (AGM)
19.1.1 Stakeholders of the organization must attend its annual general meetings.
19.1.2 The purpose of an Annual General Meeting (AGM) is to:

- Report back to stakeholders from the Office Bearers on the achievements and work of over the year.
- Propose changes to the Constitution
- Enable members to decide on the policies of the Organization

19.1.3 The Annual General Meeting must be held once every year, towards the end of the Organizations financial year.
19.1.4 The Organization should deal with the following business, amongst others, at it annual general meeting:

- Agree to the items to be discussed on the agenda
- Write down who is there and who has sent apologies because they cannot attend
- Read and confirm the previous minutes with matters arising.
- Chairpersons report
- Secretaries report
- Treasurer's report
- Propose changes to the Constitution
- Elect new office bearers
- General
- Close the meeting

19.2 Special General Meeting

19.2.1 The Special General Meeting (SGM) or any other special meeting is held outside of the normal or regular meetings.
19.2.2 Special or extraordinary meetings can take the Shape of an Annual General Meeting or any ordinary meeting of meeting of members.
19.2.3 The Board or not less than one-third of members may call a Special General Meeting of the Organization.
19.2.4 Special meetings may be called when the Board needs to mandate or to get guidance of the general members of the organization to take up issues that require attention and cannot wait until the next regular AGM or ordinary meeting.

CERTIFIED AS A TRUE COPY
27 Jan 2025
CHIEF DIRECTORATE NON-PROFIT ORGANISATIONS
DEPT OF SOCIAL DEVELOPMENT

17/1/2025 12:41:24 PM

19.3 Ordinary Meetings

19.3.1 Ordinary members meeting are conducted to complete a standard order of business of the organization. These are held once a quarter and are attended by the Board and members of the organization.

19.3.1 The meetings of the Board will be held at least once a quarter or when a need arises from time to time to conduct the business of the Board.

19.4 Regional/District Conferences

19.4.1 The area under the jurisdiction of Conference is divided into Districts that are there in the Province

19.4.2. In each District an annual Conference shall be held, whose chief function is to provide mission leadership and to provide direction of the ECD work and inspiration for the District.

19.4.3 A Special District Conference may be called by the District Chairperson for the purpose of dealing with ECD issues/emergency situations in the District. Fourteen days notice shall be given. The membership shall be those who attended the last Annual District/Regional Conference and 80% of the membership shall constitute a quorum.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Membership: District/Regional Conference

19.4.4 Forums/Associations' Chairpersons

19.4.5 Forums/Associations' Secretaries

19.4.6 Forum/Associations' Treasurer's

19.4.7 The minimum of 10 delegates per Forum/Association to the maximum of 20 delegates per Forum/Association.

19.4.8 The Convener of the District Disciplinary Committee

19.4.9 The District Appeals Committee Convener

19.4.10 any official of the Provincial Executive Committee residing in the District.

Powers

The following, inter alia, are the functions and duties of District/Regional Conference:

19.4.11 to provide leadership for the Districts, applying the lead provided by Provincial Conference.

19.4.12 to determine mission priorities and activities in the District;

19.4.13 to allocate resources and provide material and other assistance to the Forums/Associations

19.4.14 generally to administer the District considering and implementing matters referred to it by the Provincial Conference or Provincial Executive.

19.4.15 to appoint the District sub Committees, addhoc committees, task teams

19.4.16 to elect delegates which will represent the District in Provincial Conference

19.4.17 to elect the District Executive Committee of District Chairperson, Deputy Chairperson, Secretary, Deputy Secretary and Treasure.

19.5 Provincial Conference

19.5.1 Conference provides direction and inspiration for the Province and is the organization governing authority and supreme legislative body in the Province.

19.5.2 The Conference has power to propose changes in the Constitution.

19.5.3 Conference shall meet annually, or as it determines.

19.5.4 *The functions, powers and duties of Conference are to*:

19.5.4.1 To provide l leadership in the Province, this being Conference's primary function

19.5.4.2 Exercise general oversight over all matters in the Province;

19.5.4.3 Decide the general policy of the Province and direction of the Province;

19.5.4.4 Determine the policies of the organization and their interpretation;

N.S

17/5/2025-12:41:24 PM
CERTIFIED AS A TRUE COPY
27 Jan 2025
CHIEF DIRECTORATE NON-PROFIT ORGANISATIONS
DEPT OF SOCIAL DEVELOPMENT

19.5.4.5 Delegate to the Provincial Executive the functions in any it's may deem necessary for the betterment of the organization.
19.5.4.6 Delegate whatever powers and functions it may deem necessary to districts committees, sub-committees, addhoc committees, and task teams
19.5.4.7 Elect the Chairperson, Deputy Chairperson, Secretary, Deputy Secretary and Treasurer General.
19.5.4.8 Conduct any other business it deems necessary.

19.5.5 Membership of Provincial Conference
Conference comprises the following members, such members being active members of the organization for at least the past two years.
19.5.5.1 The District Chairpersons
19.5.5.2 The Districts Secretaries
19.5.5.3 The District Treasurer's
19.5.5.4 The District delegates the minimum of 10 to the maximum of 50 delegates per District
19.5.5.5 The Provincial Disciplinary Committee Convener
19.5.5.6 The Provincial Appeals Committee Convener

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

19.6 National Conference

19.6.1 Conference provides direction and inspiration nationally and is the organization governing authority and supreme legislative body. National Conference is the final authority in respect of the Organizations Constitution and its interpretation.
19.6.2 The Conference has power to alter its Constitution, to make Rules and regulations for the good governance of the organization and for the due and proper exercise of its jurisdiction and to do all such acts, matters and things, as are expedient and necessary for the maintenance, advancement and benefit of the organization and its objects.
19.6.3 Conference shall meet annually, or as it determines.
19.6.4 *The functions, powers and duties of Conference are to*:
19.6.4.1 To provide l leadership nationally, this being Conference's primary function
19.6.4.2 Exercise general oversight over all ECD matters nationally
19.6.4.3 Decide the general policy and direction of the organization;
19.6.4.4 Determine the policies of the organization and their interpretation;
19.6.4.5 Delegate to the National Executive the functions it's may deem necessary for the betterment of the organization.
19.6.4.6 Delegate whatever powers and functions it may deem necessary to Provincial committees, sub-committees, addhoc committees, and task teams
.19.6.4.7 elect the President, Deputy President, General Secretary, Deputy Secretary General and Treasurer General.
19.6.4.8 Conduct any other business it deems necessary.

19.6.1 Membership of National Conference

Conference comprises the following members, such members being active members of the organization for at least the past two years.
19.6.1.1 The Provincial Chairpersons
19.6.1.2 The Provincial Secretaries
19.6.1.3 The Provincial Treasurers
19.6.1.4 The District delegates the minimum of 10 to the maximum of 100 delegates per Province

17/5/2025 12:41:24 PM
CERTIFIED AS A TRUE COPY
27 Jan 2025
CHIEF DIRECTORATE NON-PROFIT ORGANISATIONS
DEPT OF SOCIAL DEVELOPMENT

19.6.1.5 The National Disciplinary Committee Convener
19.6.1.6 The National Appeals Committee Convener

19.7 Notices of Meeting

19.7.1 The Chairperson/President of the Board shall convene meetings. The Secretary must let all Board members know the date of the proposed meeting within reasonable time, but not less than seven (7) days, before it is due to take place.
19.7.2 However, when convening an AGM, or Special General Meeting, all members of the organization must be informed of the meeting no less than fourteen (14) days before such meeting.
19.7.3 Notices for all meetings provided for in this Constitution must be given to relevant members in writing, either personally, by post or electronic communication or whichever manner it is convenient, to the address or similar particulars provided by the members.
19.7.4 The notices for all meetings must indicate the reasons for the meeting and the matters that will be discussed in the meeting.
19.7.5 For confirmation of delivery, all notices sent to members at the latest known contact details shall be deemed to have been duly served on members, unless it can be proven otherwise.
19.7.6 All members present in person at any meeting shall be deemed to have received notice of such meeting.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

19.8 Quorums

19.8.1 Quorums for all meetings/conferences of the organization shall be a simple majority 51% of relevant members who are expected to attend.
19.8.2 However, for the purpose of considering changes to this Constitution, or the dissolution of the organization, then a two thirds (2/3) of the members shall be present at Provincial Conference to make a quorum before a decision to change the constitution or to dissolve the organization is taken.
19.8.3 All meetings/conferences must reach a quorum before they can start.
19.8.4 If however a quorum is not present within fifteen minutes of the appointed time of the meeting, the meeting must be adjourned or postponed to another date, within fourteen days thereafter.
19.8.5 If no quorum is present at the reconvened meeting within fifteen minutes of the appointed time, the members present shall be regarded to make up a quorum for that meeting and the meeting will continue as if a quorum is present.

19.9 Procedures at Meetings

19.9.1 The Board may regulate the meetings of the organization and proceedings as it deems fit, subject to the following:

- That the Chairperson/President shall chair all meetings of the organization, including that of the Board.
- That if the Chairperson/President is not present, Deputy Chairperson/President shall chair such meeting. In the event both are absent the Secretary/Secretary General shall chair that meeting.

19.10 Making decisions in meetings

19.10.1 Where possible, the decisions of the organization shall be taken by consensus. However, when there is no consensus, then members will discuss options for a while and then call for a vote.
19.10.2 All votes shall be counted and the majority votes on an issue shall be regarded as decisions of the meeting.
19.10.3 However, if opposing votes are equal on an issue, then the Chairperson/President in that meeting has either a second or deciding vote.
19.10.4 All members must abide by the majority decision.

17/5/2025-12:41:24 PM

CERTIFIED AS A TRUE COPY

27 Jan 2025

CHIEF DIRECTORATE NON-PROFIT ORGANISATIONS
DEPT OF SOCIAL DEVELOPMENT

19.10.5 Decisions concerning changes to this constitution, or of dissolution and closing down of the organization, shall only be dealt with in terms of clauses 17 and 18 of this constitution.

19.11 Records of meetings

19.11.1 Proper minutes and attendance records must be kept for all meeting of the organization.
19.11.2 The minutes shall be confirmed as a true record of proceedings by the next meeting of the Board, or general members as the case may be, and shall thereafter be signed by the chairperson/President.
19.11.3 Minutes shall thereafter be kept safe and always be on hand for the members to consult.

19.12 Rules of debate

Much of the business of the organization is conducted in the form of Conversation. Therefore the Rules of Debate should be applied only when necessary, and then in such a way as not to impair the spirit of the meeting. The following Rules of Debate, while primarily of application to Conference, may be applied to all formal organizations meetings.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

1. Any Member wishing to address Conference shall rise and address the President and shall not proceed until called on.
2. All speeches shall be directed to the President.
3. No Member shall remain standing during a discussion except the Member recognized by the President
4. No Member shall speak more than once on the same matter without the leave of Conference, except that the proposer of a resolution has the right to speak last, in reply to the debate. The seconder of a motion may speak in support when seconding or reserve the right to speak later.
5. The President shall rule out of order any Member who violates the rules of debate or the regulations of Conference.
6. Where the formal business is not conducted by answer to Questions, it proceeds, by way of proposing or moving a resolution which is then seconded, debated and voted upon. Only one motion shall be before Conference at a time.
7. No major matter may be brought before a meeting unless due notice has been given to the members, by including it in the notice of the meeting. In Conference notice of motion shall be given at the commencement of the meeting or, if the meeting agrees, one days notice shall be required. Notice is not required for matters introduced by any task team or Committee when dealing with its business. Where there are several notices of motion dealing with the same subject, Conference may draw them those together in a single motion which seeks to capture the spirit of all the notices of motion.
8. No proposal shall be considered which is in conflict with an existing regulation or previous decision unless the existing regulation or previous decision is first considered and amended or rescinded.
9. Once a resolution has been moved and seconded it shall not be withdrawn without the consent of Conference.
10. The report of a Committee is received without motion but its adoption shall be moved and seconded
11. During the debate, any Member may move an amendment to the motion. The amendment should not simply be a negative of the motion. When an amendment has been proposed and seconded, debate on the substantive motion ceases in favor of debate on the amended motion. The President should ensure that Conference understands the entire motion, as amended, before debate on the amended motion begins.
12. The President should not allow more than one amendment to be before Conference at a time
13. If the amended motion is not agreed to by Conference, debate resumes on the original motion. If the amended motion is agreed to by Conference it becomes the substantive motion and may be

N, S

17/5/2025 12:41:24 PM
CERTIFIED AS A TRUE COPY
27 Jan 2025
CHIEF DIRECTORATE NON-PROFIT ORGANISATIONS
DEPT OF SOCIAL DEVELOPMENT

further amended. If there is no further amendment or debate the amended motion, which is now the the substantive motion is voted on again.

14. A Member may ask a question at the conclusion of any speech, thereby interrupting proceedings.

15. A Member may interrupt the proceedings at any time by raising a Point of Order, which means that the Member believes that the rules of debate or the regulations of Conference have been violated. The Member who was addressing Conference shall be seated until the President has decided the Point of Order.

16. At any time between speeches, a Member may propose closure of the debate. This shall be put to Conference without debate and if it is carried by a majority of two-thirds the President shall allow the Member to speak who has the right of reply and shall then immediately put the motion to Conference.

17. At any point between speeches, a Member may propose that 'the motion be not put. If this is carried by Conference, with or without debate, the motion or amendment before Conference cann[illegible] and Conference proceeds to the next item of business.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

18. The President may decide when to close the debate, and unless Conference decides otherwise the vote shall then be taken. At the close of the debate (and after the proposer has had the right of reply) the motion or the motion as amended shall be read to Conference and vote taken. No one should thereafter speak on the motion.

19. Voting may be by voice, show of hands, or ballot. If, after a vote by voice, the President declares the result and no one challenges the decision then the result becomes final.

20. Members may abstain from voting but should do so only for good reason and not simply to avoid the duty to make a decision.

21. Reports submitted to Conference may be adopted if Conference approves them, or received if Conference wishes to include them in its records without approving or rejecting them, or merely noted when no further action is taken.

22. The proposer of a resolution or, where it is amended, the proposer of an amendment should, reduce the notice of motion to writing and submit it to the Secretary.

23. Conference may appoint Committees to deal with matters brought before it. Conference should decide the members of the Committee, its convener, powers of co-option if any, terms of reference and power to act. Committees shall report as required by Conference.

24. When an election is made, except where otherwise provided, each nominee should be nominated and seconded before the next nomination is taken. Before voting takes place the President should announce the position to be filled, the names of the persons nominated and the number of votes each Member has (when more than one position has to be filled from the same list of nominations) After the vote the President shall announce the result.

25. Unless otherwise specified, a quorum for any meeting is one more than half the members. Decisions taken at a meeting when no quorum is present could be set aside if challenged in a court of law.

26. Conference may resolve 'to meet in Committee' whereupon only members of Conference may be present. Conference shall resume after adoption of the motion that Conference now resumes, and the acts and decisions of Conference in Committee be the acts and decisions of Conference.

20 VOTE OF NO CONFIDENCE

20.1 A vote of no confidence on the Executive Committee or member of the Executive Committee will be brought by a member or members of the organization through the resolution in any meeting of the organization.

20.2 A vote of no confidence will be done with a simple majority in favor for it.

20.3 A vote of no confidence in the organization shall be done via secret ballot or by the show of hands.

CERTIFIED AS A TRUE COPY
17/5/2025 12:41:24 PM
27 Jan 2025
CHIEF DIRECTORATE NON-PROFIT ORGANISATIONS
DEPT OF SOCIAL DEVELOPMENT

20.4 When the Executive or member of Executives loose' the vote of no Confidence that Executive Committee or Executive member must vacate the office immediately. The interim Executive Committee will be appointed by members of the organization.
20.5 If the Executive Committee or member of the Executives wins the Vote of no Confidence, the Executive Committee or Executive member will remain in office.

21 ELECTIONS
21.1 The power to vote shall be restricted to members of the organization.
21.2 The elections of the organization shall be by means of the secret ballot or by the show of hands
21.3 Election results shall be determined by simple majority.
21.4 The elections at Local level shall be officiated by the District executive committee or the District executive committee member delegated by the District Executive Committee.
21.5 The elections at District level shall be officiated by the Provincial executive committee or the Provincial executive committee member delegated by the Provincial Executive Committee.
21.6 The elections at a Provincial level will be officiated by the National Executive Committee or the National Executive Committee member delegated by the National Executive Committee.
21.7 The National Elections will be officiated by the National Elections Committee appointed by National Conference to run and manage the election. The number of people in this committee will be determined by the National Conference.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

22 ELECTIONS DISPUTES
22.1 Members of the organization have the right to lodge the elections dispute with the relevant Executive Committee.
22.2 All elections disputes shall be submitted to the Secretary/Secretary General in writing in 14 days after the elections as taken place **(No late submissions will be accepted).**
22.3 The Secretary after receiving the dispute must inform the Executive Committee of the dispute.
20.4 Secretary shall inform the members who were elected of the dispute that was lodged.
22.5 The Executive shall call a meeting with members who lodged the Dispute to get their side of the story.
22.6 The Executive shall also call the meeting with the members who were elected into the Committee that is being disputed to get their side of the story.
22.7 After meeting with both sides the Executive shall call an emergency meeting /conference were the members of the meeting/Conference will be informed about the dispute that was lodged.
22.8 The meeting shall proceed to vote in favor of the dispute or against the dispute. If the meeting/conference votes in favor of the dispute there will be re-elections done. If the meeting/conference votes against the dispute there will be not re-elections done, the elected committee will continue with it work.
22.9 Local Disputes shall be sent to the District Secretary.
22.10 District Disputes shall be sent to the Provincial Secretary.
22.11 Provincial Disputes will be sent to the National Secretary.
22.12 National Disputes will be sent to the National Elections Committee appointed by National Conference.

23 FINANCES AND REPORTS
23.1 Bank Account: The must open a bank account in the name of Friends of SA ECD Forum with a registered bank.
23.2 Signing: Bank Account documents and other documents requiring signature on behalf of the organization shall be signed by the treasure, secretary, and chairperson/president.

N.S

17/5/2025-12:41:24 PM
CERTIFIED AS A TRUE COPY
27 Jan 2025
CHIEF DIRECTORATE NON-PROFIT ORGANISATIONS
DEPT OF SOCIAL DEVELOPMENT

Whenever funds are taken out of the bank account, the Chairperson/President and at least Secretary must get bank notifications of the withdrawal of funds.

23.3 Financial year end: The financial year end of the organization shall be the end of the last day of March of each year.

23.4 Financial Report: The Board must ensure that proper records and books of account which reflects the affairs of the organization are kept, and within twelve months of its financial year a report is compiled by an independent registered Accounting Officer stating whether or not the financial statements of the organization are consistent with its accounting policies and practices of the organization.

23.5 The treasurer is responsible for making sure that the money of the organization is safe and is accounted for.

23.6 The treasurer must also make regular reports to the Board on the finances of the organization which should include all incomes, expenditures and balances that remain according to accounting practices of the organization.

23.7 If the organization has funds that can be invested, the funds may only be invested with registered financial institutions such as banks. These institutions are listed in Section 1 of the Financial Institutions (Investment of funds) Act, 1984, or as shall be amended. Or the Organization can get securities that are listed on a, licensed stock exchange as set out in the Stock Exchange Control Act, 1985 as amended. The organization can go to different banks to seek advice on the best way to look after the funds.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

24 AMENDMENTS TO THE CONSTITUTION

24.1 The constitution can only be changed by a resolution. The resolution has to be agreed upon and passed by not less than two thirds 2/3 (or at least 67%) of the members who are at Annual National Conference or Special Conference. Members must vote at this meeting to change the constitution.

24.2 For the purpose of considering changes to this constitution a two thirds 2/3 of the members shall be present at a National Conference to make a quorum before a decision to change the constitution is taken.

24.3 AS provided for in clause 13.6.3 written notices must go out to members at the reasonable time before the National Conference commence. The notice must indicate the proposed changes to the constitution that will be discussed at the National Conference.

25 DISSOLUTION/CLOSING DOWN

25.1 The organization may dissolve or close down if at least two thirds (2/3) of the members present and voting at a National Conference convened for the purpose of considering such matter, are in favor of closing down.

25.2 When the organization closes down it has to pay all its debts. After doing this, if there is property or money left over it should not be paid or given to members of the organization. It should be given in some way to another nonprofit organization that has similar objectives. The organization's Provincial Conference can decide what organization this should be.

17/5/2025-12:41:24 PM

CERTIFIED AS A TRUE COPY

27 Jan 2025

CHIEF DIRECTORATE NON-PROFIT ORGANISATIONS
DEPT OF SOCIAL DEVELOPMENT

This Constitution was approved and accepted by members of FRIENDS OF KZN ECD FORUM
At a Special Provincial Conference held on 31 MARCH 2022

President
Nkosikayikhethi Sibisi
Signature

Secretary General
Sibusiso Tembe
Signature

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Private Bag X9014, Pietermaritzburg 3200

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Deputy President

Lawrence Mngomezulu
Signature

Deputy Secretary General

Mduduzi Sibisi

Signature

Treasure General

Sinikiwe Nsthangase

Signature

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

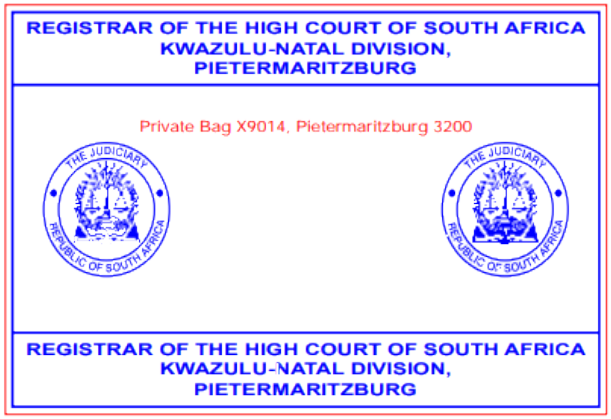
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 03

NOTE: **This document was filed electronically by the Registrar on 17/5/2025 at 12:42:13 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

Friends of SA ECD Forum

NPO number: 199-522

Email: friendsofsaecdforum2017@gmail.com

Address: M318 Mnyovu Road KwaMashu 4359

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Total Breakdown of ECD Centres Per District

District	Number of ECD Centres
Uthukela District	78
Umgungundlovu District	21
Pinetown District	95
Umlazi District	12
Harry Gwala District	14
Umzinyathi District	25
Amajuba District	12
King Cetshwayo District	23
UGU District	11
Zululand District	79
Umkhanyakude District	66
ILembe District	86
TOTAL	**522**

ECD Centres Per District

Uthukela District		
Number	**Name of ECD Centre**	**NPO Number**
1	Masihlangane Creche	370-110
2	Sibonokuhle Creche	077-471
3	Phindangene Creche	064-141

4	Bambanani Creche	064-028
5	Impokophelo Day Care Centre	095-352
6	Zamokuhle Creche	
7	IcebolikaJehova Creche	040-248
8	Impumelelo Yabantwana Creche	125-538
9	Icebo likaJEHOVA Creche	064-246
10	Impumelelo Yabantwana	095-352
11	Fundakahle Creche	133-623
12	Sicelukuphila Creche	
13	Jelly Tots	076-344
14	Nthathakusa	057-158
15	Ukukhanya	089-833
16	Phumelela Creche	
17	Phakamani Creche	
18	Ndabayethu Crcehe	034-337
19	Sizanani Creche	
20	Little Lollies Creche	130-429
21	Siyathokoza Creche	039-775
22	Cool Kids	
23	Lwazi Creche	
24	Sithabile Creche	
25	Ekukhuliseni PreSchool	076-176
26	Cabangokuhle Creche	
27	Ensindisweni Creche	
28	Sekusile Creche	
29	Siyakhula Creche	148-716
30	Vulingqondo Creche	
31	Siyathanda Creche	040-597
32	Thuthuka Creche	
33	Sbongukukhanya Creche	034-120
34	Siyathuthuka Creche	029-911
35	Zamokuhle Creche	101-531
36	Siyazama Matiwane Creche	069-453
37	Lethabo Day Care & After Care	040-248
38	Masihlangane Creche	043-793
39	Thembalethu Creche	
40	Siyakhulisa Pre-School	168-463
41	Mnkendisi Day Care	
42	Enkazimulweni Creche	
43	Sekusile Creche	076-163
44	Sikhulile Creche	042-182

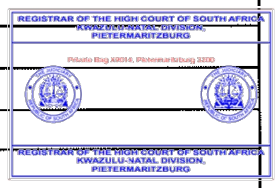
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

45	Qalokuhle Creche and Pre-School	141-330
46	Siyathuthuka Creche	104-443
47	Siyethemba Creche	158-565
48	Thukela Creche	030-936
49	Sikhona Creche	
50	Sibonokuhle Creche	021-244
51	Lethabo Creche	
52	Sizanani Creche	032-845
53	Siyakhulisa Creche	045-884
54	Cabangokuhle Creche	
55	Cebolethu Creche	
56	Siyaphambili Creche	
57	Sicelukuphila Creche	
58	Hlahlindlela Creche	
59	Jabulani Creche	
60	Sikhula Kahle Creche	
61	Mcedisi Creche	
62	Feel at Home Creche	
63	Vulinqondo Creche	
64	Mzingeli Creche	
65	Sibongukukhanya	
66	Lime Hill Creche	
67	Celokuhle	
68	Zamokuhle Creche	
69	Woodford	
70	Lunga	
71	Cebelihle	
72	Sinemfundo	
73	Phindangene	064-029
74	Impokophelo	064-145
75	Isiqalo Esihle	209-412
76	Kuhlukuthula	199-073
77	Snethemba	093-991
78	Bambanani	064-141
79		
80		180-799
81		047-001
82		202-591
83		064-028
84		064-246

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Umgungundlovu District		
Number	**Name of ECD Centre**	**NPO Number**
1	Khulani B Creche	136-302
2	Chibini Creche	198-572
3	Siyathuthuka Creche	049-232
4	Clearance Creche	124-831
5	Sthokozile Creche	070-186
6	Vezokuhle Creche	064-342
7	Siphesihle Creche	084-035
8	Sinenjabulo Creche	064-319
9	Thandanani Creche	048-343
10	Siyakhula Creche	035-626
11	Mthokozisi Creche	048-343
12	Siyamukela Creche	048-510
13	Siphesihle Creche	084-035
14	Kuyasa Creche	084-188
15	Entuthukweni Creche	646-722
16	Bonokuhle Creche	064-133
17	Madlokovu Creche	047-148
18	Mahlutshini Creche	048-780
19	SA Junior	051-698
20	Thandokuhle Creche	051-693
21	Bonokuhle Creche	064-051



Pinetown District		
Number	**Name of ECD Centre**	**NPO Number**
1	Tholulwazi Creche and Pre-school	056-343
2	Siyathuthuka Creche	016-221
3	IHlombe ECD Centre	024-517
4	Inkululeko Organization	034-918/009-034
5	Jabula Daycare	007-966
6	Masibambisane Creche and Pre-School	059-854
7	Makwande educare Centre	008-806
8	Luthando Pre-School	029-748
9	Othandweni Day Care	
10	Buyezubuhle Creche and Pre-School	037-966/029-079

11	Velesmeni Creche	008-946
12	Mzamo Creche	
13	Inkanyiso Creche and Pre-School	030-915/008-777
14	Masibonisane Creche	
15	Sandile Creche and Pre-School	028-093
16	Sawelamakhosazane Creche and Pre-School	043-473/028-998
17	Sinamuva Creche and Pre-School	009-087
18	Siphokuhle Creche and Pre-School	044-545
19	Sivelile Creche and Pre-School	037-851
20	Siyathuthuka Creche and Pre-School	009-530
21	Sizanani Creche and Pre-School	031-319
22	Thandokuhle Creche and Pre-School	036-839
23	Tholithemba E.C.D Centre	030-725/142-034
24	Jubilee Creche and Pre-School	032-472/03[illegible]
25	Sizakancane Pre-School	144-935
26	Khulanathi Creche	105-972
27	Zuzokuhle E.C.D Centre	120-702
28	AJ Mnguni Creche	105-610
29	Nhlelozande Creche	
30	Qalakahle Creche and Pre-School	009-988/158-715
31	Sizanani Creche	054-485
32	Seh's Little Ducks Place of Care	064-214
33	Bhekameva Creche and Pre-School	061-591
34	Zamani Educare Centre	049-177
35	Ingcebo Children's Home	061-371/028759
36	Qalokusha Creche	
37	Zamani Creche	005-953
38	Qoqisizwe Creche	
39	Zamokuhle Creche	013-297
40	Siyakhula Pre-School and Creche	020-458
41	Bhekimpilo Creche	020-637
42	Mouth Moriah Creche	
43	Senzokuhle Day Care Centre	061-999
44	Shayamoya Community Creche and Pre-School	076-529/028-737/006-181
45	Ekuphileni Educare Centre	046-272/028-068
46	Gozololo Centre for Needy Children	144-875
47	Zamani Creche and Pre-School	076-898
48	Ekujabuleni Nursery School	009-258/055-211
49	Sbanesihle Creche	
50	Sibusisiwe No2 Creche	158-703/029-107
51	Full Gospel Creche	

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

N.S

52	Izenzo Health Care Centre	051-117/036-106
53	First Love Christian Educare Centre	062-027
54	Ebuhleni Creche and Preschool	104-905
55	Nhlosokuhle Creche	082-479
56	K Educare	
57	Lindokuhle Nursery and Pre-School	047-146
58	Smanethemba Creche	180-479
59	Mbalenhle Creche and Pre-School	002-487
60	Phaphamani Creche and Pre-School	039-419
61	Bundle of Joy Creche	
62	Imbaliyethu Creche and Pre-School	009-525/064-967
63	Musawenkosi Daycare Centre	141-154
64	Swelihle Creche and Pre-School	037-383
65	Tholulwazi Creche and Pre-School	046-173
66	Zamimfundo Daycare Centre	144-778
67	Thokozani Creche and Pre-School	030-662
68	Cebelihle Creche and Pre-School	177-739
69	Ithembalesizwe	033-068
70	Macedonia Creche and Pre-School	041-742
71	Siqalimfundo Educare Centre	041-742
72	Nhlakanipho ECD Centre	198-018
73	Inqanawe Creche and Pre-School	
74	Entokozweni Creche and Pre-School	139-312/165-553
75	Velabahleke Educare Centre	221-818
76	Bongisipho Educare Centre	142-228
77	Sidlubhedu Creche and Pre-School	039-698
78	Sobahle Creche and Pre-School	098-862
79	Skhethokuhle Creche and Pre-School	009-184
80	Sbusisiwe Creche and Pre-School	017-229
81	Khethukwazi Creche and Orphanage	144-863
82	Sibongile Day Care	028-848
83	Ziphozonke Creche and Pre-School	144-890/102-502
84	Ikusaselihle Educare Centre	035-686
85	Siyajabula Creche and Pre-School	
86	Sbonelo Creche and Pre-School	
87	Akanani Day Care	
88	Khulakahle Creche	
89	Vezukukhanya Creche and Pre-School	
90	Thembalethu Pre-School	
91	Thembalethu Pre-School	
92	Ikhwezi Creche and Pre-School	

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

93	Bhekisisa Creche Preschool	
94	Oka-Mepho Pre Creche	
95	Sthandokuhle ECD Centre	
96		

Umlazi District		
Number	Name of ECD Centre	NPO Number
1	Ekuthuleni Educare Centre	031-311/042-010
2	Sondelani Educare Centre	064-488
3	Bhekithemba ECD Centre	039-757
4	Siceluthando Educare Centre	042-501
5	Silindokuhle Educare Centre	079-162
6	Bright Future Preschool and Day Care	118-167/045-553
7	Khulakahle Creche and Pre-School	060-544/098-447
8	Sawpits Day Care	044-053
9	Golden Future Pre-School	
10	Bazamile Preschool	
11	Enjabulweni Creche	
12	Cato Crest PreSchool	

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Harry Gwala District		
Number	**Name of ECD Centre**	**NPO Number**
1	Fundulwazi Creche	070-430
2	Ndlelanhle Creche	070-463
3	Asanda Creche	142-104
4	St Martin Creche	057-886
5	Siyathuthuka Creche	070-426
6	Vulingqondo Creche	070-452
7	Siyethema Creche Madzikane	070-333
8	Siyazama M ECD	070-398
9	Siphamandla Pre-School	074-061/153-210
10	Siyanakekela ECD	059-582
11	Siyaciciyela Creche	152-805
12	Isambulo Creche	221-337
13	Othandweni Creche	141-267
14	Zuza Creche	

Umzinyathi District		
Number	**Name of ECD Centre**	**NPO number**
1	Vezokuhle Creche	046-121
2	Sakhisizwe Creche	069-197
3	Gcinukuthula Creche	076-746
4	Silethuthando Creche	083-777
5	Siphuthando Creche	150-341
6	Vukuzenzele Crech Glencoe	197-553
7	Zinikeleni Creche	069-167
8	Eveln's Day Care	201-204
9	Othandweni Creche	082-219
10	Zenzeleni Creche	142-842
11	Inhlonipho Creche	120-680
12	Siphesihle Creche	120-997
13	Vukuzakhe Creche	043-660
14	Little People Flowers Creche	208-797
15	Sibusisiwe Creche	197-578
16	Mnqobi Creche	123-100
17	Simunye Creche	223-970
18	Emsizi Creche	142-983
19	Ikusasalethu Creche	114-114
20	Sunrise Creche	192-444
21	Talana Creche	082-212
22	Okuhle Creche	197-573
23	Vukuzenzele Creche	120-944
24	Bathobile Creche	197-572
25	Little Dolphin	116-296

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Amajuba District		
Number	**Name of ECD Centre**	**NPO Number**
1	Mlondolozi Creche	073-094
2	Charity Creche and Pre-School	148-487
3	Ekuthuleni Creche and Pre-School	
4	Emgazini Creche	073-003

5	Thulanathi Day Centre	190-714/217-532
6	Siyakhula Creche	097-730
7	Thembalethu Creche	055-340
8	Siphukuthula Creche	219-786
9	Smilekids Day Care Centre	163-259/139-946
10	Ntuthuko Day Care	
11	Charlestown Country kids Day Care	148-506
12	Kwanda Early Childhood Development Centre	

King Cetshwayo District		
Number	**Name of ECD**	**NPO Number**
1	Manzini Creche	054-758
2	Qhubekani Creche	007-421
3	Ongoye Community Centre	034-406
4	Portdunford Creche	058-691
5	Khayalethu Creche	063-941
6	Sakhisizwe Creche	121-356
7	Vumukukhanya Creche	117-144/207-344
8	Isiyazama Creche	055-785
9	Vukani B Creche	079-959
10	Thulasizwe Creche	140-089
11	Ubambisswayo Creche	078-218/120-728
12	Sphephelo Creche	064-975
13	Busy Bee's Creche	079-915
14	Bhekisizwe Creche	030-940
15	Siyazama Creche	090-751
16	Esikhawini Creche	064-241
17	Zicabangele Creche	056-576
18	Zanele Creche	039-034
19	Nogweleza Day Care	037-004
20	Nkanyezi Creche	090-635
21	Ngiba Creche	072-950
22	Iselesele Creche	
23	Hemfane Creche	

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

UGU District

Number	Name of ECD	NPO Number
1	Ekubusisweni Crehe	
2	Entokozweni Creche	
3	Ekukhanyeni Creche	
4	Echibini Creche	
5	Masizakhe Creche	
6	Masilondoloze Creche	
7	Ekujabuleni Creche	
8	Siyajabula Creche	
9	Little Pony Crche	
10	Siyathuthuka Creche	
11	Goat oxland & Shepwalk Creche	



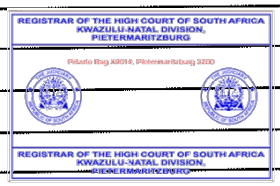
Zululand District		
Number	**Name of ECD Centre**	**NPO Number**
1	Fundisa Community Creche	242-865
2	Senamile Creche	090-773
3	Imbuthuma Creche	063-291
4	Bambanani Creche	054-677
5	Sbongokuhle Creche	053-717
6	Sondelani Creche	068-051
7	Siphakama Creche	158-508
8	Qhubekani Creche	102-737
9	Masakhane Creche	103-004
10	Thuthukani Creche	083-925
11	Siyaphambili Creche	073-079
12	Qhubekani Creche	102-737
13	Slindokuhle Creche	053-896
14	Zizameleni Creche	063-852
15	Ntandoyesizwe Creche	079-827/055-510
16	Dumbe Creche	057-264
17	Thubelihle Creche	079-908
18	Isidubelo Creche	117-085
19	Ekukhanyeni Creche	117-332
20	Fisokuhle Creche	079-714
21	Dabulisizwe Creche	118-035
22	Mbalenhle Creche	068-050/101-286

23	Sicelimpumelelo Creche	064-449
24	Kusukela Abakusasa Creche	084-124/167-467
25	Sincengimpilo Creche	066-525
26	Isibanisezwe Creche	049-343
27	Khanyisa Creche	046-511
28	Khayalempilo Creche	041-951
29	Fundekhaya Creche	084-104
30	Indumiso Creche	106-314
31	Kwa-Funulwazi Creche	071-314
32	Zamokuhle Creche	040-533
33	Njablo Creche	057-579
34	Cathulani Community Creche	066-356/064-370
35	Msasaneni Creche	066-343
36	Sithokozile Creche	042-627
37	Jabulani Creche	040-097
38	Sovasha Creche	040-707
39	Thembela Creche	
40	Mthabeleni Creche	063-864
41	Sikhulasonke Creche	
42	Incathu Development Project Creche	102-839/094-022
43	Ekuthuleni Creche	040-186/090-733
44	Qhubekani Creche	
45	Ebuhleni Creche	106-687
46	Sinethemba Creche	
47	Njoko Creche	043-267
48	Ndongande	062-194
49	Siyathuthuka nsimbi Creche	053-725
50	Silindokuhle Creche	083-197
51	Sinenhlanhla Creche	069-131
52	Kadekusilesisebenza Creche	066-345/060-208
53	Siyaphambili Day Care	053-735
54	Lethukukhanya Creche	056-185/071-429
55	Esikhandweni Creche	045-772
56	KwaShoba Community Creche	085-959
57	Zamokuhle No2 Creche	073-109/168-812
58	Zimele Creche	095-565
59	Isiphakamiso Creche	193-803
60	Thandanani Mazulu Creche	048-413/101-385
61	Vukuzame Creche	053-734
62	Rainbow Creche	083-133
63	Isizwe Creche	047-258

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

64	Sikhula Ngolwazi Creche	069-134/139-336
65	Siyanqoba Creche	128-158
66	Qhubekani Creche No1	090-723/049-135
67	Thembalethu Creche	172-783
68	Zamokuhle No1 Crech	057-113/158-592
69	Sinenhlanhla Day Care	072-019
70	Zizodela Creche	
71	Siwela Creche	
72	Thandukukhanya Creche	
73	Mpakama Creche	
74	Asiphelimandla Creche	
75	Siyathokoza Creche	
76	Thembukukhanya Creche	
77	Good Hope Creche	
78	Mkhwakhweni Creche	
79	Sibusisweni Creche	



Umkhanyakude District		
Number	**Name of ECD**	**NPO Number**
1	Macebo Creche	055-108
2	Vulindondo Creche	070-433
3	Ziqalele Creche	066-481
4	Simunye Creche	066-502
5	Mxoshwa Creche	066-443
6	Nhlabathi Creche	070-058
7	Sibonokuhle Creche	066-516
8	Phakathi Creche	073-125
9	Siyakhula Creche	068-440
10	Thuthukani Creche	
11	Sunshine Creche	068-906
12	Vumelani creche	066-420
13	Ndabenhle crèche	063-912
14	Swelihle creche	063-880
15	Impumelelo Creche	066-337
16	Buhle Bemfundo Creche	066-530
17	Sbongile creche	057-159
18	Masibambisane Creche	029-950/102-490
19	Izithelozemfundo Creche	059-778

20	Qhubeka Crevhe and PreScool	063-956
21	Nqolobane crèche	070-030
22	Phindokuhle Creche	031-561
23	Imbewu enhle Creche	049-019
24	Sibongile Creche	070-065
25	Isikhiyesempilo creche	030-632
26	WELANI CRECHE	076-503/039-599
27	Nhlahlenhle crèche	
28	Little Bird Creche	046-511/061-548
29	Indumiso crèche	062-687
30	NGOQONGO CRECHE	069-249/090-778
31	Siyazama Creche	136-651
32	Bongani Creche	136-320
33	Vukani creche	102-839
34	Velaphi Creche.	056-272
35	Granny's Care Centre	
36	Ebuhleni crèche	124-993
37	InkanyeziYokusa Creche	126-278/128-820
38	PHELELANI CRECHE	042-344/120-352
39	Bazaneni Creche	122-723
40	Sibusisiwe Creche	055-208
41	Nkululeko Creche	063-878
42	Melisizwe crèche	
43	ESIXENI CRECHE	
44	Nomaphenduka Creche	
45	ISIPHUMELELE CRECHE	
46	Mfulawezwe Creche	
47	Hlomula Creche	
48	Manguzi Creche	
49	Salema Creche	
50	Bhekisisa Creche	
51	Mandande Creche	
52	Eyethu Creche	
53	Goege Creche	
54	Fakubheka Creche	
55	Icebolenkosi Creche	
56	Khanyisa Creche	
57	Nsukumbili Creche	
58	St Joseph Creche	
59	Restoration Creche	
60	Simunye Creche	

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

61	Siyakhanyisa Creche	
62	Siyasebenza Creche	
63	Thembalethu Creche	
64	Ngondiyane Creche	
65	Khulangemfundo Creche	
66	Dumolwakhe Creche	

iLembe District		
Number	**Name of ECD**	**NPO Number**
1	Sizamimfundo	032-535
2	Mini Day-Care Centers	151-548/162-011
3	Sinothando	121-076
4	Sakhokwethu	201-203
5	Magwaza	211-911
6	Vukuzakhe	044-328
7	Masibumbane	161-931
8	Mandlakapheli	064-103
9	Amandlendlovu	041-084
10	Lihlithemba	053-395
11	Cathulani	120-580
12	Nsuze	120-897
13	Nkivane	078-008
14	Deda	038-46
15	Ukukhanya	099-498
16	Bhungeni	123-010
17	Chibini	129-027
18	Syaphambili	122-657
19	Sunshine	083-181
20	Thokozani	
21	Thembalethu	123-586
22	Esdumbini	120-765
23	Lindelani Creche and Pre-school	161-865/082-560
24	Msiz'ozayo Creche	048-894
25	Enhlanhleni Creche	101-826
26	Vukuzenzele Creche	028-475
27	Siyanamukela Creche	028-879
28	Siyakhula Creche	
29	Sithokozise Educare Centre	161-299
30	Sinothando Creche & Pre-school	121-730/095-480

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION
PIETERMARITZBURG

31	Ithemba Labasha Creche	056-089
32	Siphiwo Creche and Pre-school	029-993/172-174
33	Charlotte Grout Creche	173-121/161-919
34	Vulingqondo Creche	042-356
35	Unothando Creche	129-052
36	C'melokuhle Creche	017-398
37	Ntokozweni Creche	
38	Ekusizakaleni Creche	032-640
39	Asifunde Creche	034-443
40	Zizameleni Pre-school & Creche	187-236/041-577
41	Sibongiseni Creche	
42	Nokukhanya Creche	032-784
43	Khulakahle Creche	038-583
44	Siyathokoza Creche & Pre-school	161-939
45	Isiphumelelo Creche	191-460
46	Love In Action Creche	
47	Siyakhulasonke Early Childhood Development	064-217/106-164
48	Imfundoyethu Creche & Pre-school	076-952
49	MCSA Iusizo Day Care Centre	125-192/207-313
50	Isiphephelo Creche	071-486
51	Thembalihle Creche & Pre-school	163-319/099-374
52	Isiphiwe Edu care Centre	104-844/144-169
53	Nonoti Creche	139-305
54	Masithandane Creche	073-895
55	Phembisizwe Creche	163-319
56	Ukuqakaza Kwedendethu	046-358/205-597
57	Siyasiza Day Care Centre	047-209
58	Bahlebonke Creche	156-832
59	Luvuyo Educare Centre	236-304/117-479
60	Sanele Creche	068-517
61	Phembisizwe Creche	161-215
62	Siyazama Creche	186-927
63	Khuladado Daycare Centre	035-719
64	Inhlansi Yolwazi Creche	194-579/087-025
65	Nkululeko Daycare Centre	096-385
66	Malusi Omuhle Creche	187-350
67	Intando Daycare Centre	236-561/137-607
68	Buhlebesizwe Creche	092-397
69	Sisibekelwe Creche	
70	Khayalentuthuko Creche	105-459
71	Buhlebezwe Creche & Pre-School	030-528

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

72	Islulekesihle Samapholoba	163-988/090-986
73	Siyakhulisa Daycare Centre	038-550/126-649
74	Makhwanini Creche& Pre-School	148-085
75	Gugulethu Creche	101-846
76	Sakhisizwe ECD Centre	
77	Emmanuel Creche	
78	Sthandimfundo ECD Centre	
79	Kuhlekonke Daycare Centre	
80	Thandanani Creche	
81	Iqhawe Daycare Centre	
82	Yenzokuhle Creche	
83	Intobeko Creche	
84	Zavutha Creche	
85	Fundisa Daycare Centre	
86	Othandweni Daycare Centre	

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

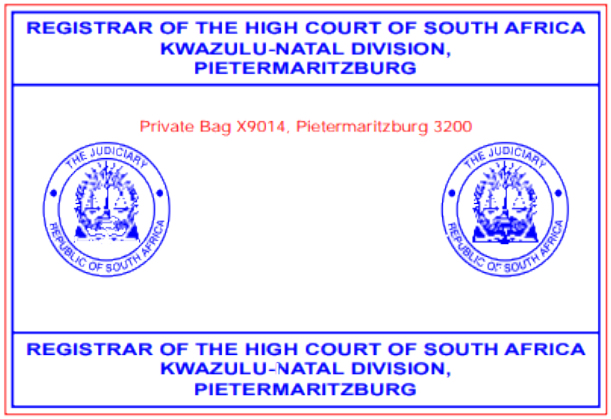
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 04

NOTE: **This document was filed electronically by the Registrar on 17/5/2025 at 12:42:43 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

TERMS OF REFERENCE FOR THE ECD ALLIANCE

1. Background

The problems which confront the ECD Sector are such that they need joint efforts in order that they can be solved. In KZN there are four (4) main organizations which support the ECD Sector. Realizing that the KZN Department of Education is not keen to listen to them when they approach it individually, these organizations decided to cooperate and work together in the initiatives which are aimed at solving some of challenges and problems.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

2. Purpose

The ECD Alliance (Alliance) was established on 13 October 2023 by representatives of the South African ECD Agency (SAECDA), South African Congress For Early Childhood Development (SA Congress), Friends Of South Africa ECD Forum (FOSA) and South African Association for Early Childhood Development (SAAECD). The purpose of the ECD Alliance is for these organizations to collaborate in joint initiatives for addressing challenges and problems which face the ECD Sector.

3. Membership

Membership to the Alliance shall be open to the Executive (EXCO) members of SAECDA, SA Congress, FOSA, SAAECD and any other organization, which works in the ECD Sector, which shall be approved by the Alliance.

The term of membership of a member shall be determined by his/her organization.

4. Accountability

All members of the Alliance shall be accountable to the membership of their organizations. They are therefore tasked with the responsibility of reporting the activities of the Alliance back to their mother organizations. Where necessary, members of the Alliance shall be afforded the opportunity to consult the membership of their organizations before decisions are made.

5. Review

The Alliance shall review the relevance and the value of these terms of reference annually.

6. Working methods

6.1 There shall be no wearing of uniform by the Alliance members during meetings.

6.2 The Alliance shall have the chairperson and the secretary, whose term of office shall be 12 months. The term of office for these positions shall be on rotational basis among participating organisations.

6.3 Member organizations shall cooperate with one another in planning, implementation and review of activities.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

6.4 Members and their organizations shall be treated equally within the Alliance

6.5 No one organization shall strive to impose its will upon others. The chairperson shall quickly, without fear or favour, deal with this situation as soon as it manifests itself. Should the chairperson fail to do so, any member of the Alliance shall have the right to bring this to the attention of the Alliance.

6.6 The working committee (WC) shall be responsible for performing all tasks which shall be assigned to it by the Alliance.

6.7 Performance of tasks by any individual member shall be sanctioned by the WC. Where a member performs a duty without it being sanctioned by the WC, what has been done shall be subject to review by it.

6.8 Sub-committees shall be composed of representatives from different organizations.

6.9 The WC shall intervene in case of disputes among members of the Alliance and among member organisations.

7. Meetings

7.1 Quarterly meetings shall be convened by the chairperson.

003-110

7.2 Special meetings shall be held physically or virtually whenever there is a need for the Alliance to meet.

7.3 The chairperson shall have a casting vote in case of a tie in the voting result.

8. Sharing of information and resources

Member organizations shall share information and resources among themselves. This sharing shall be done in the interest of providing support to the entire ECD Sector. The organizations will have a right to withhold whatever information which they deem exclusive to only their members.



9. Code of conduct

9.1 Members shall address one another in a respectful manner.

9.2 Members shall attend all meetings diligently.

9.3 The use of vulgar and obscene language is prohibited. Members shall behave in a professional manner at all times.

9.4 All members shall keep in confidence all declared secretes of the Alliance.

9.5 The Alliance reserves the right to dismiss a member that conducts itself in an unacceptable manner. A motion for dismissal shall be made in the meeting by any member. It will be seconded and then cast to a vote. Voting shall be done secretly. A 50 plus 1 percent vote shall confirm the dismissal. All this will be done after the misbehaving member has been given 2 (two) warnings about his/her transgression.

10. Approval

MARGARET VILAKAZI

(Name) mvilakazi

South African Congress for ECD

12 May 2025

Date

N.S

23/01/2024

Solomon Gumede

Date

South African ECD Agency

TERMS OF REFERENCE FOR THE ECD ALLIANCE

13th of MAY 2025.

(Name)

Date

Friends Of South Africa ECD Forum

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

23/01/2025

(Name)

Date

South African Association for ECD

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

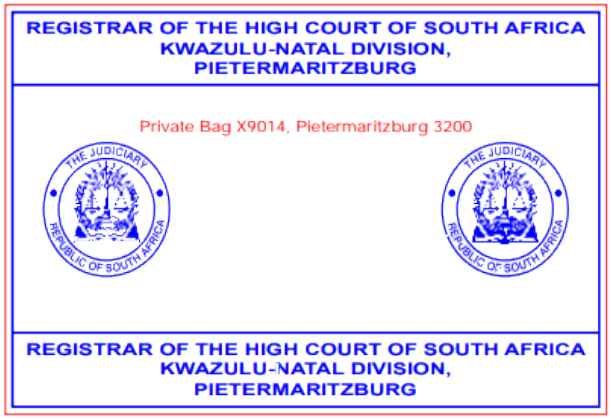
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 05

NOTE: **This document was filed electronically by the Registrar on 18/5/2025 at 12:55:20 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

Outstanding Equitable Share Payments

Number	District	ECD School Name	Type of Payment (Conditional or Equitable)	NPO Number	Number of Months Owed	Amount Per Month	Total Amount Owed
1	Umgungundlovu	Sizamokuhle Creche	Equitable Share Payment	033-004	4	R10 821,00	R43 284,00
2	Umgungundlovu	Sakhokwethu Creche	Equitable Share Payment	032-433	5	7119 X 3 : 8258 X 2	R37,873.00
3	Umgungundlovu	Sindisiwe Educare Centre	Equitable Share Payment	057-927	5	R17 655,00	R88 275,00
4	Umgungundlovu	Phumelela Creche	Equitable Share Payment	047-572	4	R12 814,00	R51 256,00
5	Umgungundlovu	Zenzeleni Creche	Equitable Share Payment	032-848	4	R15 946,00	R63 784,00
6	Umgungundlovu	Duduzile Creche	Equitable Share Payment	308-859	5	R12 000,00	R60 000,00
7	King Cetshwayo	Simukumuku Creche	Equitable Share Payment	066-371	4	R9 600,00	R38 400,00
8	King Cetshwayo	Lindokuhle Creche	Equitable Share Payment	070-089	3	R28 475,00	R85 425,00
9	Umgungundlovu	Thuthuka Pre-School	Equitable Share Payment	032-607	2	R19 980,00	R39 960,00
10	Harry Gwala	Luncedo Pre-School	Equitable Share Payment	064-219	2	R7 404,00	R14 808,00
11	Harry Gwala	Nzululwazi Pre-School	Equitable Share Payment	066-575	1	R15 661,00	R15 661,00
12	Umgungundlovu	Isu Elihle Creche	Equitable Share Payment	032-853	2	R17 000,00	R34 000,00
13	Pinetown	Sithokozile Play Group	Equitable Share Payment	123-766	1	R28 050,00	R28 050,00
14	Harry Gwala	Sanelisa Maqawe Day Care	Equitable Share Payment	143-271	1	R17 085,00	R17 085,00
15	Zululand	Silindokuhle Creche	Equitable Share Payment	066-431	1	R19 932,50	R19 932,50
16	Zululand	Vukuzakhe Creche	Equitable Share Payment	071-067	2	R7 973,00	R15 946,00
17	Harry Gwala	Sayalakha Educare	Equitable Share Payment	054-031			
18	Pinetown	Siyathuthuka Child Educare	Equitable Share Payment	028-880	1	R40 392,00	R40 392,00
19	Umgungundlovu	Ithembalomtwana Pre-School	Equitable Share Payment	211-640	2	R18 546,00	R37 092,00
20	Harry Gwala	Zamkela Zonke Educare Centre	Equitable Share Payment	028-454	2	R12 780,00	R25 560,00
21	Umgungundlovu	Siyajabula Educare Centre	Equitable Share Payment	059-791	1	R18 509,00	R18 509,00
22	Umgungundlovu	Tholulwazi Creche and Pre-School	Equitable Share Payment	033-576	1	R8 258,00	R8 258,00
23	Harry Gwala	Zanokhanyo Pre-School	Equitable Share Payment	053-929	2	R12 244,00	R24 488,00
24	King Cetshwayo	Nhlakanipho Creche	Equitable Share Payment	070-401	2	R9 900,00	R19 800,00
25	King Cetshwayo	Thubelihle Creche	Equitable Share Payment	070-285	1	R8 551,00	R8 551,00
26	King Cetshwayo	Sikhulakahle Creche	Equitable Share Payment	047-739	1	R45 560,00	R45 560,00
27	King Cetshwayo	Impumelelo Creche	Equitable Share Payment	062-110	1	R49 600,00	R49 600,00
28	King Cetshwayo	Thema Creche	Equitable Share Payment	057-823	1	R11 960,00	R11 960,00
29	King Cetshwayo	Manzamnyama Creche	Equitable Share Payment	043-79	4	R13 953,00	R55 812,00
30	Umgungundlovu	Buthokuhle	Equitable Share Payment	076-346	1	R13 600,00	R13 600,00
31	Umgungundlovu	Zamimpilo ECD Centre and Community Home	Equitable Share Payment	048-549	4	R12 000,00	R48 000,00
32	Umgungundlovu	Zuzulwazi Creche	Equitable Share Payment	070-448	2	R6 834,00	R13 668,00
33	Harry Gwala	Ulwazi Pre-Primary School	Equitable Share Payment	055-547	1	R5 600,00	R5 600,00
34	Harry Gwala	Siyavuya Day Care	Equitable Share Payment	065-509	1	R42 636,00	R42 636,00
35	Harry Gwala		Equitable Share Payment	227-767	1	R14 237,50	R14 237,50
36	Umlazi	Sewula ECD Centre	Equitable Share Payment	224-081	1	R14 807,00	R14 807,00
37	Umgungundlovu		Equitable Share Payment	064-015	4	R12 244,00	R48 976,00
38	Umgungundlovu	Ekujabuleni Day Care	Equitable Share Payment	076-410	1	R16 800,00	R16 800,00
39	Pinetown	Sibahle Creche	Equitable Share Payment	029-981	3	R9 222,00	R27 666,00
40	Ugu	Sinothando Creche	Equitable Share Payment	070-418	4	R10 693,00	R42 772,00
41	Ugu	Sozabe Creche	Equitable Share Payment	070-131	4	R10 000,00	R40 000,00
42	Ugu	Qhubekani Creche	Equitable Share Payment	048-024	3	R12 000,00	R36 000,00
43	Ugu	Cakeza	Equitable Share Payment	049-120	4	R18 785,00	R75 140,00
44	Ugu	Khanyisani Creche	Equitable Share Payment	063-91	4	R12 139,00	R48 556,00
45	Ugu	Thembinkosi Creche	Equitable Share Payment	049-6	4	R10 111,00	R40 444,00
46	Ugu	Ekukhanyeni Creche	Equitable Share Payment	048-029	5	R12 422,00	R62 110,00
47	Ugu	Bongumusa Creche	Equitable Share Payment	048-106	4	R11 550,00	R46 200,00
48	Ugu	Gugulabasha Creche	Equitable Share Payment	049-592	4	R23 120,00	R92 480,00
49	Ugu	Phitani Creche	Equitable Share Payment	049-532			

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
DIRECTOR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

18/5/2025-12:55:20 PM
003115
003115

50	Ugu	Winterton Creche	Equitable Share Payment	049-530	4	R9 200,00	R36 800,00
51	Ugu	Vulindlela Creche	Equitable Share Payment	048-138	3	R11 849,00	R35 547,00
52	Ugu	Buhlebuyeza Creche	Equitable Share Payment	049-606	4	R8 670,00	R34 680,00
53	Ugu	Gugulethu Creche	Equitable Share Payment	064-053	4	R13 005,00	R52 020,00
54	Ugu	Sithokozile Creche	Equitable Share Payment	048-025	4	R10 800,00	R43 200,00
55	Ugu	Zenokuhle Creche	Equitable Share Payment	049-590	4	R9 537,00	R38 148,00
56	Ugu	Khayalethu No1 Creche	Equitable Share Payment	893-204	4	R8 760,00	R35 040,00
57	Ugu	Ezemfundo Creche	Equitable Share Payment	049-557	3	R11 000,00	R33 000,00
58	Ugu	Zimelani Creche	Equitable Share Payment	070-152	3	R12 138,00	R36 414,00
59	Ugu	Thandanani No1 Creche	Equitable Share Payment	051-075			
60	Ugu	Magwaza Creche	Equitable Share Payment	049-532	3	R11 500,00	R34 500,00
61	Zululand	Imbalenhle Creche	Equitable Share Payment	062-136	4		R44 420,00
62	Zululand	Vukuzakhe Creche	Equitable Share Payment	071-067	4		R90 840,00
63	Zululand	Phembisizwe Creche	Equitable Share Payment	121-151	4		R27 336,00
64	Zululand	Okhaleveni Creche	Equitable Share Payment	055-427	4		R91 545,00
65	Zululand	Xolo Creche	Equitable Share Payment	060-693	4		R55 250,00
66	Zululand	Asiphile Creche	Equitable Share Payment	174-318	6	R33660.00	R201 960.00
67	Zululand	Sivananda Nomponjwana	Equitable Share Payment	152-348	6	R9 724,00	R29 172.00
68	Zululand	Ewela Creche	Equitable Share Payment	081-577	4		R942 486,00
69	Zululand	Empilweni Creche	Equitable Share Payment	062-378	4		R52 392,00
70	Zululand	Mbalenhle Creche	Equitable Share Payment	101-327	6	R6 902,00	R41 414,00
71	Zululand	Muziwokukhanya	Equitable Share Payment	063-926	4		
72	Zululand	Inkanyezi yokusa	Equitable Share Payment	063-851	4		R20 706,00
73	Zululand	Vukuzenzele	Equitable Share Payment	062-663	4		R89 076,00
74	Zululand	Emseni Creche	Equitable Share Payment	052-595	3		R64 782,00
75	Zululand	Singenimfundo	Equitable Share Payment	170-508	4		R38 146,00
76	Zululand	Silindokuhle	Equitable Share Payment	066-431	4		R68 561,00
77	Zululand	Ingqayi Zovela	Equitable Share Payment	098-081	4		R11 390,00
78	Zululand	Nqabayokuphila	Equitable Share Payment	079-898	6		R187 620.00
79	Zululand	Egugwini Creche	Equitable Share Payment	069-316	4		R94 536,00
80	Zululand	Phatheyethu	Equitable Share Payment	122-065	4		R64 000,00
							R43 243,00
82	Zululand	Inhlonipho Creche	Equitable Share Payment	123-419	4		R138000.00
83	Zululand	Ntukwini Creche	Equitable Share Payment	080-009	6		R45 560,00
84	Zululand	Siyazama Creche	Equitable Share Payment	084-103	4		
85	Zululand	Ntokozo Creche	Equitable Share Payment	123-278	6		R85 000,00
86	Zululand	Thandukukhanya	Equitable Share Payment	063-899	4		R21 327,00
87		Zakheni Creche	Equitable Share Payment	084-122			R22 780,00
88		Mehlokazulu Creche	Equitable Share Payment	035-389			R43 280,00
89		Kopanang Little Flowers	Equitable Share Payment	031-978			R22 790,00
90		Ndlelenhle Creche	Equitable Share Payment	090-731			R36 480,00
91		Sakhisizwe Creche	Equitable Share Payment	032-368			R22 000,00
92		Zamani Creche	Equitable Share Payment	031-902			R50 116,00
93		Zakheleni Creche	Equitable Share Payment	070-983			R17 940,00
94		Sifisokuhle Creche	Equitable Share Payment	032-113			R50 400,00
95		Silondokuhle Creche	Equitable Share Payment	070-986			R27 200,00
96		Khulani Creche	Equitable Share Payment	116-20			R45 560,00
97		Sbahle Creche	Equitable Share Payment	090-681			R45 900,00
98		Mahlungu Creche	Equitable Share Payment	076			R33 315,00
99		Vukukhanye Creche	Equitable Share Payment	088			R59 791,50
100		Sizanani Creche	Equitable Share Payment	016			R23 919,00
101		Sithandokuhle Creche	Equitable Share Payment	761			

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION PIETERMARITZBURG

003-116
003-116
18/5/2025-12:55:20 PM
003-116

102		Ntandoyesizwe Creche	Equitable Share Payment	070-964		R34 140,00
103		Bambuhlanga Creche	Equitable Share Payment	084-013		R41 004,00
104		Fahlaza Creche	Equitable Share Payment	083-996		R20 502,00
105		Buhlebuyeza Pre Creche	Equitable Share Payment	068-144		R46 500,00
106		Ntshisekelo Creche	Equitable Share Payment	097-059		R76 312,00
107		Mseni Creche	Equitable Share Payment	079-743		R18 694,00
108		Isibusisiwe Creche	Equitable Share Payment	032-358		R34 170,00
109		Ntethelelo Creche	Equitable Share Payment	084-027		
110		Nkanyisweni Creche	Equitable Share Payment	034-952		
111		Siyazama Creche	Equitable Share Payment	117-799		
112		Zamani Creche	Equitable Share Payment	032-989		
113		Sizakancane Creche	Equitable Share Payment	031-992		R25 640,50
114		Mafitleng Creche	Equitable Share Payment	057-640		
115		Khulakahle Creche	Equitable Share Payment	117-719		R22 200,00
116		Mqeqeshwa Creche	Equitable Share Payment	034-265		R34 170,00
117		Little Teddy Bear Creche	Equitable Share Payment	088-896		R17 086,00
118		Thandanani Creche	Equitable Share Payment	046-506		R75 174,00
119		Isibanisethu Pre	Equitable Share Payment	031-789		R24 000,00
120		Hluzinqondo Creche	Equitable Share Payment	032-195		R25 300,00
121		Khulakancane Creche	Equitable Share Payment	117-919		R15 661,00
122		Ntuzuma Creche	Equitable Share Payment	094-008		R28 108,00
123		Ikusasa Elihle Creche	Equitable Share Payment	035-573		R14 000,00
124		Khuthala Creche	Equitable Share Payment	032-359		R13 098,00
125		Siyathuthuka Creche	Equitable Share Payment	033-742		R19 647,00
126		Phembisizwe Creche	Equitable Share Payment	032-097		R33 660,00
127		Sibongokuhle Creche	Equitable Share Payment	136-443		R19 269,00
128		Kayelihle Creche	Equitable Share Payment	036-348		R18 795,00
129		Lamula Creche	Equitable Share Payment	090-388		R13 668,00
130		Umusawenkosi Creche	Equitable Share Payment	074-902		R33 660,00
131		Phakamani Creche	Equitable Share Payment	122-526		
132	Pongola	Asiphelimandla Creche	Equitable Share Payment	090-723	3	
133	Pongola	Good Hope Creche	Equitable Share Payment	057-113	4	
134	Pongola	Kadekusilesisebenza Creche	Equitable Share Payment	053-725	6	
135	Pongola	Senzokuhle Creche	Equitable Share Payment	158-597	9	
136	Pongola	Rainbow Creche	Equitable Share Payment	073-109	6	
137	Pongola	Siyathokoza Creche	Equitable Share Payment	049-135	2	
138	Pongola	Siwela Creche	Equitable Share Payment	069-134	6	
139	Pongola	Ithembalethu Creche	Equitable Share Payment	101-385	6	
140	Pongola	Esikhandweni Creche	Equitable Share Payment	066-345	6	
141	Pongola	Siyaphambili Day Care	Equitable Share Payment	083-197	2	
142	Pongola	Inkosiyethi Creche	Equitable Share Payment	047-889	2	
143	Pongola	Bonakusile Creche	Equitable Share Payment	115-980	6	
144	Pongola	Sinenhlanhla Creche	Equitable Share Payment	062-194	5	
145	Pongola	Sithembiso Creche	Equitable Share Payment	053-732	6	
146	Pongola	KwaShoba Creche	Equitable Share Payment	060-208	6	
147	Pongola	Mpakama Creche	Equitable Share Payment	128-658	6	
148	Pongola	Sidakeni Creche	Equitable Share Payment	087-053	5	
149	Pongola	Thandukukhanya Creche	Equitable Share Payment	139-036	6	
150	Pongola	Amanzabomvu Creche	Equitable Share Payment	087-050	6	
151	Pongola	Zimele Creche	Equitable Share Payment	053-185	3	
152	Pongola	Phakamani Creche	Equitable Share Payment	053-526	8	
153	Pongola	Qophumlando	Equitable Share Payment	053-640	4	

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION
PIETERMARITZBURG

003-117
N.S
003-117
18/5/2025-12:55:20 PM

154	Pongola	Zamokuhle No2	Equitable Share Payment	053-735	4			
155	Pongola	Sikhulakahle Creche	Equitable Share Payment	045-773	6			
156	Pongola	Qhubekani No-1	Equitable Share Payment	048-413	3			
157	Pongola	Umngomane Creche	Equitable Share Payment	163-630	7			
158	Pongola	Emkhwakhweni Pre-School	Equitable Share Payment	158-592	4			
159	Pongola	Siyanqoba Creche	Equitable Share Payment	139-803	3			
160	Pongola	Zamukuzakha Creche	Equitable Share Payment	053-736	4			
161	Pongola	Buhlebemvelo Creche	Equitable Share Payment	047-364	3			
162	Pongola	Sibusisweni Creche	Equitable Share Payment	072-019	5			
163	Pongola	Lethukukhanya Creche	Equitable Share Payment	069-131	3			
164	Pongola	Ithembalethu Creche No-1	Equitable Share Payment	095-474	3			
165	Pongola	Kulungile Nkomfe Creche	Equitable Share Payment	104-923	7			
166	Pongola	Tholukukhanya Creche	Equitable Share Payment	172-783	6			
167	Pongola	Isiphakamiso Creche	Equitable Share Payment	071-429	6			
168	Pongola	Sizodela Creche	Equitable Share Payment	047-258	6			
169	Pongola	Sinenhlanhla Day Care	Equitable Share Payment	083-133	3			
170	Pongola	Qhubekani Creche No2	Equitable Share Payment	047-461	3			
171	Pongola	Thandanani Mazulu Creche	Equitable Share Payment	045-772	5			
172	Harry Gwala	Lingomso Day Care and Pre-School	Conditional Grant Payment	141-510	3	R3 132,00	R9 396,00	
173	Harry Gwala	Ebubeleni Day Care Centre	Conditional Grant Payment	223-429	1	R30 294,00	R30 294,00	
174	Harry Gwala	Kusaselihle Seven Day Care	Conditional Grant Payment	224-349	1	R5 600,00	R5 600,00	
175	Harry Gwala	Simnikuthando Nursery and Day Care	Conditional Grant Payment	127-774	1	R46 002,00	R46 002,00	
176	Harry Gwala		Conditional Grant Payment	183-133	1	R19 074,00	R19 074,00	
177	Harry Gwala		Conditional Grant Payment	182-915	1	R49 368,00	R49 368,00	
178	King Cetshwayo	Siyaphambili Creche	Conditional Grant Payment	083-953	2	R25 806,00	R51 612,00	
179	King Cetshwayo	Sizoluhle Creche	Conditional Grant Payment	137-861	1	R57 222,00	R57 222,00	
180	King Cetshwayo	Hlakaniphani Creche	Conditional Grant Payment	084-126	1	R35 904,00	R35 904,00	
181	King Cetshwayo	Qaphelani Creche	Conditional Grant Payment	097-896	1	R26 630,00	R26 630,00	
182	King Cetshwayo	Phansi Kwezinyawo Creche	Conditional Grant Payment	070-372	1	R45 000,00	R45 000,00	
183	King Cetshwayo	Zwelisha Creche	Conditional Grant Payment	103-083	1	R22 440,00	R22 440,00	
184	Pinetown	Lilly and Jerry Day Care	Conditional Grant Payment	187-743	2	R45 000,00	R90 000,00	
185	Pinetown	Uthandolwabantwana Creche and Pre-School	Conditional Grant Payment	094-892	2	R89 750,00	R179 500,00	
186	Pinetown	Growing-up Kiddies Creche	Conditional Grant Payment	248-942	2	R16 500,00	R33 000,00	
187	Pinetown	Lion King	Conditional Grant Payment	226-581	2	R44 875,00	R89 750,00	
188	Pinetown	Sithokozile Play Group	Conditional Grant Payment	123-766	1	R28 050,00	R28 050,00	
189	Pinetown	Siqalokusha Creche	Conditional Grant Payment	120-308	1	R15 661,25	R15 661,25	
190	Pinetown	Ngqawuzaba Creche and Pre-School	Conditional Grant Payment	130-968	1	R34 782,00	R34 782,00	
191	Pinetown	Bhekinkosi Creche	Conditional Grant Payment	136-613	1	R16 830,00	R16 830,00	
192	Pinetown	Sigcawu Creche	Conditional Grant Payment	051-583	1	R134 640,00	R134 640,00	
193	Ugu	Bashaweni Creche	Conditional Grant Payment	095-455	3	R19448.00	R58 344,00	
194	Ugu	Siqhitini Creche	Conditional Grant Payment	115-044	3	R65 076.00	R32 538,00	
195	Ugu	Siwelihle Creche	Conditional Grant Payment	093-086	3			
196	Ugu	Siyathuthuka Creche	Conditional Grant Payment	146-146	3	R14960. 00	R44 880,00	
197	Ugu	Oiwazini Creche	Conditional Grant Payment	122-312			R72 930,00	
198	Ugu	Xambu Creche	Conditional Grant Payment	184-944	3	R9 000.00	R27 000.00	
199	Ugu	Gcinokuhle Creche	Conditional Grant Payment	067-646			R13 000,00	
200	Ugu	Lindokuhle Creche	Conditional Grant Payment	135-95[illegible]			R40 392,00	
201	Ugu	Sizanani Machi Creche	Conditional Grant Payment	045-535	3	R24 684.00	R74 052,00	
202	Ugu	Lindokuhle No1 Creche	Conditional Grant Payment	048-625	3	R14960. 00	R44880. 00	
203	Ugu	Sithandokuhle Creche	Conditional Grant Payment	132-097			R29 950,00	
204	Ugu		Conditional Grant Payment	05[illegible]-805			R26 950,00	
205	Ugu	Thubelihle Creche	Conditional Grant Payment	138-644			R51 612,00	

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION
PIETERMARITZBURG

003-118
18/5/2025-12:55:20 PM
003-118

206	Umlazi										
207		Vezubuhle Creche									
208		Sibongukuhle Creche									
209		Sinothando Creche									
210		Siyathuthuka (Isandlwane)									
211		Sakhile Creche									
212		Bulelani Creche									
213	Ilembe	Thokozani creche									
214	Ilembe	Hlalanathi creche									
215	Ilembe	Iqhugwana leAfrica									
216	Ilembe	Siyacathula creche									
217	Ugu	Twostick									
218	Ugu	Siyaqhubeka creche Conditional 068- 877 03 R46000									
219	Umlazi	Jabulani Daycare									
220	Umlazi	Ukukhanya kwezwe Creche									
221	Umlazi	House-Kids Educare Centre									
222	Umlazi	Little flower creche									
223	Umlazi	Jabuslzabantu educare centre									
224	Umlazi	Khanyisani day care centre &pre school									
225	Umlazi	Daluxolo day care centre									
226	Umlazi	Isandlasosizo creche									
227	Umlazi	Tholimfundo ecd									
228	Umlazi	Dondos creche									
229	Umgungundlovu	Sunshine Creche And Pre-School									
230	Umgungundlovu	Qalokuhle Creche									
231	Umgungundlovu	Inkanyiso Creche									
232	Umgungundlovu	Shayamoya Mbubu Creche									
233	Umgungundlovu	Khanya Day Care Center									
234	Umgungundlovu	Sbukosezwe									
235	Umgungundlovu	Siyathuthuka Creche									
236	Umgungundlovu	Dadedi Creche									
237	Zululand	Ekwandeni ECD center									
238	Zululand	Siyakhula creche									
239	Zululand	Mhlalini asethembe creche									
240	Zululand	Tholukukhanya									
241	Zululand	Vukuzenzele									
243	Zululand	Ingqayizovela									
245	Zululand	Indumiso									
246	Zululand	Mphendu center									
247	Zululand	Sgodo community service center									
248	Zululand	Manekwane									
249	Zululand	Ewela									
250	Pinetown	Thandanani Day Care Centre									
251	Ugu-Umuziwabantu	Boom street Creche and pre-school									
252	Ugu-Umuziwabantu	Olwazini creche									
253	Ugu-Umuziwabantu	Kuzukukhanya Creche									
254	Ugu-Umuziwabantu	Zizamele Creche									
255	Ugu-Umuziwabantu	Siqithini Creche & pre-school									
256	Ugu-Umuziwabantu	Gcinokuhle Creche									
257	Ugu-Umuziwabantu	Ntokozweni Creche									
258	Ugu-Umuziwabantu	Tholimfundo creche									
259	Ugu-Umuziwabantu	Purpose Creche									

			Conditional Grant Payment	118-167							
			Conditional Grant Payment	164-558							
			Conditional Grant Payment	136-443							
			Conditional Grant Payment	177-919							
			Conditional Grant Payment	031-806							
			Conditional Grant Payment	131-346							
			Conditional Grant Payment	090-712							
			Conditional Grant Payment	028-568	5						
			Equitable Share Payment	053-825	1						
			Equitable Share Payment	133-144	3						
			Conditional Grant Payment	064-021	6						
			Conditional Grant Payment	225-584	3						
			Conditional Grant Payment	068-877	3						
			Conditional Grant Payment	060-08	2						
			Equitable Share Payment	042-004	2						
			Equitable Share Payment	082-904	2						
			Equitable Share Payment	033- 646	1						
			Equitable Share Payment	014- 849	1						
			Equitable Share Payment	024-051	1						
			Equitable Share Payment	025-002	1						
			Equitable Share Payment	029-180	1						
			Equitable Share Payment	072-178	1						
			Equitable Share Payment	041-106	1						
			Equitable Share Payment	069-156		4		R63 000,00	R63 000,00		
			Equitable Share Payment	093-393		3			R20 196,00		
			Equitable Share Payment	067-829		2			R33 660,00		
			Equitable Share Payment	189-064		2			R39 270,00		
			Equitable Share Payment	093-456		6					
			Equitable Share Payment	076-377		12					
			Equitable Share Payment	045-697		2			R36 000,00		
			Equitable Share Payment	031-553		6			R17 000,00		
			Equitable Share Payment	079-341		6		R22 787	R113 935		
			Conditional Grant Payment	063-036		6		R36 732-75	R36 732-75		
			Conditional Grant Payment	106-186		6		R12 716	R38 148		
			Equitable Share Payment	092-375		6		R5 610	R 33 660		
			Equitable Share Payment	062-663		6		R33 660,00	R100 980,00		
			Equitable Share Payment	098-051		6		R46 000,00	R138 000,00		
			Equitable Share Payment	072-944		6		(R14237. 50 + April - R16320)	R30 557.50		
			Equitable Share Payment	083-974		6		(R30468. 25 + R51360)	R81 828.25		
			Equitable Share Payment	122-981		6		(R79445. 25 + R117600)	R197 045.25		
			Conditional Grant Payment	056-127		6		R11390-00	R11390-00		
			Conditional Grant Payment	031-577		6		R7000-00	R7000-00		
			Conditional Grant Payment	063-996		1		R9681-50	R9681-50		
			Equitable Share Payment	070-241		3		R27052-00	R27052,-00		
			Conditional Grant Payment	122-312		3		R11390-00	R11390-00		
			Conditional Grant Payment	123-878		3		R30183-33	R30183-33		
			Conditional Grant Payment	146-179		3		R6834-00	R6834-00		
			Conditional Grant Payment	147-044		3		R6 549,00	R26 196,00		
			Conditional Grant Payment	148-835		3		R14 232,00	R42 696,00		
			Conditional Grant Payment	149-321		3		R1 139,00	R2 278,00		
			Conditional Grant Payment	099-918		3		R6 700,00	R13 400,00		
			Conditional Grant Payment	147-147		3		R13 000,00	R78 000,00		
						3		R33 000,00	R396 000,00		
								R9 112,00	R18 224,00		
								R8 543,00	R51 258,00		
								R23 000,00	R138 000,00		
								R21 925,00	R131 554,00		
								R6 902,00	R41 414,00		
								R22 000,00	R67 000,00		
								21925,75	R131 554,00		
								R11 300,00	R67 800,00		
								R33 660,00	R67 320,00		
								R22 000,00	R67 000,00		
								R22 000,00	R67 000,00		
								R5 980,00	R31 720,00		
								R15 708,00	R94 248,00		
								R8 827,25	R8 827,25		
								R14 960,00	R44 880,00		
								R24310. 00	R72930. 00		
								R14960. 00	R44880. 00		
								R18400. 00	R55200. 00		
								R65076. 00	R32538. 00		
								R13090. 00	R39270. 00		
								R7466. 00	R22400. 00		
								R24684. 00	R74 052,00		
								R19074. 00	R57222. 00		

003-119
18/5/2025-12:55:20 PM

003-119

260	Ugu-Umuziwabantu	Sweet harmony creche	Conditional Grant Payment	061-650	3	R13090. 00	R39270. 00
261	Ugu-Umuziwabantu	Siqhubekanokuhle Creche	Conditional Grant Payment	114-245	3	R11220. 00	R33660. 00
262	Ugu-Umuziwabantu	Sphephile creche	Conditional Grant Payment	134-981	3	R10941. 00	R32823. 00
263	Umlazi	Melody ECD Centre	Equitable Share Payment	118-727	1	R 26 1G7.00	R 26 1G7.00
264	Umlazi	Ekuthobeka Educare Centre	Equitable Share Payment	010-577	1	R 25 627.00	R 25 627.00
265	Umlazi	Silindokuhle Creche s Pre-School	Equitable Share Payment	042-520	1	R 41 004.00	R 41 004.00
266	Umlazi	Othandweni ECD Centre	Equitable Share Payment	060-52G	1	R 22 780.00	R 22 780.00
267	Umlazi	Khulakahle Day Care Centre	Equitable Share Payment	011-082	2	R 25 627.50	R 51 254.00
268	Umlazi	Imfume Zakhele Creche	Equitable Share Payment	041-168	1	R 35 30G.00	R 35 30G.00
269	Umlazi	Magabheni Pre- primary school	Equitable Share Payment	032-611	1	R 43 282.00	R 43 282.00
270	Umlazi	Intuthuko Day Care Centre	Equitable Share Payment	02G-500	1	R 27 051.25	R 27 051.25
271	Umlazi	Uthando Child Care Centre	Equitable Share Payment	023-323	1	R 13 0G8.00	R 13 0G8.00
272	Umlazi	Nomafu ECD Centre	Equitable Share Payment	002-445	1	R 14 522.25	R 14 522.25
273	Umgungundlovu	Sinothando Creche and Day Care	Equitable Share Payment	161-481	3	R14,238.00	R42 714.00
274	Umgungundlovu	Masajabule Creche	Equitable Share Payment	045-810	1	R9,966.00	R9,966.00
275	Umgungundlovu	Vulamehlo Creche and preschool	Equitable Share Payment	043-359	5	R24,489.00	R122 445.00

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Website Reg: 42016, Website Stamping: 32210
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

18/5/2025-12:55:20 PM

N. S

003-120

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

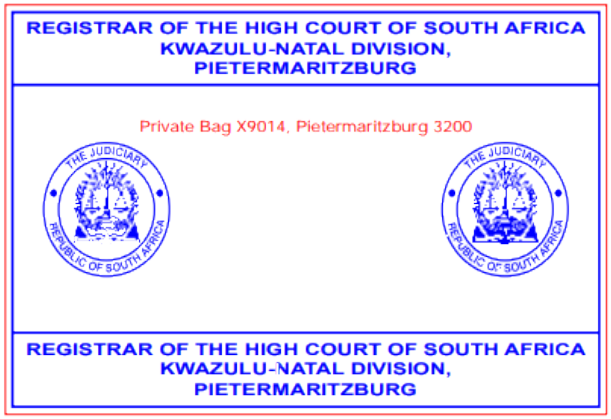
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 06

NOTE: **This document was filed electronically by the Registrar on 18/5/2025 at 12:55:48 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

003-123
18/5/2025 12:55:48 PM
"NS 6"

3. Menus and standardised recipes

3.1 Menus

The **menu** is a detailed list of foods to be served in a single meal, or all meals over one or more days. The menu may list items in a mixed dish and it may indicate the cooking method and/or fillings or sauces that are served. Each meal will have foods from a number of food groups. A meal (with the exception of vegetables) will not usually include more than one food from the same food groups, e.g. potatoes and rice are not to be served in the same meal.

- Breakfast should be provided for all children since not all the children will not have been given this meal at home if the programme opens before 7:00.
- The number of meals depends on the hour spent at the programme.
- If children spend **five to eight hours: a morning snacks, lunch and afternoon snack must be served.**
- If children spend less than **five hours, a mid-morning snack and lunch must be served.**

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Table 3.1 and Table 3.2 are the suggested menus for ECD programmes with serving sizes for different age groups. It should be noted locally available consumed food can be used to replace other items such as pounded Mopani worms (meat dish), indigenous leafy vegetables and amadumbe (starchy foods). To ensure variety, a two week menu cycle is recommended.

3.2 Foods that are not recommended

- Instant porridges or cereals that are high in sugar and salt.
- Honey should not to be used before 12 months of age. There is a risk of transmission of botulism, which is why it is not recommended before 12 months. Honey is a type of sugar, and like sugar, it is not necessary to add it to the complementary diet.
- **Processed meat products** such as polony, vienna, crumbed fish, chicken nuggets, beef patties or sausages. These may contain a little meat, are high in added fat, preservatives and salt.
- **Dairy that is raw and/or sweetened.** Raw milk, that is milk from a cow or goat that has not been boiled, pasteurised or heat treated; this is because heating removes the risk of disease transmission from the cow / goat, and because the heat treatment makes the protein digestible. Some yoghurt and some drinking milks are sweetened, rather give plain yoghurt and add fresh fruits.
- **Tea and coffee creamers, condensed milk or milk blends.** These products either contain none of the important nutrients from milk (protein, calcium, riboflavin), or do not have much of them. They are not designed for feeding

DO NOT COPY

N.S 6
003-123

infants and young children; they MUST NOT BE USED in place of breast milk or cow's milk.

- **Cold drinks, fruit juice, squashes, tea, coffee**. Fruit juice is high in sugar and does not contain the fibre that fresh fruit does. Fruit juice can lead to tooth decay, especially when it is used between meals. These drinks have a very low nutrient value. They may also take away their appetite, and then they will not eat enough food at meals.
- **Commercial snack foods** that have a low nutrient value, and possible high sugar, fat and salt content e.g. potato chips, maize chips, commercial popcorns, sweets, chocolate, biscuits, cake, rusks and biscuits.
- **Condiments/seasonings** that are high in salt such as stock cubes, spices, soup packets. Rather use flour or corn flour to thicken sauces and add herbs to flavour food.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

DO NOT COPY

N.S

Lunch Meat dish	3tbs- ¼ cup Pureed/ mashed/ blended	¼ cup	½ cup	Beef stew	Chicken livers in sauce	Bean and lentil stew	Pilchard fish	Macaroni and cheese
Starch dish		¼ cup	½ cup	Rice	Pap	Mealie rice	Mashed potatoes	
Vegetables		½ cup	1 cup	Cooked cabbage	Cooked morogo/spinach	Cucumber and tomato slices	Cooked carrots	Beetroot
Beverage	½ cup	As much as the child wants but not less than ½ cup	As much as the child wants but not less than 1 cup	Water	Water	Water	Water	Water
Afternoon snack	Soft/mashed/pureed ¼ fruit	Cut into pieces ½ -whole fruit	Cut into pieces ½ -whole fruit	Fruit	Fruit	Fruit	Fruit	Fruit

DO NOT

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

003-125
18/5/2025-12:55:48 PM

003-125
NOT

3.3 Grocery list to purchase for two weeks menu

- **Starch:** Maize meal, rice, mabele (sorghum), oats, samp, potatoes, macaroni, spaghetti, brown bread
- **Meats:** Beef stew meat, beef mince, chicken livers, chicken
- **Other proteins:** Beans, lentils, soy mince, pilchard fish, eggs, milk, cheese, peanut butter
- **Vegetables:** Morogo/ spinach, green beans, cabbage, beetroot, carrots, tomatoes, onions, cucumber, pumpkin, sweet potatoes,
- **Fruits:** Variety of fresh fruit in season
- **Fats / oils:** Margarine, cooking oil
- **Other:** Salt, herbs

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL, DIVISION,
PIETERMARITZBURG

3.4 Standardised recipes

A standardised recipe is a recipe that has been tried, tested and adapted for use in a food service. Standardised recipes should be used for preparing food. However, a lot of cooks in the ECD do not use standardised recipes, as they have cooked the same foods many times before. Standardised recipes, for all the dishes on the menu, are very useful to the person who has to work out the food budget and/or the shopping list. The standardised recipes are also useful if the regular cook is absent from work.

When recipes are used as stated the results will be ensured with regard to amount of food produced, and the quality of the food and minimising wastage. The standardised recipes used in this guidelines, provides list of ingredients, information on amount of ingredients and the method to follow to prepare the dish. Standardised recipes can be adapted to suit the needs of the facility, by adjusting preparation methods, ingredients or cooking times. Standardised recipes must be adapted for each programme, based on the number and ages of children that are served and depending on the cooking equipment available.

***Annexure C** provides a set of standardised recipes to be followed when preparing meals in ECD programmes.*

3.5 Purchasing procedures for groceries

The first step in the process of purchasing (buying) food is to work out **what you need and how much you need** of each item and this informed by the menu and the ingredient list on the recipes. Your shopping pattern will depend on where you get your food and how often you go for shopping.

It is best to work out a standard grocery list, based on your menu and quantities needed; and then to use this as a basis each week / month. **Adjustments** must be made to the grocery list where needed; some weeks you may need less food if there is a public holiday, or you may need less of one ingredient if you had a food donation.

COPY

You may substitute a menu item with another food from that food group, e.g. use cabbage when beetroot is not available or is too expensive.
The food that is bought must be good quality, so it is important that the person who goes to do the shopping knows how to check the quality of foods before buying.

3.6 Preparation tips

3.6.1 Meat, fish, chicken, liver, eggs

- Cheaper cuts of meat or packages of chicken may not be good value for money if they have a lot of bones and fat.
- When cooking meat choose a cooking method that is suited to the cut of meat, those that are likely to be tough should be cooked with a moist heat method.
- When meat and chicken are prepared ensure that they are cooked thoroughly to make sure that all the micro-organisms (bacteria) that may be present are destroyed.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA

3.6.2 Vegetables

- Prepare vegetables just before cooking; this will preserve taste and nutritional value.
- Do not leave vegetables to soak in water longer than needed, especially if they have already been peeled and cut. This is to prevent the nutrients from the vegetables leaking into the water.
- Scrape or peel very thinly, carrots, potatoes and sweet potatoes only if needed.
- Cut into equal sizes (blocks, circles, etc) to ensure even cooking and easy serving.
- When cooking vegetables only use a small amount of water. Allow the water to come to the boil before adding the vegetables. Bring to the boil again quickly, so as to keep the cooking time as short as possible.
- Do not add salt to the water before cooking has started. Only add near the end of the cooking time, and use very little salt.
- Do not use bicarbonate of soda in vegetables as it destroys vitamin C.
- Keep the lid on when boiling vegetables, this will help to keep the cooking time as short as possible.
- Boil vegetables until they are just tender.
- If frozen vegetables are used they must not be defrosted before cooking. Place them in boiling water and cook as fresh vegetables.
- Some vegetables may be baked in the oven. Butternut and pumpkin may be baked in their skin. Cut into convenient sizes slices when needed.
- Serve vegetables as soon as possible after they are cooked.

DSG COPY

3.6.3 Salads

- Ingredients should be cold and fresh.
- Wash vegetables and fruit well. Shake vegetable leaves to dry them.
- Salad dressing is usually added just before serving, unless stated otherwise in the recipe.
- Salads can be garnished (decorated) to make them look appetizing; e.g. this can be done with carrot curls, cucumber cones or slices, or tomato slices.

3.7 Cooking facilities

An ECD programme should have all the essential equipment that are needed for the storage, preparation, and serving of meals according to the menu; and to clean up after preparation and serving. The staff must be aware of the importance of avoiding cross contamination and legislation that controls food and the standards for hygiene. **Annexure D** depicts proposed equipment to be used in the ECD for meal preparation.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

DO NOT COPY

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

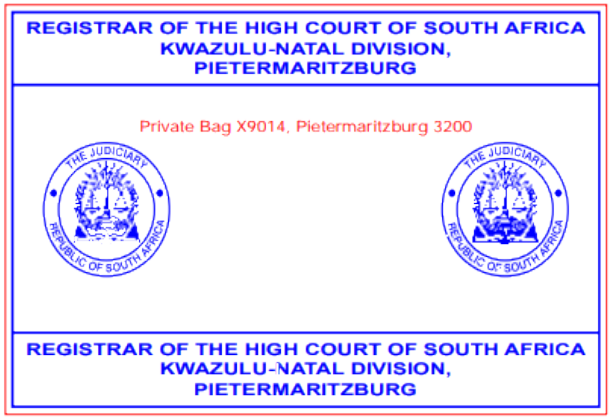
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 07

NOTE: **This document was filed electronically by the Registrar on 18/5/2025 at 12:56:13 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

LEGAL RESOURCES CENTRE

DURBAN OFFICE
11th Floor, Aquasky Towers,
275 Anton Lembede Street,
Durban, 4001
Tel: +27 31 301 7572
Fax: +27 31 304 2823
info@lrc.org.za

1 February 2024

TO: **MEMBER OF EXECUTIVE COUNCIL**
KZN DEPARTMENT OF EDUCATION
Ms Mbalenhle Frazer
Email: Zama.Mchunu2@kzndoe.gov.za

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

AND TO: **HEAD OF DEPARTMENT**
KZN DEPARTMENT OF EDUCATION
Mr Nkosinathi Ngcobo
Email: Nkosinathi.Ngcobo@kzndoe.gov.za

AND TO: **DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT**
KZN DEPARTMENT OF EDUCATION
Ms Thokozile Vilakazi
Email: Thokozile.vilakazi@kzndoe.gov.za

PER EMAIL

Dear Sirs/Mesdames,

RE: THE FAILURE TO MAKE ECD CONDITIONAL GRANT AND EQUITABLE SHARE PAYMENTS

1. We write on behalf of the KwaZulu Natal (KZN) ECD Alliance, an organisation representing approximately 150 ECD centres. The KZN ECD Alliance has approached our offices for legal assistance in respect of unpaid stipends to several ECD centres from the KZN Provincial Education Department (KZN PED).

2. We are advised that several members of the KZN ECD Alliance have between the period from August 2023 to date, either not received any, or only received part of, their ECD conditional grant payments. We are advised further that the KZN ECD alliance has communicated the non-payment to the KZN PED, who a) acknowledges instances of non-payment; b) has attempted to provide reasons for said non-payment; and c) in some cases, has committed to payment of the stipends, often however with no specific date.



3. We are advised further that payments of the outstanding amounts have been in part and intermittently. Some of the affected ECD centres received payment as recent as yesterday, 31 January 2024.

4. We have reviewed the Service Level Agreements (SLAs) of the some of the affected ECD centres and in terms of clause 5, the actions of the KZN PED in failing to issue Conditional Grant and Equitable Share payments to beneficiaries in respect of subsidisation of ECD programmes is in contravention of the SLA.

5. In addition to contravening the SLAs entered into between the affected ECD providers, the non-payment has an adverse impact on the rights of the ECD practitioners, the children and their parents. The very purpose of the stipend is to provide the necessary financial support to ECD providers that are serving the impoverished communities. It is unacceptable that the affected ECD centres have gone several months unable to pay staff, provide nutrition to the children and maintain the ECD centres.

6. The 2021 ECD census confirms that the ECD sector employs just under 200 000 people nationwide, 91% of whom are women, who form part of the

economically vulnerable communities they serve. The impact of non-payment is detrimental to the dedicated women at the forefront of providing ECD services. Additionally, and of significant concern, is the impact felt by the children who may not be receiving nutrition. Section 28(2) of the Constitution provides: "A child's best interests are of paramount importance in every matter concerning the child." For children who are reliant on ECD centres for nutrition, the payment of subsidies must be prioritised with the intention of fortifying their best interests.

7. We accordingly **urgently** request:

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

7.1. Payment of any and all outstanding monies due to the affected ECD centres in accordance with their respective SLAs **within 14 days, (i.e. on or before 21 February 2024)** accompanied by the requisite proof of payment, and

7.2. A list of the affected ECD centres that have not been paid in accordance with their SLAs within **7 days (i.e. on or before 12 February 2024).**

8. While we hope the issue will be resolved speedily and amicably, we hold instructions to approach the High Court for appropriate relief if our client's demands are not met.

Yours Faithfully,

SHENIECE LINDERBOOM
shenieece@lrc.org.za

N.S

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

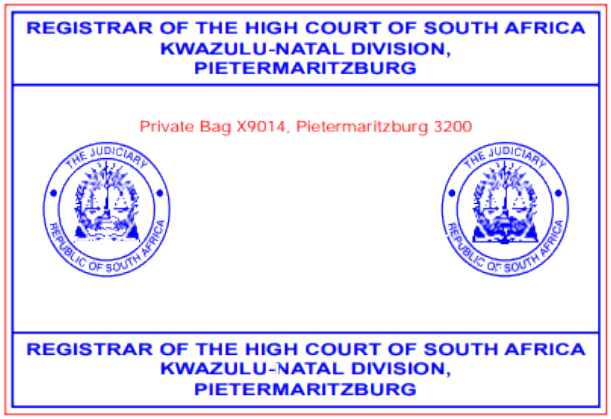
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 08

NOTE: **This document was filed electronically by the Registrar on 18/5/2025 at 12:56:44 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

FRIENDS OF SA ECD FORUM

NPO 199-522

P O Box 481724

Qualbert

4078

10 June 2024

Nkosinathi.sibisi@durban.gov.za

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Private Bag X9014, Pietermaritzburg 3200

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Attention:

Mrs K Mathe

228 Pietermaritz street

Pietermaritzburg

3201

Unfair Subsidy Practice

An Objection is hereby lodged with regards the above matter. As stipulated in Service Level Agreement and subject to Sections 78 and 93 of the Children's Act, 2005.

The above stated unfair practices and gross violations which are irregular and contra Bonos to the law, we plea that the process be held in abeyance with immediate effect because of the following reasons;

1. Funding Mechanism Criteria implemented is Ambiguous
2. No Comprehensive Consultation established with Stakeholders
3. Subsidy cuts without consultations

Notwithstanding FOSA Exco appeal for a round table meeting to discuss this thorny matter in Harmony and come up with collective enhancing solution.

Yours In Community Development

N Sibisi .....

10/06/2024

Executive Members President Mr N Sibisi 083 509 6864 Deputy President Mr Lawrence Mngomezulu 074 654 6135 Secretary SB Tembe 079 155 8382 Deputy Secretary Mr M Sibisi 074 409 4500 Treasure Ms SE Ntshangase 073 847 7202 Add members MrsT Zakwe 063 043 6110 Ms Z Ntuli 073 419 2520 Z Duma 073 526 8054 Coordinator Mr VC Gumede 082 810 7355

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

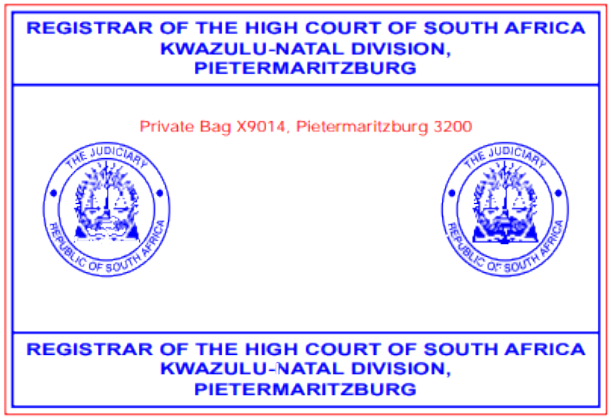
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 09

NOTE: **This document was filed electronically by the Registrar on 18/5/2025 at 12:58:29 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

DIRECTORATE: EARLY CHILDHOOD DEVELOPMENT

Private Bag X9137, PIETERMARITZBURG, 3200
Ex NED Building, 228 Pietermaritz Street, Pietermaritzburg 3200
Tel: 033 846 5204

Enquires: Nontobeko Zuma
Email: Nontobeko.Zuma@kzndoe.gov.za

Dear Mr Sibisi

President:

Friends of SA ECD Forum

RE: Unfair Subsidy Practice

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

1. Receipt of your correspondence regarding the ECD subsidy practice is acknowledged.
2. Please note that the Department of Education is currently planning to hold a meeting with the KZN ECD Alliance as a follow up to the meeting that took place in October 2023 as per the Alliance's request to the Head of Department.
3. The status of ECD and other developments will be discussed with stakeholders at the meeting.
4. The Meeting is scheduled as follows;
   a. Date : 05 July 2024
   b. Venue : Virtual Meeting (Teams Meeting ID wil be shared by the 2nd of July 2024)
   c. Time : 15h00
5. Kindly receive this communication as an extension of the meeting so that all ECD matters can be discussed in unison.

Kind regards

Mrs S.C. Zakuza – Njakazi
Chief Director: Curriculum Management

Date: 28/06/2024

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

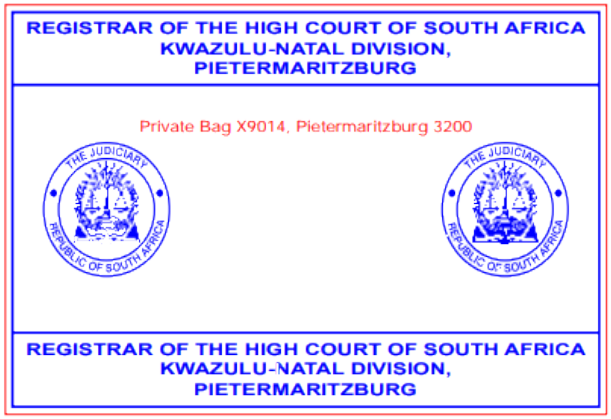
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 10

NOTE: **This document was filed electronically by the Registrar on 18/5/2025 at 1:00:03 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

KZN ECD ALLIANCE
UNITED FOR CHILD'S SAKE

OFFICE OF THE SECRETARY

AA28 Mugabe Road,Umlazi. C: 0655732396. E: sphehhadebe@gmail.com

09 July 2024

Chief Director

KZN Department of Education

Feedback from the Alliance on the Grievances Meeting

Dear Mrs. Njakazi

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

The KZN ECD Alliance expresses its gratitude for the meeting held on our request. However, after consulting with our members and stakeholders, we must inform you of our feedback and outline the action plan we intend to undertake.

The Alliance is dissatisfied with the conduct of the meeting and has noted several breaches by the Department. One significant issue was the inclusion of members from FOSA without prior consultation with us, despite our long-standing request for this meeting.

While we acknowledge that both our organizations are affected by the conduct of the KZN DOE and share mutual goals, the Department should have consulted and informed us about FOSA's participation. The meeting ultimately appeared to position the FOSA President as the representative of our organization, undermining our Chairperson, who received little acknowledgment from the Chair of the meeting.

Nevertheless, our primary concern lies elsewhere.

After consulting with our lawyers from the LRC and reviewing the meeting minutes, we hereby reject the meeting held on Friday, July 5th, as it failed to achieve its intended goals. We have the following specific points of contention:

1. While we acknowledge points C1 to C4, we strongly object to point C5 and condemn the unprofessional tone used by Mr. Ntanda, the Finance Director. This issue will be addressed in further detail later in this letter.

2. Mr. Ntanda's behavior demonstrated a lack of respect from the Department of Education KZN towards ECD Practitioners. It is particularly egregious that in the 30th year of our democracy, such disrespect comes from a black professional.

3. The Department's failure to provide an exact date for payment undermines ECD Practitioners in our province. It appears that only the ECD sector suffers due to financial constraints.

KZN ECD ALLIANCE
UNITED FOR CHILD'S SAKE

OFFICE OF THE SECRETARY

AA28 Mugabe Road,Umlazi. C: 0655732396. E: sphehhadebe@gmail.com

4. Although Mrs. Ntokozo Mlaba, Chief Director of Finance, indicated that schools also face financial challenges, school teachers have never missed a monthly payment. While financial constraints may impact nutrition and maintenance, salaries are consistently paid on time.

5. Following the meeting, a senior manager from the KZN DOE Head Office provided us with documents showing the Department's misuse of funds. This evidence, now in the hands of our lawyers, supports our claims.

6. The KZN DOE's mismanagement has led to a debt-ridden situation where funds from other services are used to cover debts, resulting in the suffering of the ECD sector. Despite this, district and head office officials receive their salaries on time.



7. We have attached this evidence to our submission to the MEC of Finance, Mr. Francois Rodgers, and will use it to strengthen our case. We also intend to notify the Premier while consulting with political parties in the Legislature.

8. We are planning a mass protest march and are finalizing whether it will be directed to the KZN DOE Head Office, the Premier, or the Legislature. We have noted the Deputy Minister of Education's swift response to the Nutrition protests and plan to follow protocol in our actions.

9. The Department of Education KZN has violated constitutional laws by failing to pay ECD workers their salaries. According to the Service Level Agreement, Clause 4 and 5, payments must be made within 30 days of claim submission and approval. If there are delays, communication in writing is required. Mr. Ntanda's actions during the meeting contradicted this clause, as he rudely objected to communicating with the Alliance as the Union.

10. We believe that the Head Office can issue a circular to the Districts while attaching it to the Unions. As leaders of the KZN ECD Workforce, communication with us is vital.

ECD Practitioners are currently considering downing tools and protesting, which will impact the economy. No one should be expected to work without pay.

We request a response from the Department within two days.

Sincerely

Sphesihle Hadebe

Secretary

003-143

KZN ECD ALLIANCE
UNITED FOR CHILD'S SAKE

OFFICE OF THE SECRETARY

AA28 Mugabe Road,Umlazi. C: 0655732396. E: sphehhadebe@gmail.com

KZN ECD ALLIANCE

DATE SIGNED 09/07/2024

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

N. 3

003-144

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

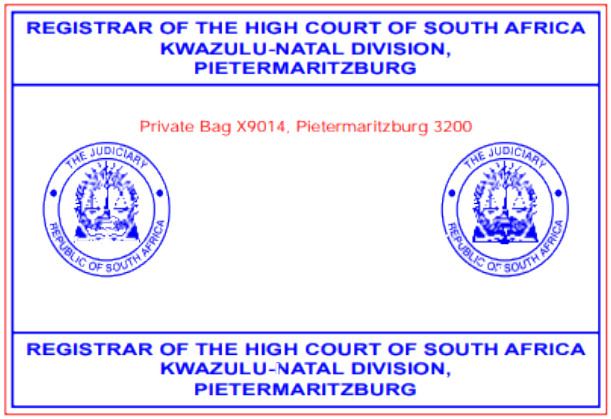
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 11

NOTE: **This document was filed electronically by the Registrar on 18/5/2025 at 1:00:38 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

CHIEF DIRECTORATE: CURRICULUM MANAGEMENT

Private Bag X9137, PIETERMARITZBURG, 3200
Room 325 Ex NED Building, 228 Pietermaritz Street, Pietermaritzburg, 3201
Tel: 033 846 5130/45

Chief Directorate: Curriculum Management
Enquiries: SC. Zakuza-Njakazi
Email: szakuza@gmail.com / beryl.khama@kzndoe.gov.za

TO : KZN ECD ALLIANCE

FROM : MRS SC ZAKUZA-NJAKAZI
CHIEF DIRECTOR: CURRICULUM MANAGEMENT

RE : FEEDBACK FROM THE ALLIANCE ON THE GRIEVANCE MEETING

1. The above matter has reference.
2. The chief Directorate acknowledges receipt of your letter.
3. The Chief Directorate apologizes for the oversight done by the administration team in extending an invite to FOSA, this was done as explained during the meeting to assist in the issue of time and due to matters of discussion being similar. This is part of the departments wish to have open communication with external stakeholders.
4. The issues raised as points of contention are noted and have been forwarded to finance for response. The Chief Directorate commits to working with ECD for the benefit of Quality Education for our children, as agreed in the meeting, the doors are open for addressing issues that may arise in the process of mitigating the challenges faced by the ECD sector.
5. Also as per the agreement during the meeting that consultation with specialist such as finance may be sort on other issues which curriculum is unable to assist with, therefore please allow for Finance Directorate time to respond to the matters raised.
6. We again are apologetic for further grievances.

Regards

Mrs SC Zakuza-Njakazi
Chief Directorate: Curriculum Management
Date: 11 July 2024

003-147

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

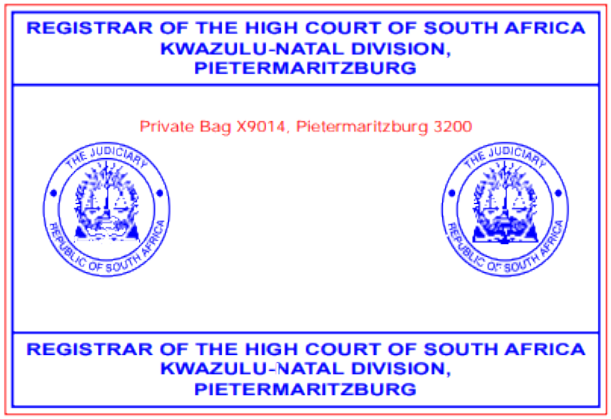
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 12

NOTE: **This document was filed electronically by the Registrar on 18/5/2025 at 1:01:08 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

I hope will receive a palatable Nuance.

Regards
Fosa President.
N Sibisi

From: Nkosinathi Sibisi
Sent: Monday, 22 July 2024 07:16
To: 'Sindi Zakuza' <Sindi.Zakuza@kzndoe.gov.za>; 'Nkosinathi Ngcobo' <Nkosinathi.Ngcobo@kzndoe.gov.za>; 'Lalsingh Rambaran' <Lalsingh.Rambaran@kzndoe.gov.za>; 'Niroshni Moonsamy' <Niroshni.Moonsamy@kzndoe.gov.za>
Cc: 'Ntokozo Gumede' <Ntokozo.Gumede@kzndoe.gov.za>; 'Mr Vela Cecil Gumede' <sawelamakhosazana333@gmail.com>; 'Nontobeko Zuma' <Nontobeko.Zuma@kzndoe.gov.za>; 'Yolande Mtshali' <Yolande.Mtshali@kzndoe.gov.za>; 'Thami Ntanda' <Thami.Ntanda@kzndoe.gov.za>
Subject: subsidy Disbursement dates

Good Morning Colleagues

Kindly find the attachments attesting disbursement dates thus we cannot stay composed, nevertheless it will moreover dispel a myth pertaining our disagreements.

Regards
Fosa President
N Sibisi

From: Nkosinathi Sibisi
Sent: Friday, 19 July 2024 07:50
To: Sindi Zakuza <Sindi.Zakuza@kzndoe.gov.za>; Nkosinathi Ngcobo <Nkosinathi.Ngcobo@kzndoe.gov.za>; Lalsingh Rambaran <Lalsingh.Rambaran@kzndoe.gov.za>; Niroshni Moonsamy <Niroshni.Moonsamy@kzndoe.gov.za>
Cc: Ntokozo Gumede <Ntokozo.Gumede@kzndoe.gov.za>; Mr Vela Cecil Gumede <sawelamakhosazana333@gmail.com>; Nontobeko Zuma <Nontobeko.Zuma@kzndoe.gov.za>; Yolande Mtshali <Yolande.Mtshali@kzndoe.gov.za>; Thami Ntanda <Thami.Ntanda@kzndoe.gov.za>
Subject: RE: Equitable share for June 2024

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION

Morning Lalsingh

Hereunder trailing mail refers your swift attention,

Nontobeko your correspondence is noted in Mrs Zakuza-Njakazi's absentia, I will however scan an email the S.L.A indicating disbursement dates, [redacted] and equitable share.

Regards
N Sibisi

From: Nontobeko Zuma <Nontobeko.Zuma@kzndoe.gov.za> **On Behalf Of** Sindi Zakuza
Sent: Thursday, 18 July 2024 15:49
To: Nkosinathi Sibisi <NKOSIKAYIKHETHI.Sibisi@durban.gov.za>; Sindi Zakuza <Sindi.Zakuza@kzndoe.gov.za>; Nkosinathi Ngcobo <Nkosinathi.Ngcobo@kzndoe.gov.za>
Cc: Ntokozo Gumede <Ntokozo.Gumede@kzndoe.gov.za>; Mr Vela Cecil Gumede <sawelamakhosazana333@gmail.com>; Nontobeko Zuma <Nontobeko.Zuma@kzndoe.gov.za>; Yolande Mtshali <Yolande.Mtshali@kzndoe.gov.za>; Thami Ntanda <Thami.Ntanda@kzndoe.gov.za>
Subject: RE: Equitable share for June 2024

Good day Sibisi

Can we refer the matter to Finance and allow them time to respond on the matter, as ECD does not have the said information at their disposal at this moment.

Regards
Nontobeko Zuma

Sent on behalf of Ms SC Zakuza-Njakazi

From: Nkosinathi Sibisi <NKOSIKAYIKHETHI.Sibisi@durban.gov.za>
Sent: Thursday, 18 July 2024 09:30
To: Sindi Zakuza <Sindi.Zakuza@kzndoe.gov.za>; Nkosinathi Ngcobo <Nkosinathi.Ngcobo@kzndoe.gov.za>
Cc: Ntokozo Gumede <Ntokozo.Gumede@kzndoe.gov.za>; Mr Vela Cecil Gumede <sawelamakhosazana333@gmail.com>
Subject: Equitable share for June 2024

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good Morning Mrs Zakuza-Njakazi

I am just doing a follow-up regarding the above subject, I however comprehend your swamped schedule. If I stimulate my memory, all equitable share Ecds were supposed to receive their subsidies on the 15th of June 2024, as significantly stipulated and prescriptive according to the service level agreement circulated to us.

Regards
N Sibisi
Fosa President

Please read this confidentiality disclaimer:

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

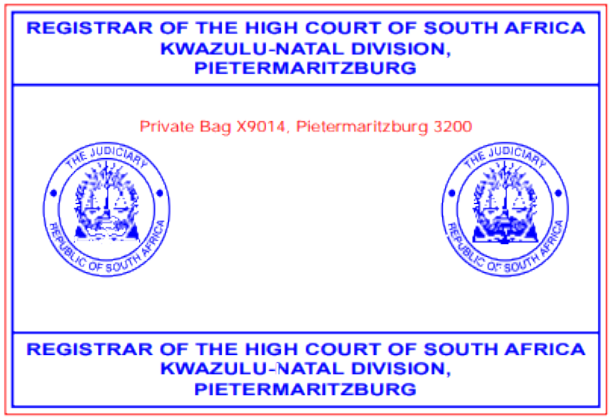
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 13

NOTE: **This document was filed electronically by the Registrar on 18/5/2025 at 1:01:36 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

Outlook

FW: subsidy

From Nkosinathi Sibisi <NKOSIKAYIKHETHI.Sibisi@durban.gov.za>
Date Wed 21 Aug 2024 08:41
To Sheniece Linderboom <sheniece@lrc.org.za>
Cc Kiara Govender <Kiara@lrc.org.za>

Morning Colleagues

Kindly find the below response from Doe.

Regards
N Sibisi



From: Thami Ntanda <Thami.Ntanda@kzndoe.gov.za>
Sent: Friday, 16 August 2024 23:13
To: Nkosinathi Sibisi <NKOSIKAYIKHETHI.Sibisi@durban.gov.za>
Subject: Re: subsidy

Dear President

I acknowledge receipt of your below email.
We sincerely apologise for the delay in the timely release of ECD payments.
The department is doing its utmost to secure sufficient funding to cover at least May and June's equitable share by next week, while also exploring the possibility of establishing and communicating potential payment dates as requested by the ECD associations.
I will update you by Thursday, Aug 22, on the progress in this regard, indicating the category of payment we will be able to release by then. I would kindly request that this be treated as just the update exclusively meant for the consumption of leadership for now, as it is still speculative, and only be shared with the general membership by Thursday once confirmed and becomes more credible.
I will ensure that regular updates, are provided on this matter going forward so that the leadership knows in advance what is going to happen with regard to payments more especially during this difficult phase the department is going through.
I trust that you will find this in order.

Best Regards,
Thami Ntanda

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

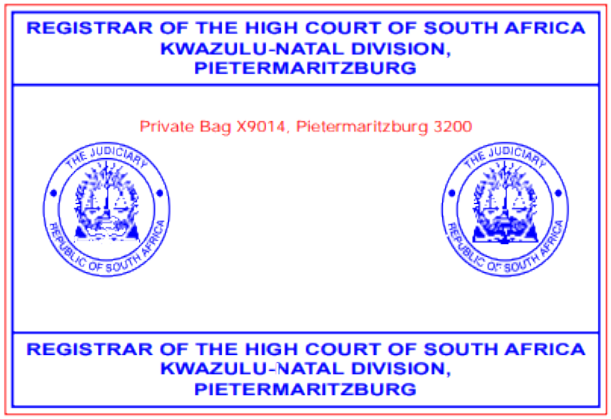
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 14

NOTE: **This document was filed electronically by the Registrar on 22/5/2025 at 4:34:41 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

MEMORANDUM OF DEMANDS FROM ECD CENTRES

FROM	TO
FRIENDS OF SA ECD FORUM	DEPARTMENT OF BASIC EDUCATION



N.S
NDM
003-156

NOTE

WE DEMAND THAT OUR DEMANDS BE ESCALETED TO THE HIGHEST ACCOUNTING OFFICER AND POLITICIANS FOR THIS MESS IN THE ECD SECTOR, **AS FROM THE 1ST OF APRIL 2022 WHEN DEPARTMENT OF EDUCATION TOOK OVER FROM DEPARTMENT OF SOCIAL DEVELOPMENT.**

PREAMBLE

Children's charter is clear on the following

Children's rights and responsibilities

In any society, it is very important that children are protected and cared for. Children are vulnerable members of society. South African Bill of rights states that children have special rights which include the right to "special care and assistance".

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

The United Nations drew up the Convention of the rights of the child so South Africa is not alone in recognising that children's right must be protected. South Africa and further 191 countries have signed this document.

All children are created equal and are entitled to basic human rights and freedom and that all children deserve respect and special care and protection as they develop and grow.

But we are still noting with contempt that

Within South Africa, children have not been treated with respect and dignity, but as a direct result of Apartheid have been subjected to discrimination, violence and racism that has destroyed families and communities and has disrupted education and social relationships hence the difference of treatment amongst children of different races and their **Basic Education Especially in the ECD Sector.**

South African constitution is also clear on the following

Education rights are contained in section 29 of the South African Constitution. In terms of section 29 **everyone has the right to a basic education, including adult basic education; (1)** and to further education, which the state, through reasonable measures, must make progressively available and accessible.

The Provision of the Right to Basic Education

In understanding the provision of the right to basic education, we should be guided by the preamble of the Constitution, which gives purpose and meaning to the Constitution. It states that the task ahead is to.

Heal the division of the past and establish a society based on democratic values, social justice and fundamental rights and improve the quality of life of all citizens and free the potential of each person.

Also important in defining the meaning of the rights to education is the international Covenant on Economic, Social and Cultural rights (ICESCR). This is arguably the most significant international convention, which recognises the right of everyone to education. Although not ratified by South Africa, it can be used to guide South Africa's relatively young socio-economic rights jurisprudence.

General Comment No 13 published by the Committee on Social, Economic and Cultural rights (CESCR) States that while the exact standard protected by the right may vary according to conditions prevailing in a particular State, education in all its forms and at all levels shall exhibit the following interrelated and essential features: availability, accessibility, acceptability and adaptability.

Availability- functioning educational institution must be available to all leaners. This entails the provision of buildings, sanitation facilities for both sexes, teaching material, libraries, computer facilities and access to the internet

Accessibility- has three overlapping dimensions: non-discrimination. Physical accessibility and economic accessibility; meaning education must be affordable, within safe physical reach, and must be grated on a non-discriminative basis.

Acceptability- the form and substance of education, including curricula and teaching methods have to be acceptable. This refers to the relevance appropriateness and quality of education, subject to educational objectives required.

Adaptability- education has to be flexible so it can adapt to societal changes and respond to the needs of learners within their diverse social and cultural settings.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

On the basis of the preamble above as The South African ECD Sector we therefore demand the following.

1 Promptness of subsidy payments to all ECD Centre's which are due, for ECD Centre's to be able to perform their duties effectively and efficiently.

2 Clear mandate and functions of DOE in the ECD Sector to be communicated and known by all parties envolved.

3 Speedy funds transfer to Equitable Share ECD Centre's

4 Speedy registration of ECD Centre's for Partial Care and Programme Certificates. **These are South African children in those centres and are the custodians/beneficiaries of Children's right as per South African Constitution.**

5 Primary school's need to stop this illegal practices of enrolling children who are 3-4 Years into Primary School, since these school are not built to accommodate these children, and the teachers are not trained to handle the children of this age.

6 Registered but not funded ECD Centre's to receive the funding speedily, for ECD Centre's to be able to perform their duties effectively and efficiently.

7 All children are equal in the eyes of the State, therefore all ECD Practitioners have to be at the same level of imparting education to all children in front of them, so training of all Practitioners is imperative and urgent.

8 Communication with the ECD Centre's through circulars and HRM's is very important, as a standard measure of communication, which keeps everyone up to date with information.

9 We demand the review of stipends and to be in accordance with National minimum wage of R23.19 per hour therefore R3500

003-158

Email: nkosinathi.sibisi@durban.gov.za

Signature

Received By: ELIJAH MHLANGA
BASIC EDUCATION, PRETORIA
Department of ~~Education Zululand District~~

1 Name/Surname: MHLANGA
Portfolio CHIEF DIRECTOR PSR COMMUNICATIONS
Contact number 0835808275
Email MhlangaE@edbe.gov.za
Signature

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

2 Name/Surname

Portfolio

Contact number

Email

Signature

10 ECD Centre workers deserve better working conditions and benefits since they are doing an important service in the Country by educating and looking after children. The ECD Sector staff demand the following benefits;

- UIF
- Provident fund
- Compensation fund

11 School and other centres of learning are built by DOE, why the ECD Centre's have to go through such an agonizing and expensive process trying to make centre's to comply? Should it not be the same Department which does that? We need clear answers!

12 DOE from National, Provincial, District, Circuit level need to create a platform where all matters affecting the Sector are discussed and solved there.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

13 The ECD sector and its workers should be involved in the 2030 Strategic plan that is already in place, because the ECD Sector is not involved and there were no engagements with the sector or consultations with the Sector, **We have a slogan nothing for us without us.**

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

14 The Department of Basic Education should differentiate between the Pre Grade R and Grade R on the budget and Pre Grade R should be considered on the allocation of budget and be specific to Pre Grade R.

15 Department of Basic Education at all levels should employ staff in the ECD Directorate, who knows and understand the ECD Sector and to provide them with working resources like office computers, laptops, phones, vehicles etc.

16 We demand consistency in funding, No discrimination according to what powers that see it fit. Number of subsidy days be 264 days in all ECD Centre's

Issued By:

Friends of SA ECD Forum

1 Name/Surname: Sibusiso Tembe

Portfolio: Protest March Convener

Contact number 079 155 8382

Email: sibusisotembe0720@gmail.com

Signature:

2 Name/Surname: Nkosikayikhethi Sibisi

Portfolio: Protest March Deputy Convener

Contact number 066 078 4740/ 083 509 6864

003-160

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

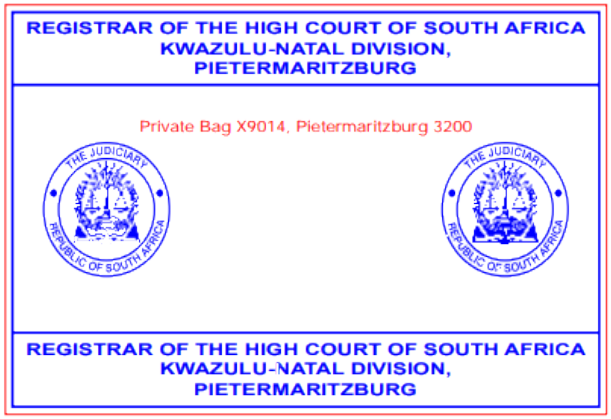
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 15

NOTE: **This document was filed electronically by the Registrar on 18/5/2025 at 1:04:09 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

CHIEF DIRECTORATE: CM

Private Bag X9137, PIETERMARITZBURG, 3200
Room 325 Ex NED Building, 228 Pietermaritz Street, Pietermaritzburg, 3201
Tel: 033 846 5130/45

Chief Directorate: Curriculum Management
Enquiries: SC. Zakuza-Njakazi
Email: szakuza@gmail.com /
beryl.khama@kzndoe.gov.za

TO : **KZN ECD ALLIANCE**

: **FOSA**

SUBJECT: QUARTERLY MEETINGS-PROVINCIAL INTERGRATED ECD COMMITTEE

1. Firstly, I would like to apologize for the cancellation of the previously scheduled meeting.
2. Your attention is being brought to the meetings already in standing that are held on a quarterly basis, the meeting being referred to is that of the Provincial Intergrated ECD Committee Meeting.
3. The challenge with having one on one meetings is that it can lead to duplication of discussion of issues that are also discussed at Provincial Integrated ECD Committee Meeting that can be assisted by having all stakeholders on board.
4. The next meeting is tentatively scheduled for 29th of November 2024.
5. The advantage of the meeting with all stakeholders is that issues that cut across Departments/Municipalities are then handled with quicker responses.
6. The meeting consists of Departments such as Health and other authorities which assists with issues of registration,such as Social Development ,Department of Agriculture,Sport and Arts & culture as well all ECD sector members.
7. The steering committee is mandated by the KwaZulu Natal Cabinet.
8. The Provincial Intergrated ECD Committee services shall be convened on a quarterly basis.
9. All stakeholders are requested to refer to the terms of reference for the provincial Intergrated ECD Committee for further details.
10. Your co-operation in having the Provincial Intergrated Committee being priority will be highly appreciated.

Mrs SC Zakuza-Njakazi
CD:Curriculum Management
Date : 10 October 2024

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

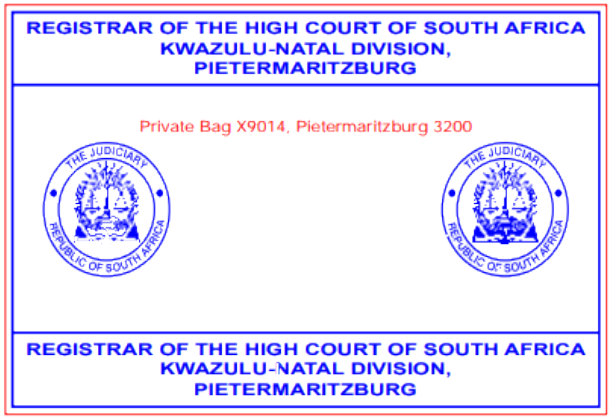
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 16 and More

NOTE: **This document was filed electronically by the Registrar on 18/5/2025 at 1:05:03 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

Shenieceˍ Linderboom

From: Nkosinathi Sibisi <NKOSIKAYIKHETHI.Sibisi@durban.gov.za>
Sent: Thursday, 17 October 2024 14:56
To: Shenieceˍ Linderboom
Cc: Kiara Govender
Subject: FW: COURTESY LETTER AND NATIONAL Doe

Good Day Colleagues

For your information.

Regards
N Sibisi

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

From: Nkosinathi Sibisi
Sent: Thursday, 17 October 2024 14:38
To: mhlanga.e@dbe.gov.za
Cc: Mr Vela Cecil Gumede <sawelamakhosazana333@gmail.com>; khubaluthuli@gmail.com
Subject: COURTESY LETTER AND NATIONAL Doe

HONOURABLE Mr Elijah Mhlanga

I hope this mail will find you in good health.

We as FOSA Exco members, submitted memorandum on the 11th of September 2024, where we prescriptively registered our dissatisfaction pertaining the functionality of your ministry.

Therefore, We are doing a follow-up, since you have acknowledged receipt of our memorandum and proclaimed that, matters raised will be attended within 14 working days.

Furthermore 14 days has lapsed, in addition Exco members collectively agreed to write the courtesy letter in order to maintain and demonstrate professionalism, henceforth there is no communique between your ministry and FOSA

Regards
N Sibisi
FOSA President
083 509 6864

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

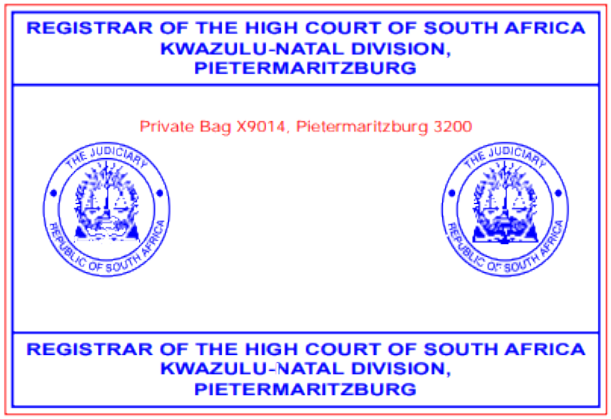
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 16 and More

NOTE: **This document was filed electronically by the Registrar on 22/5/2025 at 4:35:20 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

"NS17" 003169
22/5/2025 4:35:20 PM

LRC
LEGAL RESOURCES CENTRE

DURBAN OFFICE
1st Floor, CBI Building,
635 Peter Mokaba Road,
Overport, Durban, 4001

Tel: +27 31 301 7572
Fax: +27 31 304 2823

info@lrc.org.za

29 October 2024

Mr Sipho Emmanuel Hlomuka

KwaZulu Natal Department of Basic Education: MEC

By Email:

nonkuleleko.nembula@kzndoe.gov.za

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Dr Nkosinathi Ngcobo

KwaZulu Natal Department of Basic Education: HOD

By Email:

nkosinathi.ncgobo@kzndoe.gov.za

Mrs T Vilakazi

KwaZulu Natal Department of Basic Education: Director of Early Childhood Development

By Email:

thokozile.vilakazi@kzndoe.gov.za

ntokozo.gumede@kzndoe.gov.za

Honourable Siviwe Gwarube

Minister of Basic Education

By Email:

sgwarube@parliament.gov.za

Dr Duncan Pieterse

Director-General: National Treasury.

By Email:

duncan.pieterse@treasury.gov.za

lindiwe.mnisi@treasury.gov.za

Ms Carol Coetzee

KwaZulu Natal Treasury

By Email:

carol.coetzee@kzntreasury.gov.za

thulile.ndlovu@kzntreasury.gov.za



Dear Sirs/Mesdames,

RE: IRREGULAR PAYMENT PRACTICES FOR EARLY CHILDHOOD DEVELOPMENT (ECD) EQUITABLE SHARE AND CONDITIONAL GRANT SUBSIDIES

1. We act for the Friends of South Africa ECD Forum (FOSA) and the KwaZulu-Natal (KZN) ECD Alliance, organisations that represent approximately 500 and 600 ECD centres in KZN, respectively.

2. Both organisations have independently approached our offices for legal assistance in respect of irregular payment practices by the KZN Provincial Education Department (KZNDoE), in the context of ECD equitable share and conditional grant payments.

3. We are advised that approximately 130 ECD centres represented by our clients have between the period from August 2023 to date, received irregular or inconsistent monthly payments, and currently have outstanding payments owed to them.

4. The South African government has committed to supporting ECD through various policies and frameworks, such as the National Development Plan 2030, where government has committed to providing universal access to ECD by 2030 and the National Integrated Early Childhood Development Policy of 2015 (NIECDP), where ECD is recognised as a fundamental and universal human right that all young children are entitled to without discrimination. The NIECDP further emphasises that ECD is central to achieving broader societal benefits such as reducing poverty and inequality, and that government is mandated and obligated to ensure the provision of ECD services.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

5. We are further advised that both organisations have communicated these irregularities to the KZNDoE on numerous occasions, which in turn has:

   5.1. Acknowledged instances of non-payment;

   5.2. Not provided clear, substantiated or rational reasons for the non-payment; or

   5.3. Committed to the payment of outstanding stipends — often on an unspecified date.

6. The centres expect and require payment of stipends on a specified date in accordance with the Transfer Payment Agreements (TPAs) entered into between

the KZNDoE and the beneficiary centre. Should these dates elapse without the requisite payments, our clients immediately call for payment due to the urgency created in centres as a result of insufficient funds.

7. Examples of the enquiries with the KZNDoE include:

7.1. On 1 February 2024, the LRC wrote on behalf of the KZN ECD Alliance to request payment of the outstanding monies and details of the ECD centres affected. No response was received. A copy of the letter is attached as **Annexure A**.



7.2. On 10 June 2024, FOSA wrote to the KZNDoE noting the unfair stipend practice, this being in violation of both TPA and the Children's Act and requested a meeting. A copy of the letter is attached as **Annexure B**. The KZNDoE responded in a letter dated 28 June 2024 noting that it was planning a meeting with the KZN ECD Alliance on 5 July 2024 and inviting FOSA to attend. A copy of this letter is attached as **Annexure C**.

7.3. On 9 July 2024 the KZN ECD Alliance wrote to the KZNDoE noting its dissatisfaction with the responses received from the KZNDoE officials at the meeting of 5 July 2024, which included a refusal to provide a deadline for the payment of outstanding monies and an attempt to justify the non-payment by citing similar financial constraints that are prevalent in schools. KZN ECD Alliance further requested details on why the stipends had not been paid and when the stipends would be paid. A copy of this letter is attached as **Annexure D**. On 11 July 2024, the KZNDoE responded noting that the correspondence had been forwarded to the Finance Directorate for a response. A copy of the letter is attached as **Annexure E**.

7.4. In an email sent on 18 July 2024, FOSA queried the issue of outstanding equitable share subsidies that, in terms of the TPAs, should have been paid on 15 June 2024. In reply, the KZNDoE informed FOSA that the matter would be referred to Finance for a response, as they did not have information on the cause of the delayed payments. A copy of the email is attached as **Annexure F**.

7.5. On 16 August 2024 the KZNDoE responded wherein an apology was tendered for the delayed payment. The email also stated that the KZNDoE was "*doing its utmost to secure sufficient funding to cover at least May and June's equitable share by next week, while also exploring the possibility of establishing and communicating potential payment dates as requested by the ECD associations*". The KZNDoE committed to providing an update on progress by 22 August 2022, including a promise of continued updates on the matter. A copy of this email is attached as **Annexure G**.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

7.6. Despite promises to provide updates, to date, none have been provided. There are still several ECD centres that have not been paid in full.

7.7. Most recently, on 11 September 2024, FOSA together with approximately 450 ECD practitioners from Kwa-Zulu Natal, Mpumalanga and Eastern Cape, participated in an organised gathering outside of the Department of Basic Education office in Pretoria. A memorandum was handed to Mr Elijah Mahlanga, the Chief Director of Communications. A copy of the memorandum is attached as **Annexure H**.

8. The impact of non-payment of the stipends on the ECD centres is dire. We have been advised that circumstances have caused tension within the communities

where the ECD centres are based and the following incidents have been reported, including but not limited to:

8.1. Threats to the principals of the ECD centres from staff where the principals are unable to pay staff their monthly salaries.

8.2. Principals taking personal loans to buy food to provide children with their meals.

8.3. Principals asking the parents to send food to the centres for the children. In cases where the parents are unemployed and living on social grants this is often not feasible, leaving many children to go hungry.



9. Most importantly, the failure to pay or the inconsistency of payment, has a detrimental effect on the long-term development of children whose rights ultimately fail to be realised.

10. The exchange of correspondence demonstrates that the KZNDoE is aware that ECD centres are operating without receiving the stipends that are due to them. Despite this, the KZNDoE has failed to offer substantiated reasons for the non-payment.

11. We reiterate that the non-payment of the stipends is not only a contravention of the signed TPAs, but that it also has a significant adverse impact on the ECD centres that the stipend is intended to support. This in turn impacts the most vulnerable members of society — women and children.

12. We have thus been instructed to demand, as we hereby do:

003-174

12.1. A list of all ECD centres in KZN that have not received their full stipend, reflecting the names of the centre, the location of the centre, the last known payment made to the centre, and the total outstanding amount owing to each ECD centre.

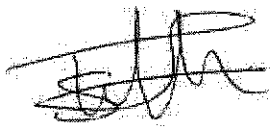
12.2. Written confirmation, **on or before 15 November 2024**, that payment of any and all outstanding monies due to the affected ECD centres in accordance with their respective TPAs, insofar as the KZNDoE is required to make these payments, will be made **on or before 29 November 2024**.

12.3. Written reasons, **on or before 15 November 2024**, why the stipends were not paid, and the steps that will be taken to ensure that the non-payment of stipends does not recur.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

13. While we hope the issue will be resolved speedily and amicably, we hold instructions to approach the High Court for appropriate relief if our clients' demands are not met.

Yours Faithfully,



SHENIECE LINDERBOOM

sheniece@lrc.org.za / 031 301 7572

LEGAL RESOURCES CENTRE

DURBAN OFFICE
11th Floor, Aquasky Towers,
275 Anton Lembede Street,
Durban, 4001
Tel: +27 31 301 7572
Fax: +27 31 304 2823
info@lrc.org.za

Annexure A

1 February 2024

TO: **MEMBER OF EXECUTIVE COUNCIL**
KZN DEPARTMENT OF EDUCATION
Ms Mbalenhle Frazer
Email: Zama.Mchunu2@kzndoe.gov.za



AND TO: **HEAD OF DEPARTMENT**
KZN DEPARTMENT OF EDUCATION
Mr Nkosinathi Ngcobo
Email: Nkosinathi.Ngcobo@kzndoe.gov.za

AND TO: **DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT**
KZN DEPARTMENT OF EDUCATION
Ms Thokozile Vilakazi
Email: Thokozile.vilakazi@kzndoe.gov.za

PER EMAIL

Dear Sirs/Mesdames,

RE: THE FAILURE TO MAKE ECD CONDITIONAL GRANT AND EQUITABLE SHARE PAYMENTS

1. We write on behalf of the KwaZulu Natal (KZN) ECD Alliance, an organisation representing approximately 150 ECD centres. The KZN ECD Alliance has approached our offices for legal assistance in respect of unpaid stipends to several ECD centres from the KZN Provincial Education Department (KZN PED).

2. We are advised that several members of the KZN ECD Alliance have between the period from August 2023 to date, either not received any, or only received part of, their ECD conditional grant payments. We are advised further that the KZN ECD alliance has communicated the non-payment to the KZN PED, who a) acknowledges instances of non-payment; b) has attempted to provide reasons for said non-payment; and c) in some cases, has committed to payment of the stipends, often however with no specific date.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

3. We are advised further that payments of the outstanding amounts have been in part and intermittently. Some of the affected ECD centres received payment as recent as yesterday, 31 January 2024.

4. We have reviewed the Service Level Agreements (SLAs) of the some of the affected ECD centres and in terms of clause 5, the actions of the KZN PED in failing to issue Conditional Grant and Equitable Share payments to beneficiaries in respect of subsidisation of ECD programmes is in contravention of the SLA.

5. In addition to contravening the SLAs entered into between the affected ECD providers, the non-payment has an adverse impact on the rights of the ECD practitioners, the children and their parents. The very purpose of the stipend is to provide the necessary financial support to ECD providers that are serving the impoverished communities. It is unacceptable that the affected ECD centres have gone several months unable to pay staff, provide nutrition to the children and maintain the ECD centres.

6. The 2021 ECD census confirms that the ECD sector employs just under 200 000 people nationwide, 91% of whom are women, who form part of the

economically vulnerable communities they serve. The impact of non-payment is detrimental to the dedicated women at the forefront of providing ECD services. Additionally, and of significant concern, is the impact felt by the children who may not be receiving nutrition. Section 28(2) of the Constitution provides: "A child's best interests are of paramount importance in every matter concerning the child." For children who are reliant on ECD centres for nutrition, the payment of subsidies must be prioritised with the intention of fortifying their best interests.

7. We accordingly **urgently** request:

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

7.1. Payment of any and all outstanding monies due to the affected ECD centres in accordance with their respective SLAs **within 14 days**, **(i.e. on or before 21 February 2024)** accompanied by the requisite proof of payment; and

7.2. A list of the affected ECD centres that have not been paid in accordance with their SLAs within **7 days (i.e. on or before 12 February 2024).**

8. While we hope the issue will be resolved speedily and amicably, we hold instructions to approach the High Court for appropriate relief if our client's demands are not met.

Yours Faithfully,

SHENIECE LINDERBOOM
sheniece@lrc.org.za

FRIENDS OF SA ECD FORUM

NPO 199-522

P O Box 481724

Qualbert

4078

10 June 2024

Nkosinathi.sibisi@durban.gov.za

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Attention:

Mrs K Mathe

228 Pietermaritz street

Pietermaritzburg

3201

Unfair Subsidy Practice

An Objection is hereby lodged with regards the above matter. As stipulated in Service Level Agreement and subject to Sections 78 and 93 of the Children's Act, 2005.

The above stated unfair practices and gross violations which are irregular and contra Bonos to the law, we plea that the process be held in abeyance with immediate effect because of the following reasons;

1. Funding Mechanism Criteria implemented is Ambiguous
2. No Comprehensive Consultation established with Stakeholders
3. Subsidy cuts without consultations

Notwithstanding FOSA Exco appeal for a round table meeting to discuss this thorny matter in Harmony and come up with collective enhancing solution.

Yours In Community Development

N Sibisi .....

10/06/2024

Executive Members President Mr N Sibisi 083 509 6864 Deputy President Mr Lawrence Mngomezulu 074 654 6135 Secretary SB Tembe 079 155 8382 Deputy Secretary Mr M Sibisi 074 409 4500 Treasure Ms SE Ntshangase 073 847 7202 Add members MrsT Zakwe 063 043 6110 Ms Z Ntuli 073 419 2520 Z Duma 073 526 8054 Coordinator Mr VC Gumede 082 810 7355

Annexure C

KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

DIRECTORATE: EARLY CHILDHOOD DEVELOPMENT

Private Bag X9137, PIETERMARITZBURG, 3200
Ex NED Building, 228 Pietermaritz Street, Pietermaritzburg 3200
Tel: 033 846 5204

Enquires: Nontobeko Zuma
Email: Nontobeko.Zuma@kzndoe.gov.za

Dear Mr Sibisi

President:

Friends of SA ECD Forum

RE: Unfair Subsidy Practice

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

1. Receipt of your correspondence regarding the ECD subsidy practice is acknowledged.
2. Please note that the Department of Education is currently planning to hold a meeting with the KZN ECD Alliance as a follow up to the meeting that took place in October 2023 as per the Alliance's request to the Head of Department.
3. The status of ECD and other developments will be discussed with stakeholders at the meeting.
4. The Meeting is scheduled as follows;
   a. Date : 05 July 2024
   b. Venue : Virtual Meeting (Teams Meeting ID wil be shared by the 2nd of July 2024)
   c. Time : 15h00
5. Kindly receive this communication as an extension of the meeting so that all ECD matters can be discussed in unison.

Kind regards

Mrs S.C. Zakuza – Njakazi
Chief Director: Curriculum Management

Date: 28/06/2024

Annexure D

KZN ECD ALLIANCE
UNITED FOR CHILD'S SAKE

OFFICE OF THE SECRETARY

AA28 Mugabe Road,Umlazi. C: 0655732396. E: sphehhadebe@gmail.com

09 July 2024

Chief Director

KZN Department of Education

Feedback from the Alliance on the Grievances Meeting

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Dear Mrs. Njakazi

The KZN ECD Alliance expresses its gratitude for the meeting held on our request. However, after consulting with our members and stakeholders, we must inform you of our feedback and outline the action plan we intend to undertake.

The Alliance is dissatisfied with the conduct of the meeting and has noted several breaches by the Department. One significant issue was the inclusion of members from FOSA without prior consultation with us, despite our long-standing request for this meeting.

While we acknowledge that both our organizations are affected by the conduct of the KZN DOE and share mutual goals, the Department should have consulted and informed us about FOSA's participation. The meeting ultimately appeared to position the FOSA President as the representative of our organization, undermining our Chairperson, who received little acknowledgment from the Chair of the meeting.

Nevertheless, our primary concern lies elsewhere.

After consulting with our lawyers from the LRC and reviewing the meeting minutes, we hereby reject the meeting held on Friday, July 5th, as it failed to achieve its intended goals. We have the following specific points of contention:

1. While we acknowledge points C1 to C4, we strongly object to point C5 and condemn the unprofessional tone used by Mr. Ntanda, the Finance Director. This issue will be addressed in further detail later in this letter.

2. Mr. Ntanda's behavior demonstrated a lack of respect from the Department of Education KZN towards ECD Practitioners. It is particularly egregious that in the 30th year of our democracy, such disrespect comes from a black professional.

3. The Department's failure to provide an exact date for payment undermines ECD Practitioners in our province. It appears that only the ECD sector suffers due to financial constraints.

KZN ECD ALLIANCE
UNITED FOR CHILD'S SAKE

OFFICE OF THE SECRETARY

AA28 Mugabe Road,Umlazi. C: 0655732396. E: sphehhadebe@gmail.com

4. Although Mrs. Ntokozo Mlaba, Chief Director of Finance, indicated that schools also face financial challenges, school teachers have never missed a monthly payment. While financial constraints may impact nutrition and maintenance, salaries are consistently paid on time.

5. Following the meeting, a senior manager from the KZN DOE Head Office provided us with documents showing the Department's misuse of funds. This evidence, now in the hands of our lawyers, supports our claims.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

6. The KZN DOE's mismanagement has led to a debt-ridden situation where funds from other resources are used to cover debts, resulting in the suffering of the ECD sector. Despite this, district and head office officials receive their salaries on time.

7. We have attached this evidence to our submission to the MEC of Finance, Mr. Francois Rodgers, and will use it to strengthen our case. We also intend to notify the Premier while consulting with political parties in the Legislature.

8. We are planning a mass protest march and are finalizing whether it will be directed to the KZN DOE Head Office, the Premier, or the Legislature. We have noted the Deputy Minister of Education's swift response to the Nutrition protests and plan to follow protocol in our actions.

9. The Department of Education KZN has violated constitutional laws by failing to pay ECD workers their salaries. According to the Service Level Agreement, Clause 4 and 5, payments must be made within 30 days of claim submission and approval. If there are delays, communication in writing is required. Mr. Ntanda's actions during the meeting contradicted this clause, as he rudely objected to communicating with the Alliance as the Union.

10. We believe that the Head Office can issue a circular to the Districts while attaching it to the Unions. As leaders of the KZN ECD Workforce, communication with us is vital.

ECD Practitioners are currently considering downing tools and protesting, which will impact the economy. No one should be expected to work without pay.

We request a response from the Department within two days.

Sincerely

Sphesihle Hadebe

Secretary

NS

KZN ECD ALLIANCE
UNITED FOR CHILD'S SAKE

OFFICE OF THE SECRETARY

AA28 Mugabe Road,Umlazi. C: 0655732396. E: sphehhadebe@gmail.com

KZN ECD ALLIANCE

DATE SIGNED 09/07/2024

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

Annexure E

CHIEF DIRECTORATE: CURRICULUM MANAGEMENT

Private Bag X9137, PIETERMARITZBURG, 3200
Room 325 Ex NED Building, 228 Pietermaritz Street, Pietermaritzburg, 3201
Tel: 033 846 5130/45

Chief Directorate: Curriculum Management
Enquiries: SC. Zakuza-Njakazi
Email: szakuza@gmail.com /
beryl.khama@kzndoe.gov.za

TO : KZN ECD ALLIANCE

FROM : MRS SC ZAKUZA-NJAKAZI
CHIEF DIRECTOR: CURRICULUM MANAGEMENT

RE : FEEDBACK FROM THE ALLIANCE ON THE GRIEVANCE MEETING



1. The above matter has reference.
2. The chief Directorate acknowledges receipt of your letter.
3. The Chief Directorate apologizes for the oversight done by the admin team in extending an invite to FOSA, this was done as explained during the meeting to assist in the issue of time and due to matters of discussion being similar. This is part of the departments wish to have open communication with external stakeholders.
4. The issues raised as points of contention are noted and have been forwarded to finance for response. The Chief Directorate commits to working with ECD for the benefit of Quality Education for our children, as agreed in the meeting, the doors are open for addressing issues that may arise in the process of mitigating the challenges faced by the ECD sector.
5. Also as per the agreement during the meeting that consultation with specialist such as finance may be sort on other issues which curriculum is unable to assist with, therefore please allow for Finance Directorate time to respond to the matters raised.
6. We again are apologetic for further grievances.

Regards

Mrs SC Zakuza-Njakazi
Chief Directorate: Curriculum Management
Date: 11 July 2024

Annexure F

I hope will receive a palatable Nuance.

Regards
Fosa President.
N Sibisi

From: Nkosinathi Sibisi
Sent: Monday, 22 July 2024 07:16
To: 'Sindi Zakuza' <Sindi.Zakuza@kzndoe.gov.za>; 'Nkosinathi Ngcobo' <Nkosinathi.Ngcobo@kzndoe.gov.za>; 'Lalsingh Rambaran' <Lalsingh.Rambaran@kzndoe.gov.za>; 'Niroshni Moonsamy' <Niroshni.Moonsamy@kzndoe.gov.za>
Cc: 'Ntokozo Gumede' <Ntokozo.Gumede@kzndoe.gov.za>; 'Mr Vela Cecil Gumede' <sawelamakhosazana333@gmail.com>; 'Nontobeko Zuma' <Nontobeko.Zuma@kzndoe.gov.za>; 'Yolande Mtshali' <Yolande.Mtshali@kzndoe.gov.za>; 'Thami Ntanda' <Thami.Ntanda@kzndoe.gov.za>
Subject: subsidy Disbursement dates

Good Morning Colleagues

Kindly find the attachments attesting disbursement dates thus we cannot stay composed, nevertheless it will moreover dispel a myth pertaining our disagreements.

Regards
Fosa President
N Sibisi

From: Nkosinathi Sibisi
Sent: Friday, 19 July 2024 07:50
To: Sindi Zakuza <Sindi.Zakuza@kzndoe.gov.za>; Nkosinathi Ngcobo <Nkosinathi.Ngcobo@kzndoe.gov.za>; Lalsingh Rambaran <Lalsingh.Rambaran@kzndoe.gov.za>; Niroshni Moonsamy <Niroshni.Moonsamy@kzndoe.gov.za>
Cc: Ntokozo Gumede <Ntokozo.Gumede@kzndoe.gov.za>; Mr Vela Cecil Gumede <sawelamakhosazana333@gmail.com>; Nontobeko Zuma <Nontobeko.Zuma@kzndoe.gov.za>; Yolande Mtshali <Yolande.Mtshali@kzndoe.gov.za>; Thami Ntanda <Thami.Ntanda@kzndoe.gov.za>
Subject: RE: Equitable share for June 2024



Morning Lalsingh

Hereunder trailing mail refers your swift attention,

Nontobeko your correspondence is noted in Mrs Zakuza-Njakazi's absentia, I will however scan an email the S.L.A indicating disbursement dates, both conditional grant and equitable share.

Regards
N Sibisi

From: Nontobeko Zuma <Nontobeko.Zuma@kzndoe.gov.za> **On Behalf Of** Sindi Zakuza
Sent: Thursday, 18 July 2024 15:49
To: Nkosinathi Sibisi <NKOSIKAYIKHETHI.Sibisi@durban.gov.za>; Sindi Zakuza <Sindi.Zakuza@kzndoe.gov.za>; Nkosinathi Ngcobo <Nkosinathi.Ngcobo@kzndoe.gov.za>
Cc: Ntokozo Gumede <Ntokozo.Gumede@kzndoe.gov.za>; Mr Vela Cecil Gumede <sawelamakhosazana333@gmail.com>; Nontobeko Zuma <Nontobeko.Zuma@kzndoe.gov.za>; Yolande Mtshali <Yolande.Mtshali@kzndoe.gov.za>; Thami Ntanda <Thami.Ntanda@kzndoe.gov.za>
Subject: RE: Equitable share for June 2024

Good day Sibisi

Can we refer the matter to Finance and allow them time to respond on the matter, as ECD does not have the said information at their disposal at this moment.

Regards
Nontobeko Zuma

Sent on behalf of Ms SC Zakuza-Njakazi

From: Nkosinathi Sibisi <NKOSIKAYIKHETHI.Sibisi@durban.gov.za>
Sent: Thursday, 18 July 2024 09:30
To: Sindi Zakuza <Sindi.Zakuza@kzndoe.gov.za>; Nkosinathi Ngcobo <Nkosinathi.Ngcobo@kzndoe.gov.za>
Cc: Ntokozo Gumede <Ntokozo.Gumede@kzndoe.gov.za>; Mr Vela Cecil Gumede <sawelamakhosazana333@gmail.com>
Subject: Equitable share for June 2024

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good Morning Mrs Zakuza-Njakazi

I am just doing a follow-up regarding the above subject, I however comprehend your swamped schedule. If I stimulate my memory, all equitable share Ecds were supposed to receive their subsidies on the 15th of June 2024, as significantly stipulated and prescriptive according to the service level agreement circulated to us.

Regards
N Sibisi
Fosa President

Please read this confidentiality disclaimer:

Outlook

Annexure G

FW: subsidy

From Nkosinathi Sibisi <NKOSIKAYIKHETHI.Sibisi@durban.gov.za>
Date Wed 21 Aug 2024 08:41
To Sheniece Linderboom <sheniece@lrc.org.za>
Cc Kiara Govender <Kiara@lrc.org.za>

Morning Colleagues

Kindly find the below response from Doe.

Regards
N Sibisi



From: Thami Ntanda <Thami.Ntanda@kzndoe.gov.za>
Sent: Friday, 16 August 2024 23:13
To: Nkosinathi Sibisi <NKOSIKAYIKHETHI.Sibisi@durban.gov.za>
Subject: Re: subsidy

Dear President

I acknowledge receipt of your below email.
We sincerely apologise for the delay in the timely release of ECD payments.
The department is doing its utmost to secure sufficient funding to cover at least May and June's equitable share by next week, while also exploring the possibility of establishing and communicating potential payment dates as requested by the ECD associations.
I will update you by Thursday, Aug 22, on the progress in this regard, indicating the category of payment we will be able to release by then. I would kindly request that this be treated as just the update exclusively meant for the consumption of leadership for now, as it is still speculative, and only be shared with the general membership by Thursday once confirmed and becomes more credible.
I will ensure that regular updates, are provided on this matter going forward so that the leadership knows in advance what is going to happen with regard to payments more especially during this difficult phase the department is going through.
I trust that you will find this in order.

Best Regards,
Thami Ntanda

Annexure H

MEMORANDUM OF DEMANDS FROM ECD CENTRES

FROM	TO
FRIENDS OF SA ECD FORUM	DEPARTMENT OF BASIC EDUCATION



NOTE

WE DEMAND THAT OUR DEMANDS BE ESCALETED TO THE HIGHEST ACCOUNTING OFFICER AND POLITICIANS FOR THIS MESS IN THE ECD SECTOR, **AS FROM THE 1ST OF APRIL 2022 WHEN DEPARTMENT OF EDUCATION TOOK OVER FROM DEPARTMENT OF SOCIAL DEVELOPMENT.**

PREAMBLE

Children's charter is clear on the following

Children's rights and responsibilities

In any society, it is very important that children are protected and cared for. Children are vulnerable members of society. South African Bill of rights states that children have special rights which include the right to "special care and assistance".

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

The United Nations drew up the Convention of the rights of the child so South Africa is not alone in recognising that children's right must be protected. South Africa and further 191 countries have signed this document.

All children are created equal and are entitled to basic human rights and freedom and that all children deserve respect and special care and protection as they develop and grow.

But we are still noting with contempt that

Within South Africa, children have not been treated with respect and dignity, but as a direct result of Apartheid have been subjected to discrimination, violence and racism that has destroyed families and communities and has disrupted education and social relationships hence the difference of treatment amongst children of different races and their **Basic Education Especially in the ECD Sector.**

South African constitution is also clear on the following

Education rights are contained in section 29 of the South African Constitution. In terms of section 29 **everyone has the right to a basic education, including adult basic education; (1)** and to further education, which the state, through reasonable measures, must make progressively available and accessible.

The Provision of the Right to Basic Education

In understanding the provision of the right to basic education, we should be guided by the preamble of the Constitution, which gives purpose and meaning to the Constitution. It states that the task ahead is to.

Heal the division of the past and establish a society based on democratic values, social justice and fundamental rights and improve the quality of life of all citizens and free the potential of each person.

Also important in defining the meaning of the rights to education is the international Covenant on Economic, Social and Cultural rights (ICESCR). This is arguably the most significant international convention, which recognises the right of everyone to education. Although not ratified by South Africa, it can be used to guide South Africa's relatively young socio-economic rights jurisprudence.

General Comment No 13 published by the Committee on Social, Economic and Cultural rights (CESCR) States that while the exact standard protected by the right may vary according to conditions prevailing in a particular State, education in all its forms and at all levels shall exhibit the following interrelated and essential features: availability, accessibility, acceptability and adaptability.

Availability- functioning educational institution must be available to all leaners. This entails the provision of buildings, sanitation facilities for both sexes, teaching material, libraries, computer facilities and access to the internet

Accessibility- has three overlapping dimensions: non-discrimination. Physical accessibility and economic accessibility; meaning education must be affordable, within safe physical reach, and must be grated on a non-discriminative basis.

Acceptability- the form and substance of education, including curricula and teaching methods have to be acceptable. This refers to the relevance appropriateness and quality of education, subject to educational objectives required.

Adaptability- education has to be flexible so it can adapt to societal changes and respond to the needs of learners within their diverse social and cultural settings.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

On the basis of the preamble above as The South African ECD Sector we therefore demand the following.

1 Promptness of subsidy payments to all ECD Centre's which are due, for ECD Centre's to be able to perform their duties effectively and efficiently.

2 Clear mandate and functions of DOE in the ECD Sector to be communicated and known by all parties envolved.

3 Speedy funds transfer to Equitable Share ECD Centre's

4 Speedy registration of ECD Centre's for Partial Care and Programme Certificates. **These are South African children in those centres and are the custodians/beneficiaries of Children's right as per South African Constitution.**

5 Primary school's need to stop this illegal practices of enrolling children who are 3-4 Years into Primary School, since these school are not built to accommodate these children, and the teachers are not trained to handle the children of this age.

6 Registered but not funded ECD Centre's to receive the funding speedily, for ECD Centre's to be able to perform their duties effectively and efficiently.

7 All children are equal in the eyes of the State, therefore all ECD Practitioners have to be at the same level of imparting education to all children in front of them, so training of all Practitioners is imperative and urgent.

8 Communication with the ECD Centre's through circulars and HRM's is very important, as a standard measure of communication, which keeps everyone up to date with information.

9 We demand the review of stipends and to be in accordance with National minimum wage of R23.19 per hour therefore R3500

10 ECD Centre workers deserve better working conditions and benefits since they are doing an important service in the Country by educating and looking after children. The ECD Sector staff demand the following benefits;

- UIF
- Provident fund
- Compensation fund

11 School and other centres of learning are built by DOE, why the ECD Centre's have to go through such an agonizing and expensive process trying to make centre's to comply? Should it not be the same Department which does that? We need clear answers!

12 DOE from National, Provincial, District, Circuit level need to create a platform where all matters affecting the Sector are discussed and solved there.

13 The ECD sector and its workers should be involved in the 2030 Strategic plan that is already in place, because the ECD Sector is not involved and there were no engagements with the sector or consultations with the Sector, **We have a slogan nothing for us without us.**

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

14 The Department of Basic Education should differentiate between the Pre Grade R and Grade R on the budget and Pre Grade R should be considered on the allocation of budget and be specific to Pre Grade R.

15 Department of Basic Education at all levels should employ staff in the ECD Directorate, who knows and understand the ECD Sector and to provide them with working resources like office computers, laptops, phones, vehicles etc.

16 We demand consistency in funding, No discrimination according to what powers that see it fit. Number of subsidy days be 264 days in all ECD Centre's

Issued By:

Friends of SA ECD Forum

1 Name/Surname: Sibusiso Tembe

Portfolio: Protest March Convener

Contact number 079 155 8382

Email: sibusisotembe0720@gmail.com

Signature:

2 Name/Surname: Nkosikayikhethi Sibisi

Portfolio: Protest March Deputy Convener

Contact number 066 078 4740/ 083 509 6864

Email: nkosinathi.sibisi@durban.gov.za

Signature

Received By: ELIJAH MHLANGA
BASIC EDUCATION, PRETORIA
Department of ~~Education Zululand District~~

1 Name/Surname: MHLANGA

Portfolio CHIEF DIRECTOR FOR COMMUNICATIONS

Contact number 0837808275

Email Mhlangae@dbe.gov.za

Signature

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

2 Name/Surname

Portfolio

Contact number

Email

Signature

KZN ECD ALLIANCE
UNITED FOR CHILD'S SAKE

OFFICE OF THE SECRETARY

AA28 Mugabe Road,Umlazi. C: 0655732396. E: sphehhadebe@gmail.com

KZN ECD ALLIANCE

DATE SIGNED 09/07/2024

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

Annexure E

CHIEF DIRECTORATE: CURRICULUM MANAGEMENT

Private Bag X9137, PIETERMARITZBURG, 3200
Room 325 Ex NED Building, 228 Pietermaritz Street, Pietermaritzburg, 3201
Tel: 033 846 5130/45

Chief Directorate: Curriculum Management
Enquiries: SC. Zakuza-Njakazi
Email: szakuza@gmail.com /
beryl.khama@kzndoe.gov.za

TO : KZN ECD ALLIANCE

FROM : MRS SC ZAKUZA-NJAKAZI
CHIEF DIRECTOR: CURRICULUM MANAGEMENT

RE : FEEDBACK FROM THE ALLIANCE ON THE GRIEVANCE MEETING



1. The above matter has reference.
2. The chief Directorate acknowledges receipt of your letter.
3. The Chief Directorate apologizes for the oversight done by the admin team in extending an invite to FOSA, this was done as explained during the meeting to assist in the issue of time and due to matters of discussion being similar. This is part of the departments wish to have open communication with external stakeholders.
4. The issues raised as points of contention are noted and have been forwarded to finance for response. The Chief Directorate commits to working with ECD for the benefit of Quality Education for our children, as agreed in the meeting, the doors are open for addressing issues that may arise in the process of mitigating the challenges faced by the ECD sector.
5. Also as per the agreement during the meeting that consultation with specialist such as finance may be sort on other issues which curriculum is unable to assist with, therefore please allow for Finance Directorate time to respond to the matters raised.
6. We again are apologetic for further grievances.

Regards

Mrs SC Zakuza-Njakazi
Chief Directorate: Curriculum Management
Date: 11 July 2024

Annexure F

I hope will receive a palatable Nuance.

Regards
Fosa President.
N Sibisi

From: Nkosinathi Sibisi
Sent: Monday, 22 July 2024 07:16
To: 'Sindi Zakuza' <Sindi.Zakuza@kzndoe.gov.za>; 'Nkosinathi Ngcobo' <Nkosinathi.Ngcobo@kzndoe.gov.za>; 'Lalsingh Rambaran' <Lalsingh.Rambaran@kzndoe.gov.za>; 'Niroshni Moonsamy' <Niroshni.Moonsamy@kzndoe.gov.za>
Cc: 'Ntokozo Gumede' <Ntokozo.Gumede@kzndoe.gov.za>; 'Mr Vela Cecil Gumede' <sawelamakhosazana333@gmail.com>; 'Nontobeko Zuma' <Nontobeko.Zuma@kzndoe.gov.za>; 'Yolande Mtshali' <Yolande.Mtshali@kzndoe.gov.za>; 'Thami Ntanda' <Thami.Ntanda@kzndoe.gov.za>
Subject: subsidy Disbursement dates

Good Morning Colleagues

Kindly find the attachments attesting disbursement dates thus we cannot stay composed, nevertheless it will moreover dispel a myth pertaining our disagreements.

Regards
Fosa President
N Sibisi

From: Nkosinathi Sibisi
Sent: Friday, 19 July 2024 07:50
To: Sindi Zakuza <Sindi.Zakuza@kzndoe.gov.za>; Nkosinathi Ngcobo <Nkosinathi.Ngcobo@kzndoe.gov.za>; Lalsingh Rambaran <Lalsingh.Rambaran@kzndoe.gov.za>; Niroshni Moonsamy <Niroshni.Moonsamy@kzndoe.gov.za>
Cc: Ntokozo Gumede <Ntokozo.Gumede@kzndoe.gov.za>; Mr Vela Cecil Gumede <sawelamakhosazana333@gmail.com>; Nontobeko Zuma <Nontobeko.Zuma@kzndoe.gov.za>; Yolande Mtshali <Yolande.Mtshali@kzndoe.gov.za>; Thami Ntanda <Thami.Ntanda@kzndoe.gov.za>
Subject: RE: Equitable share for June 2024

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Morning Lalsingh

Hereunder trailing mail refers your swift attention,

Nontobeko your correspondence is noted in Mrs Zakuza-Njakazi's absentia, I will however scan an email the S.L.A indicating disbursement dates, both conditional grant and equitable share.

Regards
N Sibisi

From: Nontobeko Zuma <Nontobeko.Zuma@kzndoe.gov.za> **On Behalf Of** Sindi Zakuza
Sent: Thursday, 18 July 2024 15:49
To: Nkosinathi Sibisi <NKOSIKAYIKHETHI.Sibisi@durban.gov.za>; Sindi Zakuza <Sindi.Zakuza@kzndoe.gov.za>; Nkosinathi Ngcobo <Nkosinathi.Ngcobo@kzndoe.gov.za>
Cc: Ntokozo Gumede <Ntokozo.Gumede@kzndoe.gov.za>; Mr Vela Cecil Gumede <sawelamakhosazana333@gmail.com>; Nontobeko Zuma <Nontobeko.Zuma@kzndoe.gov.za>; Yolande Mtshali <Yolande.Mtshali@kzndoe.gov.za>; Thami Ntanda <Thami.Ntanda@kzndoe.gov.za>
Subject: RE: Equitable share for June 2024

Good day Sibisi

Can we refer the matter to Finance and allow them time to respond on the matter, as ECD does not have the said information at their disposal at this moment.

Regards
Nontobeko Zuma

Sent on behalf of Ms SC Zakuza-Njakazi

From: Nkosinathi Sibisi <NKOSIKAYIKHETHI.Sibisi@durban.gov.za>
Sent: Thursday, 18 July 2024 09:30
To: Sindi Zakuza <Sindi.Zakuza@kzndoe.gov.za>; Nkosinathi Ngcobo <Nkosinathi.Ngcobo@kzndoe.gov.za>
Cc: Ntokozo Gumede <Ntokozo.Gumede@kzndoe.gov.za>; Mr Vela Cecil Gumede <sawelamakhosazana333@gmail.com>
Subject: Equitable share for June 2024

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good Morning Mrs Zakuza-Njakazi

I am just doing a follow-up regarding the above subject, I however comprehend your swamped schedule. If I stimulate my memory, all equitable share Ecds were supposed to receive their subsidies on the 15th of June 2024, as significantly stipulated and prescriptive according to the service level agreement circulated to us.

Regards
N Sibisi
Fosa President

Please read this confidentiality disclaimer:

Outlook

Annexure G

FW: subsidy

From Nkosinathi Sibisi <NKOSIKAYIKHETHI.Sibisi@durban.gov.za>
Date Wed 21 Aug 2024 08:41
To Sheniece Linderboom <sheniece@lrc.org.za>
Cc Kiara Govender <Kiara@lrc.org.za>

Morning Colleagues

Kindly find the below response from Doe.

Regards
N Sibisi



From: Thami Ntanda <Thami.Ntanda@kzndoe.gov.za>
Sent: Friday, 16 August 2024 23:13
To: Nkosinathi Sibisi <NKOSIKAYIKHETHI.Sibisi@durban.gov.za>
Subject: Re: subsidy

Dear President

I acknowledge receipt of your below email.
We sincerely apologise for the delay in the timely release of ECD payments.
The department is doing its utmost to secure sufficient funding to cover at least May and June's equitable share by next week, while also exploring the possibility of establishing and communicating potential payment dates as requested by the ECD associations.
I will update you by Thursday, Aug 22, on the progress in this regard, indicating the category of payment we will be able to release by then. I would kindly request that this be treated as just the update exclusively meant for the consumption of leadership for now, as it is still speculative, and only be shared with the general membership by Thursday once confirmed and becomes more credible.
I will ensure that regular updates, are provided on this matter going forward so that the leadership knows in advance what is going to happen with regard to payments more especially during this difficult phase the department is going through.
I trust that you will find this in order.

Best Regards,
Thami Ntanda

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

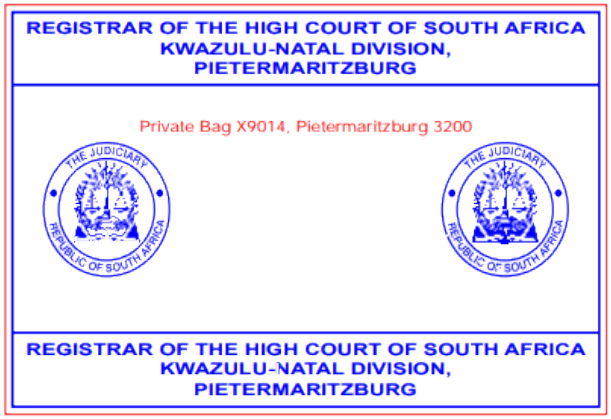
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 16 and More

NOTE: **This document was filed electronically by the Registrar on 18/5/2025 at 1:06:20 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

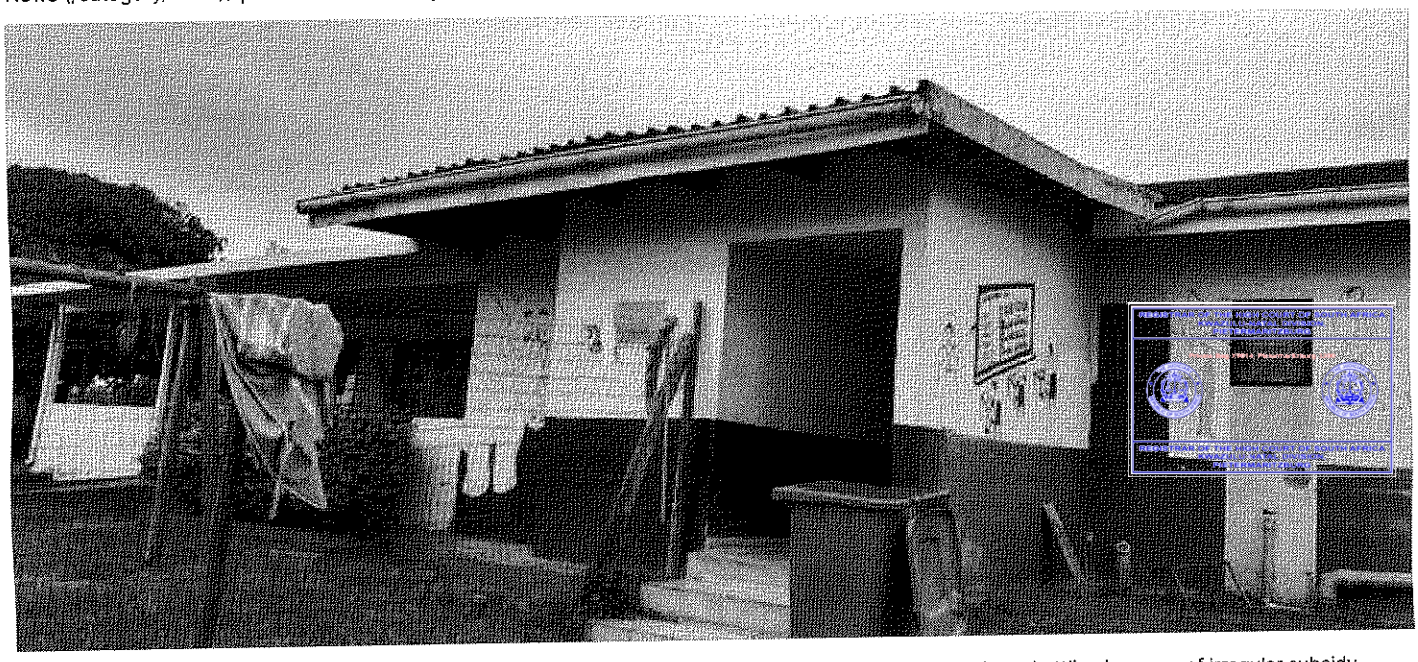
"NS18" 003-198 18/5/2025 1:06:20 PM

KwaZulu-Natal education department fails to pay crèches

The department confirmed there is a grant backlog but declined to give details

13 November 2024 | By Tsoanelo Sefoloko (/author/759/)

News (/category/news/) | Kwazulu-Natal (/region/South%20Africa/Kwazulu-Natal)



Early childhood development centres in KwaZulu-Natal, like this one in KwaNdengezi, west of Durban, have been battling because of irregular subsidy payments by the provincial department of education. Photo: Tsoanelo Sefoloko

- **Lawyers representing hundreds of early childhood development centres in KwaZulu-Natal say the provincial education department is failing to pay the centres their subsidies.**
- **As a result, the centres cannot pay staff or feed children properly, they say.**
- **The Legal Resources Centre has written to the provincial and national education departments demanding confirmation by Friday 15 November that all outstanding payments will be made by the end of the month.**
- **The provincial education department confirmed the backlog but declined to give details.**

Hundreds of early childhood development centres (ECDC) in KwaZulu-Natal have sent a lawyer's letter to the provincial department of education demanding their subsidies. The centres have been battling for months to get their subsidies of R17 per child per day.

Jurisdiction over the centres was moved from the department of social development to the department of education in 2022.

At the end of October the Legal Resources Centre (LRC), representing the Friends of South Africa ECD Forum and the KwaZulu-Natal ECD Alliance, wrote to the KZN Department of Education (KZNDoE), the national Minister of Basic Education, the provincial and national treasury, complaining that centres had been paid irregularly since 2023 and that many were still owed money.

The Forum has 500 members and the Alliance 600.

The LRC said the two organisations had complained several times and the KZN education department had acknowledged the problem and even apologised, but it had not given reasons or fixed the problem.

As a result of the failure to pay, principals of some ECD centres had been threatened by staff who had not been paid their salaries, the LRC said. Some principals had taken out personal loans to feed the children, and some had asked parents to send food.

"In cases where the parents are unemployed and living on social grants this is often not feasible, leaving many children to go hungry," the LRC said.

"The exchange of correspondence demonstrates that the KZNDoE is aware that ECD centres are operating without receiving the stipends that are due to them. Despite this, the KZN DoE has failed to offer substantiated reasons for the non-payment."

N.S 003-198

003-199
18/3/2025-1:06:20 PM

On behalf of the two organisations, the LRC asked for a list of all ECD centres which had not been fully paid and confirmation by 15 November that outstanding money would be paid by 29 November. They also demanded reasons for the non-payment and steps which would be taken to make sure it did not happen again.

LRC attorney Sheniece Linderboom told GroundUp the LRC had not yet received a response.

Zandile Hlongwa says she has been running an early childhood development centre in Umkomazi, south of Durban, for 12 years. She says the number of children in her centre has decreased from over 100 in 2023 to 39, because she has had to increase her fees in the absence of a regular stipend.

She said the department still owes her two months' stipends.

"Since we have been moved to the department of education, I have been struggling to pay teachers and to stick to the menu, because I couldn't afford to buy groceries ... I just buy something which is enough to last for the whole month.

"The parents didn't understand when I increased the fees from R200 to R300. I now have only two teachers at the centre because the number of children has decreased after I increased the school fees," said Hlongwa.

Mandulo Khuzwayo, who runs a centre in KwaNdengezi, west of Durban, said the department of education pays a grant of R17 per day per child, but when payments are late they sometimes have to borrow from loan sharks to keep operating and to pay staff.

"It is not easy to survive under these financial challenges. We are facing non-payment from the department of education. From the R17 grant per child, 40% goes to nutrition and the 40% teachers' stipend and 20% for the administration and the municipal bills," said Khuzwayo.

"I am forced to give them whatever food is available. I can't send them home because some of them come from disadvantaged homes where they can't afford to have a proper breakfast."

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

KwaZulu-Natal department of education spokesperson Muzi Mahlambi said, "We can confirm that we started paying ECD centres. But from where I am sitting I can't tell you how many have been paid and how many still need to be paid, because it's an on going process."

Linderboom said the LRC was preparing for litigation if necessary.

More about children (/topic/children/)

- Begging to feed their children (/article/what-will-my-children-eat/) 22 April 2025
- Crèche owners march in Joburg demanding changes to by-laws (/article/creche-owners-march-in-joburg-demanding-changes-to-by-laws/) 15 April 2025
- Court orders Gauteng government to pay children's homes subsidies by Friday afternoon (/article/court-orders-gauteng-government-to-starting-paying-childrens-homes-subsidies-by-friday-afternoon/) 31 May 2024

Support independent journalism

Donate using Payfast (/donation/payfast/)

SnapScan **(https://pos.snapscan.io/qr/STB24E42)**

< (https://www.facebook.com/sharer.php?u=https://groundup.org.za/article/kwazulu-natal-education-department-fails-to-pay-creches/) (https://twitter.com/share?url=https://groundup.org.za/article/kwazulu-natal-education-department-fails-to-pay-creches/&text=KwaZulu-Natal%20education%20department%20fails%20to%20pay%20cr%C3%A8ches%20-%20via%20@groundup_news) (mailto:?Subject=I%20recommend%20an%20article%20published%20on%20GroundUp&Body=Here%20is%20an%20article%20on%20KwaZulu-Natal%20education%20department%20fails%20to%20pay%20cr%C3%A8ches%20https%3A//groundup.org.za/article/kwazulu-natal-education-department-fails-to-pay-creches/) (/article-print/kwazulu-natal-education-department-fails-to-pay-creches/) (/copy_article/kwazulu-natal-education-department-fails-to-pay-creches/)

TOPICS: Children (/Topic/Children/) Education (/Topic/Education/)

Next: Thousands of Khayelitsha families have to use filthy toilets or an open field (/article/thousands-of-khayelitsha-residents-filthy-toilets/)

NOM
003-199

003-200
18/5/2025-1:06:20 PM

Previous: Nelson Mandela Bay mayor targets immigrant-owned spaza shops (/article/new-mayor-targets-immigrant-owned-spaza-shops-in-nelson-mandela-bay/)

WRITE A LETTER IN RESPONSE TO THIS ARTICLE (/LETTER/14780/)

© 2024 GroundUp. This article is licensed under a Creative Commons Attribution-NoDerivatives 4.0 International License (http://creativecommons.org/licenses/by-nd/4.0/).

You may republish this article, so long as you credit the authors and GroundUp, and do not change the text. Please include a link back to the original article.

We put an invisible pixel in the article so that we can count traffic to republishers. All analytics tools are solely on our servers. We do not give our logs to any third party. Logs are deleted after two weeks. We do not use any IP address identifying information except to count regional traffic. We are solely interested in counting hits, **not tracking** users. If you republish, please do not delete the invisible pixel.

Most popular

1. Plan to use properties owned by City of Cape Town for homeless project (/article/plan-to-use-buildings-owned-by-city-of-cape-town-for-homeless-project/)
2. Homes bulldozed in Roodepoort (/article/houses-in-roodepoort-bulldozed-with-peop[illegible])
3. Supreme Court of Appeal hears Zimbabwean permit case (/article/supreme-court-of-appeal-hears-zep-case/)
4. Concourt hands victory to blind people after Ramaphosa's failure to sign copyright act (/article/[illegible]-court-gives-rights-to-blind-people-after-ramaphosas-failure-to-sign-copyright-act/)
5. We visited SASSA offices. Here's what we found (/article/sassa-recipients-call-for-more-satellite-offices-to-relieve-pressure-at-cape-town-offices/)

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Our answers to your questions

Why does my identity verification link for my SASSA application not work? (/qanda/1090/)

How long does it take to get an ID card? (/qanda/1092/)

My father died in 2006. He worked as a miner at Harmony Gold. Can I claim from the Tshiamiso Trust? (/qanda/1091/)

Can I apply for my newborn's birth certificate if I am still waiting for Home Affairs to verify my fingerprints? (/qanda/910/)

Why have I still not heard back from Home Affairs regarding my appeal for my rejected letter of good cause? (/qanda/925/)

Copyright

© 2012-2025 GroundUp.

See copyright notice on articles for terms.

Most of our articles and photos are published under a Creative Commons (https://creativecommons.org/) license.

GroundUp is a member of the Press Council (https://presscouncil.org.za/) and strives to abide by the Press Code (https://presscouncil.org.za/press-code/#thepresscode).



Useful links

Copyright policy (/copyright/)

Privacy (/privacy/)

Sign up for our weekly newsletter (https://eepurl.com/Or2a9)

RSS feeds (/feeds/)

Follow us on Facebook (https://www.facebook.com/GroundUpNews/)

Follow us on Bluesky (https://bsky.app/profile/groundup.org.za)

Follow us on Instagram (https://www.instagram.com/groundup_news/)

Subscribe to our Youtube channel (https://www.youtube.com/c/GroundUpNews)

Join our WhatsApp group (https://whatsapp.com/channel/0029Vah4OJcK0IBgG4CUkz35)

Contact us

003-200

003-201
18/5/2025-1:06:20 PM

Please email, do not phone, with story pitches and questions.
info@groundup.org.za (mailto:info@groundup.org.za)
+27 (0) 21 788 9163 (tel:+27217889163)

Suite 08, 1st floor
South Block, Tannery Park
23A Belmont Road
Rondebosch
Cape Town 7700

Google Maps (https://goo.gl/a7ybi4)
OpenStreetMap (https://www.openstreetmap.org/search?query=23%20Belmont%20Road%20Rondebosch#map=19/-33.96195/18.47122&layers=NDG)



003-201
4/4

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

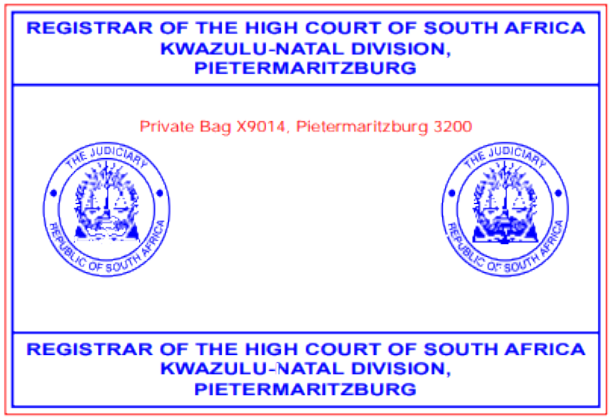
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 16 and More

NOTE: **This document was filed electronically by the Registrar on 18/5/2025 at 1:06:48 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

Outlook

RE: Follow-up: Letter to the Minister of Basic Education

From Sheniece Linderboom <sheniece@lrc.org.za>
Date Mon 25 Nov 2024 11:06
To Wilter, Michael <Wilter.M@dbe.gov.za>; Cameron McConnachie <cameron@lrc.org.za>; Kiara Govender <Kiara@lrc.org.za>
Cc Mfeka, Luyanda <Mfeka.L@dbe.gov.za>

Dear Micheal,

Thank you for the response.

We look forward to hearing from you.

Kind regards,



+27 31 301 7572
www.lrc.org.za

+27 31 301 7572
1st Floor, CBI Building, 635 Peter Mokaba Road, Overport, Durban, 4001

sheniece@lrc.org.za

Sheniece Linderboom
Attorney

Kind regards,

Sheniece Linderboom
Attorney

+27 31 301 7572
+27 31 301 7572
sheniece@lrc.org.za
www.lrc.org.za
1st Floor, CBI Building, 635 Peter Mokaba Road, Overport, Durban, 4001

LEGAL RESOURCES CENTRE

Celebrating 45 Years of the LRC
Rooted in justice, driving change

From: Wilter, Michael <Wilter.M@dbe.gov.za>
Sent: Monday, 25 November 2024 10:47
To: Sheniece Linderboom <sheniece@lrc.org.za>; Cameron McConnachie <cameron@lrc.org.za>; Kiara Govender <Kiara@lrc.org.za>
Cc: Mfeka, Luyanda <Mfeka.L@dbe.gov.za>
Subject: RE: Follow-up: Letter to the Minister of Basic Education

Dear Sheniece

Thank you for your email. We are engaging with the Department of Basic Education to see what progress has been made in this regard. We will revert to you as soon as possible.

Kind regards,

Mike

Michael Wilter
Special Advisor: Policy, Regulation and Technology
Office of the Minister of Basic Education
Tel Cape Town: 021 465 7350
www.education.gov.za | Facebook: DBE SA | Twitter: DBE_SA

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

basic education
Department:
Basic Education
REPUBLIC OF SOUTH AFRICA

SEND ME
TO BUILD THE MZANSI I WANT

"This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to which they are addressed. If you have received this email in error please notify the system manager. Please note that any views or opinions presented in this email are solely those of the author and do not necessarily represent those of viruses. The Department of Basic Education. The recipient should check this email and any attachments for the presence of viruses. The Department of Basic Education accepts no liability for any damage caused by any virus transmitted by this email."

From: Sheniece Linderboom <sheniece@lrc.org.za>
Sent: Thursday, November 21, 2024 4:03 PM
To: Wilter, Michael <Wilter.M@dbe.gov.za>; Cameron McConnachie <cameron@lrc.org.za>; Kiara Govender <Kiara@lrc.org.za>
Subject: RE: Follow-up: Letter to the Minister of Basic Education

Afternoon Michael,

I hope you are well.

I resent the LOD to the KZNDOE, however we still have not received a written response. I am just following up on whether you have been able to engage the matter and the KZNDOE from your side at all.

I hope to hear from you.

LRC LEGAL RESOURCES CENTRE

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

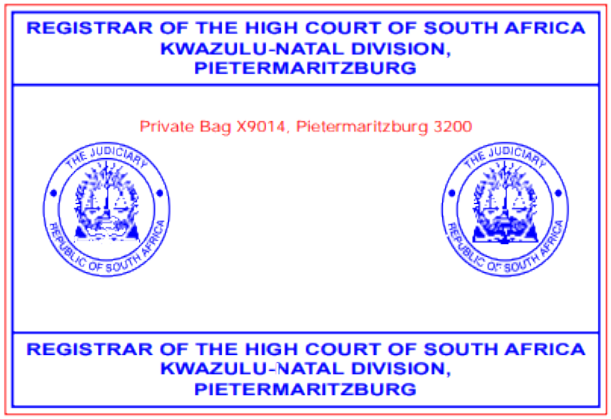
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 16 and More

NOTE: **This document was filed electronically by the Registrar on 18/5/2025 at 1:07:28 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

LRC
LEGAL RESOURCES CENTRE

DURBAN OFFICE
1st Floor, CBI Building,
635 Peter Mokaba Road,
Overport, Durban, 4001

Tel: +27 31 301 7572
Fax: +27 31 304 2823

info@lrc.org.za

16 April 2025

Mr Sipho Emmanuel Hlomuka

KwaZulu-Natal Department of Basic Education: MEC

By Email: sipho.hlomuka@kzndoe.gov.za
mecpa@kzndoe.gov.za
bongekile.thabethe@kzndoe.gov.za
amanda.magasela@kzndoe.gov.za

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Dr Nkosinathi Ngcobo

KwaZulu-Natal Department of Basic Education: HOD

By Email: nkosinathi.ngcobo@kzndoe.gov.za

PER EMAIL

Dear Sirs/Mesdames,

RE: LETTER OF DEMAND - IRREGULAR PAYMENT PRACTICES FOR EARLY CHILDHOOD DEVELOPMENT (ECD) EQUITABLE SHARE AND CONDITIONAL GRANT SUBSIDIES

1. We write on behalf of our clients, the Friends of South Africa ECD Forum ("FOSA") and the KwaZulu-Natal ("KZN") ECD Alliance, which are organisations that

represent approximately 500 and 600 ECD centres in KZN, respectively. Among these represented centres are Zenzeleni Crèche (NPO number 032-484), Phumelela Crèche (NPO number 047-572), and Sakhokwethu Crèche (NPO number 032-433).

2. We confirm that the Legal Resources Centre has on two previous occasions written to the KZN Provincial Department of Education ("KZNDoE"), in the context of irregular and inconsistent ECD equitable share and conditional grant payments owed to ECD centres within our clients' networks, to demand payment of outstanding monies and a comprehensive list of the affected centres. We received no formal response or acknowledgment to either correspondence. The letters dated 1 February 2024 and 29 October 2024 are annexed hereto as **"LRC 1"** and **"LRC 2"**, respectively.

3. To avoid repetition of the circumstances and issues that have already been set out in our previous letters, we refer you to the letter marked **"LRC 2"** and its corresponding annexures for a complete overview.

4. Further to reiterating the demands set out in the above letter with the following amended timeframes, we have been instructed to demand the following:

   4.1. The KZN MEC for Education is to deliver the KZNDoE's list of names and addresses of all registered ECD centres in KZN that are recipients of the conditional grant or equitable share subsidies, setting out the total subsidy amounts that are outstanding in respect of each centre — on or before **25 April 2025**.

003-209

4.2. Written confirmation of the detailed steps that will be taken, to be delivered on or before **25 April 2025**, committing to payment of any and all outstanding monies due to the affected ECD centres before the end of April 2025.

5. In addition to these demands, we have been instructed to demand the following outstanding subsidy payments owed to Zenzeleni Crèche, Phumelela Crèche and Sakhokwethu Crèche:

5.2 Zenzeleni — R79 730 in respect of five outstanding payments of R15 946 from November 2024 to March 2025, to be paid by 25 April 2025.



5.3 Phumelela — R64 070 in respect of five outstanding payments of R12 814 from November 2024 to March 2025, to be paid by 25 April 2025

5.4 Sakhokwethu — R37 873 in respect of three outstanding payments of R7119 for January, February and March 2023 and two outstanding payments of R8258 for February and March 2025, to be paid by 25 April 2025.

6. While we hope that the issue will be resolved speedily and amicably, we hold instructions to approach the High Court for appropriate relief if our clients' demands are not met. All of our clients' rights are reserved.

Yours Faithfully,

SHENIECE LINDERBOOM
sheniece@lrc.org.za / 031 301 7572

N.S
NOM

Copy to: **Honourable Siviwe Gwarube**

Minister of Basic Education

By Email: sgwarube@parliament.gov.za

Copy to: **Mr Michael Wilter**

Office of the Minister of Basic Education: Special Advisor

By Email: wilter.m@dbe.gov.za



Copt to: **Dr Duncan Pieterse**

Director-General: National Treasury

By Email: duncan.pieterse@treasury.gov.za

lindiwe.mnisi@treasury.gov.za

Copy to: **Ms Carol Coetzee**

KwaZulu-Natal Treasury

By Email: carol.coetzee@kzntreasury.gov.za

thulile.ndlovu@kzntreasury.gov.za

4

N.S
NNM

003-211

represent approximately 500 and 600 ECD centres in KZN, respectively. Among these represented centres are Zenzeleni Crèche (NPO number 032-484), Phumelela Crèche (NPO number 047-572), and Sakhokwethu Crèche (NPO number 032-433).

2. We confirm that the Legal Resources Centre has on two previous occasions written to the KZN Provincial Department of Education ("KZNDoE"), in the context of irregular and inconsistent ECD equitable share and conditional grant payments owed to ECD centres within our clients' networks, to demand payment of outstanding monies and a comprehensive list of the affected centres. We received no formal response or acknowledgment to either correspondence. The letters dated 1 February 2024 and 29 October 2024 are annexed hereto as **"LRC 1"** and **"LRC 2"**, respectively.

3. To avoid repetition of the circumstances and issues that have already been set out in our previous letters, we refer you to the letter marked **"LRC 2"** and its corresponding annexures for a complete overview.

4. Further to reiterating the demands set out in the above letter with the following amended timeframes, we have been instructed to demand the following:

   4.1. The KZN MEC for Education is to deliver the KZNDoE's list of names and addresses of all registered ECD centres in KZN that are recipients of the conditional grant or equitable share subsidies, setting out the total subsidy amounts that are outstanding in respect of each centre — on or before **25 April 2025**.

4.2. Written confirmation of the detailed steps that will be taken, to be delivered on or before **25 April 2025**, committing to payment of any and all outstanding monies due to the affected ECD centres before the end of April 2025.

5. In addition to these demands, we have been instructed to demand the following outstanding subsidy payments owed to Zenzeleni Crèche, Phumelela Crèche and Sakhokwethu Crèche:

5.2 Zenzeleni — R79 730 in respect of five outstanding payments of R15 946 from November 2024 to March 2025, to be paid by 25 April 2025.



5.3 Phumelela — R64 070 in respect of five outstanding payments of R12 814 from November 2024 to March 2025, to be paid by 25 April 2025

5.4 Sakhokwethu — R37 873 in respect of three outstanding payments of R7119 for January, February and March 2023 and two outstanding payments of R8258 for February and March 2025, to be paid by 25 April 2025.

6. While we hope that the issue will be resolved speedily and amicably, we hold instructions to approach the High Court for appropriate relief if our clients' demands are not met. All of our clients' rights are reserved.

Yours Faithfully,

SHENIECE LINDERBOOM
sheniece@lrc.org.za / 031 301 7572

Copy to: **Honourable Siviwe Gwarube**

Minister of Basic Education

By Email: sgwarube@parliament.gov.za

Copy to: **Mr Michael Wilter**

Office of the Minister of Basic Education: Special Advisor

By Email: wilter.m@dbe.gov.za



Copt to: **Dr Duncan Pieterse**

Director-General: National Treasury

By Email: duncan.pieterse@treasury.gov.za

lindiwe.mnisi@treasury.gov.za

Copy to: **Ms Carol Coetzee**

KwaZulu-Natal Treasury

By Email: carol.coetzee@kzntreasury.gov.za

thulile.ndlovu@kzntreasury.gov.za

4

N.S
NNM

003-214

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

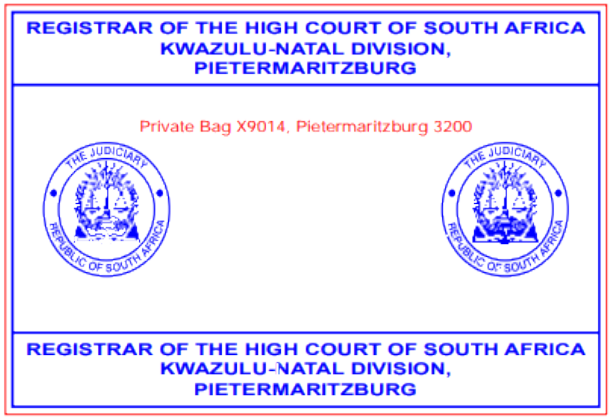
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Confirmatory Affidavit

NOTE: **This document was filed electronically by the Registrar on 18/5/2025 at 1:13:05 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant
and	
MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

CONFIRMATORY AFFIDAVIT

I, the undersigned,



BONISIWE MTHEMBU

state under oath the following:

1. I am an adult female residing at Edendale, Pietermaritzburg. I am the principal of Sakhokwethu Crèche, with NPO number 032-433, the third applicant in this application, situated at Edendale, Pietermaritzburg.

2. The contents of this affidavit are within my personal knowledge, except where the context indicates otherwise, and are to the best of my belief both true and correct.

3. I am duly authorised to depose of this affidavit.

4. I have read the founding affidavit of **Nkosinathi Sibisi** and confirm the correctness of the contents thereof insofar as it refers to me.

B.M. N.S.

DEPONENT

I hereby certify under oath that the Deponent acknowledged that she knows and understands the contents of this affidavit, that it is to the best of her knowledge both true and correct, and that she has no objection to the making of the prescribed oath which she considers to be binding on her conscience. This affidavit was signed in my presence at Plessisliner on this 12 day of May 2025, and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
0518480-1 SCIT
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

SOUTH AFRICAN POLICE SERVICE
CSC RELIEF A
2025 -05- 12
PLESSISLINER
KWAZULU-NATAL

COMMISSIONER OF OATHS

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

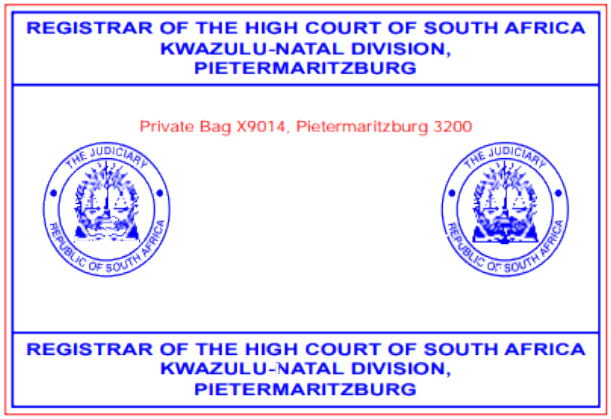
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Confirmatory Affidavit

NOTE: **This document was filed electronically by the Registrar on 18/5/2025 at 1:13:46 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant
and	
MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

N.B.M.
60.N.

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

CONFIRMATORY AFFIDAVIT

I, the undersigned,



NONKONZO MADLALA

state under oath the following:

1. I am an adult female residing at Edendale, Pietermaritzburg. I am the chairperson of Phumelela Crèche, with NPO number 047-572, the fourth applicant in this application, situated at Edendale, Pietermaritzburg.

2. The contents of this affidavit are within my personal knowledge, except where the context indicates otherwise, and are to the best of my belief both true and correct.

3. I am duly authorised to depose of this affidavit.

4. I have read the founding affidavit of **Nkosinathi Sibisi** and confirm the correctness of the contents thereof insofar as it refers to me.

NBM
SDN

NBmadlala

DEPONENT

I hereby certify under oath that the Deponent acknowledged that she knows and understands the contents of this affidavit, that it is to the best of her knowledge both true and correct, and that she has no objection to the making of the prescribed oath which she considers to be binding on her conscience. This affidavit was signed in my presence at Plessislaer on this 12. day of April 2025, and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

SOUTH AFRICAN POLICE SERVICE
CSC RELIEF A
2025 -05- 12
PLESSISLAER
KWAZULU-NATAL

Nzuza
Ngubo SD

COMMISSIONER OF OATHS

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

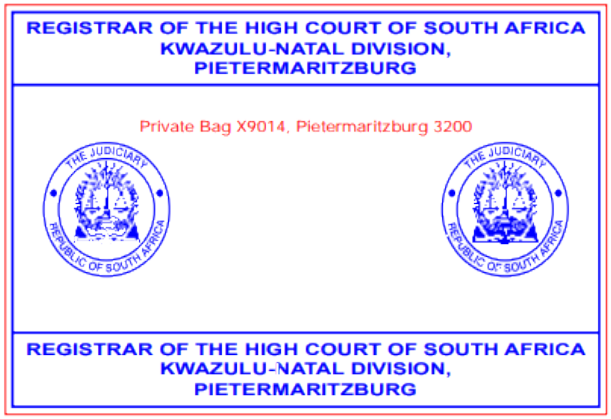
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Confirmatory Affidavit

NOTE: **This document was filed electronically by the Registrar on 18/5/2025 at 1:14:36 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

TP
SO.

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

CONFIRMATORY AFFIDAVIT

I, the undersigned,



THEMBEKILE NDLOVU

state under oath the following:

1. I am an adult female residing at Edendale, Pietermaritzburg. I am the principal of Zenzeleni Crèche, with NPO number 032-848, the fifth applicant in this application, situated at Edendale, Pietermaritzburg.

2. The contents of this affidavit are within my personal knowledge, except where the context indicates otherwise, and are to the best of my belief both true and correct.

3. I am duly authorised to depose of this affidavit.

4. I have read the founding affidavit of **Nkosinathi Sibisi** and confirm the correctness of the contents thereof insofar as it refers to me.

TP
SD

DEPONENT

I hereby certify under oath that the Deponent acknowledged that she knows and understands the contents of this affidavit, that it is to the best of her knowledge both true and correct, and that she has no objection to the making of the prescribed oath which she considers to be binding on her conscience. This affidavit was signed in my presence at Plessislaer on this 12. day of April 2025, and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

SOUTH AFRICAN POLICE SERVICE
CSC RELIEF A
2025 -05- 12
PLESSISLAER
KWAZULU-NATAL

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

COMMISSIONER OF OATHS

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

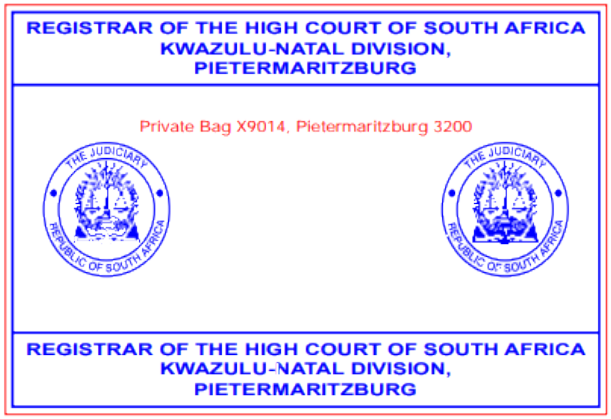
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Confirmatory Affidavit

NOTE: **This document was filed electronically by the Registrar on 18/5/2025 at 1:15:28 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant
and	
MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

1

MLM NDM

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

CONFIRMATORY AFFIDAVIT

I, the undersigned,



LAWRENCE MNGOMEZULU

state under oath the following:

1. I am an adult male residing at 70 Mambambo Road, Shayamoya Flats, Cato Manor, Durban. I am the principal of Umusa Uyasilandela ECD Centre, with NPO number 189-191, situated at Ohwebede, Mandeni.

2. The contents of this affidavit are within my personal knowledge, except where the context indicates otherwise, and are to the best of my belief both true and correct.

3. I am duly authorised to depose to this affidavit.

4. I have read the founding affidavit of **Nkosinathi Sibisi** and confirm the correctness of the contents thereof insofar as it refers to me.

DEPONENT

I hereby certify under oath that the Deponent acknowledged that he knows and understands the contents of this affidavit, that it is to the best of his knowledge both true and correct, and that he has no objection to the making of the prescribed oath which he considers to be binding on his conscience. This affidavit was signed in my presence at DURBAN on this 15TH day of May 2025 and the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

COMMISSIONER OF OATHS

NOTHANDO NANDI MAPHOSHE
COMMISSIONER OF OATHS
PRACTICING ATTORNEY
REPUBLIC OF SOUTH AFRICA
635-641 PETER MOKABA RIDGE, OVERPORT, DURBAN
KWAZULU NATAL, SOUTH AFRICA
TEL: 031 201 9366/7 FAX: 086 613 1028

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

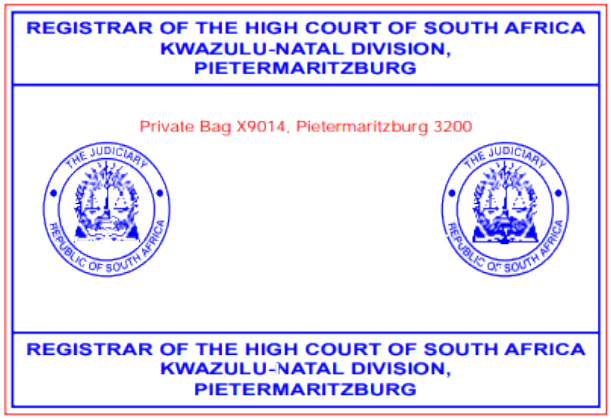
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Confirmatory Affidavit

NOTE: **This document was filed electronically by the Registrar on 18/5/2025 at 1:16:14 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant
and	
MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent
MINISTER OF SOCIAL DEVELOPMENT	Seventh Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

Eighth Respondent

CONFIRMATORY AFFIDAVIT

I, the undersigned,

MANDULO MAXWELL KHUZWAYO



state under oath the following:

1. I am an adult male residing at KwaNdengezi, KwaZulu-Natal. I am the principal of Zamani Pre-School, with NPO number 021-325, situated at 700/51 Thendele Road, KwaNdengezi.

2. The contents of this affidavit are within my personal knowledge, except where the context indicates otherwise, and are to the best of my belief both true and correct.

3. I am duly authorised to depose to this affidavit.

4. I have read the founding affidavit of **Nkosinathi Sibisi** and confirm the correctness of the contents thereof insofar as it refers to me.

NSM

2

MMK

DEPONENT

I hereby certify under oath that the Deponent acknowledged that he knows and understands the contents of this affidavit, that it is to the best of his knowledge both true and correct, and that he has no objection to the making of the prescribed oath which he considers to be binding on his conscience. This affidavit was signed in my presence at DURBAN on this 12TH day of ~~February~~ MAY 2025 and the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

COMMISSIONER OF OATHS

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

NOTHANDO NANDI MAPHOSHE
COMMISSIONER OF OATHS
PRACTICING ATTORNEY
REPUBLIC OF SOUTH AFRICA
635-641 PETER MOKABA RIDGE, OVERPORT, DURBAN
KWAZULU NATAL, SOUTH AFRICA
TEL: 031 301 9356/7 FAX: 086 613 1028

3

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

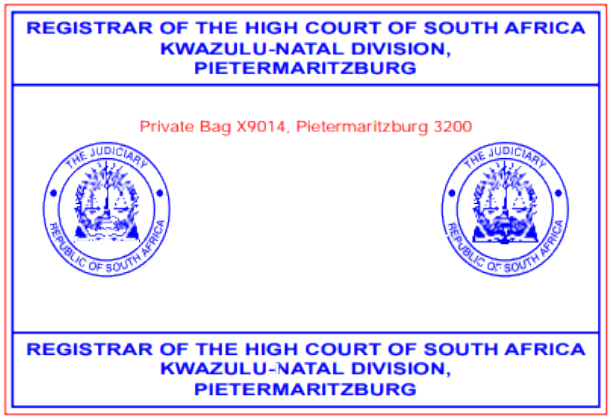
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Confirmatory Affidavit

NOTE: **This document was filed electronically by the Registrar on 18/5/2025 at 1:16:44 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant
and	
MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent
MINISTER OF SOCIAL DEVELOPMENT	Seventh Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

1

234
MOM

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

CONFIRMATORY AFFIDAVIT

I, the undersigned,

ZANDILE HLONGWA



state under oath the following:

1. I am an adult female residing A1074 Illovu Township, KwaZulu-Natal. I am the principal of Nomafu Daycare, with NPO number 002-445, situated at Inkwali Area, Illovu.

2. The contents of this affidavit are within my personal knowledge, except where the context indicates otherwise, and are to the best of my belief both true and correct.

3. I am duly authorised to depose to this affidavit.

4. I have read the founding affidavit of **Nkosinathi Sibisi** and confirm the correctness of the contents thereof insofar as it refers to me.

2

ZH
NOM

DEPONENT

I hereby certify under oath that the Deponent acknowledged that she knows and understands the contents of this affidavit, that it is to the best of her knowledge both true and correct, and that she has no objection to the making of the prescribed oath which she considers to be binding on her conscience. This affidavit was signed in my presence at DURBAN on this 12TH day of ~~February~~ MAY 2025 and the 20TH Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

COMMISSIONER OF OATHS

NOTHANDO NANDI MAPHOSHE
COMMISSIONER OF OATHS
PRACTICING ATTORNEY
REPUBLIC OF SOUTH AFRICA
635-641 PETER MOKABA RIDGE, OVERPORT, DURBAN
KWAZULU NATAL, SOUTH AFRICA
TEL: 031 201 9366/7 FAX: 086 613 1028

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

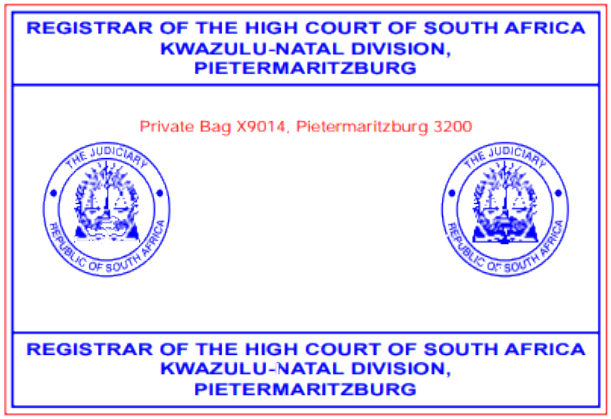
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Supporting Documents

NOTE: **This document was filed electronically by the Registrar on 19/5/2025 at 8:49:42 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant
and	
MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

KNM
S.L

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

SUPPORTING AFFIDAVIT ON THE LEGAL FRAMEWORK

Contents

EARLY CHILDHOOD DEVELOPMENT 4
CONSTITUTIONAL FOUNDATION OF ECD 6
LEGISLATIVE FRAMEWORK 9
Budget and the Financing of ECD 13
Subsidy Frameworks 13
Regulations 16
Norms and Standards 16
International Law 17
POLICY FRAMEWORK 20
STEPS TAKEN TO REMEDY THE ONGOING VIOLATIONS 21
ADMINISTRATIVE CHALLENGES 23
CONCLUSION 25

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

I, the undersigned,

SHENIECE LINDERBOOM

state under oath the following:

1. I am an adult female attorney practicing as such at the Legal Resources Centre, situated at 1st Floor, CBI Building, 635 Peter Mokaba Road, Overport, Durban. The Legal Resources Centre ("LRC") are the attorneys of record for the applicants in this matter.



2. The contents of this affidavit are within my personal knowledge, except where the context indicates otherwise, and are to the best of my belief both true and correct. I make legal submissions in this affidavit on the basis of advice sought and obtained by the applicants and the LRC.

3. I have read the contents of the main founding affidavit of Nkosinathi Sibisi and confirm its contents insofar as they relate to the actions and role of the LRC in this matter. That affidavit sets out the devastating consequences that non-payment of the ECD Grant subsidies are having on the applicants and others who are in a similarly situated position.

4. The purpose of this affidavit is also to set out the legal framework around the right to early childhood development ("ECD"). I do this to substantiate the relief sought by the applicants.

NDM

EARLY CHILDHOOD DEVELOPMENT

5. In this affidavit I will demonstrate that young children have a right to early childhood development in terms of our Constitution of the Republic of South Africa, 1996, the Bill of Rights, the Children's Act 38 of 2005 and international law.

6. ECD is an essential component of the right to life, survival and development. Indeed, the obligation to provide ECD is expressly set out in the Children's Act and the state has an obligation to provide such services.



7. There is sufficient foundation within the Constitution and the Children's Act for claiming ECD as a holistic right in South Africa. This imposes an obligation on South Africa to provide access to ECD services by supporting or supplementing the environment of a child during the early childhood period, to those in need, to ensure the realisation of their right to development.

8. These services are referred to within the ECD sector as the "essential package" of ECD services. They are comprised of the following components:

   8.1. Nutritional support;

   8.2. Primary caregiver support;

   8.3. Social services and protection;

   8.4. Health care services; and

   8.5. Early care and educational programmes.

9. The holistic delivery of this package of services is an essential pre-condition for

NNM

the fulfilment of many constitutional rights of children and the rights embedded in the Children's Act. The state itself acknowledges the importance of providing these services and the important role ECD plays in children's lives.

10. The National Integrated Early Childhood Development Policy ("NIECDP") states:

> *"Government is mandated and obligated to ensure the provision of early childhood development services as a right. In addition, they must be publicly provided because they afford a foundation for good child outcomes as well as national developmental outcomes; are necessary to equalise the developmental deficits experienced by infants and young children vulnerable to risk factors; and thus, are necessary to addressing South Africa's two key development challenges: poverty and inequality."*

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

11. In KZN, 58% of young children (children under six) live in rural households.[1] Access to basic services and service delivery in rural areas where the population is more spread out is often limited or obstructed by poor infrastructure, requiring considerable spending on transport to access health care or social grants.[2]

12. Further to this, approximately 81% of young children in KZN live below the poverty line with a 49% food poverty rate — which is the value that allows people to eat the minimum calories needed for survival.[3] There is a high prevalence of

[1] Hall K, Almeleh C, Giese S, Mphaphuli E, Slemming W, Mathys R, Droomer L, Proudlock P, Kotze J, and Sadan M "South African Early Childhood Review 2024" Cape Town: Children's Institute University of Cape Town and Ilifa Labantwana, page 12.
[2] Ibid.
[3] Ibid.

NNM

malnutrition in South Africa — particularly, stunting, which is the most common form of malnutrition and affects physical and cognitive development, giving affected children a higher likelihood of starting school with developmental delays, and performing poorly at school. Stunting is also closely linked with future unemployment, and chronic conditions such as obesity, hypertension and diabetes in adulthood.[4] In KZN, there was a 28% stunting rate according to the National Food and Nutrition Security Survey conducted by the Human Sciences Research Council between 2021 and 2023.[5] ECD centres also promote higher immunisation coverage due to a majority of early learning programmes being within 30 minutes of the nearest clinic.[6] Access to ECD centres in these under-resourced areas serve as a vital contact point for the provision of the essential package.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

13. The state's support of ECD centres is thus intended to increase access to these services for poor children, who would otherwise not be able to enjoy these rights. The corollary is that a failure or the withholding of this support denies access to this right and a failure of the state to fulfil its statutory and constitutional obligations.

CONSTITUTIONAL FOUNDATION OF ECD

14. Section 2 of the Constitution states that the Constitution is the supreme law of the Republic and law or conduct inconsistent with it is invalid, and the obligations

---

[4] Ibid, page 26.
[5] Simelane, T. Mutanga, S.S. Hongoro, C. Parker, W. Mjimba V. Zuma, K. Kajombo, R. Ngidi, M. Masamha, B. Mokhele, T. Managa, R. Ngungu, M. Sinyolo, S. Tshililo, F. Ubisi, N. Skhosana, Ndinda, C. Sithole, M. Muthige, M. Lunga, W. Tshitangano, F. Dukhi, N., F. Sewpaul, R. Mkhongi, A. Marinda, E., (2023). National Food and Nutrition Security Survey: National Report: HSRC: Pretoria.
[6] See note 1, page 22.

NNM

imposed by it must be fulfilled. Section 237 of the Constitution states that all constitutional obligations must be performed diligently and without delay.

15. A right to ECD is not mentioned by name in the Constitution, but it is implicit in the many rights which the Bill of Rights vests in children.

16. Section 28 of the Bill of Rights sets out the rights of children. Section 28(1) guarantees, amongst others, the rights to family care or parental care, or to appropriate alternative care when removed from the family environment, to basic nutrition, shelter, basic health care services and social services, to be protected from maltreatment, neglect, abuse or degradation and section 28(2) provides that in all matters concerning a child, a child's best interest are of paramount importance.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

17. Section 11 of the Constitution guarantees everyone the right to life. The Constitutional Court has ruled that the right to life includes the right to have food, water and social security. These are positive obligations which are placed on the state which means that the state must take positive steps to meet these obligations. These matters will be addressed further in legal argument.

18. Section 10 of the Bill of Rights states: "Everyone has inherent dignity and the right to have their dignity respected and protected." The Constitutional Court has ruled that the right to dignity is inherent in the right to life.

19. Section 9 of the Constitution provides:

NNM

(1) *"Everyone is equal before the law and has the right to equal protection and benefit of the law.*

(2) *"Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken."*

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

20. Section 27(1)(a) and (b) of the Constitution provides the right to access healthcare services, sufficient food, and water. Section 29 contains the immediately realisable right to a basic education.

21. Section 29(1)(a) guarantees the right to a basic education. What the young children receive at the ECD centres are precisely that. Apart from sustenance towards their development, these children also receive the basics of an early education. All of this forms the essential package, described earlier, dealing with their early childhood development.

22. Based on the foregoing, I submit that children from birth to the age of five, represent the most vulnerable amongst us because they are completely dependent on the care they receive, at ECD centres, for their development. This is essential to the growth and development of children if they are to stand any chance of realising the rights in the Bill of Rights during the course of their early years. There can be no suggestion that these foregoing rights do not vest in and are not guaranteed to such young people.

NPM

23. It follows therefore that the failure to provide funding for the ECD programmes is in direct contravention of the above constitutional rights that vest in children. They directly impact on a child's right to sufficient food and nutrition and indirectly affect their rights to a basic education and accessing healthcare services.

24. But the contravention goes deeper. It also results in a failure by the state to comply with its statutory duties, too.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

25. The Children's Act is the subsidiary legislation that gives effect to the rights of children. I deal with this next.

LEGISLATIVE FRAMEWORK

26. Recognising the aforesaid rights, the Children's Act set out the contents of the right to ECD.

27. The long title of the Children's Act is "to give effect to certain rights of children as contained in the Constitution; … to provide for early childhood development". In its preamble, the Act states that:

27.1. every child has the rights set out in section 28 of the Constitution;

27.2. the State must respect, protect, promote and fulfil those rights;

27.3. the United Nations has in the Universal Declaration of Human Rights proclaimed that children are entitled to special care and assistance;

27.4. the need to extend particular care to the child has been stated in the

NNM

Geneva Declaration on the Rights of the Child, in the United Nations Declarations on the Rights of the Child, in the Convention on the Rights of the Child and in the African Charter on the Rights and Welfare of the Child, recognised in the Universal Declaration organisations concerned with the welfare of children.

28. Some of the objects of the Act, in terms of sub-sections 2(c) and (d) are to:

28.1. give effect to the Republic's obligations concerning the well-being of children in terms of international instruments binding on the Republic; and



28.2. make provision for structures, services and means for promoting and monitoring the sound physical, psychological, intellectual, emotional and social development of children.

29. In implementing this Act, organs of state in the national, provincial and, where applicable, local spheres of government who are subject to any specific section of this Act and regulations allocating roles and responsibilities, must fulfil their obligations in an integrated, co-ordinated and uniform manner.

30. Further, where competing social and economic needs exist, organs of state in the national, provincial and, where applicable, local spheres of government must, in the implementation of this Act, take reasonable measures to the maximum extent of their available resources to achieve the realisation of the objects of this Act.

NNM

31. By extension of the purpose of the Act, the allocation of such services is an immediately realisable one that is not subject to progressive realisation based on the availability of resources. This is evident when going through the further material and applicable sections of the Act.

32. The general principles surrounding the Act are as follows. All proceedings concerning the child must:

32.1. respect, protect, promote and fulfil the child's rights set out in the Bill of Rights, the best interests of the child standard set out in section 7 and the rights and principles set out in this Act, subject to any lawful limitation

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

32.2. respect the child's inherent dignity; and

32.3. recognise a child's need for development and to engage in play and other recreational activities appropriate to the child's age.

33. In applying the Act, the rights which a child has in terms of this Act supplement the rights which a child has in terms of the Bill of Rights. And all organs of state in any sphere of government and all officials, employees and representatives of an organ of state must respect, protect and promote the rights of children contained in this Act.

34. Chapter 6 of the Act sets out the section on ECD. I highlight below some of the essential aspects and these matters will be dealt with further in legal argument. I submit at the outset that this demonstrates that the Legislature has recognised the importance of ECD by making specific provision for it in a Chapter in the Children's Act.

NNM

35. Section 91(1) of the Children's Act characterises early childhood development as "the process of emotional, cognitive, sensory, spiritual, moral, physical, social and communication development of children from birth to school-going age." ECD services are then defined in section 91(2) as regular services provided by someone other than a child's parent or caregiver that are intended to promote early childhood development, until a child reaches school-going age.

36. Section 92 of the Act sets out the state's strategy concerning ECD. It places an obligation on:

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

36.1. The Minister, after consultation with interested persons and the Ministers of Education, Finance, Health, Provincial and Local Government and Transport must include in the departmental strategy a comprehensive national strategy aimed at securing a properly resourced, co-ordinated and managed early childhood development system, giving due consideration as provided in section 11, to children with disabilities or chronic illnesses.

36.2. The MEC, in this instance within KwaZulu-Natal, for basic education must maintain a record of all the early childhood development programmes registered in the province; and within the national strategy referred to in subsection (1), provide for a provincial strategy aimed at a properly resourced, co-ordinated and managed early childhood development system.

36.3. The MEC for basic education must compile a provincial profile at the prescribed intervals in order to make the necessary information available

004-14

for the development and review of the strategies referred to in subsections (1) and (2).

Budget and the Financing of ECD

37. Section 93 of the Act deals with the provision of funding towards ECD programmes. According to this section:

37.1. The MEC for education may, from money appropriated by the relevant provincial legislature, provide and fund early childhood development programmes for that province.

37.2. An early childhood development programme must be provided in accordance with this Act and comply with the above prescribed national norms and standards.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

37.3. The funding of early childhood development programmes must be prioritised in communities where families lack the means of providing proper shelter, food and other basic necessities of life to their children.

Subsidy Frameworks

38. Subsidies are funded from both the Early Childhood Development Grant ("ECDG"), a conditional grant administered by the DBE, and by Provincial Education Departments ("PEDs") using a portion of their provincial equitable share. As a conditional grant, funding provided through the ECDG is strictly ring-fenced and must be used by PEDs within the parameters set out by the DBE. The allocation and use of the ECDG is governed in terms of the ECD Conditional Grant Framework, revised each year by the DBE and included annually within Annexure W2 to the Division of Revenue Bill. A copy of the most recent

framework for the 2024/25 financial year is annexed hereto as "**SL 1**".

39. The most recent framework sets the value of the ECD subsidy drawn from the ECDG at R17 per qualifying child per day at registered ECD centres, and R6 per qualifying child per session attending non-centre ECD establishments. These subsidies have not increased since 2019. The allocation made towards the ECDG under the Division of Revenue Bill B7 of 2025 has been reported to increase the subsidy allocated per child at registered ECD centres to R24. However, the 2025/26 ECD Conditional Grant Framework that accompanied the Bill, annexed hereto as "**SL 2**", still reflects a subsidy of R17 per child per day. The Bill was, however, withdrawn on 24 April 2025 in accordance with Assembly Rule 334.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

40. However, underspending on the ECDG remains a significant issue. The most recent Conditional Grants Expenditure Report presented to the National Council of Provinces' Appropriations Committee on 16 October 2024 revealed that, on average, provinces are only spending 42% of the ECDG grant allocated to them. The report also revealed that the KZNDOE only spent 45.7% of the ECDG grant it was allocated. A copy of this report is annexed hereto as "**SL 3**".

41. The framework also details the process that must be followed in applying for ECD funding and in paying subsidies out to ECD centres and non-centre establishments in broad terms. While PEDs are left to determine the finer details of this process in their own business plans, the framework does clearly require the subsidy payments to be calculated using centre and non-centre

establishments enrolment figures at the start of the year and paid out on a quarterly basis.

42. PEDs also contribute towards ECD subsidies using a portion of their provincial equitable share. These funds are allocated at the discretion of PEDs, and the exact allocation thereof differs between provinces.

43. It goes on to state that ensuring the right to life, survival and development includes the need to consider budgets for different groups of children within the current generation, while also taking future generations into account by developing sustainable multi-year revenue and spending projections.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

44. ECD centres are required to register under the Children's Act. If registration is successful, the centre then qualifies to access the state subsidy. If the ECD centre does not however meet the registration requirements, they are largely left to fend for themselves and operate using the fees received from parents, which are negligible in poor communities.

45. Subsidies are granted to ECD centres on a per capita basis taking into account the number of children in attendance at the centre and the number of days children spend at the centre during the year. If an ECD centre is located in a designated municipal ward that has been identified for the targeting of subsidies, all children in attendance at the centre are subsidised. If it is located outside of these areas, only the children in attendance whose parents or caregivers pass a means test will be subsidised. The subsidy value will also vary between centre and non-centre establishments.

Regulations

46. According to the General Regulations Regarding Children, 2010; GN R261 in GG 33076 of 01 April 2010 ("2010 Regulations"), regulation 28 subjects all ECD programmes to assessment and monitoring of norms and standards of the provision of ECD. All assessment and monitoring visits must be followed by a full report and development plan that must be submitted to the provincial head of social development and the management of the early childhood development programme. Assessment and monitoring of early childhood development programmes must take place every two years.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Norms and Standards

47. Section 94 of the Act places an obligation on the Minister to determine national norms and standards for early childhood development programmes by regulation after consultation with interested persons and the Ministers of Education, Finance, Health, Provincial and Local Government and Transport.

48. These norms and standards were determined and were placed as an annexure to the 2010 Regulations. The National Norms and Standards for Early Childhood Development Programmes sets out six broad norms and standards. These are:

48.1. The provision of appropriate developmental opportunities.

48.2. Programmes aimed at helping children to realise their full potential.

48.3. Caring for children in a constructive manner and providing support and security.

48.4. Ensuring development of positive social behaviour.

48.5. Respect for and nurturing of the culture, spirit, dignity, individuality, language and development of each child.

48.6. Meeting the emotional, cognitive, sensory, spiritual, moral, physical, social and communication development needs of children.

49. In order to provide appropriate developmental opportunities, the programme must be delivered by members of staff who have the knowledge and training to deliver developmental programmes and be appropriate to the developmental stages of children.



50. The caring of children, according to the norms and standards, programmes that must adhere to policies, procedures and guidelines related to health, safety and nutrition. These include,

50.1. Safe and clean toilet facilities,

50.2. At least one meal a day provided, of which should adhere to the needs of the child's nutritional requirements;

50.3. Staff must be adequately trained and possess knowledge and skills to recognise children's serious illnesses and how to deal with those.

International Law

51. As foreshadowed in the Children's Act, international law gives content to these rights and obligations. The rights in the Bill of Rights are to be interpreted consistently with international law in terms of section 39 (1) of the Bill of Rights.

52. Furthermore, international law is expressly acknowledged in the long title and

preamble of the Children's Act. In this section, I set out the various principles of international law.

53. Article 1 of the Geneva Declaration of the Rights of the Child states that a "child must be given the means requisite for its normal development, both materially and spiritually".

54. Principle 2 of the United Nations Declaration of the Rights of the Child state that "the child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration".

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

55. Article 6 of the United Nations Convention on the Rights of the Child ("UNCRC") which South Africa has ratified, reads as follows:

> *"1. States Parties recognize that every child has the inherent right to life.*
>
> *2. States Parties shall ensure to the maximum extent possible the survival and development of the child."* (Emphasis added)

56. Regarding the interpretation of "development" in Article 6, General Comment No 5 provides that it must be understood "in its broadest sense as a holistic concept, embracing the child's physical, mental, spiritual, moral, psychological and social development". This implies, that the implementation of Article 6

NDM

requires more from states than steps that will ensure the survival of a child into adulthood.

57. General Comment No 7 states *"that the right to survival and development can only be implemented in a holistic manner, through the enforcement of all the other provisions of the Convention, including rights to health, adequate nutrition, social security, an adequate standard of living, a healthy and safe environment, education and play (arts. 24, 27, 28, 29 and 31), as well as through respect for the responsibilities of parents and the provision of assistance and quality services (arts. 5 and 18)."* (Emphasis added)

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

58. Similarly, ECD depends on the holistic delivery of the essential package of ECD services. Thus, despite not explicitly mentioning early childhood development, General Comments 5 and 7 reinforce the notion that the compound nature of early childhood development is best encapsulated by article 6, by highlighting the interconnectedness of the UNCRC's provisions that impact development.

59. Similarly, Article 5 of the African Charter on the Rights and Welfare of the Child, which South Africa has ratified, states:

> *"1. Every child has an inherent right to life. This right shall be protected by law.*
>
> *2. States Parties to the present Charter shall ensure, to the maximum extent possible, the survival, protection and development of the child."* (Emphasis added)

60. General Comment 19 of the UNCRC on public budgeting for the realisation of children's rights acknowledges that investment in childhood development has a positive impact on children's ability to exercise their rights, breaks poverty cycles and brings high economic returns. Underinvestment in children in their early years can be detrimental to cognitive development and can reinforce existing deprivations, inequalities and intergenerational poverty.

POLICY FRAMEWORK

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

61. I submit that there can be no doubt about this because our government has recognised these arguments in policy, since 2015.

62. The NIECDP was developed by the Department of Social Development ("DSD") with the goal of increasing access to subsidised ECD services for poor children. It states that "[g]overnment recognises early childhood development as a fundamental and universal human right to which all young children are equally entitled without discrimination."[7]

63. The principles underpinning the implementation of the NIECDP include a "human rights-based approach to early childhood development,"[8] which is described as follows:

> *"[The NIECDP] is grounded in, and seeks to give effect to, the Government of South Africa's international, regional and national legal commitments to recognise, respect, protect and promote*

[7] Paragraph 1.3.1 of the NIECDP.
[8] Page 50 of NIECDP. United Nations, 2002; United Nations, 2010.

the universal rights of all young children and their caregivers protected by international, regional and national law." [9]

64. It expressly recognises a child's universal right to life, survival and development in terms of international law, and states that the government has a legal obligation to ensure that ECD services are provided to support the realisation of this right.[10]

65. To effectively enforce this obligation, the Policy calls for "a strong early childhood development system made up of policies and laws, in terms of which responsibilities are spelt out and role players can be held accountable for the realisation of the universal enjoyment of young children's rights."[11]

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

66. The policy defines ECD programmes as "Programmes that provide one or more forms of daily care, development, early learning opportunities and support to children from birth until the year before they enter formal school."

STEPS TAKEN TO REMEDY THE ONGOING VIOLATIONS

67. I have read the main founding affidavit and confirm the steps taken to remedy the failure to provide funding for ECD programmes. These were taken in an effort to remedy the on-going and inconsistent funding of the ECD programmes.

68. ECD centres within the FOSA and KwaZulu-Natal ECD Alliance ("KZN ECD Alliance") networks first experienced irregularities and delays in the subsidy

[9] Page 50 of NIECDP.
[10] Page 50 of NIECDP.
[11] Page 50 of the NIECDP.

NNM

payments from the second respondent in April 2022. The problem escalated in September 2023, when successive subsidy payments went unpaid for several KZN ECD centres, with no explanation provided by the second respondent for this omission. This resulted in many unsuccessful attempts by the applicants to find out why ECD centres were not being paid. The non-payment of the subsidy had devastating effects on the running of the affected ECD centres; impacting the staff, the parents and most significantly, the children.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

69. Despite the subsidy amount of R17 per child per day being wholly inadequate to provide the necessary package of services, ECD centres do rely heavily on the subsidy to keep their centres operational. Due to unreliable subsidy payments, centres have been forced to increase fees, demand payment of fees, or request parents or guardians to send their children to the ECD centres with food from home. These requests are made despite the reality of parents being unable to afford the increases or not having sufficient food at home to send with their children.

70. These measures have resulted in a decrease in attendance by impoverished children who qualify for the subsidy. Due to the untenable financial difficulties, many centres face the real prospect of having to close.

71. From September 2023 until the time of signing this affidavit, subsidy payments have become increasingly inconsistent and unreliable, leading to the exponential decline of the ECD sector — particularly in marginalised communities. This is entirely at odds with the stated intention of the subsidy which is to secure universal access to ECD.

NNM

72. As stated by the National Treasury at page 25 of their "2024 Budget Review: Explanatory Memorandum to the Division of Revenue":

> *"The early childhood development grant supports government's prioritisation of early childhood development, as envisioned in the National Development Plan. The grant aims to improve poor children's access to early childhood programmes and ensure that early childhood development centres have adequate infrastructure"*[12]

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

73. For ECD centres that rely entirely on the subsidy, the risk of closing is imminent, which would be a retrogressive measure and lead to the contraction of the sector rather than the envisioned universal access that the subsidy is intended to work towards.

ADMINISTRATIVE CHALLENGES

74. As the main founding affidavit demonstrates there are clear deficiencies in the manner in which the government has approached its obligations with respect to ECD. This has resulted in ongoing and continuing violations of the Constitution, the Children's Act and international law.

75. The KZNDoE has consistently failed to uphold its administrative responsibilities in relation to ECD subsidy funding, thereby undermining the viability and

[12] https://www.treasury.gov.za/documents/national%20budget/2024/review/Annexure%20W1.pdf

sustainability of ECD centres such as Phumelela, Zenzeleni, Sakhokwethu and centres throughout the province.

76. In the unexpected event of there being a valid Transfer Payment Agreement ("TPA") between an ECD centre and the KZNDoE, the Department still employs a pattern of delayed, sporadic, and entirely absent payments.

76.1. Phumelela, for example, was without funding for five consecutive months.

76.2. Similarly, Zenzeleni has not received any subsidy since October 2024, despite fulfilling all administrative obligations, including the submission of claims and necessary documentation.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

77. The payment histories of these ECD centres illustrate a systemic pattern of neglect rather than isolated incidents.

78. The Department has demonstrated an inability to manage and update internal administrative systems necessary to ensure efficient payment of subsidies. In several instances, including Phumelela and Zenzeleni, ECD centres complied with departmental directives to change their banking details from Ithala to other respective banks following the application for the liquidation of Ithala, only to encounter the KZNDoE's continual failure to process payments to these new accounts, or failure to update its internal databases.

NNM
S.L

79. This has resulted in missed payments for months at a time, with no accountability or remedial support provided. Despite repeated follow-ups, the ECD centres have received no support or clarity from departmental officials and have had their inquiries met with vague and inconsistent responses.

80. Additionally, the differentiation between conditional grant payments and equitable share allocations was reported as an issue, with ECD centres being unclear about whether they were receiving funding under the quarterly conditional grant or the monthly equitable share. This ambiguity has resulted in missed or misclassified payments, unprocessed claims, and an inability for ECD centres to plan their financial and operational commitments.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

81. Equally troubling is the Department's inconsistent administration of TPAs, which serve as the legal foundation for subsidy disbursement. Whilst some ECD centres, such as Zenzeleni, report that they have not been issued a TPA for the 2024/2025 financial year despite continuing operations, others like Phumelela have signed TPAs but still experienced payment interruptions without recourse.

82. These ECD centres recognise that without signed and valid TPAs, there is no lawful basis for disbursing funds, no legal recourse in the event of non-payment, and no clarity regarding the terms and conditions of funding. Centres are particularly concerned by the lack of a specified payment date, which makes responding to breaches and payment delays a challenge.

CONCLUSION

NNM
SL

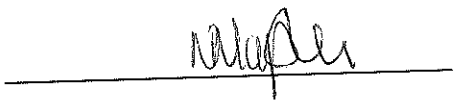
83. Considering what is set out above, I submit that the applicants have made out a case for the relief sought. All other attempts have failed to ensure and secure that government meets its payment obligations on time. The applicants therefore have no other remedy except to approach this court.

84. Therefore, I pray for an order as set out in the notice of motion, including the relief sought in Parts A and B of the notice of motion.



SHENIECE LINDERBOOM

I hereby certify under oath that the Deponent acknowledged that she knows and understands the contents of this affidavit, that it is to the best of her knowledge both true and correct, and that she has no objection to the making of the prescribed oath which she considers to be binding on her conscience. This affidavit was signed in my presence at DURBAN on this 14TH day of May 2025 and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.



COMMISSIONER OF OATHS

NOTHANDO NANDI MAPHOSHE
COMMISSIONER OF OATHS
PRACTICING ATTORNEY
REPUBLIC OF SOUTH AFRICA
635-641 PETER MOKABA RIDGE, OVERPORT, DURBAN
KWAZULU NATAL, SOUTH AFRICA
TEL: 031 201 9366/7 FAX: 086 613 1028

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

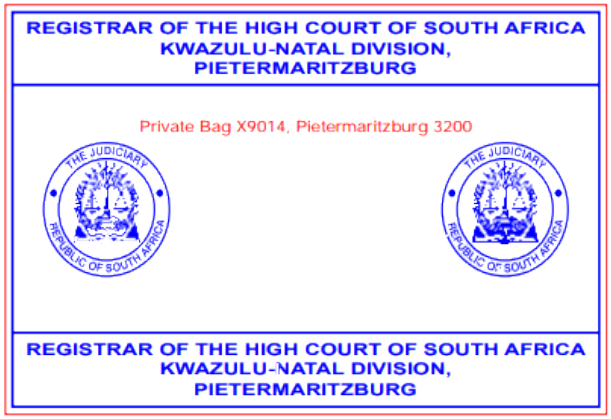
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 01

NOTE: **This document was filed electronically by the Registrar on 19/5/2025 at 8:50:39 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

004-31
SC1
19/5/2025-8:50:39 PM

BASIC EDUCATION GRANTS

Early Childhood Development Grant	
Transferring department	• Basic Education (Vote 16)
Grant schedule	• Schedule 5, Part A
Strategic goal	• To increase access to quality early childhood development (ECD) programmes for poor children
Grant purpose	• To increase the number of poor children accessing subsidised ECD programmes • To support ECD providers delivering an ECD programmes to meet basic health and safety requirements for registration • To pilot the construction of new low cost ECD centres
Outcome statements	• The provision of ECD to poor children contributing towards universal access • Improving health and safety conditions in which stimulation and early learning takes place
Outputs	• This grant has two components with detailed outputs, conditions and responsibilities for each component specified in separate frameworks. The two components are: o infrastructure component o subsidy component
Priority of government that this grant primarily contributes to	• Priority 3: Education, skills and health
Details contained in the business plan	• The provincial departments will use a single business plan issued by the national Department of Basic Education (DBE) for the two grant components which contains the following: o project background o project objectives o scope of the work o deliverables and outputs to be achieved o risk assessment with mitigation plan
Conditions	• Conditional grant funding cannot be used to replace funding that provinces have previously allocated for ECD subsidies • Each province may use a maximum of R6 million of their total conditional grant allocation (subsidy plus infrastructure components) for administrative management of the grant which includes capacity to manage the grant and funding for assessments of ECD centres. Provinces may choose to use this amount from the allocation for either one of the components or both
Allocation criteria	• As specified in the two grant component frameworks
Reasons not incorporated in equitable share	• To allow DBE to better ring-fence expansion of ECD in the country and to facilitate compliance to the National Integrated ECD Policy approved by Cabinet on 9 December 2015 ensuring that the delivery and maintenance of any capital investment is coordinated in an efficient manner that is consistent with norms, standards and guidelines • ECD is a national priority and requires uniform implementation in order to achieve the minimum coverage of 60 per cent of all poor children and to have the desired impact of achieving universal access by 2030
Past performance	**2022/23 audited financial outcomes** • Of the total grant allocation of R1.2 billion, 75 per cent was transferred to provinces. Expenditure of R886 million (74.8 per cent) was spent by the end of the 17 November 2023 **2022/23 service delivery performance** • 338 404 children benefitted from the subsidy
Projected life	• Given the nature of the programme and the drive to expand provision of ECD services, the grant will be needed for the medium-term expenditure framework period, subject to review
MTEF allocations	• 2024/25: R1.6 billion; 2025/26: R1.9 billion; and 2026/27: R2 billion allocated as follows: o subsidy component: 2024/25: R1.4 billion; 2025/26: R1.8 billion; and 2026/27: 1.9 billion o infrastructure component: 2024/25: R157 million; 2025/26: R162 million; and 2026/27: R169 million
Payment schedule	• Quarterly instalments based on the approved payment schedule
Responsibilities of the transferring officer and receiving officer	**Responsibilities of the national department** • Review the standardised reporting framework and monitoring tool • Review the standardised format for the business plans • Assist the provincial departments of basic education with their planning • Assess and approve the business plans submitted by provinces • Monitor project progress and compliance to conditional grant framework • Provide continuous monitoring and support to provinces • Submit a monthly financial report to National Treasury 20 days after the end of the reporting month • Consolidate and submit quarterly performance reports to National Treasury within 45 days after the end of each quarter • Monitor the utilisation of the grant against the set outcomes and take appropriate action in cases of non-compliance with the framework • Facilitate approval of the payment schedule and approval of in-year adjustments to the payment schedule • The DBE will develop ECD infrastructure grant guidelines to be issued to the provinces by 29 March 2024 • Visit selected infrastructure sites in provinces

IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

004-31

Early Childhood Development Grant	
	• Support provinces to improve infrastructure delivery capacity and systems • Provide guidance to provinces in planning and prioritisation
	Responsibilities of provincial departments • Submit approved business plans signed-off by the head of department to the DBE by 2 March 2024 • Implement the business plan as approved by the DBE • Submit monthly financial reports to DBE 15 days after the end of the reporting month • Provinces must upload all ECD maintenance projects on the infrastructure reporting model and update it monthly • Submit quarterly performance reports to DBE within 30 days after the end of each quarter
Process for approval of 2025/26 business plans	• Engagement with provincial departments on submission of business plans between September 2024 and February 2025 • Submit final provincial business plan, including cash flow projections and compliance certificates signed-off by the heads of departments for 2025/26 financial year to DBE by 14 February 2025 • The transferring officer must approve provincial business plans by 2 April 2025



NNM
S.L

Early Childhood Development Grant: Infrastructure Component	
Transferring department	• Basic Education (Vote 16)
Grant schedule	• Schedule 5, Part A
Strategic goal	• To increase access to quality early childhood development (ECD) programmes for poor children
Grant purpose	• To support ECD providers delivering an ECD programme to meet basic health and safety requirements for registration • To pilot the construction of new low cost ECD centres
Outcome statements	• The provision of ECD services to poor children contributing towards universal access • Improving health and safety conditions in which stimulation and early learning takes place
Outputs	• Number of conditionally registered ECD centres maintained • Number of unregistered ECD centres maintained • Number of new low cost ECD centres constructed
Priority outcome(s) of government that this grant primarily contributes to	• Priority 3: Education, skills and health
Details contained in the business plan	• The provincial departments will use a single business plan issued by the national Department of Basic Education (DBE) for the two grant components (subsidy and infrastructure) which contains the following: o project background o project objectives o scope of the work o deliverables and outputs to be achieved o risk assessment with mitigation plan
Conditions	**Maintenance and upgrading** • This allocation may be used for: o unregistered ECD centres to do minor infrastructure maintenance works and upgrades to enable conditional registration o conditionally registered ECD centres to do minor infrastructure maintenance works and upgrades to enable them to improve their registration status • The following conditions apply in respect of the above: o all ECD sites whether conditionally registered or unregistered may only benefit from this fund if they are eligible as per the requirements in the guideline issued by DBE o all projects must be selected, planned and implemented in a manner consistent with the guideline issued by the DBE o infrastructure units in the provinces must receive a list of selected ECD centres for maintenance or for new construction from program o provinces must conduct assessments of conditionally registered and eligible unregistered ECD sites and cost them in order to qualify for funding in 2025/26 and submit by 30 September 2024 o for unregistered centres, a maximum amount of R210 000 per ECD centre may be spent for maintenance improvements, inclusive of all costs (Value Added Tax, disbursements etc) o for conditionally registered centres a maximum amount of R500 000 per ECD centre may be spent for maintenance improvement and upgrades, inclusive of all costs (Value Added Tax, disbursements etc) o prior approval for any amount exceeding more than 20 per cent of the maximum amount per centre should be obtained from the head of department or the Chief Financial Officer with a detailed assessment and cost analysis to justify the additional amount o once the budget is allocated per province, a revised approved list for maintenance should be submitted by the province to DBE together with business plans o all projects must be recorded on the infrastructure reporting model before the start of the financial year o provinces must update the infrastructure project details for each funded project in the infrastructure reporting model. This must be approved and submitted to National Treasury and DBE within 22 days after the end of each quarter **New centre construction** • This allocation may be used for: o construction of new low-cost ECD centres where existing structures must be replaced or to address new demand in areas where the need is the greatest o a maximum of R3 million may be used for the construction of new ECD centres, inclusive of all costs. Prior approval for any amount exceeding more than 20 per cent of the maximum amount per centre should be obtained from the head of department or the Chief Financial Officer with a detailed assessment and cost analysis to justify the additional amount • The construction of centres must be consistent with the guideline issued by the DBE • Every province must construct at least one ECD centre in 2024/25 • Each province must include the number of ECD centres to be constructed and the costs for the construction in the business plan for 2024/25 • All projects must be recorded on the infrastructure reporting model **General conditions** • DBE will develop guidelines for each of the areas listed above that must be issued to the provinces by 29 March 2024 • All projects must be selected, planned and implemented in a manner consistent with the guideline issued by the DBE

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

NNM
S.L

Early Childhood Development Grant: Infrastructure Component	
	• Infrastructure units in the provinces must receive a list of selected ECD centres for maintenance or new construction from programme • Provinces must conduct assessments of conditionally registered ECD sites, eligible unregistered ECD sites and identified sites for new construction of ECD centre and cost them to qualify for funding in 2025/26 and submit by 30 September 2024 • ECD centres must sign service level agreements with the provincial department before maintenance or new construction of a centre • ECD centres that benefited from the maintenance allocation must then make provision for continued maintenance of ECD centre • Provinces shall include all projects in the final infrastructure asset management plan to be submitted at the end of March 2024
Allocation criteria	• The provincial infrastructure allocations are determined based on: o a base allocation for the construction of at least one low cost ECD o the allocation of the balance is based on the ECD census data
Reasons not incorporated in equitable share	• To allow DBE to manage the expansion of ECD in the country and to facilitate compliance to the National Integrated ECD Policy approved by Cabinet on 9 December 2015 ensuring that the delivery and any capital investment is coordinated in an efficient manner that is consistent with norms, standards and guidelines • ECD is a national priority and requires uniform implementation to achieve the minimum coverage of 60 per cent of all poor children and to have the desired impact of achieving universal access by 2030
Past performance	**2022/23 audited financial outcomes** • Of the maintenance grant allocation of R97.7 million (100 per cent) was transferred to provinces. R64.7 million was spent by the end of the financial year
	2022/23 service delivery performance • 170 ECD centres benefited from the maintenance grant and 37 were rolled over into the 2023/24 financial year
Projected life	• Given the nature of the programme and the drive to expand provision of ECD services, the grant will be needed for the medium term expenditure framework period, subject to review
MTEF allocations	• 2024/25: R157 million; 2025/26: R162 million; and 2026/27: R169 million
Payment schedule	• Quarterly instalments according to approved payment schedule
Responsibilities of the transferring officer and receiving officer	**Responsibilities of the national department** • DBE will develop ECD infrastructure grant guidelines for each of the two areas listed above that must be issued to the provinces by 29 March 2024 • DBE will conduct monitoring on the grant, support provincial education departments and consolidate quarterly grant performance reports received from PEDs • DBE ensures all provinces adhere to norms and standards developed for ECD
	Responsibilities of provincial departments • Provinces must submit a draft list of all eligible ECD sites that have been assessed to benefit from the grant in 2025/26 to DBE by 30 September 2024 • Provinces shall include all projects in the final infrastructure asset management plan to be submitted to the DBE at the end of March 2024 • Provinces must provide a procurement plan on how they will implement their projects in the 2025/26 financial year by 30 November 2024 • The reasons for the centre being unregistered or conditionally registered including the environmental health report must be kept in the file for each ECD centre by the ECD programme manager • Maintain a database of all ECD centres that have been assisted through the infrastructure component of the grant by the ECD infrastructure project manager • The ECD programme manager must maintain a database of all ECD centres that have improved their registration status • Provinces must record all infrastructure projects on the national infrastructure reporting model and education facilities management system • Provinces must adhere to the requirements in the ECD infrastructure grant guidelines issued by DBE in the implementation of the grant • Provincial education departments must comply with the framework for infrastructure delivery and procurement management in the planning and implementation of projects
Process for approval of 2025/26 business plans	• Engagement with provincial departments on submission of business plans between September 2024 and February 2025 • Submit final provincial business plan, including cash flow projections and compliance certificate signed-off by heads of departments for 2024/25 financial year to the DBE by 14 February 2024 • The transferring officer must approve provincial business plans by 2 April 2025

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION PIETERMARITZBURG

NOM

Early Childhood Development Grant: Subsidy Component	
Transferring department	• Basic Education (Vote 16)
Grant schedule	• Schedule 5, Part A
Strategic goal	• To increase access to quality early childhood development (ECD) programmes for poor children
Grant purpose	• To increase the number of poor children accessing subsidised ECD programmes
Outcome statements	• The provision of ECD programmes to poor children contributing towards universal access
Outputs	• Number of eligible children subsidised, as agreed in the service level agreement (SLA) • Number of all children attending ECD programmes in fully registered ECD centres • Number of all children attending ECD programmes in conditionally registered ECD centres • Number of children subsidised from the conditional grant in fully registered ECD centres • Number of children subsidised from the conditional grant in conditionally registered ECD centres • Number of days subsidised for centre based programmes • Number of children subsidised through provincial own revenue including equitable share that are benefiting from the top-up grant in fully registered ECD programmes • Number of children subsidised through provincial own revenue including equitable share that are benefiting from the top-up grant in conditionally registered ECD programmes • Number of children subsidised from the equitable share in fully registered ECD centres • Number of children subsidised from the equitable share in conditionally registered ECD centres • Number of all children attending in fully registered non-centre based programmes • Number of all children attending in conditionally registered non-centre based programmes • Number of children subsidised from the conditional grant in fully registered non-centre based programmes • Number of children subsidised from the conditional grant in conditionally registered non-centre based programmes • Number of ECD practitioners and other staff employed in fully and conditionally registered ECD programmes benefiting from the conditional grant
Priority of government that this grant primarily contributes to	• Priority 3: Education, skills and health
Details contained in the business plan	• The provincial departments will use a single business plan issued by the national Department of Basic Education (DBE) for the two grant components (i.e. subsidy and infrastructure) which contains the following: ○ project background ○ project objectives ○ scope of the work ○ deliverables and outputs to be achieved ○ risk assessment with mitigation plan
Conditions	• Only fully and conditionally registered ECD programmes (centre and non-centre-based) will be eligible for the subsidy • The subsidy is targeted for children from birth until the year before children enter formal school or in case of children with developmental difficulties and disabilities, until the year before the calendar year they turn seven, which marks the age of compulsory schooling or special education • The provincial education departments and ECD programmes will enter into SLAs which stipulate the purpose of the subsidy, the amount of the subsidy, conditions of the subsidy and obligations of both provincial education departments and ECD programmes with regard to the payment of the subsidy, compliance to funding and the reporting requirements • The value of the subsidy paid to each centre-based ECD programme is R17.00 multiplied by the number of days (264), multiplied by the number of qualifying children attending the centre-based ECD programme as agreed to in the SLA • The value of the subsidy paid to each registered non-centre based ECD programme is R6.00 multiplied by the number of sessions, multiplied by the number of qualifying children attending as agreed to in the SLA • The full value of the subsidy will be paid in equal parts in line with the SLA and any changes to the payment schedule must be aligned to a determination of non-compliance as defined in the SLA • Once funds are transferred to an ECD programme, the department may not pre-approve how the funds are to be utilised other than what is stipulated in the SLA • All allocations must be aligned to the number of children as per the SLA and can only be reduced as per the process outlined in the SLA. Allocations must not be changed in-year, based on how many children attend • The subsidy must target qualifying children in centre and non-centre based programmes in line with the process set out below: ○ an ECD programme is eligible to be subsidised if it is located in a designated municipal ward that has been identified for universal targeting of subsidies. Children attending these ECD programmes will not be subject to an individual means test and all children in these

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Early Childhood Development Grant: Subsidy Component	
	programmes must be taken into account when calculating the subsidy for the ECD programme ○ if the child is attending an ECD programme falling outside of those municipal wards that have been identified for universal targeting of the subsidy, the subsidy will be targeted to an individual child using the means test criteria ○ a child is eligible to be subsidised if her/his parents' income falls below the following prescribed test **Income-based means test:** • Income of parents or caregivers may not exceed the means test values applied for the receipt of the child support grant for a single parent and married parents as gazetted by the national Department of Social Development in 2023. This is updated each year with an increase in the grant value • In the case of children receiving a child related social assistance grant; original, reprinted or certified copies of proof of receipt of the child related grant (child support grant or the foster care grant) as issued by South African Social Security Agency must be submitted • In the case of children who are not beneficiaries of a child related grant the following must be submitted: ○ proof of income of parents (or caregivers) ○ three months bank statement of parents or guardians ○ affidavit declaring status of income
Allocation criteria	• The provincial subsidy allocations are determined based on the gap between: ○ the number of poor children that should be accessing ECD subsidy ○ the number of poor children currently accessing the ECD subsidy
Reasons not incorporated in equitable share	• To allow DBE to better facilitate expansion of ECD services in the country • ECD is a national priority and requires uniform implementation in order to achieve the municipal coverage of 60 per cent of all poor children and to have the desired impact of achieving universal access by 2030
Past performance	**2022/23 audited financial outcomes** • Of the R1.1 billion on the subsidy component, 50 per cent has been transferred to provinces.
	2022/23 service delivery performance • 331 882 children benefitted from the subsidy
Projected life	• The grant will be allocated over the 2024 medium term expenditure framework period, subject to review
MTEF allocations	• 2024/25: R1.4 billion; 2025/26: R1.8 billion; and 2026/27: R1.9 billion
Payment schedule	• Quarterly instalments according to approved payment schedule
Responsibilities of the transferring officer and receiving officer	**Responsibilities of the national department** • Review standardised SLAs to be entered into between provincial departments of basic education and ECD programmes if necessary • Review the standardised business plan • Develop guidelines for the implementation of the ECD subsidy
	Responsibilities of provincial departments • Conclude SLAs with ECD programmes in a format prescribed by the DBE • Ensure that payments are made in line with the payment schedule as per the SLAs with ECD programmes • Subsidies must be made into the ECD programmes designated bank accounts, which must be with a registered deposit taking institution in the Republic of South Africa • Subsidies may only be reduced in cases of non-compliance as outlined in the prescribed SLA • Use the information reported in the quarterly reports from ECD programmes to develop and maintain a master list of all children benefitting from the ECD subsidy • Maintain a database on the status of registration of all ECD programmes in the province that is inclusive of the following basic information: ○ registration status ○ capacity of the centre ○ number of children in attendance ○ number of children subsidised ○ number of children with disabilities subsidised ○ number of children with disabilities in attendance
Process for approval of the 2025/26 business plans	• Engagement with provincial departments on submission of business plans between September 2024 and February 2025 • Submit final provincial business plans for 2025/26 including cash flow projections and compliance certificates signed-off by heads of departments to DBE by 14 February 2025 • The transferring officer must approve provincial business plans by 2 April 2025

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Education Infrastructure Grant	
Transferring department	• Basic Education (Vote 16)
Grant schedule	• Schedule 4, Part A
Strategic goal	• To supplement provinces to fund the provision of education infrastructure in line with the regulations relating to minimum uniform norms and standards for public school infrastructure
Grant purpose	• To help accelerate construction, maintenance, upgrading and rehabilitation of new and existing infrastructure in education including district and circuit accommodation • To address achievement of the targets set out in the minimum norms and standards for school infrastructure • To address damages to infrastructure • To enhance capacity to deliver infrastructure in education
Outcome statements	• Improved quality of education service delivery by provincial departments as a result of an improved and increased stock of school infrastructure • Aligned and coordinated approach to infrastructure development at the provincial sphere • Improved education infrastructure expenditure patterns • Improved response to the rehabilitation of school infrastructure • Improved rates of employment and skills development in the delivery of infrastructure • Improved safety in school facilities through occupational health and safety
Outputs	• Number of new schools, additional education spaces, education support spaces and administration facilities constructed as well as equipment and furniture provided • Number of existing schools' infrastructure upgraded and rehabilitated including schools constructed of asbestos material and other inappropriate material • Number of new and existing schools maintained • Number of disaster damaged school rehabilitated • Number of schools provided with water, sanitation, and electricity • Number of work opportunities created • Number of new special schools provided, and existing special and full-service schools upgraded and maintained
Priority of government that this grant primarily contributes to	• Priority 3: Education, skills and health
Details contained in the business plan	• This grant uses an infrastructure plan that includes: o the infrastructure programme management plan o the procurement strategy o the capacitation strategy o the infrastructure reporting model o the year-end evaluation report
Conditions	• Provinces may utilise a portion of grant funding for the appointment of public servants on a permanent basis to their infrastructure units in line with human resource capacitation circular published by National Treasury (including maximums set in the circular) • The flow of each instalment of the grant depends upon provinces submitting to national Department of Basic Education (DBE), provincial treasuries and National Treasury financial and non-financial performance reports on programmes partially and fully funded by the grant • The flow of the first instalment of the grant depends upon receipt by the DBE and provincial treasuries and National Treasury of: o approved and signed-off infrastructure plan with tabled prioritised project lists for the 2024 medium-term expenditure framework (MTEF) by no later than 25 March 2024. The infrastructure plan must, where applicable, also include the implementation plans for schools affected by natural disasters o approved and signed-off infrastructure project list (Table B5) for the 2024 MTEF on the infrastructure reporting model o preventative and corrective maintenance plan for all maintenance programmes over the 2024 MTEF period accompanied by a project list no later than 25 March 2024 • The flow of the second instalment depends upon receipt by DBE, provincial treasuries and National Treasury of the approved and signed-off: o monthly infrastructure reports in a format determined by the National Treasury and DBE o a summary report on all projects that have reached practical completion and captured on the education facilities management system mobile application for the fourth quarter of the 2023/24 financial year no later than 29 April 2024 o a report on the filling of posts on the approved establishment for the infrastructure unit in the format approved by National Treasury for the fourth quarter of the 2023/24 financial year within 22 days after the end of the fourth quarter • The flow of the third instalment is dependent upon receipt by DBE, provincial treasuries, and the National Treasury, on a date and in a format determined by National Treasury, of the approved and signed-off: o infrastructure plans for all infrastructure programmes for a period of 10 years (including the initial list of prioritised projects) on a date specified in the performance-based approach guidelines

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Education Infrastructure Grant	
	○ the 2024/25 project list must be drawn from the prioritised project list for the MTEF tabled in 2023/24 ○ preventative and corrective maintenance plans for all maintenance programmes over the MTEF period accompanied by a project list on a date specified in the performance-based approach guidelines ○ monthly infrastructure reports in the format determined by National Treasury and the DBE ○ a summary report on all projects that have reached practical completion and captured on the education facilities management system mobile application for the first quarter of 2024/25 by 26 July 2024 ○ a report on the filling of posts on the approved establishment for the infrastructure unit in the format approved by National Treasury for the first quarter of the 2024/25 financial year within 22 days after the end of the first quarter ○ the conditional grant year-end evaluation report on financial and non-financial performance no later than 27 May 2024 • The flow of the fourth instalment is conditional upon receipt by the DBE and provincial treasuries and National Treasury of the approved and signed off: ○ monthly infrastructure reports in the format determined by National Treasury and the DBE ○ a summary report on all projects that have reached practical completion and captured on the education facilities management system mobile application for the second qua… 25 October 2024 ○ infrastructure programme management plans for infrastructure programmes envisaged to commence within the period for the MTEF on a date specified in the performance-based approach guidelines ○ procurement strategy for infrastructure programmes envisaged to commence within the period of the MTEF on a date specified in the performance-based approach guidelines ○ a report on the filling of posts on the approved establishment for the infrastructure unit in the… approved by National Treasury for the second quarter of the 2024/25 financial year within 22 days after the end of the second quarter • The flow of the fifth instalment is conditional upon receipt by the DBE, the relevant provincial treasuries and National Treasury on a date determined by National Treasury, of the approved and signed-off: ○ monthly infrastructure reports in the format determined by National Treasury and the DBE ○ a summary report on all projects that have reached practical completion and captured on the education facilities management system mobile application for the third quarter of 2024/25 to DBE not later than 20 January 2025 ○ a report on the filling of posts on the approved establishment for the infrastructure unit in the format approved by National Treasury for the third quarter of the 2024/25 financial year within 22 days after the end of the third quarter • Provincial education departments must ensure that a programme and project management system is in place for planning, management and monitoring of infrastructure delivery funded from the grant • Provincial education departments must comply with the framework for infrastructure delivery and procurement management • Provincial education departments must provide school governing bodies with maintenance guidelines to conduct minor maintenance. This should be in accordance with the sector maintenance strategy • Provincial education departments should allocate no less than 60 per cent of the Education Infrastructure Grant allocation to address preventative and corrective maintenance at schools, which should appear as such on the infrastructure reporting model and MTEF database • Provincial education departments to prioritise and fund from the grant, the eradication of pit latrines and other unacceptable forms of sanitation • The grant allocation can be transferred to schools in line with the guidelines which will be issued by DBE • Provincial education departments to prioritise the rehabilitation of storm damaged schools, schools built of asbestos and other inappropriate material • In implementing the three streams model, provincial education departments to prioritise the planning for construction of technical schools and schools of skill as well as conversion of academic stream schools to vocational and occupational streams in 2024/25, for commissioning of projects in 2025/26 • Provincial education departments may use multiple implementing agents when implementing projects funded from the grant • To promote conducive teaching and learning within the acceptable occupational, health and safety standards, provincial education departments must implement maintenance projects in all education facilities • In schools without section 21 responsibilities, provincial education departments should put in place the necessary measures to ensure that planned maintenance at these schools occurs as per the scheduled maintenance plan for such schools • Provincial education departments must provide all the necessary equipment and furniture in the spaces provided when constructing new projects • Provincial education departments must submit their plans for the procurement of mobile classrooms to the DBE and any deviation from these plans should be approved in writing by the DBE • Provincial education departments to ensure cost-effectiveness as they implement infrastructure projects

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

NNM

Education Infrastructure Grant	
	• The DBE approved 10-point plan must be implemented to ensure improvements in infrastructure delivery • Non-compliance with any of the above conditions may result in the withholding and subsequent stopping of transfers • An amount of R503 million is allocated to Gauteng through the Budget Facility for Infrastructure for the construction of schools. These funds may only be used for this project and are subject to the conditions set out in the 2024 MTEF preliminary allocation letter to DBE
Allocation criteria	• Allocations for 2024/25 are based on historical allocations for this grant • Allocations also include incentive-based allocations as described in part 4 to Annexure W1 of the 2024 Division of Revenue Bill
Reasons not incorporated in equitable share	• Funding infrastructure through a conditional grant enables the national department to ensure the delivery and maintenance of education infrastructure in a coordinated and efficient manner, consistent with national norms and standards for school buildings
Past performance	**2022/23 audited financial outcomes** • Of the R12.5 billion allocated, R12.5 billion (100 per cent) was transferred to provinces of which R12.4 billion (96 per cent) was spent by the end of the national financial year
	2022/23 service delivery performance • 2 710 teaching spaces and 72 administrative spaces provided • 1 398 maintenance projects, 474 water, 554 sanitation, 112 electricity and 102 fencing infrastructure projects • Completed five boarding facilities • The sector has provided a total of 19 new and replacement schools in provinces, while 87 schools commenced with construction
Projected life	• Grant continues until 2026/27, subject to review
MTEF allocations	• 2024/25: R13.7 billion; 2025/26: R14.2 billion and 2026/27: R14.4 billion
Payment schedule	• Transfers are made in accordance with a payment schedule approved by National Treasury
Responsibilities of the transferring officer and receiving officer	**Responsibilities of the national department** • Visit selected infrastructure sites in provinces • DBE and National Treasury to support provinces to improve infrastructure delivery capacity and systems • Provide guidance to provinces in planning and prioritisation • Issue guidelines on the capacitation process of infrastructure units as well as the conditions attached to the utilisation of the funding • DBE and National Treasury to jointly evaluate progress with the capacitation of provincial infrastructure units and provide feedback to all provinces in terms of the guidelines • DBE and National Treasury must jointly evaluate and provide feedback to all provinces on the assessment of all documents as outlined on the performance-based approach system guidelines • Assess the reports submitted by provincial education departments and provide feedback before transferring the instalment • Submit reports to the National Treasury in terms of quarterly achievements by provincial education departments • Comply with the conditions of this grant framework and the relevant clauses within the stipulated time frames of the 2024 Division of Revenue Act
	Responsibilities of provincial departments • Approve monthly provincial infrastructure reports on infrastructure programme in the infrastructure reporting model within 15 days after the end of each month and submit to the relevant provincial treasury and DBE • Submit a signed-off monthly provincial infrastructure report on infrastructure programmes in the infrastructure reporting model within 22 days after the end of each month to the relevant provincial treasury, DBE and National Treasury • Comply with the conditions of this grant framework and the relevant clauses within the stipulated time frames in 2024 Division of Revenue Act • Submit quarterly capacitation reports within 22 days after the end of each quarter • Ensure that section 42 transfers as per the Public Finance Management Act are effected
Process for approval of 2025/26 business plans	• The process for approval for the 2025 MTEF allocations will be in line with the performance-based incentive approach guidelines published by National Treasury

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL, DIVISION,
PIETERMARITZBURG

NNM
S.L

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

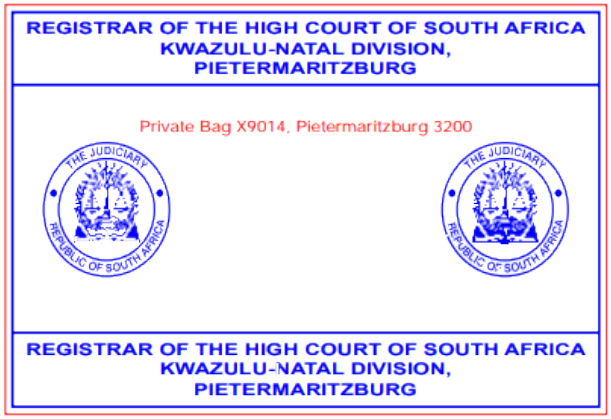
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 02

NOTE: **This document was filed electronically by the Registrar on 19/5/2025 at 8:51:34 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

004-42
SL2
19/5/2025-8:51:34 PM

Early Childhood Development Grant: Subsidy Component	
Transferring department	• Basic Education (Vote 16)
Grant schedule	• Schedule 5, Part A
Strategic goal	• To increase access to quality early childhood development (ECD) programmes for poor children
Grant purpose	• To increase the number of poor children accessing subsidised ECD programmes
Outcome statements	• The provision of ECD programmes to poor children contributing towards universal access
Outputs	• Number of eligible children subsidised, as agreed in the service level agreement (SLA) • Number of all children enrolled in ECD programmes in fully registered ECD centres • Number of all children enrolled in ECD programmes in conditionally registered ECD centres • Number of children subsidised from the conditional grant in fully registered ECD centres • Number of children subsidised from the conditional grant in conditionally registered ECD centres • Number of days subsidised for centre-based programmes • Number of children subsidised through provincial own revenue including equitable share that are benefiting from the top-up grant in fully registered and conditionally registered ECD programmes • Number of children subsidised from the equitable share in fully registered ECD centres • Number of children subsidised from the equitable share in conditionally registered ECD centres • Number of all children enrolled in fully registered non-centre based programmes • Number of all children enrolled in conditionally registered non-centre based programmes • Number of children subsidised from the conditional grant in fully registered non-centre based programmes • Number of children subsidised from the conditional grant in conditionally registered non-centrebased programmes • Number of ECD practitioners and other staff employed in fully and conditionally registered ECD programmes benefiting from the conditional grant
Priority of government that this grant primarily contributes to	• Priority 3: Education, skills and health
Details contained in the business plan	• The provincial departments will use a single business plan issued by the national Department of Basic Education (DBE) for the two grant components (i.e. subsidy and infrastructure) which contains the following: o project background o project objectives o scope of the work o deliverables and outputs to be achieved o risk assessment with mitigation plan
Conditions	• Only fully and conditionally registered ECD programmes (centre and non-centre-based) will be eligible for the subsidy • The subsidy is targeted for children from birth until the year before children enter formal school or in the case of children with developmental difficulties and disabilities, until the year before the calendar year they turn six, which marks the age of compulsory schooling or special education • The provincial education departments and ECD programmes will enter into SLAs which stipulate the purpose of the subsidy, the amount of the subsidy, conditions of the subsidy and obligations of both provincial education departments and ECD programmes with regard to the payment of the subsidy, compliance to funding and the reporting requirements • The value of the subsidy paid to each centre-based ECD programme is R17 multiplied by the number of days (264), multiplied by the number of qualifying children attending the centre-based ECD programme as agreed to in the SLA • The value of the subsidy paid to each registered non-centre-based ECD programme is R6 multiplied by the number of sessions, multiplied by the number of qualifying children attending as agreed to in the SLA • The full value of the subsidy will be paid in equal parts in line with the SLA and any changes to the payment schedule must be aligned to a determination of non-compliance as defined in the SLA • Once funds are transferred to an ECD programme, the department may not pre-approve how the funds are to be utilised other than what is stipulated in the SLA • All allocations must be aligned to the number of children as per the SLA and can only be reduced as per the process outlined in the SLA. Allocations must not be changed in-year, based on how many children attend • The subsidy must target qualifying children in centre and non-centre-based programmes in line with the process set out below: o eligible programmes in designated priority municipal wards are to be targeted for full

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

NNM
SL 004-42

Early Childhood Development Grant: Subsidy Component	
	subsidy funding up to the total confirmed enrolment of the programme. These programmes will not be subject to any individual income-based means test ○ eligible programmes which provide proof that 80 per cent or more enrolled children meet the income-based means test described below, are to be prioritised for full subsidy funding up to the total confirmed enrolment ○ eligible programmes not in designated wards, where less than 80 per cent of enrolled children meet the income-based means test, will be funded on a per child basis ○ a child is eligible to be subsidised if his/her parents' income falls below the following prescribed test **Income-based means test:** • Income of parents or caregivers may not exceed the means test values applied for the receipt of the child support grant for a single parent and married parents as gazetted by the national Department of Social Development in 2023. This is updated each year with an increase in the grant value • In the case of children receiving a child related social assistance grant; original, reprinted or certified copies of proof of receipt of the child related grant (child support grant or the foster care grant) as issued by the South African Social Security Agency must be submitted • In the case of children who are not beneficiaries of a child related grant the following must be submitted: ○ proof of income of parents (or caregivers) ○ three months bank statements of parents or guardians ○ affidavit declaring status of income
Allocation criteria	• The provincial subsidy allocations are determined based on the gap between: ○ the number of poor children that should be accessing ECD subsidy ○ the number of poor children currently accessing the ECD subsidy
Reasons not incorporated in equitable share	• To allow DBE to better facilitate the expansion of ECD services in the country • ECD is a national priority and requires uniform implementation in order to achieve the minimum coverage of 60 per cent of all poor children and to have the desired impact of achieving universal access by 2030
Past performance	**2023/24 audited financial outcomes** • Of the R1.1 billion on the subsidy component, 100 per cent has been transferred to provinces
	2023/24 service delivery performance • 348 146 children benefitted from the subsidy
Projected life	• Given the nature of the programme and the drive to expand the provision of ECD services, the grant will be needed for the medium-term expenditure framework period, subject to review
MTEF allocations	• 2025/26: R1.8 billion; 2026/27: R1.9 billion; and 2027/28: R2 billion
Payment schedule	• Quarterly instalments according to approved payment schedule
Responsibilities of the transferring officer and receiving officer	**Responsibilities of the national department** • Review standardised SLAs to be entered into between provincial departments of basic education and ECD programmes if necessary • Review the standardised business plan • Develop guidelines for the implementation of the ECD subsidy
	Responsibilities of provincial departments • Conclude SLAs with ECD programmes in a format prescribed by the DBE • Ensure that payments are made in line with the payment schedule as per the SLAs with ECD programmes • Subsidies must be made into the ECD programmes designated bank accounts, which must be with a registered deposit taking institution in the Republic of South Africa • Subsidies may only be reduced in cases of non-compliance as outlined in the prescribed SLA • Use the information reported in the quarterly reports from ECD programmes to develop and maintain a master list of all children benefitting from the ECD subsidy • Maintain a secure database on the status of registration of all ECD programmes in the province that is inclusive of the following basic information: ○ registration status ○ capacity of the centre ○ number of children enrolled ○ number of children subsidised ○ number of children with disabilities subsidised ○ number of children with disabilities enrolled
Process for approval of the 2026/27 business plans	• Provincial department of education to submit approved business plans signed-off by the head of department to the DBE by 24 February 2026. The transferring officer must submit payment schedules and compliance certificates by February 2026 • The transferring officer must approve provincial business plans by 31 March 2026

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

NNM
S.L

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

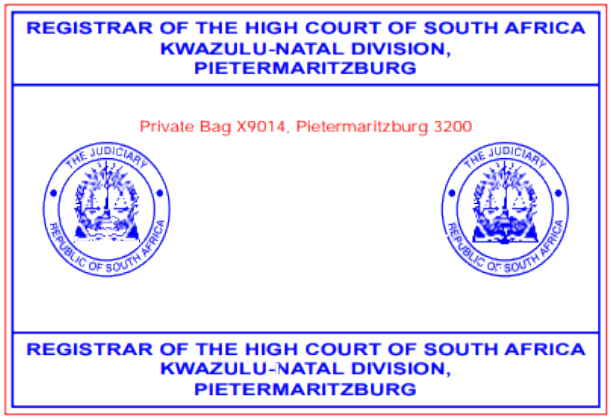
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 03

NOTE: **This document was filed electronically by the Registrar on 19/5/2025 at 8:52:29 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

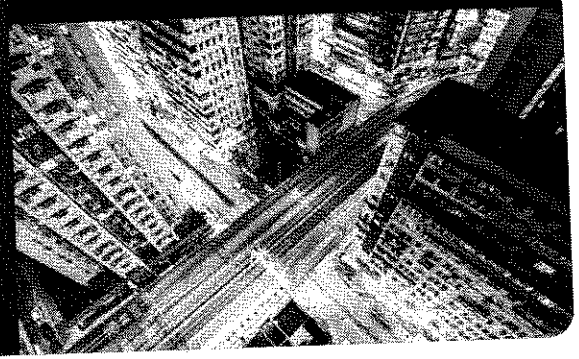
SELECT COMMITTEE ON APPROPRIATIONS

Provincial conditional grants 2024/25

PRESENTED BY:

Intergovernmental Relations

Date 16 October 2024



national treasury
Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION
PIETERMARITZBURG

2030 NDP

STAY SAFE
VACCINATE TO SAVE SOUTH AFRICA

19/5/2025-8:52:29 PM
004-46

Overview

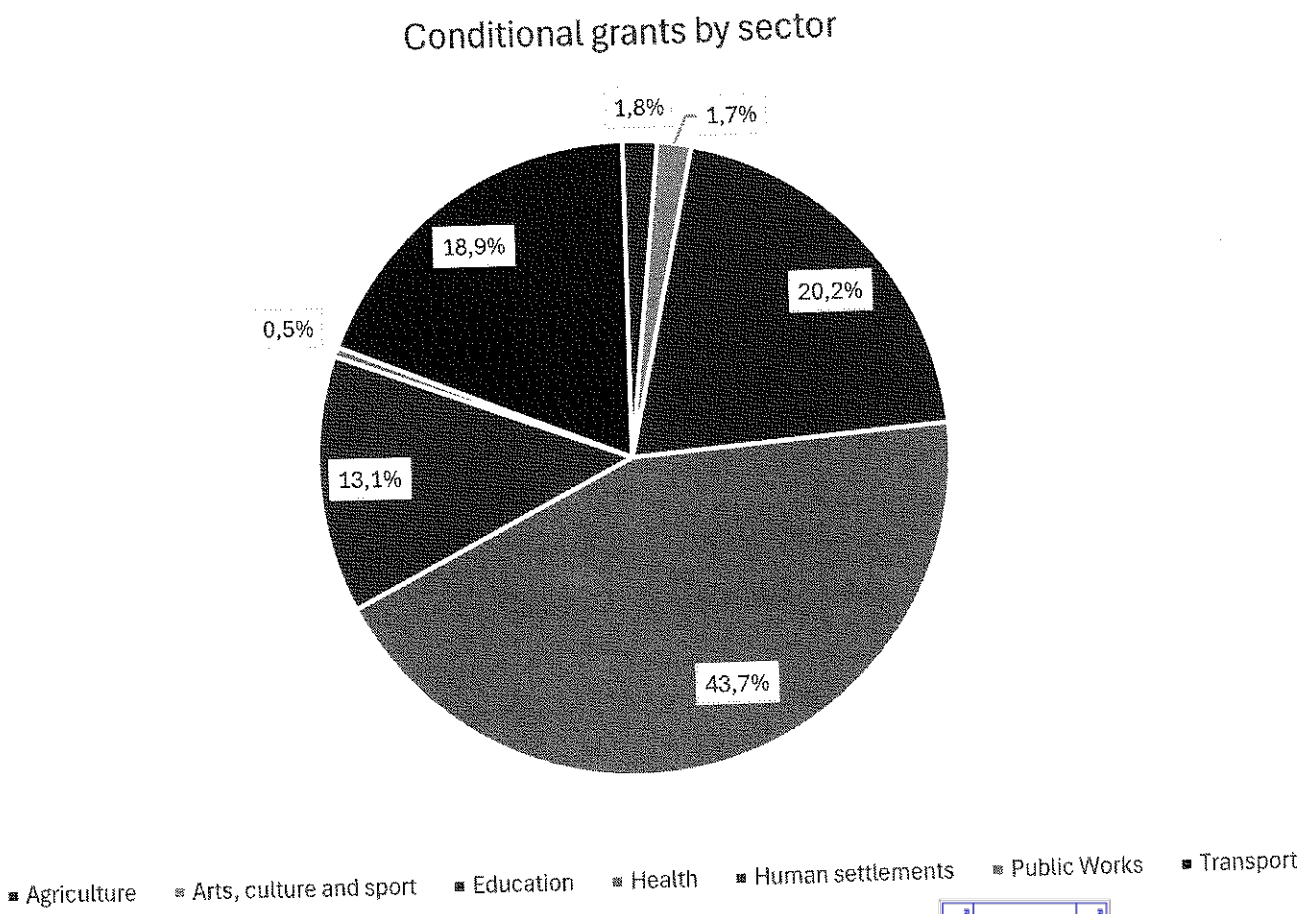
- Provincial conditional grant percentage share by sector
- Spending on conditional grant as at 31 August 2024
- Conditional grants spending by sector and reasons for underperformance
- Overall observations

- **Annexure**
  - Non-financial information as at 30 June 2024

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

004-47
19/5/2025-8:52:29 PM
004-47

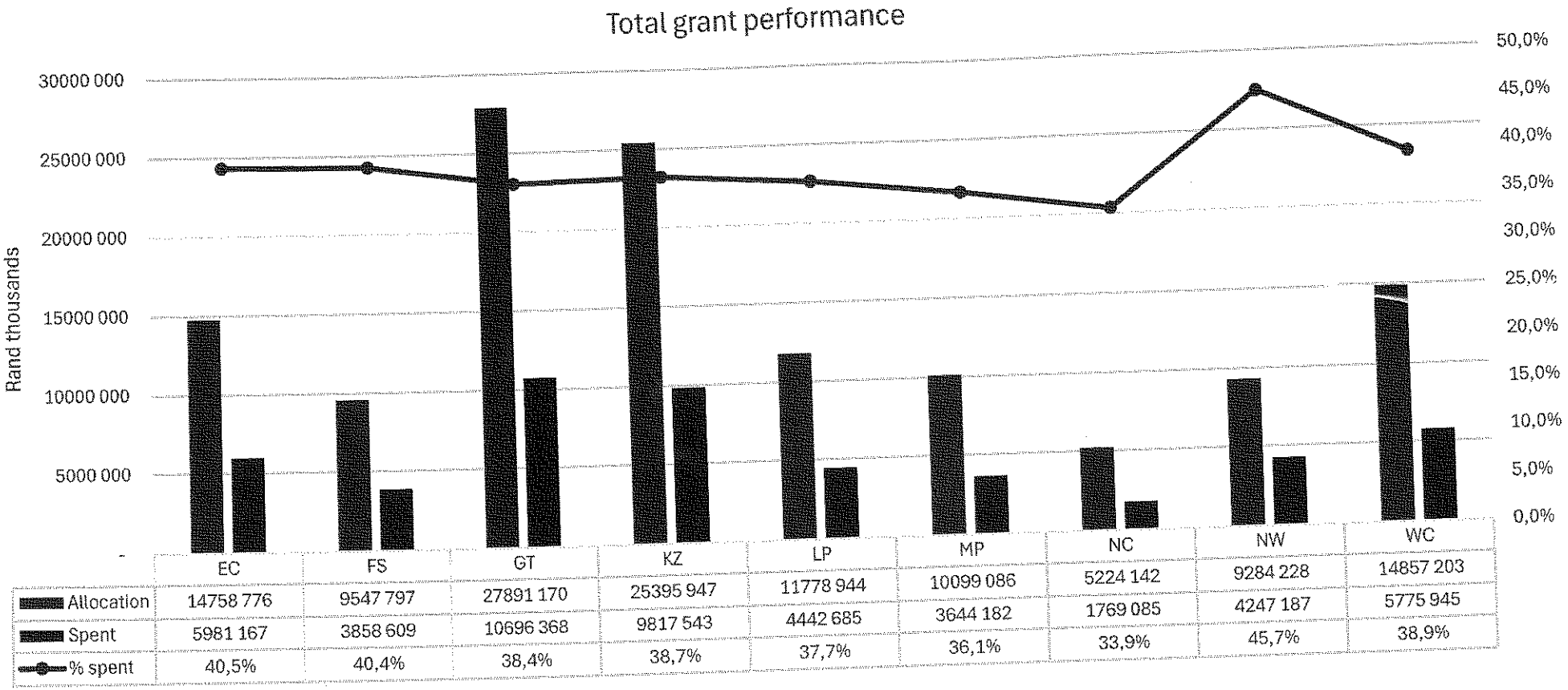
Provincial conditional grant by sectors



- A total of 21 direct grants to provinces amounting to R128 billion
- Health makes up the largest share of provincial grants (R56 billion)

004-48
19/5/2025-8:52:29 PM
004-48

Total grant performance as at 31 August 2024

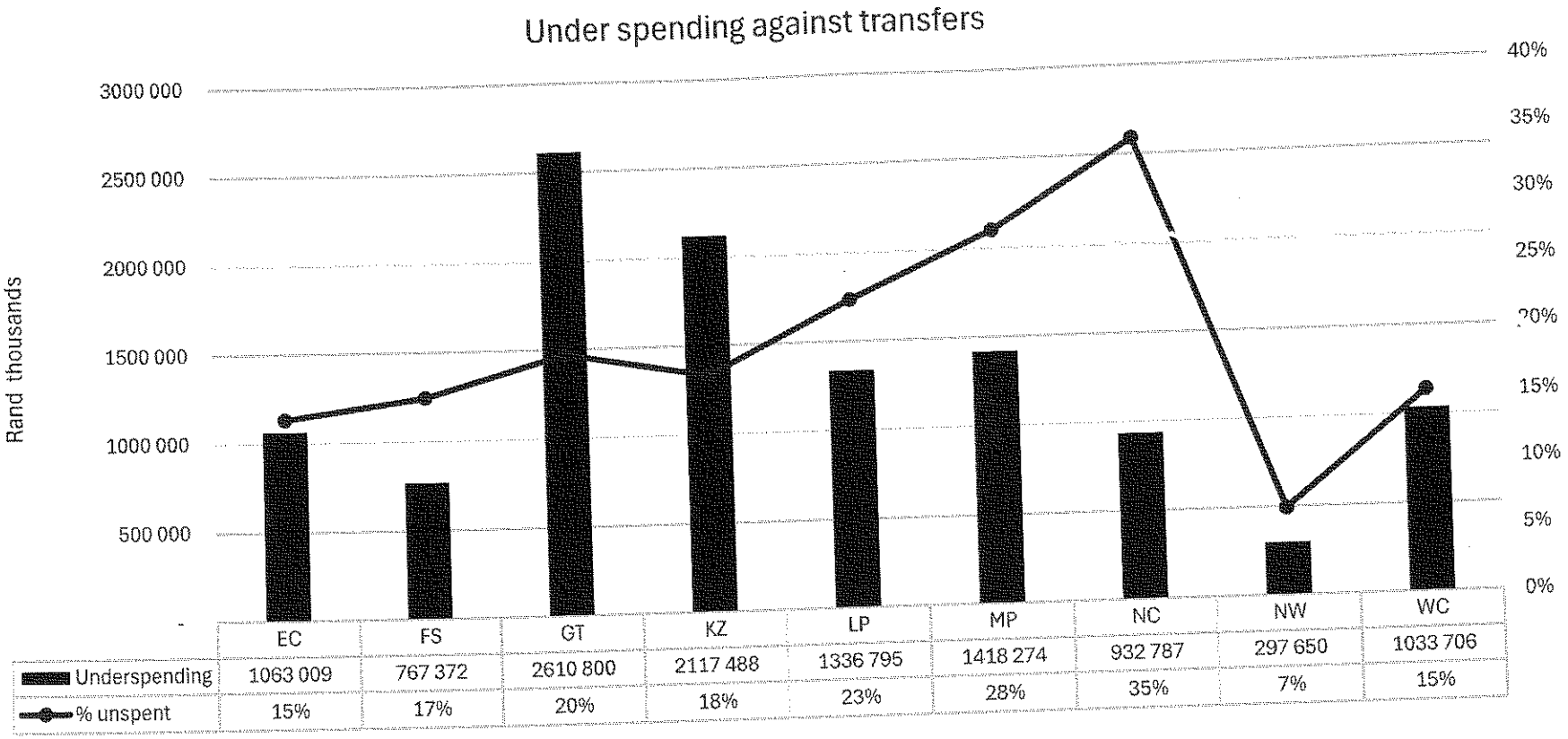


	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	14758 776	9547 797	27891 170	25395 947	11778 944	10099 086	5224 142	9284 228	14857 203
Spent	5981 167	3858 609	10696 368	9817 543	4442 685	3644 182	1769 085	4247 187	5775 945
% spent	40,5%	40,4%	38,4%	38,7%	37,7%	36,1%	33,9%	45,7%	38,9%

- Average spending across provinces is 38.9% (5 months norm: August 41.7%)
- Spending in the first quarter is usually lower than the rest of the year

19/5/2025-8:52:29 PM
004-49
004-49

Underspending on transfers to provinces



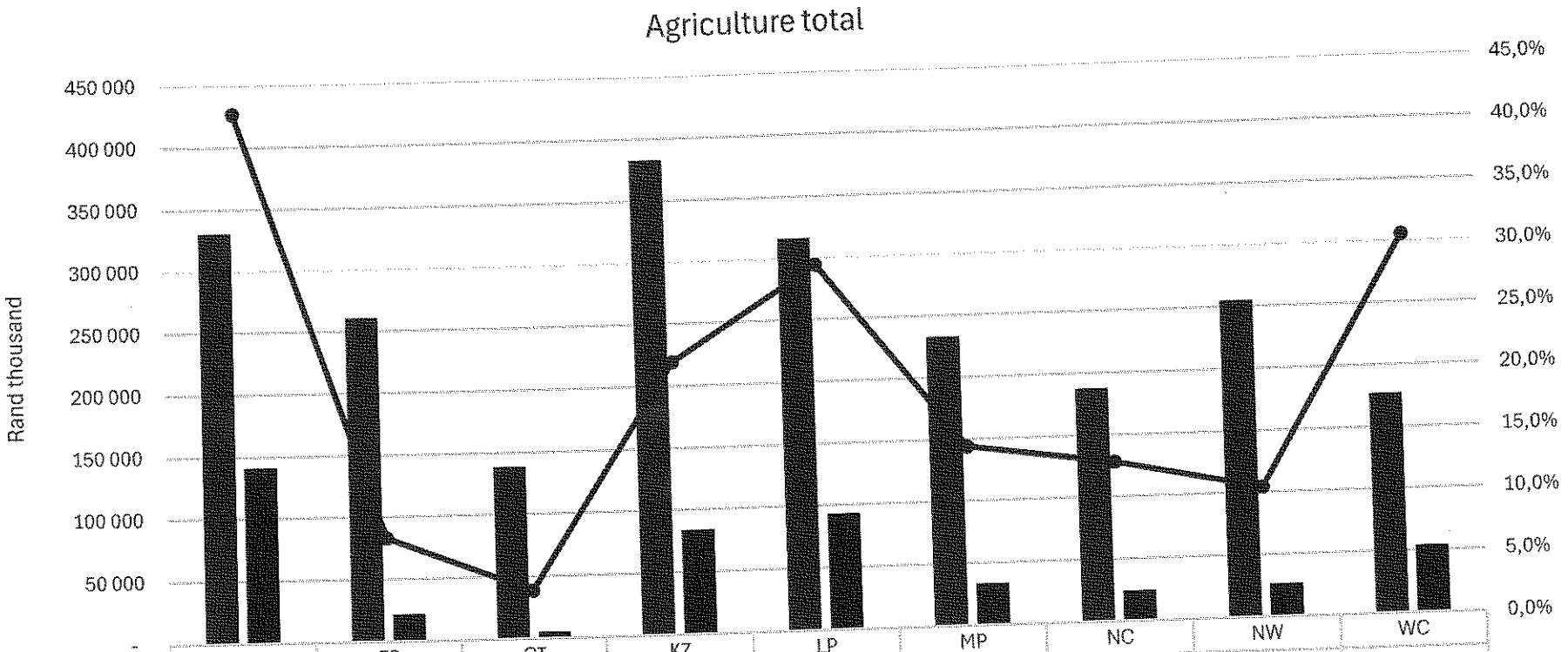
	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Underspending	1063 009	767 372	2610 800	2117 488	1336 795	1418 274	932 787	297 650	1033 706
% unspent	15%	17%	20%	18%	23%	28%	35%	7%	15%

- As at the end of August, R11.5 billion of transfers made to provinces were unspent
- Mostly in Gauteng, but in percentage terms, NC has the highest underspending
- Implications for borrowing costs

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

004-50
19/5/2025-8:52:29 PM
004-50

Agriculture

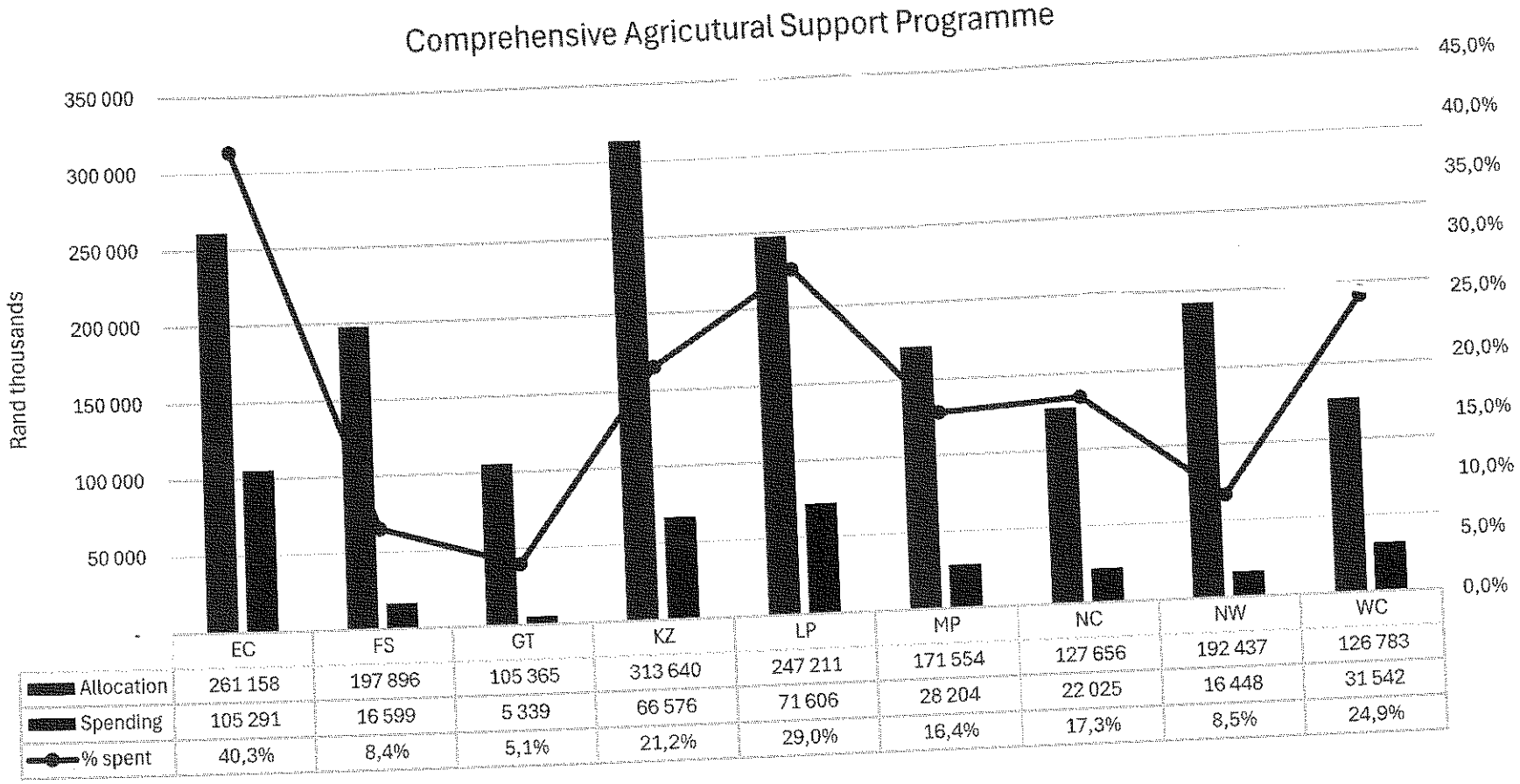


	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	330 593	260 969	138 406	383 156	316 207	233 225	187 634	255 407	176 651
Spending	141 094	21 623	5 339	84 039	93 081	33 539	23 984	26 658	53 867
% spent	42,7%	8,3%	3,9%	21,9%	29,4%	14,4%	12,8%	10,4%	30,5%

- Average spending at 21%, much lower than the total grants
- GT and FS below 10%
- Possibility of underspending at the end of the financial year

004-51
19/5/2025-8:52:29 PM
004-51

Agriculture



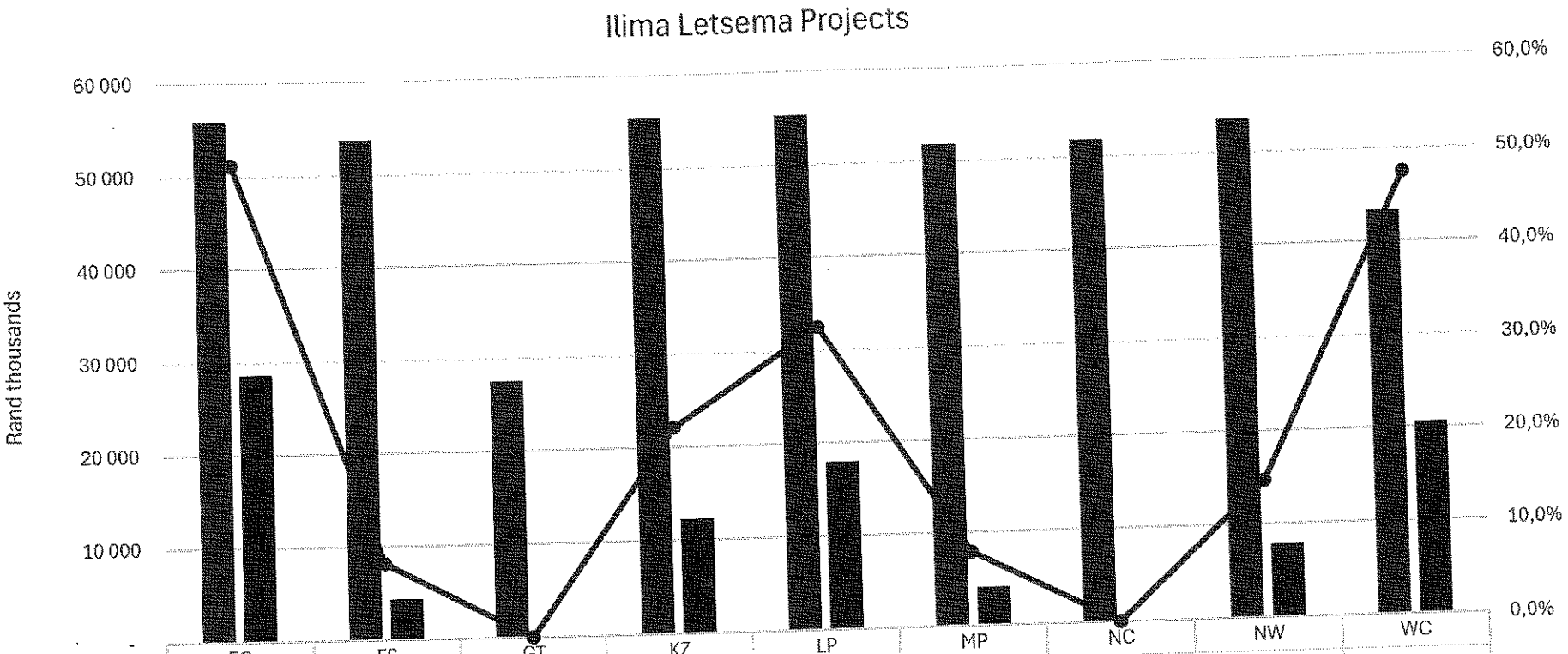
	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	261 158	197 896	105 365	313 640	247 211	171 554	127 656	192 437	126 783
Spending	105 291	16 599	5 339	66 576	71 606	28 204	22 025	16 448	31 542
% spent	40,3%	8,4%	5,1%	21,2%	29,0%	16,4%	17,3%	8,5%	24,9%

- FS, GT and NW below 10%
- Only EC close to expected spending at this point

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

004-52
19/5/2025-8:52:29 PM
004-52

Agriculture



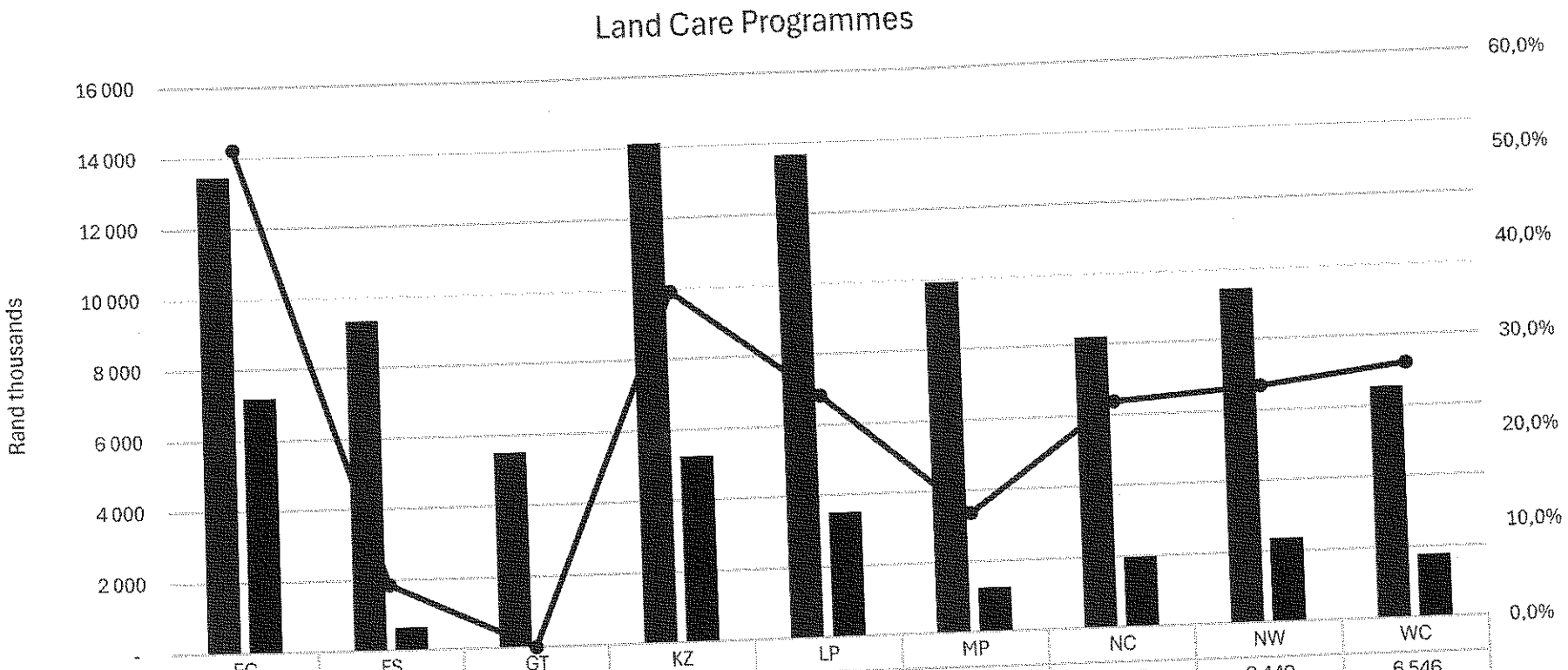
	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	55 965	53 740	27 540	55 389	55 322	51 773	51 771	53 521	43 322
Spending	28 617	4 380	-	12 219	17 976	4 090	-	7 845	20 557
% spent	51,1%	8,2%	0,0%	22,1%	32,5%	7,9%	0,0%	14,7%	47,5%

- GT and NC, no expenditure at the end of August
- EC and WC spending well

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

004-53
19/5/2025-8:52:29 PM
004-53

Agriculture



	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	13 470	9 333	5 501	14 127	13 674	9 898	8 207	9 449	6 546
Spending	7 186	644	-	5 244	3 499	1 245	1 959	2 365	1 768
% Spent	53,3%	6,9%	0,0%	37,1%	25,6%	12,6%	23,9%	25,0%	27,0%

- GT no expenditure for the period, EC highest at 53%

004-54
19/5/2025-8:52:29 PM
004-54

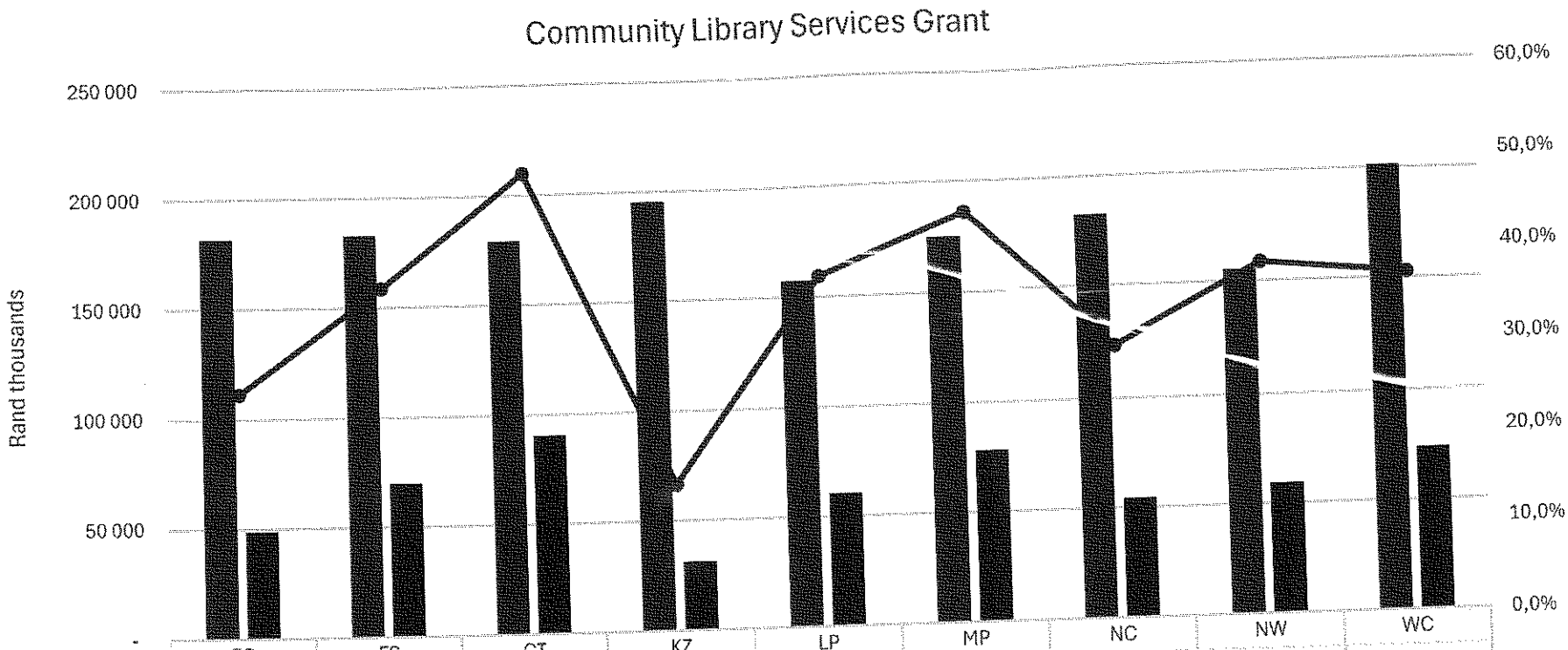
Agriculture issues

- Spending in this sector is usually low in the first quarter, largely due to most planting seasons occurring in the second and third quarter.
- Of the R1.2 billion transferred to provinces, only R483 million was spent at the end of August.
- Although the sector has a detailed process to assess and approve business plans, late approval, after the start of the financial year is a frequent occurrence.



004-55
19/5/2025-8:52:29 PM
004-55

Arts, Culture and Sport

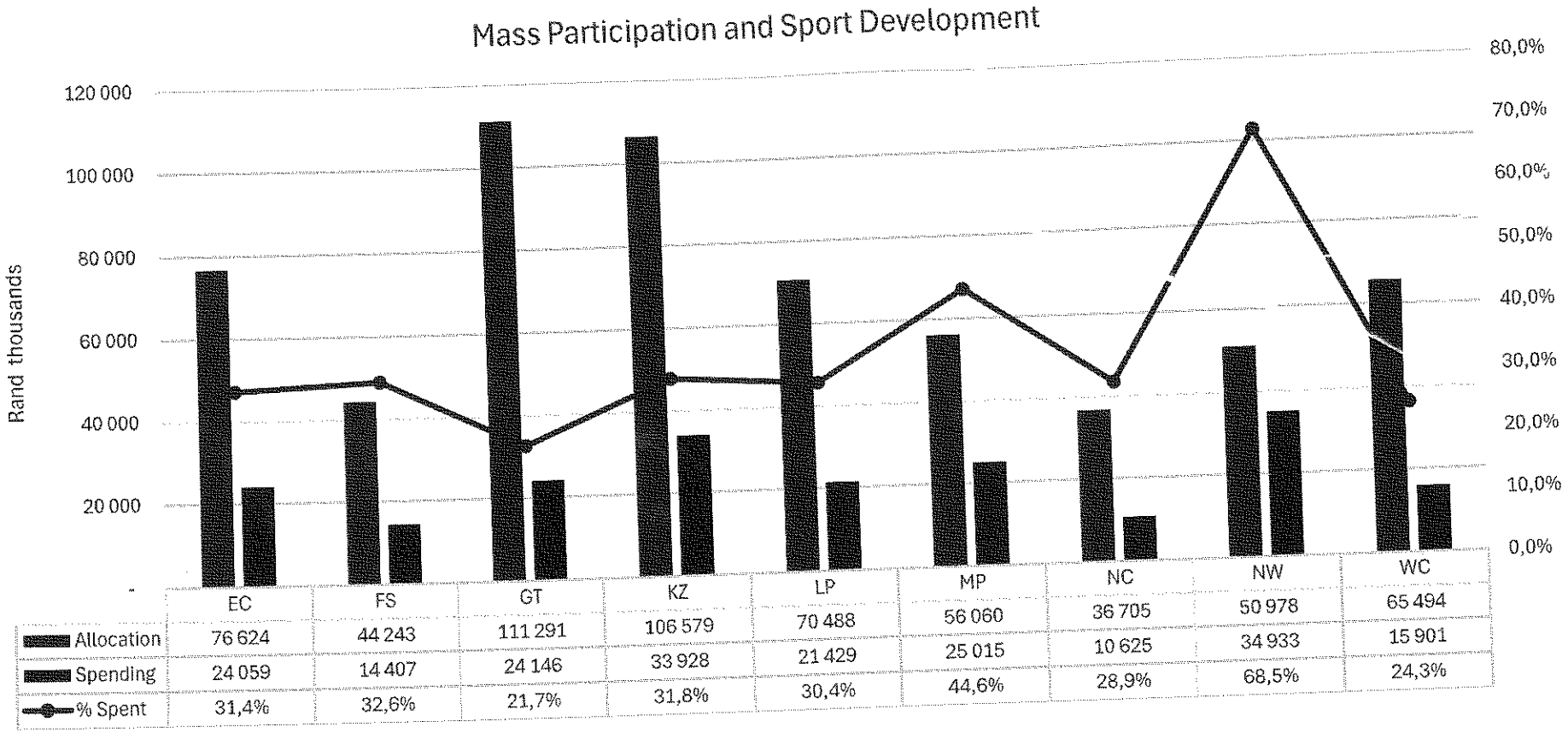


	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	182 156	183 043	179 454	195 617	157 664	174 793	182 629	155 383	201 168
Spending	48 632	69 703	90 427	31 175	60 353	77 935	54 358	59 238	73 710
% Spent	26,7%	38,1%	50,4%	15,9%	38,3%	44,6%	29,8%	38,1%	36,6%

- Average of 35% spent across provinces for the period
- EC and KZ at risk of underspending allocation

004-56
19/5/2025-8:52:29 PM
004-56

Arts, Culture and Sport



	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	76 624	44 243	111 291	106 579	70 488	56 060	36 705	50 978	65 494
Spending	24 059	14 407	24 146	33 928	21 429	25 015	10 625	34 933	15 901
% Spent	31,4%	32,6%	21,7%	31,8%	30,4%	44,6%	28,9%	68,5%	24,3%

- Average of 33% spent across provinces for the period
- NW spending at an accelerated rate, GT on the lower side

004-57
19/5/2025-8:52:29 PM

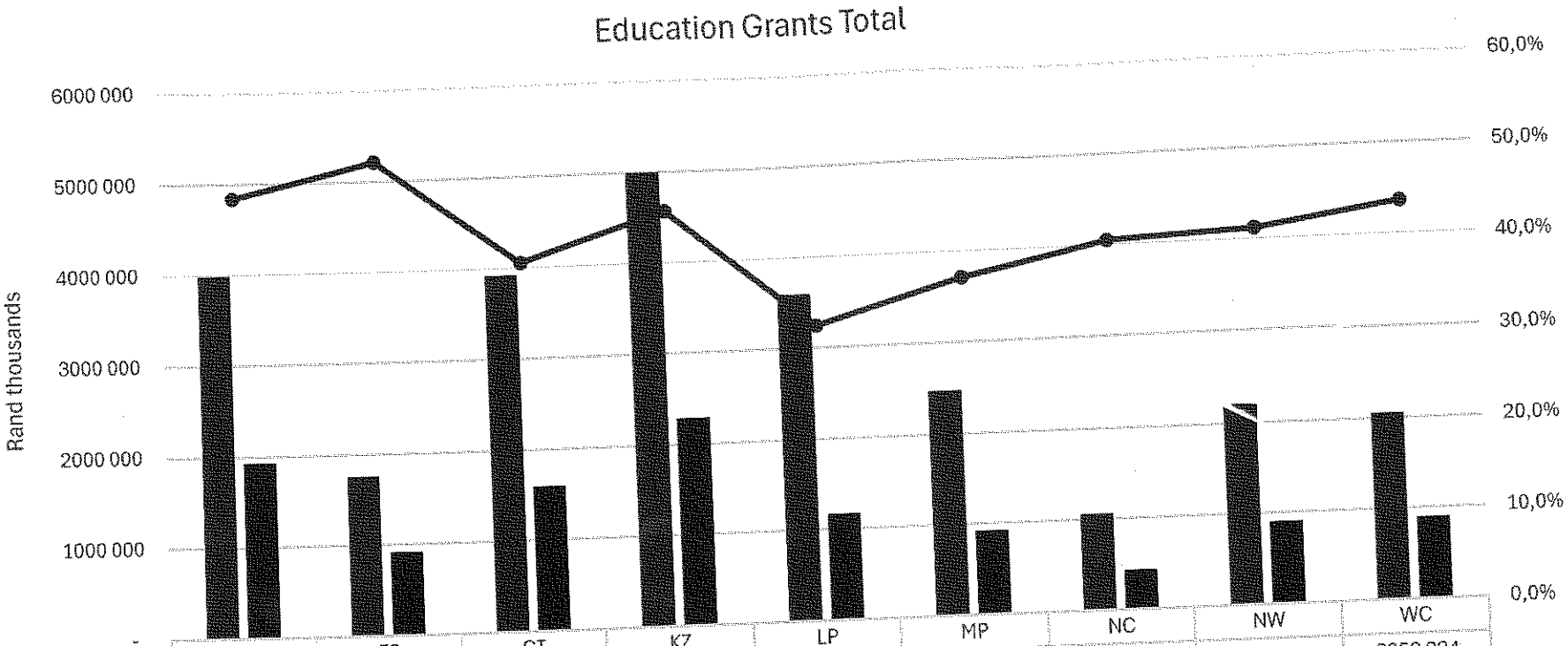
Arts and Culture issues

- The library grant has been underperforming on the building of new libraries and the maintenance of existing ones. Provincial departments do not have in-house built environment practitioners to oversee infrastructure but depend on public works.
- In addition, delays in awarding tenders and poor contract management negatively affects delivery.
- Procurement delays also affects the delivery of goods and services items such as library books.
- There is still uncertainty around the provincialisation of the library function. Provinces are still to confirm if they intend to retain the function or devolve it to local government.



004-58
19/5/2025-8:52:29 PM
004-58

Education

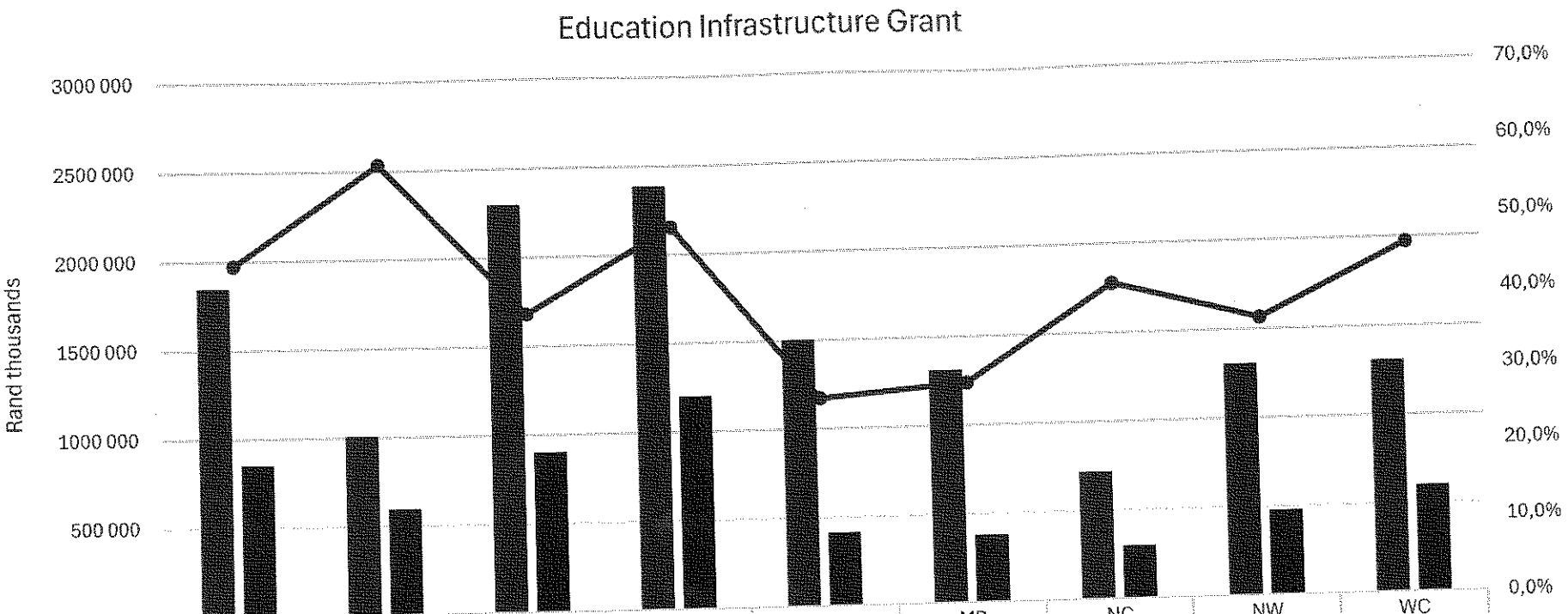


	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	3987 076	1755 577	3924 200	4999 332	3597 475	2474 085	1058 256	2191 927	2053 224
Spending	1928 651	915 451	1591 212	2282 862	1166 372	917 266	428 316	902 608	895 506
% Spent	48,4%	52,1%	40,5%	45,7%	32,4%	37,1%	40,5%	41,2%	43,6%

- Average of 42% spent across provinces for the period
- LP and MP lagging

004-59
19/5/2025-8:52:29 PM
004-59

Education



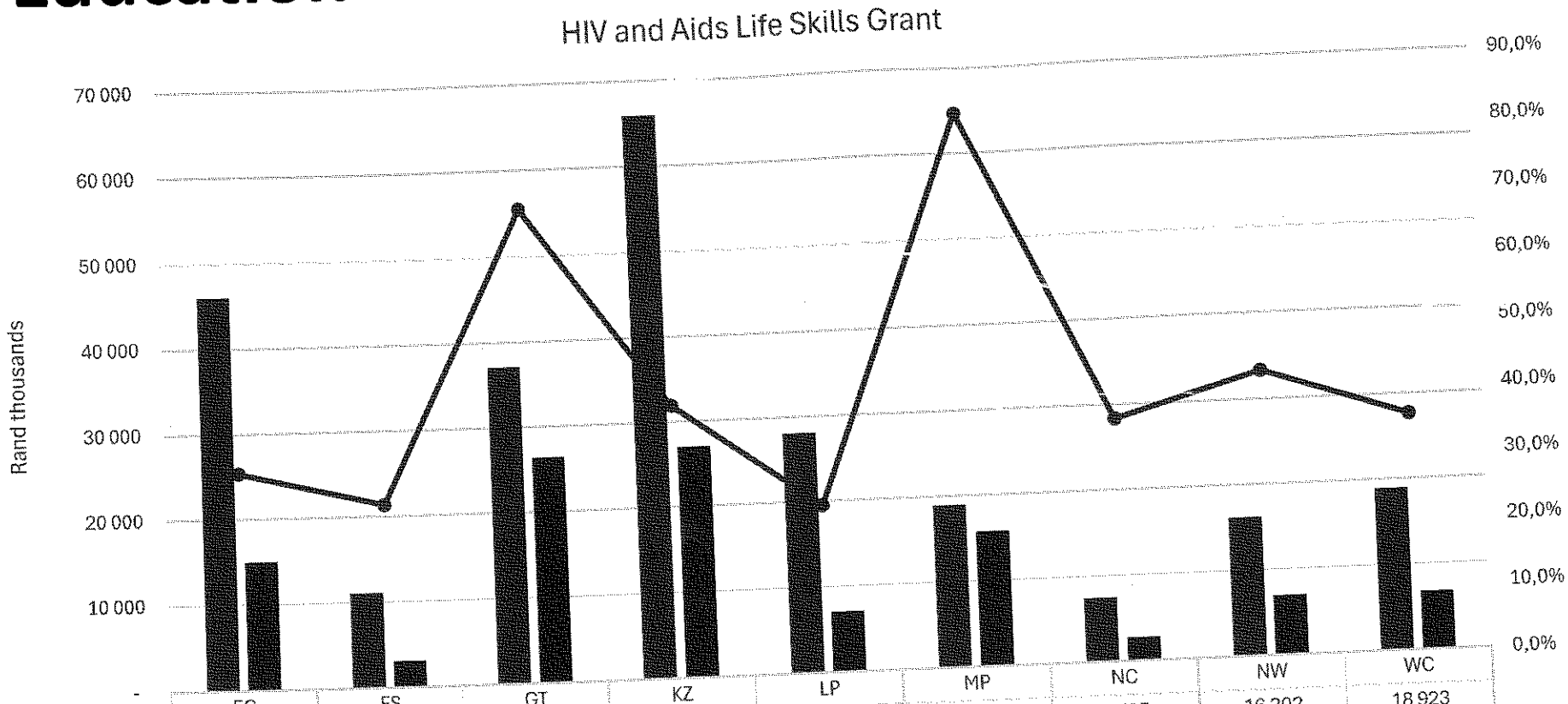
	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	1848 180	1007 305	2296 649	2388 318	1503 403	1310 894	716 303	1304 034	1306 354
Spending	850 204	595 611	899 667	1200 065	410 629	378 571	296 687	475 829	600 334
% Spent	46,0%	59,1%	39,2%	50,2%	27,3%	28,9%	41,4%	36,5%	46,0%

- Overall robust performance, except for LP and MP

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

004-60 19/5/2025-8:52:29 PM

Education



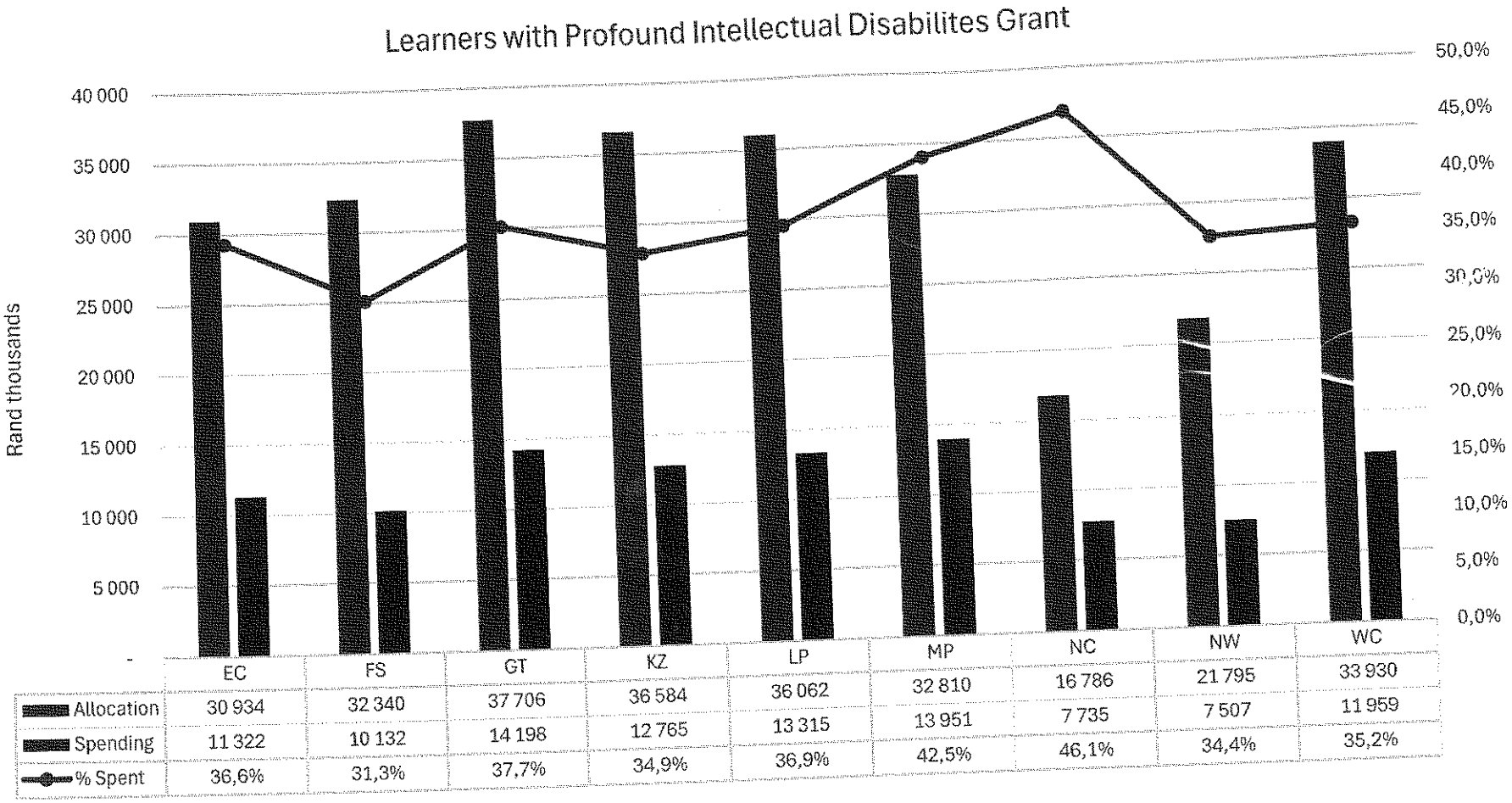
	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	46 020	11 107	37 036	65 952	28 087	18 980	7 435	16 202	18 923
Spending	15 005	3 049	26 407	27 035	7 055	15 780	2 708	6 937	6 732
% Spent	32,6%	27,5%	71,3%	41,0%	25,1%	83,1%	36,4%	42,8%	35,6%

- Average of 44% spent across provinces for the period, largely due to GT and MP's high expenditure

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

004-61 19/5/2025-8:52:29 PM 004-61

Education

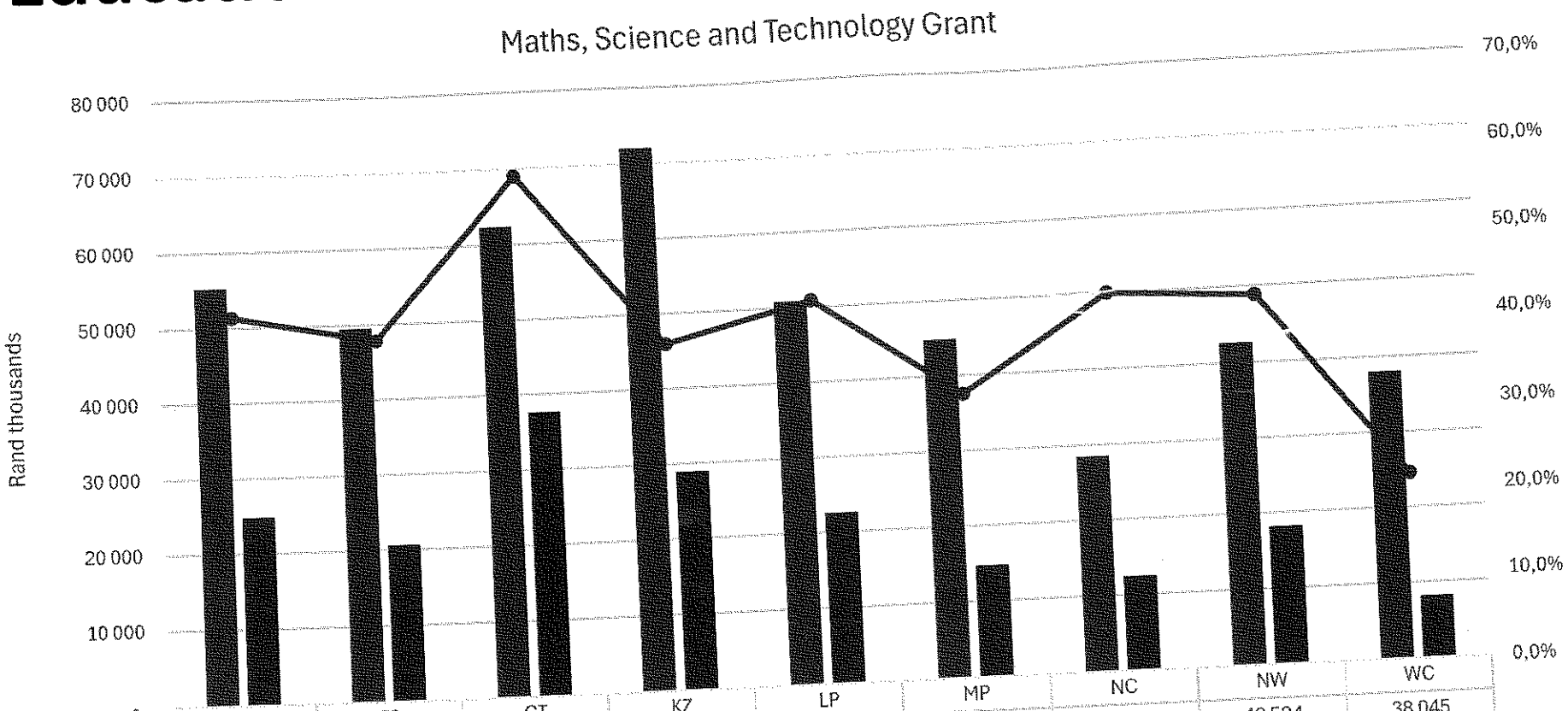


	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	30 934	32 340	37 706	36 584	36 062	32 810	16 786	21 795	33 930
Spending	11 322	10 132	14 198	12 765	13 315	13 951	7 735	7 507	11 959
% Spent	36,6%	31,3%	37,7%	34,9%	36,9%	42,5%	46,1%	34,4%	35,2%

- Average of 37% spent across provinces for the period, slightly below expectation

004-62
19/5/2025-8:52:29 PM
004-62

Education



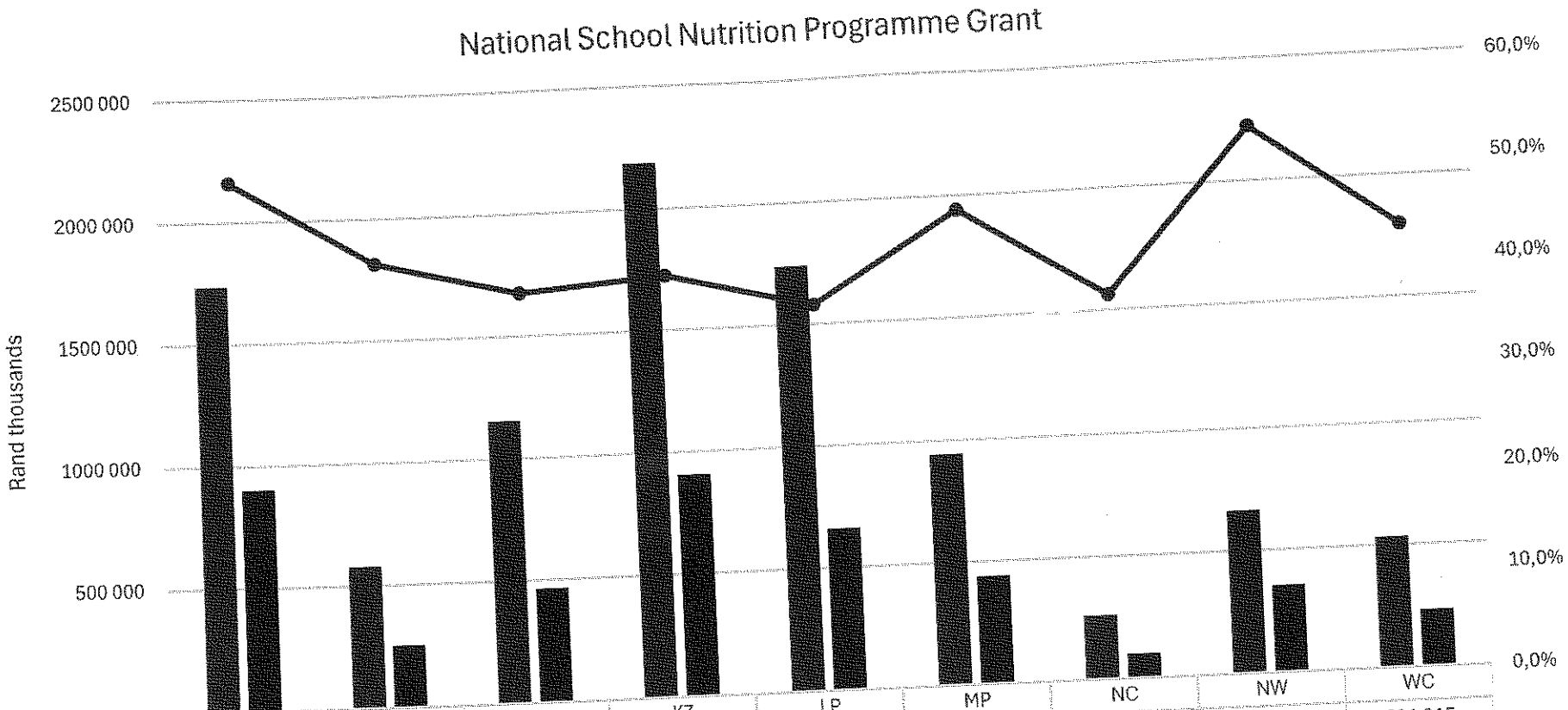
	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	55 256	49 496	62 348	71 988	50 827	44 814	28 474	42 594	38 045
Spending	24 811	20 682	37 619	28 891	22 608	14 706	12 441	18 160	8 171
% Spent	44,9%	41,8%	60,3%	40,1%	44,5%	32,8%	43,7%	42,6%	21,5%

- Average of 42% spent across provinces for the period
- WC at half of expected spending at this point

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

004-63
19/5/2025-8:52:29 PM
004-63

Education



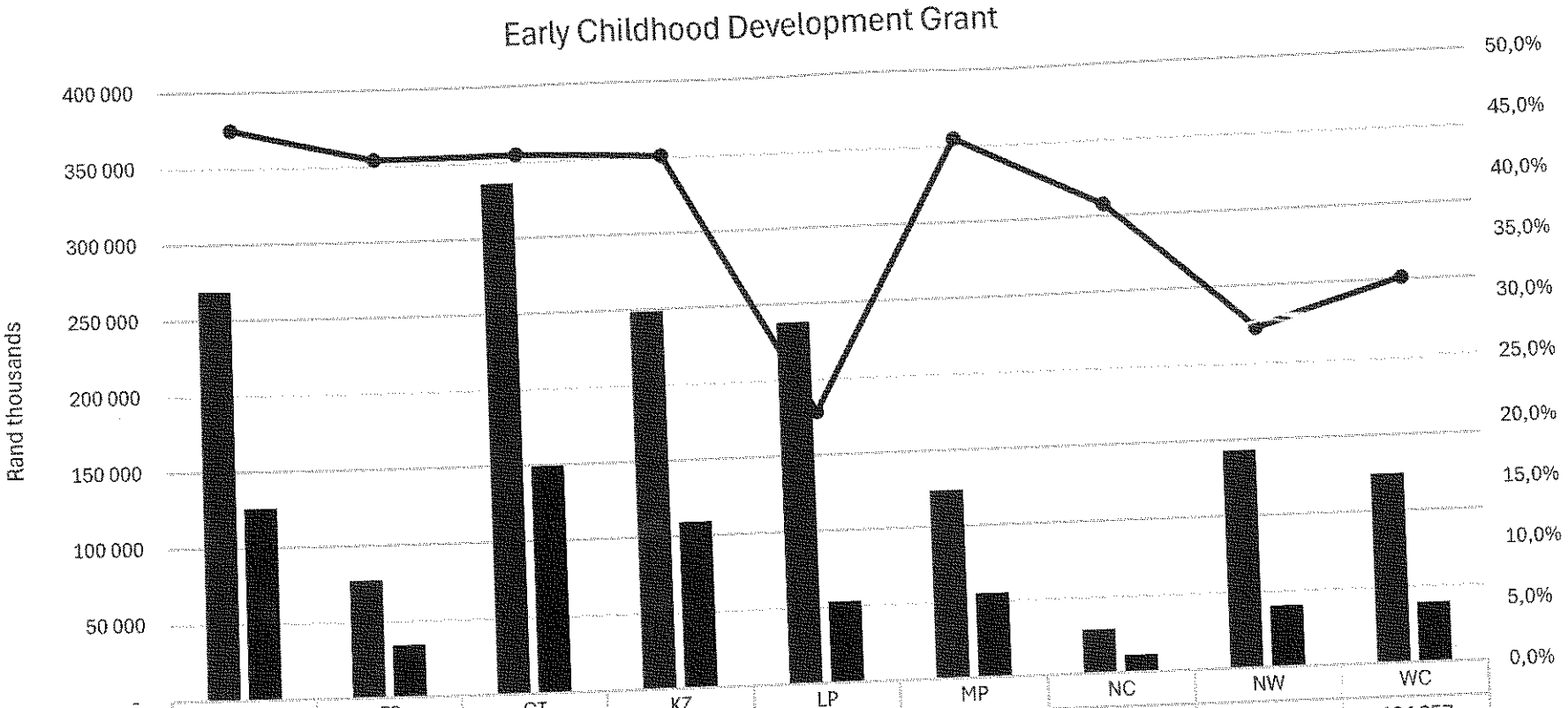
	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	1737 698	578 293	1154 073	2187 840	1741 094	942 928	260 461	664 104	531 615
Spending	901 289	251 891	464 138	905 010	659 634	439 344	97 671	354 257	229 257
% Spent	51,9%	43,6%	40,2%	41,4%	37,9%	46,6%	37,5%	53,3%	43,1%

- Average of 44% spent across provinces for the period
- LP and NC are much lower than the other provinces

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION PIETERMARITZBURG

004-64
19/5/2025-8:52:29 PM
004-64

Education



	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	268 988	77 036	336 388	248 650	238 002	123 659	28 797	143 198	124 357
Spending	126 020	34 086	149 183	109 096	53 131	54 914	11 074	39 918	39 053
% Spent	46,8%	44,2%	44,3%	43,9%	22,3%	44,4%	38,5%	27,9%	31,4%

- Average of 39% spent across provinces for the period
- LP and NW lagging

004-65
19/5/2025-8:52:29 PM
004-65

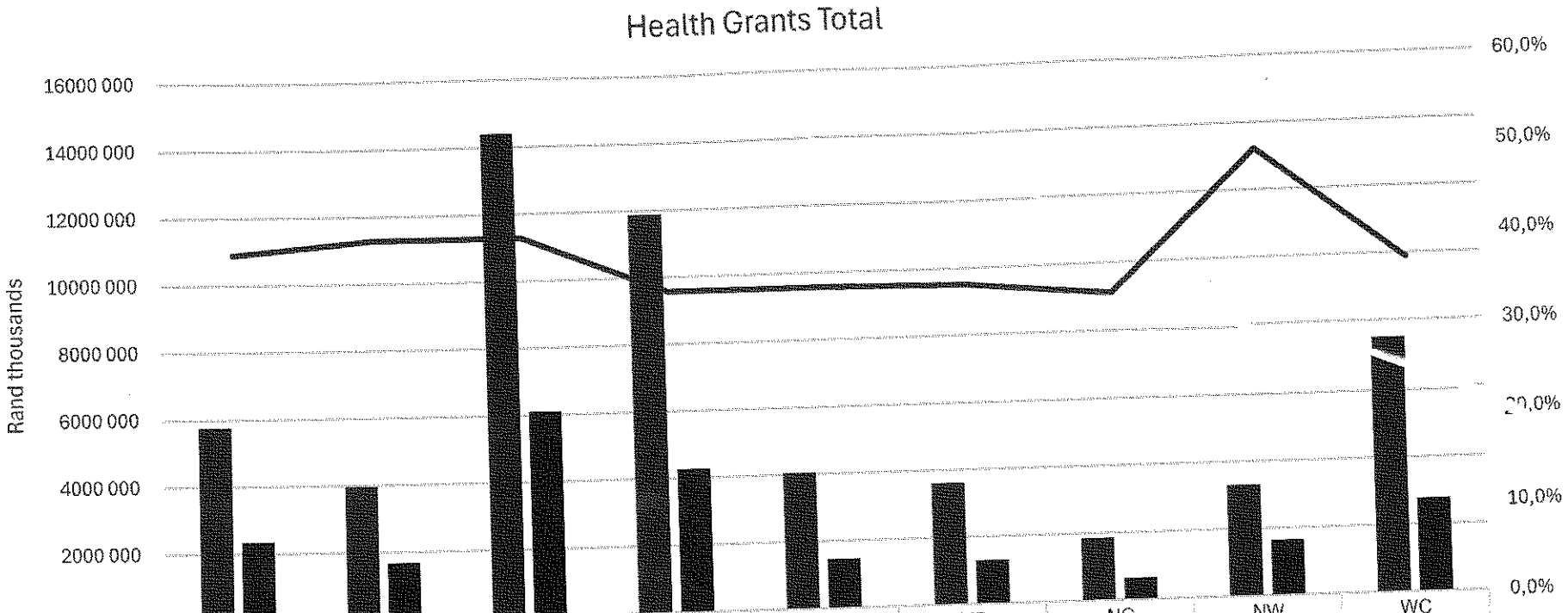
Education issues

- Overall, the sector is performing as expected at 42%.
- However, of the R14.3 billion transferred to provinces, R3.2 billion was unspent at the end of August.
- Vacancies on grants (EIG & LSPID) not filled timeously as affects performance of the grants
- Procurement delays were noted in grants (LSPID & MST), but measures were put in place to recover in the next quarter.
- Delays brought about by the termination of non-performing contractors, who have had to be replaced (EIG). Contractors not paying sub-contractors due to cash flow problems, resulting in them abandoning site.



004-66
19/5/2025-8:52:29 PM
004-66

Health

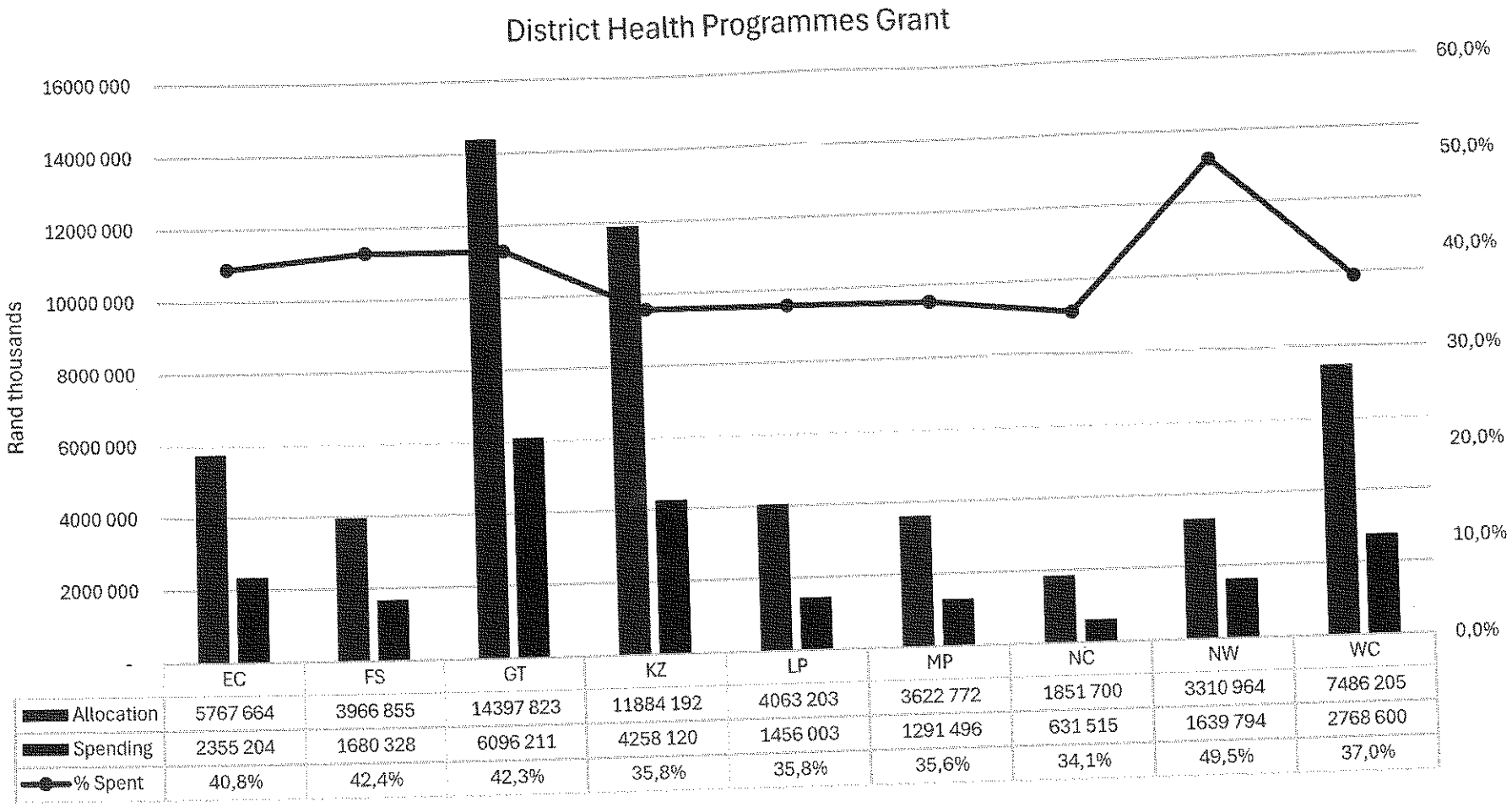


	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	5767 664	3966 855	14397 823	11884 192	4063 203	3622 772	1851 700	3310 964	7486 205
Spending	2355 204	1680 328	6096 211	4258 120	1456 003	1291 496	631 515	1639 794	2768 600
% Spent	40,8%	42,4%	42,3%	35,8%	35,8%	35,6%	34,1%	49,5%	37,0%

- Average of 39% spent across provinces for the period
- 5 provinces below 38%, with NW slightly higher than expected.

004-67
19/5/2025-8:52:29 PM
004-67

Health

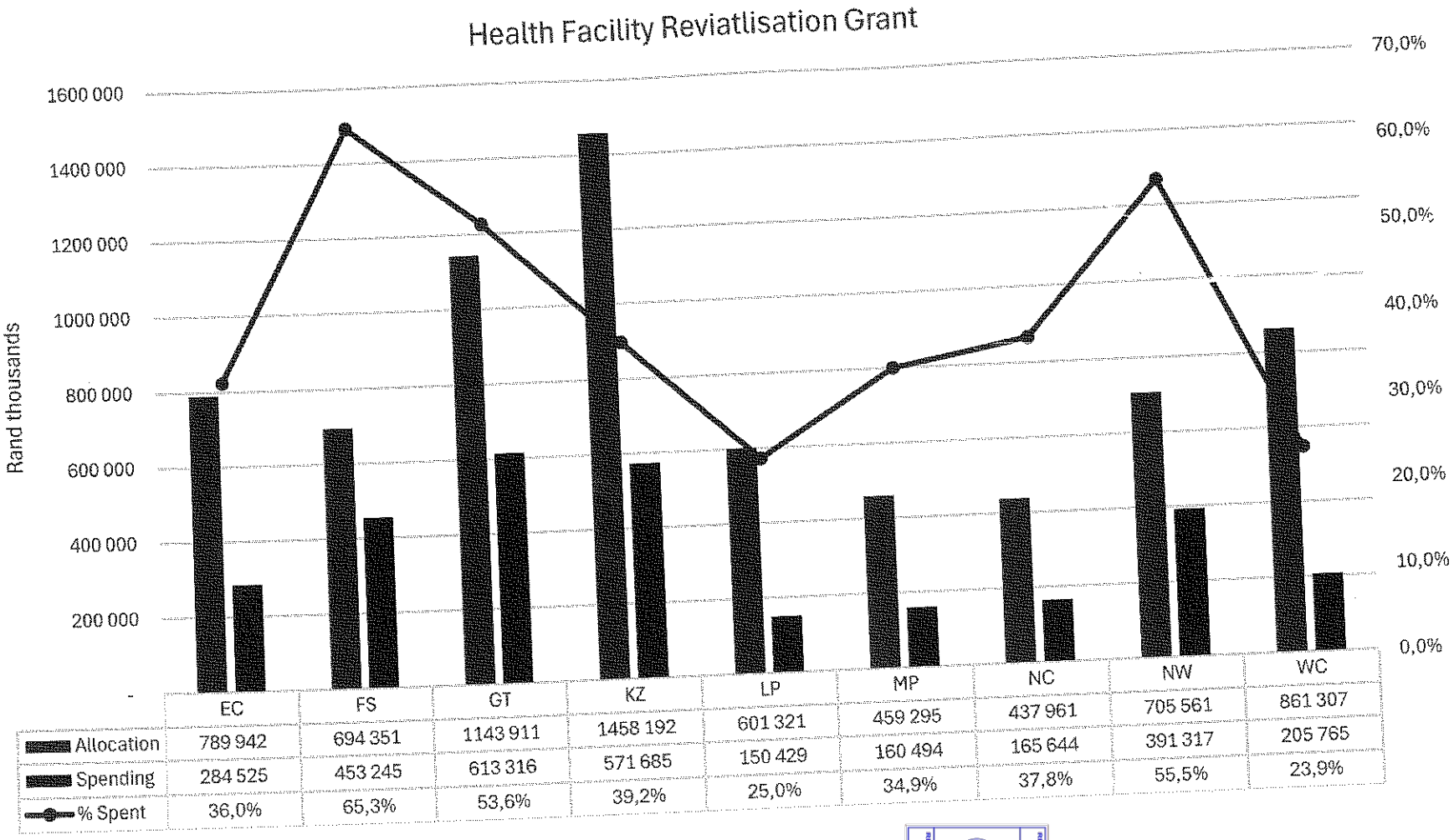


	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	5767 664	3966 855	14397 823	11884 192	4063 203	3622 772	1851 700	3310 964	7486 205
Spending	2355 204	1680 328	6096 211	4258 120	1456 003	1291 496	631 515	1639 794	2768 600
% Spent	40,8%	42,4%	42,3%	35,8%	35,8%	35,6%	34,1%	49,5%	37,0%

- Grant made up of two components
- Average of 39% spent across provinces for the period

004-68
19/5/2025-8:52:29 PM
004-68

Health



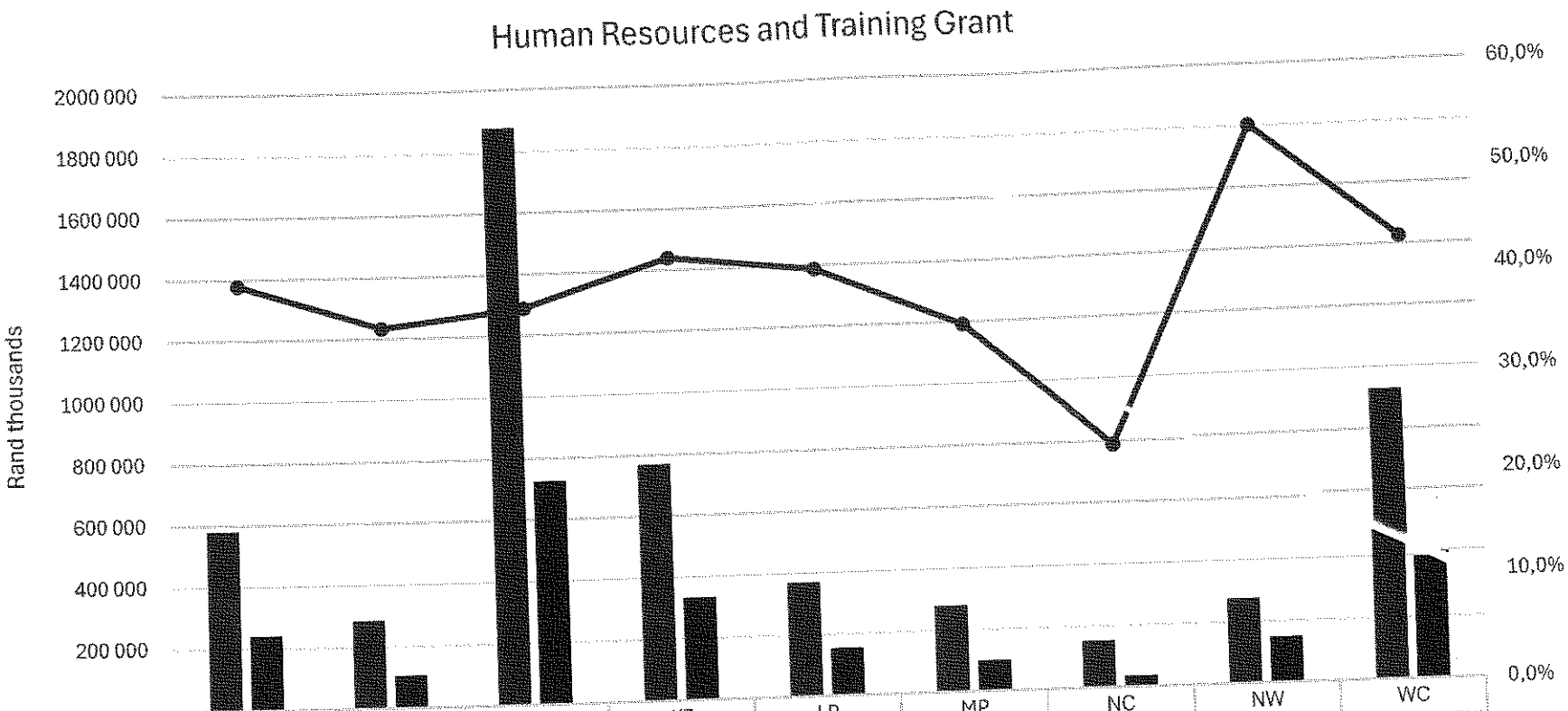
	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	789 942	694 351	1143 911	1458 192	601 321	459 295	437 961	705 561	861 307
Spending	284 525	453 245	613 316	571 685	150 429	160 494	165 644	391 317	205 765
% Spent	36,0%	65,3%	53,6%	39,2%	25,0%	34,9%	37,8%	55,5%	23,9%

- Grant is largely capital in nature
- Average of 42% spent across provinces for the period
- Wide disparity in spending rates between provinces, from 65%(FS) to 23.9% (WC)

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

004-69
19/5/2025-8:52:29 PM
004-69

Health



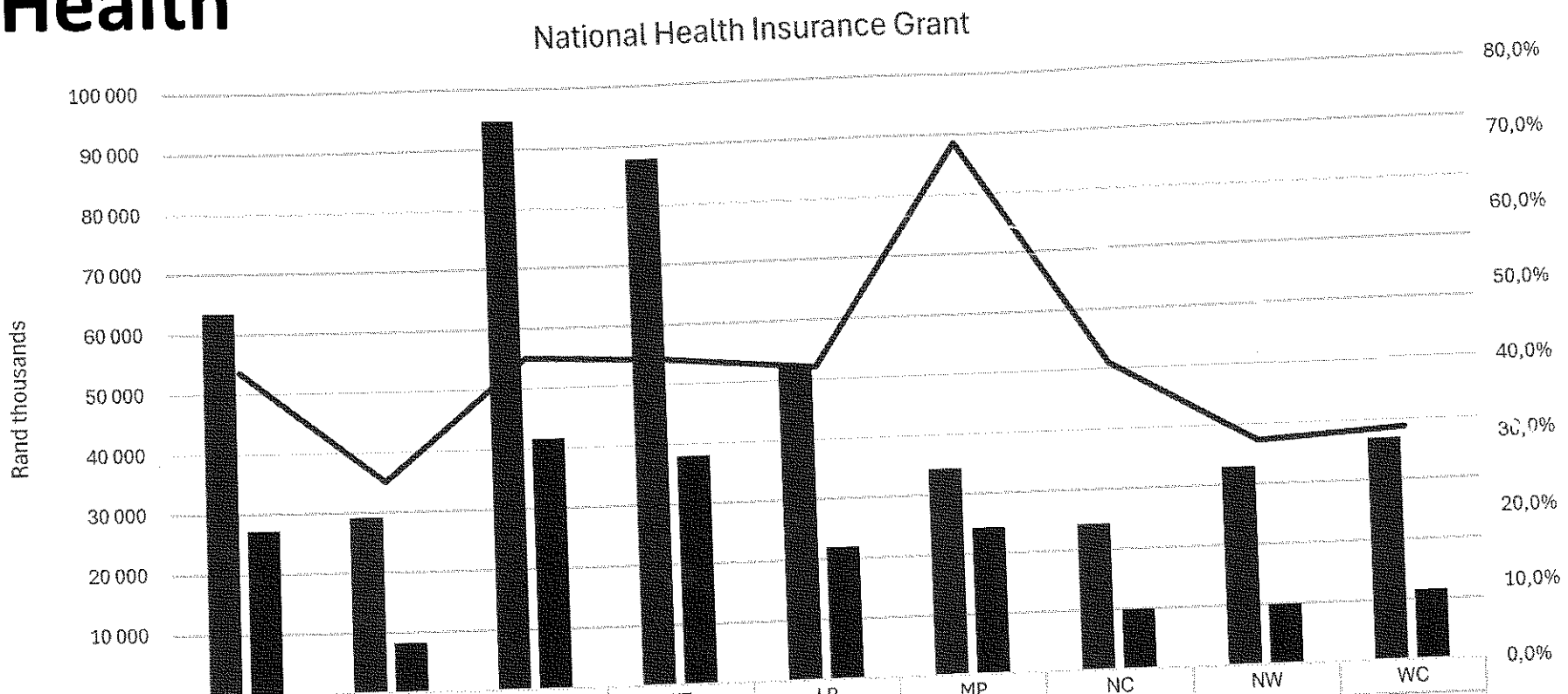
	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	581 770	284 271	1875 966	769 534	369 609	279 435	152 820	275 019	928 678
Spending	240 581	105 190	725 669	332 506	153 894	99 983	36 129	148 533	397 069
% Spent	41,4%	37,0%	38,7%	43,2%	41,6%	35,8%	23,6%	54,0%	42,8%

- Grant made of two components
- Average of 35% spent across provinces for the period, with NC significantly lagging

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION PIETERMARITZBURG

19/5/2025-8:52:29 PM
004-70
004-70

Health

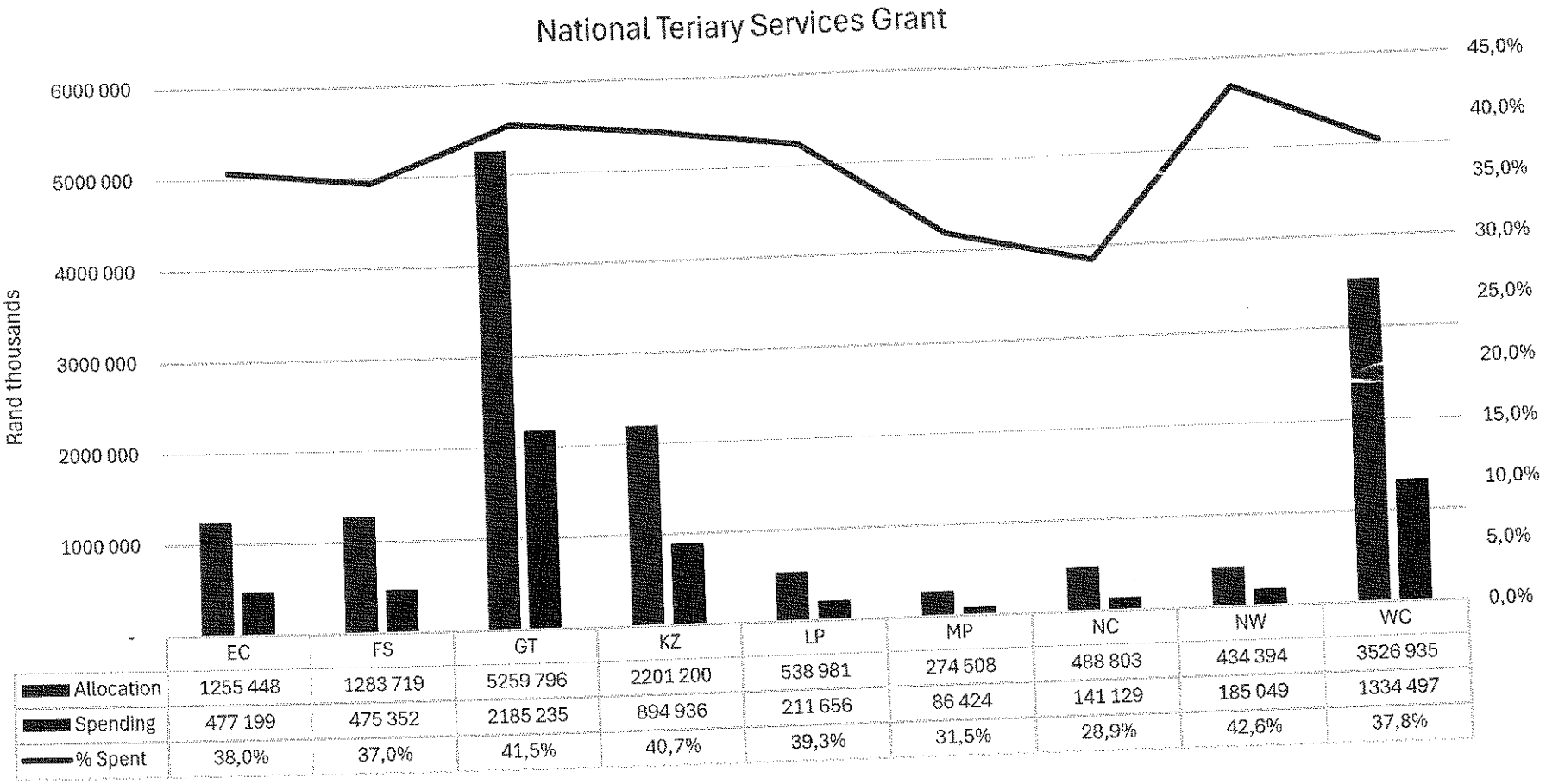


	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	63 501	29 154	94 582	87 732	52 554	34 310	24 264	32 960	36 899
Spending	27 212	8 178	41 654	37 977	21 915	24 283	9 891	9 823	11 435
% Spent	42,9%	28,1%	44,0%	43,3%	41,7%	70,8%	40,8%	29,8%	31,0%

- Average of 42% spent across provinces for the period, with MP significantly high while FS is lagging somewhat

004-71
19/5/2025-8:52:29 PM
004-71

Health



	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	1255 448	1283 719	5259 796	2201 200	538 981	274 508	488 803	434 394	3526 935
Spending	477 199	475 352	2185 235	894 936	211 656	86 424	141 129	185 049	1334 497
% Spent	38,0%	37,0%	41,5%	40,7%	39,3%	31,5%	28,9%	42,6%	37,8%

- Average of 39% spent across provinces for the period
- Grant expenditure generally recovers in the second part of the year, but NC may be at risk

004-72
19/5/2025-8:52:29 PM
004-72

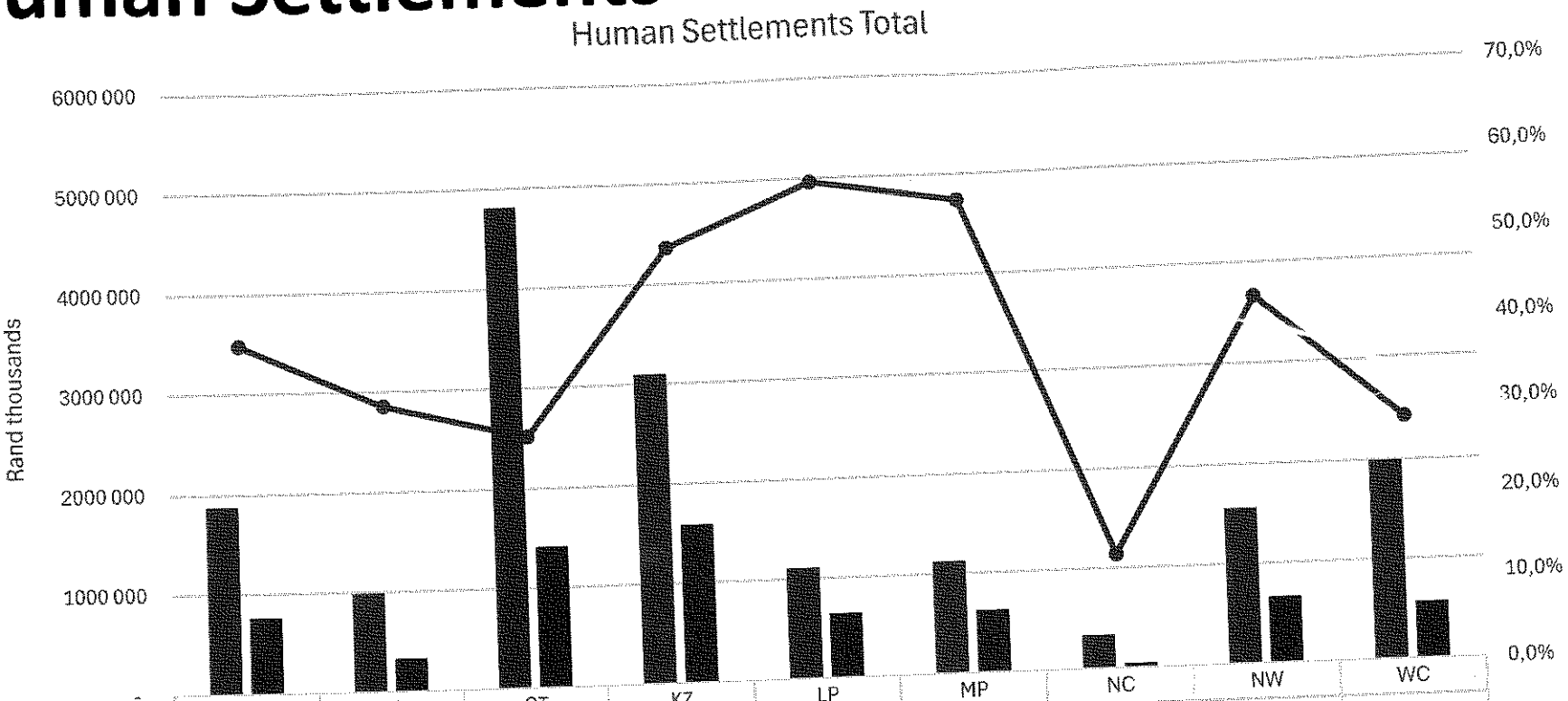
Health issues

- Of the R24 billion transferred to provinces, R2 billion was unspent at the end of August.
- Internal supply chain management processes for the awarding of tenders and delivery of procured machinery and equipment not timeously concluded (NTSG).
- Filling of posts (HFRG) remains a challenge particularly in the semi-rural provinces such as NW, LP and NC.
- Contracting of health practitioners constrained by the nature of contracts, low reimbursement rates and HR recruitment delays (NHI).



004-73
19/5/2025-8:52:29 PM
004-73

Human Settlements



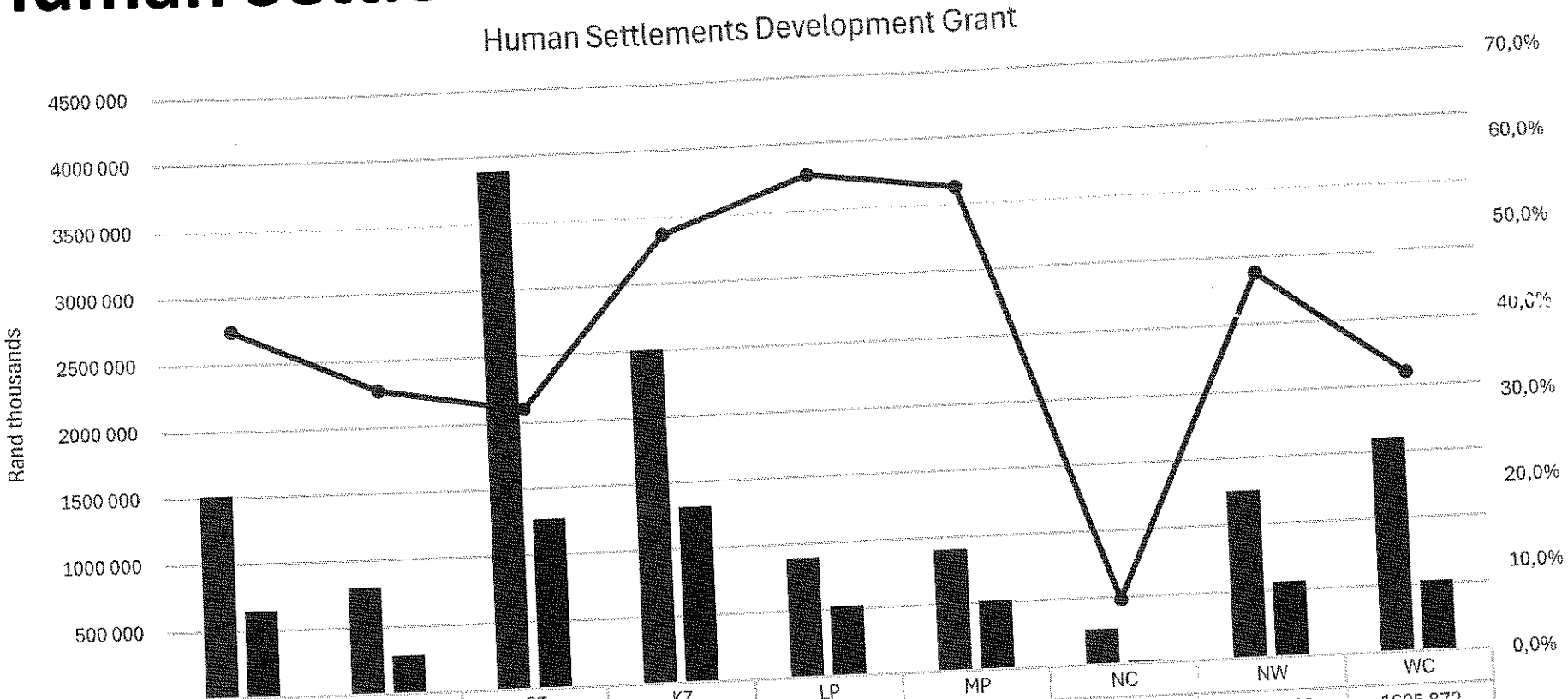
	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	1879 524	990 991	4820 976	3104 988	1105 456	1126 743	333 410	1556 144	1988 187
Spending	763 349	329 863	1414 133	1581 093	640 431	623 639	44 273	663 944	564 414
% Spent	40,6%	33,3%	29,3%	50,9%	57,9%	55,3%	13,3%	42,7%	28,4%

- Average of 39% spent across provinces for the period
- GT, NC and WC lagging

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

004-74
19/5/2025-8:52:29 PM
004-74

Human Settlements

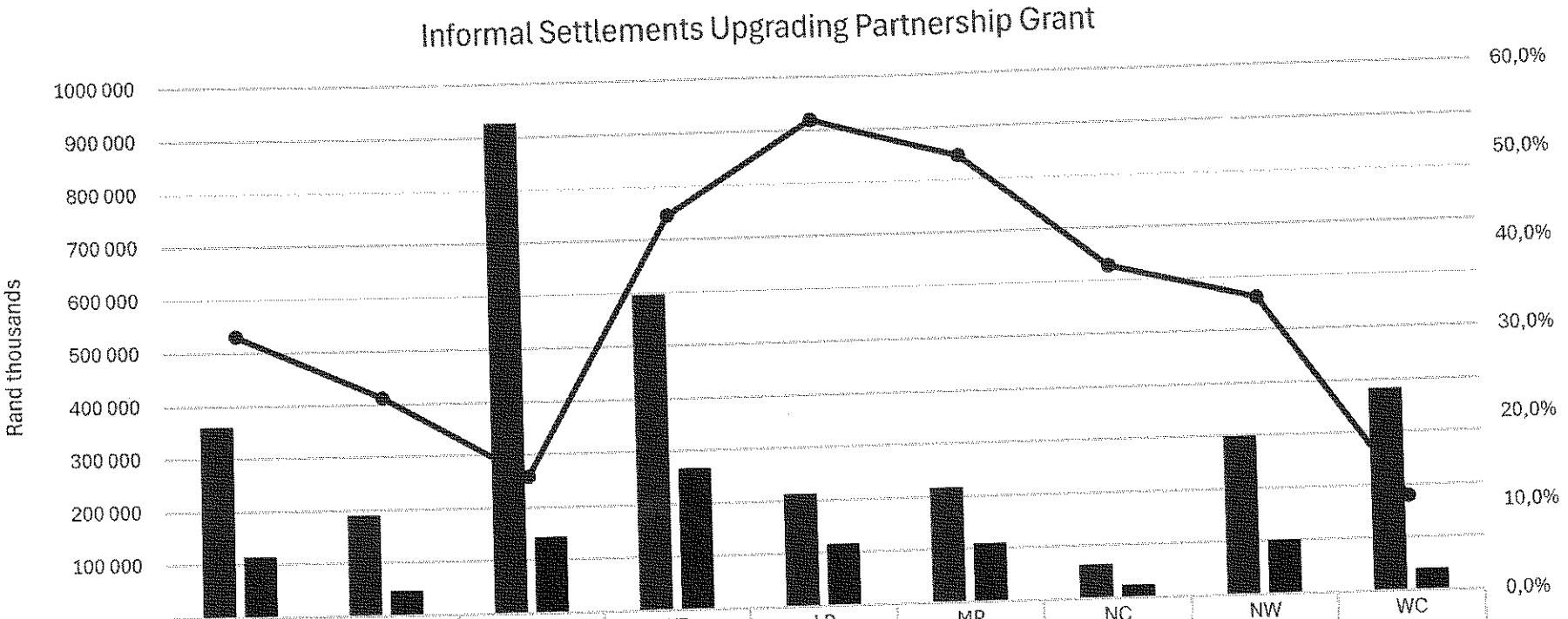


	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	1518 104	800 430	3893 933	2507 919	892 884	910 077	269 298	1256 908	1605 872
Spending	648 254	282 800	1270 540	1314 040	523 175	513 703	20 109	563 147	523 427
% Spent	42,7%	35,3%	32,6%	52,4%	58,6%	56,4%	7,5%	44,8%	32,6%

- Average of 41% spent across provinces for the period
- NC is the clear risk. Some provinces will need more improvement in the next reporting period

004-75
19/5/2025-8:52:29 PM
004-75

Human Settlements



	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	361 420	190 561	927 043	597 069	212 572	216 666	64 112	299 236	382 315
Spending	115 095	47 063	143 593	267 053	117 256	109 936	24 164	100 797	40 987
% Spent	31,8%	24,7%	15,5%	44,7%	55,2%	50,7%	37,7%	33,7%	10,7%

- Average of 29% spent across provinces for the period. Grant tends to underperform.
- GT and WC are significantly behind other provinces

004-76
19/5/2025-8:52:29 PM
004-76

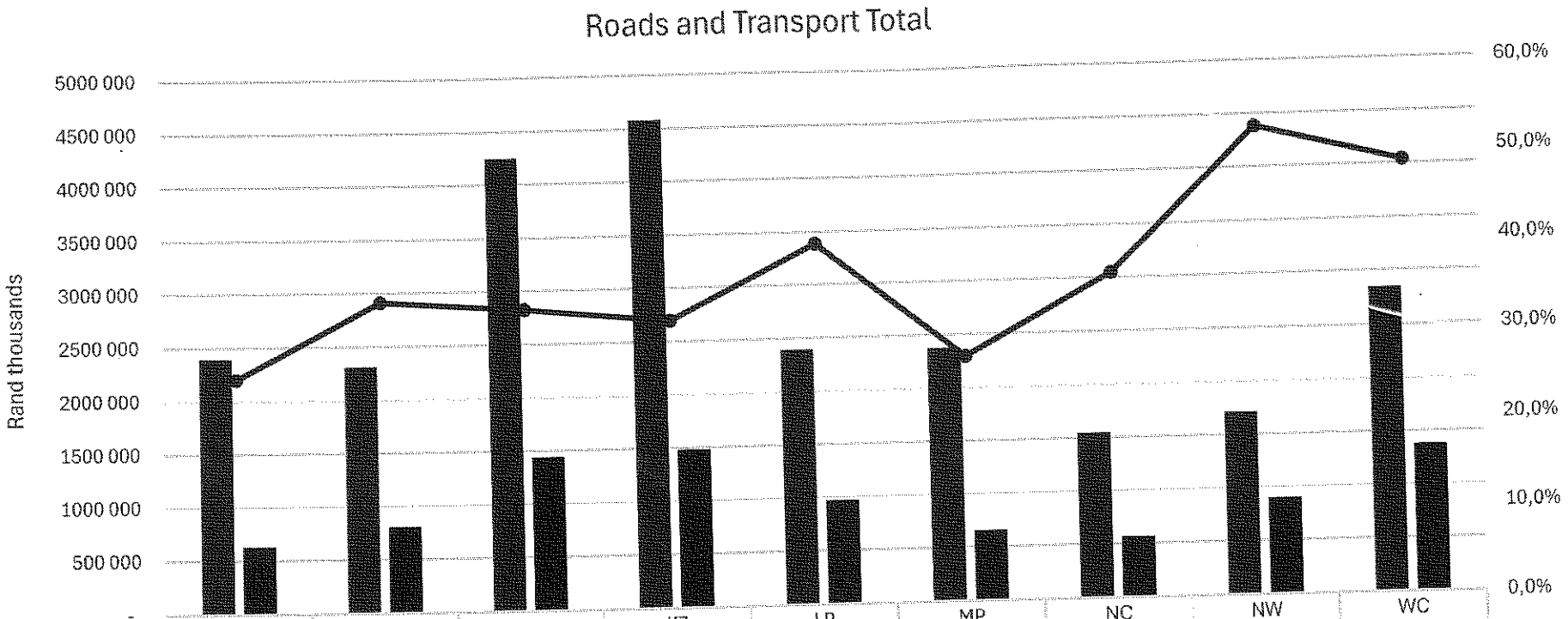
Human Settlements issues

- Of the R7.6 billion transferred to provinces, R1 billion was unspent at the end of August.
- There is a recurrent discrepancy between spending and performance. While expenditure is robust, the delivery of outputs lags significantly.
- Provinces make significant transfers (recorded as expenditure) to entities which cannot be easily traced to outputs.
- Inconsistent reporting by provinces makes it difficult to measure performance (ISUPG).
- Community business forums disruptions, causing uncertain and abrupt stoppages on projects.
- Contractor's cash flow shortages result in slow performance, and some abandon the sites.
- Late appointment of housing contractors because of the delays experienced in the procurement processes



19/5/2025-8:52:29 PM
004-77
004-77

Roads and Transport



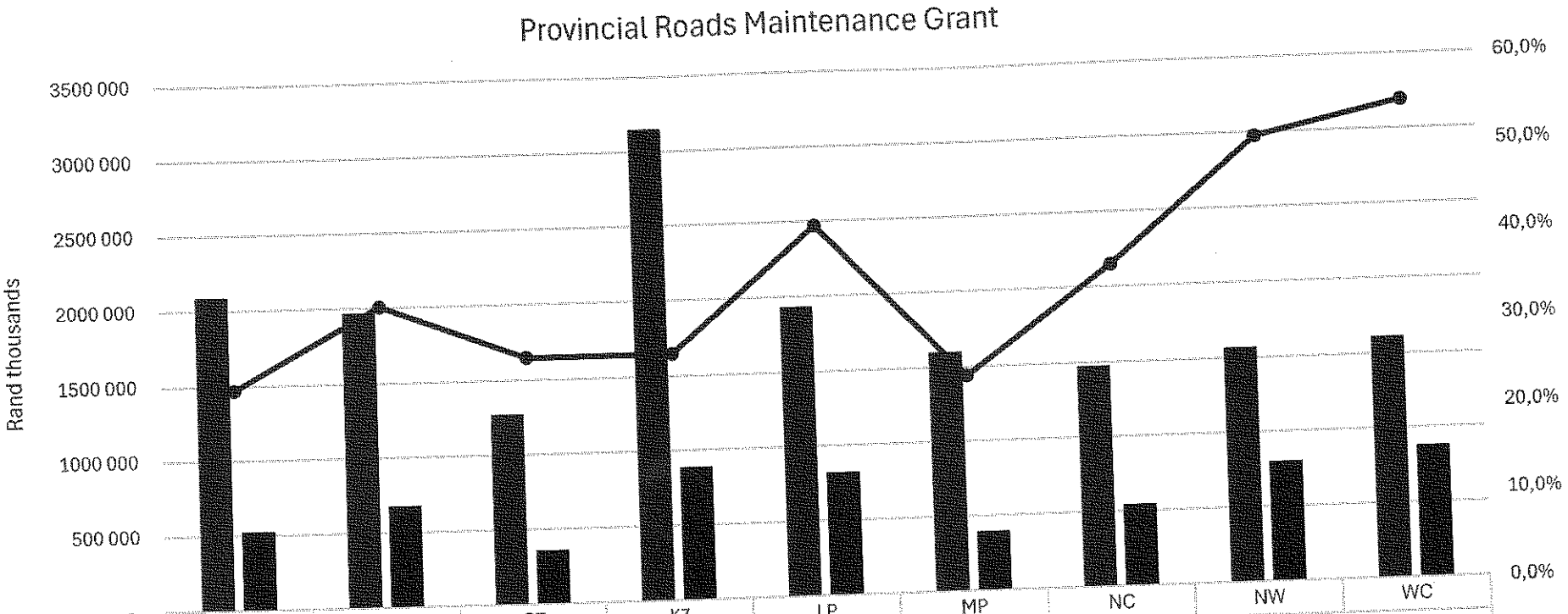
	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	2398 228	2310 640	4250 761	4580 685	2395 248	2376 053	1545 207	1710 020	2841 044
Spending	633 166	807 106	1439 805	1479 713	972 851	654 078	564 838	898 910	1377 119
% Spent	26,4%	34,9%	33,9%	32,3%	40,6%	27,5%	36,6%	52,6%	48,5%

- Two grants in this sector
- Average of 36% spent across provinces for the period

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

004-78
19/5/2025-8:52:29 PM
004-78

Roads and Transport



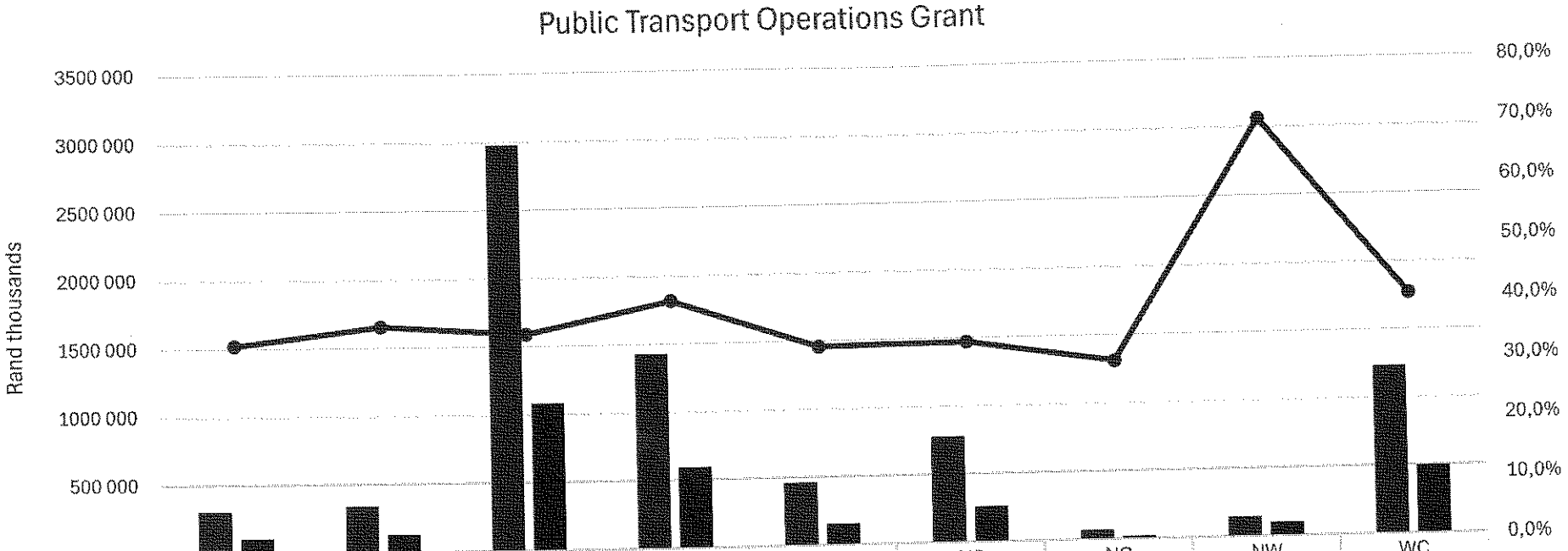
	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	2089 930	1969 791	1271 831	3152 284	1934 494	1600 241	1475 843	1567 433	1610 643
Spending	526 007	678 346	358 594	888 260	819 530	393 912	544 104	799 197	880 536
% Spent	25,2%	34,4%	28,2%	28,2%	42,4%	24,6%	36,9%	51,0%	54,7%

- Average of 36% spent across provinces for the period
- WC and NW well above, while EC and MP are low

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION PIETERMARITZBURG

004-79
19/5/2025-8:52:29 PM
004-79

Roads and Transport



	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	308 298	340 849	2978 930	1428 401	460 754	775 812	69 364	142 587	1230 401
Spending	107 159	128 760	1081 211	591 453	153 321	260 166	20 734	99 713	496 583
% Spent	34,8%	37,8%	36,3%	41,4%	33,3%	33,5%	29,9%	69,9%	40,4%

- Average of 38% spent across provinces for the period
- NW exhibiting pressure, while most of the other provinces are behind

004-80
19/5/2025-8:52:29 PM
004-80

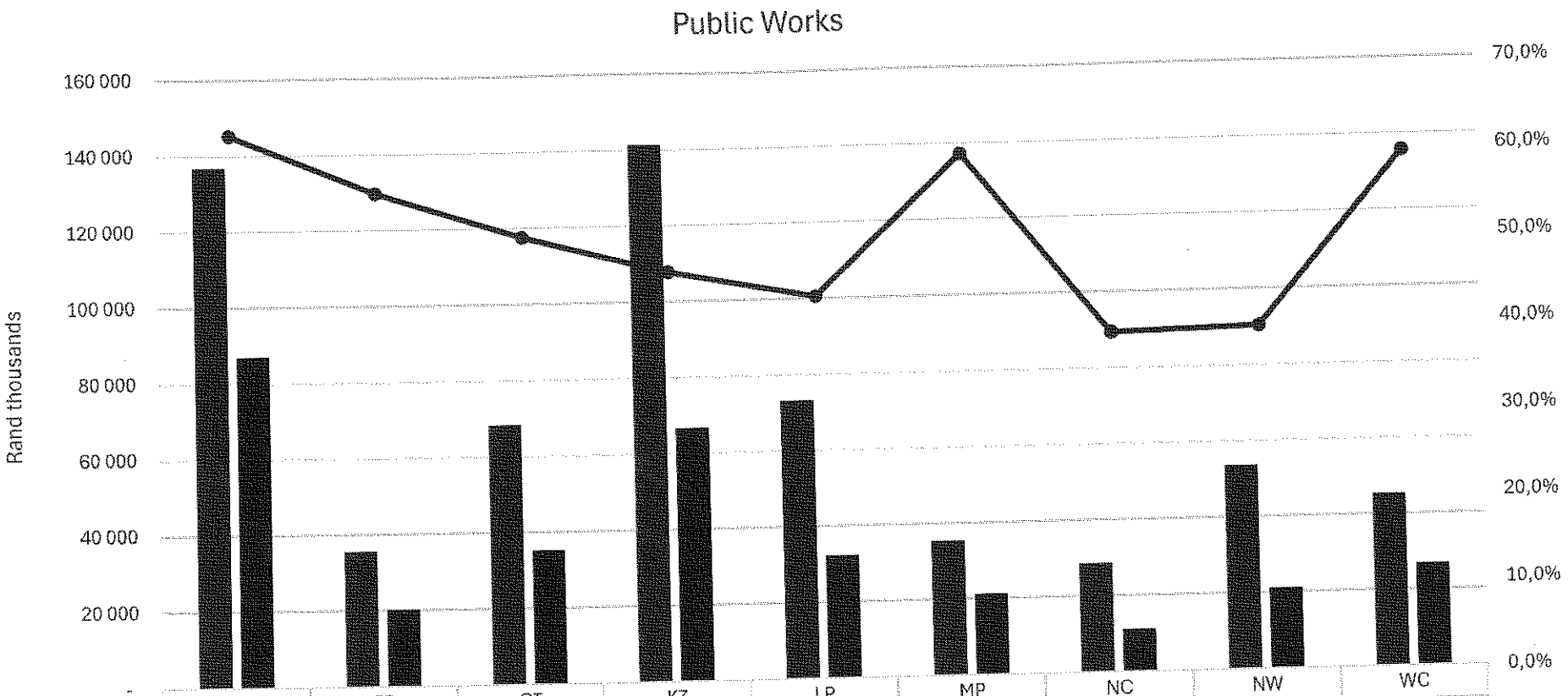
Roads and Transport issues

- Of the R13 billion transferred to provinces, R4 billion was unspent at the end of August.
- Delays in appointment of service providers and inadequate resources in the procurement unit.
- Welisziwe Bridge Programme – not transfers made to Public Works and no bridges completed in the first quarter due to the construction management capacity from the SANDF, which has limited number of construction management teams



004-81
19/5/2025-8:52:29 PM
004-81

Public Works

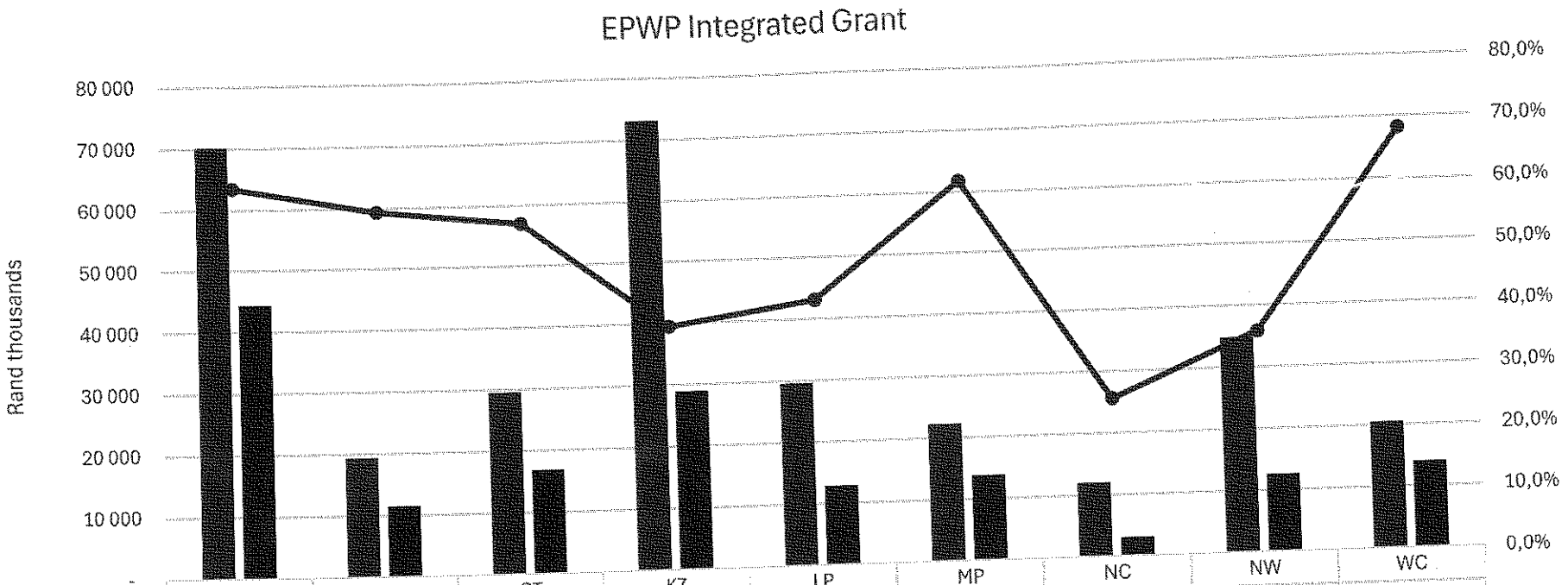


	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	136 911	35 479	68 259	141 398	73 203	35 355	28 601	53 405	45 230
Spending	87 012	20 128	35 095	66 613	32 165	21 214	11 176	21 102	26 828
% Spent	63,6%	56,7%	51,4%	47,1%	43,9%	60,0%	39,1%	39,5%	59,3%

- Average of 52% spent across provinces for the period, much higher than other grants.
- EC and MP has robust spending while NC and NW are behind other provinces

004-82
19/5/2025-8:52:29 PM
004-82

Public Works

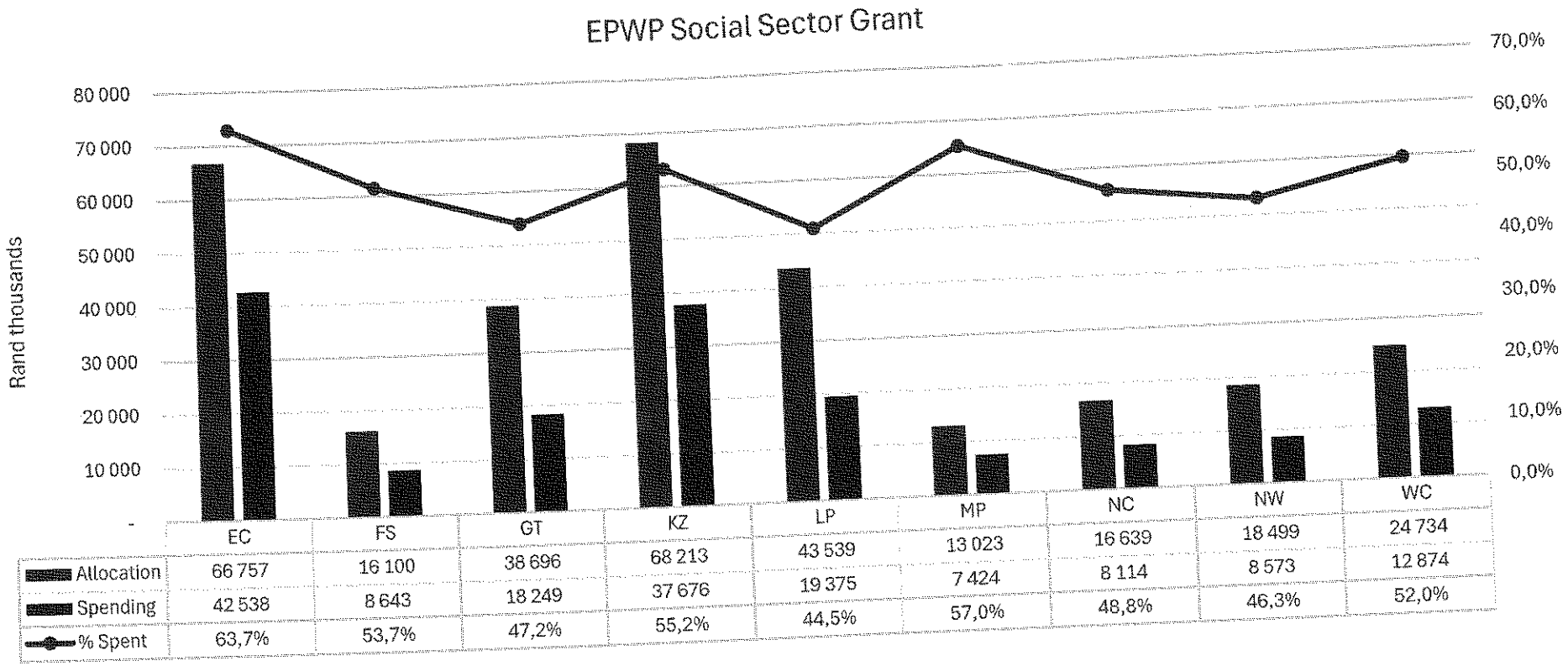


	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	70 154	19 379	29 563	73 185	29 664	22 332	11 962	34 906	20 496
Spending	44 474	11 485	16 846	28 937	12 790	13 790	3 062	12 529	13 954
% Spent	63,4%	59,3%	57,0%	39,5%	43,1%	61,7%	25,6%	35,9%	68,1%

- Average of 51% spent across provinces for the period
- 5 provinces spending over the average with NC lagging significantly

004-83
19/5/2025-8:52:29 PM
004-83

Public Works



	EC	FS	GT	KZ	LP	MP	NC	NW	WC
Allocation	66 757	16 100	38 696	68 213	43 539	13 023	16 639	18 499	24 734
Spending	42 538	8 643	18 249	37 676	19 375	7 424	8 114	8 573	12 874
% Spent	63,7%	53,7%	47,2%	55,2%	44,5%	57,0%	48,8%	46,3%	52,0%

- Average of 53% spent across provinces for the period
- Spending overall robust and expected to be fully spent at year end.

004-84
19/5/2025-8:52:29 PM
004-84

Public Works issues

- Delays in submission of quarterly non-financial reports, non-reporting of projects by some departments.
- This is an incentive grant which is performance based, poor reporting will lead to provinces allocation being reduced.



NDM
S. 004-85

004-85
19/5/2025-8:52:29 PM

Overall observations

- At 39% overall spending, provinces are performing relatively well on conditional grants. Previous trend show that grant funds are generally around 96% spent each year. A large part of the underspending is however rolled over and retained in the sector. Some concerns are however noted below.
  - The late approval of business plans, in the agriculture and human settlements sector, is one of the issues affecting performance.
  - Unspent transfers in provinces not ideal, government is incurring borrowing cost for funds that could have been transferred at a later date.
  - Recurrent procurement challenges continue to plague many grants including infrastructure and goods and services item.
  - Poor contract management and contractor performance causes delays on projects and incurs additional costs, in some instances where the defaulting contractor takes legal action
  - Performance on some grants is affected by shortages as result of late filling of vacancies.
  - While spending maybe strong, it is funds that are transferred to entities but remain unspent.
  - The Welisizwe Bridge Programme is a cause for concern, with no performance in the first quarter. Underperformance was an issue in the 2023/24 financial as well.



004-86
19/5/2025-8:52:29 PM
004-86

Thank you


REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Annexure non-financial information



Agriculture

CASP projects in quarter 1

Province	Planned projects	1-49% complete	50-99% complete	Complete
EC	75	-	-	-
FS	23	4	-	-
GT	10	10	-	-
KZ	40	-	-	-
LP	45	8	-	-
MP	11	3	3	-
NC	68	-	-	-
NW	47	42	2	-
WC	27	12	-	15
Total	**346**	**79**	**5**	**15**

Ilima farmers supported in quarter 1

Province	Planned annual	Actual Q1
EC	30 000	209
FS	6 050	-
GT	90	-
KZ	3 552	168
LP	7 932	1 176
MP	3 005	72
NC	74	-
NW	2 724	300
WC	838	838
Total	**54 265**	**2 763**

- CASP projects include boreholes, stock water structures, animal structures poultry structures and storage facilities.
- Ilima projects are mainly irrigation and foods gardens.

004-89
19/5/2025-8:52:29 PM
004-89

Arts, Culture and Sport – Mass sport

MSSP Clubs provided with equipment/attire

Province	Target	Actual
EC	-	-
FS	-	0
GT	-	-
KZ	50	68
LP	100	62
MP	-	-
NC	35	36
NW	50	39
WC	-	-
Total	**235**	**205**

MSSP Schools provided with equipment/attire

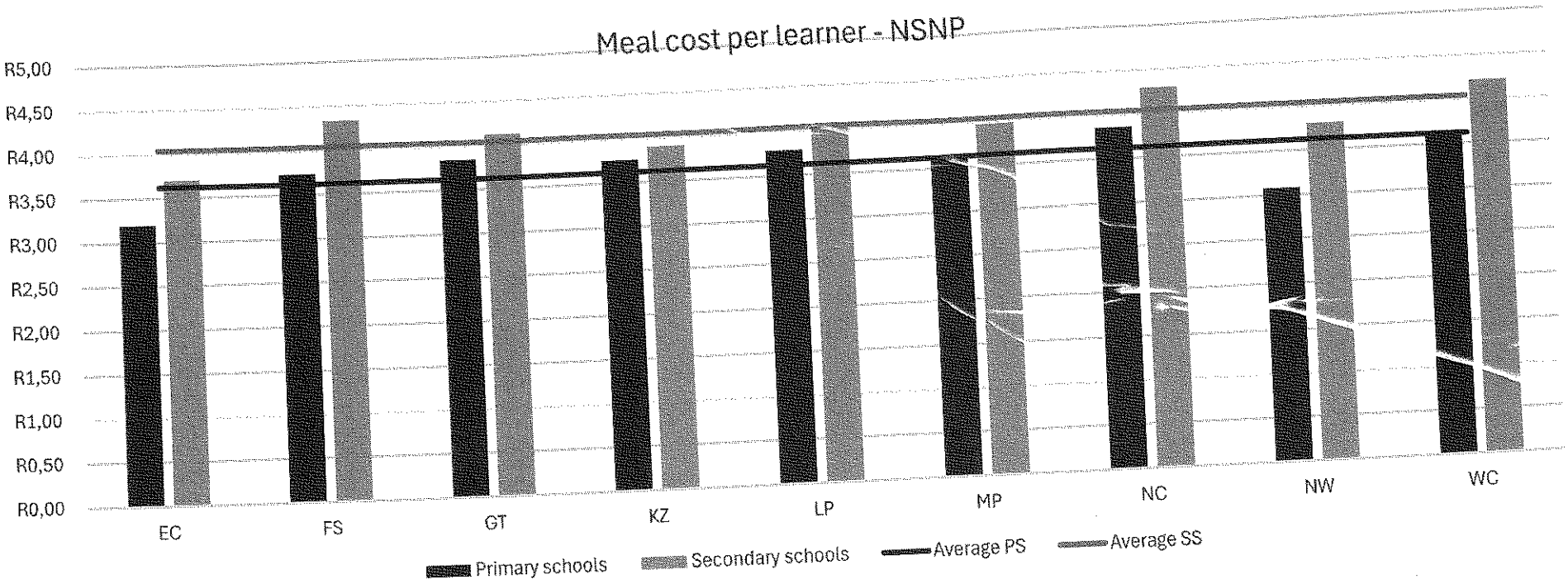
Province	Target	Actual
EC	-	-
FS	50	0
GT	-	-
KZ	210	174
LP	272	-
MP	-	-
NC	-	19
NW	-	-
WC	-	-
Total	**532**	**193**

- Equipment and attire includes sports team kits, and sports equipment such as balls, bats, safety attire, etc

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

004-90
19/5/2025-8:52:29 PM
004-90

Education – School Nutrition and Infrastructure



EIG scheduled maintenance

Province	Target	Actual
EC	148	1
FS	30	14
GT	295	130
KZ	600	38
LP	260	32
MP	224	25
NC	15	-
NW	160	16
WC	15	7
Total	**1 747**	**263**

EIG Additional classrooms built

Province	Target	Actual
EC	15	5
FS	84	-
GT	175	53
KZ		
LP	100	36
MP	97	32
NC	9	-
NW	20	46
WC	101	126
Total	**611**	**298**

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

004-91
19/5/2025-8:52:29 PM
004-91

Education – Early Childhood Development and Learners with Severe Intellectual Disabilities

ECD number of children subsidised

Province	Target	Actual
EC	unreported	unreported
FS	13 009	13 245
GT	128 398	120 848
KZ	50 028	49 224
LP	48 111	48 111
MP	17 156	17 156
NC	4 634	4 265
NW	36 670	8 449
WC	20 000	29 792
Total	**318 006**	**291 090**

ECD number of children attending fully registered centres

Province	Target	Actual
EC	unreported	unreported
FS	13 614	1 030
GT	46 609	120 481
KZ	8 209	5 203
LP	46 505	46 505
MP	1 391	1 391
NC	2 399	-
NW	4 490	5 733
WC	50 000	57 751
Total	**173 268**	**238 094**

LSIPD	Outreach team		Caregivers	
Province	Q 1 TARGET	Q 1 ACTUAL	Q 1 TARGET	Q 1 ACTUAL
EC	Not planne	3	346	40
FS	Not planne	9	223	75
GP	35	35	651	214
KZN	35	6	248	80
LP	Not planne	4	271	67
MP	30	5	224	1[illegible]
NC	Not planne	3	59	44
NW	15	6	143	70
WC	35	12	573	115
TOTAL	**159**	**83**	**2 738**	**8[illegible]**

- Outreach teams include Occupational Therapists, psychologists, and Speech and Physical Therapists

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION PIETERMARITZBURG

004-92
19/5/2025-8:52:29 PM
004-92

Health – Anti-Retroviral Therapy and Male Medical Circumcision

HIV number of patients on ART

Province	Target	Actual
EC	637 305	622 211
FS	327 337	324 864
GT	1 307 492	1 268 320
KZ	1 588 822	1 553 574
LP	458 661	453 625
MP	589 365	574 502
NC	74 219	72 290
NW	378 429	372 092
WC	338 899	333 433
Total	**5 700 529**	**5 574 911**

HIV Male medical circumcisions

Province	Target	Actual
EC	6 397	3 227
FS	5 998	7 577
GT	76 411	43 949
KZ	67 006	26 735
LP	10 400	11 884
MP	29 946	18 718
NC	6 910	3 663
NW	18 192	25 883
WC	3 500	3 654
Total	**224 760**	**145 290**

HIV number of new patients started on ART

Province	Target	Actual
EC	11 882	10 170
FS	6 255	4 003
GT	42 390	22 624
KZ	18 995	19 044
LP	10 164	6 74[illegible]
MP	12 818	8 [illegible]75
NC	2 079	1 290
NW	6 048	6 [illegible]67
WC	10 745	6 16[illegible]
Total	**121 376**	**85 083**

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION PIETERMARITZBURG

004-93
19/5/2025-8:52:29 PM
004-93

Health – Healthcare facilities

Health Revitalisation project status end of Quarter one

Province	Identified/ Feasibility / Pre-Feasibility	Design	Tender	Construction	On-going for project Duration	Practical Completion	Works / Final Completion/Handed Over/Close-Out
EC	34	82	32	45			17
FS	71	19	8	58	1		9
GP	19	13	2	12	19	5	2
KZN	163	52	57	224		5	70
LP	21	6	1	20	2	2	10
MP	18		3	52	2	8	2
NC	24	1	1	15	1	1	3
NW	52	13	11	42	2	31	29
WC	68	63	10	22	0	2	23
TOTAL	**470**	**249**	**125**	**490**	**27**	**54**	**165**

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
Initials & Surname (Please print) 2025
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

NNM

004-94

19/5/2025-8:52:29 PM

Health

HRT Registrars in training

Province	Target	Actual
EC	267	189
FS	249	214
GT	352	352
KZ	410	334
LP	191	115
MP	63	32
NC	15	11
NW	89	59
WC	1 034	682
Total	**2 670**	**1 988**

HRT Statutory posts

Province	Target	Actual
EC	376	267
FS	1 074	820
GT	496	514
KZ	152	219
LP	214	151
MP	80	70
NC	152	273
NW	470	468
WC	**3 014**	**2 782**
Total		

NHI Number of health care professionals contracted

Province	Target	Actual
EC	40	34
FS	60	55
GT	140	130
KZ	2	14
LP	60	47
MP	30	19
NC	41	43
NW	31	31
WC	**404**	**373**
Total		

NHI Number of mental health care professionals contracted

Province	Target	Actual
EC	10	9
FS	90	85
GT	36	34
KZ	21	19
LP	24	20
MP	7	4
NC	11	17
NW	23	13
WC	**222**	**201**
Total		

004-95
19/5/2025-8:52:29 PM
004-95

Health – Tertiary services

NTSG Inpatient days

Province	Target	Actual
EC	148 569	149 639
FS	54 907	53 214
GT	680 000	661 885
KZ	113 099	118 915
LP	72 724	78 289
MP	38 802	35 763
NC	26 241	25 203
NW	62 131	76 076
WC	303 460	302 856
Total	**1 499 933**	**1 501 840**

NTSG Outpatients

Province	Target	Actual
EC	29 879	32 367
FS	15 168	14 708
GT	206 395	205 607
KZ	34 287	30 109
LP	7 623	7 266
MP	6 678	5 633
NC	6 536	5 988
NW	16 435	15 142
WC	41 973	33 720
Total	**364 974**	**350 540**

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
004-96
19/5/2025-8:52:29 PM
004-96

Human Settlements

HSDG Sites serviced

Province	Target	Actual
EC	1 404	1 728
FS	250	-
GT	1 992	-
KZ	1	-
LP	195	-
MP	431	1 991
NC	108	2 820
NW	496	-
WC	84	177
Total	**4 961**	**6 716**

HSDG Units complete

Province	Target	Actual
EC	1 643	1 380
FS	501	1
GT	898	-
KZ	1 642	2 577
LP	2 176	1 018
MP	553	220
NC	38	16
NW	634	420
WC	89	1 162
Total	**8 174**	**6 794**

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

004-97
19/5/2025-8:52:29 PM
004-97

Public Works – Full Time Equivalents

EPWP Integrated FTEs

Province	Target	Actual
EC	912	727
FS	252	82
GT	384	950
KZ	951	689
LP	386	99
MP	290	190
NC	156	31
NW	454	197
WC	266	58
Total	**4 051**	**3 023**

EPWP Social Sector FTEs

Province	Target	Actual
EC	1 548	246
FS	373	76
GT	897	288
KZ	1 582	366
LP	1 010	100
MP	302	73
NC	386	68
NW	429	103
WC	562	224
Total	**7 089**	**1 544**

004-98
19/5/2025-8:52:29 PM
004-98

Roads and Transport – Road maintenance

PRMG Blacktop patching M_2

Province	Target	Actual
EC	7 677	30 996
FS	73 950	123694
GT	44 000	48 418
KZ	52 028	110 246
LP	50 000	101 578
MP	30 900	56 358
NC	4 150	6 323
NW	71 000	16 581
WC	7 500	3 824
Total	**341 205**	**498 018**

PRMG Regravelling KM

Province	Target	Actual
EC	80	84
FS	-	40
GT	12	14
KZ	69	212
LP	10	27
MP	6	47
NC	59	164
NW	165	39
WC	60	-
Total	**461**	**627**

004-99
19/5/2025-8:52:29 PM
004-99

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

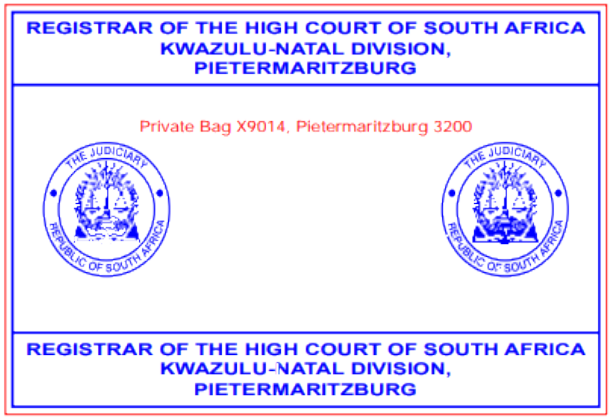
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Supplementary Affidavit

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:37:13 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant
and	
MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

1

N.S

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

SUPPLEMENTARY AFFIDAVIT



I, the undersigned,

NKOSINATHI SIBISI

state under oath the following:

1. I am an adult male and the chairperson of the Friends of South Africa Early Childhood Development Forum ("FOSA"), the first applicant in this matter. I am also the principal of Sinamuva Crèche and Early Childhood Development Centre.

2. Save to the extent where context indicates otherwise, the facts deposed to herein are within my personal knowledge and are to the best of my belief both true and correct. Where I make legal submissions, I do so on the advice of my legal representatives.

N.S 005-4

3. I deposed to the founding affidavit in this matter. I am duly authorised to depose to this affidavit, on behalf of the applicants, which is filed in support of the proposed amendments to Part B of the Notice of Motion whereby further relief is sought.

4. The amended relief is necessitated by the respondents' conduct since 26 May 2025 when an order in respect of Part A was granted by Jikela J (the "Jikela J order"), annexed hereto marked "**NS 21**".

5. This affidavit follows an order granted by Olsen J on 6 August 2025, (the "Olsen J order") annexed hereto marked "**NS 22**", and makes reference to the respondents' conduct between the granting of the Jikela J order and the Olsen J order. This conduct, which will be detailed below, demonstrates the necessity for the amended relief sought.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL, DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL, DIVISION,
PIETERMARITZBURG

6. The amended notice of motion seeks the following order:

   6.1. Declaring and recognising that all children have a right to early childhood development.

   6.2. Declaring that the first to third respondents' irregular and inconsistent payment of ECD subsidies to qualifying ECD centres is unlawful, unconstitutional and invalid insofar as this conduct infringes the right to early childhood development of children.

   6.3. The first to third respondents are directed to file a searchable report, within one month of the date of the court order, under oath, of the names and

addresses of all ECD centres in KZN that are recipients of the conditional grant or equitable share subsidies, setting out the total subsidy amounts that are outstanding in respect of each centre and in that report to detail how they will remediate such non-payment.

6.4. The first to third respondents are directed to pay the full outstanding amounts owed to each ECD centre listed in the report within one week of filing the report.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

6.5. The first to third respondents are directed to file an updated version of the above reports, before the last day of every third month until all payments are up to date and the order is fully complied with.

6.6. The applicants be granted leave thereafter, within 30 days, and before the last day of every subsequent month, to deliver an affidavit in answer to the reports and may thereafter set the matter down for further, other or alternative relief, as supported by their affidavits and this application.

6.7. The first to third respondents are directed to ensure that, within three months of the date of the court order, a signed Transfer Payment Agreement ("TPA") is concluded with each of the ECD centres that are recipients of the conditional grant or equitable share subsidies, and that each agreement clearly sets out the terms and timeframes for the payment of the subsidy in respect of each ECD centre.

6.8. Directing those respondents who oppose this affidavit to pay the costs of this application, including the costs of two counsel, each on scale C, such costs to be paid jointly and severally amongst them.

Background

7. On 26 May 2025, Part A of the application was brought before this court on an urgent basis for an order against the first to third respondents, directing them to pay all outstanding early childhood development subsidies owed to the third to fifth applicants.



8. This Jikela J order directed the first to third respondents to pay all outstanding subsidies owed to the respective centres, within ten (10) calendar days, i.e. on or before 5 June 2025.

9. The subsequent Olsen J order granted the applicants leave to supplement their founding affidavit and notice of motion which we do herein.

10. The remainder of this affidavit will be structured as follows:

10.1. First, I describe the events following the granting of the Jikela J order.

10.2. Second, I explain the impact of the respondents' conduct following the granting of the Jikela J order on the third to fifth applicant centres.

10.3. Third, I explain the impact of the conduct of the respondents on centres throughout KZN.

10.4. Fourth, I will establish that the requirements for a final interdict have been satisfied.

10.5. Fifth, I will discuss and establish the further relief sought in the amended notice of motion, including the declaratory order and structural interdict.

EVENTS FOLLOWING THE GRANTING OF THE ORDER



11. The final date for compliance with the Jikela J order was 5 June 2025. The respondents' attorney, the State Attorney, Mr Hendrik Smal, was sent a copy of the order on the day of the hearing, via email, per his request. A copy of this email chain from 26 May 2025 between our attorneys, the Legal Resources Centre ("LRC") and Mr Smal is annexed hereto as "**NS 23**".

12. On 30 May 2025, the fourth applicant, Phumelela, received three payments of R12 814, totalling R38 442, covering the ECD subsidies owed for January, February and March 2025. The fifth applicant, Zenzeleni, received two payments of R15 946, totalling R31 892, for December 2024 and January 2025. The third applicant, Sakhokwethu did not receive any payment at this time.

13. By 4 June 2025, the day before all payments were due, the KZNDoE was yet to fully comply with the Jikela J order. The LRC sent an email to Mr Smal, reminding him of the deadlines set out in the order and urging the respondents to comply,

which set out the precise amounts still owed to the third to fifth applicants. On 4 June 2025, this was:

13.1. R37 873 owed to the third applicant.

13.2. R12 814 owed to the fourth applicant; and

13.3. R47 838 owed to the fifth applicant.

14. As the respondents had not filed a notice to oppose, our attorneys filed a notice of set down on 4 June 2025, enrolling the matter on the unopposed motion roll in respect of Part B of the litigation. The notice of set down was attached to the email. No response or acknowledgment was received. This email is annexed hereto as "**NS 24**".

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

15. On Monday, 9 June 2025, the LRC sent an email to Mr Smal advising him that while the fifth applicant, Zenzeleni, had received one additional payment of R31 892 covering February and March 2025, on 6 June 2025, they were still owed R15 946. The email further advised that no additional payments were received by the third and fourth applicants and requested clarity on whether the respondents intended to pay the outstanding amounts. This email is annexed hereto as "**NS 25**".

16. On Friday, 13 June 2025, after receiving no response or acknowledgment to the email of 9 June 2025, the LRC emailed the respondents' attorney to advise them that no additional payments were received and reiterated the request for clarity on whether the respondents intended to pay the outstanding sums. Mr Smal

responded on the same day, stating that the respondents had advised that the matter had been sent to its accounts section for payment. The correspondence is annexed hereto as "**NS 26**".

17. Eighteen days after the Jikela J order was granted and eight days after the deadline for full compliance had lapsed, FOSA and the KZN ECD Alliance requested that the LRC urge the respondents' attorney to provide a precise date for when the payments could be expected. The LRC made this request in an email on 13 June 2025, which went unanswered. This email is annexed hereto as "**NS 27**".



18. The LRC sent a further email on 17 June 2025, reiterating the request for clarity regarding when the outstanding payments would be made in accordance with the Jikela J order. This is annexed hereto as "**NS 28**". Our attorneys received an automatic reply from Mr Smal that he was out of office and directed them to contact Mr Nhlosenhle Ntuli in his stead.

19. In accordance with this email, Sheniece Linderboom, an attorney at the LRC, contacted Mr Ntuli via email on 17 June 2025 to explain that they had been referred to him by Mr Smal and made the same request for clarification of payment deadlines. The email further attached all prior email correspondence between the LRC and Mr Smal. This email is This email is attached hereto as "**NS 29**". The veracity of the information about these communications is confirmed by the confirmatory affidavit of Sheniece Linderboom which is filed together with this affidavit.

20. On 18 June 2025, having not received a response to the previous email, Ms Linderboom called Mr Ntuli, informing him that the LRC had been instructed to proceed with a contempt application against the first to third respondents, and requested their urgent response on the payments. This was immediately followed up with an email to Mr Ntuli reiterating same, annexed hereto as "**NS 30**".

21. This prompted Mr Ntuli to send a reply to this email on 19 June 2025, with a forwarded email from the KZNDoE attached, dated, remarkably, 23 May 2025 (three days before the Jikela J order had been granted). In this forwarded email, Siqhamo Mabinza, the Umgungundlovu District Director, stated:

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Please see the attached payment summary (excel template), for the three creches per the court order.

In summary, the status of the three creches are:

1. *Sakhowethu Creche 032-433*

- *All claims for the 2024/2025 financial year have been received, authorized, and released. There are no outstanding claims for this creche.*

2. *Zenzeleni Creche 032-848*

N.S

- *All claims received were captured and authorized i.e., April – Nov 24, Jan 25, and March 25*
- *The claim for Nov 24 and Jan 25 is authorized and is awaiting release.*
- *The claims for Dec 24 and Feb 25 were returned to the creche via their social worker as the bank account was closed (the creche was with Ithala Bank).*

3. *Phumelela Creche 047-572*



- *All claims received were captured and authorized i.e., April – Nov 24, and March 25*
- *The claim for Nov 24 has been authorized and was released into the bank account of the creche on 22/05/2025.*
- *The claims for Dec 24, Jan 25 and Feb 25 were returned to the creche via their social worker as the bank account was closed (the creche was with Ithala Bank)*

22. An excel spreadsheet was attached to the email reflecting the payment history of the three applicant centres for the 2024/2025 financial year. The email and attachment are annexed hereto as "**NS 31**".

23. The spreadsheet recorded that the March 2025 subsidy payment had been released to Sakhokwethu Crèche, despite the centre stating that they had not received this payment at the time. The last payment that the centre had received on the date the table was sent was on 9 May 2025 in respect of the outstanding

February 2025 amount. The affidavit of Ms Bonisiwe Mthembu, the principal of Sakhokwethu, confirming same is filed together with this affidavit.

24. Furthermore, the spreadsheet did not include payments for the 2023/2024 and 2025/2026 financial years, which were also required in terms of the Jikela J order. The email was understandably outdated considering it was initially sent in May 2025.

25. Concerned by the forwarded email referencing the Jikela J order that could not have existed at the time the email was first sent, the LRC replied to Mr Ntuli on 23 June 2025 and followed up on 25 June 2025. The emails first corrected the KZNDoE's excel spreadsheet by clarifying the actual amounts owed to each centre and second, requested a response. This correspondence was neither answered nor acknowledged by Mr Ntuli. The emails are annexed hereto as "**NS 32**" and "**NS 33**", respectively.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

26. With 27 June 2025 being the stated date of Mr Smal's return to office, the LRC sent a further follow-up email to Mr Smal on this date, requesting a response to our earlier emails. This email is annexed hereto as "**NS 34**".

27. The LRC did not receive a reply.

28. On 30 June 2025, the third applicant, Sakhokwethu, received payment in the sum of R15 236, which was assumed to cover April 2025, leaving March 2025 unpaid. The fourth applicant, Phumelela, received R14 284, which was assumed to cover

April 2025. The fifth applicant, Zenzeleni, received R17 775, also assumed to be in respect of April 2025. Without clarity on the exact months the KZNDoE was paying, the new subsidy amounts led the centres to believe that it was for the new financial year which started in April 2025. That, in our belief, was the only reasonable inference to draw.

29. On 2 July 2025, the LRC sent an email to Mr Smal, informing him of these additional payments that had been received by the third to fifth applicants. The amounts did not match the monthly subsidy payments that were ordinarily received by the centres, so the email requested clarity on which months each payment was allocated for in respect of each centre. The email detailed that R30 895, R14 284 and R17 775 were owed to the third, fourth and fifth applicants, respectively. A table was attached indicating the amounts still owed. This email and the table are annexed hereto as "**NS 35**".

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

30. Following this correspondence, on 2 July 2025, Sakhokwethu received R15 236, Phumelela received R14 284, and Zenzeleni received R17 775.

31. On 7 July 2025, the LRC sent a further email to Mr Smal regarding these additional payments that had been received by the centres since the previous email, and repeating the request for clarity regarding which months the payments were in respect of. An updated table was attached reflecting the new payments. On 8 July 2025, Mr Smal replied, stating that all previous LRC emails had been forwarded to the respondents. To date, the respondents have failed to clarify how these

payments should be allocated by the centres. This email chain is annexed hereto marked "**NS 36**".

32. On 1 August 2025, Phumelela received payment of R14 284, while Zenzeleni received R17 775. However, Sakhokwethu did not receive payment at this time.

33. On 22 August 2025, Sakhokwethu received R15 236, Phumelela received R14 284, and Zenzeleni received R17 775.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL, DIVISION,
PIETERMARITZBURG

34. On 19 September 2025, the LRC sent an email to Mr Smal, noting the payments received between June and August 2025 and further enquired into the non-payment of amounts due for the 2023/2024 financial year. Namely, the months of January, February and March 2024 and March 2025, which remained unpaid for the third applicant, Sakhokwethu.

35. On 22 September 2025, Mr Smal replied to the LRC noting that he had forwarded our email to his clients.

36. Currently, in respect of compliance with the Jikela J order, Sakhokwethu is owed R29 615.

37. Throughout these communications with the KZNDoE through its legal representatives, the LRC made repeated requests for clear timeframes for when payments could be expected. However, these requests were consistently ignored. Requests for clarity regarding which months payments were being made in respect

of, went unanswered. The responses that were eventually received were vague, noncommittal and only prompted by the threat of punitive action against the first to third respondents.

38. This level of unresponsiveness mirrors the attitude and conduct of the KZNDoE when the LRC wrote on behalf of FOSA and the KZN ECD Alliance on three occasions in 2024, and in each instance received no reply or acknowledgment, which prompted the need to amend the relief before this court. It demonstrates the KZNDoE's pattern of disregard towards their duties to young children in the province.



39. FOSA has been contacted by multiple ECD centres who have queried the issue of outstanding subsidies from previous financial years. These centres have reported being informed by social workers that the KZNDoE would only be paying outstanding amounts from the current financial year (2025/2026) and excluding any payments owed from previous financial years. This information was deeply troubling to centres owed multiple months from previous years and prompted Mr Mngomezulu and Mr Khuzwayo to seek clarity directly from the finance director at the KZNDoE, Mr Thami Ntanda, in an in-person discussion on or about June 2025. Confirmatory affidavits from Mr Mngomezulu and Mr Khuzwayo are filed herewith in support of this affidavit.

40. During this discussion, Mr Ntanda denied that the KZNDoE had taken a decision to write off the payment of subsidies from previous financial years. He further stated that while there is an internal policy that permits the Department to write off

historical financial obligations, they had opted to rather not enforce the policy in this current context. Instead, the Department had resolved to proceed with payment of all outstanding sums. Despite this claim by Mr Ntanda, there has been no marked improvement in the payment of subsidies from previous financial years and there remains a significant backlog.

41. In light of this, Mr Mngomezulu, alongside other relevant stakeholders, requested that Mr Ntanda and officials from the KZNDoE finance department and the resource planning services attend the Integrated Provincial Meeting, which was scheduled for 25 July 2025. The minutes of the meeting are annexed hereto marked "**NS 37**". Mr Mngomezulu and Mr Khuzwayo planned to use this meeting as an opportunity to further ask the KZNDoE in a formal setting about the practical implications of the policy, and to determine whether it was, in fact, being implemented.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

42. Unfortunately, Mr Ntanda and officials of the finance department and resource planning services did not attend the meeting on 25 July 2025. Mr Mngomezulu then expressed this concern to the ECD Director and Chairperson of the Integrated Provincial Meeting, Ms Nosipho Mkhize, who committed to convene a special meeting between Mr Mngomezulu, the relevant stakeholders and the officials of the finance department. She asked Mr Mngomezulu to submit a written request to her, officially requesting this meeting, so that she could communicate with the stakeholders in her capacity as Chairperson.

N.S

43. As requested, Mr Mngomezulu sent the request to Ms Mkhize on 18 September 2025. This correspondence is attached hereto marked "**NS 38**". Additionally, FOSA had sent a letter to the Minister of the Department of Basic Education on 19 August 2025, which is annexed hereto marked "**NS 39**". In this correspondence, FOSA noted its concerns with the subsidy amount, unfunded registered ECD centres, and subsidy delays, amongst other issues.

44. In a telephone conversation on 19 September 2025, between Ms Mkhize and Mr Mngomezulu, Ms Mkhize informed Mr Mngomezulu that the KZNDoE had received the letter from the Minister and had been instructed to address the issues therein. She informed Mngomezulu that she would provide feedback at the integrated provincial meeting on 25 September 2025. At the provincial meeting, Ms Mkhize informed the attendees of the meeting that she had received instructions from the Curriculum Chief Director, Ms Sindi Zakuza-Njakazi, to set up a separate meeting between FOSA, the Director-General, the Head of Department and other relevant stakeholders within the KZNDoE, to specifically discuss the issues raised in the letter to the Minister. Ms Mkhize did not elaborate further. After attending on 25 September, Mr Mngomezulu is yet to receive communication regarding the meeting with FOSA and KZNDoE stakeholders. The minutes of the 25 September 2025 meeting are not yet available.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

IMPACT OF NON-COMPLIANCE ON THE THIRD TO FIFTH APPLICANTS

45. The first to third respondents' non-compliance following the granting of the Jikela J order served to compound the existing frustrations at the centres that were set out in the founding affidavit. Struggles with nutrition, infrastructure and broken-down relationships with landlords and loan sharks continued to test the patience of principals and practitioners during this period. Details of all these instances have been set out in the founding affidavit. The precise payment details in respect of the three centres, including the amounts and the dates paid, are set out in the annexed tables marked "NS 40".



Sakhokwethu Crèche

46. On 7 August 2025, Ms Mthembu received the indicative budget allocation for Sakhokwethu Crèche for the 2025/2026 financial year, dated 25 May 2025, which is annexed hereto marked "**NS 41**". This circular confirms the number of children at the centre, the total budget allocation for the year and for each month, and the per child allocation for the year. It provides further guidance on how to divide this budget amongst nutrition and other operating costs.

47. Sakhokwethu was allocated R 182 830 for the year, with a per child allocation of R3809 for 48 children and a monthly allocation of R15 236. The yearly allocation is intended to cover 264 days in a year and 22 days in a month, based on previous TPAs given to centres by the KZNDoE.

48. On 30 June 2025, the centre received payment of R15 236, which they assumed was for April 2025, based on the implication that payments from previous financial years would not be prioritised and having not yet received the indicative budget

allocation. A second payment of R15 236 was received on 2 July 2025, which was assumed to cover May 2025. The indicative budget allocation was received more than four months into the 2025/2026 financial year.

49. Centres throughout the province have been restricted to 201 days of subsidisation in previous financial years without explanation, which is a discrepancy that is only deciphered from calculations using the total allocations for the year. Relying on this assumption, Sakhokwethu is also being subsidised for 16.75 days a month. However, these calculations further reveal that rather than R24, the centre is only receiving R18.95 per child, per day. Calculations using the indicative budget allocations for centres throughout the province reveal the same disparity.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

50. Sakhokwethu is currently owed payments for January to March 2024 and March and June 2025, totalling an amount of R44 851.

Phumelela Crèche

51. The inability to provide consistent rental payments to its landlord has pushed the centre's relationship with the Holy Bible Focus Church into a state of disrepair. The landlord's threats of eviction have persisted, having lost trust in the centre's ability to make timeous payment, prompting Ms Madlala to search for alternative premises to run the centre from. A confirmatory affidavit by Ms Madlala will be filed in support of this affidavit.

52. Ensuring the uninterrupted provision of ECD services during this uncertain period is not guaranteed. The proximity of the centre is what draws in many of the children

from nearby homes, and providing the same convenience at another location is key to securing their continued attendance. Furthermore, it is unlikely that Ms Madlala will find a landlord who will accommodate the unusual circumstances that prevent them from regularly paying their rent.

53. To find a solution to this problem, the centre wrote to the local municipality for the allocation of an alternative facility. Although a potential space has been identified, it will require cleaning, decorating and renovations to make it suitable for the provision of ECD services. As the landlords, the municipality will provide necessary maintenance of the structure of the building, such as painting and fixing amenities. All other preparations will be done at the centre's expense, including building play areas (indoor and outdoor), painting murals and putting up posters. These are a costly and essential component of ECD centres that social workers will insist on and will require the centre to have a sufficient budget set aside for these moving costs at a time when resources are already spread thin and unreliable.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

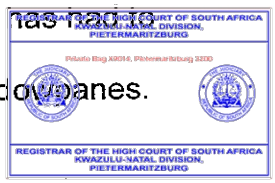
54. Similar to Sakhokwethu, in July 2025, Phumelela received its indicative budget allocation for the 2025/2026 financial year, dated 25 May 2025, which is annexed hereto marked "**NS 42**". This was four months into the 2025/2026 financial year. Phumelela was allocated R 171 403 for the year, with a per child allocation of R3809 for 45 children and a monthly allocation of R14 284. Calculations based on these figures would also render the per child, per day subsidy to be R18.95, for 201 days a year and 16.75 days a month, instead of R24 for 264 days a year and R22 in a month.

N.S

Zenzeleni Crèche

55. Most payments received by Zenzeleni since May 2025, have been used to pay off existing debts that the centre had accumulated prior to the litigation. This has forced Ms Ndlovu to neglect some of the necessary operational costs such as repairing the roof of the centre ahead of the summer months. A confirmatory affidavit by Ms Ndlovu will be filed in support of this affidavit.

56. Ms Ndlovu is unable to set funding aside to repair broken windows and has had to make use of temporary solutions such as sheets of plastic stuck to window panes.



57. Ideally, the centre should have a small amount of money set aside to be able to carry out maintenance and repairs should the need arise.

58. On 25 July 2025, Zenzeleni received its indicative budget allocation for the 2025/2026 financial year, dated 25 May 2025, which is annexed hereto marked "**NS 43**". This was received three months into the 2025/2026 financial year. Zenzeleni was allocated R213 301 for the year, with a per child allocation of R3809 for 56 children and a monthly allocation of R17 775. Calculations based on these figures would also render the per child, per day subsidy to be R18.95, for 201 days a year and 16.75 days a month, instead of R24 for 264 days a year and 22 in a month.

IMPACT ON CENTRES THROUGHOUT KZN

59. ECD centres like Daluxolo Day Care Centre, Enhlanhleni Educare, and Bajabulile ECD are amongst hundreds of centres across KZN that are facing profound challenges due to the persistent failure of the Department to pay subsidies timeously.

60. Subsidies that are already inadequate to cover the full cost of comprehensive ECD services are placed under further strain when withheld for months at a time or paid sporadically and without explanation. This uncertainty does not allow for planning on how centres will meet their obligations, forcing principals to make difficult financial and operational decisions to keep their doors open, which usually requires sacrificing the provision of one service in favour of the others.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

61. Affected centres typically find that their resources are spread thin by the provision of nutritional meals for children. Centres report having to deviate from the nutrition guidelines, alter daily meal schedules, and substitute standard nutrition with cheaper, less nourishing alternatives.

62. Daluxolo Day Care Centre is an ECD centre with NPO number 025-002 in Umlazi, run by principal Ms Nomfundo Dube. The centre was once able to provide children with breakfast, lunch and two snacks between meals.

63. However, the ongoing non-payment has forced the centre to limit meals to breakfast and lunch. Snacks such as fruit and *amasi* have been removed from the menu because they are too costly. Parents are now expected to provide snacks, which is rarely possible given their financial circumstances. At breakfast, the centre

provides the young children with instant porridge made with water due to milk being unaffordable for them. The centre has resorted to cheaper alternatives for lunch such as soup and bread. A confirmatory affidavit by Ms Dube will be filed in support of this affidavit.

64. Othandweni Crèche is an ECD centre with NPO number 115-098 in Richmond, run by supervisor Ms Nokuzola Phungula. The irregular and delayed payments forced Ms Phungula to cover the shortfall on food from her own pocket. Ms Phungula's limited resources allowed her to do so for only two months. This was not sustainable. In August 2024, Ms Phungula was left with no option but to stop providing food altogether, requesting parents to send young children to the centre with a packed lunch. This was a challenge for the many young children who have limited resources at home that cannot afford lunch. The only alternative for these young children was to share lunch with the staff.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

65. In March 2025, Ms Phungula was approached by a group of parents who agreed that they would each contribute R20 a month towards porridge for the children. This has allowed the centre to provide rationed portions of porridge to the children at breakfast, with lunch still removed from the menu altogether. A confirmatory affidavit by Ms Phungula will be filed in support of this affidavit.

66. An additional sacrifice for many centres has been the provision of educational activities. This is deeply felt by the young children who rely on the centres not only for learning and stimulation, but also for routine.

NS 005-24

67. Bajabulile ECD is an ECD centre with NPO number 092-378, run by principal Ms Ntombenhle Mvuyana. Five of the children currently enrolled at the school have autism and require a high level of support and supervision. One of these children requires constant personal supervision from an ECD practitioner to participate in centre activities, due to a disability that effects their mobility. The inability to provide learning materials and maintain a familiar environment has proved a significant disruption for children. The upheaval of daily menus and educational activities is a particular source of stress and anxiety for children with autism who have difficulty adapting to unpredictable environments. A confirmatory affidavit by Ms Mvuyana will be filed in support of this affidavit.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

68. Children continue to be deprived of stimulating learning environments due to a lack of resources. Many centres have recounted broken toys and furniture going unreplaced and stationery being in short supply, resulting in centres not being able to maintain structured ECD programmes.

69. At Daluxolo, the principal reported a marked shift in the overall emotional climate of the centre due to the stress of strained financial resources, which is experienced first by staff members who work closely with her, and unavoidably by the children who attend the centre. Staff members are overwhelmed by the fear of job insecurity coupled with the additional burden of finding resourceful solutions to feeding and engaging children in educational activities or play. The frustration of greater demands at work during this uncertainty has made staff increasingly irritable, short-tempered and emotionally unavailable to the children. This burden is inadvertently

transferred to the young children, who are exposed to a harsher demeanour in staff rather than warmth and care.

70. The principal reports that the young children have become hesitant to engage and are visibly unsettled, retreating rather than participating in the limited classroom activities. The relationship of trust and emotional safety between the staff and young children, which is very critical in the early years, has been negatively impacted by financial instability.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

71. Principals mentioned in this affidavit, have also reported relying on personal loans or support from spouses and family members to cover the costs of food, staff remuneration, maintenance and other expenses.

72. At Enhlanhleni Educare, an ECD centre in Umlazi with NPO number 039-199, the principal, Ms Gugu Mtshali, reports that the irregular subsidy payments led to the loss of one staff member, despite already limited staff. Furthermore, the centre is struggling to pay the monthly rental of R2900 timeously. The landlords have been understanding thus far despite the challenges it has created. The principal is concerned, however, that the persistent inability to pay rent timeously will eventually erode the relationship with the landlords. A confirmatory affidavit by Ms Mtshali will be filed in support of this affidavit.

73. Security and maintenance at centres are often not prioritised due the irregular payments restricting funds. At Daluxolo, security and maintenance are compromised because the caretaker whose responsibilities include performing

basic repairs and acting as a security guard, often leaves the centre for long periods to find work opportunities with a reliable income source, which exposes the premises to safety risks.

74. ECD subsidies are a critical financial lifeline for centres serving young children from some of the province's most socio-economically vulnerable communities. Persistent non-payment unavoidably leads to the contraction of the ECD sector — the impact of which is concentrated in these communities.



THE REQUIREMENTS FOR A MANDAMUS ARE SATISFIED

75. The applicants seek mandatory final interdicts against the first to third respondents in the form of a *mandamus*, directing them to pay all outstanding subsidies owed to the ECD centres listed in the report required in the structural order within 10 days of the report being filed.

Clear right

76. The registered ECD centres listed in the report are entitled to receive subsidies from the KZNDoE in terms of the TPAs that are entered into between individual centres and the KZNDoE. The TPA is the formal contract that contains the terms of the subsidy agreement. The respondents are therefore compelled to make payments as required by the TPAs, in respect of the number of children at each centre who qualify for the subsidy which is contingent on whether a child is sufficiently poor.

77. It has already been set out that young children have clear constitutional rights to nutrition, health, education and social services — which contribute to the holistic delivery of ECD. Children who attend subsidised centres that are almost entirely dependant on financial support from the KZNDoE, typically cannot enjoy holistic access to these rights outside of centres due to the poverty in their homes. It is therefore essential to the fulfilment of these rights that the services provided at subsidised ECD centres remain consistent and of good quality.

78. The non-payment of the subsidy not only impacts the fulfilment of these rights at the ECD stage but has far-reaching consequences into a child's schooling and adult life due to the neurological impact or stunting. This further inhibits a child's access to the right to basic education, dignity and equality later in life since the prevalence of these issues are concentrated amongst those without access to ECD services.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

79. There is further, a compounded right of having children's best interest being paramount. These include their rights to have sufficient food, shelter and other ancillary rights that arise from caring for and not neglecting a child.

Reasonable apprehension of harm

80. The rights to nutrition, healthcare, safety and security, dignity and ultimately development of young children across KZN are being injured or can reasonably be expected to be injured.

81. The practices at many ECD centres experiencing funding delays are unsustainable. Principals using personal funds for maintenance and food or taking loans to do so, staff sharing their lunch with children, centres stopping their nutrition programmes or operating with much fewer staff than what is practicable is already causing harm to the children at these centres due to the corollary issues such as low staff morale.

82. However, the harm that is currently experienced by young children at centres is often mitigated by the selfless acts by principals and staff to keep the centres running. When these limited services unavoidably stop altogether, children will be entirely exposed to the harsh consequences of non-payment, which is already the reality at many ECD centres.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

83. Timely payment of the ECD subsidy is the only sustainable measure of support that can ensure uninterrupted provision of ECD services.

84. A further harm that is being caused is the breach of the state's duty to fulfil its constitutional obligations swiftly. I am advised that this harm affects the state's obligation to respect, protect and fulfil these rights. The longer the state takes, the more harm is apprehended.

No reasonable alternative remedy

85. The recalcitrance of the KZNDoE as set out in the founding affidavit, and further demonstrated through their conduct following the Jikela J order, described above, necessitates the relief sought.

86. The Children's Act sets out that this court is the appropriate forum in these circumstances, and consequently, I am advised that no alternative remedy exists, particularly since this court is the upper guardian of all children.

87. The mandamus is thus pinned upon a statutory duty of the State found both in the Constitution and the Children's Act.

88. The requirements for a mandatory interdict have been satisfied.



FURTHER RELIEF SOUGHT

Declaratory order necessary

89. It is necessary to declare that the first to third respondents' conduct is unlawful, unconstitutional and invalid insofar as it has failed to fulfil the right to early childhood development of young children across KZN.

90. The first to third respondents were interdicted to pay all outstanding subsidies to the third to fifth applicants and still failed to do so timeously. In doing so, the respondents acted in contempt of the Jikela J order. This is a symptom of unconstitutional conduct, impacting the rights of young children in particular, which is of paramount concern.

N.S

91. Due to the scale and severity of the rights violations, and the KZNDoE's failure to prevent such violations by complying with the Jikela J order, their duties in terms of the Children's Act, the TPAs and their constitutional obligations, I am advised that this order is necessary and appropriate.

92. I am thus advised that the declaratory relief sought is two-fold and stem from two sources of the Constitution:

92.1. The right to early childhood development stems from section 35 of the Constitution, read with section 172.



92.2. The declarator that the state has failed to fulfil their constitutional obligation – I am advised – is an obligatory order that flows from a finding that the state failed to provide funding to the aforementioned ECD centres.

92.3. Coupled with these declarators, I am advised that this court enjoys a discretion to hand down relief that is just and equitable. The relief proposed by the applicants is that of a supervisory order. I will deal with this next.

Structural order necessary

93. To safeguard the efficacy of the *mandamus*, a structural interdict is sought against the first to third respondents asking them to file a searchable report, within one month of the date of the court order, under oath, of the names and addresses of all ECD centres in KZN that are recipients of the conditional grant or equitable share subsidies, setting out the total subsidy amounts that are outstanding in

respect of each centre and in that report to detail how they will remediate such non-payment.

94. The applicants further seek an order directing the first to third respondents to file an updated version of the report, before the last day of every third month until all payments are up do date and the order has been fully complied with or, alternatively, for a time period prescribed by this court .

95. The applicants further ask to be granted leave thereafter, within 30 days, and before the last day of every subsequent month, to deliver an affidavit in answer to the reports and may thereafter set the matter down for further, other or alternative relief, as supported by their affidavits and this application.



96. In addition to the considerations set out in the founding affidavit, the conduct described herein further demonstrates the appropriateness of granting such a structural interdict to protect the interests of young children.

97. The conduct of the respondents following the granting of the Jikela J order, makes it clear that:

97.1. The first to third respondents are incapable of making clear and consistent subsidy payments to all registered ECD centres, on the basis that they have failed to do so on a drastically smaller scale with regard to the third to fifth applicants, even with the intervention of the court order.

N.J

97.2. The continued breaches in payment following the order — which in the ordinary course would have placed the KZNDoE in contempt of court — necessitates a structural order to accompany the mandatory interdict and serve to hold the state to account.

CONCLUSION

98. Considering what is set out above, I submit that the applicants have made out a case for the relief sought. Therefore, I pray for an order in terms of the amended notice of motion.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

NKOSINATHI SIBISI

I hereby certify under oath that the Deponent acknowledged that he knows and understands the contents of this affidavit, that it is to the best of his knowledge both true and correct, and that he has no objection to the making of the prescribed oath which he considers to be binding on his conscience. This affidavit was signed in my presence at Durban on this 06 day of October 2025 and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

COMMISSIONER OF OATHS

GLODEAN BRIJLAL
ADMITTED ATTORNEY
COMMISSIONER OF OATHS
(EX OFFICIO)
GLODEAN BRIJLAL ATTORNEYS
t/a GBA LEGAL
UNIT 7, 1ST FLOOR, MB HOUSE, 641 PETER MOKABA
RIDGE, DURBAN, KWAZULU NATAL

31

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

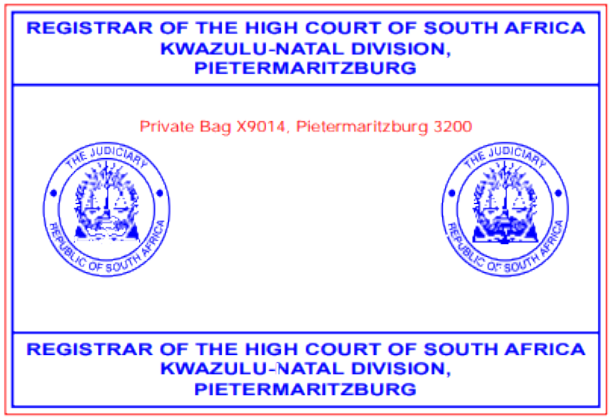
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 01

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:40:39 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

ON THE 26TH DAY OF MAY 2025

BEFORE THE HONOURABLE JUDGE JIKELA

In the matter between:

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Private Bag X9014, Pietermaritzburg 3200
2025 -05- 26
KZND-PMB-006

NS

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

HAVING read the Notice of Motion, and the other documents filed of record; and

HAVING heard Counsel for the Applicant;

IT IS ORDERED THAT:

1. The Applicants' non-compliance with the Uniform Rules of Court is condoned and the matter is heard on an urgent basis in terms of Rule 6(12)(a).

2. The First to Third Respondents are directed to pay the third to fifth applicants forthwith and no later than 10 (ten) calender days of this Order, all outstanding Early Childhood Development Grant subsidies owed to them.

3. Those Respondents who oppose are directed to jointly and severally pay the costs of the application, including the costs of two counsel, each on scale C.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

BY ORDER OF THE COURT

N P FENTE
SNR REGISTRAR

/AGOBA
26/05/2025

Mohammed Bhyat Attorneys

Private Bag X9014, Pietermaritzburg 3200
2025 -05- 26
KZND-PMB-006

GLODEAN BRIJLAL
ADMITTED ATTORNEY
COMMISSIONER OF OATHS
(EX OFFICIO)
GLODEAN BRIJLAL ATTORNEYS
t/a GBA LEGAL
UNIT 7, 1ST FLC B HOUSE, 641 PETER MOKABA
RIDGE, DURBAN, K[illegible] NATAL

NS

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

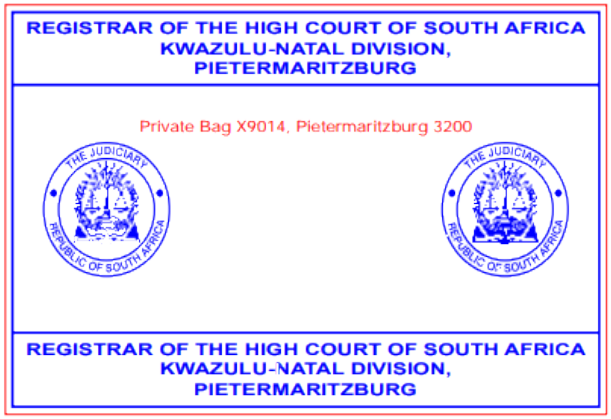
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 02

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:41:09 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

On the 6th day of August 2025

BEFORE THE HONOURABLE JUDGE OLSEN

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
2025 -08- 06
KZND-PMB-001
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent

6/8/2025-3:31:51 PM

N.S
005-40

DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent
MINISTER OF SOCIAL DEVELOPMENT	Seventh Respondent
MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS	Eighth Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Having read the documents filed on record, having heard counsel for the applicants;

IT IS ORDERED, by consent of respondents 1 to 4 and 7 THAT:

1. The matter is adjourned *sine die*.

2. The applicants are granted leave to supplement their papers insofar as is necessary.

3. The applicants are granted leave to amend their notice of motion.

4. Costs are reserved.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
2025 -08- 06
KZN-PMB-001
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

6/8/2025-3:31:51 PM

N.S

BY ORDER OF THE COURT

R J JOOSTE

REGISTRAR

6.08.25

M BHYAT ATTORNEYS

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
2025 -08- 06
KZND-PMB-001
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

GLODEAN BRIJLAL
ADMITTED ATTORNEY
COMMISSIONER OF OATHS
(EX OFFICIO)
GLODEAN BRIJLAL ATTORNEYS
t/a GBA LEGAL
UNIT 7, 1ST FLOOR, MB HOUSE, 641 PETER MOKABA
RIDGE, DURBAN, KWAZULU NATAL

6/8/2025-3:31:51 PM

NJS

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

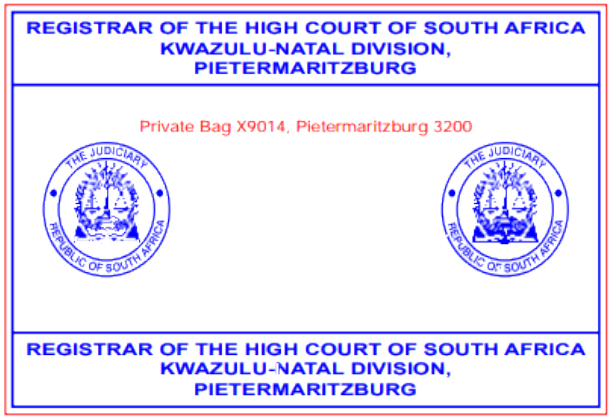
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 03

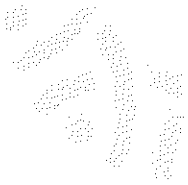
NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:41:38 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG





LRC | LEGAL RESOURCES CENTRE

Celebrating 45 Years of the LRC

Rooted in justice, driving change

From: Smal Hendrik <HSmal@justice.gov.za>
Sent: Tuesday, 27 May 2025 14:08
To: Sheniece Linderboom <sheniece@lrc.org.za>
Subject: RE: FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM AND OTHERS / MEC FOR EDUCATION AND OTHERS : CASE NO:2025-067855

20 / 26

NS

Hi, I shall take instructions and revert soonest.

Regards
Hennie Smal

From: Sheniece Linderboom <sheniece@lrc.org.za>
Sent: Tuesday, 27 May 2025 13:05
To: Smal Hendrik <HSmal@justice.gov.za>; Kiara Govender <Kiara@lrc.org.za>; Cameron McConnachie <cameron@lrc.org.za>; Fanelesibonge Ndebele <Fanelesibonge@lrc.org.za>
Cc: mohammed@mbhyat.co.za; NtoksM@gmail.com
Subject: RE: FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM AND OTHERS / MEC FOR EDUCATION AND OTHERS : CASE NO:2025-067855

Good day Mr Smal,

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

I hope you are well.

Kindly advise if you have received instructions in relation to Part B. I have attached the notice of motion for ease of reference.

Your clients have not filed a formal notice of intention to oppose, are you aware if there is any intention from your clients to file an answering affidavit in relation to Part B?

Kind regards,





LRC LEGAL RESOURCES CENTRE

Celebrating 45 Years of the LRC

Rooted in justice, driving change

From: Smal Hendrik <HSmal@justice.gov.za>
Sent: Monday, 26 May 2025 13:21



To: Sheniece Linderboom <sheniece@lrc.org.za>; Kiara Govender <Kiara@lrc.org.za>
Cc: mohammed@mbhyat.co.za; NtoksM@gmail.com
Subject: RE: FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM AND OTHERS / MEC FOR EDUCATION AND OTHERS : CASE NO:2025-067855

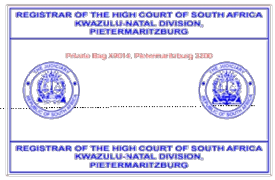
Good day, received thank you.

I act obo all the Respondents although we only received instructions from the 1st , 2nd and 3rd Respondents.

The seventh Respondent is abiding.

I have not received instructions from any of the other Respondents.

Regards
Hennie Smal



From: Sheniece Linderboom <sheniece@lrc.org.za>
Sent: Monday, 26 May 2025 13:10
To: Smal Hendrik <HSmal@justice.gov.za>; Kiara Govender <Kiara@lrc.org.za>
Cc: mohammed@mbhyat.co.za; NtoksM@gmail.com
Subject: RE: FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM AND OTHERS / MEC FOR EDUCATION AND OTHERS : CASE NO:2025-067855

Good day Mr Smal,

We have just arrived back at the office in Durban.

Please see attached the court order in the above matter.

Kindly confirm receipt.

For clarity, please confirm that you act on behalf of the 1st to 3rd respondents.

Kind regards,


REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

LEGAL RESOURCES CENTRE

Celebrating 45 Years of the LRC
Rooted in justice, driving change



From: Smal Hendrik <HSmal@justice.gov.za>
Sent: Monday, 26 May 2025 12:45
To: Sheniece Linderboom <sheniece@lrc.org.za>; Kiara Govender <Kiara@lrc.org.za>
Cc: mohammed@mbhyat.co.za; NtoksM@gmail.com
Subject: FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM AND OTHERS / MEC FOR EDUCATION AND OTHERS : CASE NO:2025-067855

YOUR REF: ED11-25

URGENT

Good day, kindly let us have a copy of the court order that was granted today at court in the above matter.

Time is of the essence in order to comply with the court order.

Regards
Hennie Smal

Disclaimer
Privileged/Confidential information may be contained in this message. If you are not the addressee indicated in this message (or responsible for delivery of the message to such person) you may not copy or deliver this message to anyone. In such case, you should destroy this message and kindly notify the sender by reply E-Mail. Please advise immediately if you or your employer do not consent to e-mail messages of this kind. Opinions, conclusions and other information in this message that do not relate to the official business of the Department of Justice and Constitutional Development shall be understood as neither given nor endorsed by it. All views expressed herein are the views of the author and do not reflect the views of the Department of Justice unless specifically stated otherwise.


REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

N.S

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

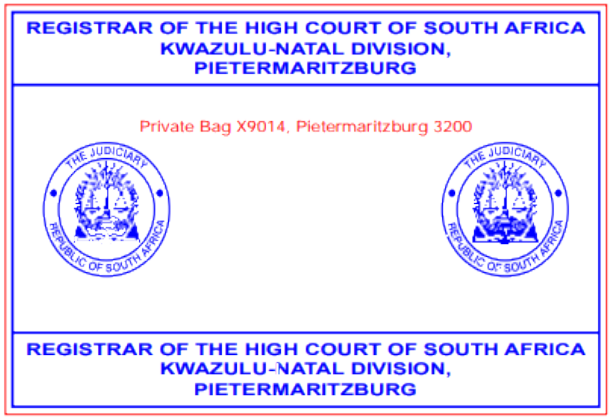
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 04

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:42:42 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.



LEGAL RESOURCES CENTRE

Celebrating 45 Years of the LRC

Rooted in justice, driving change

From: Sheniece Linderboom

Sent: Wednesday, 04 June 2025 16:13
To: Smal Hendrik <HSmal@justice.gov.za>; NtoksM@gmail.com
Cc: mohammed@mbhyat.co.za; Kiara Govender <Kiara@lrc.org.za>; Cameron McConnachie <cameron@lrc.org.za>; Fanelesibonge Ndebele <Fanelesibonge@lrc.org.za>
Subject: RE: FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM AND OTHERS / MEC FOR EDUCATION AND OTHERS : CASE NO:2025-067855

Good day Hennie,

I hope you are well.

We wish to remind your clients that the deadline for payment in terms of the court order granted on 26 May 2025 is tomorrow, 5 June 2025.

For ease of reference, at the time of the order, the following amounts were owed to the applicants



1. The third applicant was owed a total of R37 873.
2. The fourth applicant was owed a total of R51 256.
3. The fifth applicant was owed a total of R79 730.

We are advised that the third applicant has not received any payment, the fourth applicant received R38 442 on 30 May 2025, and the fifth applicant received R31 892 not on 30 May 2025. Our understanding is that this leaves R37 873, R12 814 and R47 838 owed to the applicants, respectively.

We urge your client's full compliance with the court order.

We further attach a copy of the notice of set down in relation to Part B.

Kind regards,

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

1

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

NOTICE OF SET DOWN ON THE UNOPPOSED MOTION ROLL



BE PLEASED TO TAKE NOTICE that the above matter has been set down for hearing in terms of **PART B** of the Notice of Motion. The matter is set down on the **Unopposed Motion Roll** on the 06th day of AUGUST 2025 at 09:30 or so soon thereafter as the matter may be heard.

KINDLY ENROL THE MATTER ACCORDINGLY

2

Signed at **DURBAN** on this 3rd day of **JUNE** 2025.

LEGAL RESOURCES CENTRE
Attorneys for the Applicant
1st Floor, CBI Building
635 Peter Mokaba Road
DURBAN
Tel: 031 301 7572
Email: shenlece@lrc.org.za / kiara@lrc.org.za
C/O M BHYAT ATTORNEYS
401 Prince Albert Street
Pietermaritzburg, 3201
Tel: 083 578 6059
Email: mohammed@mbhyat.co.za

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

TO: **THE REGISTRAR OF THE ABOVE COURT**

AND TO: **THE MEMBER OF THE EXECUTIVE COUNCIL, DEPARTMENT OF EDUCATION, KWAZULU-NATAL**

First Respondent

State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

3

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

STATE ATTORNEY (KZN)
REGISTRY
2025 -05- 04
S. Mkwanazi DURBAN PMB
STAATSPROKUREUR (KZN)

AND TO: **HEAD OF DEPARTMENT FOR THE KWAZULU-NATAL DEPARTMENT OF EDUCATION**

Second Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

AND TO: **DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION**

Third Respondent

State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

4

N.S

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

AND TO: **MINISTER OF BASIC EDUCATION**

Fourth Respondent



State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

AND TO: **MINISTER OF FINANCE**

Fifth Respondent

State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

5

N.S

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

AND TO: **MEMBER OF THE EXECUTIVE COUNCIL FOR FINANCE, KWAZULU-NATAL**

Sixth Respondent



State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

AND TO: **MINISTER OF SOCIAL DEVELOPMENT**

Seventh Respondent

State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

6

N.S

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

AND TO: **MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**

Eighth Respondent



State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

7

N.S

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

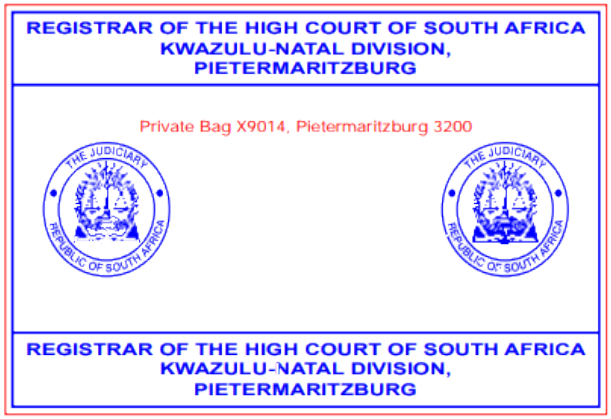
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 05

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:43:29 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

LEGAL RESOURCES CENTRE

Celebrating 45 Years of the LRC

Rooted in justice, driving change



From: Sheniece Linderboom
Sent: Monday, 09 June 2025 15:10
To: Smal Hendrik <HSmal@justice.gov.za>; NtoksM@gmail.com
Cc: mohammed@mbhyat.co.za; Kiara Govender <Kiara@lrc.org.za>; Cameron McConnachie <cameron@lrc.org.za>; Fanelesibonge Ndebele <Fanelesibonge@lrc.org.za>
Subject: RE: FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM AND OTHERS / MEC FOR EDUCATION AND OTHERS : CASE NO:2025-067855

Good day Mr Smal,

I hope you are well.

Following from my email below, we are advised that fifth applicant received an amount of R31 892 on 6 June 2025. The third and the fourth applicants however have received no additional payments.

Therefore, the current amounts owed to the applicant are as follows:

1. R37 873 to the third applicant
2. R12 814 to the fourth applicant
3. R15 946 to the fifth applicant

Kindly confirm your client's intention to pay the outstanding amounts.

Kind regards,

N.S
005-65

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

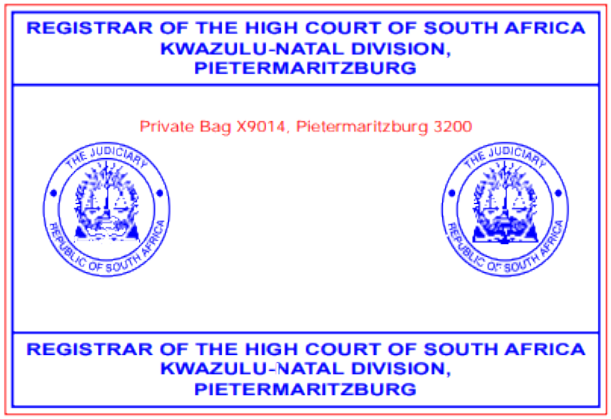
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 06

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:44:17 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

Sheniece Linderboom
Attorney

-27 31 301 7572
-27 74 783 2743
sheniece@lrc.org.za
www.lrc.org.za
1st Floor, CBI Building, 535 Peter Mokaba Road, Overport, Durban, 4001

LEGAL RESOURCES CENTRE

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Celebrating 45 Years of the LRC

Rooted in justice, driving change

From: Smal Hendrik <HSmal@justice.gov.za>
Sent: Friday, 13 June 2025 12:01
To: Sheniece Linderboom <sheniece@lrc.org.za>
Subject: RE: FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM AND OTHERS / MEC FOR EDUCATION AND OTHERS : CASE NO:2025-067855

Good day, client has advised that the matter has been sent to the accounts section for payment.

Regards
Hennie Smal

From: Sheniece Linderboom <sheniece@lrc.org.za>
Sent: Friday, 13 June 2025 11:56
To: Smal Hendrik <HSmal@justice.gov.za>; NtoksM@gmail.com
Cc: mohammed@mbhyat.co.za; Kiara Govender <Kiara@lrc.org.za>; Cameron McConnachie <cameron@lrc.org.za>; Fanelesibonge Ndebele <Fanelesibonge@lrc.org.za>

Subject: RE: FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM AND OTHERS / MEC FOR EDUCATION AND OTHERS : CASE NO:2025-067855

Good day Mr Smal,

I hope you are well.

We have been engaging with our clients throughout the week and following my email below, there have been no further payments received by the third, fourth of fifth applicant.

Kindly advise if the first to third respondents have any intentions of making payments in compliance with the court order.

I hope to hear from you.



Kind regards,

N.S

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

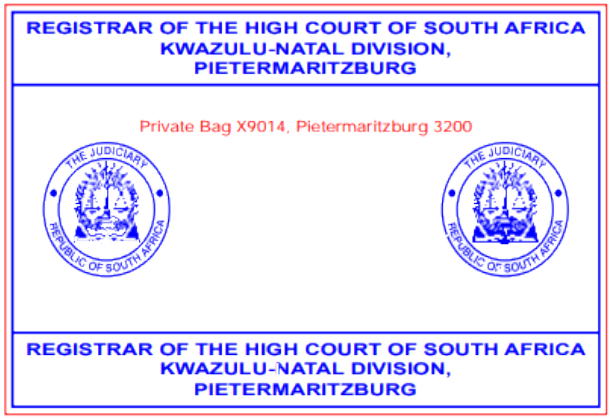
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 07

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:44:37 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

Outlook

RE: FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM AND OTHERS / MEC FOR EDUCATION AND OTHERS : CASE NO:2025-067855

From Sheniece Linderboom <sheniece@lrc.org.za>
Date Fri 2025/06/13 13:10
To Smal Hendrik <HSmal@justice.gov.za>; ntoksm@gmail.com <ntoksm@gmail.com>
Cc Kiara Govender <Kiara@lrc.org.za>; Fanelesibonge Ndebele <Fanelesibonge@lrc.org.za>; Cameron McConnachie <cameron@lrc.org.za>; mohammed@mbhyat.co.za <mohammed@mbhyat.co.za>

Good day Mr Smal ,

Thank you for the response.

Kindly confirm when the payments are expected to be paid and cleared.

Kind regards,

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Sheniece Linderboom
Attorney

+27 31 301 7572
+27 74 763 2743
sheniece@lrc.org.za
www.lrc.org.za
1st Floor, CBI Building, 635 Peter Mokaba Road, Overport, Durban, 4001

LRC | LEGAL RESOURCES CENTRE

Celebrating 45 Years of the LRC
Rooted in justice, driving change

From: Smal Hendrik <HSmal@justice.gov.za>
Sent: Friday, 13 June 2025 12:01
To: Sheniece Linderboom <sheniece@lrc.org.za>
Subject: RE: FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM AND OTHERS / MEC FOR EDUCATION AND OTHERS : CASE NO:2025-067855

Good day, client has advised that the matter has been sent to the accounts section for payment.

Regards
Hennie Smal

From: Sheniece Linderboom <sheniece@lrc.org.za>
Sent: Friday, 13 June 2025 11:56
To: Smal Hendrik <HSmal@justice.gov.za>; NtoksM@gmail.com
Cc: mohammed@mbhyat.co.za; Kiara Govender <Kiara@lrc.org.za>; Cameron McConnachie <cameron@lrc.org.za>;

N.S
005-72

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

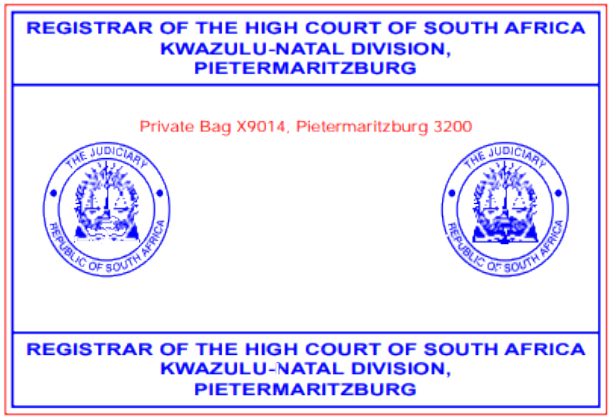
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 08

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:45:02 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

Sheniece Linderboom
Attorney

+27 31 831 7572
+27 74 783 2743
sheniece@lrc.org.za
www.lrc.org.za
1st Floor, Cliff Building, 635 Peter Mokaba Road, Overport, Durban, 4001

LEGAL RESOURCES CENTRE

Celebrating 45 Years of the LRC
Rooted in justice, driving change



From: Sheniece Linderboom
Sent: Tuesday, 17 June 2025 10:51
To: Smal Hendrik <HSmal@justice.gov.za>; ntoksm@gmail.com
Cc: Kiara Govender <Kiara@lrc.org.za>; Fanelesibonge Ndebele <Fanelesibonge@lrc.org.za>; Cameron McConnachie <cameron@lrc.org.za>; mohammed@mbhyat.co.za
Subject: RE: FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM AND OTHERS / MEC FOR EDUCATION AND OTHERS : CASE NO:2025-067855

Good morning, Mr Smal,

I trust you are well.

Kindly confirm if you have any information as to when the payments to the third to fifth applicant will be received.

Kind regards,

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

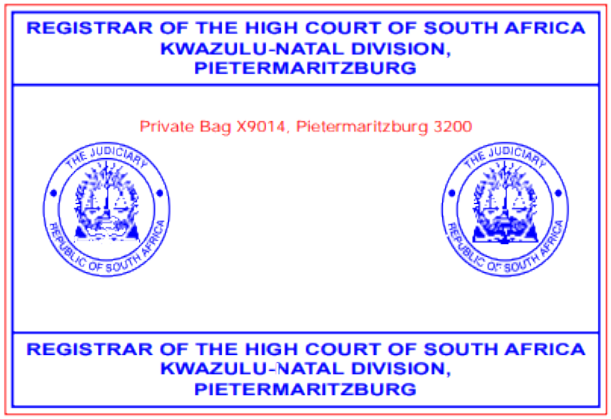
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 09

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:45:27 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

Sheniece Linderboom
Attorney

+27 31 301 7572
+27 74 783 2743
sheniece@lrc.org.za
www.lrc.org.za
1st Floor, CBI Building, 635 Peter Mokaba Road, Overport, Durban, 4001

LEGAL RESOURCES CENTRE

Celebrating 45 Years of the LRC
Rooted in justice, driving change

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

From: Sheniece Linderboom
Sent: Tuesday, 17 June 2025 15:22
To: 'Smal Hendrik' <HSmal@justice.gov.za>; 'ntoksm@gmail.com' <ntoksm@gmail.com>; 'nhlosenhlentuli@gmail.com' <nhlosenhlentuli@gmail.com>
Cc: Kiara Govender <Kiara@lrc.org.za>; Fanelesibonge Ndebele <Fanelesibonge@lrc.org.za>; Cameron McConnachie <cameron@lrc.org.za>; 'mohammed@mbhyat.co.za' <mohammed@mbhyat.co.za>
Subject: RE: FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM AND OTHERS / MEC FOR EDUCATION AND OTHERS : CASE NO:2025-067855

Good day Mr Ntuli,

Thank you for taking my call earlier.

Please see email correspondences between myself and Mr Smal in which I am enquiring as to when the third to fifth applicants will receive payments in terms of the court order granted on 26 May 2025 (attached for ease of reference)

As I mentioned, the out of office notification this morning directed me to you, while Mr Smal is on leave.

We would appreciate your urgent response herein.

Kind regards,

N.S
005-78

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

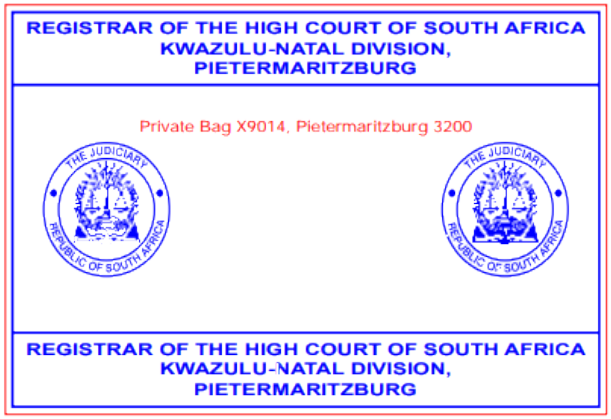
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 10

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:45:57 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.



NS 30

On Wed, Jun 18, 2025 at 11:20 AM Sheniece Linderboom <sheniece@lrc.org.za> wrote:

Good morning, Mr Ntuli,

Following our telephonic conversation earlier, I confirm that our instructions are to proceed with a contempt application and we require an urgent response regarding the payment to the third to fifth applicants.

I await your urgent response.

Kind regards,

NS

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

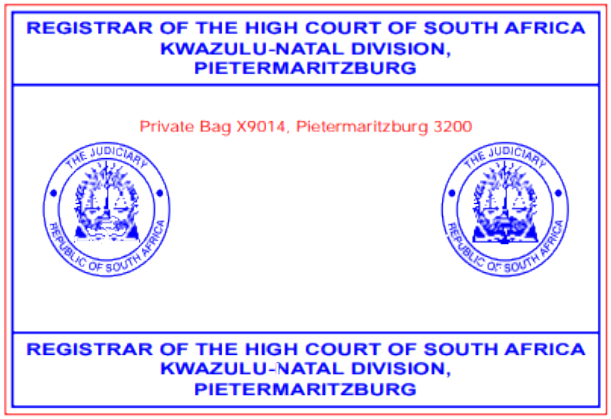
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 11

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:46:27 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

LRC | LEGAL RESOURCES CENTRE

Celebrating 45 Years of the LRC
Rooted in justice, driving change

From: Nhlosenhle Ntuli <nhlosenhlentuli@gmail.com>
Sent: Thursday, 19 June 2025 11:49
To: Sheniece Linderboom <sheniece@lrc.org.za>
Cc: Kiara Govender <Kiara@lrc.org.za>; mohammed@mbhyat.co.za
Subject: Re: FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM AND OTHERS / MEC FOR EDUCATION AND OTHERS : CASE NO:2025-067855

Good morning

The above matter refers

Please see the response below from our Client.

Regards

Mr N. C. Ntuli
Candidate Attorney
State Attorney (KZN)
Department of Justice and
Constitutional Development
Tel : 033 355 5210
Fax : 031-306 2448
Cell : 0843258999
Email : nhlosenhlentuli@gmail.com



From: Siqhamo Mabinza <Siqhamo.Mabinza@kzndoe.gov.za>
Sent: Friday, 23 May 2025 15:15
To: Ntsike Ndlovu <Ntsike.Ndlovu@kzndoe.gov.za>
Subject: FW: SKM_C551i25051508060

Good Afternoon

Please see the attached payment summary (excel template), for the three creches per the court order.

In summary, the status of the three creches are:

1. Sakhowethu Creche 032-433

   -
   - All claims for the 2024/2025 financial year have been received, authorized, and released. There are no outstanding claims for this creche.

   -

2. Zenzeleni Creche 032-848

   -
   - All claims received were captured and authorized i.e., April – Nov 24, Jan 25, and March 25
   - The claim for Nov 24 and Jan 25 is authorized and is awaiting release.
   - The claims for Dec 24 and Feb 25 were returned to the creche via their social worker as the bank account was closed (the creche was with Ithala Bank).

3. Phumelela Creche 047-572

   -

N-S

- All claims received were captured and authorized i.e., April – Nov 24, and March 25
- The claim for Nov 24 has been authorized and was released into the bank account of the creche on 22/05/2025.
- The claims for Dec 24, Jan 25 and Feb 25 were returned to the creche via their social worker as the bank account was closed (the creche was with Ithala Bank).

District Finance has submitted the list of creches who have not been paid due to late submissions to the CFO via Laura Boik for approval to process said claims in the current financial year.

Kind regards,

Siqhamo Mabinza
District Director
Umgungundlovu District
Siqhamo.Mabinza@kzndoe.gov.za
033 355 2364

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

"From the Mountain of Despair a stone of hope"

ECD REPORT							
	Sakhowethu Cre 032-433		Zenzeleni Cre 032-848		Phumelela 047-572		
24-Apr	3423799	Released	3423896	Released	3423506	Released	
24-May	3453284	Released	3453941	Released	3452917	Released	
24-Jun	3481606	Released	3479711	Released	3479675	Released	
24-Jul	3504304	Released	3504212	Released	3503997	Released	
24-Aug	3531199	Released	3531105	Released	3531729	Released	
24-Sept	3552375	Released	3550721	Released	3550627	Released	
24-Oct	3566222	Released	3566766	Released	3566542	Released	
24-Nov	3587843	Released	3588373	Awaiting Release	5425191	Awaiting Release	
24-Dec	3599174	Released	Returned to ECD - creche was still with Ithala Bank	Claim not returned to finance	Returned to ECD - creche was still with Ithala Bank		Claim not returned to finance
25-Jan	3612310	Released	3610521	Awaiting Release	Returned to ECD - creche was still with Ithala Bank		Claim not returned to finance
25-Feb	3624256	Released	Returned to ECD - creche was still with Ithala Bank	Claim not returned to finance	Returned to ECD - creche was still with Ithala Bank		Claim not returned to finance
25-Mar	5417554	Released	5415679	Released	5417543	Released	

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Private Bag X9014, Pietermaritzburg 3200

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

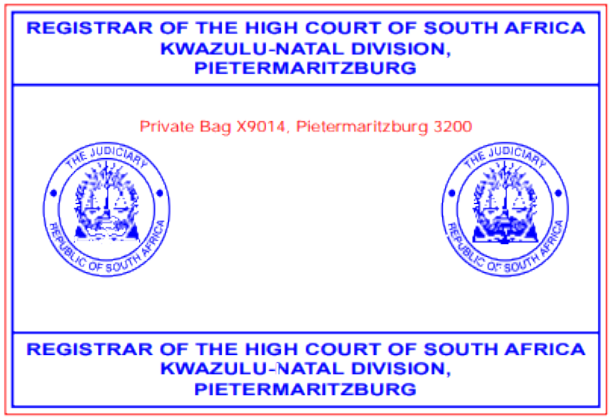
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 12

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:46:49 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

LRC | LEGAL RESOURCES CENTRE

Celebrating 45 Years of the LRC
Rooted in justice, driving change

From: Sheniece Linderboom
Sent: Monday, 23 June 2025 15:34
To: nhlosenhlentuli@gmail.com
Cc: Cameron McConnachie <cameron@lrc.org.za>; mohammed@mbhyat.co.za; Fanelesibonge Ndebele <Fanelesibonge@lrc.org.

za>; Kiara Govender <Kiara@lrc.org.za>
Subject: RE: FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM AND OTHERS / MEC FOR EDUCATION AND OTHERS : CASE NO:2025-067855

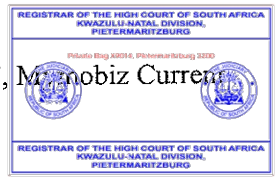
Good day Mr Ntuli,

We have received your report in relation to the third, fourth and fifth applicant.

As you are aware, the order required all outstanding payments to be made to the three centres. These payments span three financial years, as detailed in our papers — 2023/2024, 2024/2025 and 2025/2026. However, the response sent from your client on 23 May 2025, refers only to the 2024/2025 financial year payments.

With regard to the information that was reported, we are informed by our client, Sakhokwethu Crèche, that they are still awaiting the following, contrary to what is detailed in your report:

1. Jan 2024, Feb 2024 and March 2024 for the 2023/2024 financial year
2. March 2025 for the 2024/2025 financial year
3. April 2025 and May 2025 for the 2025/2026 financial year



For your convenience, Sakhokwethu's banking details are as follows: Standard Bank, 10206267787, Mzanobiz Current Account, Branch Code 2726

Phumelela and Zenzeleni Crèches have received four payments, respectively, since the court order, and are currently owed two payments (April 2025 and May 2025) for the 2025/2026 financial year.

We reiterate that this continued non-compliance with the court order is having devastating impact, which worsens every passing day, on the ECD centres and the children they serve.

We urge your clients to confirm the date that outstanding payment of the subsidies will be paid.

Kind regards,

NS

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

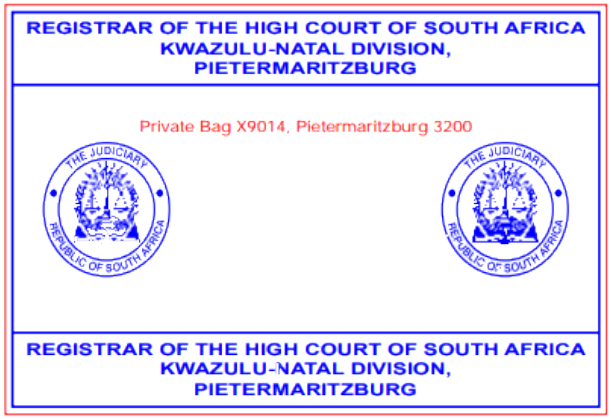
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 13

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:47:27 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

LRC | LEGAL RESOURCES CENTRE

Celebrating 45 Years of the LRC
Rooted in justice, driving change

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

From: Sheniece Linderboom
Sent: Wednesday, 25 June 2025 15:49
To: 'nhlosenhlentuli@gmail.com' <nhlosenhlentuli@gmail.com>
Cc: Cameron McConnachie <cameron@lrc.org.za>; 'mohammed@mbhyat.co.za' <mohammed@mbhyat.co.za>; Fanelesibonge Ndebele <Fanelesibonge@lrc.org.za>; Kiara Govender <Kiara@lrc.org.za>
Subject: RE: FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM AND OTHERS / MEC FOR EDUCATION AND OTHERS : CASE NO:2025-067855

Good day Mr Ntuli,

I trust you are well.

Please could you provide us with a response to our email below.

The third, fourth and fifth applicant have not received all the outstanding subsidy payments.

Kind regards,

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

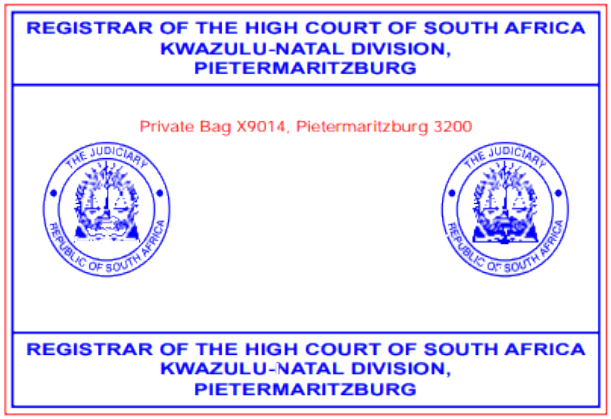
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 14

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:47:48 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**

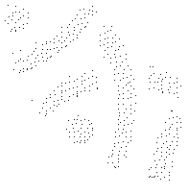


ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG





LRC | LEGAL RESOURCES CENTRE

Celebrating 45 Years of the LRC

Rooted in justice, driving change

From: Sheniece Linderboom

Sent: Friday, 27 June 2025 14:44

To: nhlosenhlentuli@gmail.com; Smal Hendrik <hsmal@justice.gov.za>

Cc: Cameron McConnachie <cameron@lrc.org.za>; mohammed@mbhyat.co.za; Fanelesibonge Ndebele <Fanelesibonge@lrc.org.za>; Kiara Govender <Kiara@lrc.org.za>

Subject: RE: FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM AND OTHERS / MEC FOR EDUCATION AND OTHERS : CASE NO:2025-067855

Importance: High

Good day Mr Smal,

I hope you are well.

Please note, during your absence, Mr Ntuli provided a response to my correspondence on 19 June 2025. Following engagements with our clients we then responded, and I have not received further communication from your offices.

I can confirm the information as reflected in my email dated 23 June 2025 remains unchanged and no additional payments have been made to the third, fourth and fifth applicants.

Kindly provide a response as to my email dated 23 June 2025 seen in the email chain below.

Kind regards,



COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

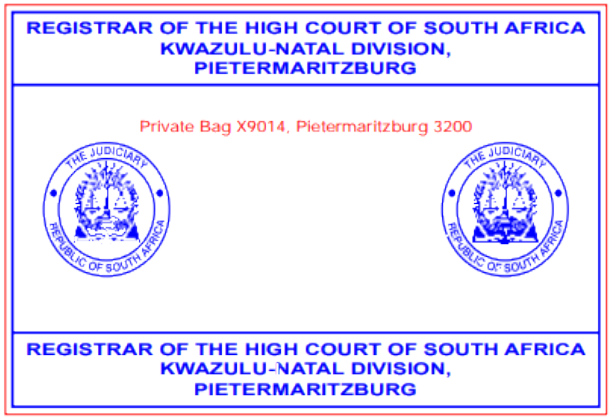
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 15

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:48:07 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

LRC | LEGAL RESOURCES CENTRE

Celebrating 45 Years of the LRC
Rooted in justice, driving change

From: Sheniece Linderboom
Sent: Wednesday, 02 July 2025 16:26
To: Nhlosenhle Ntuli <nhlosenhlentuli@gmail.com>; Smal Hendrik <hsmal@justice.gov.za>
Cc: Cameron McConnachie <cameron@lrc.org.za>; Fanelesibonge Ndebele <Fanelesibonge@lrc.org.za>; Kiara Govender <Kiara@lrc.org.za>
Subject: RE: FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM AND OTHERS / MEC FOR EDUCATION AND OTHERS : CASE NO:2025-067855

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Good day Mr Smal,

I hope you are well.

Following my email dated 27 June 2025 we confirm that our clients received additional payments on 30 June 2025.

We have prepared the attached document with tables recording payments to the third, fourth and fifth applicants.

The table reflects that there are still the following payments outstanding:

- Third Applicant: Due to the irregular amount transferred by the Department, we are unable to accurately and independently determine which financial year or specific months the payment was intended to cover. However, for reconciliation purposes, we have assumed that the payment covers two full payments for January and February 2024, and a partial payment for March 2024, based on the 2023/2024 subsidy rate. On this basis, your clients would still owe R6 121 for March 2024 and the full amounts for March, April, and May 2025, amounting to a total outstanding balance of **R30 895**. If the Department disagrees with this allocation, we kindly request that it provide an alternative breakdown and clearly indicate which months the payment was intended to cover.
- Fourth Applicant: The centre is owed **R14 284** for May 2025.
- Fifth Applicant: The centre is owed **R17 775** for May 2025

Kindly provide us with an explanation in respect of the payment to the third applicant. In addition, kindly confirm when your clients intend on effecting the above payments.

Kind regards,

LEGAL RESOURCES CENTRE

DURBAN OFFICE
1st Floor, CBI Building,
635 Peter Mokaba Road,
Overport, Durban, 4001

Tel: +27 31 301 7572
Fax: +27 31 304 2823

Info@lrc.org.za

Payment Breakdown for 3 ECD Centres

SAKHOKWETHU CRÈCHE

The payment history of Sakhokwethu is summarised in the table below:

Month	Paid/Unpaid	Date Paid	Amount	Note
March 2023	Paid	9 July 2023	R7119	
April 2023	Paid	9 July 2023	R7119	
May 2023	Paid	9 July 2023	R7119	
June 2023	Paid	13 November 2023	R7200	
July 2023	Paid	31 January 2024	R7119	
August 2023	Paid	31 January 2024	R7119	
September 2023	Paid	31 January 2024	R7119	
October 2023	Paid	7 March 2024	R7119	
November 2023	Paid	18 March 2024	R7119	
December 2023	Paid	30 April 2024	R7119	
January 2024	**Unpaid**	**30 June 2025**	**R7119**	For reconciliation purposes we have assumed that this amount is withdrawn from the R15 236 payment received on 30 June 2025, unless otherwise indicated by the Department.

LEGAL RESOURCES CENTRE

DURBAN OFFICE
1st Floor, CBI Building,
635 Peter Mokaba Road,
Overport, Durban, 4001

Tel: +27 31 301 7572
Fax: +27 31 304 2823

Info@lrc.org.za

February 2024	**Unpaid**	**30 June 2025**	**R7119**	For reconciliation purposes we have assumed that this amount is withdrawn from the R15 236 payment received on 30 June 2025, unless otherwise indicated by the Department.
March 2024	**Unpaid**	**30 June 2025**	**R998**	For reconciliation purposes we have assumed that this amount is withdrawn from the R15 236 payment received on 30 June 2025, unless otherwise indicated by the Department. This is recorded as partial payment with an amount of **R6121** outstanding for this month.
April 2024	Paid	22 May 2024	R8258	
May 2024	Paid	28 August 2024	R8258	
June 2024	Paid	28 August 2024	R8258	
July 2024	Paid	15 October 2024	R8258	
August 2024	Paid	11 November 2024	R8258	
September 2024	Paid	15 November 2024	R8258	
October 2024	Paid	10 December 2024	R8258	
November 2024	Paid	31 January 2025	R8258	
December 2024	Paid	14 February 2025	R8258	

LEGAL RESOURCES CENTRE

DURBAN OFFICE
1st Floor, CBI Building,
635 Peter Mokaba Road,
Overport, Durban, 4001

Tel: +27 31 301 7572
Fax: +27 31 304 2823

Info@lrc.org.za

January 2025	Paid	7 March 2025	R8258	
February 2025	Paid	9 May 2025	R8258	
March 2025	Unpaid	[redacted]		
April 2025	Unpaid			
May 2025	Unpaid			

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

PHUMELELA CRÈCHE

The payment history of Phumelela is summarised in the table below:

Month	Paid/Unpaid	Date Paid	Amount	Notes
December 2023	Paid	31 January 2024	R9 966	
January 2024	Paid	8 February 2024	R9 966	
February 2024	Paid	17 March 2024	R9 966	
March 2024	Paid	30 April 2024	R9 966	
April 2024	Paid	22 May 2024	R12 814	
May 2024	Paid	27 August 2024	R12 814	
June 2024	Paid	28 August 2024	R12 814	

LEGAL RESOURCES CENTRE

DURBAN OFFICE
1st Floor, CBI Building,
635 Peter Mokaba Road,
Overport, Durban, 4001

Tel: +27 31 301 7572
Fax: +27 31 304 2823

info@lrc.org.za

July 2024	Paid	2 September 2024	R12 814	
August 2024	Paid	15 October 2024	R12 814	
September 2024	Paid	15 November 2024	R12 814	
October 2024	Paid	10 December 2024	R12 814	
November 2024	Paid	9 May 2025	R12 814	
December 2024	Paid	22 May 2025	R12 814	
January 2025	Paid	30 May 2025	R12 814	
February 2025	Paid	30 May 2025	R12 814	
March 2025	Paid	30 May 2025	R12 814	
April 2025	Paid	30 June 2025	R14 284	Increase of R1470.
May 2025	Unpaid	[redacted]		We assumed that the amount has increased with the change in financial year, based on this, the centre is owed **R14 284** for May 2025.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

ZENZELENI CRÈCHE

The payment history of Zenzeleni is summarised in the table below:

Month	Paid/Unpaid	Date Paid	Amount	Notes

LEGAL RESOURCES CENTRE

DURBAN OFFICE
1st Floor, CBI Building,
635 Peter Mokaba Road,
Overport, Durban, 4001

Tel: +27 31 301 7572
Fax: +27 31 304 2823

Info@lrc.org.za

January 2024	Paid	7 March 2024	R14 238	
February 2024	Paid	14 April 2024	R14 238	
March 2024	Paid	23 April 2024	R14 238	
April 2024	Paid	24 May 2024	R15 946	
May 2024	Paid	27 August 2024	R15 946	
June 2024	Paid	28 August 2024	R15 946	
July 2024	Paid	15 October 2024	R15 946	
August 2024	Paid	11 November 2024	R15 946	
September 2024	Paid	15 November 2024	R15 946	
October 2024	Paid	10 December 2024	R15 946	
November 2024	Paid	9 May 2025	R15 946	
December 2024	Paid	30 May 2025	R15 946	
January 2025	Paid	30 May 2025	R15 946	
February 2025	Paid	6 June 2025	R15 946	
March 2025	Paid	6 June 2025	R15 946	
April	Paid	30 June 2025	R17 775	Increase of R1829.
May	Unpaid	[redacted]	[redacted]	We assumed that the amount has increased with the change in financial year, based on this, the centre is owed **R17 775** for May 2025

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

LEGAL RESOURCES CENTRE

DURBAN OFFICE
1st Floor, CBI Building,
635 Peter Mokaba Road,
Overport, Durban, 4001

Tel: +27 31 301 7572
Fax: +27 31 304 2823

Info@lrc.org.za



COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

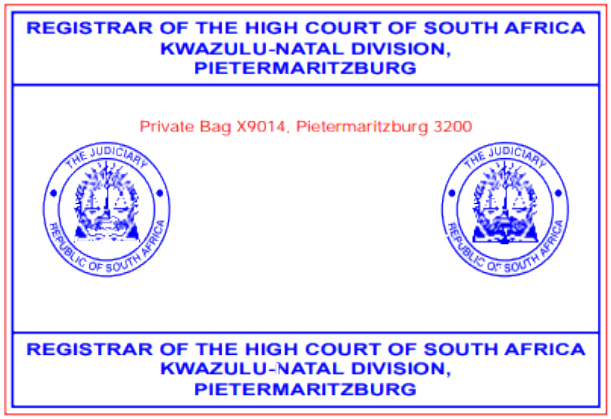
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 16 and More

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:48:54 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

Re: FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM AND OTHERS / MEC FOR EDUCATION AND OTHERS : CASE NO:2025-067855

Sheniece Linderboom
Smal Hendrik
Kiara Govender , Fanelesibonge Ndebele , Cameron McConnachie
Fri, 19 Sep 2025, 15:26

Good day Mr Smal,

I hope you are well.

By way of update, we have been engaging with our clients, and it appears that payments to the fourth and fifth applicant for the months of June and July 2025 have been made. Payment for August 2025 are due.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

We would however like to enquire into the non-payment to the third applicant (Sakhokwethu ECD centre) the amounts due for the 2023/2024 financial year, specifically for the months of January, February and March 2024 remain outstanding and for the 2024/2025 financial year, March 2025 remains outstanding.

Kindly advise when these payments will be made to the third applicant.

Kind regards,

Sheniece Linderboom
Attorney

+27 74 783 2743
+27 31 301 7572
sheniece@lrc.org.za
www.lrc.org.za
11th Floor, Aquasky Towers, 275 Anton Lembede Street, Durban 4001

LRC LEGAL RESOURCES CENTRE

From: Smal Hendrik <HSmal@justice.gov.za>
Sent: Tuesday, 08 July 2025 08:05
To: Sheniece Linderboom <sheniece@lrc.org.za>
Subject: RE: FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM AND OTHERS / MEC FOR EDUCATION AND OTHERS : CASE NO:2025-067855

Good day, all previous emails have been forwarded to client .

Regarding part B, client indicated that they do not wish to oppose but we do not have instructions to abide.

Regards
Hennie Smal

From: Sheniece Linderboom <sheniece@lrc.org.za>
Sent: Monday, 07 July 2025 16:05
To: Nhlosenhle Ntuli <nhlosenhlentuli@gmail.com>; Smal Hendrik <HSmal@justice.gov.za>
Cc: Cameron McConnachie <cameron@lrc.org.za>; Fanelesibonge Ndebele <Fanelesibonge@lrc.org.za>; Kiara Govender <Kiara@lrc.org.za>
Subject: RE: FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM AND OTHERS / MEC FOR EDUCATION AND OTHERS : CASE NO:2025-067855



Good day Mr Smal,

I trust you are well.

Further to my email dated 2 July 2025, we have confirmed an additional payment that was made to our clients.

Please see attached the update table in which we attempt to explain the payments. We reiterate the these are assumptions and would greatly appreciate confirmation from your clients in respect of the amounts that were paid.

In addition , please note the outstanding payments still due to Sakowhethu Creche for the 2023/2024 financial year.

Lastly, please confirm your instructions in respect of Part B.

Kind regards,

LEGAL RESOURCES CENTRE

DURBAN OFFICE
1st Floor, CBI Building,
635 Peter Mokaba Road,
Overport, Durban, 4001

Tel: +27 31 301 7572
Fax: +27 31 304 2823

Info@lrc.org.za

7 July 2025

Payment Breakdown for 3 ECD Centres

SAKHOKWETHU CRÈCHE

The payment history of Sakhokwethu is summarised in the table below:

Month	Paid/Unpaid	Date Paid	Amount	
March 2023	Paid	9 July 2023	R7119	
April 2023	Paid	9 July 2023	R7119	
May 2023	Paid	9 July 2023	R7119	
June 2023	Paid	13 November 2023	R7200	
July 2023	Paid	31 January 2024	R7119	
August 2023	Paid	31 January 2024	R7119	
September 2023	Paid	31 January 2024	R7119	
October 2023	Paid	7 March 2024	R7119	
November 2023	Paid	18 March 2024	R7119	
December 2023	Paid	30 April 2024	R7119	
January 2024	Unpaid	[redacted]		Remains unpaid
February 2024	Unpaid			Remains unpaid
March 2024	Unpaid			Remains unpaid

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

LEGAL RESOURCES CENTRE

DURBAN OFFICE
1st Floor, CBI Building,
635 Peter Mokaba Road,
Overport, Durban, 4001

Tel: +27 31 301 7572
Fax: +27 31 304 2823

Info@lrc.org.za

April 2024	Paid	22 May 2024	R8258	
May 2024	Paid	28 August 2024	R8258	
June 2024	Paid	28 August 2024	R8258	
July 2024	Paid	15 October 2024	R8258	
August 2024	Paid	11 November 2024	R8258	
September 2024	Paid	15 November 2024	R8258	
October 2024	Paid	10 December 2024	R8258	
November 2024	Paid	31 January 2025	R8258	
December 2024	Paid	14 February 2025	R8258	
January 2025	Paid	7 March 2025	R8258	
February 2025	Paid	9 May 2025	R8258	
March 2025	Unpaid	[redacted]	[redacted]	Remains unpaid
April 2025	Paid	30 June 2025	R15 236	We assume that the Department is paying for 201 days a year which works out to 16.75 days a month. Furthermore, we assume that the subsidy is R18.95 per child per day.
May 2025	Paid	02 July 2025	R15 236	We assume that the Department is paying for 201 days a year which works out to 16.75 days a month. Furthermore, we assume that the subsidy is R18.95 per child per day.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

LEGAL RESOURCES CENTRE

DURBAN OFFICE
1st Floor, CBI Building,
635 Peter Mokaba Road,
Overport, Durban, 4001

Tel: +27 31 301 7572
Fax: +27 31 304 2823

Info@lrc.org.za

PHUMELELA CRÈCHE

The payment history of Phumelela is summarised in the table below:

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Month	Paid/Unpaid	Date Paid	Amount	Notes
December 2023	Paid	31 January 2024	R9 966	
January 2024	Paid	8 February 2024	R9 966	
February 2024	Paid	17 March 2024	R9 966	
March 2024	Paid	30 April 2024	R9 966	
April 2024	Paid	22 May 2024	R12 814	
May 2024	Paid	27 August 2024	R12 814	
June 2024	Paid	28 August 2024	R12 814	
July 2024	Paid	2 September 2024	R12 814	
August 2024	Paid	15 October 2024	R12 814	
September 2024	Paid	15 November 2024	R12 814	
October 2024	Paid	10 December 2024	R12 814	
November 2024	Paid	9 May 2025	R12 814	

LEGAL RESOURCES CENTRE

DURBAN OFFICE
1st Floor, CBI Building,
635 Peter Mokaba Road,
Overport, Durban, 4001

Tel: +27 31 301 7572
Fax: +27 31 304 2823

Info@lrc.org.za

December 2024	Paid	22 May 2025	R12 814	
January 2025	Paid	30 May 2025	R12 814	
February 2025	Paid	30 May 2025	R12 814	
March 2025	Paid	30 May 2025	R12 814	
April 2025	Paid	30 June 2025	R14 284	Increase of R1470
May 2025	Paid	02 July 2025	R14 284	

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

ZENZELENI CRÈCHE

The payment history of Zenzeleni is summarised in the table below:

LEGAL RESOURCES CENTRE

DURBAN OFFICE
1st Floor, CBI Building,
635 Peter Mokaba Road,
Overport, Durban, 4001

Tel: +27 31 301 7572
Fax: +27 31 304 2823

Info@lrc.org.za

Month	Paid/Unpaid	Date Paid	Amount	Notes
January 2024	Paid	7 March 2024	R14 238	
February 2024	Paid	14 April 2024	R14 238	
March 2024	Paid	23 April 2024	R14 238	
April 2024	Paid	24 May 2024	R15 946	
May 2024	Paid	27 August 2024	R15 946	
June 2024	Paid	28 August 2024	R15 946	
July 2024	Paid	15 October 2024	R15 946	
August 2024	Paid	11 November 2024	R15 946	
September 2024	Paid	15 November 2024	R15 946	
October 2024	Paid	10 December 2024	R15 946	
November 2024	Paid	9 May 2025	R15 946	
December 2024	Paid	30 May 2025	R15 946	
January 2025	Paid	30 May 2025	R15 946	
February 2025	Paid	6 June 2025	R15 946	
March 2025	Paid	6 June 2025	R15 946	
April 2025	Paid	30 June 2025	R17 775	Increase of R1829.
May 2025	Paid	02 July 2025	R17 775	



LEGAL RESOURCES CENTRE

DURBAN OFFICE
1st Floor, CBI Building,
635 Peter Mokaba Road,
Overport, Durban, 4001

Tel: +27 31 301 7572
Fax: +27 31 304 2823

Info@lrc.org.za



COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

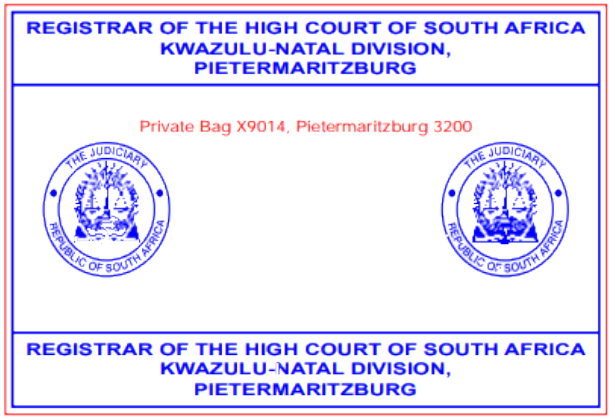
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 16 and More

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:49:37 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

7/10/2025-3:49:37 PM

KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL PIETERMARITZBURG

005120

Provincial Integrated Early Childhood Development (ECD) Committee Meeting

Date: 25 July 2025 **TIME:10H00** **Venue: Dokkies**

Chairperson: Ms N E Mkhize, Director: Early Childhood Development, KwaZulu-Natal Department of Education

SECTION A : PROCEDURAL MATTERS	
A.1	**Opening and welcome:** Ms ZPC Gina opened the meeting with a prayer. ▪ The Chairperson Ms NE Mkhize opened the meeting and warmly welcomed all members present. ▪ The Chairperson stated that the meeting dates were to be rescheduled for the next financial year to be at the beginning of the quarter. ▪ The Chairperson requested members to submit plans indicating roles and responsibilities in order for the department to know who is doing what, for example Assupol and Impande are focusing on Infrastructure, VVOB is focusing on teacher development and Smart Start is focusing on curriculum, so that the department can have a common approach for those who are offering same services.
A.2	**Attendance and apologies** Attendance was recorded as follows: 1. Ms NE Mkhize (DoE, Director: ECD) 2. Mrs KHP Mathe (DoE, CES: ECD) 3. Mrs D Mtshali (DoE, SW: ECD) 4. Ms ZPC Gina (DoE, SW: ECD) 5. Ms SC Ntshangase (DoE, AC: ECD) 6. Mr R Ngema (DoE, DD: Infrastructure) 7. Ms G Rasi (DoH, AD: Health Promotion) 8. Ms N Mntuyedwa (NDA: DM) 9. Ms FC Molefe (Assupol: KZN Project Manager) 10. Mr MM Khuzwayo (SAECDA: Chairperson)

005-121
7/10/2025-3:49:37 PM

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL, DURBAN, PIETERMARITZBURG

005-121

	11. Ms BP Goba (SAECDA: Secretary) 12. Ms MR Motaung (TREE :Director) 13. Ms C Snyman (VVOB: Project Coordinator) 14. Mr N Sibisi (FOSA: President) 15. Mr ML Mngomezulu (FOSA: Deputy President) 16. Ms T Mabaso (SmartStart) 17. Ms T Rantsi (SmartStart) 18. Ms RG Roberts (KZN ECD Colab: Chairperson) 19. Ms T Rosser (Grow ECD) Apologies were recorded as follows: 1. Mrs D Coleman (DoE, DCES: ECD) sick leave
A.3	**Adoption of agenda** ■ The Agenda with additions , was moved for adoption by the chairperson. ➢ C1: Outstanding Vangasali registration certificates. ➢ C2: Subsidy increase ➢ C3: Form 30 Delays (clearance) ➢ C4: Registration of Grade RR ➢ C5: Progress on MOU ➢ C6: Communication Adopted by : Ms F Molefe Seconded by: Ms R Roberts
A.4	**Minutes of the previous meeting held on 25 July 2025.** The Chairperson thanked the Secretariat for well-captured minutes of the previous meeting. The minutes were tabled by the chairperson and were checked for corrections. ■ The following amendments were to be made: 1. Finance availability. 2. Primary schools which are admitting 4-year-old. 3. District quarterly meetings.

005-122
7/10/2025-3:49:37 PM

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

005-122

	Members to assist the secretariat on the minutes with additional information or corrections before the day of the meeting.
A.5	**Adoption of the minutes** ▪ The minutes were moved for adoption with amendments by Mrs KHP Mathe Seconded by: Ms F Molefe.

A.6 **Matters arising from the minutes / Decision Matrix**

▪ Progress on the implementation of resolutions for the meeting held on **25 July 2025** was presented by the chairperson.
Moved as a true reflection of matters arising by Secretariat, seconded by Mrs KHP Mathe.

Credentials	First draft of MOU to be shared with partners before it is finalized.	Still in progress.
	Integrated plan to be populated in order to clarify the roles and responsibilities of partners.	In progress. Partners to submit profiles which clarify their roles and responsibilities so that as we can draw this integrated plan with everybody's roles and responsibilities reflected, plans to be submitted by **29 August 2025.**
Finance	Request for finance to be part of meeting.	Formal submission/ letter must be prepared for HOD to request finance to be part of the meeting, committee to provide issues/ items for discussion. A special meeting to be held with finance and Resource planning for the following issues by **29 August 2025**: ▪ Subsidy rate ▪ Number of days

SECTION B: MATTERS FOR DISCUSSION

NO	MATTERS	DISCUSSIONS	RESOLUTIONS	RESPONSIBILITY	TIME FRAME
B.1	**Update on the ECD implementation**	Update on the ECD implementation was presented by Mrs KHP Mathe and covered the following Activities :	▪ Presentations to be shared with the committee members.	▪ Secretariat	31/07/2025



KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA



		❖ Improve access to ECD services ❖ Payments of subsidies ❖ ECD Registrations ❖ NCF Training ❖ Data system ❖ Inter-Sectoral Collaboration ❖ Parent training and collaboration ❖ Challenges affecting progress Questions of clarity and input were made in respect of the items presented as follows: ▪ Clarity on operation of the ECD Mobiles. ▪ Follow up on the money that the department owes TREE for services that were provided. ▪ **Solution for delays of payments**: request that ECD practitioners to be 40% of salaries by the department through the persal system and then the remaining 40% meals for and 20% for administration to be paid to centres. ▪ ECD centres submit their claims on time, delays are on the side of the district office. ▪ ECD does have a list of MRD implementing/ assisting NPOs/NGOs per district for easy reference of sector. ▪ Issue of subsidy increase / how the department arrived at the new rate from R17 to R18.95 Equitable Share and R20.10 Conditional Grant. ▪ Plan for funding new registered centres. ▪ Progress on renewal of partial care certificates. ▪ Request of the funds allocated for ECD Centre's to be ring fenced.	▪ TREE to formally write about the issue of payments. ▪ ECD directorate to follow up with iLembe district and finance regarding the issue of TREE. ▪ Encourage ECD sector to write formally to the HOD and CFO expressing the financial issues. ▪ Increase of rate from R17 to R18.95 equitable share and R20.10 conditional grant was made by increase from projected budget. ▪ No plan in place currently for registered unfunded centres because the funded centres have to be fully paid, according to the new rate and number of days before new centres are funded. ▪ Share of R10 Billion not yet received, but DBE promised to pay it during the 3rd quarter.	▪ Tree ▪ ECD directorate	31/07/2025 31/08/2025

005-124
7/10/2025-3:49:37 PM

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL (DURBAN) PIETERMARITZBURG

005-124

B.2	Presentation of Infrastructure Plan	Presentation of Infrastructure Draft Plan was presented by Mr R Ngema as follows: ❖ ECD programme summary ❖ ECD infrastructure budget allocations ❖ ECD programme cashflows and projections ❖ ECD programme summary: New ECDS & maintenance ❖ ECD projects statuses – new construction ❖ ECD projects statuses – maintenance ❖ ECD projects to benefit from ECD grant (2026/27) – assessments ❖ MTEF ECD targets Questions of clarity and input were made in respect of the items presented as follows: ▪ Request of architectural plans/designs to be shared in order to standardize buildings. ▪ Criteria used to identify centres for maintenance. ▪ Clarity on whether the deadline of 31 march 2025 was met for ECD centres that were outstanding was sort. ▪ A request for progress on the following ECD centres that were visited for assessments was made: Ilembe: ▪ Vulinqondo creche ▪ Ingqondoyethu creche ▪ Thokozile creche ▪ Challot creche ▪ Ekusizaneni creche	▪ Presentations to be shared with the committee members. ▪ The department architectural plans/ designs for ECD centres to be shared. ▪ The process of allocating new centres to benefit from the infrastructure plan whether for maintenance or new structures process starts at district level. Social workers assist in conducting physical verification and compilation of the priority list that is then submitted to head office. ▪ Issue of collaboration with non-governmental organization that goes beyond infrastructure is work in progress. ▪ Equitable share funds are utilized to assist ECD centres that were affected by floods, but there are still some gaps due to budget constraints.	▪ Secretariat ▪ Mr R Ngema	31/07/2025 29 /08/2025

		Zululand: ▪ Kwenzokuhle Primary School; ▪ Celimpumelelo creche Harry Gwala: ▪ Sphamandla creche ▪ System in place for assisting ECD centres that were affected by floods.			
B.3	**Reports from Government Departments**	Presentation of the Department of Health was made by Ms G Rasi as follows: ▪ She highlighted the progress update on the implementation and monitoring of Health Promoting Early Childhood Development centres (ECDs) in KwaZulu-Natal, aligned with the Alma Ata Declaration focus areas and to present the standardised assessment tool and process used to accredit ECDs as health promoting settings. Presentation of the National Development Agency was presented by Ms N Mtuyedwa as follows: She highlighted the following capacity building sessions for NPOs for intervention: 1. NPO Governance 2. Financial Management and Basic Bookkeeping 3. Fundraising and Resource Mobilisation 4. Project Management 5. Basic Classroom Practice 6. NPO Compliance	▪ Presentations to be shared with the committee members.	▪ Secretariat	31/07/2025

005-126
7/10/2025-3:49:37 PM

005-126

		Questions of clarity and inputs were made in respect of the items presented.			
B.4	**Report from Partners**	**Assupol** The Assupol Community Trust presentation was made by Mrs F Molefe ▪ Assupol's goal is to improve access to ECD among children between 0-5 years in Nquthu, Msinga, Endumeni and Umvoti by 2028. **Smart Start** The Smart Start Presentation was made by Ms T Mabaso ▪ Smart Start's goal is to achieve equitable access to quality early learning. She stressed the importance of solving the system capacity and quality challenges together. **VVOB** The VVOB presentation was made by Ms C Snyman as follows: ▪ Funda Udlale Nathi (F.U.N) ▪ LMS & COURSES (OERs) ▪ Strengthening & Implementing: Provincial & District Level ▪ F.U.N. : Early 2025 Activities ▪ Blended CPTD Modality Activities ▪ Commitments by VVOB **TREE**	▪ Presentations to be shared with the committee members.	▪ Secretariat	31/07/2025

005-127
7/10/2025-3:49:37 PM

005-127

		The TREE Presentation was made by Ms MR Motaung ▪ TREE exists to build a qualified, supported, and community-rooted ECD workforce, unlocking access to quality early learning for young children in the most under-served areas, and driving equity, inclusion, and integration as envisioned in South Africa's ECD Strategy 2030. Questions of clarity and input were made in respect of the items presented.			
SECTION C: NEW MATTERS					
C.1	**Outstanding Vangasali registration certificates.**	Outstanding Vangasali certificates discussed in B1	▪ Information migrated to eCares system.	None	None
C.2	**Subsidy increment**	Subsidy increment discussed in B1	▪ Special meeting to be facilitated with finance and Resource planning regarding the issue.	None	None
C.3	**Delays on clearance (Form 30)**	Delays on clearance (Form 30) discussed in B1	▪ verting still in progress, it is slow since the department of Education is depends on the Department of Social Development's system.	None	None
C.4	**Registration of RR**	Registration of Grade RR discussed in B1	▪ Bana Pele Mass Registration Drive assists with registration of new ECD centres.	None	None

C.5	**Progress on MOU**	Progress on MOU discussed in A6	▪ Finalization of MOU still in progress.	None	None
C.6	**Communication**	Presentation on communication was presented by Mr N Sibisi as follows: ▪ There was a meeting on the 05 July 2024, at which it was agreed to have meetings on a quarterly basis. It was also indicated that the communication line between the meeting members is open if there are burning issues. ▪ Several emails had been written to the ECD directorate for burning issues (Bana Pele Mass Registration Drive, Quarterly district meetings ,Schools which are admitting 4-year olds and NGOs who are entrusted to do KPAs and KPIs and ensuring ethical practice of those NGOs) but the directorate had not responded to those emails. A question was asked regarding why the sector was not consulted on the rate increase from R17 to R18.95 Equitable Share and R20.10 Conditional Grant.	▪ Matter regarding the emails was discussed outside the meeting.	None	None

SECTION D: MATTERS FOR NOTING

D.1	**Way forward** ▪ The Chairperson, Ms. N E Mkhize, thanked and appreciated all the participants for their contribution and attendance, and stated that it had been a productive and fruitful engagement. ▪ The Sector to share challenges/ issues with CESs at the district level or the district director instead of waiting for Integrated committee meeting to raise challenges. ▪ A special meeting to be facilitated with finance and Resource planning regarding the increase on subsidy rate and number of days.



KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA



	▪ The Chairperson requested partners to submit plans indicating roles and responsibilities for the department to know who is doing what for example Assupol and Impande are focusing on Infrastructure, VVOB is focusing on practitioner development and Smart Start is focusing on curriculum, so that the department can have a common approach for those who are offering same services. ▪ The Chairperson emphasized the need for the ECD sector to continue communicating with the Directorate if there are burning issues. Details to be given whether there is a need to meet before the quarterly meetings. she further indicated that directorate is available to provide support.
D.2	**Date of the next meeting** 25 September 2025
D.3	**Closure** ▪ Ms ZPC Gina closed the meeting with a prayer. ▪ The Chairperson thanked all committee members for availing themselves and wished them safe travelling mercies back homes. ▪ The Chairperson officially closed the meeting at 13H38.

Mover:

Secretariat: **Chairperson:**

....

Ms SC Ntshangase **Date** **Ms N E Mkhize** **Date**

Seconder:

....

Initials and Surname **Signature** **Date**

KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

GROWING KWAZULU-NATAL TOGETHER

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

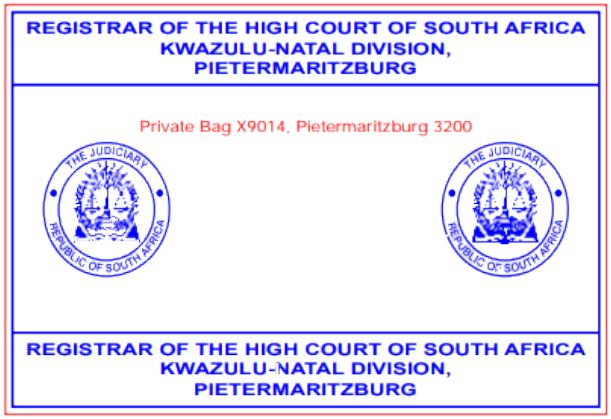
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 16 and More

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:50:02 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

Good day Ma'am.

I hope you are well .

Ma'am i'm following up on the proposed ECD meeting with Resource planning and Finance section as discussed in our last Provincial Intergrated committee meeting. Please advise on a date for the meeting.

Kind Regards
Laurance Mngomezulu
FOSA DEPUTY PRESIDENT. 12:50



Good Morning

I was still hoping to receive a formal request (a letter) with agenda items/ issues of concern so that they can come to the meeting well prepared.

The sooner we get that, the sooner we can organise.

Regards 13:04

Message

N.S

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

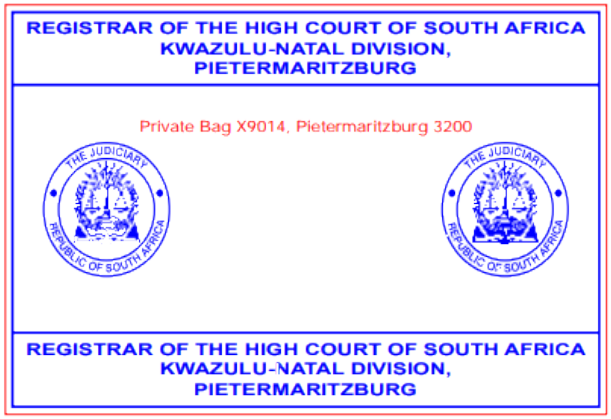
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 16 and More

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:50:33 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

FRIENDS OF SA ECD FORUM

NPO 199-522

P O Box 481724

Qualbert

4078

18 August 2025

Nathi.sibisi18@gmail.com

Attention : *Honourable Members*

Ms Siviwe Gwarube

Mr Elijah Mhlanga

Mr Hubert Mathanzima

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION PIETERMARITZBURG

Unfair Subsidy Practice

We as Friends Of South Africa Ecd Forum and we are representing Early Childhood Centres in South Africa furthermore our pivotal roles are to be a mouthpiece and to play an advocacy role to all funded and unfunded Ecd centres.

We are hereby wish to tender our dissatisfaction pertaining the following Matters.

1. *Subsidy Bench-Mark*
2. *Registered Ecds but not Funded*
3. *Budget Allocated for Ecd Sector to be Ring Fenced*
4. *Subsidy Delays*
5. *Staff minimum wage.*

It is humanly impossible to function decently, under the above inadequate circumstance and some Centres are operating under abject poverty, frequently in rural areas.

We have exhausted all the Avenues in Provincial level with no luck, thus we collectively agreed to write this letter to National Level for a round table meeting therefore we can discuss these matters amicably and it is clear to all and sundry that, there is a malicious communication in Provinces.

Yours In Community Development

EXCO Members

FOSA President

N Sibisi 18/08/2025

Executive Members President Mr N Sibisi 083 509 6864 Deputy President Mr Lawrence Mngomezulu 074 654 6135 Secretary SB Tembe 079 155 8382 Deputy Secretary Mr M Sibisi 074 409 4500 Treasure Ms SE Ntshangase 073 847 7202 Add members MrsT Zakwe 063 043 6110 Ms Z Ntuli 073 419 2520 Z Duma 073 526 8054 Coordinator Mr VC Gumede 082 810 7355

005-136

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

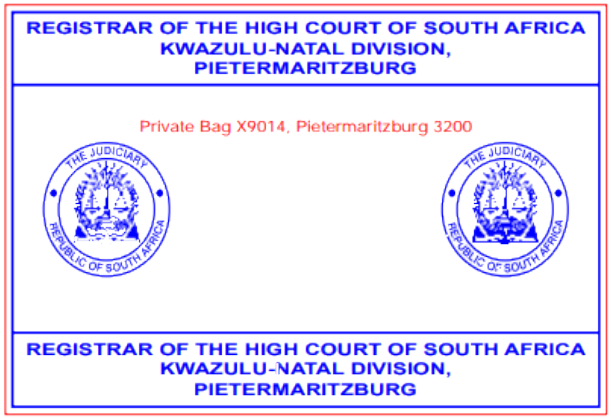
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 16 and More

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:51:08 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

LEGAL RESOURCES CENTRE

DURBAN OFFICE
1st Floor, CBI Building,
635 Peter Mokaba Road,
Overport, Durban, 4001

Tel: +27 31 301 7572
Fax: +27 31 304 2823

Info@lrc.org.za

Payment Breakdown for 3 ECD Centres

SAKHOKWETHU CRÈCHE

The payment history of Sakhokwethu is summarised in the table below:

Month	Paid/Unpaid	Date Paid	Amount	Note
March 2023	Paid	9 July 2023	R7119	
April 2023	Paid	9 July 2023	R7119	
May 2023	Paid	9 July 2023	R7119	
June 2023	Paid	13 November 2023	R7200	
July 2023	Paid	31 January 2024	R7119	
August 2023	Paid	31 January 2024	R7119	
September 2023	Paid	31 January 2024	R7119	
October 2023	Paid	7 March 2024	R7119	
November 2023	Paid	18 March 2024	R7119	
December 2023	Paid	30 April 2024	R7119	
January 2024	Unpaid	[redacted]		Remains unpaid
February 2024	Unpaid			Remains unpaid
March 2024	Unpaid			Remains unpaid
April 2024	Paid	22 May 2024	R8258	

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

LEGAL RESOURCES CENTRE

DURBAN OFFICE
1st Floor, CBI Building,
635 Peter Mokaba Road,
Overport, Durban, 4001

Tel: +27 31 301 7572
Fax: +27 31 304 2823

Info@lrc.org.za

May 2024	Paid	28 August 2024	R8258	
June 2024	Paid	28 August 2024	R8258	
July 2024	Paid	15 October 2024	R8258	
August 2024	Paid	11 November 2024	R8258	
September 2024	Paid	15 November 2024	R8258	
October 2024	Paid	10 December 2024	R8258	
November 2024	Paid	31 January 2025	R8258	
December 2024	Paid	14 February 2025	R8258	
January 2025	Paid	7 March 2025	R8258	
February 2025	Paid	9 May 2025	R8258	
March 2025	Unpaid	[redacted]		Remains unpaid
April 2025	Paid	30 June 2025	R15 236	We assume that the Department is paying for 201 days a year which works out to 16.75 days a month. Furthermore, we assume that the subsidy is R18.95 per child per day.
May 2025	Paid	02 July 2025	R15 236	We assume that the Department is paying for 201 days a year which works out to 16.75 days a month. Furthermore, we assume that the subsidy is R18.95 per child per day.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

LEGAL RESOURCES CENTRE

DURBAN OFFICE
1st Floor, CBI Building,
635 Peter Mokaba Road,
Overport, Durban, 4001

Tel: +27 31 301 7572
Fax: +27 31 304 2823

Info@lrc.org.za

June 2025	Paid	22 August 2025	R15 236	We assume that the Department is paying for 201 days a year which works out to 16.75 days a month. Furthermore, we assume that the subsidy is R18.95 per child per day.
July 2025				
August 2025				

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

PHUMELELA CRÈCHE

The payment history of Phumelela is summarised in the table below:

Month	Paid/Unpaid	Date Paid	Amount	Notes
December 2023	Paid	31 January 2024	R9 966	
January 2024	Paid	8 February 2024	R9 966	
February 2024	Paid	17 March 2024	R9 966	
March 2024	Paid	30 April 2024	R9 966	
April 2024	Paid	22 May 2024	R12 814	
May 2024	Paid	27 August 2024	R12 814	

LEGAL RESOURCES CENTRE

DURBAN OFFICE
1st Floor, CBI Building,
635 Peter Mokaba Road,
Overport, Durban, 4001

Tel: +27 31 301 7572
Fax: +27 31 304 2823

Info@lrc.org.za

June 2024	Paid	28 August 2024	R12 814	
July 2024	Paid	2 September 2024	R12 814	
August 2024	Paid	15 October 2024	R12 814	
September 2024	Paid	15 November 2024	R12 814	
October 2024	Paid	10 December 2024	R12 814	
November 2024	Paid	9 May 2025	R12 814	
December 2024	Paid	22 May 2025	R12 814	
January 2025	Paid	30 May 2025	R12 814	
February 2025	Paid	30 May 2025	R12 814	
March 2025	Paid	30 May 2025	R12 814	
April 2025	Paid	30 June 2025	R14 284	Increase of R1470
May 2025	Paid	02 July 2025	R14 284	
June 2025	Paid	01 August 2025	R14 284	
July 2025	Paid	22 August 2025	R14 284	
August 2025				



LEGAL RESOURCES CENTRE

DURBAN OFFICE
1st Floor, CBI Building,
635 Peter Mokaba Road,
Overport, Durban, 4001

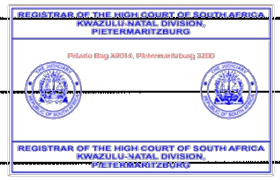
Tel: +27 31 301 7572
Fax: +27 31 304 2823

Info@lrc.org.za

ZENZELENI CRÈCHE

The payment history of Zenzeleni is summarised in the table below:

Month	Paid/ Unpaid	Date Paid	Amount	Notes
January 2024	Paid	7 March 2024	R14 238	
February 2024	Paid	14 April 2024	R14 238	
March 2024	Paid	23 April 2024	R14 238	
April 2024	Paid	24 May 2024	R15 946	
May 2024	Paid	27 August 2024	R15 946	
June 2024	Paid	28 August 2024	R15 946	
July 2024	Paid	15 October 2024	R15 946	
August 2024	Paid	11 November 2024	R15 946	
September 2024	Paid	15 November 2024	R15 946	
October 2024	Paid	10 December 2024	R15 946	
November 2024	Paid	9 May 2025	R15 946	
December 2024	Paid	30 May 2025	R15 946	
January 2025	Paid	30 May 2025	R15 946	
February 2025	Paid	6 June 2025	R15 946	



LEGAL RESOURCES CENTRE

DURBAN OFFICE
1st Floor, CBI Building,
635 Peter Mokaba Road,
Overport, Durban, 4001

Tel: +27 31 301 7572
Fax: +27 31 304 2823

Info@lrc.org.za

March 2025	Paid	6 June 2025	R15 946	
April 2025	Paid	30 June 2025	R17 775	Increase of R1829.
May 2025	Paid	02 July 2025	R17 775	
June 2025	Paid	01 August 2025	R17 775	
July 2025	Paid	22 August 2025	R17 775	
August 2025				

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

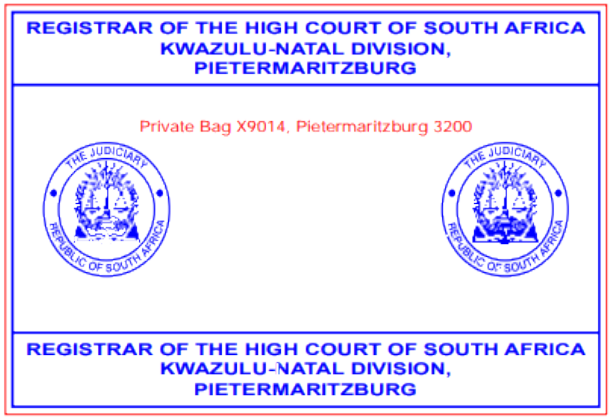
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 16 and More

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:51:29 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

DIRECTORATE:
RESOURCE PLANNING

Private Bag X9157, PIETERMARITZBURG, 3200
Shuter & Shooter Building, 110 Cliff Dowries Road, Pietermaritzburg, 3201
Tel: 033 264 1918 Fax: 033 264 1947
Email: Cynthia.Ngubo@kzndoe.gov.za

Ref: 2/1/67

UMGUNGUNDLOVU

TO: THE CHAIRPERSON
Name of Centre: SAKHOKWETHU CRE. PMB 032-433
NPO No: 032-433

KZN CIRCULAR NO:51 of 2025

SUBJECT: FINAL BUDGET ALLOCATION FOR ECD CENTRES/SITES 2025/26 - EQUITABLE SHARE

1. LEGISLATIVE MANDATES

1.1. Subject to sections 78 and 93 of the Children's Act, 2005 (Act No 38 of 2005) any person or organization that complies with registration requirements may be eligible for funding.
1.2. Subject to National Integrated Early Childhood Development Policy, 2015 ECD funding to adopt a per capita approach calculated annually based on number of children part of the programme.
1.3. Furthermore, ECD policy referred to in paragraph 2 above aims at promoting quality services to all children whose parents wish them to use such services, however due to the inadequacy of funding targeted funding is adopted.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

2. FUNDING MECHANISM

2.1. The programme cannot be funded for more children than it is registered to accommodate, the Final allocation is based on the enrolment figures in 2025.
2.2. The allocation is intended to cover nutrition (food), salaries (stipend), and learning and other operating costs.
2.3. There are two sources of funding namely: -Equitable share funding, and Conditional grant funding, you are funded on either of the categories.
2.4. Based on the registration capacity of your ECD Centre\Site and the provincial target amount determined by the Department, the final allocation for the year starting 1 April 2025 to 31 March 2026 is as follows: -

Category of funding	Equitable Share	PCA	R3509	Total Allocation	R182630
Children	48			Nutrition	R73132
Monthly Allocation	R15236			Stipend	R73132
				Learning Material & other operating costs	R36366

KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

FINAL BUDGET ALLOCATION FOR ECD CENTRES/SITES 2025/26 - EQUITABLE SHARE

3. UTILIZATION OF THE ALLOCATION

3.1. It is required that the allocation be utilised in compliance with the breakdown the source of which is as in paragraph 2.3 above. (40% - Nutrition, 40% - Stipend and 20% Learning materials and other operational costs)
3.2. The ECD Centre must keep record of all funds received and spent by the Centre and its assets and financial transactions.
3.3. Each ECD programme must follow the reporting requirements as per the SLA.
3.4. Reporting requirements depend on the size of the ECD programme.
3.5. If an ECD programme does not report as required, it could be guilty of non-compliance and end up losing some or all its subsidy, which would be detrimental to the children attending.
3.6. Each ECD programme must make available all financial information for the department's inspection at any time when it is required for the interest and development of the programme.
3.7. ECD programmes can request permission to use a portion of the subsidy for something other than what is prescribed by the ratio, and these deviation requests must be supported by the CFO and approved by the HOD.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION
PIETERMARITZBURG

Mr GN Ngcobo
Head of Department: Education
Date: 25/5/25

NS

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

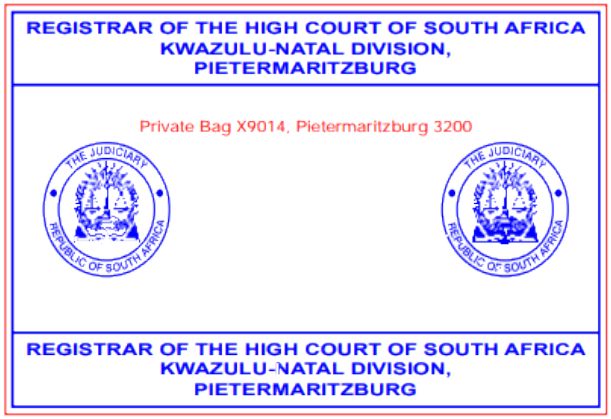
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 16 and More

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:52:00 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

NS 42
005-151
7/10/2025-3:52:00 PM

DIRECTORATE
RESOURCE PLANNING

UMGUNGUNDLOVU

Dear Principal: PHUMELELA CRECHE 047-572 PMB

KZN CIRCULAR NO-61 of 2025

L BUDGET ALLOCATION FOR ECD CENTRES/SITES 2025/26 - EQUITABLE

MANDATES

sections 78 and 93 of the Children's Act, 2005 (Act No 38 of 2005) any person or ... that complies with registration requirements may be eligible for funding. ...National Integrated Early Childhood Development Policy, 2015 ECD funding will ...capita approach calculated annually based on number of children part of the ...

... ECD policy referred to in paragraph 2 above aims at promoting quality services to ...whose parents wish them to use such services. However due to the inadequacy of ...ation funding is adopted.

...ANISM

...one cannot be funded for more children than it is registered to accommodate. The ...ent is based on the enrolment figures for 2025. ...n is intended to cover nutrition (food), salaries (stipend) and learning and other ...site. ...o services of funding namely: Equitable share funding, and Conditional grant ...are limited on either of the categories. ...registration capacity of your ECD Centre/Site and the provincial target amount ...y the Department, the final allocation for the year starting 1 April 2025 to 31 March ...lows:

...ding	Equitable Share	PCA	R3659	Total Allocation	R171403
				Nutrition	R955
				Stipend	R33581
				Learning Material & other operating costs	R34281

005-151

KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

NAL BUDGET ALLOCATION: FOR ECD CENTRES/SITES 2025/26 – EQUITABLE SHARE

UTILIZATION OF THE ALLOCATION

3.1. It is required that the allocation be utilised in compliance with the breakdown the source of which is as in paragraph 2.3 above. (40% - Nutrition; 40%- Stipend and 20% Learning materials and other operational costs)

3.2. The ECD Centre must keep record of all funds received and spent by the [illegible] and financial transactions.

3.3. Each ECD programme must follow the reporting requirements as per the SLA.

3.4. Reporting requirements depend on the size of the ECD programme.

3.5. If an ECD programme does not report as required, it could be guilty of non-[illegible] up losing some or all its subsidy, which would be detrimental to the children attending.

3.6. Each ECD programme must make available all financial information for the departmen inspection at any time when it is required for the interest and development of the prog

3.7. ECD programmes can request permission to use a portion of the subsidy for somethi than what is prescribed by the ratio, and these deviation requests must be supported CFO and approved by the HOD.

GN Ngcobo
ad of Department: Education
te: 27/5/25

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

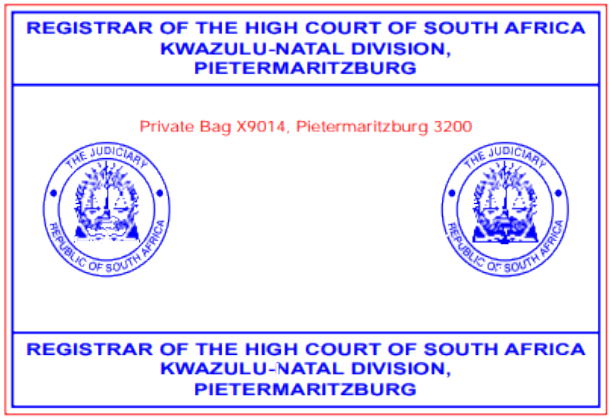
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 16 and More

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:52:33 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

DIRECTORATE:
Private Bag X9137, PIETERMARITZBURG, 3200
Shuter & Shooter Building, 110 CB Downes Road, Mkondeni, Pietermaritzburg, 3201
Tel: 033 264 1616 Fax: 033 264 1547
Email: Sonto.Sithole@kzneducation.gov.za

TO: THE CHAIRPERSON UMGUNGUNDLOVU
Name of Centre: ZENZELENI CRE PMB 032-848
NPO No: 032-848

KZN CIRCULAR NO:51 of 2025

SUBJECT: FINAL BUDGET ALLOCATION FOR ECD CENTRES/SITES 2025/26 - EQUITABLE SHARE

1. LEGISLATIVE MANDATES

1.1. Subject to sections 78 and 93 of the Children's Act, 2005 (Act No 38 of 2005) any person or organization that complies with registration requirements may be eligible for funding.
1.2. Subject to National Integrated Early Childhood Development Policy, 2015 ECD funding adopt a per capita approach calculated annually based on number of children part of the programme.
1.3. Furthermore, ECD policy referred to in paragraph 2 above aims at promoting quality services to all children whose parents wish them to use such services, however due to the inadequacy of funding targeted funding is adopted.

2. FUNDING MECHANISM

2.1. The programme cannot be funded for more children than it is registered to accommodate. The Final allocation is based on the enrolment figures in 2025.
2.2. The allocation is intended to cover nutrition (food), salaries (stipend), and learning and other operating costs.
2.3. There are two sources of funding namely: -Equitable share funding, and Conditional grant funding, you are funded on either of the categories.
2.4. Based on the registration capacity of your ECD Centre\Site and the provincial target amount determined by the Department, the final allocation for the year starting 1 April 2025 to 31 March 2026 is as follows: -

Category of funding	Equitable Share	PCA	R3809	Total Allocation	R213301
Children	56			Nutrition	R85320
Monthly Allocation	R17775			Stipend	R85320
				Learning Material & other operating costs	R42660

KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

FINAL BUDGET ALLOCATION FOR ECD CENTRES/SITES 2025/26 – EQUITABLE SHARE

3. UTILIZATION OF THE ALLOCATION

3.1. It is required that the allocation be utilised in compliance with the breakdown the source of which is as in paragraph 2.3 above. (40% - Nutrition, 40%- Stipend and 20% Learning materials and other operational costs)
3.2. The ECD Centre must keep record of all funds received and spent by the Centre and its assets and financial transactions
3.3. Each ECD programme must follow the reporting requirements as per the SLA
3.4. Reporting requirements depend on the size of the ECD programme.
3.5. If an ECD programme does not report as required, it could be guilty of non-compliance and e[illegible] up losing some or all its subsidy, which would be detrimental to the children attending
3.6. Each ECD programme must make available all financial information for the department's inspection at any time when it is required for the interest and development of the programme
3.7. ECD programmes can request permission to use a portion of the subsidy for something other than what is prescribed by the ratio, and these deviation requests must be supported by the CFO and approved by the HOD.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION
PIETERMARITZBURG

Mr GN Ngcobo
Head of Department: Education
Date: 25/3/25

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

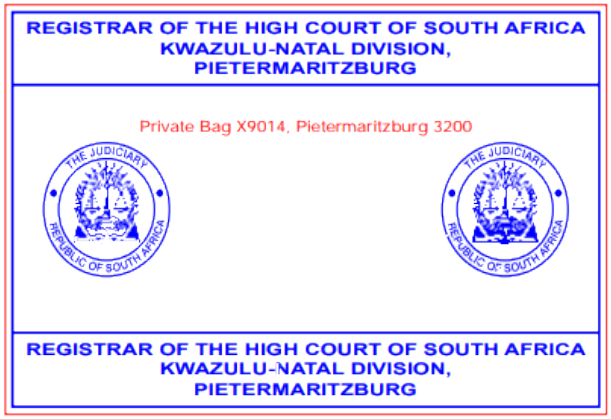
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Confirmatory Affidavit

NOTE: **This document was filed electronically by the Registrar on 9/10/2025 at 12:22:05 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA	
EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant
and	
MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

S.V

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

CONFIRMATORY AFFIDAVIT

I, the undersigned,



SHENIECE LINDERBOOM

state under oath the following:

1. I am an adult female residing in Durban. I am the Managing Attorney at the Legal Resources Centre Durban Regional Office, situated at Overport, Durban

2. The contents of this supplementary affidavit are within my personal knowledge, except where the context indicates otherwise, and are, to the best of my belief, both true and correct.

3. I am duly authorised to depose to this affidavit.

4. I have read the supplementary affidavit of **Nkosinathi Sibisi** and confirm the correctness of the contents thereof insofar as it refers to me.

DEPONENT

I hereby certify under oath that the Deponent acknowledged that she knows and understands the contents of this affidavit, that it is to the best of her knowledge both true and correct, and that she has no objection to the making of the prescribed oath which she considers to be binding on her conscience. This affidavit was signed in my presence at DURBAN on this 7TH day of October 2025, and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.



COMMISSIONER OF OATHS

SAMANTHA NAIDOO
COMMISSIONER OF OATHS
PRACTICING ATTORNEY
REPUBLIC OF SOUTH AFRICA
635-641 PETER MOKABA RIDGE, OVERPORT, DURBAN
KWAZULU NATAL, SOUTH AFRICA
TEL: 084 516 9610

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

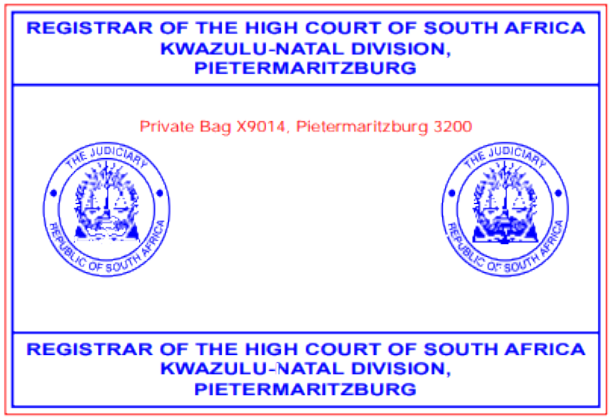
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Confirmatory Affidavit

NOTE: **This document was filed electronically by the Registrar on 9/10/2025 at 12:22:58 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA	
EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant
and	
MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

CONFIRMATORY AFFIDAVIT

I, the undersigned,



BONISIWE MTHEMBU

state under oath the following:

1. I am an adult female residing at Edendale, Pietermaritzburg. I am the principal of Sakhokwethu Crèche, with NPO number 032-433, the third applicant in this application, situated at Edendale, Pietermaritzburg.

2. The contents of this supplementary affidavit are within my personal knowledge, except where the context indicates otherwise, and are, to the best of my belief, both true and correct.

3. I am duly authorised to depose to this affidavit.

4. I have read the supplementary affidavit of **Nkosinathi Sibisi** and confirm the correctness of the contents thereof insofar as it refers to me.

DEPONENT

I hereby certify under oath that the Deponent acknowledged that she knows and understands the contents of this affidavit, that it is to the best of her knowledge both true and correct, and that she has no objection to the making of the prescribed oath which she considers to be binding on her conscience. This affidavit was signed in my presence at Pietermaritzburg on this 8th day of October 2025, and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended have been complied with.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

ex officio

COMMISSIONER OF OATHS

Ravel Jane Jooste
Registrar
391 Church Str, Pmburg

REGISTRAR OF THE HIGH COURT
KWAZULU-NATAL HIGH COURT
PIETERMARITZBURG

2025 -10- 08

REPUBLIC OF SOUTH AFRICA
PRIVATE BAG X9014 PIETERMARITZBURG 3201
REGISTRAR OF THE HIGH COURT

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

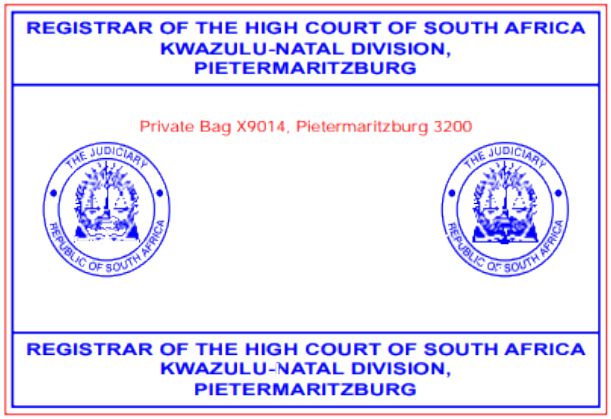
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Confirmatory Affidavit

NOTE: **This document was filed electronically by the Registrar on 9/10/2025 at 12:23:43 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

MLM

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

CONFIRMATORY AFFIDAVIT

I, the undersigned,



LAWRENCE MNGOMEZULU

state under oath the following:

1. I am an adult male residing at 70 Mambambo Road, Shayamoya Flats, Cato Manor, Durban. I am the principal of Umusa Uyasilandela ECD Centre, with NPO number 189-191, situated at Ohwebede, Mandeni.

2. The contents of this supplementary affidavit are within my personal knowledge, except where the context indicates otherwise, and are, to the best of my belief, both true and correct.

3. I am duly authorised to depose to this affidavit.

4. I have read the supplementary affidavit of **Nkosinathi Sibisi** and confirm the correctness of the contents thereof insofar as it refers to me.

MLM

DEPONENT

I hereby certify under oath that the Deponent acknowledged that he knows and understands the contents of this affidavit, that it is to the best of his knowledge both true and correct, and that he has no objection to the making of the prescribed oath which he considers to be binding on his conscience. This affidavit was signed in my presence at Durban on this 06 day of October 2025, and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

COMMISSIONER OF OATHS

GLODEAN BRIJLAL
ADMITTED ATTORNEY
COMMISSIONER OF OATHS
(EX OFFICIO)
GLODEAN BRIJLAL ATTORNEYS
t/a GBA LEGAL
UNIT 7, 1ST FLOOR, MB HOUSE, 641 PETER MOKABA
RIDGE, DURBAN, KWAZULU NATAL

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

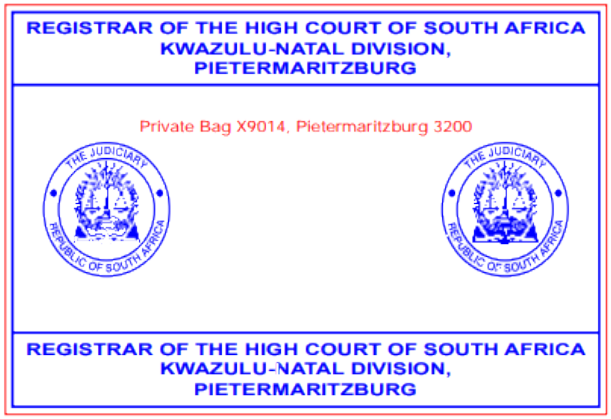
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Confirmatory Affidavit

NOTE: **This document was filed electronically by the Registrar on 9/10/2025 at 12:24:24 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

CONFIRMATORY AFFIDAVIT



I, the undersigned,

MANDULO MAXWELL KHUZWAYO

state under oath the following:

1. I am an adult male residing at KwaNdengezi, KwaZulu-Natal. I am the principal of Zamani Pre-School, with NPO number 021-325, situated at 700/51 Thendele Road, KwaNdengezi.

2. The contents of this supplementary affidavit are within my personal knowledge, except where the context indicates otherwise, and are, to the best of my belief, both true and correct.

3. I am duly authorised to depose to this affidavit.

4. I have read the supplementary affidavit of **Nkosinathi Sibisi** and confirm the correctness of the contents thereof insofar as it refers to me.

MMK

DEPONENT

I hereby certify under oath that the Deponent acknowledged that he knows and understands the contents of this affidavit, that it is to the best of his knowledge both true and correct, and that he has no objection to the making of the prescribed oath which he considers to be binding on his conscience. This affidavit was signed in my presence at DURBAN on this 06th day of October 2025, and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

COMMISSIONER OF OATHS

COMMISSIONER OF OATHS
JULIA POOLE
1st FLOOR, MB HOUSE
641 PETER MOKABA RIDGE
BEREA, 4001
PRACTISING ATTORNEY

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

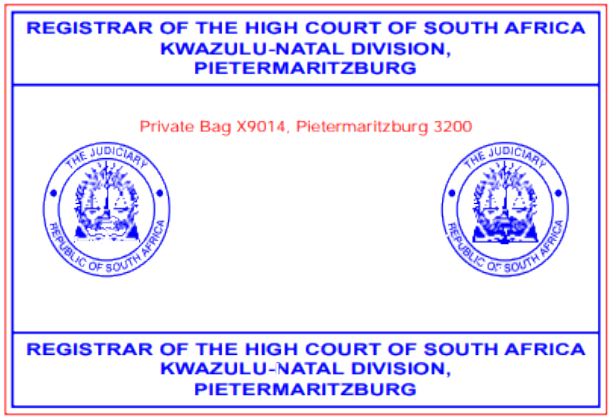
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Confirmatory Affidavit

NOTE: **This document was filed electronically by the Registrar on 9/10/2025 at 12:25:39 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant
and	
MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

N.B.M

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

CONFIRMATORY AFFIDAVIT

I, the undersigned,



NONKONZO MADLALA

state under oath the following:

1. I am an adult female residing at Edendale, Pietermaritzburg. I am the chairperson of Phumelela Crèche, with NPO number 047-572, the fourth applicant in this application, situated at Edendale, Pietermaritzburg.

2. The contents of this supplementary affidavit are within my personal knowledge, except where the context indicates otherwise, and are, to the best of my belief, both true and correct.

3. I am duly authorised to depose to this affidavit.

4. I have read the supplementary affidavit of **Nkosinathi Sibisi** and confirm the correctness of the contents thereof insofar as it refers to me.

NBM.

NBMadlala

DEPONENT

I hereby certify under oath that the Deponent acknowledged that she knows and understands the contents of this affidavit, that it is to the best of her knowledge both true and correct, and that she has no objection to the making of the prescribed oath which she considers to be binding on her conscience. This affidavit was signed in my presence at Pietermaritzburg on this 8th day of October 2025, and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

ex officio
COMMISSIONER OF OATHS
Ravel Jane Joost
Registrar
301 Church Str.
Pietermaritzburg

REGISTRAR OF THE HIGH COURT
KWAZULU-NATAL HIGH COURT
PIETERMARITZBURG
2025 -10- 08
REPUBLIC OF SOUTH AFRICA
PRIVATE BAG X9014 PIETERMARITZBURG 3201
REGISTRAR OF THE HIGH COURT

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

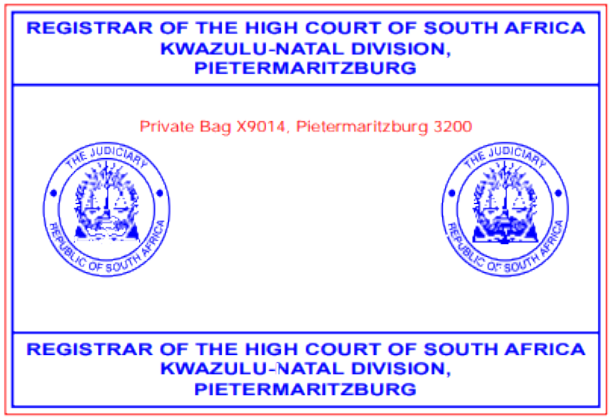
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Confirmatory Affidavit

NOTE: **This document was filed electronically by the Registrar on 9/10/2025 at 12:28:04 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant
and	
MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

CONFIRMATORY AFFIDAVIT

I, the undersigned,



NOMFUNDO DUBE

state under oath the following:

1. I am an adult female residing at Umlazi, Durban. I am the principal of Daluxolo Day Care Centre, with NPO number 025-002, situated at Umlazi, Durban.

2. The contents of this supplementary affidavit are within my personal knowledge, except where the context indicates otherwise, and are, to the best of my belief, both true and correct.

3. I am duly authorised to depose to this affidavit.

4. I have read the supplementary affidavit of **Nkosinathi Sibisi** and confirm the correctness of the contents thereof insofar as it refers to me.

DEPONENT

I hereby certify under oath that the Deponent acknowledged that she knows and understands the contents of this affidavit, that it is to the best of her knowledge both true and correct, and that she has no objection to the making of the prescribed oath which she considers to be binding on her conscience. This affidavit was signed in my presence at DURBAN on this 7TH day of October 2025, and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.



COMMISSIONER OF OATHS

SAMANTHA NAIDOO
COMMISSIONER OF OATHS
PRACTICING ATTORNEY
REPUBLIC OF SOUTH AFRICA
35-641 PETER MOKABA RIDGE, OVERPORT, DURBAN
KWAZULU NATAL, SOUTH AFRICA
TEL: 084 516 9610

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

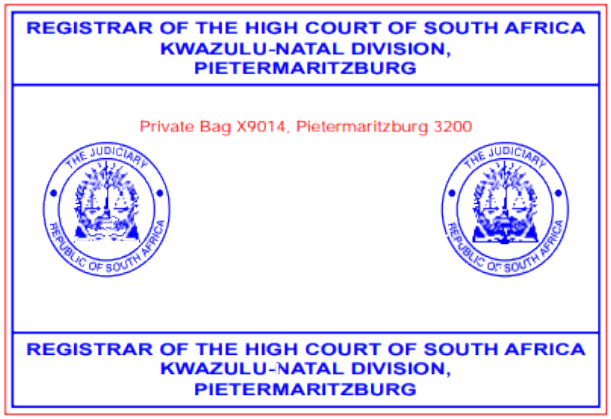
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Confirmatory Affidavit

NOTE: **This document was filed electronically by the Registrar on 9/10/2025 at 12:29:04 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

B·S

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

CONFIRMATORY AFFIDAVIT

I, the undersigned,



NOKUZOLA PHUNGULA

state under oath the following:

1. I am an adult female residing in Richmond, uMgungundlovu. I am the principal of Othandweni Créche, with NPO number 115-098, situated at Richmond, uMgungundlovu

2. The contents of this supplementary affidavit are within my personal knowledge, except where the context indicates otherwise, and are, to the best of my belief, both true and correct.

3. I am duly authorised to depose to this affidavit.

4. I have read the supplementary affidavit of **Nkosinathi Sibisi** and confirm the correctness of the contents thereof insofar as it refers to me.

B.S

N.C.P.
005-190

DEPONENT

I hereby certify under oath that the Deponent acknowledged that she knows and understands the contents of this affidavit, that it is to the best of her knowledge both true and correct, and that she has no objection to the making of the prescribed oath which she considers to be binding on her conscience. This affidavit was signed in my presence at Richmond SAPSon this 08 day of October 2025, and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

SOUTH AFRICAN POLICE
COMMUNITY SERVICE CENTRE
2025 -10- 08
RICHMOND-KZN
KWAZULU-NATAL

COMMISSIONER OF OATHS

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

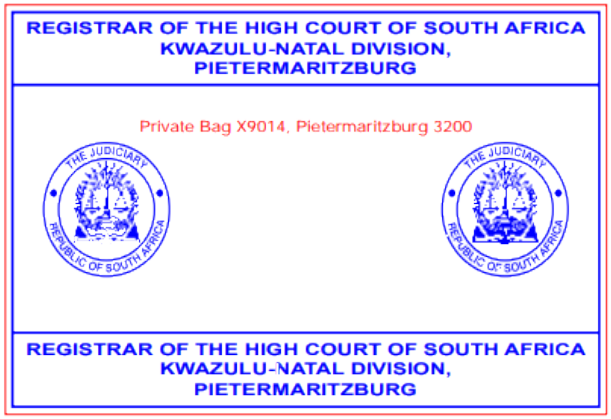
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Confirmatory Affidavit

NOTE: **This document was filed electronically by the Registrar on 9/10/2025 at 12:31:19 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

CONFIRMATORY AFFIDAVIT

I, the undersigned,



NTOMBENHLE MVUYANA

state under oath the following:

1. I am an adult female residing at Umlazi, Durban. I am the principal of Bajabulile ECD with NPO number 092-378, situated at Umlazi, Durban.

2. The contents of this supplementary affidavit are within my personal knowledge, except where the context indicates otherwise, and are, to the best of my belief, both true and correct.

3. I am duly authorised to depose to this affidavit.

4. I have read the supplementary affidavit of **Nkosinathi Sibisi** and confirm the correctness of the contents thereof insofar as it refers to me.

DEPONENT

I hereby certify under oath that the Deponent acknowledged that she knows and understands the contents of this affidavit, that it is to the best of her knowledge both true and correct, and that she has no objection to the making of the prescribed oath which she considers to be binding on her conscience. This affidavit was signed in my presence at DURBAN on this 6TH day of October 2025, and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

COMMISSIONER OF OATHS

SAMANTHA NAIDOO
COMMISSIONER OF OATHS
PRACTICING ATTORNEY
REPUBLIC OF SOUTH AFRICA
635-641 PETER MOKABA RIDGE, OVERPORT, DURBAN
KWAZULU NATAL, SOUTH AFRICA
TEL: 084 516 9610

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

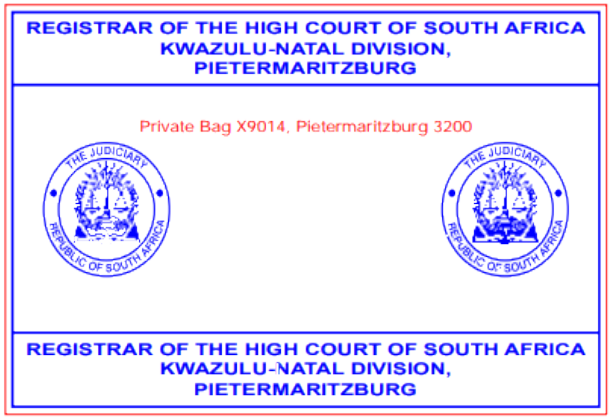
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Confirmatory Affidavit

NOTE: **This document was filed electronically by the Registrar on 9/10/2025 at 12:32:11 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

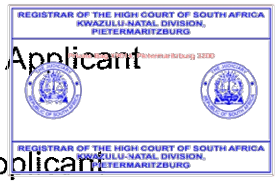
Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant



and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

BTGM

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

CONFIRMATORY AFFIDAVIT

I, the undersigned,



BEAUTY GUGU MTSHALI

state under oath the following:

1. I am an adult female residing in Umlazi, Durban. I am the principal of Enhlanhleni Educare, with NPO number 039-199, situated at Umlazi, Durban

2. The contents of this supplementary affidavit are within my personal knowledge, except where the context indicates otherwise, and are, to the best of my belief, both true and correct.

3. I am duly authorised to depose to this affidavit.

4. I have read the supplementary affidavit of **Nkosinathi Sibisi** and confirm the correctness of the contents thereof insofar as it refers to me.

BTGM

DEPONENT

I hereby certify under oath that the Deponent acknowledged that she knows and understands the contents of this affidavit, that it is to the best of her knowledge both true and correct, and that she has no objection to the making of the prescribed oath which she considers to be binding on her conscience. This affidavit was signed in my presence at DURBAN on this 7TH day of October 2025, and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

COMMISSIONER OF OATHS

SAMANTHA NAIDOO
COMMISSIONER OF OATHS
PRACTICING ATTORNEY
REPUBLIC OF SOUTH AFRICA
635-641 PETER MOKABA RIDGE, OVERPORT, DURBAN
KWAZULU NATAL, SOUTH AFRICA
TEL: 084 516 9610

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

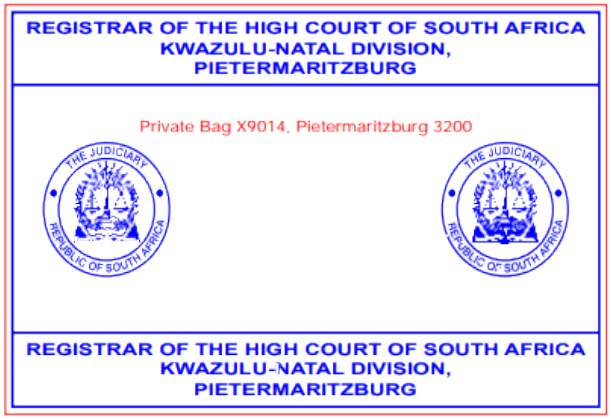
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Confirmatory Affidavit

NOTE: **This document was filed electronically by the Registrar on 9/10/2025 at 12:26:44 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

TP J

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

CONFIRMATORY AFFIDAVIT

I, the undersigned,



THEMBEKILE NDLOVU

state under oath the following:

1. I am an adult female residing at Edendale, Pietermaritzburg. I am the principal of Zenzeleni Crèche, with NPO number 032-848, the fifth applicant in this application, situated at Edendale, Pietermaritzburg.

2. The contents of this supplementary affidavit are within my personal knowledge, except where the context indicates otherwise, and are, to the best of my belief, both true and correct.

3. I am duly authorised to depose to this affidavit.

4. I have read the supplementary affidavit of **Nkosinathi Sibisi** and confirm the correctness of the contents thereof insofar as it refers to me.

TP

DEPONENT

I hereby certify under oath that the Deponent acknowledged that she knows and understands the contents of this affidavit, that it is to the best of her knowledge both true and correct, and that she has no objection to the making of the prescribed oath which she considers to be binding on her conscience. This affidavit was signed in my presence at Pietermaritzburg on this 8th day of October 2025, and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended have been complied with.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

ex officio
COMMISSIONER OF OATHS
Rand Jane Jaste
Registrar
330 Church Str
Pietermaritzburg

REGISTRAR OF THE HIGH COURT
KWAZULU-NATAL HIGH COURT
PIETERMARITZBURG
2025 -10- 08
REPUBLIC OF SOUTH AFRICA
PRIVATE BAG X9014 PIETERMARITZBURG 3201
REGISTRAR OF THE HIGH COURT

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

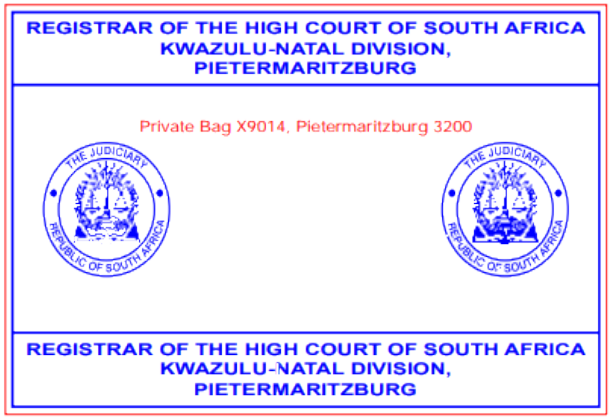
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Supplementary Affidavit

NOTE: **This document was filed electronically by the Registrar on 1/6/2026 at 8:36:51 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant



and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

1

N.S

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

SUPPLEMENTARY AFFIDAVIT



I, the undersigned,

NKOSINATHI SIBISI

state under oath the following:

1. I am an adult male and the chairperson of the Friends of South Africa Early Childhood Development Forum ("FOSA"), the first applicant in this matter. I am also the principal of Sinamuva Crèche and Early Childhood Development Centre.

2. Save to the extent where context indicates otherwise, the facts deposed to herein are within my personal knowledge and are to the best of my belief both true and correct. Where I make legal submissions, I do so on the advice of my legal representatives.

2

N.S

3. I have previously deposed to affidavits in this matter, including the founding affidavit, and a supplementary affidavit filed pursuant to the order granted by Olsen J on 6 August 2025.

4. I am duly authorised to depose to this further supplementary affidavit on behalf of the applicants as confirmed by the resolution attached to the founding affidavit as annexure "**NS 1**".

5. This affidavit is filed to inform this Court of material developments that have arisen since the filing of the previous supplementary affidavit on 7 October 2025. There has been no opposition to this application. It is set down on the unopposed roll. The material update and new facts will assist this Court in its ultimate decision and accordingly I ask for leave for this supplementary affidavit to be filed.



6. These developments underscore the persistent administrative failures of the first to third respondents, particularly in relation to changing the source of funding to support early childhood development ("ECD") centres, communicating the impact of these changes, and the ongoing irregular payment of subsidies to ECD centres across KwaZulu-Natal ("KZN").

7. The conduct of the respondents continues to demonstrate a failure to comply with their constitutional and statutory obligations in respect of the funding of ECD centres in KZN. It buttresses why the declaratory relief is sought.

3
NS

8. Despite changes to the state's policy on the allocation of funding to ECD centres, the relief sought in Part B of the amended notice of motion is still necessary.

DEVELOPMENTS SINCE 7 OCTOBER 2025

9. This affidavit will address the following developments:

   9.1. The first to third respondents' decisions to change which grants are used to fund certain ECD centres from the conditional grant to the equitable share grant (or vice versa), and the absence of adequate notice or communication to the affected ECD centres about the changes.

   9.2. The continued irregular, inconsistent and inadequate payment of ECD subsidies, including the receipt of so-called "back pay," and the systemic failures in communication, coordination and accountability, particularly regarding the payment of back pay owed to the centres for the 2025/2026 financial year.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Change of grants to fund ECD centres

10. In or around April of the 2024/2025 financial year, the respondents unilaterally changed the source of funding for approximately 146 ECD centres in KZN. The ECD centres were moved from conditional grant, controlled by the national government and regulated by the Division of Revenue Act, to the equitable share grant, which is within the discretion of provincial government.

11. Towards the end of 2025, the respondents reversed this decision, moving the same 146 centres back to the conditional grant. In addition, a further 636 centres were

shifted from equitable share to conditional grant, and 466 newly registered centres were added to the conditional grant system.

12. The grant used to pay ECD centres has large financial and management implications for such centres, particularly in relation to the frequency of payments. Under the equitable share, the subsidy payments are made monthly, whereas the conditional grant is paid quarterly. The movement of centres between the two grants therefore directly affects the cash flow, budgeting and operational planning of ECD centres.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

13. The respondents' unilateral movement of centres between the two grants, without notice and clear and direct communication regarding the implications of the change, has caused substantial uncertainty and disruption, leaving centres unable to determine what amounts they are entitled to receive, when payments can be expected, or how to manage ongoing operational expenses.

14. The change from the conditional grant to equitable share in April 2024 was never directly communicated to the affected ECD centres. Instead, it had to be inferred by ECD centre principals through the change from quarterly to monthly subsidy payments. The respondents again did not communicate these changes directly to the affected ECD centres at the end of 2025. Instead, the changes were briefly mentioned at the ECD Integrated Provincial Meeting held on 25 November 2025 at **10:00**. Although this point is not specifically recorded, the minutes of the meeting are annexed hereto as "**NS 44**", as evidence of the meeting.

5
N.S

15. A letter dated 3 March 2026 was sent by the Head of Department, Mr GN Ngcobo, to the District Directors to inform them that ECD centres would be moved from the equitable share grant to the conditional grant due to additional funding becoming available. This communication is annexed hereto as "**NS 45**". No formal circular or written communication was issued directly to the affected centres to explain the transition, its implications, or any changes that would follow.

16. I submit that merely mentioning such significant changes at an integrated provincial meeting does not constitute adequate communication. Without adequate and timely information, ECD centres are left uninformed and unable to plan for, or adjust, their financial and operational arrangements.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Continued irregular, inconsistent and inadequate payment of ECD subsidies, and receipt of so-called "back pay"

17. At the time of deposing to this affidavit, the last official subsidy payment that centres received was on 2 March 2026, for February 2026. It is important to note, however, that the respondents are not caught up on all outstanding subsidy payments owed to the centres.

18. Furthermore, there are also payments referred to as "back pay" that are outstanding. Back pay is intended to top up payments to centres that were paid the equitable share grant amount of R18.95 per child for 201 days, and those that were paid R20.10 per child for 264 days, when the subsidy amounts from 1 April 2025 to 31 March 2026 should be the nationally prescribed rate of R24 per child per day for 264 days. The new per child allocation amounts to R6336 based on the

new rate amounts. Back pay is owed to ECD centres that were paid using the rate determined for equitable share grant recipients and not the conditional grant rate that should have been used when their status changed. Back pay was received by some centres in February and March 2026.

19. Sinamuva, the centre I run, was a recipient of back pay in the amount of R156 000. I was alerted about the back pays through personal correspondence from our social worker, Mrs Dudu Dlamini. Thereafter I contacted Ms Nosipho Mkhize, the ECD Director and Chairperson of the Integrated Provincial Meeting on 11 February 2026, who confirmed telephonically why we had received the back pay and how it had been calculated.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

20. The recent back payments made therefore constitute retrospective adjustments to correct this discrepancy in the per child allocation, rather than current or ongoing subsidy payments. However, in the absence of this being communicated to centres that are receiving back pay, it has created a false impression that the respondents are paying subsidies in the ordinary course. These centres are therefore not alerted to the non-payment of their subsidies.

21. At the integrated Provincial Meeting of **26 February 2026**, it was reported that the respondents had applied to the sixth respondent for a budget roll-over to complete the back pay using the unspent funds from the 2025-2026 financial year. At the time of deposing to this affidavit, the minutes of the meeting had not been circulated. As of May 2026, no substantive payments have been made in respect of the new financial year.

7

N.S

22. The roll out of back pay has been inconsistent and incomplete across the province. Certain centres, including Umusa Uyasilandela ECD Centre in Ohwebede, Mandeni, have not received any portion of the back pay that is owed to them, despite the passage of 5 months since the respondents commenced these payments. Additionally, Umusa Uyasilandela is owed subsidies for the period of December 2025 to April 2026, having received its last payment on 22 December 2025 for the month of November 2025. A confirmatory affidavit by Mr Lawrence Mngomezulu, principal of Umusa Uyasilandela ECD Centre and Deputy Chairperson of FOSA, will be filed in support of this affidavit.



23. At the same time, other centres, including the third to fifth applicants, have received only partial back pay, without any indication from the respondents when the outstanding balances will be settled. The respondents' lack of communication regarding back pay to the individual centres has left many with the assumption that the funds relate to their outstanding subsidy payments, causing confusion about the instalment amounts and difficulty tracking payments.

24. This uneven and opaque approach to the disbursement of back pay, and lack of communication to ECD centres, further entrenches uncertainty and inequality amongst ECD centres, many of which remain in difficult financial positions whilst awaiting full payments of amounts owed to them. The first and second applicant have attempted to speak to the respondents regarding these issues but have been met with no substantive response. A confirmatory affidavit by Mr Mandulo Khuzwayo will be filed, and a letter and email communication addressed to the respondents is annexed hereto as "**NS 46**" and "**NS 47**", respectively.

25. The challenges are further exacerbated by the conduct of district offices, which have issued their own directives regarding the utilisation of the back-payments. These directives have been frequently communicated informally, including through WhatsApp voice notes from social workers, and lack uniformity across districts. Furthermore, these directives were issued despite an unsigned written communication from the respondents outlining suggested items to be bought by the centres and directing that all deviations from the list must be requested in writing to the respondents. The document is annexed hereto as "**NS 48**".



Back pay owed to third, fourth and fifth applicants

26. Despite the size and importance of these amounts, the respondents have failed to communicate the methodology used for these calculations to the respective centres, or to provide a breakdown of how payments are made. The three applicant centres have therefore been left to make their own calculations and assumptions regarding the amounts received, with many not aware that they are receiving these adjusted amounts. The payment table for the third to fifth applicants is annexed hereto as "**NS 49**", reflecting payments made in terms of the initial indicative budget allocation for 2025/2026.

27. Using the new adjusted rate and the indicative allocations received by the applicant centres for the 2025/2026 financial year, which are annexed in the previous supplementary affidavit as annexures "NS 41" – "NS 43", the outstanding back pay amounts for the third to fifth applicants are calculated as follows:

9

NS

006-11

28. In respect of Sakhokwethu Crèche, with 48 children:

28.1. New adjusted rate of R6 336 multiplied by 48 children equals R304 128.

28.2. The initial indicative allocation of R182 830 is subtracted from the adjusted figure above.

28.3. Accordingly, the outstanding back pay amounts to R121 298. This back pay amount does not include the outstanding monthly subsidy payments still owed to the centre for the months January – March 2024, March 2025 and January – April 2026.



29. In respect of Phumelela Crèche, with 45 children:

29.1. R6 336 multiplied by 45 children equals a total of R285 120.

29.2. The initial indicative allocation of R171 403 is then subtracted from the adjusted amount.

29.3. Accordingly, the outstanding back-payment amounts to R113 717. This back pay amount does not include the outstanding monthly subsidy payments still owed to the centre for the months of January – April 2026.

30. In respect of Zenzeleni Crèche, with 56 children:

30.1. R6 336 multiplied by 56 children equals a total of R354 816.

30.2. The initial indicative allocation of R213 301 is then subtracted from the adjusted amount.

10
N.S

30.3. Accordingly, the outstanding back pay amounts to R141 515. This back pay amount does not include the outstanding monthly subsidy payments still owed to the centre for the months of January – April 2026.

31. The principal of Sakhokwethu Crèche, Ms Bonisiwe Mthembu, describes ongoing instability and uncertainty in relation to the subsidy payments. She confirms that since the filing of the 7 October supplementary affidavit, very little has changed in respect of the respondents' communication practices and the unpredictability of subsidy payments.



32. On 13 March 2026, Sakhokwethu received a lump sum payment of R83 370 eleven (11) days after receiving a subsidy payment of R15 235 on 2 March 2026 that was meant to cover the subsidy for December 2025. This lump sum payment came with no formal communication from the respondents, and the centre was left uncertain whether the payment constituted back-payment, subsidy payments for multiple months (considering the centre is still owed money for January – March 2024, March 2025, and January – April 2026.

33. Ms Mthembu laments that her centre is still owed some subsidy amounts for the 2023/2024 and 2024/2025 financial years. Although Ms Mthembu includes these outstanding amounts in the monthly claim forms submitted to the respondents, she continues to receive no response on whether these outstanding payments will be considered. This has left Ms Mthembu in a difficult position whereby she has to choose between paying off debts and interest and meeting the current nutritional and educational needs of the young children, and it forces her into repeated cycles

11 N-S

006-13

of borrowing, debt accumulation, and reactive budgeting. A confirmatory affidavit by Ms Mthembu will be filed together with this affidavit.

34. The Chairperson of Phumelela Crèche, Ms Nonkonzo Madlala, confirmed that, notwithstanding the developments deposed in the previous supplementary affidavits, the centre continues to experience serious uncertainty arising from irregular payments and the respondents' ongoing failure to communicate with the centre.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

35. On 20 March 2026, Phumelela received a lump sum payment of R74 000 — more than three months after receiving its November subsidy on 22 December 2026. This lump sum payment was made without any accompanying explanation from the respondent, leaving the chairperson to make assumptions about how the amount was calculated, and whether it constituted back pay for the previous financial year, or payment for more recent months.

36. Ms Madlala raises significant concerns regarding the sporadic and opaque nature of the payments, particularly the absence of communication regarding the subsidy payment dates and the periods the payments cover when lump sums are received.

37. Ms Madlala explains that as the sporadic payments and uncertainty continue, the centre continues to incur debt and interest on the debt. She must delay the payment of staff salaries and rely on loans to maintain operations during lengthy periods, such as the period of January – March 2026. Whilst the lump sum payment assisted the centre in paying its debts, buying food, and attending other urgent

needs of the centre, the centre's account is rapidly being depleted. Without clarity regarding future subsidy payments, the centre faces the prospect of once again borrowing from loan sharks to continue operating. A confirmatory affidavit by Ms Madlala will be filed.

38. Ms Thembekile Ndlovu, Principal of Zenzeleni Crèche, acknowledges the benefits of receiving the subsidy payments, but also highlights the need for the respondents to be transparent and consistent when making payments.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

39. Since the filing of the previous supplementary affidavit, Zenzeleni has experienced some improvement in the subsidy payments. This improvement has allowed Ms Ndlovu to make necessary improvements in the centre, such as purchasing furniture, toys, and learning materials. Ms Ndlovu has not been moved from equitable share to conditional grant.

40. On 20 March 2026, Zenzeleni received a lump sum payment of R117 929, 18 days after receiving the December 2025 subsidy payment of R117 775 on 2 March 2026. However, as with the other centres, no detailed breakdown or explanation was provided by the respondents, and uncertainty remains regarding what portion constitutes back-payment and may be directed to servicing debt and interest, and what amount relates to the current allocation, if any at all.

41. Ms Ndlovu indicates that, notwithstanding her slightly more positive position, subsidy payments remain inconsistent and sporadic. At the time of deposing to this affidavit, she remained uncertain about the timing of further payment. This

inconsistency by the respondents continues to create difficulties for budgeting and resource planning for the centre. A confirmatory affidavit by Ms Ndlovu will be filed.

42. These developments demonstrate that the respondents continue to approach the administration and payment of subsidies in an unprofessional and irregular manner that is divorced from the lived realities and operational needs of ECD centres.

Utilisation of Back Pay by ECD Centres

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

43. In respect of centres that have received portions of the back-payments, including those operated by myself and Mr Khuzwayo, the funds have primarily been utilised to address longstanding operational and infrastructural deficits caused by the respondents' underpayment and non-payment of subsidies. At my own centre, Sinamuva, the back-pay enabled critical renovations and improvements that could not previously be undertaken, including painting and refurbishing the premises, upgrading the toddlers' classroom, and installing additional play equipment. The funds were also used to procure essential educational resources and operational items, including toys, learning materials, blankets, a refrigerator, and a gas stove to mitigate the impact of power failures.

44. Similarly, Mr Khuzwayo's centre utilised the back-payments to undertake important infrastructural, safety and operational improvements, including refurbishments to the kitchen and office spaces, installation of cupboards and storage facilities, erection of fencing and boundary structures, and the installation of CCTV cameras to improve the safety and security of the children and staff.

45. Whilst these improvements demonstrate the significant positive impact that properly administered subsidies can have on ECD centres, a substantial portion of the funds has effectively been directed toward remedying historical deficits and accumulated needs arising from prolonged periods of irregular and inadequate funding. Accordingly, although the back-payments have provided temporary relief, the sustainable functioning of ECD centres remains dependent on the respondents ensuring consistent, transparent, and timely subsidy payments in accordance with lawful and coherent administrative processes.



CONCLUSION

46. In light of what is set out above, I submit that the applicants have made out a case for the relief sought. Therefore, I pray for an order in terms of the amended notice of motion

NKOSINATHI SIBISI

I hereby certify under oath that the Deponent acknowledged that he knows and understands the contents of this affidavit, that it is to the best of his knowledge both true and correct, and that he has no objection to the making of the prescribed oath which he considers to be binding on his conscience. This affidavit was signed in my presence at DURBAN on this 29 day of May 2026 and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

COMMISSIONER OF OATHS

COMMISSIONER OF OATHS
SUMESHREE GOVENDER
1st FLOOR, MB HOUSE
641 PETER MOKABA RIDGE
BEREA, 4001
PRACTISING ATTORNEY

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

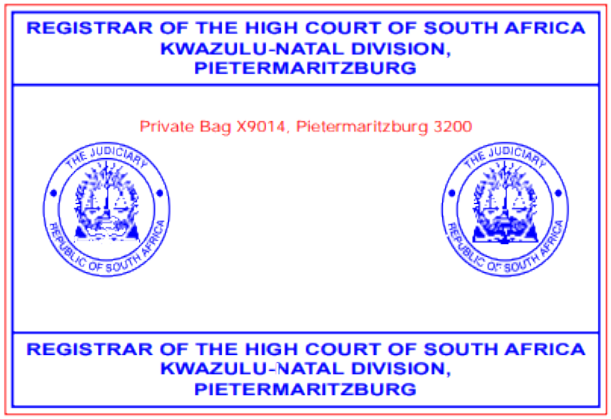
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 01

NOTE: **This document was filed electronically by the Registrar on 1/6/2026 at 8:37:37 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

Provincial Integrated Early Childhood Development (ECD) Committee Meeting

Date: 25 November 2025 TIME:10H00 Venue: Dokkies

Chairperson: Ms N E Mkhize, Director: Early Childhood Development, KwaZulu-Natal Department of Education

SECTION A : PROCEDURAL MATTERS	
A.1	**Opening and welcome:** Ms J Pous opened the meeting with a prayer. ▪ The Chairperson Ms NE Mkhize opened the meeting and warmly welcomed all members present.
A.2	**Attendance and apologies** Attendance was recorded as follows: 1. Ms NE Mkhize (DoE, Director: ECD) 2. Mrs D Mtshali (DoE, SW: ECD) 3. Ms ZPC Gina (DoE, SW: ECD) 4. Ms SC Ntshangase (DoE, AC: ECD) 5. Ms SN Dumakude (DoE, intern: ECD) 6. Mr ME Qalaba (DoE, ACC: Finance) 7. Mr V Gelebe, (COGTA: Chief Town & Regional Planner) 8. Mr MM Khuzwayo (SAECDA: Chairperson) 9. Ms BP Goba (SAECDA: Secretary) 10. Mr N Sibisi (FOSA: President) 11. Mr ML Mngomezulu (FOSA: Deputy President) 12. Ms T Rantsi (SmartStart)

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION PIETERMARITZBURG
17/07/2026 08:23 AM
006-21 NS 347

006-21

	13. Ms FC Molefe (Assupol Community Trust: KZN Project Manager) 14. Ms TS Ngobese (TREE: DIR Prog) 15. Ms SS Khuboni (TREE: Project Manager) 16. Mr B Liggett (Impande: Director) 17. Mr. ME Mahlo (Save the Children: Business Dev Manager) 18. Ms G Rasi (DoH, AD: Health Promotion) 19. Ms C Snyman (VVOB: Project Co-ordinator) 20. M Mehale (IRD: Site Project Director) 21. Ms V Msomi (The unlimited Child: Senior P Officer) 22. Ms A Sabela (The unlimited Child: trainer) 23. Ms N Hlombe (LETCEE: Programme Lead) 24. Ms PR Aheer (LETCEE: Managing Director) 25. Mr M Mthembu (LETCEE: M&E Manager) 26. Ms J Pous (Zero2Five:COO) Apologies were recorded as follows: 1. Mrs KHP Mathe (DoE, CES: ECD) 2. Ms T Mabaso (SmartStart) 3. Mr R Ngema (DoE, DD: Infrastructure) 4. Mrs D Coleman (DoE, DCES: ECD) 5. Ms ZPC Gina (DoE, SW: ECD) 6. Mr M Misselhorn (PPT : CEO) 7. Ms MR Motaung (TREE :Director) 8. R Ishwardutt (The unlimited Child: COO)
A.3	**Adoption of agenda** ▪ The Agenda with no additions , was moved for adoption by the Secretariat. Seconded by: Ms F Molefe
A.4	**Minutes of the previous meeting** ▪ The Chairperson thanked the Secretariat for well-captured minutes of the previous meeting. ▪ The minutes were tabled by the chairperson and were checked for corrections.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

006-22
1/6/2026-8:37:37 AM
006-22

A.5 Adoption of the minutes

- The minutes were moved for adoption with no additions by Secretariat.
  Seconded by: Ms F Molefe

A.6 Matters arising from the minutes / Decision Matrix

- Progress on the implementation of resolutions for the meeting held on **25 September 2025** was presented by the chairperson.
  Moved as a true reflection of matters arising by Secretariat, seconded by Ms FC Molefe.

MOU	▪ Organisation have to share profiles indicating specialisation as the organisation e.g. dealing with infrastructure, nutrition, curriculum. ▪ Not yet signed an MOU, but there is progress in preparation for signing of Submission.	▪ Partners to share clear profiles.
Update on the ECD implementation	▪ Presentation for government department to be updated.	▪ Mr Mngomezulu to share specific issues that were not presented correctly so that can be prepared correct . ▪ Specific issues to be shared with ECD directorate.
Presentation of Infrastructure Plan	▪ Request of architectural plans/designs and cost estimate to be shared in order to standardize buildings.	▪ The department architectural plans/ designs and cost estimate for maintenance and new buildings of ECD centres to be shared.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION PIETERMARITZBURG
Index Reg 2025/6 Wetsvereniging 2020
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION PIETERMARITZBURG

006-23
1/6/2026-8:37:37 AM
006-23

SECTION B: MATTERS FOR DISCUSSION					
NO	**MATTERS**	**DISCUSSIONS**	**RESOLUTIONS**	**RESPONSIBILITY**	**TIME FRAME**
B.1	**Presentation of the Thrive by Five Report**	Update on the Thrive by Five Report was presented by Ms S Beukes and covered the following Activities : ❖ Background ❖ Key Findings: ❖ Early Learning Outcomes ❖ Structural factors ❖ The KwaZulu Natal's comparative performance to National ❖ Data Collection instruments ❖ Summary of national findings ❖ The KwaZulu Natal sample of enrolled ❖ Children ⬇ Planned and Realised Sample Sizes ⬇ Child age and gender ⬇ Child language ⬇ Fee distribution of the KwaZulu Natal sample ❖ Key findings - child outcomes ⬇ Early Learning ⬇ Physical growth ⬇ Social Emotional Functioning ❖ Profile of children and households ⬇ Employment, assets, and basic services ⬇ Home learning environment (HLE) ⬇ Social protection, hunger and health ⬇ Caregiver coping	▪ Presentations to be shared with the committee members.	▪ Secretariat	28/11/2025

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
1/6/2026-8:37:37 AM
006-24
006-24

		➢ Profile of Early Learning Programmes ➢ Early Learning Programme Quality ➢ ELP origin, size and infrastructure ➢ ELP registration and Income ➢ ELP employment conditions ➢ Principal and practitioner qualifications ➢ ELP use of curricula and training ➢ Inclusion of children with special needs ➢ ELP health and nutrition services ➢ Home language - LoLT match ❖ Annexure 1 - Sampling and quality Assurance ➢ Sampling strategy and weights ➢ Realized national sample ➢ Data quality assurance Questions of clarity and input were made in respect of the items presented.			
B.2	**Update on the ECD implementation**	Ms NE Mkhize presented brief presentation on ECD and covered the following Activities : ▪ Background ▪ What does Universal Access to Quality ECD mean ▪ Problem Statement ▪ Government's ECD Priorities ▪ Workplan ▪ Grade R background ▪ Basic Education Laws Amendment Act No 32 Of 2024	▪ Presentations to be shared with the committee members. ▪ Finance, resource planning to be part of the forum as from our next meeting. ▪ List of school that are still enrolling/ admitting Pre-grade R (0-4 years) to be shared.	▪ Secretariat ▪ DoE ▪ ECD Sector	28/11/2025 26/02/2026 28/11/2025

REPUBLIC OF SOUTH AFRICA IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

006-25
1/6/2026 8:37:37 AM
006-25

		▪ Difference Between ECD and Grade R ▪ Statistical Data on ECD Centres and Schools ▪ Collaborative Framework for ECD – Grade R: How to Manage the Transition: ▪ Conclusion ▪ Ms. NE Mkhize highlighted the long-term learning outcome, we need to invest more on foundation and early learning in order to continue with good result, two focus arears **Literacy at foundation phase and Numeracy at foundation phase** to ensure that every child is able to read with comprehension and performing basic mathematics by age turn through targeted instruction and teacher support and learning assessment. Questions of clarity and input were made in respect of the items presented. Update on the ECD implementation was presented by Ms NE Mkhize and covered the following Activities : ▪ Improve access to ECD services ▪ Payments of subsidies ▪ ECD Registrations ▪ NCF Training ▪ Data system ▪ Inter-Sectoral Collaboration ▪ Parent training and collaboration ▪ Challenges affecting progress	▪ List of districts that does not have integrated forum meeting to be share.	▪ ECD Sector	28/11/2025

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

006-26
1/6/2026-8:37:37 AM
006-26

		Questions of clarity and input were made in respect of the items presented as follows: ▪ Finance to be part of forum; Mr Mngomezulu adopt the resolution and seconded by Mr Khuzwayo & Mr Sibisi. ▪ Doe to Improve communication with E CD Sector regarding the funding issues. ▪ Time allocation in all presenters the meeting must standardized. ▪ Renewal of partial care certificates to be prioritized. ▪ ECD directorate to do follow up with district regarding ECD forums. ▪ Issue of duplication of services provided by partners.			
B.3	Presentation of Infrastructure Plan	Presentation of Infrastructure to be presented in the next meeting **26 February 2026**	▪ Presentations to be shared with the committee members.	▪ Secretariat	28/11/2025
B.4	**Reports from Government Departments**	**COGTA** Progress report of COGTA was presented by Mr V Gelebe, shared COGTA plans and guidelines in order to support ECD. ▪ **5 elements for ECD to qualify to be a Health promoting ECD:** 1. Health public policies. 2. Create a supporting environment. 3. Committee action. 4. Develop personal skills 5. Re-orientate health services	▪ Departments to provide written report in the next meeting. Pack for health promoting ECD to be shared.	All DOH	26/02/2026 28/11/2025

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

006-27
1/6/2026 8:37:37 AM
006-27

		DOH Progress report of department of Health was presented by Ms G Rasi, shared information about Health promoting ECD and Health promoting school, programme was adopted to suite children under 5 years. Questions of clarity and input were made in respect of the items presented.			
B.5	**Report from Partners**	**Assupol** The Assupol Community Trust presentation was made by Mrs F Molefe ▪ Assupol's goal is to improve access to ECD among children between 0-5 years in Nquthu, Msinga, Endumeni and Umvoti by 2028. ▪ To facilitate the growth and development of children, including children with special needs, through the access to quality ECD programmes, services and nutrition. ▪ To build the capacity of ECD practitioners and parents/ care-givers in order to provide a quality ECD experience for children ▪ To enable and empower ECD centres to comply, gain access to funding and become self-sustainable businesses. **TREE** The TREE Presentation was made by Ms SS Khuboni	▪ Presentations to be shared with the committee members.	▪ Secretariat	28/11/2025

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

006-28
1/6/2026-8:37:37 AM
006-28

		▪ TREE exists to build a qualified, supported, and community-rooted ECD workforce, unlocking access to quality early learning for young children in the most under-served areas, and driving equity, inclusion, and integration as envisioned in South Africa's ECD Strategy 2030. **LETCEE** The LETCEE progress report was made by Ms PR Aheer ▪ To align LETCEE's integrated ECD ecosystem, spanning non-centre-based services (home visits, mobile toy libraries), centre-based playgroups, specialist programs (Play Able for disabilities, Closing the Gap for literacy), ECD Practitioner training (NQF 4), quality assurance, food security, and social services with KZN's Provincial Integrated ECD Framework. ▪ This fosters inter-sectoral collaboration to enhance access, quality, and equity for 14 389 children aged 0–5 in rural uMzinyathi, supporting DBE's 2030 Strategy for universal, play-based ECD and Thrive by Five outcomes. **ZERO2FIVE** The Zero2Five progress report was made by Ms J Pous Zero2Five three core programmes at all supported ECD centres:			

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

006-29
1/6/2026 8:37:37 AM
006-29

		1. Nutrition and WASH Programme: ▪ Meal Provision: Children receive a 50g portion of highly fortified, instant breakfast on arrival at school at all ECD centres on the nutrition support programme. Selected centres furthermore receive products such as rice and oil for cooked lunches. For increased food security, we install ECD centre-based food gardens for fresh produce. ▪ Nutrition and Food Hygiene Training: We conduct training workshops in nutrition and food hygiene to ensure that children receive balanced diets and centre staff understands the importance of proper food handling. **2. Play and Learn Programme :** ▪ The Play and Learn Programme is designed to provide skill-based courses and on-site enrichment programmes to enhance the learning and development of children in ECD centres in alignment with the learn through play. **3. ECD Registration & Support Programme** ▪ The ECD Registration and Support Programme is a cornerstone of our work where we provide workshops and on-site support to help ECD centres with government registration, small grant applications, compliance issues etc.			

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION PIETERMARITZBURG

006-30
1/6/2026 8:37:37 AM
006-30

		VVOB The VVOB progress report was made by Ms C Snyman ▪ The holistic development of young children leads to improved learning outcomes, improved (social and emotional) well-being and healthy relationships with others. Central to this holistic development is a Learning through Play approach which depends on well-capacitated practitioners supported by centre managers, school leaders, district specialists and parents/caregivers. Questions of clarity and input were made in respect of the items presented.			

SECTION C: NEW MATTERS	
C.1	No new matters recorded.
SECTION D: MATTERS FOR NOTING	
D.1	**Way forward** ▪ The Chairperson, Ms. N E Mkhize, thanked and appreciated all the participants for their contribution and attendance, and stated that it had been a productive and fruitful engagement. ▪ The Chairperson requested partners to submit plans indicating roles and responsibilities for the department to know who is doing what, so that the department can have a common approach for those who are offering same services. ▪ The Chairperson emphasized the need for the ECD sector to continue communicating with the Directorate if there are burning issues. Details to be given whether there is a need to meet before the quarterly meetings. she further indicated that directorate is available to provide support. ▪ The Chairperson requested all Partners and Government department to provide report. ▪ The Chairperson thanked Save the Children for providing Lunch.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

006-31
1/6/2026 8:37:37 AM
006-31

	▪ On the 28 November 2026, Friday the department was having internal meeting talking ECD to top management trying to put them onboard preparing for roadshows, partners were invited through displays support.
D.2	**Date of the next meeting** ▪ 26 February 2026
D.3	**Closure** ▪ Ms J Pous closed the meeting with a prayer. ▪ The Chairperson thanked all committee members for availing themselves and wished them safe travelling mercies back homes. ▪ The Chairperson officially closed the meeting at **16H00**.

Mover:

Secretariat: **Chairperson:**

....

Ms SC Ntshangase **Date** **Ms N E Mkhize** **Date**

Seconder:

....

Initials and Surname **Signature** **Date**

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

006-32
1/6/2026-8:37:37 AM
006-32

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

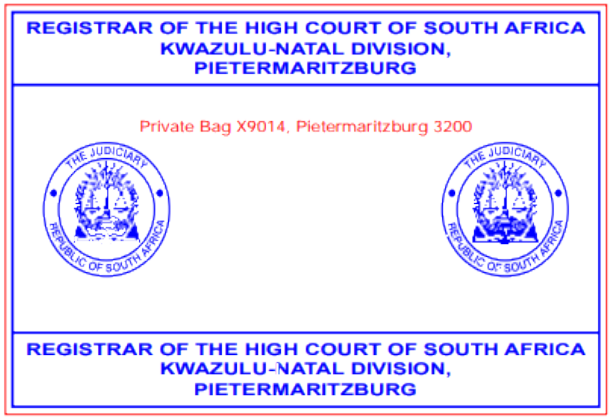
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 02

NOTE: **This document was filed electronically by the Registrar on 1/6/2026 at 8:37:56 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

DIRECTORATE: EARLY CHILDHOOD DEVELOPMENT

Private Bag X9137, PIETERMARITZBURG, 3200
Ex NED Building, 228 Pietermaritz Street, Pietermaritzburg 3200
Tel: 033 846 5532

Enquiries: Ms NE Mkhize
Email: Nozipho.Mkhize@kzndoe.gov.za

Ref. No.:11/411/7

TO: DISTRICT DIRECTORS

ATTENTION: DISTRICT CHIEF EDUCATION SPECIALIST: GENERAL EDUCATION AND TRAINING (GET / ECD)

SUBJECT: ECD CENTRES TRANSFERRED FROM EQUITABLE SHARE TO CONDITIONAL GRANT DUE TO ADDITIONAL FUNDING



1. The above matter refers.
2. During the 2023/2024 financial year, 146 ECD centres were shifted from the Equitable Share budget to the ECD Conditional Grant due to overspending within the Conditional Grant allocation.
3. This communication serves to inform you that, following the allocation of an additional budget under the ECD Conditional Grant for the 2025/2026 financial year, the following adjustments have been made to ensure that all centres are subsidised at a rate of R24.00 per child for 264 days per year

    - 146 ECD centres have been moved back to the ECD Conditional Grant.
    - 636 ECD centres have been transferred from Equitable Share to the Conditional Grant, mainly from districts with a high number of children previously subsidised through the Equitable Share budget.

4. The tables below reflect the number of centres moved per district.

KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

Table1: 146 ECD centres moved back to ECD Conditional Grant

NO	DISTRICT	NUMBER OF CENTRES MOVED
1.	Amajuba	07
2.	Harry Gwala	09
3.	Ilembe	27
4.	King Cetshwayo	17
5.	Pinetown	36
6.	Ugu	09
7.	Umgungundlovu	15
8.	Umlazi	07
9.	Umzinyathi	14
10.	Uthukela	05
TOTAL		146

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Table 2: 636 ECD centres moved from Equitable share

NO	DISTRICT	NUMBER OF CENTRES MOVED
1.	King Cetshwayo	116
2.	Pinetown	100
3.	Ugu	80
4.	Umgungundlovu	95
5.	Umkhanyakude	181
6.	Zululand	64
TOTAL		636

The list of ECD centres moved per district is attached as **annexure A**

MR GN NGCOBO
HEAD OF DEPARTMENT:
KWAZULU-NATAL DEPARTMENT OF EDUCATION

3/3/26
DATE

GROWING KWAZULU-NATAL TOGETHER

N.S

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

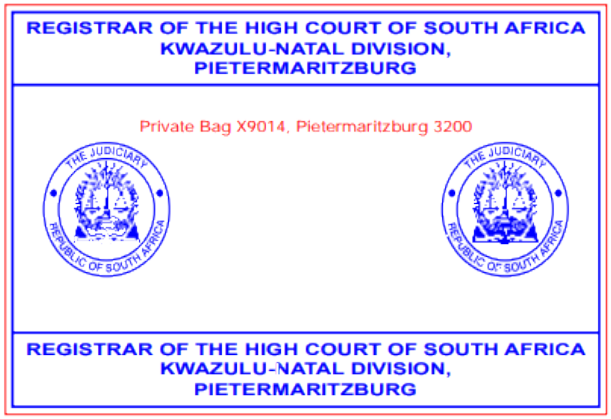
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 03

NOTE: **This document was filed electronically by the Registrar on 1/6/2026 at 8:38:16 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

FRIENDS OF SA ECD FORUM
NPO 199-522
OFFICE OF THE PRESIDENT
+27 83 509 6864
REF: 30/04/2026/DOE
29 APRIL 2026

To: Chief Director
Department of Education
KwaZulu-Natal



Subject: Urgent Intervention Required – Confusion Regarding April 2026 Claim Form Submissions

Good day,

It has been brought to our attention as Friends of South Africa that our members operating ECD centres are experiencing significant confusion regarding the submission of April 2026 claim forms to the Department of Education.

Our members report that:

1. **No clear guideline has been received** on the required documentation and process for April 2026 claims.

2. **There is uncertainty** whether outstanding subsidies or payments from previous months should be included in the April submission, or if a separate process applies.

3. **District officials are providing conflicting instructions**, resulting in delays and risk of non-compliance.

See following page

N.S

Your urgent intervention is imperative. Kindly provide the following by **30 April 2026** to prevent submission errors and financial hardship for centres:

1. **Official checklist**: Confirm the exact documents, annexures, and templates required for April 2026 claims.

2. **Arrears process**: Clarify how outstanding amounts from previous months must be claimed — whether included in April claims or via a separate back pay process.

3. **Designated contact person**: Appoint one DOE official per district to address claim queries so that centres receive consistent instructions.

Many of our member centres are solely dependent on these subsidies to pay staff and maintain operations. Delays or rejected claims due to procedural confusion will directly impact service delivery to children.



We trust that your office will treat this matter with the urgency it deserves and look forward to your written response by **30 April 2026**.

Yours faithfully,

N Sibisi

Mr N Sibisi

President: Friends of South Africa (FOSA)

N S

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

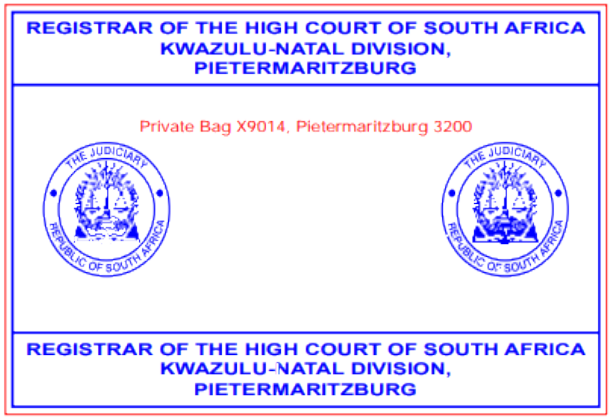
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 04

NOTE: **This document was filed electronically by the Registrar on 1/6/2026 at 8:45:36 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

Outlook

Fw: DoE

From Nkosinathi Sibisi <NKOSIKAYIKHETHI.Sibisi@durban.gov.za>
Date Mon 5/4/2026 3:49 PM
To Sheniece Linderboom <sheniece@lrc.org.za>; Kiara Govender <Kiara@lrc.org.za>; Fanelesibonge Ndebele <Fanelesibonge@lrc.org.za>

1 attachment (146 KB)
FOSA-2.pdf;

Nkosinathi Sibisi
Nkosinathi.sibisi@durban.gov.za
066 078 4740/031 322 1480/6
Ntuzuma Depot RSWM



From: Nkosinathi Sibisi <NKOSIKAYIKHETHI.Sibisi@durban.gov.za>
Sent: Monday, May 4, 2026 1:20:09 PM
To: Nozipho Mkhize <nozipho.mkhize@kzndoe.gov.za>
Subject: DoE

Good day Ms Mkhize

Kindly find the attached documents for your attention.

Nkosinathi Sibisi
Nkosinathi.sibisi@durban.gov.za
066 078 4740/031 322 1480/6
RSWM Deputy Director

From: Ayanda Lira <ayandalira176@gmail.com>
Sent: Monday, May 4, 2026 1:12:28 PM
To: Nkosinathi Sibisi <NKOSIKAYIKHETHI.Sibisi@durban.gov.za>
Subject: Document from Ayandalira

Kindly refer to the attached document

NS

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

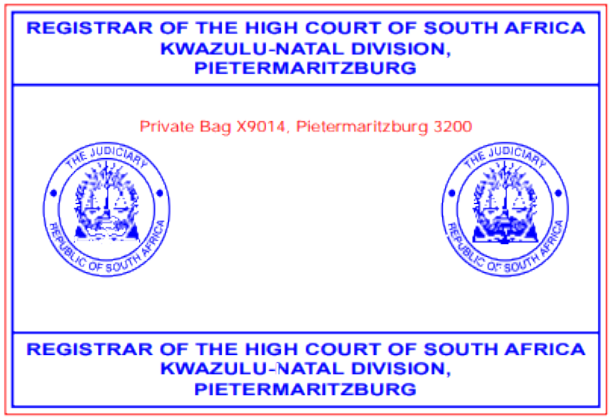
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 05

NOTE: **This document was filed electronically by the Registrar on 1/6/2026 at 8:38:51 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

DIRECTORATE: EARLY CHILDHOOD DEVELOPMENT

Private Bag X9137, PIETERMARITZBURG, 3200
Ex NED Building, 228 Pietermaritz Street, Pietermaritzburg 3200
Tel: 033 846 5532

Enquires: Ms NE Mkhize
Email: Nozipho.Mkhize@kzndoe.gov.za

SUGGESTED ITEMS

***PLEASE NOTE*:**

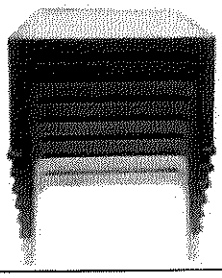
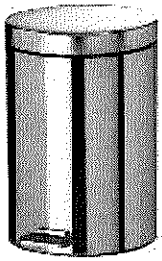
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

- An expenditure ratio divides the subsidy into parts and requires that that each part be spent for a particular purpose.
- ECD programmes can spend **40% of the subsidy on food**, **40% on salaries**, and **20% on equipment**.
- The DBE would like this ratio to be standardised across provinces and centres.
- ECD programmes can request permission to use a portion of the subsidy for something other than what is prescribed by the ratio.
- An ECD programme must make **a written deviation request to the PED**, specifying what it wants to use the funds for and the amount of funds it wants to use for this purpose.
- The PED must respond in writing within 21 business days of receiving the request. The deviation can be recorded in the SLA, or in an addendum.

NS
006-46

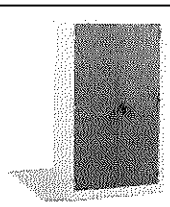
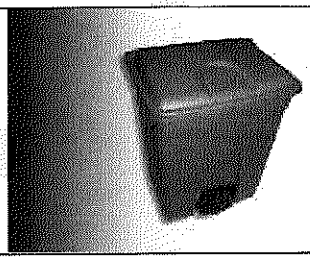
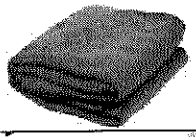
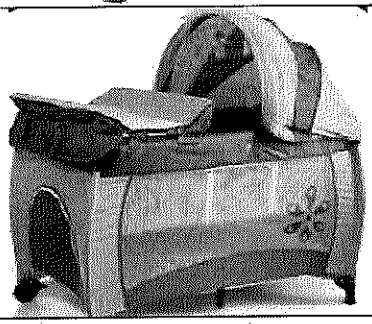
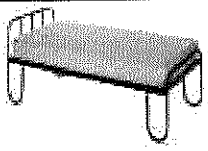
KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

1. ECD FURNITURE SPECIFICATION PER ECD CENTRE

Item	Description	Picture description
1	Children Chair (Assorted Colours)	
2	Large Children table (Assorted Colours)	
3	117cm x 56cm x 10cm Cot Mattress	
4	12 L Stainless Steel Pedal Bin	
5	240 L wheelie bin	

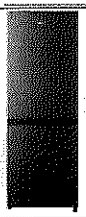
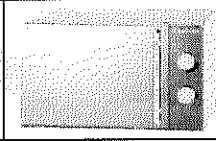
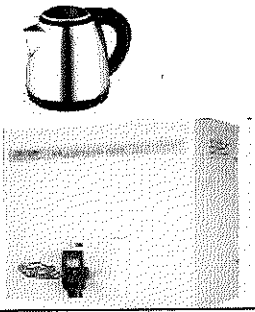
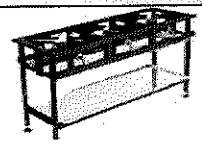
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

6	1 800mm x 900mm x 450mm wide Stationery cupboards with 4 Adjustable shelves.	
7	Relevant non-spill potty	
8	25 litre water dispenser with tap (one fordrinking and one for Handwashing)	
9	Disposable nappy bins/ nappy changing station	
	Large container for cleaning/hazardous items and food storage with a lockable lid Recommended size: 32L	
10	Blankets	
11	Baby Cot size W118,5cm x L59cm x 88cm	
12	Toddler sick bed with mattress	

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

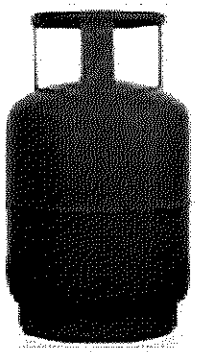
KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

13	Office Furniture	
14	Fridge	
15	Microwave	
16	Electric Kettle or hydro boiler	
17	3 Burner Folding gas stove (medium Duty)	

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

N.S

KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

18	14kg Gas Cylinder	

2. RESOURCE LIST

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

DRAFT

N.S

KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

ITEMS	MINIMUM QUANTITY PER GROUP	
Initial basic kit per group		
Manipulatives		
Stacking cups (9 per set)	2 sets	
Counting abacus	2	
Shape sorter and bucket	2	
Big Duplo blocks (90 pieces)	1 set	
Big foam shaped blocks (40 pieces)	2 sets	
Jumbo peg board with pegs	4 boards with 200 pegs	
Unifix counting cubes(500)	1 set	
Busy buttons	2 sets	
Large coloured beads and laces (54 piece)	4 sets	
Plastic nuts and bolts –(big) (64 pieces)	2 sets	
Jumbo textured dominoes	2	
Knob puzzles A4 wooden (simple) 3-6 pieces	5	
Puzzles (simple)3 -12 pieces	5	
Lacing shoes/objects (4 per set)	4 sets	
Fantasy play		
Dolls		
Glove puppets(family)		
Tea play set (18 pieces)		
Set of wooden motor cars (6)		
Outdoor play		
Buckets and spades		
Plastic scooters		
Brm – Brm plastic rubber wheel		
Bean bags (set of 10)		
Big plastic balls		
Hoola hoops		
Skipping ropes	2	
Creative materials		
Bucket powder paints – primary colours	3 buckets	
Paint Brushes (big/ round)(no 8)	15	
Play dough (bucket)	5 buckets	
Play dough rollers (6 pieces)	2 sets	
Blunt nose scissors (sturdy)	10	
Jumbo Crayons – wax (set of 9)	10 sets	
Jumbo Koki pens	5	
Big chalk sticks	5	
Square blackboards	5	
Paper glue	2	

Please note the following:

1. The resources mentioned in this list can be used to provide an integrated, play based programme for young learners.
2. Age and developmental milestones have been taken into account.
3. Practitioners can supplement these resources with homemade resources such as picture books, bottle tops to make counters and instruments. Boxes to make blocks, file holders, shakers. Ice cream containers, yogurt cups and 2litre coke bottles for pouring containers etc.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

Practitioners are trained to use Applied Paper Technology skills to create Fantasy equipment – such as a stove, cupboards, bed, plates and bread, fruits etc.		
Other resources that will be required:		
Big books about shapes, colours and animals	1 of each	
Story book in IsiZulu	1	
Birthday and weather charts	1 of each	
Charts –basic (body, colour, shape)	Set	
Big carpet/mat	1	
Plastic tables and chairs	2 tables with 8 chairs	
First Aid kit	1	
Outdoor equipment		
Jungle gym	1 per crèche	
Swing	1 per crèche	
Sensopathic trays	2	

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

3. ACKNOWLEDGEMENT OF PAYMENT FOR STIPEND BACKPAY

N S

KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

KWAZULU-NATAL PROVINCE
EDUCATION
REPUBLIC OF SOUTH AFRICA

ACKNOWLEDGEMENT OF PAYMENT FOR STIPEND BACKPAY

Project Name (ECD): _____

I, _____ Identity Number: _____
hereby acknowledge receipt of my stipend back payment in full from

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

(Name of ECD Centre)
_____, for the period 1 April 2025 to 31 March 2026

Amount Received: _____

NOTICE TO EMPLOYEES:
DO NOT SIGN THIS RECEIPT UNLESS YOU HAVE ACTUALLY RECEIVED PAYMENT OF BACK STPEND DUE TO YOU

Signature of Employee: _____ Date: _____

CONFIRMATION BY THE EMPLOYER

I_____in my capacity as a treasurer hereby confirm

that on this date _____,I paid the above named employee in full covering unpaid stipend as stated above.

Treasurer Signature: _____Date: _____

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

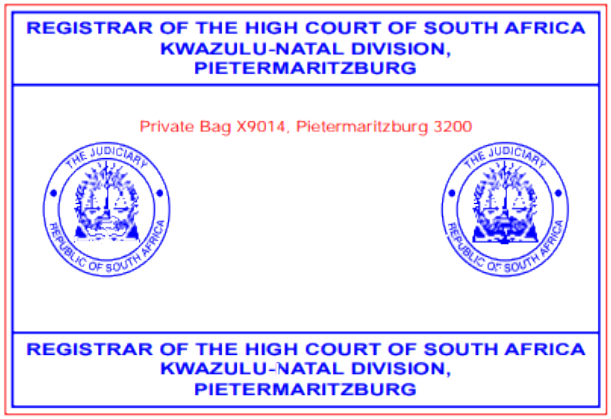
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 06

NOTE: **This document was filed electronically by the Registrar on 1/6/2026 at 8:39:11 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

LEGAL RESOURCES CENTRE

DURBAN OFFICE
1st Floor, CBI Building,
635 Peter Mokaba Road,
Overport, Durban, 4001

Tel: +27 31 301 7572
Fax: +27 31 304 2823

Info@lrc.org.za

PAYMENT BREAKDOWN FOR 3 APPLICANT ECD CENTRES

SAKHOKWETHU CRÈCHE

The payment history of Sakhokwethu is summarised in the table below:

Month	Paid/Unpaid	Date Paid	Amount	NOTE
March 2023	Paid	9 July 2023	R7119	
April 2023	Paid	9 July 2023	R7119	
May 2023	Paid	9 July 2023	R7119	
June 2023	Paid	13 November 2023	R7200	
July 2023	Paid	31 January 2024	R7119	
August 2023	Paid	31 January 2024	R7119	
September 2023	Paid	31 January 2024	R7119	
October 2023	Paid	7 March 2024	R7119	
November 2023	Paid	18 March 2024	R7119	
December 2023	Paid	30 April 2024	R7119	
January 2024	Unpaid	[redacted]	[redacted]	Remains unpaid
February 2024	Unpaid	[redacted]	[redacted]	Remains unpaid

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

March 2024	Unpaid	[redacted]		Remains unpaid
April 2024	Paid	22 May 2024	R8258	
May 2024	Paid	28 August 2024	R8258	
June 2024	Paid	28 August 2024	R8258	
July 2024	Paid	15 October 2024	R8258	
August 2024	Paid	11 November 2024	R8258	
September 2024	Paid	15 November 2024	R8258	
October 2024	Paid	10 December 2024	R8258	
November 2024	Paid	31 January 2025	R8258	
December 2024	Paid	14 February 2025	R8258	
January 2025	Paid	7 March 2025	R8258	
February 2025	Paid	9 May 2025	R8258	
March 2025	Unpaid	[redacted]		Remains unpaid
April 2025	Paid	30 June 2025	R15 236	We assume that the Department is paying for 201 days a year which works out to 16.75 days a month. Furthermore, we assume that the subsidy is R18.95 per child per day.
May 2025	Paid	02 July 2025	R15 236	We assume that the Department is paying for 201 days a year which works out to 16.75 days a month. Furthermore, we assume that the subsidy is R18.95 per child per day.
June 2025	Paid	22 August 2025	R15 236	We assume that the Department is paying for 201 days a year which works out to 16.75 days a month. Furthermore, we assume that the subsidy is R18.95 per child per day.
July 2025	Paid	06 October 2025	R15 236	We assume that the Department is paying for 201 days a year which works out to 16.75 days a

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

N.S

				month. Furthermore, we assume that the subsidy is R18.95 per child per day.
August 2025	Paid	10 December 2025	R15 236	
September 2025	Paid	22 December 2025	R15 236	
October 2025	Paid	22 December 2025	R15 236	
November 2025	Paid	23 January 2026	R15 236	
December 2025	Paid	02 March 2026	R15 236	
2026				
January 2026	Unpaid			
February 2026	Unpaid			
March 2026	Unpaid			ECD Centre has been moved from the Equitable Share grant to the Conditional Grant.
April 2026	Unpaid			
May 2026	Unpaid			

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION
PIETERMARITZBURG

PHUMELELA CRÈCHE

The payment history of Phumelela is summarised in the table below:

Month	Paid/Unpaid	Date Paid	Amount	Notes
December 2023	Paid	31 January 2024	R9 966	

N.S

January 2024	Paid	8 February 2024	R9 966	
February 2024	Paid	17 March 2024	R9 966	
March 2024	Paid	30 April 2024	R9 966	
April 2024	Paid	22 May 2024	R12 814	
May 2024	Paid	27 August 2024	R12 814	
June 2024	Paid	28 August 2024	R12 814	
July 2024	Paid	2 September 2024	R12 814	
August 2024	Paid	15 October 2024	R12 814	
September 2024	Paid	15 November 2024	R12 814	
October 2024	Paid	10 December 2024	R12 814	
November 2024	Paid	9 May 2025	R12 814	
December 2024	Paid	22 May 2025	R12 814	
January 2025	Paid	30 May 2025	R12 814	
February 2025	Paid	30 May 2025	R12 814	
March 2025	Paid	30 May 2025	R12 814	
April 2025	Paid	30 June 2025	R14 284	Increase of R1470
May 2025	Paid	02 July 2025	R14 284	
June 2025	Paid	01 August 2025	R14 284	
July 2025	Paid	22 August 2025	R14 284	
August 2025	Paid	06 October 2025	R14 284	
September 2025	Paid	10 December 2025	R14 284	
October 2025	Paid	22 December 2025	R14 284	
November 2025	Paid	22 December 2025	R14 284	
December 2025	Unpaid	[redacted]		

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

N.S

2026				
January 2026	Unpaid			
February 2026	Unpaid			
March 2026	Unpaid			ECD Centre has been moved from the Equitable Share grant to the Conditional Grant.
April 2026	Unpaid			
May 2026	Unpaid			



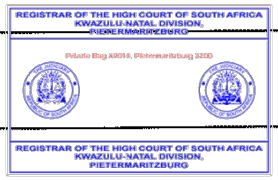
ZENZELENI CRÈCHE

The payment history of Zenzeleni is summarised in the table below:

Month	Paid/ Unpaid	Date Paid	Amount	Notes
January 2024	Paid	7 March 2024	R14 238	
February 2024	Paid	14 April 2024	R14 238	
March 2024	Paid	23 April 2024	R14 238	
April 2024	Paid	24 May 2024	R15 946	
May 2024	Paid	27 August 2024	R15 946	
June 2024	Paid	28 August 2024	R15 946	
July 2024	Paid	15 October 2024	R15 946	
August 2024	Paid	11 November 2024	R15 946	
September 2024	Paid	15 November 2024	R15 946	
October 2024	Paid	10 December 2024	R15 946	
November 2024	Paid	9 May 2025	R15 946	

N.S

December 2024	Paid	30 May 2025	R15 946	
January 2025	Paid	30 May 2025	R15 946	
February 2025	Paid	6 June 2025	R15 946	
March 2025	Paid	6 June 2025	R15 946	
April 2025	Paid	30 June 2025	R17 775	Increase of R1829.
May 2025	Paid	02 July 2025	R17 775	
June 2025	Paid	01 August 2025	R17 775	
July 2025	Paid	06 October 2025	R17 775	
August 2025	Paid	10 December 2025	R17 775	
September 2025	Paid	22 December 2025	R17 775	
October 2025	Paid	22 December 2025	R17 775	
November 2025	Paid	23 January 2026	R17 775	
December 2025	Paid	02 March 2026	R17 775	
		2026		
January 2026	Paid	05 May 2026	R17 775	
February 2026	Unpaid			
March 2026	Unpaid			
April 2026	Unpaid			
May 2026	Unpaid			



N.S

BACK PAY RECEIVED

ECD Centre	Date Paid	Amount	Notes
Sakhokwethu Creche	13 March 2026	R83 370	
Phumelela Crèche	20 March 2026	R74 000	
Zenzeleni Crèche	20 March 2026	R117 929	
	07 April 2026	R26 568	



N.S

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

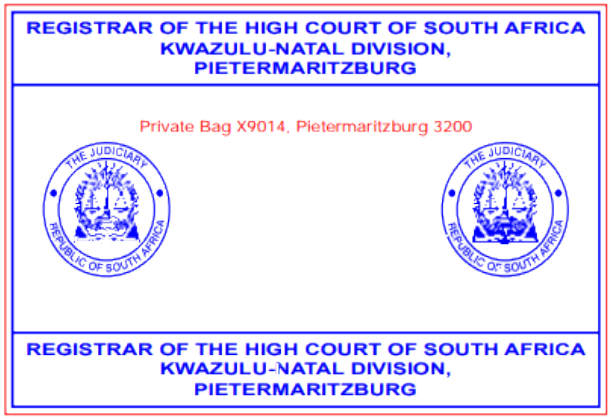
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Confirmatory Affidavit

NOTE: **This document was filed electronically by the Registrar on 1/6/2026 at 8:41:51 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

CONFIRMATORY AFFIDAVIT

I, the undersigned,



BONISIWE MTHEMBU

state under oath the following:

1. I am an adult female residing at Edendale, Pietermaritzburg. I am the principal of Sakhokwethu Crèche, with NPO number 032-433, the third applicant in this application, situated at Edendale, Pietermaritzburg.

2. The contents of this supplementary affidavit are within my personal knowledge, except where the context indicates otherwise, and are, to the best of my belief, both true and correct.

3. I am duly authorised to depose to this affidavit.

4. I have read the supplementary affidavit of **Nkosinathi Sibisi** and confirm the correctness of the contents thereof insofar as it refers to me.

DEPONENT

I hereby certify under oath that the Deponent acknowledged that she knows and understands the contents of this affidavit, that it is to the best of her knowledge both true and correct, and that she has no objection to the making of the prescribed oath which she considers to be binding on her conscience. This affidavit was signed in my presence at Pietermaritzburg on this 29th day of May 2026 and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT
KWAZULU-NATAL HIGH COURT
PIETERMARITZBURG
2026 -05- 29
REPUBLIC OF SOUTH AFRICA
PRIVATE BAG X9014 PIETERMARITZBURG 3201
REGISTRAR OF THE HIGH COURT

BEFORE ME .....
COMMISSIONER OF OATHS
FULL NAMES: PRUDENCE FAITH NXUMALO
DESIGNATION: REGISTRAR
AREA: PIETERMARITZBURG
ADDRESS: HIGH COURT
301 CHURCH STREET
TELEPHONE: 033 -345 8211

COMMISSIONER OF OATHS

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

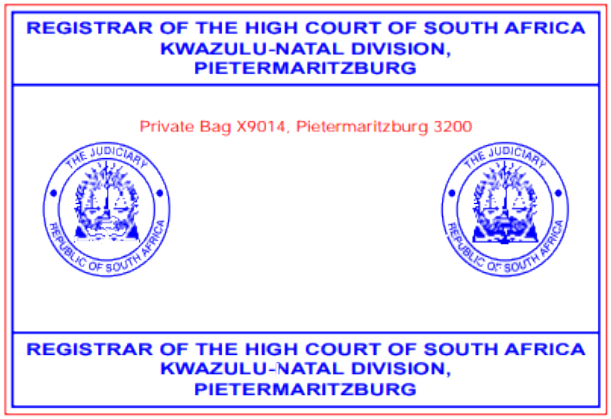
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Confirmatory Affidavit

NOTE: **This document was filed electronically by the Registrar on 1/6/2026 at 8:40:41 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

TP

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

CONFIRMATORY AFFIDAVIT

I, the undersigned,



THEMBEKILE NDLOVU

state under oath the following:

1. I am an adult female residing at Edendale, Pietermaritzburg. I am the principal of Zenzeleni Crèche, with NPO number 032-848, the fifth applicant in this application, situated at Edendale, Pietermaritzburg.

2. The contents of this supplementary affidavit are within my personal knowledge, except where the context indicates otherwise, and are, to the best of my belief, both true and correct.

3. I am duly authorised to depose to this affidavit.

4. I have read the supplementary affidavit of **Nkosinathi Sibisi** and confirm the correctness of the contents thereof insofar as it refers to me.

TP
T.O

DEPONENT

I hereby certify under oath that the Deponent acknowledged that she knows and understands the contents of this affidavit, that it is to the best of her knowledge both true and correct, and that she has no objection to the making of the prescribed oath which she considers to be binding on her conscience. This affidavit was signed in my presence at Pmb on this 29th day of May 2026, and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

.....LT COL
T.O ZONDI 0535241-0

SOUTH AFRICAN POLICE SERVICE
HUMAN RESOURCE MANAGEMENT
PERSONNEL SERVICES
2026 -05- 29
PIETERMARITZBURG
KWAZULU-NATAL

COMMISSIONER OF OATHS

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

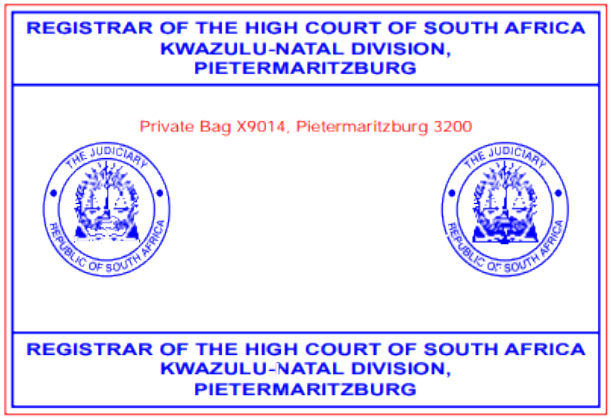
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Confirmatory Affidavit

NOTE: **This document was filed electronically by the Registrar on 1/6/2026 at 8:41:16 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

N.B.M.

T.O

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

CONFIRMATORY AFFIDAVIT

I, the undersigned,



NONKONZO MADLALA

state under oath the following:

1. I am an adult female residing at Edendale, Pietermaritzburg. I am the chairperson of Phumelela Crèche, with NPO number 047-572, the fourth applicant in this application, situated at Edendale, Pietermaritzburg.

2. The contents of this supplementary affidavit are within my personal knowledge, except where the context indicates otherwise, and are, to the best of my belief, both true and correct.

3. I am duly authorised to depose to this affidavit.

4. I have read the supplementary affidavit of **Nkosinathi Sibisi** and confirm the correctness of the contents thereof insofar as it refers to me.

N.B.M

T.O

NBmadlala

DEPONENT

I hereby certify under oath that the Deponent acknowledged that she knows and understands the contents of this affidavit, that it is to the best of her knowledge both true and correct, and that she has no objection to the making of the prescribed oath which she considers to be binding on her conscience. This affidavit was signed in my presence at Pmb on this 29th day of May 2026, and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

SOUTH AFRICAN POLICE SERVICE
HUMAN RESOURCE MANAGEMENT
PERSONNEL SERVICES
2026 -05- 29
PIETERMARITZBURG
KWAZULU-NATAL

.....LT COL
T.O ZONDI 0535241-0

COMMISSIONER OF OATHS

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

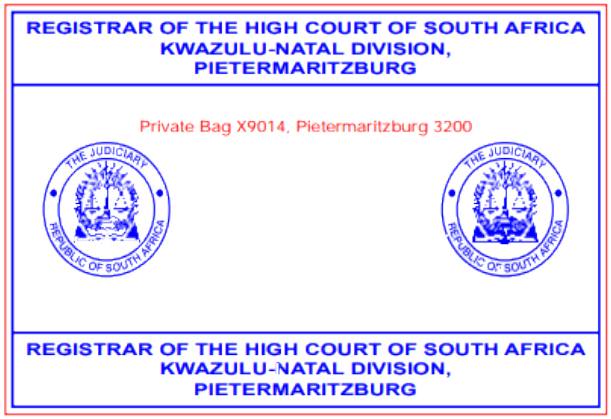
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Confirmatory Affidavit

NOTE: **This document was filed electronically by the Registrar on 1/6/2026 at 8:40:01 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

M L M 006-80

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

CONFIRMATORY AFFIDAVIT

I, the undersigned,



LAWRENCE MNGOMEZULU

state under oath the following:

1. I am an adult male residing at 70 Mambambo Road, Shayamoya Flats, Cato Manor, Durban. I am the principal of Umusa Uyasilandela ECD Centre, with NPO number 189-191, situated at Ohwebede, Mandeni.

2. The contents of this supplementary affidavit are within my personal knowledge, except where the context indicates otherwise, and are, to the best of my belief, both true and correct.

3. I am duly authorised to depose to this affidavit.

4. I have read the supplementary affidavit of **Nkosinathi Sibisi** and confirm the correctness of the contents thereof insofar as it refers to me.

M L M

DEPONENT

I hereby certify under oath that the Deponent acknowledged that he knows and understands the contents of this affidavit, that it is to the best of his knowledge both true and correct, and that he has no objection to the making of the prescribed oath which he considers to be binding on his conscience. This affidavit was signed in my presence at DURBAN on this 29 day of May 2026, and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

COMMISSIONER OF OATHS

COMMISSIONER OF OATHS
SUMESHREE GOVENDER
1st FLOOR, MB HOUSE
641 PETER MOKABA RIDGE
BEREA, 4001
PRACTISING ATTORNEY

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

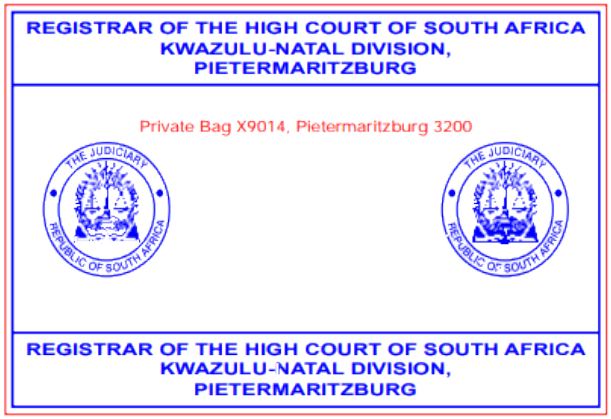
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Confirmatory Affidavit

NOTE: **This document was filed electronically by the Registrar on 1/6/2026 at 8:39:36 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

MMK

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

CONFIRMATORY AFFIDAVIT

I, the undersigned,



MANDULO MAXWELL KHUZWAYO

state under oath the following:

1. I am an adult male residing at KwaNdengezi, KwaZulu-Natal. I am the principal of Zamani Pre-School, with NPO number 021-325, situated at 700/51 Thendele Road, KwaNdengezi.

2. The contents of this supplementary affidavit are within my personal knowledge, except where the context indicates otherwise, and are, to the best of my belief, both true and correct.

3. I am duly authorised to depose to this affidavit.

4. I have read the supplementary affidavit of **Nkosinathi Sibisi** and confirm the correctness of the contents thereof insofar as it refers to me.

MMK

J.

DEPONENT

I hereby certify under oath that the Deponent acknowledged that he knows and understands the contents of this affidavit, that it is to the best of his knowledge both true and correct, and that he has no objection to the making of the prescribed oath which he considers to be binding on his conscience. This affidavit was signed in my presence at DURBAN on this 29 day of May 2026, and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

COMMISSIONER OF OATHS

COMMISSIONER OF OATHS
SUMESHREE GOVENDER
1st FLOOR, MB HOUSE
641 PETER MOKABA RIDGE
BEREA, 4001
PRACTISING ATTORNEY

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

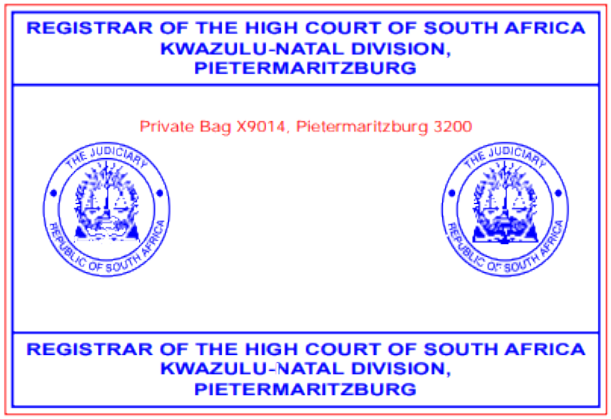
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Notice of Motion

NOTE: **This document was filed electronically by the Registrar on 11/12/2025 at 11:10:22 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

EQUALITY COLLECTIVE NPC	Applicant *Amicus Curiae*

In the matter between:

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant



And

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent

MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent
MINISTER OF SOCIAL DEVELOPMENT	Seventh Respondent
MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS	Eighth Respondent

---

NOTICE OF MOTION:

APPLICATION TO BE ADMITTED AS *AMICUS CURIAE*



KINDLY TAKE NOTICE that the applicant, the **Equality Collective NPC ("Equality Collective"),** will make an application on a date to be determined by the Court in the above matter, for an order in the following terms:

1 The late filing of Equality Collective's application for admission as an *amicus curiae* and any non-compliance with the requirements relating to service and time periods is condoned, to the extent necessary.

2 Equality Collective is admitted as an *amicus curiae* in the above matter under the above case number.

3 Equality Collective is granted leave to:

3.1 introduce evidence as contained in the accompanying affidavit of Conrad Barberton and Wiedaad Slemming, together with its supporting affidavits and annexures;

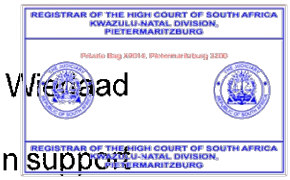
3.2 file a replying affidavit, if necessary;

3.3 file heads of argument; and

3.4 present oral submissions at the hearing of this matter.

4 If this application is opposed, any party opposing it is ordered to pay the costs.

5 Further and/or alternative relief.



TAKE NOTICE FURTHER that the affidavit of Conrad Barberton and Wiedaad Slemming, together with annexures and supporting affidavits, will be used in support of this application.

TAKE NOTICE FURTHER that the applicant *amicus curiae* has appointed its attorneys the **CENTRE FOR CHILD LAW** at the address below, where it will accept service of all notices, documents and other processes connected with these proceedings. The applicant *amicus curiae* confirms acceptance of electronic service by email addressed to **karabo.ozah@up.ac.za**

.

TAKE NOTICE FURTHER that any parties intending to oppose this application are required to:

(a) Notify the applicant's attorneys of your intention to oppose in writing within 15 days of service of this notice;

(b) Appoint an address that complies with the requirements of rule 6(5)(b) at which you will accept notice and service of all documents in these proceedings.

(c) File your answering affidavit, if any, within 15 days after delivering your notice of intention to oppose.

SIGNED AT PRETORIA **on this** 24TH **day of OCTOBER 2025.**

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

CENTRE FOR CHILD LAW
Attorneys for the applicant for
admission as *amicus curiae*
Room 4-31 Law Building
University of Pretoria
Pretoria
Tel: 012 420 4501
Fax: 012 420 4499
Per email: karabo.ozah@up.ac.za
Ref: C0644
C/O SHEPSTONE AND WYLIE ATTORNEYS
First Floor ABSA House
15 Chatterton Road
Pietermaritzburg
3200
Tel: 033 355 1797
Email: **jmanuel@wylie.co.za**

TO: **THE REGISTRAR OF THE ABOVE HONOURABLE COURT PIETERMARITZBURG**

AND TO: **LEGAL RESOURCES CENTRE**
Attorneys for the Applicants
1st Floor, CBI Building
635 Peter Mokaba Road
Durban
4001
Tel: 031 301 7572
Ref: ED11-25
Email: **sheniece@lrc.org.za**
kiara@lrc.org.za



C/O BHYAT ATTORNEYS
401 Prince Albert Street
Pietermaritzburg
3201
Tel: 083 578 6059
Email: **mohammed@mbhyat.co.za**

AND TO **THE MEMBER OF THE EXECUTIVE COUNCIL, DEPARTMENT OF EDUCATION, KWAZULU-NATAL**

First Respondent
Anton Lembede Building
247 Burger Street
Pietermaritzburg

AND TO: **HEAD OF DEPARTMENT FOR THE KWAZULU-NATAL DEPARTMENT OF EDUCATION**

Second Respondent
Anton Lembede Building 247 Burger Street
Pietermaritzburg

AND TO: **DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU- NATAL DEPARTMENT OF EDUCATION**

Third Respondent
Anton Lembede Building 247 Burger Street
Pietermaritzburg

AND TO: **MINISTER OF BASIC EDUCATION**
Fourth Respondent
Sol Plaatje House
222 Struben Street
Pretoria



AND TO: **MINISTER OF FINANCE**
Fifth Respondent
40 Church Square
Old Reserve Bank Building 2nd Floor
Pretoria

AND TO: **MEMBER OF THE EXECUTIVE COUNCIL FOR FINANCE, KWAZULU-NATAL**
Sixth Respondent
330 Langalibalele Street Natalia Building
2nd Floor
Pietermaritzburg

AND TO: **MINISTER OF SOCIAL DEVELOPMENT**
Seventh Respondent
134 Pretorius Street
HSRC Building
North Wing
Pretoria

AND TO: **MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**

Eighth Respondent
87 Hamilton Street
Arcadia
Pretoria



COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

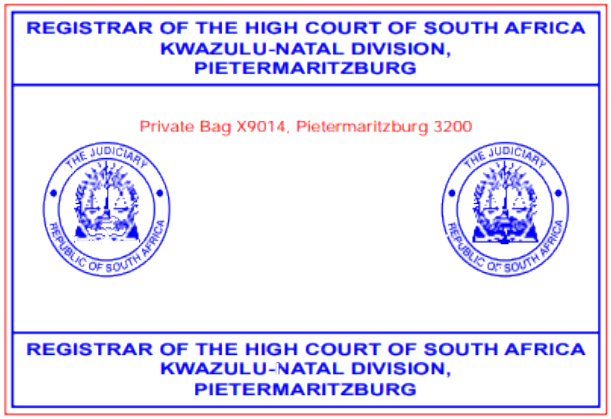
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Founding Affidavit

NOTE: **This document was filed electronically by the Registrar on 11/12/2025 at 11:17:07 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

EQUALITY COLLECTIVE NPC	Applicant *Amicus Curiae*

In the matter between:

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

and

MEC FOR EDUCTION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent
MINISTER OF SOCIAL DEVELOPMENT	Seventh Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

FOUNDING AFFIDAVIT: APPLICATION TO BE ADMITTED AS *AMICUS CURIAE*

I, the undersigned,

TESS NOLIZWE PEACOCK



state under oath:

1 I am the executive director of the Applicant to be admitted as *amicus curiae* (**Equality Collective**) and am duly authorised to bring this application and to depose to this affidavit on behalf of Equality Collective.

2 The facts contained in this affidavit are within my personal knowledge, unless otherwise indicated by the context, and are to the best of my belief true and correct. Any legal submissions are based on the advice of Equality Collective's legal representatives.

PARTIES

3 The Applicant is the Equality Collective, a non-profit company with registration number 2020/125379/08, whose principal place of business is Nqileni Village, Xhora Mouth, Administrative Area, Eliottdate District, Eastern Cape.

3.1 The Equality Collective is registered with the Department of Social Development as a Non-Profit Organisation (registration number 245-024) and

2

with the South African Revenue Services as a Public Benefit Organisation (number 930070599).

3.2 The Equality Collective's memorandum of incorporation is annexed, marked "**EC 01**."

4 The parties in the main application are as described in the founding papers.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

OVERVIEW

5 This is an application in terms of Uniform Rule 16A to admit the Equality Collective as an *amicus curiae* in these proceedings.

6 The Applicants in part B of the main application seek a declarator and systemic relief through a structural interdict requiring the state to file a report to this Court dealing with the extent to which the state remains in breach of its obligations in respect of the funding of numerous early childhood development ("**ECD**") centres in KwaZulu-Natal and a plan to overcome those deficiencies.

7 Equality Collective believes that it can make submissions that are relevant to the issues for adjudication in the main application and are different to the submissions made by the parties in the main application. Equality Collective's submissions will assist the Court in determining part B of the main application and Equality Collective therefore seeks to intervene as an *amicus curiae* on that basis.

8 In this affidavit I will canvass:

8.1 The Equality Collective's interest in the proceedings;

8.2 The Equality Collective's proposed submissions, including the additional evidence that Equality Collective seeks to introduce;

8.3 The reasons why such submissions and evidence are relevant, novel, and will be of assistance to the Court; and

8.4 The Equality Collective's request for condonation for the late filing of this application.



EQUALITY COLLECTIVE'S INTEREST IN THE PROCEEDINGS

9 Founded more than five years ago, the Equality Collective is an activist and community lawyering organisation based in the rural Eastern Cape. The Equality Collective's work centres communities and their lived struggles and prioritises the needs of marginalised communities, especially women and children. The strategic focus of the Equality Collective 's work is on achieving improved access to socio-economic rights, enhanced responsive governance and accountability, and a strong, more active citizenry. To this end, the Equality Collective deploys an innovative way of working, defined by co-creation, cooperation, and constructive advocacy.

10 One of the Equality Collective's three streams of work is the Right to Early Childhood Development (ECD). Under the Right to ECD workstream, the Equality Collective helped to found the Real Reform for ECD Movement (RR4ECD) in 2020 and continues to serve as its secretariat, as well as providing research, communication, coordination and monitoring support for RR4ECD's work. Operating across five

provinces, RR4ECD collaborates with over 1,000 ECD practitioners and is supported by more than 300 organisations, with the collective aim of achieving an enabling legal, policy and regulatory environment for the provision and expansion of ECD services. A list of organisations which support RR4ECD is attached as "**EC 02**".

11 As the RR4ECD secretariat, the Equality Collective has developed a unique depth of expertise on the concrete challenges faced by ECD practitioners, young children, and parents and caregivers on the ground, and the ways that such challenges are created and/or exacerbated by the flawed regulation and funding of the sector. Through our work with Real Reform for ECD we have developed law reform recommendations in relation to the Children's Act, advanced proposals for budgetary reform and greater allocations for early childhood development, and produced extensive research on the right to nutrition and the State's constitutional obligations in this regard. In addition, Real Reform for ECD has built expertise on the role of local government in the provision of ECD services, with a focus on ensuring that municipalities play an effective role in supporting the rights and developmental needs of young children in South Africa.



12 I have also represented Real Reform for ECD as a member of the Technical Task Team established jointly by the Department of Social Development and the Department of Basic Education to develop proposals for amendments to the Children's Act. These now drafted proposals aim to: 1) streamline the registration process for ECD programmes; 2) better define government roles in providing ECD services; 3) establish a basis for norms and standards for various types of ECD

programmes and 4) strengthen support for young children in poor communities. That draft Bill was published for public comment in 2024.

13 In the medium-term, the intended activities of RR4ECD and the Equality Collective include the development of expertise on a holistic right to ECD and advocacy and technical input on a possible new ECD Act. At present, the jurisprudence relating to ECD remains relatively underdeveloped and a judgment from the High Court could have significant implications for the aforementioned activities.



EQUALITY COLLECTIVE'S SUBMISSIONS

14 The Equality Collective, if admitted, intends to advance the following submissions:

14.1 First, the nature and importance of ECD programmes. This will address the significance of the phase of early childhood, the different types of ECD programmes, the impact of ECD programmes on children's development, current learning and development outcomes for young children both nationally and in KwaZulu-Natal specifically, and how disparities in access to quality ECD programmes map onto race, class, gender, and geographic location. These submissions will highlight how unequal access to quality ECD programmes perpetuates and entrenches systemic inequality from the earliest age, with consequences across the lifespan. The submissions will be supported by evidence in the form of an expert affidavit from Professor Wiedaad Slemming of the Children's Institute, an interdisciplinary and child-centre applied research unit at the University of Cape Town.

6

14.2 Second, the background, purpose and nature of the ECD subsidy system, supported by an expert affidavit by Mr Conrad Barberton of Cornerstone Economic Research. These submissions will explain how the ECD subsidies are currently allocated and paid and will outline the roles of National Treasury and provincial education departments.

14.3 Third, the international law relating to a holistic right to ECD and how this should inform the interpretation of the rights of young children under the South African Constitution and the corresponding duties on the part of the state to support ECD programmes through adequate, consistent, and transparent funding arrangements.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

15 The proposed submissions are outlined in more detail in what follows.

Background on early childhood development in South Africa

The nature and significance of the phase of early childhood

16 As the expert affidavit from the Children's Institute attests, early childhood (often understood as the period from birth or even conception to age five) is an extremely important time in a child's development. In this critical phase, young children develop more rapidly than at any other time, they are more susceptible to external influences, and the foundation is laid for their future well-being and life outcomes.

17 Domains of development include physical, mental, spiritual, moral, emotional, psychological, social and cultural development and development of a young child's personality and talents. Based on expert evidence, our submission will be that, in

7

order to survive, develop, and thrive, young children need (a) early learning opportunities; (b) responsive caregiving; (c) adequate nutrition; (d) good health; (e) safety and security; (f) opportunities to play; and (g) opportunities to participate in cultural life. All seven of these components of holistic early childhood development are recognised in South Africa's National Integrated ECD Policy 2015 and the first five are also reflected in the Nurturing Care Framework, which was developed by the World Health Organisation, World Bank and UNICEF, relevant extracts of which are attached as "**EC 03**" and "**EC 04**" respectively.



18 Further, the various components are interconnected: they are all required for holistic development; development in one domain affects development in the other domains; and different components may often be delivered simultaneously, via a single activity or in a single setting.

19 We will also submit that, historically, women and young children have been marginalised and continue to be particularly vulnerable groups in post-apartheid South Africa. There has been corresponding neglect of the early childhood development sector, with ECD programmes generally being provided by women in their communities, with little to no government funding or other forms of support.

20 This trend of neglect has begun to shift in recent years, with increasing recognition both nationally and internationally of the significance of the phase of early childhood and the significance of ECD programmes in supporting young children to thrive. Accordingly, there have been important shifts in the policy and governance landscape. In April 2022, responsibility for ECD programmes under the Children's Act

shifted from the Department of Social Development to the Department of Basic Education; in 2024, the Department of Basic Education published a strategy for achieving universal access to quality ECD programmes by 2030; and in the 2025 budget the value of the subsidy for ECD centres increased to R24 per capita per day. However, the ECD sector continues to be hampered by flawed regulation and funding models.

ECD programmes

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

21 In the South African context, the term "ECD programme" is generally used to refer to the whole entity: both the venue and the service delivered. Thus, an ECD programme is more analogous to a pre-school, than to a specific curriculum.

22 There are a range of different types of ECD programmes, all of which support and facilitate the various components of holistic development, especially early learning and nutrition. ECD programmes include both centre- and non-centre-based programmes:

22.1 Centre-based programmes are also referred to as ECD centres or creches. The distinguishing features of an ECD centre are the higher dosage (that is, the number of hours for which a child attends), the larger number of children in attendance, and the fact that they take place at a fixed venue. The venue will not always be purpose-built. ECD centres may also be home-based or community-based.

22.2 Non-centre-based programmes include mobile programmes; toy libraries; playgroups; childminders; and parent support groups. These types of

9

programmes may not have a fixed venue and may be sessional in nature and/or cater for a smaller number of children.

23 Currently, the vast majority of ECD programmes are provided by non-profit organisations and micro-social enterprises. There is limited but essential government support for the day-to-day running of ECD programmes, in the form of a per capita per day subsidy.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Poverty, inequality and ECD programmes

24 In South Africa, disparities in access to early learning opportunities, nutrition and other components of holistic early childhood development entrench systemic inequality, leaving millions of young children behind before formal schooling begins. This is recognised in the Department of Basic Education's Strategy for ECD Programmes 2030, in which it is estimated that 1.3 million 3-5 year olds do not currently have access to an ECD programme, with disadvantaged communities being worst affected.

25 The quality of an ECD programme is equally if not more important than access. Quality ECD programmes can help to reduce social inequality and level the playing field by mitigating the effects of socio-economic disadvantage on a child's development.

26 Currently, the lack of stable and adequate government support is undermining ECD programme quality, especially in disadvantaged communities, with serious consequences for early childhood outcomes. Only one-third of early learning

10

programmes included in the 2021 ECD Census reported receiving the government subsidy. Moreover, according to the DBE's 2030 Strategy for Early Childhood Development Programmes, in 2023, the ECD subsidy only reached 720,000 of the 1.88 million eligible children attending ECD programmes. Relevant extracts from these reports are attached as "**EC 05**" and "**EC 06**" respectively.

27 As the expert affidavit from the Children's Institute explains, children in KwaZulu-Natal are particularly in need of support via the government subsidy. KwaZulu-Natal has the highest child poverty headcount of all the provinces, with half of all children in the province living below the food poverty line. Only 58% of children aged 3-5 attend some form of ECD programme, compared with 70% nationally.



28 The development of children who do attend ECD programmes is undermined by a lack of adequate government support to ensure programme quality. The Thrive by Five study – a comprehensive, national survey tracking the development four-year-olds across early learning, physical growth and socio-emotional functioning, conducted in 2021 – found that in KwaZulu-Natal only 30% of the sampled 4-5 year-olds attending ECD programmes were "on track" developmentally (as compared with 45% nationally). Only 26% of children were on track for cognition and executive functioning. Relevant extracts from this study are attached as "**EC 07**".

29 In this regard, it is notable that, in KwaZulu-Natal's provincial budget, per capita allocations for pre-Grade R ECD support are the lowest of all nine provinces. As is set out in the affidavit from Cornerstone, in 2024/25 KwaZulu-Natal allocated around R909 per poor child. This is 26% below the national average. By comparison, the

Western Cape allocated R2 501 per poor child. The failure of KwaZulu-Natal to prioritise funding for ECD contributes to the lack of access to quality ECD programmes in the province and undermines young children's development.

30 Our submission will be that stable and adequate funding of ECD programmes across the country and especially in KwaZulu-Natal could help to disrupt intergenerational cycles of disadvantage and ensure that all young children in the province are developmentally on track, school-ready, and have the foundations they need to thrive later in life. Currently, however, the inconsistent payment and non-payment of subsidies to ECD programmes is contributing to a situation where children in KwaZulu-Natal continue to live in poverty to a larger extent than children in any other province and are not hitting key developmental milestones.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Background on ECD funding models and the need for greater transparency and clear criteria

31 As is set out in an expert affidavit from Cornerstone Economic Research, subsidies for ECD programmes were, until 2017, funded exclusively by provinces through their provincial budgets. The amount to be allocated to the subsidisation of ECD programmes was at the provinces' discretion.

32 In 2017, the ECD Conditional Grant was introduced by the national government. A key condition of the ECD Conditional Grant is that provinces may not reduce their own budget allocations to ECD.

33 The ECD Conditional Grant is funded by the national government but it is distributed by the provinces, which remain responsible for ensuring that subsidies are paid to qualifying ECD programmes.

34 The ECD Conditional Grant comprises two components:

34.1 Subsidy Component: This component funds an operational subsidy paid to registered centre- and non-centre-based ECD programmes. The rate of the subsidy had remained flat since 2020, receiving its first increase in 5 years in 2025. For ECD centres the rate is now R24 per child per day (up from R17 per child per day) over a standard 264-day year, paid quarterly. R9 per child per session is to be paid to non-centre-based ECD programmes. This subsidy is intended primarily to ensure that programmes can cover the cost of food, ECD practitioner stipends, learning materials and basic overheads. Indeed, nutrition support is one of the core purposes of the subsidy component. The ECD subsidy is one of the state's biggest nutrition support programmes, after the Child Support Grant.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

34.2 Infrastructure Component: This component is designed to strengthen the physical environment in which ECD programmes are delivered. It supports maintenance, repair, upgrading of venues and, where necessary, new low-cost centre construction.

35 The ECD Conditional Grant Framework specifies "allocation criteria", to determine how spending of the subsidy and infrastructure components should be prioritised. However, there are concerns over deficiencies in these criteria. Moreover, they do

MR

not apply to ECD subsidies paid from provincial budgets resulting in a lack of clarity, transparency, and uniformity in the funding of ECD programmes.

36 More importantly, KwaZulu-Natal consistently performs as one of the worst provinces in relation to the allocation of funds to and the administration of subsidies. It has consistently allocated less funding to ECD than most other provinces. This is despite the fact that KwaZulu-Natal has one of the largest child populations in South Africa, and among the poorest children in the country.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

37 The persistent late or non-payment of subsidies compounds this problem, with the result that financial support does not consistently reach the ECD programmes and young children who would most benefit. This negatively impacts ECD programme quality, especially in disadvantaged communities, which, in turn, negatively affects the development of South Africa's most vulnerable young children.

38 These submissions highlight that efforts to improve national and provincial budgeting for ECD subsidies must be matched with efforts to ensure that the distribution of these subsidies by provinces is efficient, consistent, and transparent.

The right to ECD and the duty on the state to provide stable, transparent, equitable funding for ECD programmes

39 The South African Constitution provides explicit recognition and protection for a range of children's rights. This includes: a child's right to family or parental

care;[1] shelter; basic nutrition; basic health care services; social services;[2] and basic education.[3] Moreover, the best interests of the child must also be considered paramount in every matter concerning them.[4] Despite this array of child-specific rights, the Constitution does not explicitly articulate the right to early childhood development, holistically understood. However, in our submission, such a right is implicit in the Constitution, interpreted in light of international law.

40 In establishing a right to early childhood development, section 39(1)(b) of the Constitution is of central significance, which provides that courts must consider international law when interpreting rights in the Bill of Rights. A child's right to development is well-established in international law. The United Nations Convention on the Rights of the Child ("UN CRC") and African Charter on the Rights and Welfare of the Child ("ACRWC") require states to ensure to the maximum extent possible the survival and development of the child.[5] These instruments, as well as the commentary of international committees, recognise that children's development must be understood holistically, and that they have a right to physical, mental, spiritual, moral, emotional, psychological, social and cultural development and development of their personality and talents.[6] In addition, General Comment No.7 provides explicit recognition of early childhood as a critical period for development.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

[1] Section 28(1)(b) of the Constitution.
[2] Section 28(1)(c) of the Constitution.
[3] Section 29(1)(a) of the Constitution.
[4] Section 28(2) of the Constitution.
[5] Article 6 of the UN Convention on the Rights of the Child; Article 5 of the African Charter on the Rights and Welfare of the Child.
[6] UN Committee on the Rights of the Child General Comment No.7 (2005).

41 Our submission will be that the Constitution, interpreted in light of international law, implicitly includes an umbrella right to early childhood development. The intertwined rights to dignity and life under sections 10 and 11 of the Constitution should be interpreted consistently with Article 6 of the UN CRC and Article 5 of the ACRWC to encompass an overarching right to life, survival and development, including development in early childhood. Under sections 10 and 11, young children in South Africa therefore have a right to physical, mental, spiritual, moral, emotional, psychological, social and cultural development and development of their personality and talents. The argument that the right to life should be interpreted to include a right to development for young children has also been made in the academic literature, including in a paper I co-authored with Nurina Ally and Rubeena Parker, who at that time were the respective director and head of research of the Equal Education Law Centre. The paper is attached as "**EC 08**". Under the umbrella right to early childhood development are interconnected rights to each component:

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

41.1 The right to early learning is found in section 10 and section 29(1)(a) of the Constitution, interpreted in light of Articles 6 and 29 of the UN CRC and Article 11(2)(a) of the ACRWC.

41.2 The right to responsive caregiving is found in section 28(1)(b) of the Constitution, interpreted in light of Articles 5, 18, 20 and 27 of the UN CRC.

41.3 The right to adequate nutrition is found in section 28(1)(c) of the Constitution, interpreted in light of Articles 6 and 24 of the UN CRC.

41.4 The right to good health is found in Section 28(1)(c) of the Constitution, interpreted in light of Articles 6 and 24 of the UN CRC.

16

41.5 The right to safety and security is found in sections 28(1)(c) and (d) and 24 of the Constitution, interpreted in light of Articles 19, 24 and 27 of the UN CRC.

41.6 The right to play is found in sections 10, 11, 16 and 29(1)(a) of the Constitution, interpreted in light of Articles 6, 29 and 31 of the UN CRC.

41.7 The right to participate in cultural life is found in section 31(1) of the Constitution, interpreted in light of Article 31 of the UN CRC; and

41.8 The overarching right and principle that the best interests of the child must be afforded paramount importance in every matter concerning the child, under section 28(2) of the Constitution and Article 3 of the CRC.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

42 Thus, the right to ECD encompasses a holistic package of components, where each component is linked with the others by the role that they jointly play in facilitating a young child's optimal development. A diagrammatic representation of the umbrella right to early childhood development and component rights, prepared for RR4ECD by Nurina Ally and Tatiana Kazim of the Centre for Law and Society at the University of Cape Town, is attached as "**EC 09**".

43 ECD programmes are one of the primary mechanisms by which the right to early childhood development is realised. ECD programmes provide not only stimulation for early learning, but also much-needed nutritional support, responsive caregiving, and opportunities to play and participate in cultural life. They also provide safe and secure environments for young children while their parents or primary caregivers are at work, and offer a point of access for health interventions such as deworming, early identification of disabilities, and referrals to specialists.

17

44 Our submission will be that the state has duties to support ECD programmes through stable and transparent funding arrangements; duties which correspond to the child's right to early childhood development.

45 This duty to ensure stable and transparent funding arrangements is further reinforced by:

45.1 The section 1(d) constitutional values of accountability, responsiveness and openness;



45.2 The section 7(2) obligation on the state to take reasonable and effective measures to respect, protect, promote and fulfil constitutional rights;

45.3 The section 237 obligation on the state to perform its constitutional obligations diligently and without delay; and

45.4 The section 195 values and principles governing the public administration, including the duty to ensure that the public administration is development-oriented and promotes the efficient, economic and effective use of resources.

46 We will further argue that underpinning the right to early childhood development is the right to equality under section 9 of the Constitution. As outlined above, increasing access to quality ECD programmes is a critical lever for addressing socio-economic inequality. However, the current spread of quality ECD programmes across geographical areas and population groups is instead perpetuating intergenerational cycles of disadvantage - and this is exacerbated by unstable and poorly-targeted

government funding. The failure to ensure stable, transparent, equitable funding arrangements for ECD programmes is thus undermining the right to equality and non-discrimination, as well as the right to early childhood development. The significance of the right to equality in the context of South Africa's ECD sector has been recognised by leading academic, Professor Sandra Fredman, of the University of Oxford, in a recent, co-authored paper attached as "**EC 10**".

ASSISTANCE TO THE COURT AND ADMISSION OF EVIDENCE

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

47 Equality Collective believes that its involvement in the proceedings will offer valuable assistance to the Court in the determination of the issues.

48 The submissions set out above are novel, relevant and do not duplicate the submissions presented by the other parties in the matter.

49 The Equality Collective's further submits that it is in the interests of justice to admit the further evidence contained in this affidavit and the supporting expert affidavits, for the following reasons:

49.1 This evidence provides necessary context on the nature and importance of ECD programmes and how these programmes are currently funded;

49.2 This evidence has not been canvassed in the existing papers in the same level of detail.

19

49.3 The two expert affidavits are prepared by leading experts in their field, who base their evidence and opinions on facts derived from reliable sources, primarily drawing on government's own records, reports, and statistical data.

49.4 This evidence will provide the Court with assistance in crafting a just and equitable remedy.

49.5 If this court grants the structural interdict sought by the applicants, this evidence will also provide the court with necessary insights to assess the reports to be submitted by the respondents.



50 Accordingly, the Equality Collective submits that the evidence sought to be introduced will be of appreciable assistance to the Court in the adjudication of the issues before it.

CONSENT OF THE PARTIES

51 On 31 July 2025, Equality Collective's attorneys addressed a letter to all the parties, requesting their consent to its admission as *amicus curiae* in the matter. I annex a copy of this letter as "**EC 11**".

52 The applicants furnished their consent on 04 August 2025. It is attached hereto, marked annexure **"EC 12"**. None of the respondents have replied to our attorneys' request for consent.

53 Accordingly, Equality Collective applies to the Court in terms of Rule 16A(5) to be admitted as an *amicus curiae* to part B of the main application and to afford it the opportunity to adduce evidence by means of affidavit and to submit both written and oral argument.

CONDONATION

54 The Equality Collective acknowledges that it is necessary to apply for condonation in respect of its non-compliance with the timeframes contained in Uniform Rule 16A(5).

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

55 The Applicants' notice in terms of Rule 16A was filed together with their application on 26 May 2025. The last day for obtaining consent was 24 June 2025 and the last day for making an application for admission was 1 July 2025. I understand that this application will be filed on 24 October 2025 and will therefore be 81 court days late.

56 I understand that in order to obtain condonation, the applicant is required to provide a full explanation for the delay and to demonstrate that it is in the interests of justice for condonation to be granted in terms of Uniform Rule 16A(9).

57 The delay in filing this application is attributable to the time-intensive process of securing legal representation, reaching out to experts, commissioning and finalising the expert affidavits from the Children's Institute and Cornerstone Economic Research.

58 The Equality Collective first became aware of this application on 4 November 2024. The matter progressed when the Legal Resources Centre provided the necessary

founding papers around 3 June 2025, which enabled the Collective to move forward with legal action.

59 In response, the Equality Collective then secured pro bono representation from the Centre for Child Law. An initial consultation was held on 10 June 2025 to discuss the case. Following this, the Centre for Child Law formally appointed counsel and a second, more substantive consultation was conducted on 17 June 2025 to prepare the legal strategy.



60 Following this consultation, it was agreed that the Equality Collective would assist expert assistance in formulating its submissions. The Equality Collective then proceeded to contact the Children's Institute and Cornerstone Economic Research.

61 Due to the nature of the request to the experts, we had to meet with them and agree on Terms of References for what was expected of them. The Terms of Reference were finalised around 7 July 2025.

62 To ensure the evidence presented to this Court is of the highest quality, it was necessary to provide the experts with the founding papers in the main application for their review and to allow them sufficient time to conduct any necessary additional analysis specific to the issues and province (KwaZulu-Natal) in question. This evidence-based approach, while time-consuming, was undertaken in the interests of providing the Court with useful assistance. Each of the experts needed about three weeks to provide us with a first draft of their affidavits, which we received around 28 July 2025.

63 During this time, our attorneys ascertained that the Part B application was initially set down for hearing on the unopposed motions roll on 6 August 2025. Our attorneys made contact with the applicants' attorneys and were advised that the applicants intended to seek a postponement and authorisation to amend their notice of motion and to supplement their papers.

64 As a result, in our letter seeking the parties' consent to the Equality Collective's admission as an *amicus curiae sent on* 31 July 2025, our attorneys requested that the parties agree to an extension of the timeframes contemplated in Rule 16A to allow for the filing of this application within 20 days after receiving the applicants' supplemented papers.



65 As noted above, the applicants' consented to this request but the respondents failed to respond.

66 The applicants filed their amended and supplemented founding papers on 07 October 2025.

67 The Equality Collective and our legal team then proceeded to finalise these papers during the week of 13-23 October 2025.

68 Given that the pleadings in Part B have not yet closed, there can be no conceivable prejudice to any parties.

23

69 Considering the lack of prejudice to the parties, Equality Collective's explanation and the importance of the submissions that Equality Collective seeks to advance, Equality Collective submits that it is in the interests of justice to grant condonation.

CONCLUSION

70 For the reasons set out above, I pray for an order as set out in the Notice of Motion.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

TESS NOLIZWE PEACOCK

Signed and sworn before me on this 20th day of October 2025 at Rosebank the Deponent having acknowledged that she knows and understands the contents of this affidavit, has no objection to taking the prescribed oath and considers the oath to be binding on her conscience and uttered the words: "I swear that the contents of this declaration are true so help me God".

SOUTH AFRICAN POLICE SERVICE
CLIENT SERVICE CENTRE
2025 -10- 20
CSC
ROSEBANK

SUID-AFRIKAANSE POLISIEDIENS

COMMISSIONER OF OATHS

Full names: Madime Masuku
Designation and area: Constable
Street address: 15 Avidee Avenue

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

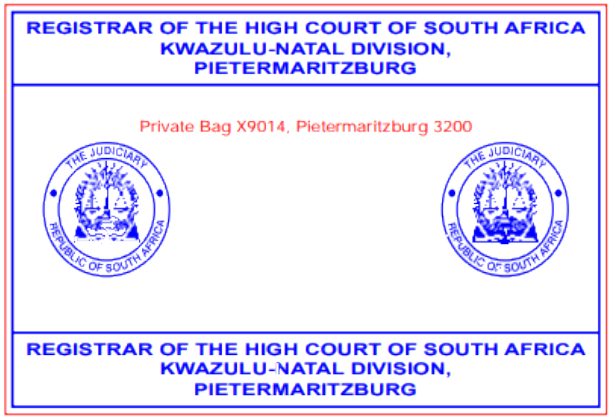
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 01

NOTE: **This document was filed electronically by the Registrar on 11/12/2025 at 11:18:17 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

THE EQUALITY COLLECTIVE

"EC 01"

equalitycollective.org.za

EQUALITY COLLECTIVE

ROUND ROBIN BOARD RESOLUTION

APPROVAL FOR INTERVENTION AS AMICUS CURIAE IN COURT PROCEEDINGS RELATING TO THE EARLY CHILDHOOD DEVELOPMENT (ECD) SUBSIDY SYSTEM IN KWAZULU-NATAL

Date:

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

BACKGROUND

1. The Equality Collective is a non-profit organisation (NPC number: 2020/125379/08), based in the rural Eastern Cape, working to advance socio-economic rights and governance accountability through grassroots advocacy. The Equality Collective sits at the nexus of grassroots organising and national policy influence—it is deeply embedded in the communities it serves while shaping national reforms.
2. One of the Equality Collective's strategic workstreams is the Right to Early Childhood Development (ECD). Under this programme, the Equality Collective co-founded and serves as the secretariat of the Real Reform for ECD (RR4ECD) movement, a national initiative supported by over 300 organisations and 1000+ ECD practitioners across five provinces. It provides strategic, technical, advocacy, and communications support to the RR4ECD Steering Committee, enhancing its ability to develop and implement the varied campaign strategies, to refine its advocacy approach where necessary, and to amplify and guide the movement's efforts through collaboration and coalition work.
3. The Equality Collective wishes to bring an application as **amicus curiae** in the matter of: *Friends of South Africa Early Childhood Development Forum and Others v MEC for Education: KwaZulu-Natal and Others* (Case No. 2025-067855), currently before the High Court in KwaZulu-Natal. The application will be made in terms of Rule 16A(2) of the Uniform Rules of Court.
4. The case raises fundamental questions about the role of ECD programmes in enabling young children's rights and the constitutional and legislative duties of the state. The Equality Collective's amicus intervention will focus on:
    - Providing **expert evidence** on developmental outcomes of young children nationally and in KZN, the nature of the ECD sector and the current role played by the state in relation to ECD programmes, through the **Children's Institute**;
    - Submitting an affidavit by **Cornerstone**, detailing the funding framework of the ECD subsidy system and proposals for reform;
    - Advancing **legal argument** on the constitutional and international law basis for a holistic right to ECD;

THE EQUALITY COLLECTIVE

equalitycollective.org.za

- Demonstrating how the current funding and regulatory arrangements affect service delivery and access to ECD programmes, particularly for marginalised communities.

NOW THEREFORE, after due consideration of the background and the strategic importance of the matter to the Equality Collective's mission and programme of work, the Board of the Equality Collective, acting via round robin resolution, hereby RESOLVES:

5. The Equality Collective is authorised to apply for admission as **amicus curiae** in the matter of *Friends of South Africa Early Childhood Development Forum and Others v MEC for Education: KwaZulu-Natal and Others* in the KwaZulu-Natal High Court.
6. The organisation shall be represented by the **Centre for Child Law** and supported by expert contributors including the Children's Institute and Cornerstone.
7. The Equality Collective's Executive Director, or her duly authorised delegate, is empowered to:
   - Represent the Equality Collective in all legal proceedings related to the matter;
   - Sign and submit any required affidavits, letters, and court documentation;
   - Take all further steps necessary to give effect to this resolution.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Hereby signed and approved:

Board delegates were confirmed via round-robin

Lunga Siyo

Yana van Leeve

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

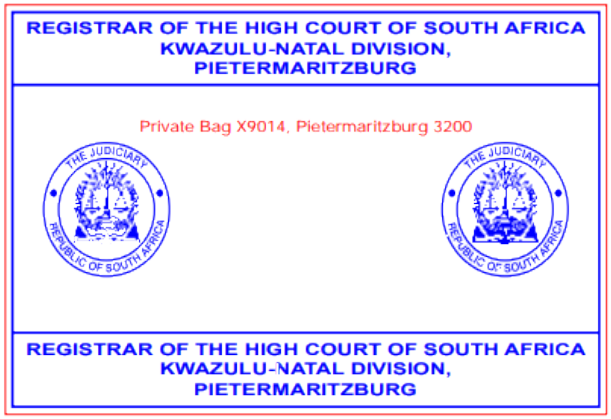
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 02

NOTE: **This document was filed electronically by the Registrar on 11/12/2025 at 11:19:22 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

Timestamp	Email address	Would you like to recei
10/15/2020 22:25:33	tess@equalitycollective.org.za	
10/16/2020 10:51:29	Cara.Hubert@domore.org.za	
10/16/2020 14:03:14	tracy@elru.co.za	
10/16/2020 15:26:50	jane@saep.org	
10/20/2020 11:36:01	jabu.mthembu-dlamini@domore.org.za	Yes
10/20/2020 11:40:09	gerardsecdcenter@gmail.com	Yes
10/20/2020 11:46:05	info@birchacademy.co.za	Yes
10/20/2020 11:50:03	ian@little5sandton.co.za	Yes
10/20/2020 11:54:41	giulianab@omt.org.za	Yes
10/20/2020 11:54:46	info@singakwenza.co.za	Yes
10/20/2020 11:55:20	giuliana@jimjoelfund.org	No
10/20/2020 12:05:01	elisabeth@vanwykandassociates.com	Yes
10/20/2020 12:13:51	ritampoyo2018@gmail.com	Yes
10/20/2020 12:14:22	andrea@toolsforschool.net	Yes
10/20/2020 12:20:40	Badi@ubunyefoundation.co.za	Yes
10/20/2020 13:17:27	traceycollins@growecd.org.za	Yes
10/20/2020 14:55:04	cara.hubert@domore.org.za	Yes
10/20/2020 16:27:06	principal@treetopsmontessori.co.za	Yes
10/20/2020 18:49:40	lucricia63@gmail.com	Yes
10/20/2020 18:53:07	illnahns7@gmail.com	Yes
10/20/2020 19:02:27	happylindley@gmail.com	Yes
10/20/2020 19:10:05	thembimkhonza347@gmail.com	Yes
10/20/2020 19:13:52	thembimkhonza347@gmail.com	Yes
10/20/2020 19:18:04	lightbearersacademy01@gmail.com	Yes
10/20/2020 19:43:35	deborahvoyi31@gmail.com	Yes
10/20/2020 20:47:11	constancemashiane8@gmail.com	Yes
10/20/2020 20:48:31	brendamanganyi@gmail.com	Yes
10/20/2020 20:49:01	minnihandsdaycare@gmail.com	Yes
10/20/2020 21:05:45	mariajgasago62@gmaul.com	Yes
10/20/2020 21:31:22	phindilezwane@yahoo.com	Yes
10/20/2020 22:10:54	estrelita.esau1@gmail.com	Yes
10/20/2020 22:32:39	grannymahlangu@yahoo.com	Yes
10/20/2020 22:47:03	brixtonecd@yahoo.co.za	Yes
10/20/2020 22:59:41	dinakeanna@gmail.com	Yes
10/21/2020 1:45:34	Nokuthulathuli020@gmail.com	Yes
10/21/2020 1:46:11	Nokuthulathuli020@gmail.com	Yes
10/21/2020 3:43:26	yvonnemathibela6@gmail.co	Yes
10/21/2020 8:02:34	amandak@splendidgroup.co.za	Yes
10/21/2020 8:14:52	sikhulasinke1@gmail.com	Yes
10/21/2020 8:16:17	sikhulasonke1@gmail.com	Yes
10/21/2020 9:35:10	sibongileinno14@gmail.com	Yes
10/21/2020 11:57:01	nomfundisomdyogolo@gmail.com	Yes
10/21/2020 12:55:30	khozanatalia8@gmail.com	Yes



10/21/2020 13:16:34	lemon2lemonadedaycare@gmail.com	Yes
10/21/2020 14:35:36	reamohetswedaycarecentre@gmail.com	Yes
10/21/2020 15:01:57	katlegoecdtsakane@gmail.com	Yes
10/21/2020 15:20:13	fatyelapreschool@gmail.com	Yes
10/21/2020 16:19:11	kedibonelegabe@yahoo.com	Yes
10/21/2020 17:49:13	khosinkosi2017@gmail.com	Yes
10/21/2020 19:54:46	Lindizulu77@gmail.com	Yes
10/21/2020 20:42:07	sibo.mnisi4@gmail.com	Yes
10/21/2020 21:17:16	faranipreschool15@gmail.com	Yes
10/21/2020 22:13:58	nobuntudaycare@gmail.com	Yes
10/22/2020 9:09:23	sibongileinno14@gmail.com	Yes
10/22/2020 10:53:58	grannymahlangu@yahoo.com	Yes
10/23/2020 8:42:11	smolapo29@gmail.com	Yes
10/23/2020 9:41:37	mlangenivirginia@gmail.com	Yes
10/27/2020 8:57:49	info@samara.org.za	Yes
10/27/2020 9:41:52	minnihandsdaycare@gmail.com	Yes
10/27/2020 10:33:37	mamapraise38@gmail.com	Yes
10/27/2020 10:52:07	poonam@letcee.org	Yes
10/27/2020 14:17:48	oratileecd88@gmail.com	Yes
10/27/2020 14:18:51	kakgari@yahoo.com	Yes
10/27/2020 14:23:33	jblom@cecd.org.za	Yes
10/27/2020 15:38:31	eunitylentoor49@gmail.com	Yes
10/27/2020 16:49:44	riedewhaan@fcw.co.za	Yes
10/27/2020 18:18:26	singhatisha@gmail.com	Yes
10/27/2020 19:08:28	halimasm85@gmail.com	Yes
10/27/2020 19:22:55	boipelo@agangbokamoso.org.za	Yes
10/27/2020 20:38:24	faranipreschool15@gmail.com	Yes
10/28/2020 4:56:27	rahabkgaabi@gmail.com	Yes
10/28/2020 7:49:21	director@chameleonschools.co.za	Yes
10/28/2020 7:55:59	glendaaohlson@gmail.com	Yes
10/28/2020 8:34:15	info@firststepsecd.org	Yes
10/28/2020 11:16:53	ChildAdvocacy@cindi.org.za	Yes
10/28/2020 17:14:02	jmelissa021@gmail.com	Yes
10/28/2020 17:24:30	sweethomeeducare@gmail.com	Yes
10/28/2020 18:03:32	info@masikhule.org	Yes
10/28/2020 19:24:17	carol@cell4change.co.za	Yes
10/28/2020 20:49:42	herschelbrianabrah@gmail.com	Yes
10/29/2020 8:14:22	ahunawanga@gmail.com	Yes
10/29/2020 13:05:38	khulangolwaziecd@gmail.com	Yes
10/29/2020 14:39:52	admin@samontessori.org.za	Yes
10/29/2020 21:15:10	pattikokkinn@gmail.com	Yes
10/29/2020 23:36:38	Simonenorval@gmail.com	Yes
10/30/2020 9:23:03	nobomimpepho@yahoo.com	Yes
10/30/2020 11:53:28	bettyngwenya5@gmail.com	Yes



10/30/2020 15:14:55	vuka.maflo@gmail.com	Yes
10/31/2020 11:20:50	solon@mweb.co.za	Yes
11/1/2020 5:49:23	cacelwasdyani@gmail.com	Yes
11/1/2020 13:47:11	dumazan12@gmail.com	Yes
11/1/2020 21:33:37	thandimaseko46@gmail.com	Yes
11/1/2020 21:35:35	otterscreekprincipal@gmsil.com	Yes
11/2/2020 0:22:10	zzee.mtsweni@gmail.com	Yes
11/2/2020 4:58:59	otterscreekprincipal@gmail.com	Yes
11/2/2020 7:50:40	cindy@lima.org.za	Yes
11/2/2020 8:16:25	mariamofokeng4@gmail.com	Yes
11/2/2020 8:16:37	mariamofokeng4@gmail.com	Yes
11/2/2020 9:05:26	shireen@babybear-clubhouse.co.za	Yes
11/2/2020 10:30:41	andrea@wordworks.org.za	Yes
11/2/2020 13:17:13	developmentdirector@knysnaedutrust.co.za	Yes
11/2/2020 13:17:59	vanessa@afrikatikkun.org	Yes
11/2/2020 14:05:19	rhodatulilm@gmail.com	Yes
11/2/2020 14:51:24	leigh@true-north.co.za	Yes
11/2/2020 17:58:51	marketing@tlasa.org	Yes
11/3/2020 9:51:59	nelru@mweb.co.za	Yes
11/3/2020 10:12:25	nelru@mweb.co.za	Yes
11/3/2020 12:21:25	rexmotheo@gmail.com	Yes
11/4/2020 14:37:43	explore@radiokopmontessori.co.za	Yes
11/4/2020 16:36:20	Lezannebrink@gmail.com	Yes
11/4/2020 16:55:18	contact@safeandsound.org.za	Yes
11/4/2020 16:58:47	littlekqacademy@gmail.com	Yes
11/4/2020 17:09:30	littlekqacademy@gmail.com	Yes
11/5/2020 10:47:22	principal@honeycombpreschool.co.za	Yes
11/5/2020 12:18:16	paula.proudlock@uct.ac.za	Yes
11/5/2020 12:23:21	arina@stellumthombo.co.za	Yes
11/5/2020 15:29:23	amandak@splendidgroup.co.za	Yes
11/5/2020 15:35:33	sweethomeeducare@gmail.com	Yes
11/6/2020 12:14:20	siyakholwatrans@gmail.com	Yes
11/7/2020 19:59:02	zandilemagudulela6@gmail.com	Yes
11/9/2020 10:19:02	ann.skelton@up.ac.za	Yes
11/9/2020 12:49:51	projects@midlandscommunitycollege.co.za	Yes
11/9/2020 13:20:37	natalie@cotlands.org	Yes
11/9/2020 19:47:30	laubscherjudy@gmai.com	Yes
11/9/2020 21:34:07	londiwetwins@gmail.com	Yes
11/10/2020 2:13:12	ikusasa.lethucreche2017@gmail.com	Yes
11/10/2020 8:26:51	sarah.mathibela1@gmail.com	Yes
11/10/2020 9:39:05	susanne@montessorisa.co.za	Yes
11/10/2020 11:04:23	sarah.mathibela1@gmail.com	Yes
11/10/2020 11:30:28	mayongomahlubsndile@yahoo.com	Yes
11/10/2020 17:45:49	merlramsamy1@gmail.com	Yes



11/10/2020 18:27:57	mtheducare@gmail.com	Yes
11/11/2020 13:02:30	nonhlanhlaephia43@gmail.com	Yes
11/11/2020 15:53:25	riedewhaan@fcw.co.za	Yes
11/11/2020 21:00:14	elaine.cilliers2@gmail.com	Yes
11/12/2020 8:00:08	tlceducare9@gmail.com	Yes
11/12/2020 9:12:34	parkview@vodamail.co.za	Yes
11/12/2020 11:11:42	kwamipreschool@gmail.com	Yes
11/13/2020 11:48:29	Kaathima.ebrahim@mikhulutrust.org	Yes
11/14/2020 16:23:21	chippendaledaycare@gmail.com	Yes
11/14/2020 20:02:05	lesedimalibe7@gmail.com	Yes
11/15/2020 6:53:48	Mimosamontessori42@gmail.com	Yes
11/16/2020 4:28:56	lusemanzi@gmail.com	Yes
11/16/2020 9:06:56	n.hayes@ru.ac.za	Yes
11/16/2020 9:47:08	dinafortuin61@gmail.com	Yes
11/16/2020 10:20:17	naometshwane23@gmail.com	Yes
11/16/2020 16:57:35	noncebaecd4@gmail.com	Yes
11/17/2020 11:56:09	littleangelsdaycarepaarl@gmail.com	Yes
11/17/2020 12:42:20	carrie@baobabmontessori.co.za	Yes
11/17/2020 13:20:15	thandi3248@gmail.com	Yes
11/17/2020 14:41:53	babynestccc@gmail.com	Yes
11/17/2020 15:03:35	butterflyway.edu253@gmail.com	Yes
11/18/2020 10:39:50	tfutfukaniedc@gmail.com	Yes
11/18/2020 11:05:45	jacky.price@generationschools.co.za	Yes
11/18/2020 22:16:09	greatersoweto4ecd@gmail.com	Yes
11/19/2020 14:50:52	mntoyapi@hcifoundation.co.za	Yes
11/20/2020 11:21:27	aveladccacm@gmail.com	Yes
11/20/2020 14:03:05	dreamersparadise75@gmail.com	Yes
11/20/2020 14:06:06	kganyam3927@gmail.com	Yes
11/20/2020 18:27:41	mildred@ikamva.co.za	Yes
11/21/2020 16:41:45	nokwanda.mng@gmail.com	Yes
11/22/2020 18:44:05	heather.napier@gmail.com	Yes
11/23/2020 16:23:30	sibongileinno14@gmail.com	Yes
11/23/2020 19:01:12	refiloenaha@gmail.com	Yes
11/24/2020 6:50:46	shongwethandeka866@gmail.com	Yes
11/24/2020 10:05:05	info@luvuyo.org	Yes
11/24/2020 10:59:46	noluvosweli@gmail.com	Yes
11/24/2020 14:54:14	issy.petersen@gmail.com	Yes
11/24/2020 16:18:09	queen@khanimambatraining.co.za	Yes
11/24/2020 20:15:34	mpumejwara03@gmail.com	Yes
11/24/2020 20:15:49	mpumejwara03@gmail.com	Yes
11/24/2020 20:17:40	mpumejwara03@gmai.com	Yes
11/24/2020 21:01:48	ramontjamodibo@gmail.com	Yes
11/25/2020 11:02:54	littlebigcreche@gmail.com	Yes
11/25/2020 11:04:30	nonto.pngcobo@gmail.com	Yes



11/25/2020 11:06:28	nokwakazulu@gmail.com	Yes
11/25/2020 11:11:37	jabulilemabele587@gmail.com	Yes
11/26/2020 0:11:40	wynbergcreche@gmail.com	Yes
11/26/2020 10:31:42	dean@feedthebabiesfund.org.za	Yes
11/26/2020 12:23:49	joycem49@gmail.com	Yes
11/26/2020 15:33:48	mariamonama404@gmail.com	Yes
11/26/2020 21:02:46	tessa@reggio.co.za	Yes
11/26/2020 23:32:36	queen@khanimambatraining.co.za	Yes
11/27/2020 8:35:16	mary@khukuleka.org.za	Yes
11/27/2020 9:12:30	shelley@wordworks.org.za	Yes
11/27/2020 12:07:21	ecdreg-manager@knysnaedutrust.co.za	Yes
11/27/2020 15:19:06	karenfundakunye@gmail.com	Yes
11/27/2020 20:53:21	leanne@learninginreach.org.za	Yes
11/27/2020 23:07:20	tantaswamshiya@gmail.com	Yes
12/14/2020 9:29:41	tuckeyjohnson@gmail.com	Yes
12/27/2020 16:58:04	astrid@transcape.org	Yes
12/29/2020 18:37:02	khensile.gomba@gmail.com	Yes
2/9/2021 1:05:09	legaedcc@gmail.com	Yes
3/3/2021 12:31:38	ArhieMolato@gmail.com	Yes
3/7/2021 17:09:11	likeledimthimunye01@gmail.com	Yes
3/7/2021 17:11:02	likeledimthimunye01@gmail.com	Yes
3/9/2021 10:39:27	kmphahlele04@gmail.com	Yes
3/12/2021 13:51:09	dart@sai.co.za	Yes
3/12/2021 13:53:08	margaretmdale@gmail.com	Yes
3/16/2021 6:13:32	grontsch@gmail.com	Yes
4/22/2021 10:21:11	director@tree-ecd.co.za	Yes
5/4/2021 10:57:45	heatherdaycare@gmail.com	Yes
5/13/2021 7:04:04	raeesaa237@gmail.com	Yes
5/13/2021 8:01:55	shokejl@gmail.com	Yes
5/13/2021 9:57:36	mollerv40@gmail.com	Yes
6/7/2021 15:46:07	sdheneck@gmail.com	Yes
6/18/2021 15:09:00	tukuluteez@gmail.com	Yes
10/14/2021 11:50:10	sheniece@lrc.org.za	Yes
10/14/2021 14:43:25	jabulilecoka7@gmail.com	Yes
10/15/2021 5:53:13	khozanikeziwe01@gmail.com	Yes
10/15/2021 5:58:20	khozanikeziwe01@gmail.com	Yes
10/20/2021 13:09:24	dubazanathuli97@gmail.com	Yes
10/22/2021 8:46:55	julieann2833@gmail.com	Yes
10/22/2021 10:09:11	tessa@reggio.co.za	Yes
10/23/2021 5:54:45	deyana-cdp@mail.ngo.za	Yes
10/27/2021 13:31:24	roseglasswork@gmail.com	Yes
10/27/2021 18:44:11	theresa.giorza@wits.ac.za	Yes
11/15/2021 18:30:00	rbuhle4@gmail.com	Yes
11/16/2021 8:21:08	biancaloreal19@gmail.com	Yes



12/14/2021 18:10:30	bongiwemotlhamme@gmail.com	Yes
1/18/2022 20:53:49	cnmashiane@gmail.com	Yes
1/18/2022 20:55:04	cnmashiane@gmail.com	Yes
2/25/2022 12:59:25	masibulelegt4@gmail.com	Yes
3/10/2022 3:12:56	lolaaduke44@gmail.com	Yes
4/1/2022 11:18:57	director@breadlineafrica.org	Yes
4/20/2022 11:30:26	cathy@educationaltraining.co.za	Yes
4/25/2022 13:16:04	Ricardo.Ngcobo@gmail.com	Yes
4/25/2022 13:22:14	Ricardo.Ngcobo@gmail.com	Yes
4/26/2022 16:12:49	thandekamonica063@gmail.com	Yes
5/12/2022 14:00:07	Empumelelweniecd@gmail.com	Yes
5/12/2022 22:16:21	phorenomvula@gmail.com	Yes
6/9/2022 15:19:15	twan_john@yahoo.com	Yes
6/9/2022 15:23:38	underthesoneducation@gmail.com	Yes
6/14/2022 13:32:03	maurisa@lefika.org.za	Yes
6/29/2022 11:14:53	jabucoka7@gmail.com	Yes
7/1/2022 9:26:37	info@ekuphumulenihomeofpeace.co.za	Yes
7/11/2022 13:12:49	malcolm@drclsmith.org	Yes
9/3/2022 23:07:34	helenvosloo@gmail.com	Yes
9/29/2022 10:44:15	shernice.sherry@gmail.com	Yes
11/3/2022 12:10:49	info@playlearnwin.co.za	Yes
12/8/2022 13:31:00	lynn@lulamaphiko.org	Yes
12/21/2022 9:33:16	cindymavimbela@gmail.com	Yes
2/20/2023 13:27:07	ipeleng@earlycarefoundation.org	Yes
3/22/2023 14:21:54	hometakeme2@gmail.com	Yes
3/29/2023 21:30:16	alicenjaca@gmail.com	Yes
4/7/2023 0:14:39	thee.ericaburger2@gmail.com	Yes
4/13/2023 13:34:25	Sandra.Bruwer@nwu.ac.za	Yes
4/14/2023 19:43:38	sarah.mathibela1@gmail.com	Yes
4/16/2023 6:49:35	happyfacesmontessori1@gmail.com	Yes
5/11/2023 21:53:16	julia@bookdash.org	Yes
5/17/2023 5:43:54	happyfacesmontessori1@gmail.com	Yes
6/14/2023 16:27:15	monique@gfsa.org.za	Yes
7/3/2023 10:28:36	esethu@bulungulaincubator.org	Yes
9/5/2023 13:08:48	nthabzz@outlook.com	Yes
9/11/2023 11:23:37	sandra@ecdboss.org.za	Yes
10/13/2023 11:09:54	totzamisto@gmail.com	Yes
10/15/2023 20:55:10	margaretmdale@gmail.com	Yes
10/24/2023 12:17:42	hawa@elfmontessori.co.za	Yes
10/24/2023 12:19:47	joschool@elfmontessori.co.za	Yes
11/2/2023 5:58:13	thobilepreciousmasombuka@gmail.com	Yes
11/2/2023 7:30:30	feliciagoff3@gmail.com	Yes
11/2/2023 9:25:28	maliekismail49@gmail.com	Yes
11/3/2023 9:28:31	jabu.mthembu-dlamini@domore.org.za	Yes



11/3/2023 9:36:39	bonganigladwelln@gmail.com	Yes
11/3/2023 11:42:35	kelly@kropmanlaw.co.za	Yes
11/4/2023 7:37:48	tshabanguthabisile3@gmail.com	Yes
11/4/2023 7:45:41	tshabanguthabisile3@gmail.com	Yes
11/4/2023 14:23:11	rebeccamarryjan@gmail.com	Yes
11/5/2023 16:11:29	smartangelsdaycarecentre@gmail.com	Yes
11/6/2023 12:45:40	carol@cell4change.co.za	Yes
11/6/2023 23:01:38	devplay@yebo.co.za	Yes
11/7/2023 19:49:41	jennysharpley@gmail.com	Yes
11/8/2023 14:02:42	zfourpost@gmail.com	Yes
11/12/2023 3:51:00	Princessngcobo07@gmail.com	Yes
11/12/2023 13:42:52	smahdlamini24@gmail.com	Yes
12/10/2023 21:06:24	neokthabe@gmail.com	Yes
12/13/2023 5:43:33	Princessngcobo07@gmail.com	Yes
1/19/2024 11:09:32	oumam7442@gmail.com	Yes
1/23/2024 21:50:22	wendy6leo@gmail.com	Yes
2/14/2024 13:52:17	monique@amazingbrainz.org	Yes
2/24/2024 3:12:37	PEDROSELA@GMAIL.COM	Yes
3/15/2024 16:13:18	info@sikhulasonke.org.za	Yes
3/17/2024 15:36:58	morubanethato@gmail.com	Yes
4/3/2024 13:30:47	siyathuthuka@gmail.com	Yes
4/8/2024 13:21:40	sukumanicreche0@gmail.co.com	Yes
4/10/2024 10:08:49	thandazopmabizela@gmail.com	Yes
4/11/2024 12:05:12	oumamargreth@gmail.com	Yes
4/11/2024 16:39:10	latifalapane@icloud.com	Yes
4/11/2024 16:41:41	latifalapane@gmail.com	Yes
4/12/2024 1:02:45	carolinamazibuko5@gmail.com	Yes
4/12/2024 10:03:08	malineliswa6@gmail.com	Yes
4/12/2024 10:44:36	margaret.irvine0@gmail.com	Yes
4/14/2024 15:41:09	maromarvin.com@gmail.com	Yes
4/16/2024 17:58:02	malineliswa6@gmail.com	Yes
4/17/2024 7:13:42	rakomaviolet@gmail.com	Yes
4/17/2024 7:17:56	rakomaviolet@gmail.com	Yes
4/18/2024 22:04:26	cyboyd@gmail.com	Yes
4/19/2024 17:18:29	dimakatsomahlatsi14@gmail.com	Yes
4/21/2024 8:43:15	mkhlatshwayo90@gmail.com	Yes
4/29/2024 9:40:18	fionarathoks24@gmail.com	Yes
4/29/2024 14:07:02	duduamanda120@gmail.com	Yes
4/30/2024 11:41:31	duduamanda120@gmail.com	Yes
4/30/2024 11:41:47	pumzamagwanya3@gmail.com	Yes
5/1/2024 22:10:57	ingrid.froneman@gmail.com	Yes
5/23/2024 13:21:01	thandiwephali277@gmail.com	Yes
5/27/2024 18:51:31	joanhferreira@gmail.com	Yes
5/27/2024 18:54:00	rooseveltpreschool@mweb.co.za	Yes



5/30/2024 6:11:42	amandamonyepao2@gmail.com	Yes
6/6/2024 9:48:17	ximena@seriti.org.za	Yes
6/18/2024 11:34:24	zoe@equalitycollective.org.za	Yes
7/23/2024 14:24:45	dorcaschildrenstrust@gmail.com	Yes
7/23/2024 17:26:40	annalouiseo@gmail.com	Yes
7/24/2024 8:12:38	mogaleadifoundation2019@gmail.com	Yes
7/24/2024 18:36:37	glenda@saep.org	Yes
7/25/2024 17:59:59	leratomashale9@gmail.com	Yes
7/26/2024 23:37:36	phoebeappies3@gmail.com	Yes
7/27/2024 9:28:19	botsanangdaycare@gmail.com	Yes
7/29/2024 22:12:32	kearnsadrian@gmail.com	Yes
8/2/2024 13:08:54	rachel@jet.org.za	Yes
8/5/2024 15:29:28	tematlou123@gmail.com	Yes
9/20/2024 11:20:37	faadhil40@gmail.com	Yes
10/2/2024 10:34:21	mpalwenimandisa@gmail.com	Yes
11/2/2024 7:52:27	tdioka@yahoo.com	Yes
11/2/2024 7:57:38	ndirampone@gmail.com	Yes
11/2/2024 17:38:08	jennileesm27@gmail.com	Yes
11/2/2024 19:08:18	winnymedupe1968@gmail.com	Yes
11/5/2024 5:56:50	sibeko.kopanomonalisa1@gmail.com	Yes
11/5/2024 14:03:42	belinda@startingchance.org.za	Yes
11/12/2024 21:12:24	Sophaziakhona5@gmail.com	Yes
11/15/2024 3:09:35	nosiseko.mbopa8@gmail.com	Yes
11/15/2024 5:06:55	madlalantosh@gmail.com	Yes
11/16/2024 21:34:02	Shirleymaqelane@gmail.com	Yes
11/20/2024 8:43:28	slingera6@gmail.com	Yes
11/22/2024 20:01:01	blaainobesuthu@gmail.com	Yes
11/22/2024 20:02:03	blaainobesuthu@gmail.com	Yes
11/22/2024 20:40:12	rosinakock@gmail.com	Yes
11/22/2024 20:47:16	rosinakock@gmail.com	Yes
11/22/2024 20:56:11	rosinakock@gmail.com	Yes
11/23/2024 16:48:08	madlalantosh@gmail.com	Yes
12/2/2024 21:14:43	pleshage94@gmail.com	Yes
12/6/2024 10:38:13	sbanongwana@gmail.com	Yes
12/6/2024 10:43:28	emihleluvalo@gmail.com	Yes
12/6/2024 10:45:14	danica.savvi@gmail.com	Yes
12/6/2024 10:45:23	caitlynjanelatt@gmail.com	Yes
12/6/2024 10:52:38	aziphelibani@gmail.com	Yes
12/6/2024 11:04:45	smahdlamini24@gmail.com	Yes
12/6/2024 11:11:01	bridgetterethabile@gmail.com	Yes
12/6/2024 11:15:42	mxolisinomdletshe@gmail.com	Yes
12/6/2024 11:18:40	sinakomongezi@gmail.com	Yes
12/6/2024 11:21:25	ziziphonikelo2003@gmail.com	Yes
12/6/2024 11:24:43	siyolisemkaka@gmail.com	Yes



12/6/2024 12:15:14	hoxanebo96@gmail.com	Yes
12/6/2024 12:46:01	dikosinethemba5@gmail.com	No
12/6/2024 13:40:40	nkosinathijoyi09@gmail.com	Yes
12/6/2024 13:59:05	svukubheka@gmail.com	Yes
12/6/2024 15:45:02	ndouunarine079@gmail.com	Yes
12/6/2024 20:49:31	nbnikelo@gmail.com	Yes
12/7/2024 0:44:28	zimbinisikweza3@gmail.com	Yes
12/7/2024 11:26:33	achumile99@gmail.com	Yes
12/7/2024 21:58:19	kuhlemnyande@gmail.com	Yes
12/9/2024 19:47:01	sibuleletitza@gmail.com	Yes
12/10/2024 0:35:59	lesegomonyai19@gmail.com	Yes
12/10/2024 7:14:49	keetsemaphutijane@gmail.com	Yes
12/10/2024 10:11:26	madubelakoshi@gmail.com	Yes
1/17/2025 19:45:32	mashaoleselbymoloto@gmail.com	Yes
1/21/2025 10:38:24	mjoboindiphile@gmail.com	Yes
1/23/2025 11:12:06	ayanda.tshaule2001@gmail.com	Yes
1/25/2025 2:38:20	lucidacirfa@gmail.com	Yes
2/18/2025 8:27:46	portiahendriks8@gmail.com	Yes
2/18/2025 9:46:22	custodamail@gmail.com	Yes
2/18/2025 12:29:51	mgibe.kganane@gmail.com	Yes
2/19/2025 20:33:09	naledimaesa14@gmail.com	Yes
2/20/2025 0:40:20	hassanmabaso@gmail.com	Yes
2/21/2025 16:51:18	mkhlatshwayo90@gmail.com	Yes
2/21/2025 16:53:16	okgatle@gmail.com	Yes
2/21/2025 18:27:14	shumierab@gmail.com	Yes
2/24/2025 14:48:59	laurentiaitumeleng@gmail.com	Yes
2/27/2025 10:59:51	rebonenursary@gmail.com	Yes
2/27/2025 12:03:59	jessica@smartstart.org.za	Yes
2/27/2025 12:04:12	sunriseeducare20@gmail.com	Yes
2/27/2025 12:04:24	robyn@dlalanathi.org.za	Yes
2/27/2025 12:05:05	sinqobile@tree-ecd.co.za	Yes
2/27/2025 12:05:18	busi@ntataise.org	Yes
2/27/2025 12:05:37	christelorato@gmail.com	Yes
2/27/2025 12:07:26	nonhloniphomnguni@gmail.com	Yes
2/27/2025 12:08:44	sheilad@saide.org.za	Yes
2/27/2025 12:14:35	Lindizulu77@gmail.com	Yes
2/27/2025 12:32:05	ssiro@uwc.ac.za	Yes
2/27/2025 13:42:25	juanita@seriti.org.za	Yes
2/28/2025 10:00:55	christelorato@gmail.com	Yes
3/4/2025 17:33:44	lerato.lp24@gmail.com	Yes
3/4/2025 17:35:27	lerato.lp24@gmail.com	Yes
3/10/2025 11:08:41	vonganioctovia7@gmail.com	Yes
3/11/2025 20:04:30	lauren@earlyinspiration.co.za	Yes
3/13/2025 14:05:22	ndirampone@gmail.com	Yes



3/13/2025 14:36:57	freddiemashiapata@yahoo.com	Yes
3/14/2025 9:01:53	pieterboesak8@gmail.com	Yes
3/17/2025 6:58:43	mariaditlhakanyane@outlook.com	Yes
3/18/2025 7:07:19	kleinmelger@gmail.com	Yes
3/18/2025 18:18:02	pulsetka@gmail.com	Yes
3/19/2025 12:37:28	mothanthe.karabo23@gmail.com	Yes
3/20/2025 12:17:48	tshimbi@startwellfoundation.org	Yes
3/20/2025 15:50:36	vonganioctovia7@gmail.com	Yes
3/21/2025 15:21:27	info@pwap.org.za	Yes
3/25/2025 15:32:54	poppy.smartstart@gmail.com	Yes
3/28/2025 11:26:50	Ntshangasenomzamo068@gmail.com	Yes
3/31/2025 21:13:58	jtugwana333@gmail.com	Yes
4/4/2025 16:01:24	jaques.pretorius@abesa.co.za	Yes
4/10/2025 12:57:52	glenda@saep.org	Yes
5/4/2025 14:40:15	keletsongwatladi@gmail.com	Yes
5/6/2025 0:02:49	iaguchukwu@gmail.com	Yes
5/24/2025 13:20:26	steuart@sagoodnews.co.za	Yes
5/27/2025 20:04:21	hlakola.toria@gmail.com	Yes
5/29/2025 21:14:55	nooraftercare@gmail.com	Yes
5/30/2025 9:04:50	stanleypillay19@gmail.com	Yes
5/30/2025 14:56:27	warren@breadlineafrica.org	Yes
7/6/2025 12:42:38	Golagamonate176@gmail.com	Yes
7/13/2025 7:02:49	Golagamonate176@gmail.com	Yes
7/14/2025 12:28:30	sebelebelemandosi@gmail.com	Yes
8/6/2025 15:14:28	vvinkies@gmail.com	Yes
8/8/2025 15:57:04	sheilad@saide.org.za	Yes
8/10/2025 23:07:17	ndamanen@gmail.com	Yes
8/13/2025 9:22:31	julietmashishi@gmail.com	Yes
8/13/2025 19:28:20	endinakokulungile@gmail.com	Yes
8/23/2025 10:14:29	mentorvann@gmail.com	Yes
8/23/2025 10:24:20	adamsaudrey29@gmail.com	Yes
8/23/2025 10:27:24	maryjanemadondo@gmail.com	Yes
8/23/2025 10:36:03	accounts@glenwoodpreschool.org.za	Yes
9/10/2025 7:33:11	P.moreosele@gmail.com	Yes
9/18/2025 12:31:41	khanimambatraining@gmail.com	Yes
9/28/2025 9:58:28	portiafs83@gmail.com	Yes
9/29/2025 11:05:00	tinyeducare@gmail.com	Yes
10/2/2025 5:31:59	nthatimkhatshwa63@gmail.com	Yes



What is your name and	Do you represent an or	If so, what is the name	Do you sign on in suppo
Tess Peacock	Yes	Equality Collective	Yes
Cara Goschen	Yes	DO MORE FOUNDATI	Yes
Tracy van der Heyde	Yes	ELRU (Early Learning F	Yes
Jane Keen	Yes	SAEP	Yes
Jabu Mthembu-Dlamini	Yes	DOMORE FOUNDATIC	Yes
Colleen Daniels-Horsw	Yes	Gerards Early Childhoo	Yes
Lorraine Martin	Yes	Birch Academy Presch	Yes
Ian Harrison	Director of ECD centre	Little 5 Sandton (Pty) Lt	Yes
Giuliana Bland	Yes	Oppenheimer Memoria	Yes
Julie Hay	Yes	Singakwenza Educatio	Yes
Giuliana Bland	Yes	Jim Joel Fund	Yes
Elisabeth van Wyk	Yes	Van Wyk and Associate	Yes
Ngoie mpoyo	Yes	Winners day care and F	Yes
Andrea Sciarappa	Yes	Tools for School	Yes
Mziwamadoda Badi	Yes	Ubunye Foundation	Yes
Tracey Collins		Grow Educare Centres	Yes
Cara Goschen	No	DMF sign up sent sepe	Yes
Jenny de Kock	Yes	Help SA ECDS	Yes
Lucrucia Eugenia Holla	Yes	Angels paradise day ca	Yes
Illna necsulescu	No		Yes
Zoleka Monakali	No		Yes
Thembi Mkhonza	Yes	Raised my hand childre	Yes
Thembi Mkhonza	Yes	Raise my hand childrer	Yes
Francina M Lekone	Yes	Light Bearers Academy	Yes
Deborah Voyi	No		Yes
Constance Mashiane	Yes	Lethokuhle day care ce	Yes
Brenda Manganyi	Yes	Linda Sande Day care	Yes
Zanyiwe kgosamang	Yes	Minni Hands Day Care	Yes
Maria Kgasago	Yes	Kids at Work	Yes
Phindile Regina Zwane	Yes	Little lighthouse nursery	Yes
Estrelita Esau	No		Yes
Granny Mahlangu	Yes	SALLEM DAY CARE C	Yes
Cynthia Mncube	Yes	Brixton ECD Center	Yes
Matladi Anna Dinake	Yes	Paradise Creche	Yes
Nokuthula Mangena	Yes	Joyfultimes Daycare	Yes
Nokuthula Mangena	Yes	Joyfultimes Daycare	Yes
Yvonne kekana	Yes	Thandanani forum	Yes
Amanda 0726096381 k	Yes	Splendid Kids	Yes
Makie Kubeka	Yes	Duduza ecd forum	Yes
Makie Kubeka	Yes	Duduza ecd forum	Yes
Sibongile Msithini	Yes	Thembelihle day care	Yes
Nomfundiso Mdyogolo	Yes	Ikamvalethu daycare ce	No
Natalia Khoza	Yes	Refihlile forum	Yes



Patincia Dladla	Yes	Lemon to Lemonade d	Yes
Joyce Nomasonto Ram	Yes	Reamohetswe Day Car	Yes
Gloria Maseko	Member	Katlego day care	Yes
Maggie Pinky Vanqa	Yes	Fatyela pre-school and	Yes
Violet Legabe	Yes	Ithute day Care and PR	Yes
Makhosazana Nkosi	No		Yes
Lindiwe Zulu	Yes	Progressive ECD Forur	Yes
Sbongile Mnisi	Yes	Injabulo ecd	Yes
Lashiwe Mparadzi	Yes	New ithemba labatwan	Yes
Buyiswa Plaatjie	Yes	Nobuntu DayCare	Yes
Sibongile Msithini	Yes	Thembelihle Day Care	Yes
Granny Mahlangu	Yes	Salem Day care Centre	Yes
Sylvia Molapo	Yes	Jubilee Day Care	Yes
Mlangeni Virginia	No	Grace day care	Yes
Louisa Feiter	Yes	Samara Foundation NF	Yes
Zanyiwe sarah kgosam	Yes	Minni Hands Day Care	Yes
Kabelo phala	Yes	Tebogo day care cente	Yes
Poonam Dwarkaram	Yes	Letcee	Yes
Abram Kgari	Yes	Oratile ECD Centre	Yes
Abram Kgari	Yes	Diepsloot ECD Forum	Yes
Jessica Blom	Yes	Centre for Early Childh	Yes
Eunity Nomsa Lentoor	Yes	Ikhwezi Edu Care Cent	Yes
Riedewhaan Allie	Yes	Foundation for Commu	Yes
Atisha Naidoo	Yes	Briardale Smurfs crech	Yes
Halima Sheik Mahome	No		Yes
Boipelo Lekwane	Yes	Agang Bokamoso	Yes
Lashiwe Mparadzi	Yes	New ithemba labatwan	Yes
Rahab Kgaabi	Yes	Bokamoso creche and	Yes
	Yes	Chameleon Schools	Yes
Glenda Ohlson	Yes	Uviwe Child and Youth	Yes
Patti Reabow	Yes	First Steps ECD CENT	Yes
Suzanne Clulow	Yes	CINDI (Children in Dist	Yes
Melissa Jacobs	Yes	Hanover Park Day Car	Yes
Arlene Cleophas	Yes	Sweet Home Educare	Yes
Leanne Keet	Yes	Masikhule	Yes
Carol Dlamini	Yes	Cell4Change	Yes
Herschel Abrahams	Yes	Juweeltjie Creche	Yes
Patricia Ratshibvumo	No		Yes
Dorothy Nkosi	Yes	Khulangolwaziecd	Yes
Irmgard Pringle	Yes	South African Montess	Yes
Patricia Louise Reabow	Yes	ECD Initiatives t/a First	Yes
Simone Norval	No		Yes
Nobomi Mpepho	Yes	Funi-Mfundo multilingu	Yes
Betty Ngwenya	Yes	Sisonke forum	Yes



Siphiwe Nkuna	Yes	Vuka Africa pre School	Yes
Cecily Salmon	Yes	Solon Foundation Soutl	Yes
Cacelwa sunshine Dya	Yes	Maginxa Pre school an	Yes
Esther Gumede	Yes	BAKHONA Day care ce	Yes
THANDI MASEKO		Osizweni day care	Yes
Yumna Allie	Yes	Otters' Creek Schools	Yes
Zandile	No		Yes
Yumna Alloe	Yes	Otters' Creek Schools	Yes
Cindy Sibanyoni	Yes	Lima	Yes
Maria Mofokeng	Yes	Thembalethu	Yes
Maria Mofokeng	Yes	Thembalethu	Yes
Shireen Johnson	Yes	Greater Grassy Park E	Yes
Andrea George	Yes	Wordworks	Yes
Nicola Goodall	Yes	The Knysna Education	Yes
Vanessa Mentor	Yes	Afrika Tikkun	Yes
Fatima Adams	Yes	Rhoda tul Ilm educare (	Yes
Leigh Morrison	Yes	True North	Yes
Annika Savage	Yes	Toy Library Association	Yes
Diana Straw	Yes	Natal Early Learning Re	Yes
Diana Straw	Yes	NELRU - Natal Early Le	Yes
Rex Molefe	Yes	Motheo Training Institu	Yes
Aysha Outram	Yes	The Cottage Montesso	No
Lezanne Brink	Yes	Turning Tides Montess	Yes
Colleen Walter	Yes	Safe and Sound Learni	Yes
Antoinette	Yes	Little Kings And Queen	Yes
Antoinette Cohen	Yes	Little Kings and Queens	Yes
Hilary Dunn	Yes	Honeycomb Montessor	Yes
Paula Proudlock	Yes	Children's Institute, UC	Yes
Arina Scheepers	Yes	Stellumthombo	Yes
Amanda 0726096381 K	School owner - three s	Splendid Kids	Yes
Arlene cleophas	Yes	Sweet home educare	Yes
NOMVUYO MUNYU	Yes	SIYAKHOLWA SUPPC	Yes
Zandile Magudulela	Yes	Cebolethu creche	Yes
Ann Skelton	I am a chair-holder	UNESCO Chair: Educa	Yes
Rebecca Wakeford	Yes	Midlands Community C	Yes
Natalie Frank	Our CEO Dr Monica St	Cotlands	Yes
Judy Laubscher	ECD sector		Yes
Magaret sokhela	Yes	Inami creach and pre s	Yes
Virginia Nyawose	Yes	Ikusasalethu Creche	Yes
Ndala Velephi Sarah	Yes	Happy family day care	
Susanne van Niekerk	Yes	Montessori Centre Sou	Yes
Ndala Velephi Mathibel	Yes	Happy Family Day Care	Yes
Shepherd Mahlubandile	Yes	Nolitha Educare Centre	Yes
Milridge Ra	No		Yes



Rizia Parker	Yes	Madrassah-Tul-Hidaay	Yes
Ephia Nonhlanhla Mkh	Yes	Busi Karabo Edu-Care	Yes
Riedewhaan Allie	Yes	Foundation for Commu	Yes
Elaine cilliers	Yes	Safari Baby and toddle	Yes
Trooi Eland	No		Yes
Debbie Brown	Yes	Parkview Pre-Primary S	Yes
Mzwandile Welcome D	Yes	Kwami-preschool	Yes
Kaathima Ebrahim	Yes	Mikhulu Child Developr	Yes
Deborah van der schyff	Yes	chippendale ecd	Yes
Nana nkosi	Yes	Zamani day care centre	Yes
Heather Barclay	Yes	Mimosa preprimary sch	Yes
Lorato Duma	Yes	Sisonke Orange Farm I	Yes
Nicci Hayes	Yes	The Centre for Social D	Yes
Dina. Fortuin	Yes	Dina,s Day Care	Yes
Naome Tshwane	Yes	Mamoloko day care	
Lillian Hombakazi Mant	Yes	Khayelitsha ECD Forun	Yes
Jacqueline Andrews	Yes	Little angels daycare	Yes
Carrie Anne Hudson	Yes	Baobab Montessori Ho	Yes
Thandi Mzinyane	Yes	Smart Start	Yes
Tebatso Ramano	Yes	Baby Nest Child Care C	Yes
Penny Way	Yes	Butterfly Way Educare	Yes
Sarah rose phelembe	Yes	Tfutfukani educare cen	Yes
Jacquelyn Price	Yes	Generation Schools Blu	Yes
Mandla Nkosi	Yes	Greater Soweto Associ	Yes
Malusi Ntoyapi	Yes	HCI Foundation	Yes
Buyisile Ncube	Yes	Avela Drop in care cent	Yes
Lindiwe Sibanda	Yes	Dreamers Paradise EC	Yes
Anna Mofokeng	Yes	Kganya Day Care Cent	Yes
Mildred Bopoto	Yes	Ikamva Labantu	Yes
Nokwanda Mngoma	Yes	Be-my-Mom Kids Hotel	Yes
Heather Napier	Yes	Hatfield Montessori Pre	Yes
Sibongile Msithini	Yes	Thembelihle day care	Yes
Refiloe Ignitia Mokotjo	Yes	Steppingstone day care	Yes
Thandeka Emmarantia	Yes	Little Angels day care	Yes
Lizo Tom	Yes	LUVUYO CENTRE FO	Yes
Noluvo sweli	Yes	Little star daycare centr	Yes
Isabel Petersen	Yes	Deeds of love Ministrie	Yes
Queen Baloyi	Yes	Khanimamba Training a	Yes
Sindusiwe Nompumele	Yes	ECD	Yes
Sindusiwe Nompumele	Yes	ECD	Yes
Sindisiwe Nompumelel	Yes	ECD	Yes
Maureen Ramontja	Yes	Mahlasedi day care cer	Yes
Patience Mackay	Yes	Little Big	Yes
Ntombikayise Mtolo	Yes	Isililo	Yes



Thembi Hlongwane	Yes	Siyasiza CBO	Yes
Jabulile Mabele	Yes	Foundation of God cen	Yes
Debbie Noah	Yes	WYNBERG Creche	
Dean Groenink	Yes	Feed the Babies Fund	Yes
JOYCE MAC CHAMBE	Yes	Jubilee Centre of Excel	Yes
Maria Monama and Dip	Yes	Katlehong Early Learni	Yes
Tessa Browne	Yes	Africa Reggio Emilia All	Yes
Queen Baloyi	Yes	Khanimamba Training a	Yes
Mary Venter	Yes	Khulukeka community c	Yes
Dr Shelley O'Carroll	Yes	Wordworks	Yes
Nella Gysman	Yes	Knysna Education Trus	Yes
Karen Temlett	Yes	Funda Kunye	Yes
Leanne Reid	Yes	Learning In Reach	Yes
Tantaswa Mshiywa	Yes	Smart start	Yes
Caroline Tuckey	Yes	Flying Children	Yes
Astrid Gifford	Yes	TransCape NPO	Yes
Khensile Gomba	Yes	Trinity Academy Dayca	Yes
Seya mohlopi	No	Legae day care center	Yes
Lebohang Ar. Molato	Yes	One Touch IT & Busine	Yes
Likeledi Mthimunye	No	Likeledi Paulina	Yes
Likeledi Mthimunye	Yes	Likeledi Paulina	Yes
Khomotso mphahlele	No		Yes
Dr Pam McLaren	Yes	Disability Action Resea	Yes
MARGARET DALE	No		Yes
Ruby Mmatsetshweu M	Yes	TREE - Training and R	Yes
Heather Lloyd	Yes	Heathers Daycare	Yes
Raeesa Abrahams	Yes	Children First Academy	Yes
Julia Lerato Shoke	Yes	ELRU	Yes
Vanessa Roets	Yes	Tiny Tots creche	Yes
Sarah Heneck	Yes	Asiye eTafuleni	Yes
Thozama Tukulu	Yes	Nokhaya educate centr	Yes
Sheniece Linderboom	Yes	Legal Resources Centr	Yes
Jabulile Phumelele pret	Yes	One Hope Day Care Ce	Yes
Penelop Nikeziwe Khoz	Yes	Children's Rights Day c	Yes
Peneloo Nikeziwe Khoz	Yes	Children's Rights Day c	Yes
Thuli Dubazana	Yes	Kids Excellence and Yc	Yes
Julie Hoffmann	Yes	The Learning Tree	Yes
Tessa Browne	Yes	Africa Reggio Emilia All	Yes
Deyana Thinas	Yes	Curriculum Developme	Yes
BUSISIWE ROSELINE	No		Yes
Theresa Giorza	Yes	Curriculum Developme	Yes
Sarah Mamokhothu Ra	Yes	Khensani Day Care An	Yes
Bianca Davids	No		Yes



Bongiwe Molefe	Yes	John Wesley chrech	Yes
Constance Mashiane	Yes	Lethokuhle day care ce	Yes
Constance Mashiane	Yes	Lethokuhle day care ce	Yes
Cloria Tshusa	Yes	Masibulele day care ce	Yes
Lola Daodu	Yes	Emerald Preschool	Yes
Marion Wagner	Yes	Breadline Africa	Yes
Catherine Mary Fry	Yes	Ukhanyiso Ebantwini N	Yes
Ricardo Ngcobo	Yes	KwaNqetho Community	Yes
Ricardo Ngcobo	Yes	KwaNqetho Community	Yes
Thandeka Ngcungama	Yes	Sisonke Creche	Yes
Happiness Hlatshwayo	Yes	Empumelelweni Early L	Yes
Nomvula Phore	Yes	Ecd	Yes
Johannes Erasmus	Yes	Inceba Trust	Yes
Jennifer McQuillan	Yes	Under The Son Early C	Yes
MJ Moloto	Yes	The Lefika Foundation	Yes
Jabulile pretty phumele	Yes	One Hope Day Care Ce	Yes
Hilda Esther Madonsela	Yes	Sisonke ECD	Yes
Malcolm Mooi	Yes	Dr CL Smith Foundatio	Yes
Helen Vosloo	No		Yes
Shernice Molelekoa	Yes	Youngstars Nursery an	Yes
Magdelize Janse van V	Yes	Play Learn Win and PL	Yes
Lynn Stefano	Yes	Lulamaphiko NPC	Yes
Thandeka Mavimbela	No	Non	Yes
Ipeleng Mohlala	Yes	Early Care Foundation	Yes
Masilo Phillemon Mofol	No		Yes
Alice Jaca		Minah T Soga Pre-Sch	Yes
Erica Burger	Yes	The Little Optimist Trus	Yes
Sandra Bruwer	Yes	North-West University	Yes
Ndala velephi Mathibela	Yes	Happy family day care	No
Varinia Shortles	No		Yes
Julia Norrish	Yes	Book Dash	Yes
Varinia Shortles	No		Yes
Monique Hansen	Yes	Gun Free South Africa	Yes
Esethu Mkwenkwe	Yes	Bulungula Incubator	Yes
Nthabiseng Malakoane	Yes	Sunrays Educare Centr	Yes
Sandra Cockeran	Yes	ECD Boss Private Con	Yes
Toto Nzamo	No		Yes
Margaret Dale	No		Yes
Hawa Tayob	Yes	Montessori Early Learn	Yes
Hawa Tayob	Yes	Jo's school	Yes
Thobile Masombuka	Yes	Smart Start	No
Felicia Goff	Yes	Little Jewels Pre Prima	Yes
Abdol maliek ismail	Yes	Tasneems tiny turtles d	Yes
Jabu Cynthia Mthembu	Yes	DO MORE FOUNDATI	Yes



Gladwell nkosi	I have a certificate of e	Gladwell	Yes
Kelly Kropman	Law Firm	Kropman Attorneys	Yes
Thabisile Tshabangu	Yes	Mpumelelo Day Care C	Yes
Tshabangu Thabisile	Yes	Mpumelelo Day Care C	Yes
Mofokeng Rebecca	No		No
Penelope Nkosi			Yes
Carol Dlamini	Yes	Cell4Change	Yes
CYNTHIA MORRISON	No		Yes
Jennifer Sharpley	No		Yes
Zoë Postman	No		Yes
Ngcobo	Yes	Masifunde sonke centr	Yes
Ndondo Dlamini	Yes	Ecdmoms	Yes
Neo Kgothatso Sello	No		Yes
Princess Ngcobo	Yes	Masifunde sonke	Yes
Martha Mmula	Yes	Happy hearts day care	Yes
Wendy Leotwane	Yes	Colourful World Day Ce	Yes
Monique Brits	Yes	AmazingBrainz NPC	Yes
PETROS SELEKA	Yes	PETROS SELEKA FOU	No
Mdebuka Mthwazi	Yes	Sikhula Sonke Early Ch	Yes
Thato Morubane	Yes	Bokamoso Tumbling Cl	Yes
Angelina Phillips	Yes	Siyathuthuka Nursery S	Yes
Makhosi Ndlangamand	Yes	Sukumani creche	Yes
Thandazo Mabizela	Yes	Joyful juniours early lea	Yes
Ouma margreth mogal	Yes	Hare bapale educare	Yes
Molatelo latifa lapane	No	Non	Yes
Molatelo latifa lapane	No	Non	Yes
Carolina Mazibuko	Yes	Jabulani Educare	Yes
Neliswa Mali	Yes	Love and Care Educare	Yes
Margaret Irvine	I consult for various organisations		Yes
Melita Potsane	Yes	Smartstart	Yes
Neliswa Mali	Yes	Love and Care Educare	Yes
Violet Mamogo Rakom	Yes	Lesedi la bana	Yes
Violet Mamogo Rakom	Yes	Lesedi la bana	Yes
Charlene Boyd	Yes	Grassroots Educare Tr	Yes
Nompumelelo Mnguni	Yes	Siyabonga Day Care C	Yes
Maki Elizabeth Lizzy Hl	No		Yes
Fiona Matsheko Rathol	No		Yes
Duduzile Mnguni	Yes	Isu elihle day care	Yes
Duduzile Mnguni	Yes	Isu elihle day care	Yes
Pumza Magwanya	Yes	Luthando Child Day Ca	Yes
Ingrid Froneman	No		Yes
Phali Thandiwe	No		No
Joan Ferreira	Yes	Roosevelt Park Pre-pri	Yes
Joan Ferreira	Yes	Roosevelt Park Pre-pri	Yes



Amanda Dikeledi Mony	Yes	Star bright light daycare	Yes
Ximena Gonzalez	Yes	Seriti Institute	Yes
Zoe Postman	No		Yes
Mbali Ntiwane	Yes	Dorcas Children's Trus	Yes
Anna-Louise Olivier	No		Yes
Netty Letsoalo	Yes	Mogaleadi Foundation	Yes
Glenda Shupinyaneng	Yes	South African Educatio	Yes
Lerato Mashale	No		Yes
Phoebe Appies	Yes	Pink Treasure Chest	Yes
Suzan Moabi	Yes	Botsanang day care ce	Yes
Adrian Kearns	Yes	Breadline Africa	Yes
Rachel Neville	Yes	JET Education Service	Yes
	Yes	Stepping stone leaders	Yes
Faadhil Cupido	No		Yes
Mandisa Mpalweni	Yes	Lethabo Care and Deve	Yes
TEBOGO DIOKA	Yes	HEALTH INSPECTOR	Yes
Mamodise Rampone	Yes	Ziphakamise Nursery a	Yes
Jennilee Smith	No	Smart	Yes
Johannah Mfimang Me	Yes	Winnie Winkky Kids Ac	Yes
Kopano Sibeko		Sqalo Day Care Centre	Yes
Belinda Inglis	Yes	Starting Chance	Yes
Akhona Sophazi	No	None	No
Nosiseko Mbopa-Gcilits	Yes	Lugcobo Day Care Cer	Yes
Ntombikayise Madlala	Yes	BUSA ECD ASSOCIAT	Yes
	Yes	Shirley miling special d	Yes
Ann Slinger	Yes	Bubbelbekkies kleuters	Yes
Nobesuthu Blaai	No		Yes
	No		
Rosina kock	Yes	Smart start	Yes
Rosina kock	No	Non	No
Rosina kock	Yes	Little leage of Jesus P.S	Yes
Ntombikayise Madlala	Yes	BUSA ECD ASSOCIAT	Yes
Maureen Leshage	No		Yes
Sibabalwe Nongwana	No		Yes
Emihle Luvalo (Bonita)	Yes	Rhodes University Com	Yes
Danica Maria Savva-Sa	No		Yes
Caitlyn Lattimer	No		Yes
Azipheli Bani		Nosintu Gwebindlala fo	Yes
Smangele ndondo Dlan	Yes	Ecdmoms	Yes
Rethabile Mphatsoe	No		Yes
Mxolisi Nomdletshe	No		Yes
Sinako Mongezi	No	N/A	
Zizipho nikelo	No		Yes
Siyolise Mkaka	No		Yes



Bongani Tibane	Yes	ThinkBig39	Yes
Sinethemba Diko	No		Yes
Nkosinathi Joyi		Ubuntu bethu media	Yes
Sifiso Vusumuzi Kubhe	No	0780399038	Yes
Unarine Emmanuel Nd	No		Yes
Nqabisa Beauty Nikelo	No		Yes
Zimbini Sikweza	No		Yes
Achumile Jali	No		Yes
Sphokuhle Mnyande	No		Yes
Sibulele Titimani	No		Yes
Lesego Monyai	No		Yes
Keetse Maphuti Jane	No		Yes
Kholiwe Madubela	No		Yes
Selby Moloto	No		Yes
Indiphile Mjobo	No		Yes
Ayanda Tshaule	No	N/A	Yes
Mzamo mthembu	Private institution	Neuron of omniversal n	Yes
Portia Hendriks	Yes	LUKHANYO ECD PLA	Yes
Huldah Barnard	Yes	Custoda Trust	Yes
mgibe kganane	Yes	moretele ecd forum	Yes
Naledi Maesa	Yes	Dinaledi Daycare Centr	Yes
Simphiwe Innocent Mal	No		Yes
Maki Elizabeth Lizzy Hl	Yes	Little Pina Pina Day Ca	Yes
Mamatshegare Obidah	Yes	Rising Journey Nursery	Yes
shumiera baulackey	.		Yes
Laurentia Itumeleng Ma	Yes	Thoriso Early learning c	Yes
Evah Sealetse	Yes	Rebone Nursery Schoo	Yes
Jessica Du Toit		SmartStart	Yes
Natalie Swartz	Yes	Sunrise Educare Centr	Yes
Robyn Hemmens	Yes	dlalanathi	Yes
Sinqobile Khuboni	Yes	TREE	Yes
Busi Ndlovu	Yes	Ntataise Trust	Yes
Thando Hermann	Yes	Tsibogang Christian Ac	No
Nonhlonipho Mnguni	I work for an organization but I would like to joir		Yes
Sheila Drew	Yes	Saide	Yes
Lindiwe Zulu	Yes	Isiqalo day care centre	Yes
Sicelosethu Siro	No		No
Juanita Pardesi		Seriti Institute	Yes
Christe Hermann	Yes	Tsibogang Christian Ac	Yes
Lerato Peggy	Yes	Sikwane Early Learning	Yes
Sikwane Early Learning	Yes	Sikwane Early Learning	Yes
Lauren Pringle	Yes	Early Inspiration	Yes
Mamodise Rampone	Yes	Ziphakamise Nursery a	Yes



Freddie Mashiapata	Yes	Itumeleng Innovation C	Yes
Pieter Boesak	Yes	THE TEMPLE OF SOL	Yes
Maria Dithlakanyane	Yes	Bana Pele Ecd Garank	Yes
Melger Stuurman	Yes	Tiny Treasures Daycar	Yes
Pride Simelane	Yes	Pulset Kids Academy	Yes
Maphetha Maheya	Yes	Relekamo Day care Ce	Yes
Tshimbi Mokgele	Yes	StartWell Foundation	
Vongani Octovia Mahoi	Yes	Nkotloto day care centr	Yes
Robyn Wienand	Yes	Play with a Purpose Ed	Yes
Poppy Ndlovu	Yes	Smartstart	Yes
Nomzamo Ntshangase	Yes	Velaphi	Yes
Jabu Tugwana	Yes	iGnite_Ed!	Yes
Jaques Pretorius	Yes	Anglican Board of Educ	Yes
Glenda Shupinyaneng	Yes	South African Educatio	Yes
MAGGIE MADINOGE M	Yes	SELEDU CRECHE	Yes
Ifeanyi Aaron Aguchuk	Yes	Gileadbth Global Conc	Yes
Steuart Pennington	Yes	www.sagoodnews.co.z	Yes
Ofentse Hlakola	No		Yes
Ditlhare Adelinah Rade	Yes	Noor Education Phase	Yes
Murugan Dennis Pillay	Designing and installing playground safety rubb		Yes
Warren Povey	Yes	Breadline Africa	Yes
Francinah Magane	Yes	Gola ga monate early l	Yes
Reuben Riba	Yes	Gola ga monate early l	Yes
Mandos sebelebele	Yes	FUNLANDCRECHE AN	Yes
Glenda S. Baatjes	Yes	Vrolike Vinkies Kleuter	Yes
Sheila Drew	Yes	Saide	Yes
Nosimo Ndamane	No		Yes
Juliet Mashishi	Yes	NEW HOPE CHILD CA	Yes
Isasiphinkosi Mdingi	No		Yes
VANESSA MENTOR	Yes	VVOB SOUTH AFRICA	Yes
Audrey Adams	Yes	Open Arms DayCare a	Yes
Mary-Jane Thembisile I	Yes	Sinothando Day Care C	Yes
Sandra chinyanga	Yes	Glenwood Community	Yes
Noxolo Mosiane	Individual learner		Yes
Queen Baloyi	Yes	Khanimamba Training a	Yes
Nobuhle Portia Ubah	I'm in a Ecd learnership planning to open my o		Yes
Sakeenah Petersen	Yes	Tinyeducare and afterc	Yes
Nthati Mkhatshwa	Yes	Siyaphumelela Day Ca	No



If you would like to hav‹ Would you like to make a submission on the Bill?
https://drive.google.com/open?id=1uLaG36h8MjxntFl4-c8vwT6M7YZmwBbq
https://drive.google.com/open?id=1u47mg8LHxhb5ETbjSiiJYjsvanImeVvs
https://drive.google.com/open?id=1JTTf8X4RcaTbCzDacNv9uIW9xmqXOfyh

https://drive.google.com/open?id=1RmvA0AFN5X8Y7ISnbX9NHN9A9XCaoASN

https://drive.google.com/open?id=18u-C2xk5jhu7KrGoCxhlINSPaAihFj12



https://drive.google.com/open?id=1HoHaowMrExMBBK8T6tdQBcjZlHp5v26n

https://drive.google.com/open?id=1c7wKyuUgsVu7K3on8cjH2FyaSUbv7aK0
https://drive.google.com/open?id=1OxlX0btDslm9yv95EIk7Lyj6KJg7qn3J
https://drive.google.com/open?id=1PWrktt7uBcIGMDSt26DPmA8nk2rdz742

https://drive.google.com/open?id=1rLeRY4fDkPo7nmZmEWQyPzB-N1VQqbU-
https://drive.google.com/open?id=1xbEnzcVqOIjgDad984Tv9jvDZM4ZgSut

https://drive.google.com/open?id=1wL1gZZLaOw66RDMRVu8JJpKaCaVhQvbE

https://drive.google.com/open?id=15czHHiUPC_0OMupwJjKc1rerNJHxiK8l

https://drive.google.com/open?id=1WXaoiI8mswcMPXK-T_t9YyKgAVKTAP_P



https://drive.google.com/open?id=1VZgVM9c9yoMgrHvgWGztFk8jmYlgBJQL
https://drive.google.com/open?id=1Rwfmoh7SUEU3kucP5WsmOSP9cUZVTwgN
https://drive.google.com/open?id=1Er-dSNQ82lbEBKXtZbg8iymSOzJnNFCA

https://drive.google.com/open?id=1nWDOZXQVKanycGdsr5SX4yqinWc57pPD

https://drive.google.com/open?id=1G_KixDnukIgO1s38LpZHlxlGs7eK4EBL

https://drive.google.com/open?id=1qjrpz0wm_ckN9qOcyy0urGsglpFgjDqN
https://drive.google.com/open?id=1bM-Wk55UDTdmcY9DZtezPs87SV6rISOn
https://drive.google.com/open?id=1UEt0UVdO5Xt_BfoLHqQ4VtswoCbqhcIw

https://drive.google.com/open?id=1FnsXkPCYoOp21PXjjSFmPoRbVp9NZOTv
https://drive.google.com/open?id=1KGmhcJmSpTw-MOINEIpa62sR2SlRWiDC
https://drive.google.com/open?id=1f7q1wseopbK-4aSqub1o1ElHKCxdkG_5
https://drive.google.com/open?id=1OmJQmlA0U7p0h0xjl8ssQ6ZpxIu2QMyr

https://drive.google.com/open?id=1FGKyQl8pmrjzl_85Ai2P7d3Kcjfpz3Vv

https://drive.google.com/open?id=15eG1hAPVesPLQC2WgORMcXxxDQGTJ9D3
https://drive.google.com/open?id=1NOJ4H6i7xA50fR6P-aw_ehcsb6jl2PuP

https://drive.google.com/open?id=13G77xloSUCX3qr62ry_p5YwHZV8VUiEz

https://drive.google.com/open?id=1yHIV2oqsTa4nrTovHpIbtd6u1svEtf1K

https://drive.google.com/open?id=19ACazvcUU-GWfPIff90gfBWDnCQ6c2aD
https://drive.google.com/open?id=15lWsdQFPPPElbuRNre3C49tB31q2HZkn
https://drive.google.com/open?id=1LHye6G127FagAp-3V6H_z6jk0PqjUEdx
https://drive.google.com/open?id=1vUBHm1kvFLnROCBX3BCmhbcWxGkVOMyu



https://drive.google.com/open?id=1snGAqbQnPLlCAYvVq3bysaQjRz8ro1gH
https://drive.google.com/open?id=1ST_Rt2el3XmO0d6JnSJ5Y85JCp-xbYEL
https://drive.google.com/open?id=1fnok1c53dXZQkBtRN5albMXTruDGhuBT
https://drive.google.com/open?id=1mr0CkM7H0jS8_g80ybpOcGMV_RCD4OKj
https://drive.google.com/open?id=1E-jb1kUaZbjvmRWCehg3965FlxsGMlUV

https://drive.google.com/open?id=16MKpDUE9OkxetL_7hFUgXSV-OrF8-Lvf
https://drive.google.com/open?id=1D96vg6WUUstR0_0XbgNFygI9zuyvZ-7v

https://drive.google.com/open?id=11hsor6GGNpRMw6U2gHzSMvxr2piJK1cF
https://drive.google.com/open?id=1NuZn8JWkNm8QgbnLe91ipr0N66zVi8Sz

https://drive.google.com/open?id=1OfVwam0MWtrgD0z8LdcS3d3Vun0OUMih

https://drive.google.com/open?id=1ZpBGssmsVYJbldDrjNs0hyfeXPSwmT9t

https://drive.google.com/open?id=1LYqhNMhIqNwHQ_LF4taYpoVkggCXhH3T
https://drive.google.com/open?id=1ATWX_XLKStLin9BQ0l6lhdIrEjcG3El2
https://drive.google.com/open?id=1Jkrrg1TiiNC55ipd__CNE-mODBFM3QST

https://drive.google.com/open?id=1mxFDYHBbhR9KzQtMkyMe2YldADot60FK

	Yes
	Yes
	Yes
	Yes
https://drive.google.con	Yes
	Yes
	Yes
	Yes
https://drive.google.con	Yes
	Yes
https://drive.google.con	Yes
	Yes
https://drive.google.con	Yes
	Yes
	No
	Yes
	No
https://drive.google.con	Yes
	No
	Yes
	Yes
	Yes
https://drive.google.con	Yes
https://drive.google.con	No
	Yes
	No
https://drive.google.con	Yes
	Yes
https://drive.google.con	Yes
	Yes
https://drive.google.con	Yes
	Yes
	Yes
	Yes
	Yes
	No
	No



	Yes
	Yes
https://drive.google.com	Yes
https://drive.google.com	Yes
	No
https://drive.google.com	Yes
	Yes
	Yes
https://drive.google.com	Yes
https://drive.google.com	Yes
https://drive.google.com	No
https://drive.google.com	Yes
	Yes
	No
https://drive.google.com	Yes
	No
	Yes
https://drive.google.com	Yes
	No
	No
	Yes
	No
	No
https://drive.google.com	No
	No
https://drive.google.com	Yes
	Yes
	No
	No
	No
https://drive.google.com	Yes
	Yes
	Yes
	No
	Yes
	No
https://drive.google.com	Yes
https://drive.google.com	No
	No
	Yes
	No



Yes
Yes
Yes
Yes
Yes

https://drive.google.com/open?id=1J_ZFQ6zG0x_wv1rx8eS9YjFiKrrUmRV2
https://drive.google.com/open?id=1YBU2iZF4d68ur4zZ5gRvXArCZ1kync0D



https://drive.google.com/open?id=1-vRbSzzkp87HCYiKUlnUNsX2VbWa5I9l

https://drive.google.com/open?id=1MLWOUy9Q-HYRhJqAbrFJNKxTUfinCePC
https://drive.google.com/open?id=1IbLZqMaklrci58pbAPQSSv9aNyZRUvVh

https://drive.google.com/open?id=1wCsIdsNT52tGkpnVKPBWH-Bg5nd0PFXO
https://drive.google.com/open?id=1yV0onVBHMk67iNNHkXDzoK22GG1wHEZ3

https://drive.google.com/open?id=1PNjlyiBxIvPHhEXqfGvDpTyt0rTcBaGX

https://drive.google.com/open?id=1dOK5xmfBtFi_s5rbD4UDGC2XyDFhNQaj

https://drive.google.com/open?id=1i_A3KKa2tGUv2QUAqSVNizH78V4cJM8P

https://drive.google.com/open?id=1cXLpF4wK3zgrVQRDiUfam2GeFLrlzRiI
https://drive.google.com/open?id=1jEWE4zkBvski2BJEOa0gYogeyrmEmp8P
https://drive.google.com/open?id=1uimakrOhlEL8oG-4FmIcCziuC7kjWAN8

https://drive.google.com/open?id=10mdj5vAbE-zlV_xl2jqIJ2XM8AAsDIXy

https://drive.google.com/open?id=1AwTtRU_67FRgcdWeaw3_MHaSQOzRhk_8
https://drive.google.com/open?id=1T_WuCkLlnC67C1FuUyE1T7d9oGr64sfJ
https://drive.google.com/open?id=1jR-GHlcYk72i8A3bOcJNkrTvsTP3GPyo

https://drive.google.com/open?id=1NQe2wlL_p4Gz5R1FpXmgHaywo5b0OTrs



https://drive.google.com/open?id=1-DcsZBJ85Pff78yZJ7pJY2_PrKUIHCHM
https://drive.google.com/open?id=1mSxYwrW6YBWWcwT77hCOh3EymdpLAyNx

https://drive.google.com/open?id=1gX4OpP9_YvT8lh3HwLkMWuVkhQZOLI_q
https://drive.google.com/open?id=1M66nSb5YX6Vie_1XP6cfQb5WCthPEF9m

https://drive.google.com/open?id=1G6IqAa6A2gKaJ5L2FrdJd4vVzQrIbZyW

https://drive.google.com/open?id=1nNrYVG0MTJbnOs5ERUhsj1hNAZ1UDyiy

https://drive.google.com/open?id=1k12TmovDUJY_EM6tjpPtIQGYSgjuaHCn



https://drive.google.com/open?id=1pI5RvpkxzdmcVbSPB5vnaqkdmMorgmx9

https://drive.google.com/open?id=172LEu2JE0HPdY8F6oMtBG6AqGM0oKAcQ
https://drive.google.com/open?id=1ZgkQ0ushj_HZxn2Qh4hQmPU2INzffsW7

https://drive.google.com/open?id=1ehtts33t8apYXnO2hSpApBziZb8oepT4

https://drive.google.com/open?id=1_N2CtUgOy-nVLUt8RUjSWtn4ynsssnQr



https://drive.google.com/open?id=1CUjcLQwwFga-JB3DxxVPqtSr6lAMhkQ8
https://drive.google.com/open?id=1H6x20yiUngj0LnqxfW73CyuYZ5Do43cF

https://drive.google.com/open?id=1KqbTc9QCYSsdDQ4s8PSTMS8vVBXQoHIC

https://drive.google.com/open?id=1p_qHYnyLMjsqX3m8KpKQQS3UihPrHREi

https://drive.google.com/open?id=1eL7M598FeZjCgle1gnpX-y2qZNdigCoF

https://drive.google.com/open?id=1Qc7COWR_zXgb_LtlyERDYKLlX4CmQumK

https://drive.google.com/open?id=1W_M5rbnH0EnESSW9qqKwhfSFoT9ppEeo
https://drive.google.com/open?id=19aMTLeYURwC13Bn_5t5dvitss8IfKEQs



https://drive.google.com/open?id=1fgXb1G_SWOQN722ZAItDeL8mK3khNnKB
https://drive.google.com/open?id=1Pi24IKbvFh9GfyRMMPCl2oE6A0NLyZdX

https://drive.google.com/open?id=1WtTeffKE3NGGwrJgXFhHoYA69qY6Pgsx
https://drive.google.com/open?id=1d5iYTg3YWb1d8yb1FDc28EMFh82OpHS8

https://drive.google.com/open?id=1ULQos90tylx-1VjS2oCE1NnO6JR1-hD1

https://drive.google.com/open?id=1Xh0Xx93JvxwBv3QJrXqIxC-PW7_WnSpJ

https://drive.google.com/open?id=17gby18lE2srbajaWSOCYvC4AGG-MTZmh

https://drive.google.com/open?id=1cqhhqP-PGHqB7HeqVFr59Nsv6T97qre1

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

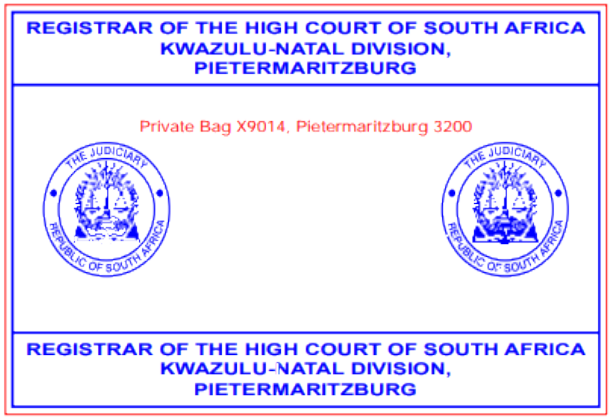
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 03

NOTE: **This document was filed electronically by the Registrar on 11/12/2025 at 11:20:27 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

11/12/2025 11:30:27 AM
"EC 03"

NATIONAL INTEGRATED EARLY CHILDHOOD DEVELOPMENT POLICY

2015



social development

Department:
Social Development
REPUBLIC OF SOUTH AFRICA

unicef
unite for children

007-74

007-75
11/12/2025-11:20:27 AM

NATIONAL INTEGRATED EARLY CHILDHOOD DEVELOPMENT POLICY 2015

Approved by Cabinet on 9 December 2015



Acknowledgements

The Inter-Ministerial Committee on Early Childhood Development together with the National Inter-departmental Committee for Early Childhood Development wishes to acknowledge and appreciate the inputs from experts, researchers, Early Childhood Development practitioners, government officials, administrators, academia, trainers, parents and members of the public who contributed significantly to the development and finalisation of this Policy. Due consideration was given to every input and suggestion, where feasible and practicable, and integrated into the National Integrated Early Childhood Development Policy.

We would like to express appreciation for the financial and technical expertise provided by UNICEF in the development of this Policy document.

Suggested citation

Republic of South Africa. 2015. National Integrated Early Childhood Development Policy. Pretoria: Government Printers.

© Government of South Africa

All care has been taken to ensure that the information is correct and original sources have been indicated for reference and verification. With an identification of the Government of South Africa as source, the document may be freely quoted, reviewed, abstracted, reproduced and translated, in part or in whole, but not for sale nor for use in conjunction with commercial purposes. Original sources should be acknowledged where indicated in the publication.

Illustrations: Sandy Lightley (sandy@theartdept.co.za)

Design & Layout: Moxy Communications (samantha@moxycomms.co.za)

Enquiries: Mrs Musa Ngcobo-Mbere
Chief Director for Early Childhood Development
Department of Social Development
Tel: 012-312 7948
Fax: 086 544 1577
Email: musam@dsd.gov.za

007-75

TABLE OF CONTENTS

FOREWORD BY THE MINISTER 7
EXECUTIVE SUMMARY 8
ABBREVIATIONS AND ACRONYMS 10
DEFINITIONS AND GLOSSARY OF TERMS 11

CHAPTER 1: INTRODUCTION AND BACKGROUND TO THE POLICY 18
1.1 The purpose of the National Intergrated Early Childhood Development Policy 18
1.2 Historical overview of legal and scientific foundations for the public provision of early childhood development services 18
1.2.1 International legal and developmental framework 18
1.2.2 Evidentiary foundation of early childhood development as a developmental imperative 18
1.2.2.1 Protective factors and their impact on early childhood development 19
1.2.2.2 Risk factors and their impact on early childhood development 19
1.2.2.3 Early childhood development restores risk/ protective balance 20
1.3 Rationale underpinning the Policy 21
1.3.1 Government's recognition of early childhood development as a universal right and public good 21
1.3.2 Public provision of universal early childhood development and associated responsibilities 23
1.3.3 What early childhood development services and support must be publicly provided? 25
1.3.3.1 Parenting support and capacity development 25
1.3.3.2 Child-centred social security 25
1.3.3.3 Free birth registration 26
1.3.3.4 Health care 26
1.3.3.5 Food and nutritional support 26
1.3.3.6 Safe and affordable day care for children where parents are absent 26
1.3.3.7 Early learning support and services 26
1.3.3.8 Protection from abuse, neglect and exploitation 27
1.3.3.9 Play and recreational facilities 27
1.3.3.10 Inclusive and specialised services for children with disabilities 27
1.3.3.11 Early childhood development information 28

CHAPTER 2: EARLY CHILDHOOD DEVELOPMENT IN SOUTH AFRICA IN 2014: PROGRESS REVIEW 30
2.1 Government has developed an enabling multi-sectoral framework 30
2.1.1 Birth registration 31
2.1.2 Basic health care for pregnant women, mothers and young children 32
2.1.3 Food and nutritional support for pregnant women and children 33
2.1.4 Social security 34
2.1.5 Protection from abuse and neglect and support services for women and children 34
2.1.6 Parenting and family support 35
2.1.7 Early childhood education and development services and programmes 36
2.1.8 Public communication and information on early childhood development services 37
2.1.9 Access to safe housing, affordable water, sanitation and energy services 37
2.1.10 Play, recreational and cultural amenities 38

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CHAPTER 3: THE SITUATION OF YOUNG CHILDREN IN SOUTH AFRICA: SITUATIONAL ANALYSIS, AND PROBLEM STATEMENT 40
3.1 Demography of South Africa's young children 40
3.2 Health care 40
3.3 Food and nutrition 42
3.4 Child-centred social security 42
3.5 Free birth registration 43
3.6 Parenting support and capacity development 43
3.7 Early childhood development services and programmes 43
3.8 Services for children with disabilities 44
3.9 Early childhood development information and communication 45
3.10 Gaps in the current early childhood development system 45

CHAPTER 4: THE PURPOSE, VISION AND PRINCIPLES OF THE NATIONAL INTEGRATED EARLY CHILDHOOD DEVELOPMENT POLICY 48
4.1 Purpose of the Policy 48
4.2 Vision of the Policy. 48
4.3 Mission of the Policy 48
4.4 National Policy goals 48
4.5 National Policy objectives 49
4.6 National Policy principles 49

CHAPTER 5: POLICY STRATEGY AND IMPLEMENTATION 54
5.1 Provision of early childhood development services 54
5.2 Provision of comprehensive quality early childhood development programme 55
5.2.1 Health care and nutrition programmes 56
5.2.2 Social protection programmes 57
5.2.3 Parent support programmes 58
5.2.4 Opportunities for learning 59
5.2.5 National public early childhood development communications 59
5.2.6 Housing, water, sanitation, refuse removal and energy sources 60
5.2.7 Food security 61
5.2.8 Play facilities, sport and culture 61
5.3 Programmatic priorities 61
5.3.1 Support for pregnant women, new mothers/fathers and children under 2 years of age 62
5.3.2 Review and strengthening of a comprehensive national food and nutrition strategy for children under 5 years 63
5.3.3 Provision of universal developmentally appropriate early learning opportunities for young children from birth 64
5.3.4 Inclusion and support for children with disabilities within all early childhood development programmes 66
5.3.5 Public communication about the value of early childhood development and ways of improving children's resourcefulness 67
5.4 The early childhood development services to be provided in age and developmental stage appropriate combinations 67
5.5 Prioritise vulnerable children to ensure equitable access 68

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

5.6 Scale up provision of under-provided early childhood development services to ensure universal availability and equitable access 68
5.6.1 Develop and fund multiple early childhood development service delivery programmes and prioritise home and community based services 69
5.6.2 A dual government-regulated model of public and private delivery of early childhood development programmes and services 70
5.6.3 The development of a national integrated early childhood development quality control and improvement system 71
5.6.4 Provide public funding and mechanisms to secure universal early childhood development 72
5.6.5 Alignment of policies and laws with the national integrated early childhood development Policy 72

CHAPTER 6: RESPONSIBLE ROLE PLAYERS 74
6.1 The role of parents and/or guardians 74
6.2 Responsibilities of Government 74
6.2.1 Division of responsibilities across the different spheres of government 75
6.2.2 Departmental responsibilities 75
6.2.3 Local government 81
6.3 The role of non-government organisations 81

CHAPTER 7: LEADERSHIP AND COORDINATION OF THE NATIONAL INTEGRATED EARLY CHILDHOOD DEVELOPMENT SYSTEM 84
7.1 Objectives of early childhood development management and coordination 84
7.2 Early childhood development leadership roles within departments 86
7.3.1 The establishment of a national multi-sectoral early childhood development coordination mechanism 87
7.3.2 Responsibilities of the National Inter-Ministerial Committee for Early Childhood Development, supported by a National Inter-Departmental Committee for Early Childhood Development 87
7.3.2.1 Coordinate, support and monitor implementation of the national programme of early childhood development 87
7.3.2.2 Support government departments responsible for key aspects of early childhood development 88
7.3.2.3 Develop, support departments and monitor implementation of select multi-sectoral policies and strategies 88
7.3.3 Governance and accountability for the National Inter-Ministerial Committee on Early Childhood Development, supported by a National Inter-Departmental Committee for Early Childhood Development 88
7.3.3.1 Mandate and Membership 88
7.3.3.2 Functions 89
7.3.3.3 Levels of management and administration 89
7.3.3.4 Inter-government relations to advance early childhood development 90
7.3.3.5 Inter-sectoral collaboration with civil society 90

CHAPTER 8: FUNDING FOR EARLY CHILDHOOD DEVELOPMENT SERVICES 94
8.1 Objectives of early childhood development funding 95
8.2 The funding model 95
8.2.1 Programme support funding 96
8.2.1.1 Eligibility for and calculation of staffing and programme support costs 96

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

8.2.1.2 Targeting criteria for eligibility and the sum of funding ... 97
8.2.1.3 Increased funding for early childhood development programmes for children with disabilities ... 97
8.2.2 Funding for infrastructure development ... 98
8.2.3 Funding the training of the workforce for early childhood development ... 98
8.2.4 National and provincial departmental management and supervision of programmes ... 98
8.3 Promotion of and support for conditional registration ... 99
8.4 A national coordinated funding framework and accountability for expenditure ... 99

CHAPTER 9: INFRASTRUCTURE FOR EARLY CHILDHOOD DEVELOPMENT SERVICES ... 102
9.1 Types of infrastructure required for early childhood development services ... 102
9.2 Infrastructure expansion programmes to date ... 102
9.3 Government commitment to secure adequate infrastructure ... 103
9.4 Objective for early childhood development infrastructure ... 103
9.5 Expansion of service provision infrastructure ... 103
9.6 Expansion of management infrastructure ... 105

CHAPTER 10: HUMAN RESOURCES FOR EARLY CHILDHOOD DEVELOPMENT SERVICES ... 108
10.1 Objective of the early childhood development human resources ... 108
10.2 Categories of early childhood development workers ... 109
10.2.1 Norms for the provision of human resources ... 109
10.3 Education and training ... 109
10.4 Human resource supervision and management ... 111
10.5 Remuneration and conditions of service ... 111

CHAPTER 11: MONITORING, EVALUATION, QUALITY CONTROL AND IMPROVEMENT OF EARLY CHILDHOOD DEVELOPMENT SERVICES ... 114
11.1 Responsibility for early childhood development monitoring, quality control and improvement ... 114
11.2 Strategic pillars of the national integrated early childhood development monitoring, evaluation, quality control and improvement ... 115
11.2.1 Continuing quality improvement ... 115
11.2.2 Monitoring of the national integrated early childhood development programme ... 115
11.2.2.1 Service level monitoring ... 116
11.2.2.2 Local programme management ... 116
11.2.2.3 District planning and management ... 117
11.2.3 An early childhood development research agenda ... 117
11.2.4 Administrative policies and procedures ... 117

CHAPTER 12: CONCLUSION ... 120

13. BIBLIOGRAPHY ... 124

14. ENDNOTES ... 134

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

FOREWORD BY THE MINISTER



In December 2015, Cabinet approved the National Integrated Policy for Early Childhood Development (ECD). The approval of this Policy initiative, the first in the history of our country after the dawn of democracy, is a culmination of many years of hard work to ensure a better start for a better future for many of our children.

A range of research studies and Policy declarations around the world assert that early learning opportunities make a real and lasting difference in children's lives. In this regard, government is fully committed to providing the building blocks for access to quality early stimulation, education and care for all the children, with particular focus on children in vulnerable communities.

The right to education is, amongst others, recognised in the Universal Declaration of Human Rights. For this reason the current administration has put education at the apex of t[illegible] This Policy therefore constitute an important step forward towards ensuring that every child, irrespective of their fa[illegible] circumstances, is given a better start through investment in the early years as clearly envisioned in the National Development Plan (NDP).

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

During the 53rd National Elective Conference of the African National Congress, held in Mangaung, Free State Province, we identified the provision of early childhood development (ECD) as key to our success towards achieving the goals of the NDP. To this end, the conference resolved to provide universal early childhood development services. The Government is now two years into its plan to address what have been intractable issues of unemployment, poverty and inequality and fundamentally change the way early childhood development services are delivered. Our goal is that by 2030, a full comprehensive age and developmental stage appropriate package of quality early childhood development services is available and accessible to all infants and young children and their caregivers.

This Policy is child-centred and emphasises the important role of parents and primary caregivers in providing care, support and upbringing of their children. In this context, it recognises that combining a range of services that contribute in ensuring infants and young children to thrive; be healthy through good nutrition and food security; access social protection; have opportunities for early learning and development free from violence and abuse; play and have fun amongst others. Importantly, and in line with our commitment to an inclusive society, it provides the principles and commitments ensuring that children with disabilities and/or developmental delays are included in early childhood development service delivery and experience such inclusion through appropriate services. No child must be left behind.

I believe that the implementation of this Policy will significantly contribute to the attainment of the goals of the NDP and the global Sustainable Development Goals, and in the process significantly improve the lives of many of our children. I am grateful to all who have contributed to this exciting and challenging development, especially those who gave freely of their time, experience and expertise in the process of developing this Policy initiative. Just as the Policy is a result of concerted efforts between government and its partners, we will continue to work together to ensure implementation of this Policy as part of our commitment to provide each child with an early start for a better future.

Ms BO Dlamini, *MP*
MINISTER OF SOCIAL DEVELOPMENT
REPUBLIC OF SOUTH AFRICA

EXECUTIVE SUMMARY

The Government of the Republic of South Africa has prioritised early childhood development within its National Development Plan 2030: Our Future-make it work. Overwhelming scientific evidence attests to the tremendous importance of the early years for human development and to the need for investing resources to support and promote optimal child development from conception. Lack of opportunities and interventions, or poor quality interventions, during early childhood can significantly disadvantage young children and diminish their potential for success. This National Integrated Early Childhood Development Policy is aimed at transforming early childhood development service delivery in South Africa, in particular to address critical gaps and to ensure the provision of a comprehensive, universally available and equitable early childhood development services.

The Policy covers the period from conception until the year before children enter formal school or, in the case of children with developmental difficulties and disabilities, until the year before the calendar year they turn seven (7), which marks the age of compulsory schooling or special education.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

The Policy development process included four expert consultations on scale, media and communication, developmental delays/ disabilities and nutrition, as well as consultations in all nine provinces in November and December 2013, and a national consultation on the draft Policy in March 2014. This resulted in a Draft Policy Document that served as a discussion document towards the National Integrated Early Childhood Development Policy, which was gazetted for public comments from 13 March to 24 April 2015 for the public and relevant stakeholders. All feedback and comments received during these consultative processes and public comments were considered.

The purpose of this Policy is:

1. To provide an overarching multi-sectoral enabling framework of early childhood development services, inclusive of national, provincial and local spheres of government;
2. To define a national comprehensive early childhood development programme and support, with identified essential components;
3. To identify the relevant role players and their roles and responsibilities for the provision of the various components of early childhood development services; and
4. To establish national integrated early childhood development leadership and coordinating structure.

The long-term goal of the Policy is: By 2030, a full comprehensive age-and developmentally stage-appropriate quality early childhood development programme is available and accessible to all infants and young children and their caregivers.

This is supported by the following medium and short term goals:

Medium-term goal: By 2024, age- and developmentally stage-appropriate essential components of the comprehensive quality early childhood development programme are available and accessible to all infants and young children and their caregivers.

Short-term goal: By 2017, Government has established the necessary legal framework(s), established the organisational structures and institutional arrangements, undertaken the planning, and put in place the financing mechanisms necessary to support and realise its commitments to ensure universal availability of, and equitable access to early childhood development services.

In realising these objectives, Chapter 5 provides for a comprehensive quality early childhood development programme, with identified essential components that need priority attention as a government obligation. In short, the following are provided for:

- Health care and nutrition programmes

- Social protection programmes
- Parent support programmes
- Opportunities for learning
- National public early childhood development communications
- Water, sanitation, refuse removal and energy sources
- Food security
- Play facilities, sport and culture

The inter-sectoral nature of the Policy requires clear delineation of roles and responsibilities of different government departments in the provisioning of early childhood development services, as spelled out in Chapter 6. It also includes the concurrent roles of national, provincial and local spheres of government to ensure a delivery system that will advance the rights of infants and young children.

Chapter 7 establishes Government's role to lead and coordinate the delivery of early childhood development services in the country through the establishment of an Inter-Ministerial Committee on Early Childhood Development, supported by the National Inter-departmental Committee for Early Childhood Development. It also provides for intergovernmental relations to ensure coordinated planning and implementation at national, provincial and local government level, and establishes mechanisms for the involvement of the non-government sector.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Chapter 8 focuses on securing and distributing sufficient funds to ensure universal availability of, and equitable access to, the national comprehensive quality early childhood development programmes and services, with prioritisation of the identified essential components thereof, especially for low-income families that cannot afford user fees. It further establishes a funding model to support implementation of the Policy and that aims to (i) expand coverage of services; (ii) ensure that poorer children and children with developmental difficulties and/or disabilities are not excluded because of the cost of services; and (iii) improve the quality of service provision.

Chapter 9 ascertains sufficient physical, management and service delivery infrastructure for early childhood development services, linked to population-based planning, in order to realise universal access to quality early childhood development services that are appropriately spread out, within safe and reasonable physical reach, and accessible. It indicates responsibilities for infrastructure development across all spheres of government and proposes the establishment of a national infrastructure grant for early childhood development, amongst others.

The Policy consolidates, in Chapter 10, the appropriate cadres of human resources required, in sufficient numbers, with sufficient skills to support the implementation of the services prioritised in the Policy. Training provision for the early childhood development workforce predominantly includes the early childhood development resource and training organisations (RTOs), Technical Vocational Education and Training Colleges (TVET), private for-profit providers, and universities.

Monitoring and evaluation are essential to ensure a cost-effective early childhood development system that provides quality, accessible and timely services to infants and young children. Chapter 11 commits Government to design and implement a national monitoring and evaluation framework to collect and provide information for progress on the implementation of the Policy. It will also contribute to improved planning and implementation of early childhood development services and programmes. Research will be conducted every five years to assess the impact of the National Integrated Early Childhood Development Policy service delivery.

ABBREVIATIONS AND ACRONYMS

ACRWC	African Charter on the Rights and Welfare of the Child
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSG	Child Support Grant
DBE	Department of Basic Education
DHA	Department of Home Affairs
DOH	Department of Health
SAPS	South African Police Services
DPME	Department of Planning, Monitoring and Evaluation
DSD	Department of Social Development
ECD	Early Childhood Development
EFA	Education for All
EPI	Expanded Programme on Immunization
FCG	Foster Care Grant
GCIS	Government Communication and Information System
GDP	Gross Domestic Product
HSRC	Human Sciences Research Council
ICT	Information and communications technology
ILO	International Labour Organization
IMCI	Integrated Management of Childhood Illnesses
IMR	Infant Mortality Rate
NDP	National Development Plan 2030: Our Future-make it work
NGO	Non-Government Organisation
NIPECD	National Integrated Plan for Early Childhood Development
NPAC	National Plan of Action for Children
NPO	Non-Profit Organisation
NQF	National Qualifications Framework
PHC	Primary Health Care
PMTCT	Prevention of Mother-to-Child Transmission
RSA	Republic of South Africa
SASSA	South African Social Security Agency
Stats SA	Statistics South Africa
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNICEF	United Nations Children's Fund
WBOTs	Ward-Based Outreach Teams



DEFINITIONS AND GLOSSARY OF TERMS

The following definitions are applicable in the interpretation of concepts within this specific Policy. Concepts not defined here are sufficiently explained in the text of the Policy.

Ages	Any age indicated in this Policy assumes age at the child's last birthday. For example, reference to children from birth to four, means all children who have not yet turned 5, and, similarly, children birth to two means all children who have not yet turned 3, etc. This is in line with Statistics South Africa data collection age definitions[2].
Child-minder	A person who provides care and early learning for up to six children, typically in their own homes. Also in some contexts referred to as "day mothers".
Child outcomes	Specifically determined achievements for babies and young children against national and international benchmarks for their early emotional, cognitive, sensory, spiritual, moral, physical, social and communication development.
Collaboration	Involves networking, cooperation and coordination, and also involves improving the capacity of partners for mutual benefit and attainment of a common purpose[3].
Community-based rehabilitation (CBR)	A strategy within a community development paradigm for the rehabilitation, equalisation of opportunities, poverty reduction and social inclusion of people with disabilities. It is seen as a means by which to implement the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and to support community-based inclusive development[4].
Cooperation	Includes the exchange of information for mutual benefit, aligning activities for a common purpose and sharing resources for mutual benefit[5].
Coordination	Involves information exchange and aligning activities to work synergistically towards a common purpose[6].
Developmental difficulty/ies	Includes conditions that place a child at risk of sub-optimal development, or that cause a child to have a developmental delay, disorder or disability.
Disability	Persons (young children) with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others[7].
Early childhood	Refers in this Policy to the period of human development from birth until the year before a child enters formal school.
Early Childhood Development (ECD) Centre	A partial care facility that provides an early childhood programme with an early learning and development focus for children from birth until the year before they enter Grade R/formal school.
ECD partnership	An organisational framework made up of two or more partnering organisations working towards a common objective of ensuring the emotional, cognitive, sensory, spiritual, moral, physical, social and communication development of infants and young children[8].

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

ECD practitioner A person who provides early childhood development services through formal early childhood development programmes, family services and playgroups and training, as well as those providing management support services to these workers.

ECD programmes Programmes that provide one or more forms of daily care, development, early learning opportunities and support to children from birth until the year before they enter formal school. These programmes include, but are not limited to:

- Community-based play groups operating for specific hours;
- Outreach and support programmes for young children and their families/ caregivers, at a household level;
- Parenting support and enrichment programmes;
- Support for the psychosocial needs of young children and their families;
- Ecd programmes provided at partial care facilities and at child and youth care facilities, as contemplated in section 93 (5) of the children's act; and
- Any other programme that focuses on the care, development and early learning of children from birth until the year before they enter formal school.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,

ECD services Services or support provided to infants and young children or to the child's parent or caregiver by a government department or civil society organisation with the intention to promote the child's early emotional, cognitive, sensory, spiritual, moral, physical, social and communication development[9].

Early intervention The experiences and opportunities afforded to infants and young children with disabilities or developmental delays, or to those at risk for developmental difficulties (vulnerable children), by primary caregivers and/or professional practitioners that are intended to promote children's behavioural competencies and enable them to participate meaningfully in their homes and community environments[10].

Equitable access to ECD Services When all children and their caregivers, including those who face barriers to access and early learning, such as poverty, geographic location (i.e. physical distance from services) and developmental difficulties, have the opportunity to access an age-and-developmental-stage-appropriate early childhood development services.

Extended Family A multigenerational family that may or may not share the same household. It includes family members who share blood relations, relations by marriage, cohabitation and/or legal relations.

Family A group of persons united by the ties of marriage, blood, adoption or cohabitation, characterised by a common residence or household, interacting and communicating with one another in their respective family roles, maintaining a common culture and governed by family rules[11].

Home-based early Any early childhood development services, including home-visiting, that are provided to pregnant women, infants and young children, and their family in their home by an appropriately qualified and sanctioned early childhood development practitioner or related worker to promote the children's early emotional, cognitive, sensory, spiritual, moral, physical, social and communication development.

Home-visiting Delivery of services at the household level to parents/primary caregivers and young children for the purposes of providing information, supporting early learning and development, and promoting referrals and linkages to support services.

Inclusion	The process by which all children are actively welcomed and supported so that they can optimally participate and benefit from early learning and development opportunities, that are conducive to the learning of all children, and through which all children receive the necessary support to enable them to participate on an equal level with others.
Integration	The effective coordination of policies, laws and programmes across and within sectors to ensure that young children and their families receive access to a comprehensive early childhood development services and support in combinations to ensure their optimal development[12].
Mobile ECD programme	These are mobile early childhood development programmes which may operate three to four days per week for three to four hours per day.
Networking	Involves the exchange of information among partners and stakeholders for mutual benefit[13].
Non-centre based ECD programmes	Any early childhood development programme, service or intervention provided to children from birth until the year before they enter formal school, with the intention to promote the child's early emotional, cognitive, sensory, spiritual, moral, physical, social and communication development and early learning. This may include, parent support groups, outreach programmes play groups, child-minders, toy-libraries, mobile programmes, amongst others.
Outreach ECD programme	Programmes that use early childhood development centres as support for programmes where parents are equipped with skills to promote parental involvement in stimulation of their children at their homes.
Parent	A biological, foster or adoptive mother and/or father responsible for the care and protection of a young child, who is stable in the child's life and who loves the child and wants to protect the child.
Parent support	A broad range of programmes and interventions to support one or more aspects of parenting. These are provided to a parent or primary caregiver.
Playgroup	A group of young children organised for play or play activities for early learning and development (cognitive, language, motor, emotional, social). A playgroup is attended by children from birth until the year before they enter formal school, usually accompanied by their mothers and/or fathers or primary caregivers, and supervised by a voluntary or paid playgroup facilitator.
Playgroup facilitator	A community-based worker primarily responsible for early learning and development programmes provided to children at least twice a week through a playgroup at a community facility or, in some instances, at the home of one of the participating parents.
Primary caregiver	A person, whether related to the child or not, who takes primary responsibility for meeting the daily care needs of the child in question, excluding those who take care of children for remuneration or reward[14].
Public good	The provision of early childhood development services can be regarded as a public good, based on the recognition that these services not only contribute to the development and outcomes of the child, but also to the growth and development of society as a whole in the medium and long-term.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Quality	The quantity of interventions, services, programmes, training and systems linked with and achieving child outcomes. It is a dynamic, flexible and adaptable construct that contours itself across cultures, settings, time and types of intervention[15].
Structured programme	An early learning curriculum offered (by means of centre and non-centre based programmes) that is systematic, geared to holistic development specifically, preparation of skills that will be necessary for transition to the foundation phase of school (Grade R to 3). This is understood to include all the areas in the National integrated early Learning and Development Standards and National Curriculum Framework for Children from Birth to Four Years, and specifically: • Development of emotional wellbeing, social interaction and sensorimotor development, preparing the ground for early learning; • Language development and story-telling; • Play, creativity, critical thinking and exploration; and • Development of concepts of early literacy and numeracy.
Supervisor/ coordinator	A person with the NQF level 5 early childhood development qualification who provides supervision and administrative services to other workers in both centre- and non-centre-based early childhood development programmes. A supervisor/coordinator is responsible for the support, oversight, work-site support, assistance with planning, and in-service training of playgroup facilitators, child-minders or early childhood development practitioners. Supervisors/coordinators are more knowledgeable and experienced in early childhood development than the practitioners for whom they are responsible.
Toy librarian	A person qualified and/or experienced in working in a toy library to assist different early childhood development service providers, parents or children using the service to select educational play materials which assist with the early learning and development of the range of age-appropriate skills and provides guidance as well as instruction in their use.
Toy library	Provides developmentally appropriate educational play and learning materials to early childhood development service providers, parents or children. It may offer play and learning sessions, toy-making demonstrations, individual lending and/or lending to early childhood development service providers.
Universal availability	A situation where there is a sufficient quantity of quality early childhood development services in sufficiently close proximity to all infants and young children and their parents/primary caregivers so as to ensure that they all enjoy an opportunity to access these services.
Vulnerable children	Those who experience compromised caregiving and/or compromised access to quality early childhood development services because of one or more structural, social, economic, geographic, physical, mental, psychosocial, racial, familial or any other risk factors associated with poor access to services, and/or poor early childhood outcomes. These may include, but are not limited to[16]: • Children living in poverty; • Children experiencing developmental difficulties; • Children with chronic health conditions, including HIV and AIDS; • Orphaned children and other children living without their biological parents; • Children living in child-headed households; • Children living in under-serviced rural areas;

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,

- Children living in under-serviced urban informal settlements;
- Children whose caregivers suffer from mental health conditions;
- Children whose caregivers abuse substances such as alcohol and drugs;
- Children who are exposed to violence
- Children living with disabilities; and
- Children from birth to two years accompanying their incarcerated mothers on admission to correctional centres to serve their sentences.




REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

CHAPTER 1
Introduction and background to the Policy



CHAPTER 1
Introduction and background to the Policy

1.1 The purpose of the National Integrated Early Childhood Development Policy

The purpose of the National Integrated Early Childhood Development (ECD) Policy is to:

- Ensure the universal availability of, and equitable access to, early childhood development services through a national integrated system which is embedded within a coherent legal framework that identifies, enables and compels the fulfilment of early childhood development roles and responsibilities of relevant role players;
- Establish the organisational and institutional arrangements necessary to lead, plan for, implement, coordinate and monitor the provision of early childhood development services and support;
- Ensure the provision of adequate public funding and infrastructure for sustainable universal availability of, and equitable access to, quality comprehensive early childhood development services; and
- Establish appropriate monitoring, quality assurance and improvement systems to secure the provision of quality early childhood development services and outcomes for young children in South Africa.



1.2 Historical overview of legal and scientific foundations for the public provision of early childhood development services

1.2.1 International legal and developmental framework

Government ratified and/or endorsed a number of international and regional rights and development instruments, including, but not limited to, the following:

- The United Nations (UN) Convention on the Rights of the Child (CRC) (ratified in 1995);
- The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) (ratified in 1995);
- The African Charter on the Rights and Welfare of the Child (ACRWC) (ratified in 2000);
- The UN Convention on the Rights of Persons with Disabilities (CRPD) (ratified in 2006);
- The UN Millennium Development Goals (MDGs) (adopted in 2000);
- The UN Sustainable Development Goals (SDGs) (adopted 2015);
- UNESCO Dakar Framework of Action for Attaining Education for All (EFA) (adopted in 2000);
- The UN World Fit for Children (adopted in 2002);
- UNESCO Moscow Framework of Action and Cooperation: Harnessing the Wealth of Nations (2010); and
- The Paris Declaration on Food Security and the Rome Declaration on Nutrition (November 2014).

1.2.2 Evidentiary foundation of early childhood development as a developmental imperative

The centrality of early childhood development to the developmental initiatives to which the Government is a party (such as the Sustainable Development Goals and EFA goals) is founded on an ever-growing body of evidence which confirms that a nation's development depends on the extent to which it can unlock the potential human capital inherent within its very youngest population. This in turn depends on the extent to which Government secures or provides the conditions necessary for the realisation of the right of every infant and child to develop "his or her potential to the maximum extent possible, to become physically healthy, mentally alert, socially competent, emotionally sound and ready to learn – cognitively, socially, emotionally, physically and psychosocially – to their full potential"[17].

The realisation of these rights is dependent on the quality of the biological, social and economic environment in which the foetus, infant and young child develops, especially whilst in utero and in the first two years after birth – a period commonly referred to as the 'first 1 000 days'. If the foundational development of the brain and skills is flawed in these earliest days, later developments that build on earlier circuits and skills will be inherently limited[18]. The first 1 000 days thus offer a unique and invaluable window of opportunity to secure the optimal development of the child, and by extension, the positive developmental trajectory of a country.

1.2.2.1 Protective factors and their impact on early childhood development

In the first 1 000 days the 'plasticity' of the brain means it is highly responsive to environmental factors that promote strong brain development (protective factors). These include the good health and nutritional status of the mother, infant and child; a clean environment free of pollutants such as alcohol and drugs whilst in utero and as an infant and young child; strong, protective and stimulating relationships with parents and other primary caregivers which involve language-rich, nurturing and responsive caregiving; and access to safe care and quality early learning opportunities, starting from birth and until the child enters formal school, in centre- and non-centre-based ECD programmes.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

1.2.2.2 Risk factors and their impact on early childhood development

The sensitivity of the brain in this early period is a double-edged sword in that it makes the structure and functioning of the child's early brain (and hence, later child) developmentally vulnerable to biological, psychosocial, environmental risk factors. Risk factors predictive of poor early childhood experiences include the following:

Poverty: Poverty is widely recognised as "a root cause of poor child development"[19]. Low socioeconomic status is a key predictor of poor early childhood development[20]. Persistent, cumulative poverty and exposure to hardship in the first year of life have a detrimental effect on cognitive functioning, with the impact being stronger on verbal, compared to non-verbal, skills[21].

Malnutrition: Poor infant and child nutrition, especially in the period between conception and the age of 2 years, can lead to irreversible developmental stunting and delays, resultant poor cognitive development, and ultimately lower educational and labour market performance[22]. Poor maternal nutrition, such as lack of folic acid in the early antenatal period, can cause significant structural damage to the foetus in utero.

Stunting (low height-for-age) is a form of chronic malnutrition which is, in turn, predictive of poor cognitive and language development[23]. The impact of poor nutrition on the child's development is particularly pronounced in the first two years of life. Even if children catch up in terms of height, the impact of stunting on brain development in this critical early period may well endure[24]. On average, children who are stunted by age 2 go on to access fewer years of schooling, perform more poorly at school and earn less as adults[25].

Low birth-weight: Infants with low birth-weight (< 2 500 grams) are at an increased lifetime risk for cardiovascular disease, diabetes and learning difficulties[26].

Infectious diseases in pregnant women, infants and children: Antenatal infections in pregnant women, such as syphilis and rubella, as well as diseases in infants and young children, such as measles, meningitis, middle ear infection, diarrhoea, parasitic infections and HIV, may negatively affect the young child's physical and cognitive development[27].

Environmental toxins: Pre- and post-natal exposure to environmental toxins such as alcohol, drugs, chemicals, and pesticides can cause significant irreversible damage to the developing brain and resultant cognitive, physical,

emotional, and social development of the embryo (first trimester), foetuses (second and third trimester) and the young child[28].

Stress: In the absence of a supportive caregiver to buffer children against stress brought about by factors such as abuse and neglect, severe maternal depression, parental substance abuse, family violence and extreme poverty, what would ordinarily be 'tolerable stress' becomes 'toxic'. Toxic stress can lead to cognitive damage, health-damaging behaviours and harmful adult lifestyles, as well as greater susceptibility throughout childhood and later adult life to physical illnesses, such as cardiovascular diseases, obesity, diabetes and others, as well as mental health problems like depression, anxiety disorders and substance abuse[29].

Exposure to violence: The social and emotional development of infants and young children who are exposed to violence in their families and communities (including corporal punishment), and who do not enjoy the protective buffering of strong and supportive caregiving, is compromised. They are at a greater risk of insecure attachments and behaviour problems, reduced levels of pro-social behaviour, increased aggressive behaviour, and an inability to regulate their own emotions[30].

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Psychosocial risks: Maternal depression presents a significant risk to the cognitive, physical, social and emotional development of infants and young children. This is because maternal depression often leads to unresponsive caregiving. However, the relationship between 'maternal depression and compromised early child development is multilevel and cumulative' because poverty, low education, high stress, lack of empowerment and poor social support are also risk factors for poor child development[31].

Disrupted caregiving – absent parents, ill parents, non-parent caregivers or abandonment: Disruptions of parental caregiving through illness or death of the caregiver or abandonment of the child, and the assumption of the caregiving role by a non-parent caregiver, creates a risk of bullying, mental health problems, abuse and emotional and behavioural problems in infants and young children[32]. Infants and young children living without their biological parents are especially at risk of being denied the care necessary for their physical and psychosocial well-being[33].

Disabilities: Approximately 23 per cent of children between the ages of birth to 9 years in low and middle-income countries are at risk for disabilities. Whilst this is indicative of their compromised development, children with disabilities are, in addition, at risk of low access to early childhood development services and at an increased risk of poor quality care[34].

1.2.2.3 Early childhood development restores risk/protective balance

Globally, the development of an estimated 200 million disadvantaged young children is frustrated by multiple adversities[35]. This situation is not inevitable: the loss of human capital is avoidable through the provision of timely and appropriate quality early childhood development services targeting the causes and consequences of the known risk factors[36].

The centrality of early childhood development to the national development agenda and the justification for increased public investments to secure early childhood development is premised on the recognition of the social returns of universal comprehensive early childhood development services – that it benefits not only the individual but all of society[37].

The science is conclusive: investments in early childhood development yield lifetime development returns for the child, his or her family and society[38]. Notably, early childhood development has the potential to contribute significantly to the reduction of key development challenges facing South Africa in 2015, particularly poverty and inequality.

Access by infants, young children and pregnant women to quality early childhood development services and support has a proven significant positive impact on[39]:

1. *The mental and physical health of children and adults:* Comprehensive quality early childhood development programmes, especially those targeting the most vulnerable to early adversities, lay a foundation for improved health of children and of the nation. In particular, it contributes to the prevention of behaviours, conditions and illnesses associated with the quadruple burden of disease South Africa confronts in 2015, including: maternal, infant and child mortality[40]; HIV and AIDS and tuberculosis (TB); a number of non-communicable diseases such as diabetes, cardiovascular disease and obesity; and violence and injury[41].
2. *School enrolment, retention and performance:* Early childhood development services and support, especially in the early years, are associated with improved cognitive development of children, the prevention and/or early identification of developmental difficulties and disability, and school readiness, all of which ultimately lead to improved educational outcomes, especially amongst the most socially and economically marginalised children[42].
3. *A stronger economy:* Early childhood development services and support are associated with higher levels of employment and earning potential, and ultimately an increase in productivity, the country's gross domestic product (GDP), and increased tax revenue. Studies suggest that participation in early learning and development programmes contributes to increases of between 5 and 10 per cent in lifetime labour income[43].
4. *Inequality*: Inequality between and within populations has its origins in poor early childhood development experiences[44]. Inequalities are established in early childhood and contribute to lifetime differences, with inequalities widening between different socioeconomic groups as time passes. Cumulative risk factors at birth inhibit children's development trajectory, leading to lower adult cognitive and psychological functioning, educational attainment, and subsequent income. Conversely, early childhood development investments that target the underlying social and economic causes and consequences of factors which present a risk to development can limit inequality at its source[45]. Early childhood development services counteract the biological and psychosocial risk factors which limit the care, stimulation and learning opportunities and resultant unequal development of children living in poverty, and hence equalise their opportunities to develop to their full potential[46].
5. *Poverty:* Access to early childhood development services and support remedies deficits in the care, stimulation and educational opportunities more frequently a reality for children living in poverty, and, as such, the subsequent development of infants and young children[47].
6. *A safer and more inclusive society:* Early childhood development investments bring about higher levels of positive self-regulation which lead to significantly less crime and greater public safety[48], reduced public violence[49], and greater social cohesion and civic participation[50].

1.3 Rationale underpinning the Policy

1.3.1 Government's recognition of early childhood development as a universal right and public good

Government is mandated and obligated to ensure the provision of early childhood development services as a right. In addition, they must be publicly provided because they afford a foundation for good child outcomes as

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

well as national developmental outcomes; are necessary to equalise the developmental deficits experienced by infants and young children vulnerable to risk factors; and thus are necessary to addressing South Africa's two key development challenges: poverty and inequality.

Government recognises early childhood development as a fundamental and universal human right to which all young children are equally entitled without discrimination. The Government's recognition of early childhood development as a universal and inter-dependent body of rights has long been recognised in a host of policies and laws dating back to 1995. These include, for example, the White Paper on Education and Training (1995), the Constitution of the Republic of South Africa (1996), the Interim Department of Education's Policy for Early Childhood Development (1996), the National Programme of Action for Children in South Africa (1996), the White Paper on Social Welfare (1997), the White Paper for the Transformation of the Health System in South Africa (1997), the Education White Paper 5 on Early Childhood Education (2001), the National Integrated Plan for ECD 2005–2010 (NIPECD), the Children's Act No. 38 of 2005, and the National Plan of Action for Children (NPAC) in South Africa 2012–2017. In addition, a plethora of other sectoral policies, laws and programmes have been developed to implement services related to these numerous rights, such as birth registration, social assistance, health care, education, environmental health, nutrition and others. The relevant policies and laws are described in detail below.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,

These policies and laws recognise and seek to give effect to the rights of every infant and young child to develop his or her full potential, to become physically healthy, mentally alert, socially competent, emotionally sound and ready to learn – and the realisation of the right to early childhood development depends on fulfilment of a composite body of all other rights protected in law.

Early childhood is the period in which the foundation is laid for the survival, growth, development and protection of children to their full potential across all domains and competencies. The first and early years are a critically sensitive period of rapid growth and change, the rate and shape of which is determined by intrinsic factors. These include the child's individual nature as well as external factors such as their living conditions, gender, family organisation, care arrangement, living conditions, health systems, education systems and cultural beliefs[51]. Their optimal development depends on whether they have a supportive and nurturing environment that secures their access to a full complement of services that, in turn, secure all of their rights protected in law, including health, education, birth registration, nutrition, care and protection, basic services, information, participation, and numerous others.

Government recognises that, in the first instance, the child's parents are responsible and important for his or her care, development and well-being through the provision of a nurturing and caring environment in these important early years of life. However, Government recognises that parents and other primary caregivers must have access to and receive the information, support and services necessary to enable them to fulfil their responsibilities. As such, early childhood development depends on effective measures to secure not only children's rights but those of their parents, since this determines the capacity of parents to ensure their children's holistic and optimal development[52].

Over and above recognising early childhood development as a universal human right, Government recognises early childhood development as central to the realisation of the national development goals of reducing poverty and inequality. This recognition is documented at the highest level in the National Development Plan 2030: Our Future-make it work (NDP) that charts the developmental vision for South Africa, calling for the writing of a new story that places early childhood development at its centre.

The NDP maps the most strategic routes for attaining its goals. It recognises quality early childhood development as one of the measures to reduce the acute impacts of poverty[53]. It further sets quality early childhood development as a top priority for the country to improve quality of education and the long-term prospects of future generations and society as a whole[54]. In this respect the NDP puts forward the following, amongst others, that root this Policy:

- Dedicated resources should be channelled towards ensuring that infants and young children are well cared for and receive appropriate emotional, cognitive and physical development stimulation. This includes the improvement of state funding for early childhood development to test and develop funding models for the comprehensive package of services.
- The definition of early childhood development should be broadened, taking into account all the development needs of a child and that this expanded definition forms the basis for all strategies.
- A comprehensive package of services for all young children should be defined and phased in.
- Coordination between departments, as well as the private and non-profit sectors, should be strengthened.
- The guidelines, norms and standards for early childhood development programmes should be standardised and should take into account the needs of children with disabilities in all communities.
- Innovation in the way early childhood development services are delivered should be encouraged, with emphasis on home- and community-based early childhood development services.
- The training of early childhood development practitioners should be invested in, upgrading their qualifications and developing clear career paths.
- Early childhood development services need to expand to reach all vulnerable children, including children with disabilities, ensuring that they and their families receive a comprehensive package of early childhood development services.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Thus, the NDP recognises quality early childhood development services, especially for the most vulnerable, as a sustainable and cost-effective way of ensuring the optimal development of children, their resultant educational success and their improved employment prospects – in short, as a key lever to overcoming the apartheid legacy of poverty and inequality.

1.3.2 *Public provision of universal early childhood development and associated responsibilities*

Government recognises early childhood development as a universal right and that early childhood development lays the foundation for the attainment of broader societal benefits, which requires the public provision of early childhood development services by Government for all young children in South Africa.

There is general agreement that the universality of the right means that all young children are entitled to early childhood development services, regardless of their race, ethnicity, socioeconomic status, health, disabilities or any other factor[55]. This requires that the Government is responsible for taking all appropriate legislative, administrative and other measures necessary to secure the realisation of the universal early childhood development rights of all children.

In the context of all early childhood development services 'universal access' does not and should not imply universal or full coverage of all services, as there are age-differentiated variations in demand as well as variation across different family circumstances. The widely accepted meaning that is adopted in this Policy is that Government must ensure that quality services are available to all children whose parents wish them to use such services; and that cost and other barriers such as disability should not prevent those who wish to make use of these services from doing so[56].

The public provisioning responsibility of Government is to develop a publicly funded and rights-based national integrated early childhood development system which ensures universal availability of early childhood development services that secure young children's rights and provide a continuum of quality care, early learning and protection. It must, furthermore, ensure equitable access to early childhood development services for children especially vulnerable to environmental, social, economic and other early childhood development risk factors.

The public provisioning of early childhood development thus embraces a continuum of responsibilities in terms of which Government must ensure that[57]:

1. All services necessary for the optimal survival, growth, development and protection of infants and young children to their full potential are available in sufficient quantities and through a sufficient number of appropriate spaces in sufficiently close proximity so that all children have an equal opportunity to participate in or make use of the services in question;
2. All services that are provided are of a sufficiently high quality and are age- and stage-appropriate to the needs and context of the children in question to ensure universal quality outcomes for all children receiving the service;
3. Early childhood development programmes are appropriately designed to ensure the delivery of quality, age- and stage-appropriate, and inclusive services;
4. The environment, infrastructure and materials supporting the delivery of all early childhood development services are safe, healthy and enable the delivery of age-appropriate, inclusive and quality services;
5. There are a sufficient number of appropriately qualified practitioners to provide age-appropriate, inclusive and quality early childhood development services;
6. Measures are implemented to ensure that the cost of the services do not preclude children living in poverty and that infrastructure and materials; the qualifications and number of early childhood development practitioners; and the design of the programmes and services address the needs of children with disabilities;
7. Appropriate management, coordination and monitoring and evaluation systems are in place to adequately plan for, measure, monitor and improve availability, quality and equity of access, and outcomes for all children, and in particular for vulnerable children and children with disabilities; and
8. Adequate resources are available to sustain a national integrated early childhood development system that delivers on the preceding obligations.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

The public provision of early childhood development services by Government requires the strengthening of a national integrated early childhood development system that provides for the provision of[58]:

- A comprehensive package of quality age, developmental stage and needs appropriate early childhood development services for all infants and young children;
- Government management structures and systems for population-based assessments for the determination of numerical demand and context, age and developmental needs for the full range of early childhood development services at a national, provincial and municipal level, and planning for provision to meet the determined demand;
- The human resources and infrastructure necessary to deliver universally available quality early childhood development services for all young children and to ensure that all access barriers, including age, poverty, vast distances and/or disability are addressed;
- The development of quality age, stage and needs appropriate early childhood development programmes and services to meet the determined demand;
- The delivery of early childhood development services through a range of models of service provision, including centre and non-centre based programmes and services ranged to meeting the specific age and developmental needs and the geographic location of all children;

- Adequate funding to ensure universal access to quality early childhood development services;
- Measures to address access barriers faced by vulnerable children, including young children living in poverty, those living in underserviced areas and young children with a disability;
- Adequate quality and safety standards, control, improvement and evaluation systems to ensure and measure quality of all services and equitable outcomes for all children and access for vulnerable children;
- Enabling policies, laws and programmes mandating, obligating, regulating and harmonising the respective roles and responsibilities of all role players, including government departments, across all three spheres of government and non-government role players, in providing early childhood development services; and
- Appropriate, effective and sufficient management, governance, coordination and institutional structures to support the national integrated early childhood development system and realise Government's public provisioning responsibilities as defined.

1.3.3 What early childhood development services and support must be publicly provided?[59]

Scientific evidence on the importance appropriate early childhood development interventions, services and programmes point clearly to services that are required to ensure realisation of the legal and developmental imperative to ensure children develop in their early years to their full potential[60].

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

1.3.3.1 Parenting support and capacity development

It is internationally recognised that the family is the natural environment for the growth and well-being of children and that parents bear the primary responsibility for promoting children's development and well-being. Government's role is to provide support, capacity development, counselling and, where necessary, resources to parents or, in their absence, primary caregivers to strengthen the nurturing parent-/caregiver-child relationships[61].

Parenting support may be delivered through a number of strategies, including community support groups, parent enrichment programmes, regular clinic visits, media and home visits, or a combination of these. There is a strong imperative for the provision of early and intensive support by trained home visitors to vulnerable families, beginning antenatally, and continuing through birth and until the age of 2 years[62].

1.3.3.2 Child-centred social security

As a signatory to the United Nations Convention on the Rights of the Child and other related international treaties, Government has committed to realising children's right to a standard of living adequate for their physical, emotional, mental, spiritual, moral and social development through "systematic strategies to reduce poverty in early childhood as well as combat its negative effects on children's well-being"[63].

Moreover, it has also committed to providing parents with the material support they need to realise their children's rights. These commitments, alongside the guarantee that every child shall enjoy the right to benefit from social security[64], compels the provision of social assistance for caregivers of young children living in poverty as early as possible after the infant is born.

Increased family income in the first four years of a child's life has a comparable, if not greater, impact on early childhood development than other determinants of optimal development of infants and young children, especially for children living in poverty[65]. Protecting households with young children from the stress and insecurity related to poverty is one of the most promising and cost-effective investments to secure early childhood and human development[66]. Social assistance through cash transfers in the early years improves young children's health and development, especially their cognitive, emotional, language and fine motor development, and has a positive effect on their schooling[67]. National studies confirm that access to the Child Support Grant (CSG) in the first year

of life and for at least 50 per cent of the first 36 months of a child's life has significant developmental value and impact on early childhood and later development outcomes[68].

1.3.3.3 Free birth registration

Children's rights to a name and nationality require not only the provision of free birth registration services, but also the issue of a birth certificate marking the entry of the child into the national population register as a legal subject entitled, in his or her own right, to the rights and benefits afforded by legal instruments to citizens. The issue of the birth certificate is foundational to enjoyment of many of the other rights associated with a child's optimal early development. It is only once a child is registered in the national population register that he or she can be counted for the purpose of planning and funding early childhood development services at a national level, and the certificate is required documentation to access key services[69].

1.3.3.4 Health care

The right of infants and young children to basic health care (including environmental health services such as access to water and sanitation), especially during the mother's pregnancy and the early childhood years, is expressly protected by many international and national instruments, including the United Nations Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child, and the Constitution of the Republic of South Africa. Access to basic preventative and curative medical care for pregnant women and children prevents health threats to development and provides early diagnosis and intervention when problems are discovered. Medical care should include access to antenatal care, birth at quality facilities, and new-born and post-natal care and medical care to prevent and treat common childhood illnesses, as well as access to basic services such as safe water and sanitation[70].

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

1.3.3.5 Food and nutritional support

The right to adequate food and nutrition is protected by many legal and developmental instruments, including the United Nations Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child, the Sustainable Development Goals, and others. Nutritional support for women from conception and during pregnancy, and for infants and young children, is critical. This includes the active support of breast feeding, especially exclusive breast feeding, in the first six months after birth, and safe nutritional practices. Poor nutrition in these crucial periods can lead to irreversible stunting and developmental delays, resultant poor cognitive development, and ultimately lower educational and labour market performance[71]. The establishment of food gardens through the Community Work Programme can improve the supply of healthy food to families and young children.

1.3.3.6 Safe and affordable day care for children where parents are absent

Regulation of the provision of early childhood development programmes for infants and young children through day care, as well as subsidies for such day care targeting poor parents, has been an area for social welfare support for many decades[72]. It was one of the priorities of the NIPECD, and provision of child care facilities is required in terms of instruments such as CEDAW and the ILO convention on Workers with Family Responsibilities [73]. Children of working and work-seeking parents, parents who are in full-time education, children with disabilities and those who cannot care for children without assistance require some form of day care. This must be of high quality and include early learning as well as care and protection to promote children's holistic development.

1.3.3.7 Early learning support and services

The right to early learning and development in early childhood begins at birth[74]. This is fundamentally linked to the child's development to his or her full potential. Early learning begins at home from birth, where children's parents

and caregivers are their first and most important teachers. Exposure to quality early learning and development is one of the most important variables explaining children's performance in their first year at primary school[75].

The provision of early learning and stimulation thus requires:

- Supplying parents and other caregivers with information and support to enable them to understand and fulfil their role in children's early learning; and
- Providing community- and centre-based organised play-based early learning programmes that complement the parents' role and that are developed in partnership with parents and early childhood development professionals[76].

1.3.3.8 Protection from abuse, neglect and exploitation

Young children are at a high risk of abuse and neglect, including physical and mental abuse, often within their own families. Research has shown that in toxic stress, when the infant or young child is exposed to or experiences abuse, neglect, violence, etc., high levels of the stress hormone (cortisol) is produced that disrupts the process of brain development, which limits proliferation of brain cells and damages the health, learning and [illegible] of the infant and young child[77].

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Specific attention also needs to be given to the vulnerability of children with disabilities to abuse, neglect and exploitation. Children's immaturity and dependence on those around them leaves them ill-equipped to avoid or resist harm. This requires that measures be implemented to protect young children from abuse, including corporal punishment, and to provide age-appropriate recovery services without contributing to stigmatisation of the young child[78].

1.3.3.9 Play and recreational facilities

Children have a right to rest and leisure, to play and recreational activities appropriate to their age, and to participate freely in cultural life and the arts. Whilst it is a right in and of itself, play is important in promoting children's early learning and skills development. It is often hindered by a lack of knowledge on the importance of play in early childhood; a lack of implementation of play-based learning in early learning and development programmes; and a lack of opportunities to play and interact in a child-centred, secure, supportive and stress-free environment. To realise the right, a dual strategy is required. The first step is increase the understanding of parents and caregivers, amongst others, of the importance of play in infants and young children's early learning and development; the second is to pay greater attention to, and allocate adequate resources for, the realisation of play, recreation and cultural facilities for young children in town-planning processes[79].

1.3.3.10 Inclusive and specialised services for children with disabilities

Children with disabilities have a right to equal enjoyment of services and benefits, but many lack access to a number of programmes, including health, early learning, information, and play and recreation facilities. Moreover, many disabilities are preventable or could have their severity limited if pregnant women, infants and young children received access to early quality screening, preventative and rehabilitative care. As such, the national integrated early childhood development system should make provision for appropriate planning, development and design, resourcing, implementation, and monitoring measures capable of ensuring and monitoring the universal availability of comprehensive inclusive and quality early childhood development services, including prevention and early detection, early intervention, rehabilitation, and social protection services to ensure that affected children can participate and develop to their full potential[80].

Securing the universal right of children with disabilities to early childhood development thus requires the public provision of universally available, inclusive, comprehensive early childhood development services which will ensure the survival, growth development and protection and participation of all children with disabilities to their full potential. This requires:

- Provision for the allocation of additional and adequate public funding to early childhood development services for infants and young children with disabilities, including additional programme funding, post-provisioning and infrastructure funding to enable the development and delivery of appropriate inclusive quality services;
- Direction and guidance for the design of all early childhood development services to achieve quality outcomes and achieve early childhood development goals and targets for children with disabilities. This includes clear guidance and norms on which infants and young children should be able to access mainstreamed early childhood development services and within which services, and which early childhood development services should provide specialist support through programmes targeted specifically at children with disabilities;
- Norms and standards for accessible and appropriate public infrastructure, applying universal design standards, for identified inclusive and/or specialised centres of early childhood development service delivery;
- A sufficient number of qualified early childhood development practitioners and related professionals to provide quality and appropriate early childhood development services to children with disabilities and their families. This includes the development of appropriate norms and standards governing minimum qualifications, child-staff ratios for different early childhood development services, and guidance on curriculum development for the training of early childhood development practitioners;
- The development of management capacity across all government departments and spheres of government to plan, design, develop, coordinate and monitor implementation of inclusive early childhood development services for children with disabilities, and progress made towards realisation of the goal of universalisation of comprehensive early childhood development for children with disabilities; and
- A series of indicators to be measured and disaggregated categories of data to be collected within national, provincial and local information collection and management processes to measure the extent, quality and impact of the national comprehensive early childhood development programmes and services made available for children with disabilities.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

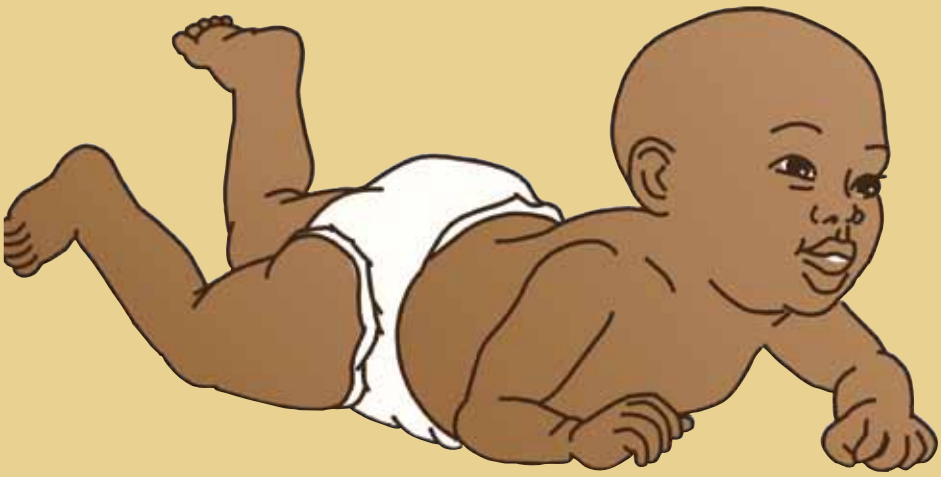
1.3.3.11 Early childhood development information

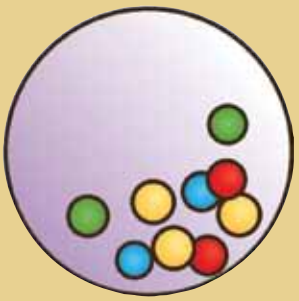
Parents, caregivers and children have a right to timely and accessible information in terms of the Constitution of the Republic of South Africa. In the context of early childhood development, this right translates into the imperative to develop and implement systematised national communication campaigns. These must make publicly available accessible information about the importance of early childhood development; the rights of infants and young children; and the services and support available to parents, caregivers, early childhood development professionals and service providers to facilitate knowledge and use of positive practices and services. In addition, it must inform Policy-makers about the rights imperative and developmental value of early childhood development to strengthen political commitment and national development goals as put forward in the National Development Plan (NDP) 2030: Our Future-make it work[81].

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

CHAPTER 2

Early childhood development in South Africa in 2014: *Progress Review*





CHAPTER 2

Early childhood development in South Africa in 2014: Progress Review

Measured against the preceding prescribed early childhood development measures and outcomes, since 1995 Government has taken a number of bold steps towards creating an enabling legal and institutional framework for the advancement of the comprehensive rights of young children. However, the NDP indicates that coverage of quality early childhood development services is uneven and they do not reach the poor vulnerable children, especially those in rural areas and with disabilities. It also indicates that "quality and coverage of early childhood development services for children aged birth to four is poor"[82].

2.1 Government has developed an enabling multi-sectoral framework

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Since the advent of democracy in 1994 Government has developed numerous Policy documents and laws that acknowledge the universal right of children to early childhood development as well as the central developmental role of early childhood development in South Africa.

The main provisions of these documents are outlined briefly below.

White Paper on Education and Training, 1995: Recognises the importance of child well-being in the early years and the consequent need for providing adequate nutrition, good health, early childhood stimulation and a secure environment.

The Constitution of the Republic of South Africa, 1996: Guarantees the rights of all children under the age of 18 years (including young children) to equal enjoyment of the rights, inter alia, to life; dignity; access to information; citizenship, and a name and nationality; a healthy environment; basic education; family and parental care; nutrition; shelter; basic health care and social services; language; and culture.

Schedule 4, Part B of the Constitution gives local authorities the legislative competence to pass legislation and Policy relating to child care facilities. In addition, municipal planning, including the regulation of land use for child care facilities, is designated as a function and competency of local government. The Local Government Municipal Systems Act No. 32 of 2000 prescribes further responsibility for local municipalities to contribute according to their capacity, together with other organs of the state, to the progressive realisation of the rights contained in Sections 24, 25, 26, 27 and 29 of the Constitution.

Interim Department of Education Policy for Early Childhood Development, 1996: Recognises that early childhood development is a multifaceted concept and makes provision for a national integrated early childhood development pilot project for rolling out a universal reception year.

National Programme of Action for Children in South Africa, 1996: Prioritised nutrition; child health; water and sanitation; early childhood education and basic education; social welfare development; leisure and cultural activities; and child protection measures for all children. The goal of the plan is the expansion of early childhood development activities, including low-cost family- and community-based interventions.

White Paper on Social Welfare, 1997: Guides welfare and social development provisions in South Africa and particularly called for a national integrated early childhood development strategy and inter-sectoral programme in collaboration with other Government departments, civil society and the private sector; and for appropriate early childhood development services to young children under five. It recognised that early childhood development services also constitute a social investment in a healthy and able nation.

White Paper for the Transformation of the Health System in South Africa, 1997: Commits to the provision of nutritional support, and maternal, child and women's health as essential elements of a transformed inclusive health system for all South Africans.

White Paper 5 on Early Childhood Development, 2001: Links early childhood development services, child well-being, school achievement, and cognitive and other development domains, and commits to addressing inequitable provisioning of early childhood development programmes and remediation of the fragmentary early childhood development legislative and Policy framework.

White Paper 6 on Inclusive Education, 2001: Establishes procedures for early identification and interventions for children with disabilities as well as for addressing barriers to learning in the education system, including the foundation phase (Grades R to 3).

National Integrated Plan for Early Childhood Development 2005–2010 (NIPECD): The first national multi-sectoral plan of action for the realisation of a comprehensive package of early childhood development services. Services contemplated include birth registration; child and maternal health; nutrition; immunisation; referral services for health and social services; early learning programmes; and water and sanitation. The NIPECD was rooted in integrated planning and delivery of early childhood development services.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Children's Act No. 38 of 2005, April 2010: Provides a comprehensive child protection framework for South Africa, which includes a dedicated chapter (6) on early childhood development. It obligates the development of a comprehensive national strategy aimed at securing a properly resourced, coordinated and managed early childhood development system, giving due consideration to children with disabilities and chronic illnesses[83].

National Plan of Action for Children (NPAC) in South Africa 2012–2017: Provides a holistic framework for the integration of all policies and plans developed by government departments and civil society to promote the well-being of children. It includes a dedicated chapter on early childhood development with the goal of ensuring universal access to effective, integrated, quality early childhood development interventions for children from birth to school-going age.

The Buffalo City Declaration, March 2012: The Buffalo declaration was the product of a national integrated early childhood development conference held in March 2012. It recognised early childhood development as a right and committed to scaling up access and quality, especially for the most marginalised young children, and to the development of a holistic, coherent and well-resourced national integrated early childhood development system.

South African Integrated Programme of Action for Early Childhood Development-Moving Ahead (2013/14–2016/17): Pursuant to the Buffalo Declaration, this integrated plan was developed to implement recommendations emerging from a number of national integrated early childhood development review processes. This plan was approved by Cabinet on 18 September 2013 and commits to the development of a National Integrated Early Childhood Development Policy that outlines a comprehensive early childhood development programme and establishes structures, procedures and capacity-building initiatives necessary to support the implementation of the Policy.

In addition to the abovementioned, a host of sector-specific policies and programmes have been developed to recognise, protect and promote the realisation of children's early childhood development rights, notably the rights of vulnerable young children, through the provision of the relevant comprehensive early childhood development services to young children and their families. These include, for example:

2.1.1 Birth registration

Births and Deaths Registration Act No. 52 of 1992: The Act and its regulations (the most recent regulations came into effect in March 2014) require the registration of all births for children born of South African citizens;

permanent residents and refugees; and non-South African citizens, including infants who are abandoned and orphaned. While the Act and accompanying regulations provide for free registration, with late registration of births (after 30 days of the birth) a service fee is applicable. The Department of Home Affairs has primary responsibility for the registration of children's births. It has introduced a number of in-hospital and outreach programmes to facilitate the registration of infants' births within the prescribed 30 days.

2.1.2 *Basic health care for pregnant women, mothers and young children*

White Paper for the Transformation of the Health system in South Africa, 1997: The Paper commits to the provision of nutritional support, maternal, child and women's health as essential elements of an inclusive health system for all South Africans.

National Health Act No. 60 of 2003 (effective from 2005): The Act aims to regulate national health and to provide uniform health services across the country, and seeks to protect the rights of vulnerable groups. It makes provision for free health services for pregnant and lactating women and children under 6 years of age, who are not beneficiaries of a medical aid scheme, at state-funded health facilities. It also stipulates free primary health care (PHC) services for all persons who are not beneficiaries a medical aid or medical compensation scheme.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Maternal, Newborn, Child and Women's Health and Nutrition Strategic Plan, 2012: The Maternal, Newborn, Child and Women's Health and Nutrition (MNCWH&N) Strategic Plan focuses on identifying and strengthening those priority interventions that can be expected to show the greatest improvements on maternal, newborn and child health. The focus is on improving coverage, quality and inequitable access to a package of core services by implementing several key strategies, including: addressing social determinants of health, strengthening community-based delivery and strengthening the human resource capacity for the delivery of MNCWH&N services.

Campaign for Accelerated Reduction in Maternal and Child Mortality in Africa Strategy (CARMMA), 2012: The Campaign was launched by the African Union Conference of Health Ministers in 2009. The South African campaign, launched in 2012, focuses on, inter alia: promoting early antenatal care and attendance; improving access to skilled birth attendants; strengthening human resources for maternal and child health; improving child survival by promoting Kangaroo Mother Care for low birth-weight babies; advocating for appropriate care and support for pregnant women in the workplace; and improving implementation of key family practices. In addition, the campaign aims to intensify management of HIV-positive mothers and children.

National Health Insurance Green Paper, 2011: The Paper outlines plans for a more equitable distribution of financial and human resources. Strategies to achieve this aim include providing better access to quality health services for all South Africans; creating a single National Health Insurance Fund to pool risks and resources; and strengthening the performance of the public health system. The re-engineering of PHC is a core element of the plan. Three complementary streams for the delivery of PHC are envisaged: district clinical specialist support teams will provide district-level leadership with a focus on maternal and child health; school health teams will undertake learner health assessments, referrals and health education; and municipal ward-based outreach teams composed of community health workers (CHWs) and other health professionals will play a key role in delivering community-based maternal and child health services, as well as other routine and curative health services[84].

The Department of Health has the primary responsibility for fulfilment of the above goals and objectives.

The Department of Health is implementing a number of programmes and strategies to meet its goals and objectives. These include basic antenatal and postnatal care, the Prevention of Mother-to-Child Transmission of HIV (PMTCT) programme to prevent new HIV infection of infants; the Integrated Management of Childhood Illnesses (IMCI) programme to prevent and manage common causes of childhood mortality; the Expanded Programme on Immunization (EPI) for infants and children (for the prevention of common childhood illnesses); and the National Standards for Health Care Facilities to drive quality improvement.

In addition, its PHC re-engineering programme aims to improve the quality and reach of essential preventative and curative health interventions, with a focus on maternal and child health, through three complementary delivery streams: district clinical specialist support teams, providing district-level leadership with a focus on maternal and child health; school health teams, providing learner health assessments, referrals and health education; and municipal ward-based outreach teams composed of CHWs and other health professionals, playing a key role in delivering community-based maternal and child health services, as well as other routine and curative health services[85].

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

2.1.3 *Food and nutritional support for pregnant women and children*

Regulations of the Foodstuffs, Cosmetics and Disinfectants Act No. 54 of 1972, 1994, 2003 and 2012: The 1994 regulations provide for the iodisation of salt; the 2003 regulations provide for the fortification of maize and bread flour with zinc, iron and six vitamins; and the 2012 provisions regulate foodstuffs for infants and young children.

National Health Act No. 60 of 2003 (effective from 2005): The Act aims to regulate national health and to provide uniform health services across the country. It seeks to protect the rights of vulnerable groups, and sets out to protect, respect, promote and fulfil children's right to basic nutrition. It obliges the state to provide 'health services' and includes 'basic nutrition' within the definition of health services.

Children's Act No. 38 of 2005 (promulgated from April 2010): Further to the provisions indicated earlier, the Act's Norms and Standards stipulate that early childhood development programmes are obliged to ensure the provision of a daily nutritious meal.

Maternal, Newborn, Child and Women's Health and Nutrition Strategic Plan, 2012: This Strategic Plan focuses on identifying and strengthening those priority interventions that can be expected to show the greatest improvements on maternal, newborn and child health, which include nutrition-related interventions and support.

Tshwane Declaration of Support for Breastfeeding, 2011: This Declaration declares South Africa to be a country that actively promotes, protects and supports exclusive breastfeeding as the infant feeding option of choice, irrespective of the mother's HIV status. The Declaration made significant recommendations, including to develop legislation to protect and extend maternity leave for all workers; to provide comprehensive services to ensure that all mothers are supported to exclusively breastfeed their infants for the first six months; and, thereafter, to add complementary foods. Formula feeds will no longer be provided at public health facilities except on prescription for mothers and infants with approved medical conditions[86].

Clinical guidelines: PMTCT (Prevention of mother-to-child transmission), 2010: These guidelines form part of the state's approach to implementation of the National HIV and AIDS Plan, and specifically aim to accelerate

implementation of the plan. The revised guidelines allow all HIV-positive mothers to continue breastfeeding their infants up to 12 months of age, provided the infant is taking Antiretroviral (ARV) treatment during the breastfeeding period.

With the exception of the provision of food for children in early childhood development programmes in terms of the Children's Act, for which the Department of Social Development has overall responsibility, the Department of Health is the primary actor responsible for the provision of nutritional support services.

The Department of Health is implementing a number of programmes and strategies to meet its goals and objectives related to child nutrition. These include the integrated nutrition programme; regular growth monitoring at clinic visits; food fortification and micronutrient supplementation, such as Vitamin A programmes; iron and folic acid supplementation during pregnancy; parasite control such as de-worming programmes; immunisation, regarded as an important element of the integrated nutrition programme; and the mother-and-baby-friendly hospital initiative to promote and support breastfeeding from birth.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

2.1.4 Social security

Social Assistance Act No.13 of 2004: The Act and its regulations make provision for non-contributory cash transfer programmes targeting eligible children living in poverty (the CSG), and those with disabilities requiring permanent care or support services (the Care Dependency Grant). The South African Social Security Agency (SASSA), in conjunction with the Department of Social Development, is the statutory body responsible for the delivery of these social assistance programmes to all eligible children. The Department of Social Development has primary responsibility for the implementation of the Social Assistance Act.

Unemployment Insurance Fund Act No. 63 of 2001: This Act makes provision for contributory social security in the form of the Unemployment Insurance Fund's (UIF) maternity benefits, which are paid to contributing members. The Department of Labour is the primary actor responsible for implementation.

Through the social assistance sector a number of cash transfers have been introduced to support the caregivers of vulnerable children, including the CSG and the Care Dependency Grant (CDG) for children with disabilities. The Social Relief of Distress Grant is another vehicle for emergency relief, sometimes in the form of food parcels or vouchers, to indigent families who do not have access to any other state grants.

2.1.5 Protection from abuse and neglect and support services for women and children

Children's Act No. 38 of 2005 (promulgated from April 2010): The Act and its regulations provide a comprehensive framework for the provision of social services, including child protection, in South Africa. It includes a dedicated chapter (7) on protection of children. It obligates the Minister of Social Development to develop a comprehensive inter-sectoral strategy aimed at securing a properly resourced, coordinated and managed national child protection system. It provides for interventions to ensure the safety of children identified as abused or neglected, for appropriate therapeutic and psychosocial support, and for after-care services.

Prevention of Family Violence Act No. 133 of 1993: This Act introduced a focus on domestic violence and intimate partner relationships. Importantly, the Act criminalised rape within marriage, which had not been regarded as a criminal act previously.

Domestic Violence Act No. 116 of 1998 (effective from 1999): The Act, as amended, seeks to afford the victims of domestic violence maximum protection from domestic abuse and gives effect to certain protective provisions, such as the issuing of protection orders. The Act designates responsibilities to the South African Police Service and the judiciary.

Policy Framework and Strategy Document on Shelters for Victims of Domestic Violence in South Africa, 2003: This document provides guidelines for the establishment of shelters for victims of domestic violence and their children, as applicable, by both government and civil society organisations, and the provision of counselling and other support services at these shelters. The Department of Social Development is the lead department responsible for providing shelters.

Criminal Law (Sexual Offences and Related Matters) Amendment Act No. 32 of 2007: The Act seeks to afford victims of sexual offences the maximum protection and to minimise the experience of trauma within statutory processes. The Act places all law relating to sexual offences under one piece of legislation; criminalises all forms of sexual abuse and exploitation; and expands certain definitions of sexual offences, introducing gender neutrality across definitions. The Act explicitly aims to protect victims and their families from secondary victimisation and trauma, and recognises the vulnerability of children, women and persons with disabilities. It also makes provision for the rendering of certain support services to victims, such as post-exposure prophylaxis, and establishes a National Register for Sex Offenders.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

The Department of Social Development, the Department of Justice and Constitutional Development, and the South African Police Services are implementing a number of programmes and strategies to meet child protection goals and objectives. These include Victim Empowerment Programmes; national advocacy and communications campaigns, such as Child Protection Week and the 16 Days of Activism to prevent violence against women and children; specialised facilities and support for victims of sexual violence, such as the Thuthuzela Care Centres; and specialised police units to respond appropriately to domestic violence and child protection matters. Furthermore, the Child Protection Register has been established as part of the child protection system. Part A is provides for recording of abuse or deliberate neglect inflicted on specific children and their circumstances. Part B is to have a record of persons who are unsuitable to work with children and to use the information in the Register to protect children in general against abuse from these persons.

Through the child protection, family welfare and victim empowerment sector a child care and protection framework has been established, which includes the provision of prevention and early intervention services; treatment, rehabilitation and reintegration services; and the temporary and permanent placement in alternative care of children who have been abused, neglected and/or exploited. Several services are also available to caregivers who are the victims of, or are exposed to, violence in the home.

The Department of Social Development is largely responsible for the prevention, protection and therapeutic services, while the Department of Justice and Constitutional Development and the South African Police Services are responsible for the criminal justice responses.

2.1.6 Parenting and family support

Children's Act No. 38 of 2005 (promulgated from April 2010): The Act and its regulations provide a comprehensive framework for the provision of social services for children in South Africa. It includes a dedicated chapter (8) on prevention and early intervention programmes. Parenting and family support are considered key outcomes of prevention and early intervention programmes, and the provisions recognise early childhood development services as a form of prevention and early intervention.

White Paper on Families, 2012: The White Paper aims to foster positive family well-being and overall economic development in the country. The Paper seeks, as one of its primary objectives, to enhance the caring, nurturing, socialising and supporting capabilities of families to enable their members to contribute effectively to societal development. Parenting support is promoted as a means to strengthen families and promote family life and development of individual family members.

The Department of Social Development is the primary actor responsible for provision of these services. It is implementing a number of programmes and strategies to meet its goals and objectives. These include the Integrated Parenting Framework, a framework for developing local parenting programmes which has a focus on effective parenting skills, and the Parental/Primary Caregiver Capacity Building Training Package, which builds on Community IMCI Key Family Practices.

2.1.7 *Early childhood education and development services and programmes*

White Paper on Education and Training, 1995: The White Paper locates education and training within the National Reconstruction and Development Programme and outlines priorities, values and principles for the education and training system. It recognises the importance of sound development in the early years and the consequent need for providing adequate nutrition, good health, early childhood stimulation and a caring and secure environment to meet children's developmental needs, including the need for parenting support. It standardises and subsidises a reception programme for children aged 5 years.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

White Paper 6: Inclusive Education, 2001: The White Paper seeks to establish procedures for early identification and interventions for children with disabilities, as well as for addressing barriers to learning in the education system, including the foundation phase (Grades R to 3).

Children's Act No. 38 of 2005 (promulgated from April 2010): The Act and its regulations provide a comprehensive framework for the provision of social services to children in South Africa. It includes a dedicated chapter (6) on early childhood development and makes provision for the delivery of early childhood development services that promote the development of children from birth to school-going age, and for early childhood development programmes that provide developmentally appropriate learning and support. It allows for different delivery modes of early childhood development programmes and prescribes that these programmes must be registered when more than six children below school-going age participate in the programme. The Regulations to the Act set out norms and standards for the provisioning of early childhood development services and programmes.

National integrated early Learning and Development Standards for children Birth to Four years (NELDS), 2009: This document sets out developmental expectations in children (i.e. desired results) to be achieved, linked to specific standards in what competencies are expected from South African children from birth to four years. It provides an age- and content-validated tool to inform and improve early learning and development experiences; parenting skills and programmes; public knowledge of children's development; the development of school readiness tools; curriculum development; and evaluation of early learning programmes.

The South African National Curriculum Framework for children from Birth to Four, 2014: The comprehensive Curriculum Framework, based on the National integrated early Learning and Development Standards (NELDS), provides guidelines for the design of early learning programmes. The Framework notes that a curriculum aims to help every child to develop knowledge, skills, attitudes and behaviours for life, learning, schooling and work. It is organised around six Early Learning and Development Areas, which are: well-being; identity and belonging; communication; mathematics; creativity; and knowledge and understanding of the world.

Through the early childhood care and education sector laws, policies and programmes are in place to promote the establishment, registration and regulation of privately operated child care and education programmes and centres caring for six or more children to ensure their safety, protection and developmentally appropriate learning; a government-provided per-child subsidy is paid to mostly centre-based programmes for children living in poverty, based on the provisions of the Children's Act; and there is a commitment to the universalisation of the Reception Year (Grade R).

The Department of Basic Education is primarily responsible for implementation of curriculum development, support and training, and the roll out of the Reception Year (Grade R), while the Department of Social Development is largely responsible for financing, monitoring and overall oversight of early childhood development programmes for infants and young children from birth until the year before they enter school.

The Constitution affords responsibility to local municipalities to pass laws and Policy regulating child care facilities, and to conduct municipal planning, including regulating land use for child care facilities. These municipal by-laws and policies frequently relate to the required infrastructure and environmental health norms and standards for child care or partial care facilities that provide early childhood development programmes. The Local Government: Municipal Systems Act No. 32 of 2000 also prescribes that municipalities, through municipal planning, must contribute to the realisation of the right to basic education.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL, DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL, DIVISION,
PIETERMARITZBURG

2.1.8 *Public communication and information on early childhood development services*

National Integrated Plan for ECD 2005–2010 (NIPECD): The Plan promoted information dissemination and awareness raising as key strategies to reach and inform caregivers and communities, with the aim of building demand for early childhood development services. It regarded the use of media as an important element of a communication strategy. The Department of Basic Education was responsible for coordination until June 2007, and thereafter the Department of Social Development was responsible for coordination for the duration of the NIPECD. Children's Act No. 38 of 2005 (promulgated from April 2010): The Act makes provision for programmes that provide families with information enabling them to access services that promote the well-being of children and the realisation of their full potential. The Act also promotes the participation of families, caregivers and parents in programmes. The Department of Social Development is largely responsible for implementation and oversight.

2.1.9 *Access to safe housing, affordable water, sanitation and energy services*

White Paper on A new housing Policy and strategy for South Africa,1995: The White Paper sets out a vision for the establishment of viable communities that are socially and economically integrated. The Paper provides a vision of a society in which all of South Africa's people progressively have access to a permanent residential structure with secure tenure, ensuring privacy and providing adequate protection against the elements. The Paper's provisioning includes access to potable water, adequate sanitary facilities and domestic electricity supply. Implementation is the responsibility of the Department of Human Settlements.

Free Basic Water Policy, 2000 and Free Basic Water Implementation Strategy, 2001: The Policy requires local governments (municipality) to provide a minimum amount of free basic water per month to indigent households, subject to the availability of the means to do so.

White Paper on Basic Household Sanitation, 2001: The Paper aims to provide adequates anitation to all and to eliminate the bucket system. The provision of sanitation facilities falls within the mandate of local governments in terms of the law and the Constitution.

2.1.10 *Play, recreational and cultural amenities*

Children's Act No. 38 of 2005 (promulgated from April 2010): The Act's norms and standards for the provisioning of programmes are stipulated in the regulations to the Act, which state that programmes must aim at helping children realise their full potential. Programmes must therefore promote children's right to play and leisure, and respect and nurture the culture of children benefitting from the programme. The Department of Social Development is largely responsible for oversight of implementation of the Act and its regulations.

The South African National Curriculum Framework (NCF) for Children from Birth to Four, 2014 is rooted in play-based learning for early childhood. The Department of Basic Education is responsible for the roll-out and oversight of the NCF, in collaboration with the Department of Social Development, which takes responsibility for the registration of the programmes and monitors the implementation of early childhood development programmes.

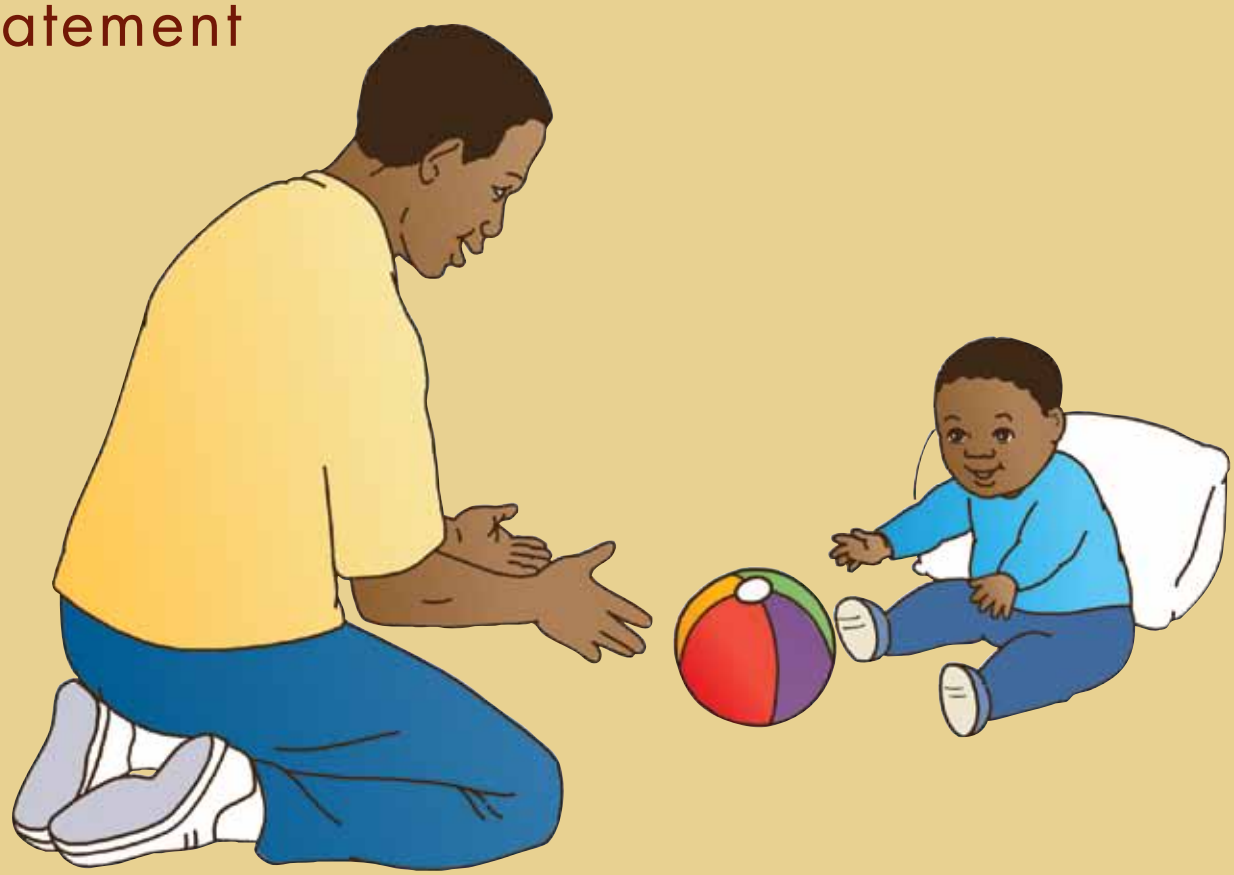
Schedule 5 Part B of the Constitution designates responsibility to local municipalities for the provision of local sport facilities and municipal parks and recreation. Local government duties with respect to child c[illegible] could be interpreted to mean that appropriate play and recreational facilities should be made available to children using these facilities.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

CHAPTER 3

The situation of young children in South Africa: Situational analysis, and problem statement



CHAPTER 3

The situation of young children in South Africa: Situational analysis, and problem statement[88]

The preceding developments have improved the lives and development of many young children in South Africa. However, various Policy and programmatic gaps and a range of deficiencies in implementation and systems mean that a number of early childhood development services are not available to all young children. In addition, the quality of a number of the services that are universally available varies and is inequitable across geography, population group and income quintiles.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

3.1 Demography of South Africa's young children

In 2015 there were 8 207 723 children from birth to 6 years (not turned 7) (i.e. 5 936 350 children birth to 4 years, 1 144 897 five-year-old children and 1 126 475 six-year-old children) living in South Africa – with the largest number of children birth to 6 years living in KwaZulu-Natal (23%) and Gauteng (20%), and the lowest number in the Northern Cape (2%) and the Free State (5%) . In terms of gender, for children birth to 4 years, there are 2 867 585 male children and 2 817 867 female children, with Gauteng and KwaZulu-Natal having the highest number of both males and females, while the Northern Cape and the Free State have the lowest number of both male and female children.

Whilst child poverty levels have fallen by as much as 15 percentage points since 2004, the majority of children in South Africa continue to live in poverty[90]. Using a lower-bound poverty level of R604 per person per month, 58 per cent of children are deemed poor. However, based on the income level used to determine eligibility for the Child Support Grant (just over R 3 000 per month per single parent household in 2011), more than 65 per cent of children in South Africa are recognised as living in poverty and requiring additional income support[91]. The burden of poverty is distributed unequally across provinces, geo-type and population groups. The majority of poor young children are African (65.6%), followed by children from the coloured population (29.7%), compared to only 7.6 per cent of Indian/Asian and 2 per cent of young white children. Similarly, many more young children living in the predominantly rural provinces of Limpopo (76%), the Eastern Cape (75%) and KwaZulu-Natal (67%) live in poverty than in the largely urban Western Cape and Gauteng (35%). Almost 80 per cent (79.6%) of children living in rural tribal areas live in poor households, compared to 57 per cent in urban informal and rural formal areas and 38 per cent in urban formal areas[92].

The demographic poverty patterns are replicated in the case of access to key early childhood development services. Many more poor African children living in tribal rural areas in historically under-serviced provinces that fall within the former apartheid homelands and in informal urban areas are at risk of not accessing quality health, nutritional and early learning services. The intersection of high levels of poverty and low levels of access to quality early childhood development services perpetuates the patterns of inequity in South Africa.

3.2 Health care

Public provision of health services has improved significantly since the advent of democracy. The public health sector is the primary actor, with existing public infrastructure enabling regular contact and reach of services to all children under 3

years of age[93]. Three-quarters (76.9%) of young children live in households that use public hospitals or clinics. The majority of these children are from the African and coloured populations[94].

Most recently, the scope, coverage and quality of a more comprehensive preventative and curative package of maternal, newborn and child health care services has improved as a result of the policies and programmes mentioned in paragraph 2.1.2 above. Notable in this regard are the MNCWH) in South Africa, the Campaign for Accelerated Reduction of Maternal Mortality in Africa (CARMMA) initiative and the PHC ward-based outreach teams that have been introduced as part of the PHC re-engineering programme to provide improved preventative and curative health services reaching children and their families where they reside.

The implementation of these policies and programmes has seen significant improvements in access to community and PHC services; earlier and better quality antenatal care; HIV testing and ARV therapy; and improved neonatal, intra- and post-partum care.

There have been significant improvements in the health status of children in South Africa. Data derived from the rapid mortality surveillance system suggest that the infant mortality rate (IMR) decreased from 46 to 27 deaths per 1 000 live births and the under-five mortality rate dropped from 69 to 41 deaths per 1 000 live births between 2006 and 2012[95].

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

The national immunisation rate stands at 95 per cent, which is near-universal coverage to the full course of vaccinations for one-year-olds. However, coverage rates vary between provinces and districts, suggesting that implementation remains a challenge at these levels[96].

Despite significant improvements, health gains for young children are muted by the variable levels of access to, and quality of, public health services, especially among historically vulnerable African children living in poverty in provinces with a strong rural character and living in under-serviced informal urban areas.

More than a quarter of African children, and 34 per cent of those living in the poorest 20 per cent of households, have to travel far (more than 30 minutes) to their nearest primary health-care facility[97].

While antenatal care coverage is high at over 90 per cent[98], less than half of women attend before 20 weeks of pregnancy, while those attending do so only for an average of three visits[99], thereby minimising the opportunity for early identification of and effective intervention on problems in pregnancy[100].

Other areas of concern are the high incidence of diarrhoeal disease with dehydration (15.2 per 1 000 children), and pneumonia (84 per 1 000 children), in children under five years[101], pointing to insufficient prevention, possibly poor caregiver response to symptoms, as well as compromised access to water and sanitation services for vulnerable children. Whilst there have been substantial improvements in the rate of access to clean drinking water and adequate sanitation, many young African children in urban informal and rural areas do not enjoy the same levels of access as other children in South Africa. For example, only 27 per cent of young African children have access to piped water in their dwellings, compared to 93 per cent of white children. Although substantial gains have been made in the provision of sanitation facilities – with almost 70 per cent of all children in South Africa having access to basic sanitation in 2011, compared to only 47 per cent in 2002 – the majority of those excluded from the service are African children living in poverty in rural and informal urban areas[102]. Thus, while 97 per cent of young white children use flushing toilets, only 40 per cent of young African children enjoy a similar quality service[103].

Over and above implementation challenges, the current health framework is marked by a number of Policy challenges related to young child health, which include limited parenting preparation and support; mental health screening and support; and the provision of support and referrals for maternal domestic violence and substance abuse.

3.3 Food and nutrition

An area of great concern is the high level of poor nutrition among young children; some 27 per cent of children under 3 years are stunted, and vitamin A deficiency is regarded as a significant public health problem[104].

Malnutrition remains a key driver of under-five mortality in South Africa[105]. Child malnutrition, especially for the youngest age group, continues to be a significant child health and development problem. While 15 per cent of children aged birth to 14 years are stunted, 27 per cent of birth to three-year-olds have the same condition[106]. Severe acute malnutrition in children younger than 12 months appears to be increasing, indicating poor feeding practices and inadequate or no breastfeeding [107]. In South Africa, infant feeding practices are sub-optimal, with rates of exclusive breastfeeding remaining low. Although breastfeeding initiated early post-delivery is a common practice, mixed feeding rather than exclusive breastfeeding is the norm.

The South African National HIV Prevalence, Incidence, Behaviour and Communication Survey, conducted by the HSRC in 2008, indicated that only 25.7 per cent of children aged birth to 6 months were exclusively breastfed; of these, only 8 per cent reached 6 months, with 22.5 per cent of children 0 to 6 months exclusively formula fed and 51.3 per cent mix fed.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

The South African National Health and Nutrition Examination Survey (SANHANES) 2012 showed that the exclusive breastfeeding rate in a small sample of women was similar to previous reports at 7.4 per cent

The South African Demographic and Health Survey (SADHS) 2003 reported that approximately 70 to 75 per cent of breastfed infants are reported to have received complementary foods before the age of 6 months and are therefore receiving mixed feeding.

In South Africa the current average duration of breastfeeding is reported as 5.9 months, with only 35.8 per cent and 13.4 per cent of children still being breastfed at 12–15 months and 20–23 months, respectively; this is considerably lower than the 2003 SADHS where the median duration of breastfeeding was 16.6 months. This shows that a refocus is required to support women to continue to breastfeed for as long as possible.

Micronutrient deficiencies in the child population are also a matter of concern as national vitamin A deficiency prevalence is 44 per cent; anaemia and iron deficiency prevalence are both 11 per cent; and iron deficiency anaemia prevalence is 2 per cent[108].

A number of direct and underlying factors result in malnutrition in young children. Two immediate determinants are inadequate food intake and illness[109]. Key underlying determinants are food insecurity, inadequate maternal care, insufficient health services, poor hygiene and unhealthy environments[110]. In 2011, 28.9 per cent of young children lived in households that ran out of money to buy food, 24 per cent lived in households which skipped meals because of insufficient food, and 28 per cent ate a small variety of food because there was not enough food in the house. The highest percentage was among young African children, 31.5 per cent of whom lived in households that ran out of food, compared to 2.3 per cent of young white children[111].

3.4 Child-centred social security

The Child Support Grant (CSG) is a cash transfer of R330 per month (2015) per child paid to primary caregivers whose income falls below the means-test income threshold. It is intended to form part of and complement the broader social protection programme, which includes free and/or subsidised health care, water, sanitation and education. The CSG has proven to be an effective child poverty-alleviation programme. It is a primary driver of lower child poverty rates in South Africa. In addition, its positive impact on early childhood development is well documented, especially where the grant is

accessed in the first 12 months of the child's life, with positive impacts on improved child nutrition, health and educational outcomes[112].

Overall, access to the CSG has increased, with an estimated 76 per cent of all eligible children currently receiving the grant[113]. However, take-up is slower for younger children in comparison to older children. Grant take-up only peaks at around 4 years of age, with children under 1 year being worst of[114]. There is a consistent trend amongst caregivers to delay the application for a CSG for their infants until after the child is 1 or 2 years old[115]. In 2011 only 50 per cent of income-eligible children younger than 1 year accessed the CSG. Moreover, unlike the significant access gains for older children, the rate of access improved by only 3 percentage points between 2008 and 2011[116].

This points to barriers in accessing the grant in the first year of life – the period when children are arguably most in need of nutritional foods, access to health care and other forms of support; it is also the period during which access to the grant has the largest impact on early development.

3.5 Free birth registration

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Birth registration is another service area marked by significant improvements in service delivery over the past decade. Birth registration is near-universal, with 90 per cent of births now registered within the year of birth[117]. However, access is skewed towards older children. While 90 per cent of birth to nine-year-olds had a birth certificate in 2008, 11 per cent of birth to two-year-olds, compared to 3 per cent of three- to four-year-olds, did not have this vital document[118].

3.6 Parenting support and capacity development

Parenting support programmes, a proven intervention for building constructive parental-child relationships and effective parenting practices, are critical for parents who are raising children in the context of high levels of poverty; chronic illness and disability; violence; and other social risk factors.

No national data are available on the availability of parenting support and capacity development programmes. Parent support is needed in the South African context where a large number of families live in poverty and other circumstances that may undermine parenting capacity.

The majority of parenting support programmes are provided by the non-profit sector or by private providers with an urban bias. For example, in the Eastern Cape, only four group-based parenting programmes were known to exist in 2011 when the province's child population was 2.7 million[119]. In addition, the quality of some programmes on offer may be too low to derive their full potential early childhood development benefits[120].

3.7 Early childhood development services and programmes

Learning begins at birth and continues throughout life. Early learning and development in the early years lay the foundations for lifelong learning and contribute to the achievement of key outcomes for infants and young children.

Early learning programmes for children not yet of school-going age are provided mainly by the NPO and private sectors. The role of Government is to regulate and fund ECD programmes provided by the non-government sector (both for-profit and non-profit non-governmental organisations). By the end of the 2014/15 financial year 685 511 young children had received a subsidy at an early childhood development centre[121]. While access to early childhood development programmes is increasing, with 33.8 per cent of children from birth to four years (not yet turned five) attending an early childhood development centre and 16 per cent being with child-minders or day mothers in 2014[122], early learning and care programmes are not universally available or equitably accessible to vulnerable children.

Access to early childhood development programmes is therefore currently inequitable, with the poorest children having the least access[123]. Young children whose caregivers cannot afford to pay user fees are also excluded from these programmes. Overall, only an estimated 20 per cent of birth to four-year-old children in the poorest 40 per cent of households have access to some form of out-of-home care. The quality of programmes currently provided at many partial care facilities providing early childhood development programmes in impoverished communities is also insufficient to ensure good child outcomes[124]. Children with disabilities are largely excluded from any of these programmes.

Many of children aged birth to 2 years are not in formal programmes but, in many cases, are cared for in their homes by their parents or other caregivers, including members of the extended family, elderly caregivers and other child-minders while their parents are away at work, studying, engaged in business, or chronically ill or disabled. There is currently no meaningful funding, training or quality management and improvement plan to ensure that early childhood care is provided to children in the age group birth to 2 years[125].

3.8 Services for children with disabilities[126]

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Currently, there are no reliable national estimates of child disability, especially for children under 5 years of age. An estimated 474 000 children live with severe disabilities in South Africa today[127]. In addition, many more children may have mild to moderate disabilities. Children in rural areas are slightly more likely to have some form of serious disability (2.7%) than children in urban areas (2.3%)[128]. An estimated 40 per cent of disabilities affecting children are due to preventable causes, i.e. birth asphyxia, infections, etc.[129].

A crucial starting point to ensure the development of children with disabilities is early identification to facilitate the proper planning, targeting and provision of adequate resources and services. This is hampered by poor or absent screening at PHC level. High-quality assessments by trained professionals are often required; however, there is a shortage of appropriately skilled staff and resources[130]. Once children are identified as being disabled, they require on-going support, intervention and referral, and may need rehabilitation services. Again, such services are not widely available. Less than 30 per cent of public health facilities offer rehabilitation services and community-based rehabilitation services providing effective and equitable support have not been implemented at scale in South Africa[131].

Shortcomings in services and support extend beyond the health sector. The current provision of early learning and development programmes, mainly provided through the NPO and private sectors, does not ensure environments conducive to learning by young children with disabilities. Only a small proportion of children with disabilities (4 to 5%) are estimated to be attending early childhood development programmes offered at partial care facilities. Analysis of the profile of Care Dependency Grant (CDG) beneficiaries in 2006 found that only 24 per cent of children aged birth to 6 years attended an early childhood development centre or child-minding group . Home- and community-based early learning opportunities are also not widely available for children with disabilities.

Key factors impacting on the availability of services for children with disabilities include that:

- The current funding model makes no provision for additional funding for programmes providing care and early learning opportunities for children with disabilities; and
- The curricula for the training of early childhood development practitioners must be strengthened to provide for the early learning and care needs of infants and young children with disabilities.

Other factors that impact on their access are adult beliefs about whether children can be included in mainstream programmes, stigma related to child disability[133] and the fact that early childhood teaching strategies do not, in the main, consider the learning needs of children with disabilities[134]. Similarly, while a social assistance programme (the Care Dependency Grant

CDG)) is in place for children with severe mental or physical disabilities, not all children with a disability or developmental difficulties who require additional material support receive the grant.

3.9 Early childhood development information and communication

While parents, caregivers and children have a right to information, very little is currently available in terms of national communications campaigns relaying pertinent early childhood development messages. Communication aimed at parents should enable them to understand what they can do to improve their children's nutrition, health and early learning; protect their children, and engage in positive discipline and refrain from corporal punishment; understand and demand quality early learning and development; understand the importance of play in the early learning and development of their children; foster parent-child interaction; access support and early intervention services for children with disabilities; and build understanding of the roles of mothers and fathers in early childhood development. Messaging in all these areas of communication must be based on evidence and, most importantly, must be consistent across all communication mediums.

Child-focused communication should focus on stories-for-enjoyment because stories stimulate language, imagination and an intrinsic desire to explore and learn more[135]. Language competency is the root of both literacy and numeracy development since it promotes understanding, listening and attention, and the ability to articulate concepts and ideas[136]. Story-telling and reading grow a child's imagination, which drives innovation and discovery. Stories told or read to children engender a life-long love of language and reading, building the intrinsic motivation to explore and discover. Programmes like Takalani Sesame have focused on communicating with children, but there has been little systematic focus on support for parents. There is a need to communicate good, evidence-based information about the science of early childhood development and its implementation to Policy-makers, civil society, business and trade union leaders, and the media.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

3.10 Gaps in the current early childhood development s ystem

A number of early childhood development services are not universally available and are not accessed by especially vulnerable children, including:

- Food and nutritional support;
- Parenting support;`
- Early care, early learning and development, especially for the youngest children, and for children living in poverty and in underserviced areas;
- Inclusive and/or specialised early childhood development services for children with disabilities; and
- Information and education on early childhood development.

Service provision in these areas is seriously curtailed by a combination of factors, amongst others: insufficient funding and governance, including institutional arrangements, leadership and coordination[137]. Improving the scale, quality and equity of access to these services to meet legal and developmental imperatives requires the development of a strengthened national integrated early childhood development system capable of supporting their universalisation.

Poor child nutrition outcomes in South Africa are attributable to poor implementation of available programmes as well as programmatic gaps. Notably, currently programmes do not make adequate provision of food for children with growth failure, for effective prevention of malnutrition through targeted prevention interventions aimed at pregnant women and infants, or for broader public prevention communication. Parenting support and education must be prioritised and offered through multiple media to reach the masses, such as public communication campaigns, and to offer appropriate local support[138].

Quality early learning programmes must be scaled up to reduce the school-readiness gap for children living in poverty,

in under-serviced areas, and with a disability[139]. Non-centre based early childhood development programmes that offer support to caregivers and provide early learning opportunities for the youngest children, especially those under the age of 2 years, are essential. Similarly, care arrangements for the youngest children must be recognised and regulated to ensure safe quality care and learning opportunities.

An effective and holistic early childhood development programme for children with disabilities is required to ensure that these children are guaranteed equal opportunities to access comprehensive early childhood development services necessary to ensure their rights to survival, growth, development and protection to their full potential.

Securing political and financial commitment for the development of universal early childhood development services and the attainment of maximum coverage requires increasing public awareness of the value of and demand for early childhood development services. This, in turn, requires the development and implementation of a national integrated early childhood development communication strategy.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

CHAPTER 4

The purpose, vision and principles of the National Integrated Early Childhood Development Policy



CHAPTER 4

The purpose, vision and principles of the National Integrated Early Childhood Development Policy

4.1 Purpose of the Policy

This Policy provides Government's recognition of the universal right of all children in South Africa to early childhood development services and the fundamental developmental importance of early childhood development. It provides a statement of associated commitments to developing a strong and effective integrated national integrated early childhood development system founded on a strong enabling legal framework; to establishing the necessary organisational and institutional structures; and to providing adequate public funding and infrastructure to ensure sustainable universal availability and equitable access to comprehensive quality early childhood development programmes and services for the period from conception until the year before children enter formal school or, in the case of children with developmental difficulties and/or disabilities, until the year before the calendar year in which they turn 7, which marks the age of compulsory schooling or special education. More specifically, it:

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

1. Provides an overarching multi-sectoral enabling framework of early childhood development definitions, responsibilities and role players within which all relevant national and sectoral laws, programmes and strategies must be developed and synergised and where there is conflict the latter must be changed;
2. Documents the commitments and responsibilities of Government to secure the provisioning of universal comprehensive early childhood development programme for children;
3. Defines a comprehensive early childhood development programme[140] and support, with identified essential components;
4. Identifies the relevant role players and their roles and responsibilities for the provision of the various components of early childhood development services; and
5. Establishes a national integrated early childhood development leadership and coordinating structure, such as the Inter-Ministerial Committee for early childhood development to:
    a. Facilitate centralised planning and monitoring of, and reporting on, the realisation of universal availability of and equitable access to a comprehensive early childhood development programme for all children;
    b. Support the strengthening and integration of services to improve availability of and access to all early childhood development services;
    c. Monitor a holistic national young child food and nutrition strategy; and
    d. Plan, fund, implement and monitor a national integrated early childhood development communication strategy.

4.2 Vision of the Policy.

All infants and young children and their families in South Africa live in environments conducive to their optimal development.

4.3 Mission of the Policy

The mission of the national integrated early childhood development Policy is to provide a comprehensive quality early childhood development programme that would be universally available in sufficient quantities and proximity so that all children enjoy an equal opportunity to access them.

4.4 National Policy goals

Short-term goal: By 2017, the Government of South Africa has established the necessary legal framework(s), established the organisational structures and institutional arrangements, undertaken the planning, and put in place the financing mechanisms necessary to support and realise its commitments to ensure universal availability of, and equitable access to, early childhood development services.

Medium-term goal: By 2024, age and developmental stage appropriate essential components of the comprehensive quality early childhood development programmes are available and accessible to all infants and young children and their caregivers.

Long-term goal: By 2030, a full comprehensive age and developmental stage appropriate quality early childhood development programme is available and accessible to all infants and young children and their caregivers.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

The distinction in the timelines for the realisation of the long-, medium- and short-term goals is founded on a constitutional distinction between services that are subject to progressive realisation within available means and those that are not. As discussed in more detail in section 5, below, dealing with the Policy strategy and scope, South Africa's courts have confirmed that the obligation to deliver on rights falling within the essential components of the comprehensive quality early childhood development programme are not subject to progressive realisation. The essential components must be realised in the shortest reasonable time possible.

4.5 National Policy objectives

The objectives of this Policy are that Government take all legislative, programmatic, funding and other measures contemplated in this Policy necessary to:

- Ensure universal availability of comprehensive age-, and stage-appropriate quality early childhood development services through the provision of a sufficient quantity of services in sufficiently close proximity to children and their caregivers so as to ensure opportunities for equal access;
- Ensure equitable access to early childhood development services and support for vulnerable young children and their caregivers through measures which address intrinsic and extrinsic barriers preventing their access to available early childhood development services;
- Empower and enable parents to lead and participate in the development of their young children's early development, growth and learning, and to have access to quality early childhood development services to support them when required;
- Ensure the alignment and harmonisation of sectoral policies, laws and programmes across the different sectors responsible for early childhood development services within the national integrated early childhood development Policy so as to ensure a nationally coherent and synergised multi-sectoral early childhood development system; and
- Ensure adequate and effective leadership, coordinated planning, funding, implementation, monitoring of progress and on-going quality improvements to ensure realisation of the national integrated early childhood development vision, mission, goals and objectives.

4.6 National Policy principles

The principles underpinning this Policy, and which must guide the development of all legislation, programmes, funding and monitoring and evaluation frameworks and institutional arrangements relating to its implementation, are:

1. *Human rights-based approach:* This Policy is founded on a human rights-based approach to early childhood development. It is grounded in, and seeks to give effect to, the Government of South Africa's international, regional and national legal commitments to recognise, respect, protect and promote the universal rights of all young children and their caregivers protected by international, regional and national law.

   It recognises that:

   - All young children have a universal right to life, to survival and to develop to their full potential; that is, to be physically healthy, mentally alert, socially competent, emotionally sound and ready to learn[141]; and that
   - Government bears a legal duty to ensure the provision of early childhood development services and support to ensure the realisation of these rights for all children and their families.

   The human rights-based approach requires the translation of legal commitments to children into a strong early childhood development system made up of policies and laws, in terms of which responsibilities are spelt out and role players can be held accountable for the realisation of the universal enjoyment of young children's rights[142].

2. *Interdependence of early childhood development rights:* Government is obliged to ensure the full implementation of children's rights. Whilst parents and families are recognised as the primary duty-bearers to realise children's rights, in the case of early childhood rights this is highly dependent on the capacities and resources available to parents and families. Therefore, the realisation of young children's rights depends on the realisation of their human rights, including their rights to social protection, basic services, health care, information and others. The national integrated early childhood development Policy recognises these interdependencies and aims to secure the necessary material and other forms of support, services and assistance required by parents and other caregivers to meet their responsibilities to young children[143].

   In addition, the rights of young children are interdependent in that the fulfilment of their overarching rights to life and to development to their full potential depends on realisation of their full complement of rights protected by law. As such, this Policy and all actions taken in terms thereof should advance a complimentary package of age- and developmental stage- appropriate services securing multiple rights.

3. *Play-based learning:* The right to play is enshrined in Article 31 of the UN Convention on the Rights of the Child. It is a defining characteristic of childhood. Play is the principle means by which children learn and explore the world around them, while developing cognitively, socially, emotionally, creatively and physically. When we talk about 'education' in early childhood, we mean the opportunity to learn through play-based activities supported by caring adults, rather than to be 'taught' in a formal sense.

4. *Evolving capacities:* The national integrated early childhood development system is founded on the recognition that the period of early childhood development is continuous and on-going, starting at conception and evolving until the child enters school, and that children's needs differ depending on their age and developmental stage. It further recognises that protective and risk factors differ, depending on the children's context, including their age, backgrounds, geographic location, health and socioeconomic circumstances. The national integrated early childhood development system of services must be responsive to the context in which children live as well as their specific age and developmental stage needs[144].

5. *Multi-sectoral and integrated responses:* Since children's early childhood development rights and needs are indivisible and span many areas including health, nutrition, a safe environment, and psychosocial and cognitive development, the provision of a comprehensive package of services does not rest with only one government department or level of

government or sector. Securing the universal early childhood development rights of children requires an integrated, cross-sectoral Policy and plan that involves all government departments, civil society organisations, the corporate sector, religious organisations, non-governmental organisations, development partners, parents and children[145].

6. *Recognition of and respect for parents as primarily responsible for early development:* The role of parents and families as the natural and primary duty-bearers for the survival, growth, development and protection of children to their full potential is recognised and protected as a fundamental principle of the national integrated early childhood development system. Parent support, including material, psychosocial, health and educational, starting in the antenatal period and continuing until the child enters school, should lay the foundation of national integrated early childhood development services and programmes.

7. *Best interests of the child:* The best interests of the young child must be a primary consideration in all actions concerning them[146]. All decisions made and actions taken that impact on the life, survival, development and well-being of young children must be based on their best interests. This includes decisions and actions taken by parents, professionals, practitioners and others responsible for the care and development of young children. It also applies to all laws and policies developed, administrative and judicial decisions taken, and services provided, including those that:
   - Directly affect children, for example, health, care and education systems; and
   - Indirectly impact on children, such as environmental and transport systems.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

8. *Respect for views of the child:* Young children are as entitled as older children to express their views and have them taken into account. This right is often overlooked because of the age and maturity of infants and young children. Even the youngest children are entitled to express their views, which should be given due weight in accordance with their age and maturity. This principle should be anchored in the child's daily life and in legal proceedings, within health care facilities and in legal proceedings, in the development of policies and services, including through research and consultation. This requires that adults adopt a child-centred approach and attitude, listening to children and respecting their dignity and points of view[142]. This requires adults to adopt a participatory, hands-on approach to the young child's early learning and development.

9. *Equity and non-discrimination:* This Policy is founded on the recognition of the universality of the rights of young children to survive and develop to their full potential. As such, no child may be excluded from access to any early childhood development services supporting realisation of their rights based on one or more grounds, including race, gender, sex, marital status of their caregiver, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, language, culture and birth. In addition, to promote the achievement of equality, measures shall be taken to ensure the availability of, and access to, quality early childhood development services for vulnerable children.

10. *Appreciative promotion of existing resources and knowledge:* This Policy recognises the many good practices and existing systems in place already supporting various aspects of early childhood development. The aim is to build on the foundation provided by existing systems and knowledge, including beneficial indigenous and local early childhood development practices, to develop a stronger and more unified integrated national integrated early childhood development system.

11. *Cost-effectiveness:* This Policy is based on strong international evidence that early childhood development is cost-effective in relation to health, educational, social and economic outcomes. Specific service modalities outlined in the Policy have also been shown to be cost-effective when provided with the frequency and intensity of service provision recommended in this Policy.


REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

CHAPTER 5
Policy strategy and implementation



CHAPTER 5
Policy strategy and implementation

5.1 Provision of early childhood development services

International and regional instruments as well as the Constitution of the Republic of South Africa guarantee a number of children's rights. These rights and associated responsibilities, which collectively underpin the comprehensive early childhood development programme, are the rights to:

- A name and nationality;
- Family and parental care;
- Child care and support for families to fulfil their parenting responsibilities;
- Health care;
- Food and nutrition;
- Social services, including protection from abuse and neglect, psychosocial support and social assistance;
- Basic education, including early childhood education starting from birth;
- Information;
- Basic services, such as water, sanitation and energy;
- Shelter and housing; and
- Play, recreation and cultural activities.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

The realisation of these rights requires the provision of the following comprehensive package of services:

- Free birth registration services for all children when they are born;
- Parenting and family support;
- Free basic preventative, promotive and curative health care for pregnant women and children;
- Preventative and curative food and nutritional support for pregnant women and children;
- Social protection services;
- Protection from abuse and neglect and psychosocial services for recovery and reintegration for pregnant women, children and mothers;
- Early child care and early learning services;
- Information on the value of early childhood development services and where and how these may be accessed;
- Subsidised and affordable water, sanitation and energy services;
- Access to safe housing; and
- Play, recreational and cultural amenities.

A number of the rights are subject to progressive realisation within available means, whereas others are not – they are realisable immediately. The implication of the distinction has been considered by South Africa's courts which have ruled that the Government is obliged to take all reasonable measures to realise rights not subject to progressive realisation with immediate effect. This means that it must, with immediate effect, provide the services and resources which are a necessary condition for the achievement of the rights in question. This is particularly true in the case of empowerment or developmental rights such as the right to basic education and (by extension) other early childhood development rights which lay the foundations for the future development of children[149].

The essential components in the comprehensive quality early childhood development programme in this Policy mean those services where there is a more immediate obligation on Government to provide the services, which is an essential pre-condition for the realisation of young children's rights that are not subject to progressive realisation but are immediately realisable. This meaning and the use of the term 'essential components of services' in this Policy is distinguished from the term and its associated definition as used in the Labour Relations Act No. 66 of 1995. As such, there is no implication that employees providing the services identified as falling within the essential components of early childhood development services do not enjoy the right to strike unless the service in question has been designated as an essential service in terms of the Labour Relations Act.

Whilst essential components of the comprehensive early childhood development programme are deemed vital, Government recognises that they are not sufficient to ensure a child's optimal development. They need to be provided in the context of a healthy living environment; hygienic water and sanitation; safe and affordable sources of energy; and adequate housing for all pregnant women, infants and young children. There is a constitutional obligation to progressively realise these socioeconomic rights within Government's available resources.



Government commits to the provision of those early childhood development services in the short-to-medium term which are a necessary precondition for the realisation of the previously listed set of rights not subject to progressive realisation:

1. Free birth certification for all children born in South Africa;
2. Basic preventative, promotive and curative health care and nutrition for pregnant women, infants and young children to secure their mental and physical health;
3. Preventative and curative maternal, infant and child food and nutrition services;
4. Support for parents to empower and enable them to take the lead in their infants and children's optimal development, including the provision of income support, nutritional support, psychosocial support and support for the early education of children from birth;
5. In their parent's absence, safe quality child care and early learning which nurtures the young child's development;
6. Early learning support and services from birth in the home, community and in centres; and
7. Publicly accessible information about early childhood development services and support and their proven importance for ensuring optimal early childhood development.

Government will realise the full comprehensive early childhood development programme in the longer term, with priority being given to the implementation of the essential components of this package in the short to medium terms.

5.2 Provision of comprehensive quality early childhood development programme

Government commits to the provision of early childhood development services which:

1. Include a number of early childhood development services already identified as priorities within current policies and programmes. It will, however, strengthen delivery and equity of access through the design, location and integration of services into a diversity of delivery models. An essential component of this package that will be delivered includes: ante- and post-natal health, birth screening and nutrition services; social services such as free birth registration, social grants and child protection services; parenting support; and opportunities for early learning. All services will be integrated into, and delivered across, the full continuum of care settings, starting in the home with the parents, moving to out-of-home child care arrangements, to community-based programmes (non-centre based) and to facility- or centre-based programmes; and
2. Introduce a number of new services as an essential component of the comprehensive early childhood development programme to fill gaps identified in the range of services available, including:
   a. Early childhood development services provided through home visits by community health workers (CHWs) from

conception until the child reaches the age of 2 years to vulnerable pregnant women, and post-natal services for women and children at high risk of poor early childhood development;

b. Micronutrient and food supplementation for all pregnant women, with special attention to underweight pregnant women and children who fail to thrive because of poverty and associated social problems;
c. Food and nutritional support provided by CHWs for pregnant women and young children at risk;
d. Screening, counselling and referrals of pregnant women and mothers of young children for mental health, substance abuse and domestic violence;
e. Birth screening and follow-up screening for the purposes of early identification of disabilities, checking immunisation status and tracking children at risk. This will include the Golden Standard Model for the screening and early intervention of infants with disability;
f. Screening of young children for abuse and neglect and the provision of follow-up counselling and referrals of caregivers and their children for remedial support;
g. An augmented programme of parenting support, including the preparation of pregnant women and partners, and of mothers of young children, to enable them to optimise their young children's development across all domains, especially in the areas of child safety, the provision of positive parenting practices, food and nutrition, and learning; and
h. Pre-registration during the third trimester of pregnancy for the CSG to ensure that children have access to the benefits of the grant from birth.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

The above services will be delivered by Government through one or more of the following early childhood development programmes:

5.2.1 Health care and nutrition programmes

Health care and nutrition programmes as an essential component include the provision of:

1. Preventative and curative mental and physical health care for mothers, infants and children, as well as nutrition promotion services from pre-conception until the child reaches the age of 5 years, including:
   a. Promotion and support of exclusive breastfeeding for the first six months after birth;
   b. Counselling to support appropriate and responsive complementary feeding or alternatives to breastfeeding where this is not possible, including the prevention of obesity;
   c. Home-, community- and facility-based growth monitoring, early identification of growth faltering (growth and developmental lags) and referral for investigation and follow-up for all children aged birth to 2 years;
   d. Micronutrient supplementation (folic acid and iron for pregnant women, and Vitamin A supplementation for infants and young children) and food supplementation for underweight pregnant women and children who fail to thrive for reasons of poverty and associated social problems; and
   e. Provision of food and nutritional support to pregnant women and young children by community outreach workers, including the Department of Health's CHWs;
2. Screening of pregnant women, mothers and young children through facility-, community- and home-based ante- and post-natal care visits; and referral and provision of support services for maternal and infant mental ill-health, substance abuse and exposure to violence, developmental delays and disabilities, and/or abuse and neglect of the child.
3. The full utilisation of the Road to Health booklet to support, monitor and remedy, where needed, a child's healthy growth and development. The booklet has important promotional messages that capacitate parents and care givers and to demand services.

Goal: By 2024 to provide the package of services described above to improve the mental and physical health, nutritional status, development and safety of infants and young children from conception until the year before they enter school.

Objectives:

1. In the antenatal period:
   a. To eradicate all causes of preventable disability, exposure to environmental toxins and stress, and infections through the provision of appropriate antenatal health care for all pregnant women;
   b. To screen, support and make referrals for maternal mental health, substance abuse and exposure to domestic violence; and
   c. To provide preparation for parenting.

2. For children from birth until the year before they enter formal school:
   a. To promote children's health and prevent disease through the provision of quality and effective management of childhood illness, HIV testing and treatment, immunisation, and vitamin supplementation;
   b. To promote children's nutritional status, growth, development and health through the provision of nutritional counselling, the promotion of exclusive breastfeeding, growth monitoring, appropriate complementary feeding, responsive feeding, and strengthened fortification and supplementation mechanisms;
   c. To promote children's healthy development and safety through the provision of parenting support and skills building;
   d. To promote a secure attachment relationship between the parent(s) and the child;
   e. To prevent child abuse and neglect through the provision of parent support; identify (through screening) and provide care and support for, children exposed to child abuse and neglect; and refer parents and children to appropriate services; and
   f. To prevent disability; identify (through early screening) and provide care and support for, children with disabilities; to make early referrals of parents and children to appropriate health care and related services; and to track these children for continuous support and follow-up.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

5.2.2 Social protection programmes

Social protection programmes as an essential component include:

1. Preparation and referral of women for the registration of their child's birth during pregnancy, through all antenatal care services, and post-natal, through parenting support as well as centre and non-centre based early childhood development programmes;
2. Free birth registration services for newborns and the integration of registration services within health facilities;
3. Ante- and post-natal screening through health services to determine the eligibility of caregivers for social assistance through the Child Support Grant or the Care Dependency Grant and their referral to SASSA and/or social workers for grant applications;
4. Information about available grants and the importance of accessing them in the early years of the child's life;
5. The Child Support Grant or the Care Dependency Grant, to eligible caregivers through integrated service delivery mechanisms which address barriers to early grant registration; and
6. Pre-registration of pregnant women for the Child Support Grant during pregnancy to ensure that children have access to the benefits of the grant from birth.

Goal: By 2024 to provide the preceding package of services necessary to ensure that all young children and their caregivers have early access to national identification documents such as birth certificates and identity documents, and the income support necessary to provide the living conditions to secure the survival and development of young children to their full potential.

Objectives:

1. To ensure that all children receive a free birth certificate within 30 days of birth through integrated and effective birth registration services; and
2. To ensure that all eligible young children and their caregivers receive an appropriate social grant from the date on which the child becomes eligible.

5.2.3 *Parent support programmes*

Parent support programmes as an essential component include the provision of factual information as well as the social support parents need to ensure the survival and development of their children to their full potential. Parenting programmes include: preparation for parenthood; promotion of children's early growth, development, learning, language and education; enablement of appropriate and positive child behaviour management; promotion of parental well-being; and promotion of child protection and safety. Parenting programmes can be provided as stand-alone interventions or integrated into other early childhood development programmes and must be provided at all stages of early child development from pregnancy until the age of 5 years. Parent support programmes include:

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

1. Provision of information and capacity building for parents to enable them to ensure the optimal health, safety and development of their young children from birth until they enter school;
2. Provision of information about identification documents and social grants, and referral of parents to access such; and
3. Promotion of positive parenting practices, child safety and protective practices; and
4. Support for parents with infants and young children with disabilities, developmental delays or special needs.

Goal: By 2024 to provide the preceding programmes of parenting support services necessary to improve parental knowledge, capacity and practices related to young children's holistic development, including information, capacity building, referrals, and specialist parental support of especially vulnerable parents so as to address any mental health problems, substance abuse, disability, abuse or neglect problems that they may face and which impact their child's development, or any problems that their young children may face.

Objectives:

1. To provide parents and/or primary caregivers with the information, skills and understanding necessary to support the optimal development of their infants and young children in healthy and stimulating home environments. ;
2. To promote positive parenting and early learning practices, including play and story-telling, and avoid the use of corporal punishment as a measure of discipline; and
3. To provide parents with specialised help to address particular challenges facing them or their child which impact on the child's early development, such as domestic violence, mental health problems, substance abuse, disability, and/or abuse or neglect.

5.2.4 Opportunities for learning

Opportunities for learning as an essential component includes multiple early childhood care and early learning services that promote the stimulation of children's language, and of their conceptual and socio-emotional development and learning, provided within a continuum of care and early learning settings starting from birth and continuing until the child enters school, including the home, health care facilities, home visits, child care/ child-minding settings, community-based groups and early learning programmes in partial care facilities. The continuum of services making up this programme is set out in paragraph 5.3.3, below.

Goal: By 2030, to provide a universally available comprehensive quality age and developmental stage appropriate opportunities for learning for all children from birth until they enter formal school, which lay the foundations for optimal early learning, inclusion and the socio-emotional, physical, intellectual and language development of young children through play and other related, recognised methods for early learning, as well as safe daily care in the absence of their parents and/or primary caregivers

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Objectives:

1. To ensure universal availability of a full continuum of quality age, stage and context appropriate safe and nurturing care and early learning settings for young children, including centre and non-centre based early learning programmes that provide quality support for the stimulation of children's development and learning;
2. To ensure the development and delivery of quality play-based age and context appropriate early learning programmes in all care and early learning settings;
3. To ensure that all children who have been historically excluded from opportunities for early learning, including children aged birth to 2 years, children in under-served rural and urban informal areas, children living in poverty, and children with disabilities, have an opportunity to participate in a quality age and needs specific early learning programme;
4. To ensure that all caregivers, child-minders and practitioners across the continuum of early childhood development services have the knowledge, skills, infrastructure and materials necessary to provide quality support for children's early learning and development; and
5. To raise public awareness of the importance of the role of parents and other primary carers in the early years of a child's life in facilitating and supporting their infants and young children's early learning and development.

5.2.5 National public early childhood development communications

The success of the preceding programmes and attainment of the early childhood development investments necessary to support their realisation depend in large measure on the development and implementation of a national integrated early childhood development communications and advocacy programme that provides public information aimed at promoting the behaviour, attitude and practice changes necessary amongst parents, caregivers, practitioners, educators, and government and non-government role players, amongst others.

Underpinning the provision and successful achievement of the objectives of the services making up early childhood development services is on-going media and public communication that:

1. Reinforces the nature of – and critical window of opportunity offered by – appropriate quality interventions early years of life;

2. Emphasises the crucial positive role parents and families play in the development of infants and young children; and
3. Conveys important messages to support early childhood development, including:
   a. Nutrition and health care;
   b. Safety and protection, including alternatives to corporal punishment;
   c. Responsive and loving care; and
   d. Early learning and development.

Goal: By 2024, to ensure the development and implementation of coherent, sustained, well-resourced communications, public awareness and advocacy interventions targeted at the full range of stakeholders and aiming to promote changes in behaviour, attitude and practice that are necessary to realise the objectives of the national integrated early childhood development Policy.

Objectives:

1. For children: To provide appropriate and accessible information and material that targets infants and young children through a variety of media platforms, in particular public media platforms, that will stimulate their early learning, language, social and emotional development; imagination; curiosity; and critical thinking, from birth onwards.
2. For parents: To provide appropriate and accessible information that will:
   a. Enable parents and others responsible for the daily care and development of young children to understand the importance of early childhood development and what they can do to improve their children's nutrition, health and well-being, early learning, and protect their children;
   b. Enable parents to understand and demand quality early child care and learning from public and private providers of early childhood development services;
   c. Foster parent-child interaction; and
   d. Build understanding of the roles of mothers and fathers in early childhood development, specifically recognising the current high proportion of 'absent fathers' in the lives of their children.
3. For leaders in government, civil society, business, trade unions and the media: To provide appropriate and accessible information that will:
   a. Engender a broad national understanding of the importance of early childhood development for redressing inequality, improving health, education, social development, inclusion and economic growth; and
   b. Provide Policy-makers and managers with information for planning, management and innovation, and to ensure strong accountability for effective implementation.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,

5.2.6 Housing, water, sanitation, refuse removal and energy sources

Goal: By 2030 to ensure that all infants and young children, especially those living in poverty and in under-serviced rural and informal urban areas, live in safe and adequate dwellings which have basic services, including safe drinking water, safe sanitation facilities, refuse removal services, and a safe source of affordable energy.

Objectives:

1. To ensure that human settlement developments, including subsidised housing developments and schemes, target households with vulnerable groups including women, people with disabilities, youth as priority beneficiaries;
2. To increase access for all infants and young children, especially historically vulnerable children living in poverty and in under-serviced rural and urban areas, and infants and young children living with disabilities, to:

a. adequate dwellings,
b. adequate sanitation,
c. regular municipal refuse removal services,
d. safe and affordable sources of energy; and

3. To raise awareness and knowledge of parents, child carers and children on the importance of the safe use of water, safe sanitation facilities and hygienic practices.

5.2.7 *Food security*

Goal: By 2030 to ensure that all infants and young children enjoy healthy physical growth, are well-nourished and enjoy sustained access to nutritious food, and to ensure implementation of a comprehensive multi-sectoral national strategy for children from birth until the year before they enter school aimed at eliminating stunting and malnutrition, reducing obesity and preventing hunger and food insecurity.

Objectives:

1. To increase access of infants and young children to adequate and nutritious food; and
2. To improve the knowledge of caregivers of infants and young children regarding good nutrition practices.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

5.2.8 *Play facilities, sport and culture* [150]

Goal: By 2030 to ensure that all infants and young children have access to play, recreational and cultural environments and facilities that are safe, inclusive, and age- and developmental stage-appropriate, especially those living in poverty, under-serviced rural areas and informal urban areas; those with disabilities; and those living in institutions.

Objectives:

1. To ensure the promotion of knowledge among parents, caregivers, child-minders and early childhood development practitioners regarding the importance of the right to play, recreation and cultural activities, their impact on the early learning and development of young children, and how to facilitate realisation of this right in all settings, including non-centre based and centre based early childhood development programmes;
2. To ensure that there are secure, safe and accessible play, recreational, library and cultural facilities that are both inclusive and age- and developmental stage-appropriate in all communities, especially poor communities and under-served rural and informal urban communities;
3. To ensure that the design and development of play, recreation, library and cultural facilities and programmes comply with universal principles of design so as to be accessible to infants and young children with disabilities and promote beneficial indigenous cultural practices; and
4. To ensure that local municipalities and the Department of Human Settlements make adequate provision in their human settlements, town planning and budgeting processes to secure universal availability and equitable access to play, library, recreational and cultural facilities.

5.3 *Programmatic priorities*

The following five programmes will be prioritised in terms of development, funding and implementation to ensure the provision of critical services to especially vulnerable groups of children.

5.3.1 *Support for pregnant women, new mothers/fathers and children under 2 years of age*

Objectives:

To enhance the ability of families to cope with and nurture every vulnerable child below 2 years of age by promoting healthy pregnancy and providing maternal psychosocial support where needed; supporting parenting aimed at love, care, security and responsiveness to children; and strengthening cognitive, language, psychosocial and sensorimotor stimulation of the child.

The growth and development of infants and young children are largely determined by their family and home environment. Home-based support, initiated during pregnancy and sustained through the first few months of life, has been shown to improve maternal coping and child interaction, and to reduce growth faltering.

A national programme for the provision of centre and non-centre based support for pregnant women, mothers, fathers and infants in the first two years of life will be developed and implemented by 2024 with the following aims:

- To maximise opportunities during antenatal and post-natal clinic visits for well-baby care and ITI and to counsel women regarding self-care and infant health, growth and learning;
- To ensure that all babies and young children have a Road to Health Booklet that is up to date and utilised for healthy growth and development, and, where appropriate, to assess and remedy ITI development;
- To provide supportive home visits by community health workers to vulnerable mothers and other caregivers and their young children during pregnancy and infancy for a period of up to nine months, providing information and advice about optimal child development, as well as guidance and referral where necessary. Vulnerable mothers include teenage mothers; mothers with problems with mental health, substance use and/or survivors of domestic violence; and mothers of children with developmental difficulties and/or disabilities;
- To provide clinic- and community-based support groups for women and women-and-babies that address self-care and infant health, nutrition, growth and learning;
- To provide systemic training and support for child-minders who provide daily care for children aged birth to 2 years in the temporary absence of their parents to improve their knowledge relating to health, hygiene, nutrition, early learning and development, and linkages to services to ensure that child-minding practices support the optimal development of this group of young children; and
- To facilitate the pre-registration of pregnant women in the third trimester of pregnancy for the CSG (verified through birth registration) to enable income-eligible mothers to have access to the grant from the first day of the child's life.

The overall programme will be developed, funded and implemented under the lead of the National Department of Health, in close collaboration with the Department of Social Development and the Department of Basic Education, through clinic and community outreach teams that form the bedrock of primary health care in South Africa. The support, training, and regulation of the child-minders programme will be developed, funded and implemented by local and metropolitan municipalities with the support of the Department of Social Development, the Department of Health, the Department of Basic Education and the Department of Cooperative Governance and Traditional Affairs.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

5.3.2 Review and strengthening of a comprehensive national food and nutrition strategy for children under 5 years

Objectives:

By 2017, a national multi-sectoral comprehensive food and nutrition strategy for children younger than 5 years is reviewed and strengthened to ensure delivery of a comprehensive package of food and nutrition support and services both in the home and at community level, backed up by environmental health, health and social services that improve the nutritional health and well-being of infants and young children.

The Department of Health, in collaboration with the Department of Social Development, the Department of Agriculture, the Department of Basic Education and the Presidency, will facilitate the reviewing and strengthening of an inclusive strategy to include participation by all government and non-government role players responsible for the provision of relevant food and nutrition services to young children and their families.

The strategy will identify the relevant roles and role players to meet the food and nutrition [illegible] pregnant women and children aged birth to 4 (not yet turned 5) years. It will provide direction for the fulfilment of their roles and responsibilities, and develop mechanisms for the accountability of multi-sectoral role players in terms of their responsibilities for realisation of the desired outcomes.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

The strategy will ensure:

1. Delivery and oversight of the essential nutrition services prescribed for under the health and nutrition programme in paragraph 5.2.1 above;
2. Development of norms and standards, meal plans and training curricula for early childhood development practitioners for the provision of nutritionally balanced food through early childhood development programmes;
3. Development of one national set of norms and standards for hygiene and food safety, including for infrastructure in early childhood development programmes, against which all other related norms and standards must be aligned, including those set out in the Children's Act, No.38 of 2005 and the environmental health norms and standards of the Department of Health and local municipalities;
4. Improved food security and access to nutritious foods in households with pregnant women, infants and young children through, inter alia, food price stabilisation, income generation and access to social security grants;
5. Improved food production and security through the promotion of and support for food gardens in households with infants and young children, and early childhood development programmes based on a specific site, where practicable, with an emphasis on growing crops with high nutritional value and on poultry and livestock ownership;
6. Improved access to environmental health services necessary for the promotion of infants and young children's nutritional health and development, including access to piped water, sanitation and refuse removal services;
7. Development and implementation of a multi-sectoral food and nutrition communication and education campaign with a focus on the prevention of hunger, malnutrition and stunting in pregnant women, infants and young children; and
8. Development of an integrated nutrition information system and linking of current household profiling activities with the system.

5.3.3 *Provision of universal developmentally appropriate early learning opportunities for young children from birth*

Objectives:

Learning starts in utero and the brain circuitry established in the first two years of life sets the long-term trajectories of language and cognitive functioning[151]. However, learning does not only require cognitive stimulation but also social and emotional development. Childhood self-regulation has been shown to be a powerful predictor of adult health, wealth and public safety[152]. Motor skills development is important for normal physical activity, but is also a catalyst for the development of listening, speaking, attention, emotional control, visual motor and visual thinking skills. These skills prime the brain for reading, writing and mathematics.

In order to ensure that every child has an opportunity to access age- and developmental stage- appropriate early learning opportunities from birth to until the year before entering school, the South African National Curriculum Framework for Children from Birth to Four (NCF) will be implemented, funded and regulated to provide[153]:

1. Home-visiting and health-facility-based programmes designed to stimulate the knowledge, capacity and provision of early learning support in parents and other caregivers. This includes sensitising pregnant women and mothers to the importance of early learning from birth through responsive care, language play and structured activities in clinics, and through home visits during pregnancy and postnatal care;
2. Early learning opportunities through child-minding services which will be incorporated into the spectrum of early learning opportunities and supported through the learn-playgroup programme infrastructure. This extensive network of day-care providers will be harnessed to support the scale-up of early learning opportunities through registration and per capita subsidisation for registered child-minders who meet basic norms and standards and participate in the proposed home visiting or children's playgroup support programme. This will be supported by a systemic training and support programme for child-minders providing daily care for children aged birth to four years in the temporary absence of parents at work or studying, covering the importance of early learning through responsive care, language stimulation and structured activities using appropriate tools and materials;
3. Community-based early learning play groups for mothers and children aged birth to four years to provide parenting support and information on early learning and socialisation and a stimulating play experience for children;
4. Community-based structured early learning play groups for children aged 2 to 4 years (with or without parental participation) aimed at fostering socialisation and promoting early learning;
5. Early learning and development programmes, particularly for three- and four-year-olds, that encourage emotional and social development and preparation for schooling through play-based learning and exploration;
6. Early childhood development programmes for six or more children aimed at the care, early learning and development of infants and young children through play-based learning, care and supportive services; and
7. Increased parental demand for early learning opportunities for their children through public communication about the importance of early childhood development for health and human capital across the life course.

The design of early learning programmes

Early learning programmes should all be designed with two objectives, namely:

- To promote resourcefulness of children; and
- To promote language and cognitive development.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

The National integrated early Learning and Development Standards (NELDS)[154] and the South African National Curriculum Framework for Children from Birth to Four (NCF) provide guidance for the design of early learning programmes. The NCF builds on the NELDS, taking account of the norms and standards in the Children's Act and the Department of Social Development Guidelines for Early Childhood Development Services. It also indicates the relationship with the Curriculum and Assessment Policy Statements (CAPS for Grade R).

The National integrated early Learning and Development Standards (NELDS) are divided into six desired results areas which have been validated for content and age according to three categories: birth to 18 months, toddlers 18 to 36 months and young children 3 to 4 years of age. The desired results are:

- Children are learning how to think critically, solve problems and form concepts;
- Children are becoming more aware of themselves as individuals, developing a positive self- image and learning how to manage their own behaviour;
- Children are demonstrating growing awareness of diversity and the need to respect and care for others;
- Children are learning to communicate effectively and use language confidently;
- Children are learning about mathematical concepts; and
- Children are beginning to demonstrate physical and motor abilities and an understanding of [illegible] lifestyle.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

The South African National Curriculum Framework for Children from Birth to Four (NCF) provides goals for children's development and learning as a guideline for planning high-quality learning experiences and assessing children's performance, but it is not prescriptive. It is organised around six early learning and development areas:

- Well-being,
- Identity and belonging,
- Communicating,
- Exploring mathematics,
- Creativity, and
- Knowledge and understanding of the world.

Together, these cover the key domains for young children's learning and development and facilitate the design of early learning programmes in South Africa.

The Department of Basic Education will develop accessible guidelines and resource materials for the implementation of the South African National Curriculum Framework for Children from Birth to Four in all settings.

The medium of instruction in early learning and development programmes should be, as far as feasible and practical, in the home tongue of the child.

Curriculum design should take account of:

Resourcefulness of children: Programmes should be designed to promote an emerging sense of self, an increased ability to regulate emotional expression, a growing understanding of the feelings of others (empathic ability), emerging independence, a capacity for initiative, task persistence and attentiveness. Physical, perceptual and sensorimotor skills development should be built into programme design.

Language and cognitive development: Specifically, programmes and materials need to be designed to support:

- Language development and storytelling;
- Play, creativity, critical thinking and exploration; and
- Pre-literacy and pre-numeracy skills.

5.3.4 *Inclusion and support for children with disabilities within all early childhood development programmes*

Objectives:

By 2017, a national multi-sectoral early childhood development guideline to secure universal availability and equitable access to comprehensive age and developmental stage appropriate quality and inclusive early childhood development services for all children with developmental delays and/or disabilities is developed.

By 2030, all infants and young children from birth until the year before they enter school or turn 7, whichever occurs first, with developmental delays and/or disabilities have an opportunity to access a comprehensive age appropriate range of inclusive early childhood development services that are of a sufficiently high quality and appropriate design to provide the specialist support they require and ensure they develop to their full potential.

A multi-sectoral early childhood development guideline shall be rooted in prevention, early screening and intervention, appropriate support, and early learning and development opportunities, which will ensure appropriate quality inclusive early childhood development services for all children with disabilities.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

In order to ensure that all young children with disabilities enjoy equal access to inclusive early childhood development services, the early childhood development disability guideline shall comply with the following and other requirements of this Policy in so far as they relate to the public provision of children with disabilities. It shall, inter alia:

1. Ensure the allocation of additional and adequate public funding to early childhood development programmes providing services for children with disabilities, including additional programme funding, post-provisioning and infrastructure funding to enable the development and delivery of appropriate quality services;
2. Provide guidelines and direction for the development and design of all early childhood development services so as to achieve quality outcomes and early childhood development goals and targets for children with disabilities. Notably, guidance should be provided regarding the appropriate placement of children with developmental delays and/or disabilities, i.e. in mainstream or specialist support programmes. Where specialist services are required, such as adapted early learning curricula, guidelines (including the NELDS and NCF) must provide clear direction on the development of appropriate inclusive early learning programmes for children with disabilities;
3. Provide norms and standards for accessible and appropriate public infrastructure, applying universal design standards, for identified inclusive and/or specialised centres of early childhood development service delivery;
4. Secure a sufficient number of qualified early childhood development practitioners to provide quality, inclusive and appropriate early childhood development services to children with disabilities and their families. This, in turn, will require the development of appropriate norms and standards governing minimum qualifications, staff–child ratios for different early childhood development services, and guidance on curriculum development for the training of practitioners;
5. Provide for the development of management capacity across all government departments and at all relevant spheres of government to plan, develop, design, coordinate and monitor the implementation of early childhood development services for children with disabilities and the progress made towards realisation of the goal of universal access to comprehensive early childhood development for children with disabilities; and

6. Include a series of indicators to be measured and disaggregated categories of data to be collected within national, provincial and local information collection and management processes to measure the extent, quality and impact of comprehensive early childhood development services made available for children with disabilities.

Early childhood development services must ensure provision of:

1. Services for the prevention of developmental delays and/or disabilities, as well as early detection and remedial interventions;
2. Provision of community-based rehabilitation programmes and services for young children
3. Appropriate parenting support for parents of infants and young children with disabilities;
4. Sufficient quality child care and inclusive early learning opportunities for all infants and young children with developmental delays and/or disabilities; and
5. A strengthened programme of social security for all caregivers of infants and young children with disabilities that provides sufficient material support to enable them to meet the costs associated with their children's additional needs.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

The development of the national multi-sectoral early childhood development protocols and guidelines for the inclusion of children with disabilities in early childhood development programmes will be undertaken by the Department of Social Development in collaboration with the National Inter-Departmental Committee on Early Childhood Development.

5.3.5 Public communication about the value of early childhood development and ways of improving children's resourcefulness

Objectives:

By 2024, a national multi-sectoral early childhood development communication strategy is developed, adequately resourced and implemented. A coordinated national communications strategy should be implemented as part of a national branded programme.

The development, implementation, coordination and oversight of the national multi-sectoral early childhood development communication strategy will be undertaken by Government under the lead of the Department of Communications, in collaboration with the National Inter-Departmental Committee on Early Childhood Development. The latter will engage in an inclusive strategy development process which shall facilitate the participation of all government and non-government role players responsible for the provision of the full range of early childhood development services to infants and young children and their families. There should be synergy and consistency across media platforms, in messaging and in materials supporting the communications.

5.4 The early childhood development services to be provided in age and developmental stage appropriate combinations

The process of early childhood development is continuous. It starts when a woman becomes pregnant and continues until the young child starts his or her first day of school. The risk and protective factors within the environment of the pregnant woman, infant and young child impact differently on, and determine the pace of, the child's development at different stages in the continuum.

Therefore, Government will ensure the provision of a unique age and developmental stage-appropriate combination of essential components of early childhood development services. The combination of services will differ by age group in order

to maximise the protective and minimise the risk factors to which the mother and child are exposed at different stages.

Early childhood development services are thus organised into the following three different age groups:

1. ***Pregnancy:*** The antenatal period from conception to birth is a sensitive period for the development of the child and of the adult he or she will become. Environmental factors, such as the mother's health and nutritional status, environmental toxins, and the use of legal and illegal drugs (such as alcohol, nicotine and barbiturates), as well as maternal stress can be highly damaging to the development of the embryo, foetus and young child. The impact of these factors is both short and long term, predisposing a child to a higher risk of subsequent physical and mental health and development problems[156].

2. ***Birth to 2 years:*** The period from birth to 2 years is a time of rapid cognitive, linguistic, social, emotional, motor and physical development. The development trajectory is impacted negatively, in the short and longer term, by factors such as poor nutrition, toxic stress in the family environment, unresponsive caregiving, and limited stimulation and opportunities for early learning. Low socioeconomic status is a key predictor of a high risk of the presence of adverse environmental factors[157].

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

3. ***Two years until the child enters formal school:*** This is a period in which increasingly complex social behaviours, emotional capacities, problem-solving abilities and early literacy and numeracy skills building on earlier developmental achievements occur. Developments in this age group are the essential building blocks for later learning and socialisation and for a successful life. Risk factors at this age are similar to those of the previous stage; however, lack of access to quality early learning opportunities is particularly problematic at this stage. In the absence of appropriate and high-quality early learning opportunities, earlier disparities in language and socio-emotional development determined by socioeconomic status can become increasingly apparent at this stage and in the child's later learning life cycle[158].

5.5 Prioritise vulnerable children to ensure equitable access

Given the legal and developmental imperative to ensure that opportunities for access are available to all children, including vulnerable children, Government will prioritise the development, funding and implementation of early childhood development programmes for vulnerable children, and will ensure that these programmes are designed to address barriers that exclude vulnerable children and their families from accessing available services.

Government will provide a comprehensive early childhood development programmes and services, and prioritise the identified essential components, for the following programmes and groups[159]:

1. Family and home-based support for pregnant women and children up to 2 years of age, as this is the period of life most susceptible to optimisation and damage;
2. Areas without services, especially rural and informal urban areas, as the vulnerability of infants and young children is compounded by the absence of services to moderate the effects of risk;
3. The poorest 63.9 per cent[160] of children, since these comprise the most vulnerable children as well as the group that will benefit most from early childhood development services; and
4. Children with disabilities and/or developmental delays.

5.6 Scale up provision of under-provided early childhood development services to ensure universal availability and equitable access

1. Whilst a number of the essential services are widely available, many are not, especially for very young children, young children living in poverty and/or in underserviced areas, and young children with disabilities.

2. Government will scale up the availability of under-provided early childhood development services so as to ensure their universal availability and equitable access for vulnerable children, through the following strategies and interventions for which Government, acting through the relevant government departments at relevant levels or agencies, is responsible:
3. Population-based planning to assess the scale and nature of the need for early childhood development services, and to plan for universal availability at a local level of sufficient early childhood development programmes in sufficiently close proximity to young children and their families, especially in under-serviced areas, to meet such demand;
4. Development, implementation and funding of services that are capable of reaching children and their families where they are, and that are most appropriate to meet their age and developmental stage needs;
5. Development of a dual regulated model of public and private delivery of early childhood development programmes and services;
6. Expansion of early childhood development infrastructure through a combination of integration of services into existing service delivery platforms; the use of public and private infrastructure; and the filling of remaining infrastructure gaps through development of new early childhood development infrastructure, giving priority to under-serviced areas targeting the 63.9 per cent of children who fall within the upper-bound poverty line (described in more detail in section 9, below);
7. Registration and regulation of early childhood development programmes to ensure the universal safety, [illegible] quality of infrastructure and content in respect of all early childhood development services, whether delivered by Government or by an non-government organisation;
8. Sufficient qualified 'human resources' to secure universal availability and equitable access to early childhood development services through the expansion of the size and diversity of the workforce to meet the assessed needs, ensuring that the workforce is qualified and has the necessary skills, and through public funding of early childhood development practitioner posts for all publicly funded early childhood development programmes (described in more detail in section 10, below);
9. Provision of adequate financial resources and funding mechanisms to support the universal availability of early childhood development services, as well as equitable access through the provision of free early childhood development services to children living in poverty and the provision of additional funding for programmes providing services to children with disabilities (described in more detail in section 8, below);
10. Evaluation of progress towards attainment of universal availability and equitable access through appropriately designed and disaggregated sectoral and collective multi-sectoral data collection and management systems (described in more detail in section 11, below);
11. Effective management of early childhood development programmes and coordination of the development and implementation of multi-sectoral and integrated early childhood development programmes and initiatives (described in more detail in section 7, below); and
12. Development of national governing policies, laws, strategies and norms and standards with which all sectoral laws, by-laws, strategies, policies and programmes are to be aligned.

5.6.1 Develop and fund multiple early childhood development service delivery programmes and prioritise home and community based services

The scaling up of early childhood development services to effectively reach all children where they are found will require the provision of centre and non-centre based early childhood development programmes.

In as much as the service content of a programme should be matched to the age and circumstance-specific needs, risks and strengths of children, it must have the most meaningful and efficient impact.

Early childhood development programmes that will be developed, funded and implemented in the scaling up of early childhood development services will include but not be limited to[161]:

Home-visiting programmes for parents, primary caregivers, child-minders, and infants and young children for the purposes of providing information, health and nutritional support, and psychosocial support for parents and caregivers; supporting early learning and development; and promoting referrals and linkages to support services. Home visiting is a key strategy for caregivers and children who are far from services or unable to access them due to age or ill health; have competing priorities on their time; or lack awareness of the importance of these services.

Home-visiting programmes will be primarily delivered by the existing cadre of community health workers who form part of the Department of Health's primary health care (PHC) ward-based outreach teams. The community health workers will be provided with training, skills and competencies to provide the package of home-based early childhood development services contemplated by this Policy.

Parent group programmes, offered in homes, clinics and other community centres, to provide information about self-care, health and nutrition, early learning stimulation, and service referrals, as well as to build social support networks among parents.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Child-minders caring for up to six children at home who are capacitated and supported to offer good quality care, stimulation and early learning, referrals for other aspects of early childhood development, delivery, such as playgroups.

Playgroups to provide learning activities and opportunities for child socialisation and to act as a referral point for other services. These could take the form of mother and child playgroups and include capacity building for caregivers, especially for children from birth until the year before they enter formal school. The content for older children should be more structured, with more frequent sessions, and parents would not attend regularly. These could be hosted through available public community facilities and private homes.

Toy libraries to provide access to developmentally appropriate educational play materials. This may involve play sessions, individual lending to parents for their children, and/or lending to other early childhood development service providers.

Early learning programmes to provide holistic and good quality centre and non-centre based early childhood programmes.

Mobile early childhood development programmes to be used for under-serviced areas, either as a stand-alone service or as an additional component of other non-centre-based early childhood development services.

Media to be used to raise awareness, create demand for services and provide supporting messaging/ material for use in all programmes.

5.6.2 A dual government-regulated model of public and private delivery of early childhood development programmes and services

Government recognises the role that both for-profit and non-profit NGOs have played in the development of capacity, and implementation of services, of the early childhood development sector. However, the private provision of services has contributed to current inequities in availability of and access to early childhood development services. The establishment and spread of privately-provided services has not been guided by

population-level needs and national priorities. This has left large gaps in the availability of centre and non-centre based early childhood development services and opportunities for learning programmes for the youngest children, children living in poverty and children with disabilities.

Government advances equity in the provision of early childhood development services through population-based planning and provision of publicly-provided early childhood development programmes in under-serviced areas. Government will develop and implement public early childhood development programmes in sufficient quantities to ensure that, together with privately provided services, there are sufficient quality age and developmental, stage appropriate early childhood development services, especially parenting support, food and nutrition, and early learning and care services, to ensure that all young children have an opportunity to access early childhood development services.

Priority will be given to the development and delivery of early childhood development services in poor, under-serviced areas and children with disabilities

Government may either choose to implement or deliver the early childhood development services directly or may choose to partner with or contract a non-government or private organisation to deliver the services on its behalf. In the latter case, the relationship between Government and the contracted provider will be underpinned by principles of partnership, explicit expectations, secure contracting and performance requirements, quality control, and bilateral accountability mechanisms.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

5.6.3 *The development of a national integrated early childhood development quality control and improvement system*

Government will ensure the universal quality and safety of all early childhood development services through a process of registration of all early childhood development programmes, both public and private (for-profit and non-profit), and the establishment and monitoring of appropriate quality and safety standards required in all registered programmes. The monitoring system will be linked to a quality improvement process based on a programme of self-assessment, in-service support and accreditation.

A process for the registration of all early childhood development programmes has been established in terms of the Children's Act No. 38 of 2005, and safety and quality norms and standards have been developed, to which all early childhood development programmes must adhere.

However, the current system does not make provision for the registration and control of safety and quality of services provided by child-minders and related services; at present, the norms and standards do not clearly differentiate between different types of early childhood development programmes.

The local municipalities will strengthen the current registration and monitoring system to:

1. Make provision for the accreditation and registration of child-minders with local municipalities to ensure the provision of safe, quality early childhood development services by this extensive delivery platform (who may also then access public funding to support delivery of early childhood development services);
2. Develop differentiated norms and standards which are appropriate to different programmes and services; and
3. Increase management, oversight and support capacity, where necessary, within relevant departments and spheres of government to ensure implementation of the national integrated early childhood development quality control and improvement system.

The objectives and requirements of the national integrated early childhood development quality monitoring and improvement system are further described in section 11, below.

5.6.4 Provide public funding and mechanisms to secure universal early childhood development

Government will provide sufficient public funds and establish the necessary funding norms and mechanisms to support a universally available comprehensive early childhood development programmes and services, particularly the identified essential components thereof, and to ensure equitable access for children living in poverty and children with disabilities.

To this end, Government will provide sufficient funds for the development and maintenance of the public infrastructure necessary to deliver early childhood development services as well as the management infrastructure within the relevant departments to ensure the public provisioning of early childhood development programmes and services as described in more detail in sections 8 and 9, below.

To ensure that the cost of services does not exclude children living in poverty, Government will prioritise funding the delivery of the essential components of the comprehensive early childhood development programmes and services to children living in poverty, as described in more detail in section 8, below.

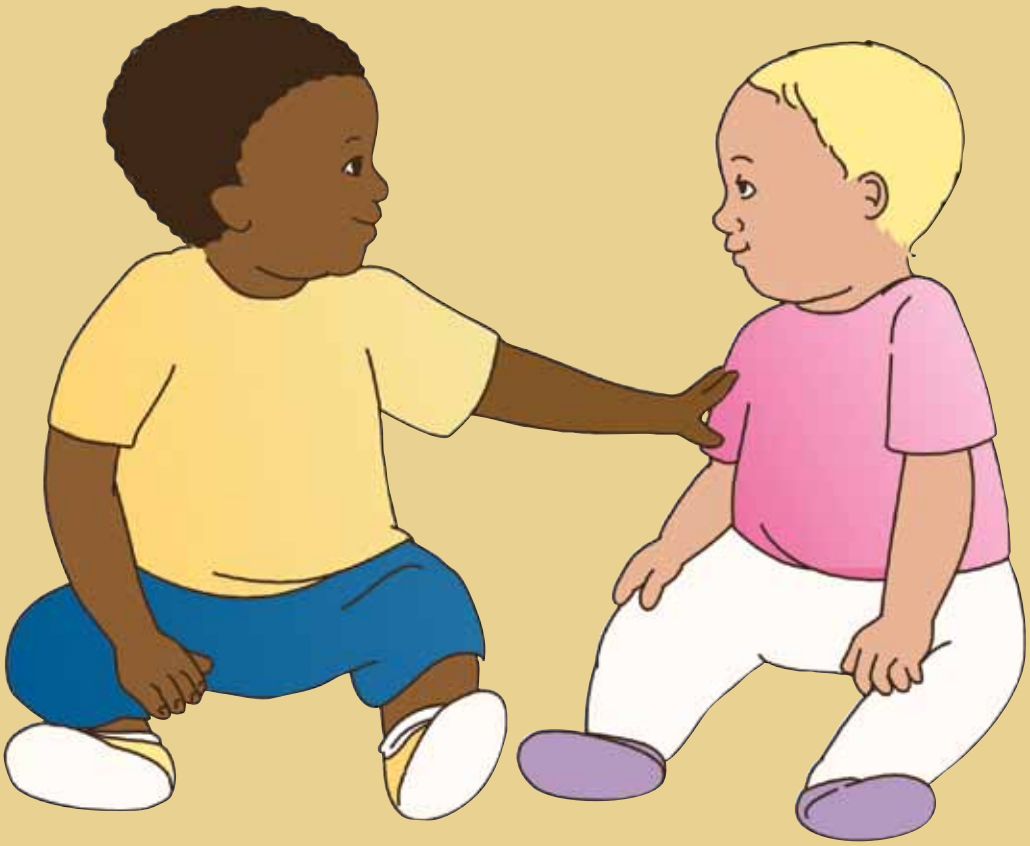
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

5.6.5 Alignment of policies and laws with the national integrated early childhood development Policy

This Policy provides the overarching and unifying framework for the development, delivery and design of all early childhood development services and all sectoral policies, laws, by-laws and strategies must be aligned with it.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

CHAPTER 6
Responsible role players



CHAPTER 6
Responsible role players

Effective early childhood development programmes result from a series of mutually dependent partnerships of role players responsible for the well-being and development of children in South Africa. This includes different government departments, organisations, agencies and individuals.

In fulfilment of its responsibilities, Government will partner with all relevant role players to the extent necessary, including development partners, non-government organisations, private entities and the business sector. However, all partnerships will support realisation of Government's national integrated early childhood development commitments, and Government will take all steps necessary to ensure that all role players provide services in compliance with its international, regional and constitutional commitments.

This Policy provides a framework for the regulation of the necessary partnerships and relationships to ensure that non-government organisations (both for-profit and non-profit) support realisation of Government's national integrated early childhood development commitments and that all services provided comply with Government's commitments.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

All responsible role players are required to commit to, and align their policies, laws, programmes and budgets to achieve the common national integrated early childhood development vision, goals and objectives. The realisation of this commitment requires that role players work together at times to[152]:

1. *Network* – this involves the exchange of information for mutual benefit;
2. *Coordinate* – this involves a process of information exchange as well as altering activities to achieve a common purpose;
3. *Cooperate* – this involves sharing of information for mutual benefit, altering activities for a common purpose as well as sharing resources for attainment of a mutual benefit and common purpose;
4. *Collaborate* – this involves networking, coordination and cooperation as well as improving the capacity of the other partner for mutual benefit and a common purpose; and
5. *Contract* – where financing and service delivery are provided by different role players, to ensure accountability and cost-effective provision early childhood development services.

6.1 The role of parents and/or guardians

Parents and caregivers are primary and central to the early childhood development of their children, primarily responsible for creating nurturing environment for children, ensuring healthy foetal growth and providing safety, food, love and early learning and stimulation for physical, psychological, emotional, social and cognitive development.

The home environment is crucial to a child's development, and children thrive in a secure and nurturing home environment, free of physical or emotional abuse or other forms of chronic stress.

Intrinsically, most parents want what is best for their children, and the support and capacity development provided to parents should aim to affirm their desire for their children's well-being, and empower them.

6.2 Responsibilities of Government

Many government departments within the three spheres of government bear responsibility for the specific services making up the national comprehensive f early childhood development programme and services, and in particular the identified essential components thereof. The relevant departments and their respective responsibilities are briefly described hereunder.

6.2.1 *Division of responsibilities across the different spheres of government*

All of the components of the comprehensive early childhood development programme and services may be categorised as concurrent national and provincial competencies (in terms of Schedule 4 of the Constitution of the Republic of South Africa). Specific responsibilities have been assigned to provinces in terms of further legislation (e.g. the National Health Act No. 61 of 2003 and the Children's Act No. 38 of 2005).

In broad terms, the responsibility for national planning and coordination; the development of national laws, policies and norms and standards; and the setting of high-level targets rests with the respective national departments, followed by provincial, district and municipal target setting.

Responsibility for the delivery of services (such as health, social services and basic education) is devolved to the provinces. This includes responsibility for funding; delivery or contracting NGOs for delivery of services; registration and monitoring; and evaluation of compliance of services with norms and standards.

In terms of the Constitution of the Republic of South Africa, the Municipal Systems Act No. 32 of 2000 and the Children's Act No. 38 of 2005, local government is responsible for:

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

1. Provision of basic services, including water and sanitation, to communities;
2. Contributing to the realisation of rights set out in the Constitution, including health care services, food and water, and social security;
3. Development of policies and laws governing child care facilities, including child-minder services;
4. Municipal planning and spatial development, including providing and regulating land used for child care facilities and for safe and adequate play and recreation facilities; and
5. Where the provincial Department of Social Development assigns responsibility to municipalities for the provision of partial care services as provided for in section 88 of the Children's Act, No.38 of 2005 then municipalities are responsible for the provision (including the registration, regulation, and monitoring and evaluation for compliance with norms and standards) of partial care and early childhood development programmes that take care of more than six children on behalf of their parents or caregivers for a specific number of hours.

In some areas, municipalities have a critical role to play in securing the rights and associated comprehensive package of early childhood development programmes and services, and in particular the identified essential components thereof, for young children. The relevant services and associated responsibilities and budgets should be reflected in all municipal Integrated Development Plans (IDPs) and in specific sectoral policies and by-laws, which should, in turn, be reviewed and harmonised with the provisions of this Policy as well as with national legislation. Linked to the aforesaid IDP, every municipality should have a 5-year plan on early childhood development services within its boundaries in support of this Policy.

National, provincial and local spheres of government must ensure that their organisation structure provides for sufficient human resources to implement their respective responsibilities in relation to early childhood development services, as indicated in this Policy.

6.2.2 *Departmental responsibilities*

Responsibilities set out in this section apply to both the national and provincial levels, as applicable.

Department of Social Development

- The Department of Social Development is responsible for ensuring the universal availability and adequate quality of, and equitable access to, inclusive learning opportunities for children aged birth to until the year before they enter formal school through the development, delivery, regulation, registration, quality monitoring, improvement and evaluation of early childhood development programmes. The Department of Social Development will develop and register these programmes in collaboration with the Department of Basic Education.
- The national Department of Social Development shall be responsible for Policy development; national planning; regulation and development of norms and standards for service provision; and evaluation of efficiency and effectiveness.
- The provincial departments of Social Development shall be responsible for provincial population-based planning and management of the services described above; registration and quality improvement and monitoring of programmes (including centre and non-centre based programmes) and short course training as part of programme funding; contracting with private providers (non-profit and for-profit) in the delivery of services; and, where service personnel are directly appointed by the department, the management and supervision of these personnel. It shall also ensure that early childhood development programmes are equipped with the necessary play and learning materials, and have the capacity to ensure that the quality of materials is maintained and regularly updated.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

South African Social Security Agency

The South African Social Security Agency is responsible for the provision of social assistance (grants) to all eligible children and their caregivers.

National Development Agency

The National Development Agency is responsible for the provision of:

- Financial assistance to early childhood development programmes to establish food gardens that will serve as a source of access to food for children; and
- Technical training for identified staff to produce food in a sustainable and, where possible, profitable manner.

Department of Health

The Department of Health is responsible for the provision of the health and nutrition programmes for pregnant women, infants and children; for parenting support programmes; and for opportunities for learning and play for children from birth to 2 years, through health facilities and home visits by community health workers for children at risk of poor development outcomes.

- The national Department of Health shall be responsible for Policy development; national planning; regulation and development of norms and standards for service provision; development of training curricula, in partnership with the Department of Basic Education, for the delivery early childhood development programmes; and evaluation of efficiency and effectiveness of these programmes.
- The provincial departments of Health shall be responsible for provincial planning and management of the services (both centre and non-centre based); management and supervision of personnel employed directly by the Department of Health; contracting with private providers (non-profit and for-profit) where specific activities are outsourced; and provision of training to s employed by the Department of Health.
- The national Department of Health shall be responsible for the norms and standards and service delivery, in accordance with national Policy for the early intervention and rehabilitation of young children with disabilities and/or developmental delays, within the ambit of this Policy. This will include assessments and

provision of assistive devices for children with disabilities.

- Local health facilities shall be responsible for management and supervision of assigned personnel, and for delivery and monitoring of services (both centre and non-centre based).

Department of Basic Education

The Department of Basic Education is responsible for development of the early learning curriculum (birth to four years), and continuity and synergy between the early learning and Grade R curricula; for budgeting and procurement of training for early childhood development practitioners; and for integration of key communication linked with the department's responsibilities regarding healthy pregnancy and parenting into the school curriculum.

- The national Department of Basic Education shall be responsible for development of the early learning curriculum (birth to four years), and continuity and synergy between the early learning and Grade R curricula; and for the integration of key health messages regarding health, pregnancy and anticipation of parenting into the school curriculum.
- The provincial departments will be responsible for the training, implementation and monitoring relating to curriculum implementation for birth- to four-year-olds.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Department of Home Affairs

The Department of Home Affairs is responsible for birth registration, provision of identity documentation, and registrations of deaths.

Department of Higher Education and Training

The Department of Higher Education and Training is responsible for coordination of the education and training sub-systems of post-school education, including universities, Technical Vocational Education Training (TVET), Sector Education and Training Authorities (SETAs), and Adult and Community Education and Training.

It is therefore responsible for planning and providing support for Further and Higher Education and Training related to early childhood development; and for oversight of quality and accreditation of training for early childhood development practitioners through the relevant SETAs (Education, Training and Development Practice SETA and Health and Welfare Services SETA) and qualifications councils.

As the Department of Higher Education and Training is responsible for TVET, the planning and budgeting for early childhood development practitioner qualifications should be transferred to them.

Quality Council for Trades and Occupations

Section 26H of the Skills Development Act No. 97 of 1998 outlines the functions of the Quality Council for Trades and Occupations, one of which is to establish and maintain the occupational standards and qualifications so as to govern NGOs' implementation of accredited training and qualifications.

Department of Agriculture, Forestry and Fisheries

The Department of Agriculture, Forestry and Fisheries is responsible for improving the food production capacity of households and poorly resourced farmers, and for the development of market channels for food.

Department of Water and Sanitation

The Department of Water and Sanitation is the custodian of South Africa's water resources and sanitation, responsible for formulating and implementing Policy governing this sector, and it has an overriding responsibility for water and sanitation services provided by local government. It is thus responsible for ensuring that national water and sanitation policies and laws secure the rights of young children to access to sanitation and clean

piped water.

It is the responsibility of local government to implement the policies and ensure the availability of safe water for households with pregnant women and young children, and for facilities providing services to these targeted groups through its planning, spatial development, housing development and child care facility responsibilities.

Department of Public Service and Administration

The Department of Public Service and Administration is responsible for the development of workplace policies and programmes providing for early childhood development services to support government employees.

Department of Labour

The Department of Labour is responsible for incentivised support for business practices accommodating breastfeeding and extended paid maternity leave. Furthermore, the Department of Labour will develop, in collaboration with the National Inter-Departmental Committee on Early Childhood Development and other key stakeholders, the necessary laws, regulations and guidelines in respect of employer-employee relations for the early childhood development workforce, in line with the provisions of Basic Condition of Employment Act and this Policy.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Department of Arts and Culture

The Department of Arts and Culture is responsible for the promotion of early language development and home language development; the provision of book and toy libraries; and the promotion of music and art among young children. Provinces are constitutionally responsible for library services and hence ensuring sufficient services for young children. They can assign these responsibilities to municipalities.

Department of Science and Technology

The Department of Science and Technology is responsible for supporting play, creativity and inductive reasoning among young children.

Department of Transport

The Department of Transport is responsible for regulation of transportation in South Africa, including the regulation and maintenance of the road network and public transportation[163].

As such, it is responsible for ensuring that policies and laws ensure that roads and transport are accessible and safe for use by young children, notably those in under-serviced areas and with disabilities. Furthermore, it will develop laws and regulations that will ensure the safe transportation of babies and young children in all modes of transport.

Department of Correctional Services

The Department of Correctional Services is responsible for supporting children incarcerated with mothers and for effective child home integration once they reach the age limit at which they have to leave their mothers. Where appropriate, the Department of Correctional Services will establish early childhood development programmes for children of incarcerated mothers from birth to 2 years, in accordance with the national norms and standards for such programmes.

Department of Human Settlements

The Department of Human Settlements is mandated to determine the finances, and to promote, communicate and monitor the implementation, of human settlement programmes and sanitation programmes in South Africa. As such, the Department of Human Settlements is responsible for developing policies and laws at a national and provincial level that are implemented at a provincial and local level to ensure that young children have access

to adequate housing and socioeconomic facilities, including play and recreation facilities. The Department of Human Settlements must also ensure that integrated residential programmes include the provision of spaces for early childhood development programmes, play and recreation.

Department of Justice and Constitutional Development

The Department of Justice and Constitutional Development is responsible for ensuring the realisation of the rights of young children to protection from abuse, neglect and exploitation through the administration of, inter alia:

1. Securing payment of maintenance by persons with a legal duty of support to children;
2. The Domestic Violence Act No. 116 of 1998;
3. The Criminal Law (Sexual Offences and Related Matters) Amendment Act No. 32 of 2007;
4. The National Register for Sex Offenders;
5. The Child Justice Act No. 75 of 2008, governing the rights and responsibilities in respect of children in conflict with the law;
6. The judicial proceedings contemplated by the Children's Act No. 38 of 2005[164]; and
7. Ensuring the best interests of children during divorce proceedings in terms of the Mediation of Certain Divorce Matters Act No. 24 of 1987.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL, DIVISION,
PIETERMARITZBURG

South African Police Service (SAPS)

SAPS is responsible for protecting young children against crime, and for investigating and supporting the prosecution of abuse, neglect and violence against children in terms of the governing protective legal framework.

Department of Public Works

The Department of Public Works is responsible for ensuring that infrastructure provisioning in all national departmental facilities accommodates the needs of young children and their caregivers, including children with disabilities.

Department of Rural Development and Land Reform

The vision of the Department of Rural Development and Land Reform is vibrant, equitable and sustainable rural communities. Its mandate is to initiate, facilitate, coordinate, catalyse and implement the Comprehensive Rural Development Programme[165]. It is responsible for ensuring services in rural areas that provide food and nutrition, parent support, safety and protection, basic services such as water and sanitation, and access to information for young children and their parents through:

1. Establishment of food gardens and Agriparks
2. Development and use of innovative service delivery models to enhance food production and ensure food security
3. Provision of economic, social and Information Communication Technology infrastructure
4. Improved disaster management services.

Department of Sport and Recreation

The Department of Sport and Recreation is responsible for the delivery of sport and recreation programmes by ensuring equitable access, development and excellence at all levels[166].

Department of Cooperative Governance and Traditional Affairs (COGTA)

Department of Cooperative Governance and Traditional Affairs is responsible for funding and promoting fulfilment of municipal responsibility for development of early learning facilities, and for synergising the Expanded Public Works Programme and Community Work Programme with the community-based human resource provisioning for early childhood development. It should provide guidance and capacity development to municipalities in relation to their responsibilities and obligations for early childhood development services,

in particular the inclusion thereof in IDPs.

Department of Finance

The Department of Finance is responsible for planning, resourcing and monitoring of public expenditure on early childhood development as per funding allocations approved by Cabinet.

Department of Communications

The Department of Communications is responsible for supporting the implementation of a national integrated early childhood development communications campaign and information to promote access to essential services and support.

Department of Planning Monitoring and Evaluation

The Department of Planning Monitoring and Evaluation is responsible for ensuring the continuous improvement in Government's service delivery to achieve national priority outcomes through performance monitoring and evaluation, and by supporting change and transformation through innovative and appropriate solutions and interventions[167]. It is thus responsible for supporting the relevant departments responsible for early childhood development services in developing and implementing systems and processes for continuous monitoring and improvement so as to achieve national priority outcomes related to early childhood development.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Department of Women

The Department of Women plays a significant role in ensuring that the rights of women are protected and advanced, and in the empowerment of women. The availability of early childhood development services is a major contributing factor to the aforementioned.

Department of Telecommunications and Postal Services

The Department of Telecommunications and Postal Services is responsible for:

- Equipping children to be active participants in the information society, and using information and communications technologies (ICTs) to promote their rights and their empowerment;
- Supporting the provision of educational information to children through the use of ICTs, particularly broadcasting services;
- Supporting the ICT skills development of early childhood development practitioners;
- Providing ICT infrastructure and promotion of e learning in early childhood development centres; and
- Providing ICT Broadcasting Equipment to early childhood development centres to enable the children and the early childhood development practitioners to use this equipment to support the early childhood development of children by exposing them to positive, child-friendly content.

Statistics South Africa

Statistics South Africa is responsible for collecting, analysing and distributing census and community survey data of young children, and is mandated to collect and provide statistical information on the number and characteristics of children in South Africa, including the number, location and characteristics of marginalised and vulnerable children, and the state of children's enjoyment – or lack thereof – of all rights, services and benefits.

Presidency

The Presidency is mandated to ensure the smooth functioning of Government, as well as synergy between the three spheres of government. More specifically, it is mandated to ensure coherence in planning, coordination, Policy development and implementation; performance monitoring and evaluation to promote a culture of accountability across the three spheres of government; and mobilising the national towards a common vision[168].

6.2.3 *Local government*

District municipalities are responsible for the effective coordination in each district of early childhood development services, within their mandate.

Local and metropolitan municipalities must participate in the planning of early childhood development services. They are responsible for supporting child care facilities to meet minimum infrastructural health and safety standards; registration of child-minding services; development of new early childhood development service provision infrastructure; and audit and identification of available infrastructure that may be used for the expansion of early learning services and programmes in areas of need. Where capacity exists, responsibility for the provision (registration, regulation and delivery) of early childhood development programmes and services may be assigned to municipalities by the provincial Department of Social Development, as provided for by the Children's Act No. 38 of 2005. As such, it is responsible for the equitable provision of play and recreation facilities for young children.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

6.3 The role of non-government organisations

Government will adopt a balanced approach which ensures that the role of non-government service providers (for-profit and non-profit) is recognised and utilised to complement fulfilment of its early childhood development commitments. This will, however, be subject at all times to the proviso that Government retains responsibility for ensuring that all services provided and actions taken by NGOs comply with the limits, obligations and responsibilities prescribed by law.

Government will retain overall responsibility for the provision of universally available, inclusive and equitably accessible early childhood development services. It may contract out delivery of a number of the relevant services and support roles to NGOs and other private entities; however, it will remain responsible for the funding, regulation, capacitation and oversight of contracted partners within the limits of this Policy[169]. This relationship will be underpinned by explicit expectations, secure contracting and performance requirements, quality control, and bilateral accountability mechanisms.


REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

CHAPTER 7

Leadership and coordination of the national integrated early childhood development system



CHAPTER 7

Leadership and coordination of the national integrated early childhood development system

The realisation of the goals and objectives of the national integrated early childhood development Policy, namely, universal availability of and equitable access to quality early childhood development services, depends on strong leadership, technical knowledge and expertise within the relevant departments at relevant levels of government responsible for delivery of the various early childhood development services to:

1. Assess population-level needs for early childhood development services;
2. Plan the provisioning of suitable early childhood development programmes and services to meet the identified needs (area-based planning);
3. Develop and implement appropriate coverage targets and quality service standards and systems;
4. Monitor compliance and provide support for on-going quality improvement; and
5. Evaluate and report on progress.



Government recognised that early childhood development 'services do not fall neatly into any one government department, sphere of government or sector, as the needs and rights of infants and young children span across the areas of health, nutrition, safe environment, and psychosocial and cognitive development. This services requires "an integrated, cross-sectoral approach and plan across government departments that involves civil society organisations, the corporate sector, religious organisations, non-government organisations, parents and children"[170].

7.1 Objectives of early childhood development management and coordination

The objectives of the early childhood development management and coordination Policy are to ensure the establishment of arrangements necessary to further the following principles, which are essential to the realisation of the national comprehensive and integrated vision, goals and objectives of this Policy:

1. *Accountability:* Acceptance of and accountability for individual and collective responsibility for realisation of the national integrated early childhood development vision, goals and objectives by all role players, including parents, non-government service providers (for-profit and non-profit), government departments at all levels, the executive and the legislature;
2. *Leadership:* Leadership is essential to develop and sustain a common national vision for early childhood development, based on a common understanding of the considerable national opportunity afforded by early childhood development and the support and services required to capitalise on it. This is particularly important given the different domains of early childhood development (health, nutrition, early learning opportunities, social protection, parenting, safe and conducive environmental etc.) and inclusion in early childhood development;
3. *Oversight:* Substantial gains will only be achieved if there are clear and specific targets related to child outcomes, as well as the coverage, efficiency and effectiveness of services to achieve these. This requires oversight at national, provincial and service delivery levels. Oversight of integrated service provision for young children has to be strengthened at all levels, and sufficient financing and other resources should be allocated to it;
4. *Coordination:* There are aspects of early childhood development which fit into the respective responsibilities of different government departments, and the departments should be delegated responsibility for these aspects without requiring

unnecessary coordination or inter-departmental accountability. However, there are also functions that require coordination, including those related to planning, monitoring of child outcomes and specific service provision (e.g. nutrition and early learning opportunities); for these, coordinating mechanisms should be efficient and effective;

5. *Partnership:* Early childhood development requires partnership between parents and Government, and between Government and non-government service providers (for-profit and non-profit). In addition, child outcomes can be enhanced by the contributions of the corporate sector and the media;
6. *Technical expertise:* The inputs required for early childhood development include parental love, food, safety and stimulation. At the same time, there is a need for sufficient technical expertise to design and develop quality content for early learning, and to plan and manage large-scale services. Sufficient technical expertise is required to ensure that early childhood development in South Africa achieves the significant returns on investment achieved by a number of other countries; and
7. *Autonomy:* Departments should be given the opportunity to implement aspects of early childhood development for which they are accountable, including individual service providers consistent with overall guidelines and within national norms and standards.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

More specifically, the objectives are:

- To strengthen departmental leadership, management and accountability in all spheres of government (national, provincial and local) to ensure the fulfilment of the roles, responsibilities and delivery of early childhood development services for which the relevant departments are responsible; and
- To establish a coordinated national management and oversight system for early childhood development, i.e. an Inter-Ministerial Committee for Early Childhood Development to drive and lead the elevation of the national integrated early childhood development agenda at all levels of government and society, and to facilitate multi-sectoral coordination, planning and accountability to the national comprehensive early childhood development vision.

Government will, by 2015:

1. Establish a National Inter-Ministerial Committee on Early Childhood Development, supported by a National Inter-Departmental Committee for Early Childhood Development structure, which will be responsible for coordinating, monitoring and overseeing the implementation of this Policy and of the multi-sectoral comprehensive national programme for early childhood development;
2. Build and assign to the Department of Health the necessary leadership, management and implementation capacity and structures (as described under the Human Resources and Infrastructure sections of this Policy) to enable fulfilment of, and accountability and responsibility at a provincial and district level for, delivering health and nutrition services, early learning and parenting support for pregnant women and young children between the ages of birth and 2 years through integration of the relevant services into facility-based and outreach programmes;
3. Build and assign to the Department of Social Development the necessary leadership, management and implementation capacity and structures (as described under the Human Resources and Infrastructure sections of this Policy) to enable fulfilment of, and accountability and responsibility at a provincial and local level for, the administration and oversight of centre- and non-centre-based services provided by the Department, local municipality or non-government providers covering parenting support, nutrition, and early learning and care services for caregivers and children from birth until the year before they enter formal school;
4. Build and assign to the Department of Basic Education the necessary leadership, management and implementation capacity and structures (as described under the Human Resources and Infrastructure sections of this Policy) to enable fulfilment of, and accountability and responsibility for, the management and implementation of an early learning and development curriculum, as well as training of the early childhood development practitioners; and
5. Build and assign to local municipalities' responsibility the necessary leadership, management and implementation capacity and structures (as described under the Human Resources and Infrastructure sections of this Policy) for the

provision of infrastructure for early childhood development programmes and the registration, support, resourcing and monitoring of child-minding services. Where sufficient capacity and willingness exists, provision (direct or contracted) of early childhood development services through centre and non-centrebased services could be assigned to the local municipality by the head of the provincial Department of Social Development, as prescribed in the Children's Act No. 38 of 2005.

7.2 Early childhood development leadership roles within departments

Early childhood development is recognised as a national priority and public good because it advances the rights of the child; reduces social and economic inequality; improves health and education; and promotes economic productivity and social cohesion. It represents significant opportunity to change both individual (child) and national trajectories of growth and development.

The Presidency will support the Inter-Ministerial Committee on Early Childhood Development to reinforce the national importance of early childhood development. At provincial level, Premiers will be similarly responsible for reinforcing early childhood development as a provincial priority and for ensuring sufficient resources, and inter-departmental commitment and collaboration. At municipal level, Mayors will be similarly responsible for reinforcing early childhood development as a municipal priority, and for ensuring its inclusion in the municipality's IDP, as well as sufficient resources, commitment and collaboration.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

At both national and provincial levels, the respective Ministers and Members of the Executive Councils for Health, Social Development and Education will articulate the importance of early childhood development and the specific roles of their departments in ensuring an integrated national programme for children.

The political and managerial leadership of municipalities have a significant role to play in that child outcomes are determined largely by home and environmental factors. Early childhood development must be a priority in all IDPs, with clear service delivery plans and outcome targets pertaining to early childhood development.

The cross-cutting nature of early childhood development poses a very specific challenge in translating political commitment into a national programme of action. The organisational structure will be required to plan, coordinate and monitor the implementation of this Policy and of a national programme for early childhood development.

The National Inter-Ministerial Committee for Early Childhood Development, supported by a National Inter-Departmental Committee for Early Childhood Development, is mandated and required to:

- Provide political leadership in the realisation of the national integrated early childhood development vision, aim and objectives;
- Provide technical support to line departments to strengthen their early childhood development programmes and ensure closer alignment with the national integrated early childhood development Policy and programme;
- Play a key role in overseeing monitoring and quality improvement of early childhood development services;
- Play a key role in the development, implementation and evaluation of a national integrated early childhood development communication and advocacy campaign;
- Play a key role in the development and evaluation of a national multi-sectoral food and nutrition strategy for pregnant women and young children;
- Play a key role in ensuring that early childhood development services are inclusive and accessible for all children; and
- Lead the development of the national integrated early childhood development programme for the universalisation of a comprehensive early childhood development programme.

A national multi-sectoral early childhood development coordination mechanism is a proven vehicle for reaching consensus and developing stronger integration of care, early learning and development, while improving the quality of these, and, as a result, bringing about effective improvements in nutritional, social, educational and cognitive outcomes[171].

This allows for an institutional vehicle for realising South Africa's specific national integrated early childhood development objectives, and addresses a number of the key challenges of the previous model adopted under the NIPECD[172].

7.3.1 The establishment of a national multi-sectoral early childhood development coordination mechanism

A National Inter-Ministerial Committee on Early Childhood Development, supported by a National Inter-Departmental Committee for Early Childhood Development, will be established by Cabinet, and will enjoy high-level influence, an explicit early childhood development mandate, and the necessary resources, including expertise, to:

- Raise the political profile and public awareness of the legal and developmental importance of early childhood development;
- Facilitate the coordination of multi-sectoral early childhood development policies and strategies; and
- Hold the multiple role players to account for fulfilment of their respective responsibilities in ensuring the universal availability of, and equitable access to, comprehensive and integrated quality early childhood development services for all children in South Africa.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

The National Inter-Ministerial Committee for Early Childhood Development, supported by a National Inter-Departmental Committee for Early Childhood Development, will be led by the Minister for Social Development.

7.3.2 Responsibilities of the National Inter-Ministerial Committee for Early Childhood Development, supported by a National Inter-Departmental Committee for Early Childhood Development

7.3.2.1 Coordinate, support and monitor implementation of the national programme of early childhood development

The National Inter-Ministerial Committee for Early Childhood Development, supported by a National Inter-Departmental Committee for Early Childhood Development, shall:

- Communicate the vision, Policy and specific strategies of the early childhood development Policy and programme to the public, government departments, potential investors and implementing partners;
- Monitor collective progress made by different role players towards universal availability of and equitable access to early childhood development services, and identify gaps that remain to be filled;
- Support the relevant government departments to plan for financial and human resources, and for new infrastructure and upgrading;
- Support the respective government departments to review and develop national norms and standards as the foundation of a national quality assurance system, as well as infrastructural and human resource quality and adequacy to meet national integrated early childhood development objectives;
- Receive and synthesise relevant data from government information systems and other sources to provide an annual update of the state of early childhood development in South Africa, disaggregated by province and district, and by vulnerable groups; and
- Meet at least four times per financial year.

7.3.2.2 *Support government departments responsible for key aspects of early childhood development*

The National Inter-Ministerial Committee for Early Childhood Development, supported by a National Inter-Departmental Committee for Early Childhood Development, shall:

- Support relevant government departments and other implementing agencies and partners to identify key strategic priorities, strengths and weaknesses in the implementation of early childhood development services;
- Support relevant government departments and other implementing agencies to strengthen implementation of existing services and ensure the availability of and access to neglected or under-provided essential early childhood development services;
- Develop and implement, together, a national integrated early childhood development communication strategic plan; and
- Ensure that government departments provide the essential indicators of early childhood development for which they are responsible.

7.3.2.3 *Develop, support departments and monitor implementation of select multi-sectoral policies and strategies*

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

The National Inter-Ministerial Committee on Early Childhood Development, supported by a National Inter-Departmental Committee for Early Childhood Development, will facilitate the development of key national integrated early childhood development multi-sectoral strategies, provide technical support to, and monitor implementation of, assigned roles and responsibilities, as well as collective progress by responsible line departments towards realisation of the overarching strategic goals and objectives. These include:

1. A comprehensive multi-sectoral national food and nutrition strategy for children under 5 years, as described in paragraph 5.2.7;
2. A national multi-sectoral early childhood development communication strategy and programme, as described in paragraph 5.2.5; and
3. A national programme for the provision of comprehensive early childhood development programmes and services as described in paragraph 5.2.

7.3.3 *Governance and accountability for the National Inter-Ministerial Committee on Early Childhood Development, supported by a National Inter-Departmental Committee for Early Childhood Development*

7.3.3.1 *Mandate and Membership*

The National Inter-Ministerial Committee for Early Childhood Development, supported by a National Inter-Departmental Committee for Early Childhood Development, shall have a clear mandate based on the provisions of this Policy as well as the key Cabinet decisions related to early childhood development. The following Ministries/ Departments shall be permanent members of the National Inter-Ministerial Committee for Early Childhood Development, supported by a National Inter-Departmental Committee for Early Childhood Development:

Core Members

- Social Development
- Health
- Basic Education
- National Treasury
- Higher Education and Training

- Co-Operative Governance and Traditional Affairs
- Planning, Monitoring and Evaluation in the Presidency
- Home Affairs
- Correctional Services
- Transport
- Women
- Rural Development and Land Affairs

Co-Opted Members

- Statistics South Africa
- Public Works
- National Development Agency
- South African Local Government Agency
- Public Service and Administration
- Labour
- Arts and Culture
- Sports and Recreation
- Water and Sanitation
- Agriculture
- Human Settlements
- Tourism
- Telecommunication and Postal Affairs
- Government Communication
- Police
- Justice and Constitutional Development
- Science and Technology

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

7.3.3.2 *Functions*

The National Inter-Ministerial Committee for Early Childhood Development, supported by a National Inter-Departmental Committee for Early Childhood Development, shall be responsible for:

- Planning, coordinating ,overseeing and monitoring the implementation of this Policy and related priorities;
- Developing and overseeing implementation of a national strategy to meet its mandate; and
- Reporting annually to Cabinet on its work, implementation of plans, status of early childhood development services in the country, attendance of members, and other matters of importance.

7.3.3.3 *Levels of management and administration*

The National Inter-Ministerial Committee for Early Childhood Development, supported by a National Inter-Departmental Committee for Early Childhood Development, will support the improved capacity, planning, coordination and monitoring of early childhood development services, and the design and development of the specific programmes described in this Policy.

Provincial Governments will establish similar structures at a provincial level for the planning, coordination and monitoring of early childhood development services at a provincial level.

District municipalities will establish similar structures to support the planning, coordination and monitoring of early childhood development services at a district level.

Local and metropolitan municipalities will establish similar structures supporting the planning, coordination and monitoring of early childhood development services and implementation of the specific programmes described above.

7.3.3.4 *Inter-government relations to advance early childhood development*

The Minister of Social Development will establish in terms of section 9 of the Intergovernmental Relations Framework Act No. 13 of 2005 a national intergovernmental forum to promote and facilitate intergovernmental relations in the governance and implementation of early childhood development services with membership as prescribed in section 10 of the Act. This Forum shall meet at least once per financial year.

The Premier of each province will establish in terms of section 16 of the Intergovernmental Relations Framework Act No. 13 of 2005 a provincial intergovernmental forum to promote and facilitate intergovernmental relations in the governance and implementation of early childhood development services with membership as prescribed in section 17 of the Act. This Forum shall meet at least once per financial year.



The Mayor of each District Municipality will establish in terms of section 24 of the Intergovernmental Relations Framework Act No. 13 of 2005 a district intergovernmental forum to promote and facilitate intergovernmental relations in the governance and implementation of early childhood development services with membership as prescribed in section 25 of the Act. This Forum shall meet at least once per financial year.

7.3.3.5 *Inter-sectoral collaboration with civil society*

The Minister of Social Development will, through the National Inter-Departmental Committee for Early Childhood Development, establish the South African Inter-Sectoral Forum for Early Childhood Development to serve as a national platform upon which the Government and the non-government sector involved in early childhood development service delivery will engaged on early childhood development services in South Africa. This forum will meet at least two times per financial year and will operate based on a mutually accepted Terms of Reference.

The membership of the South African Inter-Sectoral Forum for Early Childhood Development will include, but not be limited to, the following:

a. National integrated early childhood development NGOs, i.e. any organisation rendering primarily (more than 60 per cent of total services) early childhood development services and having infrastructure in at least four or more provinces;
b. International partners providing support in the advancement of early childhood development;
c. National integrated early childhood development training institutions (private and public sector) i.e. any training institution that delivers SETA-accredited early childhood development training programmes and has infrastructure in at least four or more provinces;
d. National research institutions, i.e. any accredited research institution, other than universities, that has a prominent focus on research related to young children (birth to school-going age) over the past 24 months or a representative body thereof. The latter may include a representative body for universities;
e. National government departments (relevant government departments);
f. National government agencies (relevant national government agencies);

g. Private foundations and donors (providing services and/or funding on early childhood development), i.e. any foundation or donor providing funding or related support in six or more provinces over the past 12 months;
h. National publication companies (providing publications on early childhood development), i.e. a representative from publication companies selected by at least five publication companies, which publish books for babies and young children and learning materials for practitioners to represent the sector;
i. National networks or groups, i.e. any network of organisations that primarily works in or with the early childhood development sector and whose membership is obtained from four or more provinces or whose members are national organisations.

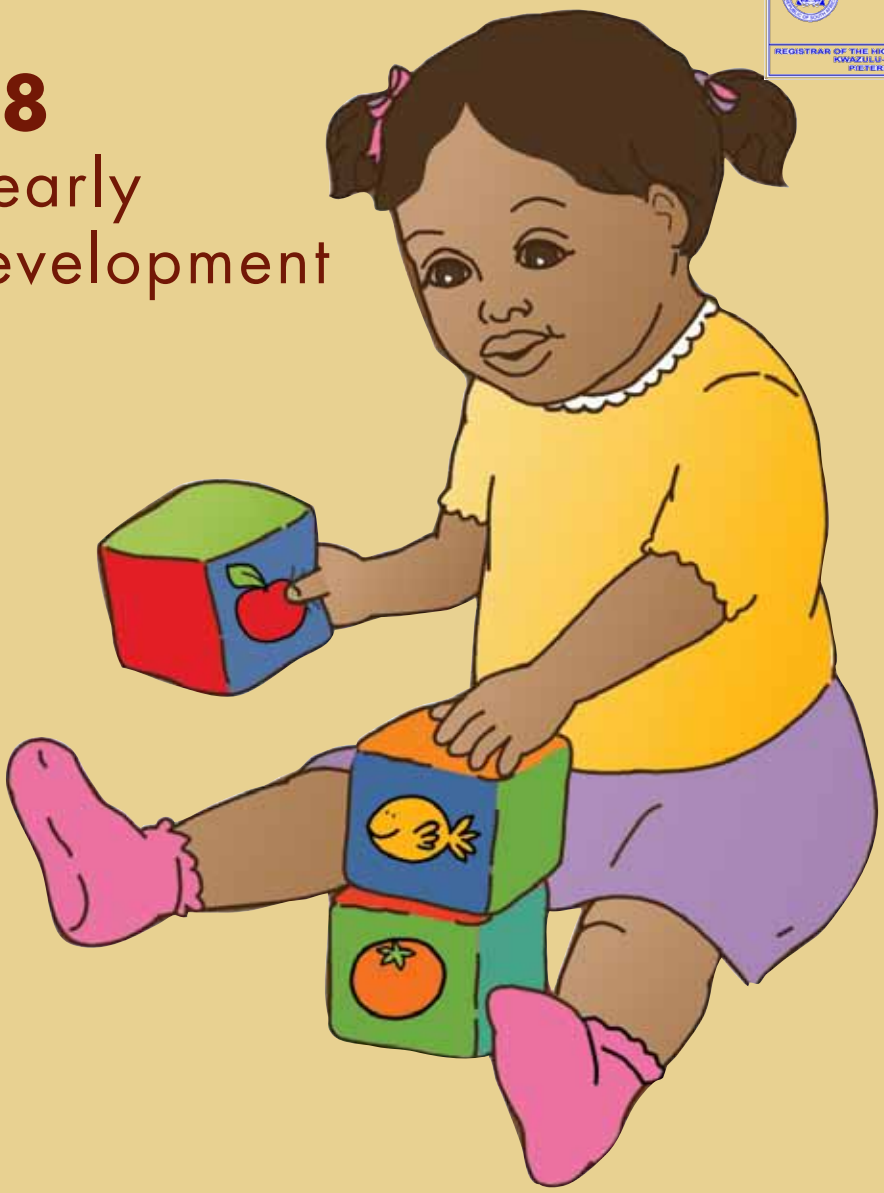
It is recommended that similar fora be established in all provinces, coordinated by the Department of Social Development, as well as district and local municipalities and metropolitan municipalities, coordinated by the Office of the Mayor with the support from municipal managers.




REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

CHAPTER 8
Funding for early childhood development services



CHAPTER 8
Funding for early childhood development services

Policies and programmes are effective only if funding and human resources are available to ensure universal availability and adequate quality of, as well as equitable access to, early childhood development services, all of which are necessary to realise potential developmental returns [173].

The solution lies in increased investment of public funds and the development of national integrated early childhood development funding norms and related Policy in terms of which Government takes the lead and responsibility for the mobilisation and allocation of sufficient human, financial and other resources to implement the national integrated early childhood development Policy and programme [174].

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

A Government-led resourcing strategy does not mean that all funds must be sourced from the public fiscus; it certainly allows for, and in fact requires, the allocation of resources by private entities and development partners. However, what it does mean is that Government is accountable for mobilising and directing the necessary funds to meet its early childhood development commitment and responsibilities.

Funding for early childhood development services should thus:

1. Ensure sufficient resourcing to secure delivery of services, provision of infrastructure and adequate overall resources for early childhood development, including both centre and non-centre based programmes providing early learning and development, and especially for the most vulnerable children;
2. Develop flexible funding mechanisms which promote and are responsive to local early childhood development contexts, needs, risks and strengths; and
3. Mobilise diverse and innovative financing sources from Government departments, development partners and the private sector in support of early childhood development[175].

The amount and manner in which the national integrated early childhood development system is financed is a critical determinant for securing universal availability of, and equitable access to, quality early childhood development services and programmes.

Government recognises that meeting its international, regional and national integrated early childhood development commitments requires the provision of adequate public funding to secure [176, 177].

- Universal availability of early childhood development services and programmes, especially in under-serviced areas, for children from birth until the year before they enter formal school;
- Equitable access to services and programmes for children living in poverty and/or who have developmental delays and/or disabilities;
- Adequate, equitable, effective and universally accessible infrastructure to support delivery of quality services in a safe environment;
- Sufficient qualified early childhood development practitioners to implement the early childhood development Policy and programmes developed to give effect to it;
- An effective national integrated early childhood development communications campaign;
- Effective management, supervision and quality control mechanisms; and

- Institutional structures necessary to support the implementation of the Policy[178].

It further recognises that increased public investment in a national integrated early childhood development system will yield developmental returns exceeding the cost in terms of improvements in educational outcomes, increased labour productivity and improved child well-being, and resultant reductions in inequality and poverty.

The sum and form of state funding that will be provided to support the relevant early childhood development services will vary, depending on the early childhood development service in question, the model of provision, and the risk and protective factors dominant in a particular province and/or district.

8.1 Objectives of early childhood development funding

The objective is to secure and distribute sufficient funds to ensure universal availability of, and equitable access to, the comprehensive quality early childhood development programmes and services, with prioritisation of the identified essential components thereof, especially for low-income families that cannot afford user fees.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

The funding model adopted to support implementation of this Policy aims to:

- Expand coverage of services;
- Ensure that poorer children and children with developmental difficulties and/or disabilities are not excluded because of the cost of services; and
- Improve the quality of service provision.

Funding as described in this Policy will be provided by Government to support the implementation of early childhood development programmes provided either by government departments or by non-profit organisations or private entities contracted by Government to:

- Contribute to improving availability of services in under-serviced areas;
- Provide an integrated essential components of early childhood development services; and/or
- Provide services to vulnerable children prioritised in terms of this Policy, namely: children living in poverty who qualify in terms of eligibility criteria determined by this Policy; children with developmental difficulties and/or disabilities; and/or children aged birth to 2 years, which comply with legally prescribed safety and quality-assurance norms and standards contemplated by this Policy.

8.2 The funding model

The national integrated early childhood development funding model will cover the following costs:

- Post-provisioning will encompass the transfer of funds to cover the cost of staff responsible for implementing early childhood development programmes. For children aged birth to 2 years, posts will be for home visitors/ group facilitators. For children aged 2 until the year before they enter formal school, posts will be for early childhood development practitioners. The cost of support staff will be covered in the programme support allocation.
- Programme support costs will encompass the transfer of funding to the relevant service provider based on proposals which comply with the funding criteria and norms contemplated by this Policy. Programme support will be calculated based on the number of children served and the nature of the service provided. Programme costs include the costs of support staff, facilities, overheads and, critically, food.
- Supervision and management funding will encompass the transfer of funds to responsible departments for the close supervision of implementing staff. Funding will cover the costs of posts and management infrastructure expenses.
- Infrastructure development funding will encompass the provision of funding for the extension of public early childhood development infrastructure (i.e. state-owned and controlled infrastructure for care and learning centres) in especially underserved areas.

- Training funding will encompass training of the workforce necessary for implementation of this Policy.
- Programme management funding will encompass national and provincial departmental programme management, supervision and oversight funding.
- Coordination funding will encompass the national multi-sectoral coordinating mechanisms costs, including its coordination, oversight and communications functions.

Sufficient public funds will be allocated by the National Treasury as approved by Cabinet to:

- National multi-sectoral coordinating mechanisms, for their operating costs and to fulfil the functions described in this Policy, including implementation of the national communication campaign;
- Relevant national departments, to cover their national level management and support functions;
- Provinces, to allocate to the provincial Departments of Health, Basic Education, Social Development, and Department of Cooperative Governance and Traditional Affairs, to cover their provincial level management, support, implementation and infrastructure functions; and
- Municipalities, to support their obligations in terms of early childhood development services.

8.2.1 *Programme support funding*

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Adequate funds will be allocated to the different line departments responsible for the following levels of service delivery:

- Home-visiting costs will be paid through an increased budget allocation for the responsible government department. Early learning play groups will be conducted by the same staff and funding for their implementation will similarly be directed through the responsible government department.
- Funding for staffing and per-child programme support for early learning play groups and programmes will be paid through an increased budget allocation to the Department of Social Development.
- Child-minding per-child programme support will be paid through the municipality, where applicable.

8.2.1.1 *Eligibility for and calculation of staffing and programme support costs*

Currently, programme funding is provided through a per-child subsidy. The proposed method differs in two important respects:

- For children aged birth to 2 years, the full programme costs are directly funded. These services will be delivered through the Department of Health, the full cost of delivery must therefore be allocated to the Department of Health.
- For children aged 2 until the year before they enter formal school (as well as children aged birth to 2 years in centrebased programmes), posts are funded to provide early childhood development services/ programmes.

Child-minders will receive the per capita programme support from municipalities, if they are providing child-minding services to CSG-eligible children from birth until the year before they enter formal school.

The per capita calculation is to ensure equitable financing. Straight programme funding would preference children served by more resourced providers who provide more intensive programmes. Per capita programme support differs from a per-child subsidy. The per-child subsidy follows the child, whereas per capita programme support is paid to eligible providers based on the size of their programme. In the latter case, programme funding will remain constant so long as the number of children receiving services remains constant, even if the children served change.

8.2.1.2 *Targeting criteria for eligibility and the sum of funding*

Early childhood development service providers who are eligible for public funding will be identified in one of two ways: firstly, if they are providing services in an under-serviced geographic area which is targeted for support; and secondly, if they are providing services to children who are eligible for the CSG. This second option is necessary to avoid the exclusion of children living in pockets of poverty in otherwise affluent areas which would not be targeted for support.

Resource allocation will be based on Government assuming responsibility for subsidising 63.9 per cent of poor children aged birth until the year before they enter school. Programme support through the Department of Health will be calculated to cover the costs of home visits for at-risk mothers, both antenatal and postnatal, and mother groups and mother child learning groups.

The proposed per capita programme support will be set at a fixed amount for all programmes. The per-capita programme support amount will be determined from time to time by the Inter-Ministerial Committee for Early Childhood Development, in collaboration with the respective line [illegible] and National Treasury, based on a review of the costs associated with delivering the relevant services.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Government funding will aim to fund the services that are required to meet children's early childhood development rights against minimum standards based on evidence that will yield the required child outcomes. Within this, priority will be given to specific target populations, such as children living in poverty and children living with disabilities, amongst others. Early childhood development service providers may charge service fees for services not funded by Government or private donors to cover the additional costs, which may include additional hours for attending the programme, or other additional services. Similarly, if families wish to access services for their children for longer periods of time than covered by the programme, a service fee may be charged.

Municipal-level targeting and planning, coupled with community-initiated applications for funding for programmes, should enable the identification of the most vulnerable communities to be prioritised and funded.

8.2.1.3 *Increased funding for early childhood development programmes for children with disabilities*

The post-provisioning, per capita programme support and other funding allocations will be higher for programmes providing services to children with disabilities so as to enable the development and provision of services which are appropriate to the level of support required by disabled children to enable them to fully participate in the programme.

The amount of funding and targeting criteria for service provision to ensure inclusion for children with disabilities across all early childhood development domains shall be determined by the Department of Social Development in consultation with the Department of Health, Department of Basic Education and National Treasury. Some of the funding options that may be considered in this respect are:

1. Increase of the programme and post-funding allocation to programmes providing for children with disabilities; and/or
2. Application of a weighting system (as is used in inclusive education); and/or
3. Allocation of funds as a subsidy linked to the child (i.e. funding that follows the child).

Targeting criteria shall be worked out and documented and will be based on the level of need for additional support of each child.

8.2.2 *Funding for infrastructure development*

The Department of Human Settlements and the Department of Cooperative Governance and Traditional Affairs will give directives to municipalities that the following infrastructure funds may be used to develop and maintain municipal infrastructure in order to support early childhood development as a nationwide priority:

- Municipal Infrastructure Grant;
- Urban Development Settlement Grant;
- Integrated City Development Grant (for metropolitan municipalities).

Government will only fund public infrastructure. Public infrastructure is infrastructure which is owned by Government, whether a national, provincial or municipal entity. The development of infrastructure not owned by Government which is necessary for the provision of early childhood development services may be funded, depending on the availability of funds allocated to the relevant early childhood development programmes contemplated in this Policy.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

The national Department of Social Development will establish a national integrated early childhood development infrastructure grant in collaboration with National Treasury designed for national delivery of early childhood development infrastructure. It will receive, and in turn allocate to the provinces, ring-fenced conditional grants to support the national integrated early childhood development infrastructure as required in this Policy. The early childhood development infrastructure grant will focus on:

1. Construction of public early childhood development centres, and
2. Provision of funds for Non-profit organisations (NPOs) to improve their existing early childhood development centres, based on predetermined criteria, to meet minimum norms and standards through the establishment of an NPO infrastructure improvement grant. This provision shall not apply to private homes, business properties, or properties not owned by NPOs, amongst others.

8.2.3 *Funding the training of the workforce for early childhood development*

Funding will be directed through the following Government departments:

- Department of Basic Education: to provide training on early learning and development through short and accredited courses.
- Department of Health: to provide short-course training and in-service training to community health workers, ward-based outreach teams and other health workers;
- Department of Social Development, Department of Basic Education, Department of Higher Education and Training, municipalities: to support the training and support of child-minders, early childhood development practitioners and playgroup facilitators, as well as for on-going skills development of early childhood development ; and
- Department of Higher Education and Training: to support accredited training providers, TVET programmes for early childhood development and university-based programmes, as well as to facilitate the accreditation of training in early childhood development.

8.2.4 *National and provincial departmental management and supervision of programmes*

Funding will be directed through the respective line departments to ensure sufficient management and supervision.

8.3 Promotion of and support for conditional registration

In addition to increased funding, funding will be made more accessible in cases of conditional registration in terms of the Children's Act No. 38 of 2005 for programmes that qualify for funding based on the criteria set in this Policy and that meet the requirements for conditional registration. This funding will be linked to a specific time period and conditions that will ensure registration without conditions. The provincial Departments of Social Development, working together with local municipalities, shall support the qualifying programmes to secure and finalise registration processes.

Administrative systems will be reviewed for simplification within two years of the approval of this Policy so as to ensure accountability and optimal efficiency of financing.

8.4 A national coordinated funding framework and accountability for expenditure

The Inter-Ministerial Committee on Early Childhood Development, acting through the various line departments, will assume responsibility for securing sufficient funds to implement this Policy. To fulfil this obligation, the Committee will increase the allocation of public funds through Treasury. In addition, it will mobilise and coordinate funding from reputable organisations. Government will engage in advocacy to mobilise resources from development partners and the corporate social investment sector in South Africa.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

In addition, the Committee will ensure the proper use of resources mobilised in implementing national integrated early childhood development Policy goals and objectives through the development of a national integrated early childhood development funding framework. The framework, once developed, will regulate, coordinate and support the mobilisation and coordination of funds towards the attainment of national integrated early childhood development priorities. All responsible role players will be held to account for the timely and efficient expenditure of allocated early childhood development funds.


REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

CHAPTER 9
Infrastructure for early childhood development services



CHAPTER 9

Infrastructure for early childhood development services

Government recognises that realisation of the goals of universal availability of and equitable access to quality early childhood development services for all children in South Africa requires a sufficient quantity of functional early childhood development centres and programmes which are appropriately spread out so as to be within safe and reasonable physical reach [179]. In summary, an adequate and accessible physical environment and infrastructure is required to support scaled-up and effective delivery of inclusive, quality early childhood development programmes and services.

What constitutes a sufficient quantity of and adequate early childhood development infrastructure is determined by three overarching principles:

1. *Health and safety*: internationally, constitutionally and in terms of domestic laws such as the Children's Act, all children have the rights to survival, dignity, and a healthy and safe environment. This requires that the environment in which they access early childhood development services ensures the protection of their and their caregiver's health and safety.
2. *Equity of physical access:* early childhood development facilities and programme infrastructure must be within physical reach and physically accessible to all children, including those living in remote and/or underserviced areas and those with disabilities.
3. *Quality*: the environment and infrastructure supporting the delivery of early childhood development services is a key determinant of the quality of the service provided. There is a link between poor and inadequate infrastructure and the provision of poor quality early childhood development services [180].

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

The nature of the physical environment and infrastructure required to provide equitable access to quality services in a safe and healthy environment will depend on a number of factors, including the early childhood development service in question; the model of provision; the age of the child; the health of the child and/or his or her caregiver; the presence or absence of a disability or developmental delay; the social and economic circumstances of the child and his or her caregiver; the language and cultural background of the child and his or her caregiver; and the geographic location of the child and his or her caregiver.

Despite contextual differences, early childhood development programmes and services, as appropriate for the modality of delivery, must be delivered in safe buildings or structures providing protection from the elements; provide hygienic sanitation facilities, clean potable water, access to safe energy sources, hygienic and safe food storage and preparation areas; provide indoor and outdoor spaces suited to the provision of the relevant programme activities and large enough to accommodate all children making use of the programme; and use equipment and materials necessary to deliver the programme activities [181].

9.1 Types of infrastructure required early childhood development services

Two types of infrastructure are required to make early childhood development services universally available:

- Physical infrastructure and services to deliver the service; and
- Physical infrastructure and services for mentorship, management and oversight of the services delivered.

9.2 Infrastructure expansion programmes to date

Government has taken a number of steps and made substantial progress in securing adequate infrastructure for the delivery of a number of early childhood development services. However, challenges in terms of sufficient accessible infrastructure remain a concern that requires proper planning and resourcing. Inadequacies in infrastructure impact negatively on:

1. The number of available spaces/ facilities at which services are provided;
2. The quality and safety of the structures; and
3. The quality and availability of learning and teaching materials and resources, especially for vulnerable children, such as those living in poverty and/or with a disability.

9.3 Government commitment to secure adequate infrastructure

To rapidly scale up the universal availability of, equitable access to, and quality of parent support and early learning services (both centre and non-centre based programmes) requires a massive Government-driven expansion of infrastructure, including infrastructure required to promote inclusion for children with disabilities.

Government is committed to ensuring the implementation of the national integrated early childhood development Policy and programme by allocating sufficient public funds to services, infrastructure and overall resources. The principle of equitable access for vulnerable children in under-serviced areas will be respected, and it will be ensured that infrastructure is safe and provides an enabling early learning environment that supports quality early learning and development, including for children with disabilities [182].

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

9.4 Objective for early childhood development infrastructure

The objective of this Policy in relation to early childhood development infrastructure is to ensure that Government manages growth and maintenance of infrastructure which:

- Is safe for infants and young children and their caregivers;
- Secures a sufficient number of service delivery and support spaces, and learning and teaching support materials and tools, in adequate proximity to children and their caregivers to ensure universal availability of quality early childhood development services, particularly early learning and parenting support programmes;
- Provides a service delivery environment conducive to the delivery of quality early childhood development services;
- Is adequately and appropriately designed to ensure that access barriers for vulnerable children are addressed, notably, that all infrastructure is designed to ensure the inclusion of children with disabilities; and
- Specifically remedies the infrastructure deficits for early learning services.

Physical infrastructure for early childhood development service provision includes: buildings; indoor and outdoor spaces; water, sanitation and electricity; learning materials; and equipment. Physical infrastructure for management and oversight includes: offices, cars, water and sanitation, electricity, and connectivity/communications infrastructure.

9.5 Expansion of service provision infrastructure

The national Department of Social Development, in collaboration with provincial government and municipalities and all other relevant departments, including the Department of Basic Education, the Department of Health and Department of Cooperative Governance and Traditional Affairs, will develop a coherent population-based infrastructure plan linked to service provision norms and standards so as to secure the universal availability of and equitable access to quality infrastructure that will support the delivery of early childhood development programmes, parenting support, and opportunities for learning for all young children, ensuring the inclusion of children with disabilities. To secure this, they will act in concert to:

1. Develop norms and standards to determine what is a reasonable distance between services and communities/ young children to ensure universal availability;
2. Assess the adequacy of available infrastructure based on prescribed norms;
3. Address infrastructure gaps through the development and implementation by Government of a targeted expansion programme based on a multi-faceted strategy which:
   a. Identifies and makes parallel and integrated use of fixed existing early childhood development infrastructure already

established in communities, such as health facilities, primary schools with Grade R facilities, multi-purpose centres, and others;

b. Identifies and makes use of under-utilised suitable public infrastructure, such as traditional authority offices and spaces, community halls, and others;
c. Identifies and makes use of under-utilised non-government (for-profit and non-profit) organisational spaces, such as church halls;
d. Identifies and makes use of mobile and other forms of outreach facilities, such as Toy Libraries;
e. Identifies and make use of brick and mortar structures and alternate building modalities, including prefabricated structures and certified container solutions;
f. Increases the number of registered non-government programmes in under-served areas through a registration drive that will be supported by a campaign encouraging and supporting conditional registration of programmes that meet basic safety and health requirements to enable access to funding for infrastructural improvements;
g. Will amend and diversify the prescribed infrastructure norms and standards to make provision for different levels of infrastructure appropriate to the nature and service delivery model of the programme. For example, the infrastructure required for community-based playgroups and parent support groups should be less onerous than and different from those for formal early learning centres, subject always to the proviso that basic health and safety norms are adhered to;
h. Stipulates that, where existing facilities and infrastructure are not available to meet population demand as determined in the expansion plan and programme, it is the responsibility of municipalities to provide land and underutilised buildings for the establishment of new built early learning facilities in under-served areas, or to build new buildings. A planning process, led by the national Department of Social Development, in collaboration with the provincial government and all other relevant departments, including the Department of Education, Department of Health and Department of Cooperative Governance and Traditional Affairs, to establish new early learning facilities should begin immediately and must prioritise the poorest and most-underserved areas. This needs to be done in collaboration with the for-profit and non-profit early childhood development community, the private sector, donors, and local government and traditional authorities;
i. Stipulates that all early childhood development facilities must be constructed on land that is owned by any sphere of government. However, facilities can be constructed on traditional land provided that there is an agreement in place between the Traditional Council and the relevant Department;
j. Stipulates that municipalities must make a concerted effort to standardise municipal by laws and rezoning costs for the establishment of early childhood development facilities;
k. Prioritises the development and funding of infrastructure for early childhood development programmes run from locations where children live in poverty;
l. Stipulates that the national government, provincial government or municipality will retain ownership of all facilities that are constructed with its respective budget, and that ownership cannot be transferred to any civil society organisation. However, exceptions are granted where ownership of the facility is transferred to another government department or organ of state with the necessary legal contracts in place detailing condition of transfer of ownership. The relevant department or municipality may appoint a civil society organisation to manage the operations of the facility after an agreement is approved detailing the conditions of operations, management and maintenance of the buildings;
m. Includes the provision of water, sanitation and electricity to state-owned and NPO early learning facilities in the expansion programme; and
n. Stipulates that the establishment of state-owned facilities should include sufficient learning and teaching support materials and equipment to support quality early learning and parent support programmes and services.

4. Ensure that accounting officers, as required by the PFMA, determine both the full and true cost of service delivery for

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL, DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,

decision-making with regard to service delivery, prioritisation, scope of projects, nature of services and funding models. Life cycle costing is to be used to determine the cost contribution of infrastructure to the total cost of the service and should include the initial (acquisition) cost, the operating cost of the asset and the maintenance cost. A cost model will be developed, which is to be updated annually by the Department of Social Development in consultation with relevant stakeholders;

5. Ensure that, per the Government Immovable Asset Management Act (GIAMA), users assess annually the functional performance of all immovable assets allocated to them, while custodians conduct condition assessment every five years of the immovable assets under their control. The functional performance rating of immovable assets forms a simple basis for the prioritisation of maintenance. Maintenance actions undertaken are based on the condition of the immovable asset as determined by the condition assessment process. The technical considerations combined with the user considerations will inform the maintenance strategy that will best meet the municipalities' maintenance objectives. The municipalities' maintenance strategy should consider an appropriate balance between preventative and essential maintenance activities, while refurbishments, renovations and major repairs should be used to improve the overall state of the assets;
6. Introduce a system of self-assessment and accreditation, supported by inspections and audits, since monitoring is essential to ensure uniformity of infrastructure. A performance management system which incorporates a results-based monitoring and evaluation framework must be developed for early childhood development infrastructure. This would include the development of indicators and targets which would be monitored to determine the achievement of objectives set within this Policy related to the Department of Social Development's infrastructure Policy; and
7. Put in place knowledge and information systems, including the functionality of a Geographic Information System (GIS), to aid planning. In compliance with the provisions of this Policy and legislative requirements[183] guiding immovable assets, it is required that the Department of Social Development and the municipalities establish and maintain a register of all centres constructed. Such a system is to be Internet-based and must consist of functions that make integration of information easy and effective. This will ultimately lead to quality and reliable reports that can be analysed to handle current and future needs for early childhood development centres.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

9.6 Expansion of management infrastructure

The provincial Departments of Social Development, in collaboration with local municipalities, are to establish, by 2017, management structures at the provincial and/or municipal levels to manage, oversee and coordinate the delivery of early childhood development services.

Management infrastructure comprises:

- Staff trained and tasked to coordinate, manage and oversee service delivery, including ensuring the provision of materials to Government-run or -supported Early Learning Centres and programmes to support children's early learning;
- Office space from which this management staff will operate;
- Transport to enable management staff to visit centre and non-centre based programmes and services; and
- Running costs.


REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

CHAPTER 10

Human resources for early childhood development services



CHAPTER 10

Human resources for early childhood development services

Government recognises its responsibility to ensure a sufficient number of appropriately qualified human resources, including managers and supervisors, to deliver early childhood development services in order to ensure the universal availability of quality early childhood development services[184].

The availability of services is dependent on adequate human resources, as is the quality and hence the realisation of the full developmental potential of early childhood development investments. Numerous studies confirm that the extent of the positive impact of early childhood education is dependent on the quality of the intervention provided[185].

Quality is closely associated with the levels of qualification and related skills, and the supervision and mentoring of early childhood development practitioners. Qualifications and/or training of practitioners have been found to be associated with improved child outcomes over a range of countries and contexts and are often used as an indicator of service quality[186]. However, qualifications alone do not necessarily make a difference[187]; oversight, mentoring and support from responsible departments and programme managers is central to quality improvement and successful programme delivery[188].

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

A full range of health services are meant to be provided through the different levels of the health system to pregnant women, infants and young children, including developmental screening, the Integrated Management of Childhood Illnesses (IMCI) programme, nutritional counselling, education and supplementation, as well as referral services for grants and other social services.

Early childhood development practitioners are listed in the 2013 Draft Social Services Professionals Policy as the largest group of social development service providers. They are defined as practitioners responsible for promoting and facilitating the optimum care, development and education of young children from birth to school-going age, through a holistic approach to the well-being and development of young children. This includes early childhood development practitioners providing services in centre- and non-centre-based early childhood development programmes. It is essential that the persons working in early childhood development are well regulated through registration with professional bodies and/or government departments and municipalities.

There is wide recognition that professionalisation; continuing professional development and career paths; post-provisioning; adequate conditions of service; and a conducive working environment are critical elements of an effective national integrated early childhood development human resources strategy[189,190]. Addressing poor working conditions for early childhood development practitioners, as well as the lack of sustainable jobs and opportunities for progression, is critical in ensuring the professionalisation and retention of trained early childhood development practitioners of different kinds in the sector[191].

Government has identified a range of initiatives to strengthen human resources for early childhood care and early learning components of early childhood development as part of the South African Integrated Programme of Action for Early Childhood Development – Moving Ahead (2013/14-2016/17).

10.1 Objective of the early childhood development human resources

The objective is to develop appropriate cadres of early childhood development practitioners, in sufficient numbers and with sufficient skills to support the implementation of the national integrated early childhood development Policy and programme.

10.2 Categories of early childhood development workers

In order to provide early childhood development services this Policy commits to the public provision of the following categories of appropriately qualified and/or trained early childhood development practitioners and related workers in sufficient quantities to ensure universal availability of services:

1. Health promoters and community health workers as part of the ward-based PHC outreach teams. They are responsible for the provision of home-visiting support for pregnant women and very young children to provide an expanded suite of health and nutrition services (including screening for maternal mental ill health, substance abuse, exposure to violence and developmental difficulties, as well as nutrition counselling), parenting support and opportunities for learning for children up to the age of 2 years. The health promoters and community health workers will provide a combination of home visiting and community- and clinic-based support groups for pregnant women and mothers of infants and young children up to the age of 2 years, including:
    a. Support groups for pregnant women at facilities and in communities and homes;
    b. Two home visits to high-risk pregnant women (which includes mothers younger than 19 years, HIV-positive mothers, mothers with mental health or substance abuse problems, and mothers exposed to domestic violence);
    c. Mother-father and baby support and early learning groups for women at the health facilities and at a community level; and
    d. Two-weekly home visits to at-risk mothers.
2. WBOT team leaders employed by the Department of Health to provide mentoring, support and oversight to community health workers and WBOTs so as to maintain the quality of service provided;
3. Early childhood development practitioners directly employed and/or funded by the Department of Social Development to facilitate centre- and non-centre-based early childhood development programmes, including parent support programmes;
4. Early childhood development coordinators/ supervisors directly employed and/or funded by the Department of Social Development to provide oversight and support help with planning and in-service training of early childhood development practitioners, playgroup facilitators and child-minders or early childhood development centres;
5. Child-minders for children under the age of 2 years to be funded by the local municipalities (where they are accredited and registered);
6. Cooks for full-day programmes that provide food;
7. Toy librarians and assistants; and
8. The existing community-based rehabilitation workforce and other health care practitioners, which is a cadre of workers that are key to ensuring coverage of and inclusive access to early childhood development services for children with disabilities and their families.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

10.2.1 Norms for the provision of human resources

Securing adequate quality coverage of early childhood development services requires an appropriate and minimum ratio of workers to children and caregivers.

10.3 Education and training

There are a number of SAQA-accredited qualifications for early childhood development practitioners who work directly with children, and Community Development qualifications with early childhood development specialisations, which address some of the needs of practitioners working directly with parents. All unit standards and qualifications which are NQF registered are structured according to learning outcomes to be achieved and associated assessment criteria. Training providers design their curricula or learning programmes on this basis and they are submitted for accreditation to the relevant qualifications body. It is essential for the scaling up of early childhood development services that

current qualifications are aligned with this Policy. All relevant line departments should participate in development of qualifications to ensure an appropriate curriculum/ learning programme.

A further aspect for qualification development is that barriers to accessing higher and professional qualifications for practitioners who wish to continue to work with children not yet in the formal schooling system are addressed[192].

Training provision for the early childhood development workforce predominantly includes the early childhood development resource and training organisations (RTOs), TVET colleagues, private for-profit providers and universities

In the short-to-medium term **(2017–2024)**, the availability and capacity of early childhood development practitioners and related workers will be expanded through the following measures:

1. Expansion of the community health worker programme within the Department of Health, with community health workers to be trained through a specialised, accredited short course that includes an early childhood development model, developed by the national Department of Health in collaboration with the Department of Social Development, Department of Basic Education and Department of Higher Education and Training, and to be implemented at a provincial and/or municipal level;
2. Development of a national non-centre based facilitator programme with standardised and accredited short-course training;
3. Twinning of strong resource and training organisations with less experienced TVET Colleges and RTOs providing early childhood development-related training to improve the quality of training and create a system of student and work placements;
4. Articulation of the early childhood development NQF Level 4 and 5 qualifications to enable good students with occupational qualifications to progress to an early childhood development (under 5 years) Level 6 qualification or a Bachelor's degree in Education that includes early childhood development;
5. Development of complementary avenues for career paths; and
6. Alignment of NQF Level 4 and Level 5 training with the requirements of this Policy and the development of electives and/or specialisations for those working in centres, in non-centre based programmes or with parent groups.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

In the medium-to-longer term **(2024–2030)**, the availability and capacity of early childhood development practitioners will be expanded through the following measures:

1. Development of a comprehensive early childhood development training system to take account of multiple entry levels (from General Education and Training Certificate to Degree) and service modalities, allowing for progression and credit transfer across the system;
2. Simplification of the qualification choices and increased mobility across early childhood development sector jobs (from work with children to work with caregivers and children), along with development of core early childhood development content based on this Policy for skills courses and qualifications, and specialisation options for work with children or work with caregivers up to Levels 4 and 5; and
3. Development of a differentiated training system for early childhood development with a range of training providers and qualification options; this requires strong coordination and options and includes:
   a. Department of Basic Education to coordinate the multiple stakeholders including departments responsible for early childhood development services, qualifications bodies, etc.;
   b. Establishment of an national integrated early childhood development inter-sectoral committee under the lead of the Department of Basic Education for planning, oversight and delivery of all early childhood development practitioner training; and
   c. Harnessing of civil society organisations to contribute to the upskilling and support of the early childhood development workforce across the board.

   It is the responsibility of the Department of Basic Education to mobilise funding and implement programmes to build the capacity of early childhood development practitioners.

Standardised and specific training modules on identifying developmental difficulties and promoting inclusion for children with identified disabilities in early childhood development programmes (both centre and non-centre based) shall be developed and standardised. The strategy and programme shall further ensure that the training programme for early childhood development practitioners providing support to children with disabilities is complemented by effective mentorship and supervision of early childhood development practitioners working with children with disabilities and developmental delays.

In order to achieve a rapid scale-up, but reduce the risk of job seekers who are not committed to early childhood development, the non-centre based programmes will be strengthened and expanded. This will create opportunities for employment and upward mobility for the workers who show commitment and develop competence. In this regard, linkages should be made to the Community Work Programme of the Department of Cooperative Governance.

10.4 Human resource supervision and management

The success of the early childhood development Policy and programme will depend on good recru[illegible] continuing in-service support. Supervision and mentoring is essential to ensure quality early childhood development programmes and the ratio of supervisors per practitioner will be determined as part of the operationalisation of this Policy.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Supervisory responsibilities will be executed by dedicated early childhood development coordinators with suitable qualifications/ knowledge of early childhood development.

10.5 Remuneration and conditions of service

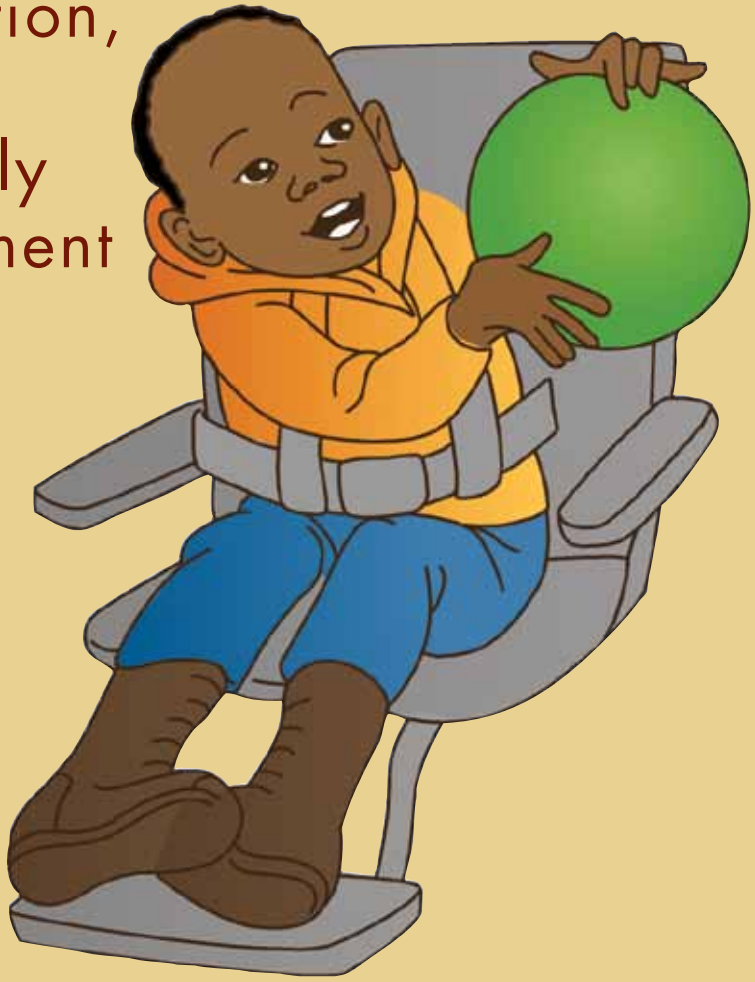
In terms of public financing for early childhood development practitioners and related workers, and supervisors, standardised levels of remuneration for all categories will be published annually in the Government Gazette, with differentiation based on category of early childhood development worker, qualifications and years of service. This will apply to early childhood development practitioners and related workers employed directly by government departments and those employed by NGOs contracted by government departments to provide specific services. Contracts with non-government implementing partners should aim to ensure that conditions of service are comparable for all categories of early childhood development practitioners and related, regardless of employer.


REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

CHAPTER 11

Monitoring, evaluation, quality control and improvement of early childhood development services



CHAPTER 11

Monitoring, evaluation, quality control and improvement of early childhood development services

Proper and effective monitoring and evaluation systems and frameworks to track progress against objectives and goals, especially with regard to improving levels of access to and the quality of early childhood development services for infants and young children, is an essential part of service delivery and the implementation of this Policy and related programmes. A key tool required in this regard is the development of strong monitoring and evaluation (M&E) mechanisms and tools to measure compliance with quality standards and equity and inclusive targets and indicators[193]. Strong and appropriately constructed M&E tools constitute key accountability mechanisms, required by the human rights approach to early childhood development.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Registration as a partial care facility and an early childhood development programme in accordance with the Children's Act No. 38 of 2005 is a necessary safeguard for young children and their families to ensure that basic/ adequate standards have been met. Registration is not a sufficient condition to guarantee the level of quality needed to ensure good child outcomes. Commonly used dimensions of quality include structural variables such as the physical setting, early childhood development practitioner–child ratio, group size, early childhood development practitioner qualifications, learning materials and process variables, including classroom interactions[194]. A holistic curriculum, active child play with concrete materials, and sensitive, mediated caregiver–child interaction are factors that have been shown to contribute to better child outcomes[195].

11.1 Responsibility for early childhood development monitoring, quality control and improvement

Government will develop and implement:

1. A centralised national integrated early childhood development monitoring, evaluation and research framework which will annually measure progress towards achievement of the national Policy vision, goals and objectives;
2. A monitoring, evaluation and research framework to assess the early childhood development programmes for which it is directly responsible;
3. Mechanisms for facilitation of the use of evaluation and research results by line departments and other stakeholders to improve planning and implementation of early childhood development services and programmes; and
4. In collaboration with relevant line departments, appropriate quality and qualification norms and standards for the delivery of quality early learning and care services through all models of service delivery.

The national integrated early childhood development monitoring, evaluation and research framework will be centrally designed and implemented to collect and provide information for annual reporting on the progress South Africa has made as a country towards the realisation of the overarching Policy vision. To achieve this, the Government of South Africa will, through the national integrated early childhood development monitoring and evaluation framework:

1. Receive and collate reliable and timely data on progress made by different line departments and associated stakeholders in the provision of early childhood development services and on the impact that the delivery of such services has made towards achievement of the objectives of this Policy;
2. Develop indicators and disaggregate data to measure progress against all elements of universal enjoyment of early childhood development rights, including availability of services, accessibility of services for vulnerable children and children with disabilities, and quality of services as measured against prescribed standards , as well as to measure

progress in relevant child outcomes as a result of the implementation of the of early childhood development services such as morbidity and mortality;

3. Develop indicators that measure early childhood development services, fulfilment of Policy, strengthening of obligations and coordination of early childhood development efforts;
4. Monitor progress against the national integrated early childhood development communications programme goals and objectives, as well as systems to ensure that the evaluation results are fed back into the planning cycle to ensure on-going improvement;
5. Establish procedures for annual reporting by line departments to Cabinet through the Inter-Ministerial Committee for Early Childhood Development against indicators agreed upon; and
6. Develop, through collaborative agreements, processes for feeding the evaluation results into annual departmental planning cycles.

The relevant departments responsible for delivery of the various early childhood development services will be responsible for implementation of the relevant monitoring and quality control and improvement systems, practices and interventions.

11.2 Strategic pillars of the national integrated early childhood development monitoring, evaluation, quality control and improvement



11.2.1 Continuing quality improvement

The objective of continuing quality improvement is: To establish processes for continuing quality improvement across all modes of service delivery (centre and non-centre based early childhood development programmes) that involve early childhood development practitioners and related workers in self-assessment processes, together with standardised external quality monitoring and support.

There should be a separation of administrative functions from quality improvement processes. The quality management process should be a continuing programme of self-assessment, in-service support and incentivised external accreditation. Line departments should develop a standardised package of resource tools and processes for continuing quality improvement.

Conditional registration (in terms of the Children's Act No. 38 of 2005) should be fully used by provinces to expand access to funding, particularly in poorer communities. Minimum requirements linked to the norms and standards for conditional registration should be established, with standard operating procedures to facilitate the improvement of early childhood development access and quality. In addition, these should be supplemented with differentiated norms and standards for different forms and/or models of delivery, such as centres, early learning playgroups, home visiting and parent support groups.

11.2.2 Monitoring of the national integrated early childhood development programme

The objective of monitoring: Monitoring of the implementation of the national integrated early childhood development programme should serve three purposes, namely:

- To track access, participation and growth of individual children in early childhood development services;
- To assess the adequacy, efficiency and quality of local service provision; and
- To support planning for adequate resourcing in order to meet the targets of coverage and quality of services.
- The approach to monitoring will be to keep the system simple, using existing databases where possible:
- Integration of data across departments will happen at district and provincial levels;

- Integration of data across providers of different service modes monitored will happen at local programme level; and
- Integration of child-specific data at local level (using identity numbers or proxy identifiers for non-citizens) is the medium-term goal and will be developed over time.

11.2.2.1 Service level monitoring

Child data

The starting point for monitoring early childhood development services is the child, and each child should be able to be uniquely identified to track his or her access to birth registration and social security; primary health care and nutrition (Road to Health Booklet); participation in early learning programmes; and referral for failure to thrive or for psycho-social counselling and support.

Ultimately, this system should be linked to a central information management system to track progression of children to Grade R and into school.

This system will facilitate the extension of per capita subsidisation of participating children across all modes of delivery (centre and non-centre based early childhood development programmes and services. It will enable each child to be linked to a specific service (and to individual service providers and implementing organisations).

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

In addition, information contained in the Road to Health Booklet, such as the height and weight of children, should be monitored by primary health care facilities (clinics as per the prescribe norm and by all other services providers six monthly, or more frequently for individuals whose growth is poor).

Service data

As part of the process of continuing quality management, each service mode should have specific quality criteria related to adequacy of personnel, health and safety, provision of learning and training support materials, and minimal infrastructural requirements. Monitoring should take the form of baseline assessment and review following a process of training and support.

Impact data

In addition, the system will facilitate the collection and reporting on child-impact data; that is to say, data will be collected and reported on in respect of child morbidity, mortality, school throughput and other indicators that reflect the impact of early childhood development services on key child outcomes.

11.2.2.2 Local programme management

Local programme management must be informed by continuing assessment of adequacy in terms of sufficiency in number and proximity to ensure availability for all children; access in terms of meaningful use of available opportunities, especially by the most vulnerable children; and quality and efficiency of service provision:

- *Adequacy of provision:* Local programme managers should be able to assess population coverage of services, and whether resource provision (including human resources) is sufficient to meet availability and coverage targets.
- *Quality:* Based on the synthesis of local data, programme managers should have a real-

time picture of the quality of provision of services (as measured in terms of mode-specific norms and standards). This will enable them to put in place processes of training and quality improvement, especially in services that are conditionally registered.

- *Efficiency:* Programme managers should have a clear sense of the 'pipeline' of registration applications (achieved through recording applications at critical steps in the process and analysing progress through the system).

11.2.2.3 *District planning & management*

Data from municipalities will be collated to provide a picture of the district to monitor the same factors (adequacy of provision, quality and efficiency). These data will be combined with service data obtained from other departments and population survey data to provide the basis for motivating for public funding, mobilising district resources, developing strategies for inter-departmental collaboration (when required), and implementing a human resource development plan for early childhood development in the district.

The Inter-Ministerial Committee on Early Childhood Development, through the Inter-Departmental Committee for Early Childhood Development, is responsible for designing and managing the overarching National Monitoring System for early childhood development by December 2017.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

11.2.3 *An early childhood development research agendaa*

The objective of research: To ensure that a national research agenda is established to measure the impact of early childhood development programmes on child outcomes and national development goals. Research needs to be done periodically to ascertain progress and review plans and processes related to early childhood development, and the implementation of this Policy.

11.2.4 *Administrative policies and procedures*

The objective of administrative policies and procedures: To enable children, especially the poorest children in underserved areas, to benefit from public financing for early childhood development and ensure an appropriate level of health and safety in early childhood development centres (partial care facilities) and non-centre based early childhood development programmes.


REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

CHAPTER 12
Conclusion



CHAPTER 12
Conclusion

This Policy covers all aspects that would lead to providing direction and the requirements for development of a comprehensive, multi-sectoral system that recognises the need for Government-led provision of early childhood development services and support. These Policy directives, once translated into a comprehensive legislative, Policy and programme framework, will be applicable to a range of government entities, non-government and private stakeholders, communities and parents or caregivers. In addition, the legislative, Policy and programme framework will ensure the formalisation and recognition of early childhood development services as a universal right to which all young children are entitled, and of the significant short- and long-term benefits that early childhood development services can produce for young children, their families and communities, and for national development.

The situational analysis outlines clearly the need to correct severe imbalances in the delivery of a range of early childhood development services that young children require for optimal development. Significant progress has been made in reaching the majority of children with several services, such as maternal and child health, social security and birth registration. However, a number of early childhood development services are not universally available or equitable, and face challenges in terms of quality. These include nutritional support, parenting support, early care and learning, specialised early childhood development services for children with disabilities, and information and education about early childhood development.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

The Policy sets the requirements for the institutional and regulatory framework and for strengthening and development of the early childhood development system, in order to establish a strong and enabling foundation for improved and effective service delivery. In particular, it clarifies roles and responsibilities of the public and private sector, as well as parental responsibilities; it provides the required elements for an effective early childhood development management and coordination system, a Cabinet-appointed Inter-Ministerial Committee on Early childhood Development is established as well as the National Inter-Departmental Committee on Early Childhood Development; it describes a national integrated early childhood development funding Policy to ensure sufficient resourcing for adequate service delivery, and other resourcing policies such as human resources and infrastructure; and it describes the requirements for monitoring, evaluation and quality control. It must be noted that it would be of interest to the sector to regard these recommendations as inter-dependent, and necessary for the development of a holistic, well-balanced system that drives coordinated and effective service delivery.

The Policy has been developed through a host of consultative processes with a sample of representatives from a range of public and private sector stakeholders, communities and faith-based organisations with diverse interests. Consultations took place both nationally and across all provinces. Furthermore, a range of experts was consulted to provide guidance and advice on particular content areas. Draft Policy was also open for public comments and all comments received were weighed against set criteria and existing related Policy positions for inclusion.

The Policy derived its directives from the history that has informed the notion of early childhood development service provisioning in the country. This includes the South African Constitution, strongly embedded in a human rights-based philosophy and affording children their own set of rights; a range of sectoral national Policy that impacts on young children and early childhood development, promoting a developmental and community-oriented perspective; and the South African Integrated Programme of Action for Early Childhood Development-Moving Ahead (2013/14–2016/17), acknowledging that young children's multi-dimensional developmental needs require a multi-sectoral response, amongst others. It has also taken into account the changing contexts in which services are delivered, recent scientific evidence, including the evidence of effective practice, and the challenges that young children and families experience, especially those most vulnerable.

Provisioning and delivery of early childhood development services in South Africa requires significant transformation to ensure that the Government of South Africa meets its considerable responsibility and obligation to vulnerable young children and families in particular, and to the broader population in general. Addressing the underlying factors that are prohibiting the effective delivery of holistic early childhood development services is the key. This Policy has set in place directives and requirements to develop a comprehensive and all-inclusive legislative framework; provide adequate public funding and resourcing; and establish a management and coordination system to enable effective governance, institutional arrangements, leadership and coordination.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG


REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

BIBLIOGRAPHY



BIBLIOGRAPHY

Adair, LA, Fall, CHD, Osmond, CO, Stein, AD, Martorell, R, Ramirez-Zea, M, Sachdev, HS, Dahly, DL, Bas, I, Norris, SA, Micklesfield, L, Hallal, P & Victora, CG, for the COHORTS group. 2013. Associations of linear growth and relative weight gain during early life with adult health and human capital in countries of low and middle income: Findings from five birth cohort studies. *The Lancet,* 2013, 382:525–534.

Agüero, JM, Carter, MR & Woolard, I. 2010. *The impact of unconditional cash transfers on nutrition: The South African Child Support Grant*. Cape Town: Southern Africa Labour and Development Research Unit, UCT.

Atmore, E, Van Niekerk, L & Ashley-Cooper, M. 2012. *Challenges facing the early childhood development sector in South Africa*. Pretoria: NDA.

Australian Children's Education and Care Authority website: http://www.acecqa.gov.au

Bamford, L. 2013. Maternal, newborn and child health. In: Padarath, A & English, R (eds) *South African Health Review 2012/13*. Durban: Health Systems Trust.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Barberton, C. 2013. Government funding of centre- and community-based early childhood programmes prior to grade R. In: Berry, L, Biersteker, L, Dawes, A, Lake, L & Smith, C (eds). *South African Child Gauge 2013*. Cape Town: Children's Institute, UCT.

Barros, RP, Carvalho, M, Franco, S, Pádua, E & Rosalém, A. 2010. The experience of the Municipality of Rio de Janeiro in providing day care services for children aged 0-3 years. In: Evans, D & Kosec, K. 2012. *Early child education: Making programs work for Brazil's most important generation*. Washington, DC: The World Bank.

Belsky, J, Vandell, DL, Burchinal, M, Clarke-Stewart, KA, McCartney, K & Owen, MT. 2007. Are there long term effects of early child care? *Journal of Child Development*, 78(2):681–701.

Berry, L, Biersteker, L, Dawes, A, Lake, L & Smith, C (eds). *South African Child Gauge 2013*. Cape Town: Children's Institute, UCT.

Berry, L & Smit, A. 2011. Social assistance needs of children with chronic health conditions: A comparative study of international and South African eligibility assessment instruments. *Social Work in Public Health*, 26(7):635–650.

Biersteker, L. 2012. Early childhood development services: Increasing access to benefit the most vulnerable children. In: Hall, K, Woolard, I, Lake, L & Smith, C. (eds). *South African Child Gauge 2012*. Cape Town: Children's Institute, UCT.

Biersteker, L. 2008. *Towards a job hierarchy for ECD provision and supervision in South Africa and the fit of low skill service providers*. Cape Town: HSRC.

Biersteker, L. 2007. *Rapid assessment and analysis of innovative community and home based childminding and early childhood development programmes in support of poor and vulnerable cildren in South Africa*. Pretoria: UNICEF.

Biersteker, L & Dawes, A. 2008. Early childhood development. In Kraak, A. & Press, K. (eds). HRD Review 2008: *Education, Employment and Skills*. Cape Town: HSRC Press.

Britto, P, Engle, PL & Super, CM (eds). 2013. *Handbook of early childhood development research and its impact on global policy.* New York: Oxford University Press.

Britto, P, Yoshikawa, H & Boller, K. 2010. Quality of early childhood development programs in global contexts: Rationale for investment, conceptual framework and implications for equity. Social Policy Report, 25(2). *Society for Research in Child Development.*

Centre on the Developing Child. 2007. *A science-based framework for early childhood Policy.* Cambridge: Centre on the Developing Child, Harvard University.

Child Development Associate Credential website: http://www.cdacouncil.org

Chopra, M. 2003. *Risk factors for undernutrition of young children in a rural area of South Africa.* Public Health Nutrition, 6(7):645–652.

Commission on Social Determinants of Health. 2008. *Closing the gap in a generation: health equity through action on the social determinants of health. Final Report of the Commission on Social Determinants of Health.* Geneva: WHO.

Cunha, F & Heckman JJ. 2006. *Investing in our young people.* Chicago: University of Chicago.

Dawes, A, Biersteker, L & Hendricks, L. 2012. *Towards integrated early childhood development: An evaluation of the Sobambisana Initiative.* Cape Town: Ilifa labantwana.

Dawes, A, Biersteker, L & Hendricks, L. 2011. *The Sobambisana Initiative: Integrative evaluation report.* Cape Town: Ilifa Labantwana.

Dawes, A, Biersteker, L & Hendricks, L. 2010. *Final report: Western Cape Department of Social Development 2009 Audit of Early Childhood Development Facility Quality.* Cape Town: Western Cape Department of Social Development.

De Koker, C, de Waal, L & Voster, J. 2006. *A profile of social security beneficiaries in South Africa.* Commissioned research for the Department of Social Development. Stellenbosch: Datadesk & Department of Sociology and Social Anthropology, Stellenbosch University.

Department of Basic Education & UNICEF. 2009. *National early learning and development standards for children birth to four years* (NELDS). Pretoria: UNICEF.

Department of Basic Education. 2015. *The South African National Curriculum Framework for Children from Birth to Four.* Pretoria: DBE.

Department of Basic Education. 2010. *National Policy for an Equitable Provision of an Enabling School Physical Teaching and Learning Environment.* Pretoria: DBE.

Department of Education. 2001. *Education White Paper Five (5) on Early Childhood Development.* Notice 1043 of 2001. Government Gazette, (22756).

Department of Health, Medical Research Council & OrcMacro. 2007. *South Africa Demographic and Health Survey 2003.* Pretoria: Department of Health.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Department of Health. 2012a. *Human Resources for Health South Africa: HRH Strategy for the Health Sector 2012/13–2016/17.* Pretoria: DoH.

Department of Health. 2012b. *South African Health Review 2012/13*. Durban: Health Systems Trust.

Department of Home Affairs. 2011. *Strategic Plan 2011–2014*. Pretoria: DHA.

Department of Justice and Constitutional Development website: http://www.justice.gov.za/vg/home.html

Department of Performance, Monitoring and Evaluation website: http://www.thepresidency-dpme.gov.za/

Department of Rural Development website: http://ww2.ruraldevelopment.gov.za/about-us/vision-and-mission#.UhtREvgaLbg

Department of Transport website: http://www.transport.gov.za/

Department for International Development (DFID). 2000. *Disability, poverty and development: An Issues Paper.* London: DFID.

DG Murray Trust, Ilifa Labantwana & Partners. 2013. *Response to the draft National Curriculum Framework (NCF) for Birth to Four.* (Unpublished).

Dorrington, RE, Bradshaw, D & Laubscher, R. 2014. *Rapid mortality surveillance report 2012*. Cape Town: MRC.

Department of Social Development, Department of Women, Children and People with Disabilities & UNICEF. 2012. *Children with Disabilities in South Africa: A Situation Analysis: 2001-2011*. Pretoria: UNICEF.

Department of Social Development (DSD). 2013. *Integrated ECD Strategy.* (Unpublished).

Department of Social Development (DSD). 2012. *Green Paper on Families: Promoting family life and strengthening families in South Africa*. Notice 756 of 2012. Government Gazette, (34692).

Department of Social Development [no date]. *First Draft: Funding models for early childhood development programmes (ECD).* (Unpublished).

Department of Social Development, South African Social Security Agency & UNICEF. 2012. *The South African Child Support Grant Impact Assessment: Evidence from a survey of children*. Pretoria: UNICEF South Africa.

Dunst, CJ, Trivette, CM & Hamby, DW. 2007. *Meta-analysis of family-centered help-giving practices research. Mental Retardation and Developmental Disabilities Research Reviews*, 13:370-378

Earls, F & Carlson, M. 1995. Promoting human capability as an alternative to early crime prevention. In: Wikstrom, PO, Clarke, RV & McCord, J (eds). *Integrating crime prevention strategies*. Stockholm: National Council for Crime Prevention. pp. 141–168.

Early, DM, Maxwell, KL, Burchinal, M, Alva, S, Bender, RH & Bryant, D. 2007. Teachers' education, classroom quality, and young children's academic skills: Results from seven studies of preschool programs. *Child Development*, 78(2):558–580.

Ebrahim, H, Seleti, J & Dawes, A. 2013. Learning begins at birth: Improving access to early learning. In: Berry, L, Biersteker, L, Dawes, A, Lake, L & Smith, C (eds). *South African Child Gauge 2013*. Cape Town: Children's Institute, UCT.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Engle, P, Fernald, LCH, Alderman, H, Behrman, J, O'Gara, C, Yousafzai, A, Cabral de Mello, M, Hidrobo, M, Ulkuer, N, Ertem, I, Iltus, S, & the Global Child Development Steering Group. 2011. Strategies for reducing inequalities and improving developmental outcomes for young children in low-income and middle-income countries. *The Lancet*, 378(9799):1339–1353.

Evans, D & Kosec, K. 2012. Early childhood education: *Making programs work for Brazil's most important generation*. Washington DC: World Bank.

Fukkink, RG & Lont, A. 2007. *Does training matter? A meta-analysis and review of caregiver training studies.* Early Childhood Research Quarterly, 22(3):294–311.

Giese, S, Budlender, D, Berry, L, Motlatla, S & Zide, H. 2011. *Government funding for early childhood development: Can those who need it get it?* Cape Town: Ilifa Labantwana.

Hall, K. 2013a. Children's access to basic services. In: Berry, L, Biersteker, L, Dawes, A, Lake, L & Smith C (eds). 2013. *South African Child Gauge 2013*. Cape Town: Children's Institute, UCT.

Hall, K. 2013b. The number and proportion of children receiving the Child Support Grant. Income poverty, unemployment and social grants. In: Berry, L, Biersteker, L, Dawes, A, Lake, L & Smith, C (eds). 2013. *South African Child Gauge 2013*. Cape Town: Children's Institute, UCT.

Hall, K, Nannan, N & Sambu, W. 2013. The infant mortality and under-five mortality rate. Child health and nutrition. In Berry, L, Biersteker, L, Dawes, A, Lake, L & Smith, C (eds). 2013. South African Child Gauge 2013. Cape Town: Children's Institute, UCT.

Hall, K. 2010a. *Analysis of General Household Survey 2011*. Cape Town: Children's Institute, UCT.

Hall, K. 2010b. *Analysis of the National Income Dynamics Study 2008,* Wave 1. Cape Town: Children's Institute, UCT.

Health Systems Trust. 2012. *National Health Care Facilities Baseline Audit.* Durban: HST.

Health Systems Trust. 2011. *Department of Health, District Health Information System database 2011 data. Health indicators. Immunisation coverage of children <1 year (%).* Durban: HST.

Hendricks, M, Goeiman, H & Hawkridge, A. 2013. Promoting healthy growth: Strengthening nutritional support for mothers, infants and children. In: Berry, L, Biersteker, L, Dawes, A, Lake, L & Smith, C (eds). South African Child Gauge 2013. Cape Town: Children's Institute, UCT.

ILO, UNESCO & WHO. 2004. CBR: *A strategy for rehabilitation, equalization of opportunities, poverty reduction and social inclusion of people with disabilities*. Joint position paper. Geneva: WHO.

International Labour Organization, Sectoral Activities Department. 2012. *Rights beginnings: Early childhood education and educators*. Geneva: ILO & WHO.

Jayaratne, K, Kelaher, M & Dunt, D. 2010. Child health partnerships: A review of programme characteristics, outcomes and their relationship. *BMC Health Services Research*, 10(172).

Juma Musjid Primary School and Others v Essay N.O. and Others. 2011 (8) BCLR 761 (CC).

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

M Madzodzo OBO parents of learners at Mpimpo Junior Secondary School and 7 others v The Minister of Basic Education and 4 others. Case no: 2144/2012, Eastern Cape High Court. Judgment delivered on 20 February 2014.

Kamerman, S. 2006. *A global history of early childhood education and care. Background paper prepared for the Education for All Global Monitoring Report 2007, Strong Foundations: Early Childhood Care and Education*. Paris: UNESCO.

Krashen, S. 1993. *The power of reading*. Englewood, Colorado: Libraries Unlimited.

Martin, P. 2012. An overview of the ECD Policy framework in South Africa. Background Paper 3 of Richter, L et al. 2012. *Diagnostic review of early childhood development*. Pretoria: DPME.

Michelson L, Adnams C & Shung-King M. 2003.The Western Cape Screening Programme for developmental disabilities in pre-school children: results of an evaluation. *MCH News*, 21:2-3.

Moffitt, T, Arseneault, L, Belsky, D, Dickson, N, Hancox, R, Harrington, H, Houts, R, Poulton, R, Roberts, B, Ross, S, Sears, M, Thompson, W & Caspi, A. 2011. A gradient of childhood self-control predicts health, wealth, and public safety. *Proceedings of the National Academy of Sciences of the United States of America*. 108(7):2693 -2698.

Montie, JE, Xiang, Z & Schweinhart, LJ. 2006. Preschool experience in 10 countries: Cognitive and language performance at age 7. *Early Childhood Research Quarterly,* 21:313–331.

Myers, RM. 2006. *Quality in programmes of early childhood care and education (ECCE). Background paper prepared for the Education for All Global Monitoring Report 2007, Strong foundations: Early childhood care and education*. Paris: UNESCO.

National Planning Commission (The Presidency). 2012. *National Development Plan 2030: Our Future-make it work*. Pretoria: Government Printers

National Scientific Council on the Developing Child. 2007. *The science of early childhood development*. Cambridge: Centre for the Developing Child, Harvard University.

Naudeau, S, Kataoka, N, Valerio, A, Neuman, J & Elder, K. 2011. *Investing in young children: An early childhood development guide for Policy dialogue and project preparation*. Washington DC: World Bank.

O'Carroll, S & Hickman, R. 2012. *Narrowing the literacy gap: Strengthening language and literacy development between birth and six years for children in South Africa*. Cape Town: Wordworks.

OECD. 2006. Starting strong II: Early childhood education and care. Paris: Oxford University Press.

Padarath, A & English, R (eds). *South African Health Review 2012/13*. Durban: HST.

Perez, EM, Hendricks, MK, Beard, JL, Murray-Kolb, LE, Berg, A, Tomlinson, M, Irlam, J, Isaacs, W, Njengele, T, Sive, A & Vernon-Feagans, L. 2005. Mother-infant interactions and infant development are altered by maternal iron deficiency anemia. *Journal of Nutrition,* 135(4):850–855.

Phillips, D, Mekod, D, Scarr, S, McCartney, K & Abbott-Shim, M. 2000. Within and beyond the classroom door: Assessing quality in child care centers. *Early Childhood Research Quarterly,* 15(4):475–496.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,

President of the Republic of South Africa and another v Modderklip Boerdery (Pty) Ltd, 2005 (5) SA 3 (CC).

Proudlock, P, Lake, L, Jamieson, L & Draga, L. 2013. Legislative and Policy developments 2012/2013. In: Berry, L, Biersteker, L, Dawes, A, Lake, L & Smith, C (eds). *South African Child Gauge 2013*. Cape Town: Children's Institute, UCT.

Republic of South Africa. 2014. *Combined 2nd, 3rd and 4th State Party Report on the implementation of the Convention on the Rights of the Child*. Pretoria: DWCPD.

Richter, L, Biersteker, L, Burns, J, Desmond, C, Feza, N, Harrison, D, Martin, P, Saloojee, H & Slemming W. 2012. *Diagnostic review of early childhood development*. Pretoria: DPME.

Samson, M, Lee, U, Ndlebe, A, Mac Quene, K, Van Niekerk, I, Ghandi, V, Harigaya, T, Aguilar, R & Tansini RL. 2011. Joint analysis of preschool attendance and school performance in the short and long-run. *International Journal of Education Development*.

Samson, M, Lee, U, Ndlebe, A, MacQuene, K, Van Niekerk, I, Ghandi, V, Harigaya, T & Abrahams, C. 2004. *The social and economic impact of South Africa's social security system*. Cape Town: EPRI.

SASSA & UNICEF. 2013. *Preventing exclusion from the Child Support Grant: A study of exclusion errors in accessing CSG benefits*. Pretoria: UNICEF.

Schoon, I, Jones, E, Cheng, H & Maughan, B. 2012. Family hardship, family instability and cognitive development. *Journal of Epidemiology and Community Health,* 66(8):716-722

Schweinhart, LJ, Barnes, HV & Weikhart, DP. 2005. Significant benefits: The High/Scope Perry Pre-school Study through age 27. In Frost, N. *Child welfare: Major themes in health and social welfare*. Abingdon, UK: Routledge.

Shisana, O, Labadarios, D, Rehle, T, Simbayi, L, Zuma, K, Dhansay, A, Reddy, P, Parker, W, Hoosain, E, Naidoo, P, Hongoro, C, Mchiza, Z, Steyn, NP, Dwane, N, Makoae, M, Maluleke, T, Ramlagan, S, Zungu, N, Evans, MG, Jacobs, L, Faber, M & the SANHANES-1 Team. 2013. *South African National Health and Nutrition Examination Survey (SANHANES-1)*. Cape Town: HSRC Press.

Shonkoff, JP. 2009. Investment in early childhood development lays the foundation for a prosperous and sustainable society. In Tremblay, RE, Boivin, M, Peters, RDeV (eds). *Encyclopaedia of Early Childhood Development*. Montreal: Centre of Excellence for Early Childhood Development and Strategic Knowledge Cluster on Early Child Development.

Shonkoff, JP & Phillips, DA. 2000. *From neurons to neighbourhood: the science of early childhood development*. Washington DC: National Academies.

Sipamla, S. 2012. *Social services for victims of domestic violence: The role of the Department of Social Development in the implementation of the Domestic Violence Act*. (Publisher unknown).

Slemming, W. 2014. Policy appendix 4: *Children with developmental difficulties and disabilities. Draft National integrated early Childhood Development Policy for the Republic of South Africa*. (Unpublished).

Slemming, W & Saloojee, H. 2013. Beyond survival: The role of health care in promoting ECD. In Berry, L, Biersteker, L, Dawes, A, Lake, L & Smith C (eds). *South African Child Gauge 2013*. Cape Town: Children's Institute, UCT.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Southern and Eastern African Consortium for Monitoring Educational Quality (SACMEQ). 2011. *Learner Preschool Exposure and Achievement in South Africa. Policy Brief no. 4.* Pretoria: Ministry of Basic Education.

Statistics South Africa. 2004. *General Household Survey 2003.* Pretoria: Stats SA. (Analysis by Katherine Hall, Children's Institute, UCT).

Statistics South Africa. 2012. *General Household Survey 2011.* Pretoria: Stats SA. (Analysis by Katherine Hall, Children's Institute, UCT).

Statistics South Africa. 2013. *South Africa's young children: Their family and home environment, 2012.* Pretoria: Stats SA.

Statistics South Africa. 2015a. *General Household Survey 2014,* Pretoria: Stats SA.

Statistics South Africa. 2015b. *Mid-year population estimates 2015.* Pretoria: Stats SA.

Stephen, CR, Bamford, LJ, Patrick, ME & Wittenberg, DF (eds). 2011. *Saving children 2009: Five years of data. A Sixth Survey of Child Healthcare in South Africa.* Pretoria: Tshepesa Press, Medical Research Council & Centres for Disease Control and Prevention.

Sylva, K, Taggart, B, Siraj-Blatchford, I, Totsika, V, Ereky-Steven, K, Gilden, R & Bell, D. 2007. Curricular quality and day-to-day learning activities in preschool. *International Journal of Early Years Education*, 15(1):49–65.

Taylor, BA, Dearing, E & McCartney K. 2004. Incomes and outcomes. Journal of Human Resources, Autumn, 39(4):980–1007.

Torquati, JC, Raikes, H & Huddlestone-Casas, CA. 2007. Teacher education, motivation, compensation, workplace support, and links to quality of center-based child care and teachers' intention to stay in the early childhood profession. *Early Childhood Research Quarterly* 22(2):261–275.

UN Committee on Economic, Social and Cultural Rights. 2000. *General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12).* New York: UN.

United Nations Committee on the Rights of the Child. 2005. *General Comment No. 7 (2005): Implementing child rights in early childhood.* Geneva: United Nations Committee on the Rights of the Child

United Nations Committee on the Rights of the Child. 2006. *General Comment No. 9 (2006): The Rights of Children with Disabilities.* Geneva: United Nations Committee on the Rights of the Child.

United Nations Committee on the Rights of the Child. 2013. *General Comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts (art. 31).* Geneva: United Nations Committee on the Rights of the Child.

United Nations. 2013. *Report of the Special Rapporteur on the right to education (A/68/294).* New York: UN.

United Nations. 2002. *General Assembly Resolution s-27/2. A world fit for children (A/RES/S-27/2).* New York: UN.

United Nations. 2010. *Report of the Secretary-General: Status of the Convention on the Rights of the Child (A/65/206).* New York: UN

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,

UNESCO & Economic and Social Council. 1999. *General Comment 13 on the right to education (Art. 13 of the International Covenant on Economic, Social and Cultural Rights).* Paris: UNESCO.

UNESCO. 2007. *Education for All Global Monitoring Report 2007: Strong foundations: Early childhood care and education.* Paris: UNESCO.

UNESCO. 2010a. *Moscow Framework of Action and Cooperation: Harnessing the wealth of nations.* Paris: UNESCO.

UNESCO. 2010b. *Reaching the marginalized. EFA Global Monitoring Report.* Paris: UNESCO.

UNICEF. 2013. *State of the World's Children 2013: Children with Disabilities.* New York: United Nations.

UNICEF. 2012. *Inequities in early childhood development. What the data say: Evidence from the Multiple Indicator Cluster Surveys.* New York: UNICEF.

UNICEF. 2007. *Children with disabilities: Ending discrimination and promoting participation, development and inclu* York: UNICEF.

UNICEF. 2002. *Operational Guidance Note for IECD, Medium-Term Strategic Plan (2002–2005).* New York: UNICEF.

UNICEF. 2015. *Building better brains: new frontiers in early childhood development.* New York: UNICEF

UNICEF & Bernard Van Leer Foundation. 2006. *A guide to General Comment 7: Implementing Child Rights in Early Childhood Education.* The Hague: Bernard Van Leer Foundation.

Van den Berg, S, Williams, B, van Wyk, C, Burger, R, Gustafsson, M, Yu, D & Coetzee, M. 2010. *Tracking public expenditure and assessing service quality in Early Childhood Development: Insights from a survey of three provinces. (Report for UNICEF).* Stellenbosch: Department of Economics, University of Stellenbosch.

Vegas, E & Santibanez, L. 2010. *The promise of early childhood development in Latin America and the Caribbean.* Washington DC: World Bank.

Victora, CG, Adair, L, Fall, C, Hallal, PC, Martorell, R, Richter, L, Sachdev, HS, for the Maternal and Child Undernutrition Study Group. 2008. Maternal and child undernutrition: Consequences for adult health and human capital. The Lancet, 371(9609):340–357.

Viviers, A, Biersteker, L & Mouane, S. 2013. Strengthening ECD service delivery: Addressing systemic challenges. In: Berry, L, Biersteker, L, Dawes, A, Lake, L & Smith, C (eds). *South African Child Gauge 2013.* Cape Town: Children's Institute, UCT.

Walker, S, Wachs, T & Grantham-McGregor, S. 2011. Inequality in early childhood: Risk and protective factors for early childhood development. *The Lancet,* 378:1325–1328.

Ward, C & Wessels, I. 2013. Rising to the challenge: Towards effective parenting programmes. In: Berry, L, Biersteker, L, Dawes, A, Lake, L & Smith, C (eds). *South African Child Gauge 2013.* Cape Town: Children's Institute, UCT.

Wen, X & Leow, C. 2012. Are two years better than one year? A propensity score analysis of Head Start program duration on children's school performance in kindergarten. *Early Childhood Research Quarterly,* 27:684–694.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Wessels, I, Mikton, C, Ward, CL, Kilbane, T, Alves, R, Campello, G, Dubowitz, H, Hutchings, J, Jones, L, Lynch, MA & Madrid, B. 2013. *Preventing violence: Evaluating outcomes of parenting programmes*. Geneva: WHO & UNICEF.

Wessels, I. 2012. Parenting programmes in South Africa: Investigating design and evaluation practices. Unpublished Master's dissertation. Cape Town: UCT.

Western Cape Department of Social Development. 2010. *Western Cape Department of Social Development 2009 Audit of Early Childhood Development Facility Quality.* Cape Town: Western Cape Department of Social Development.

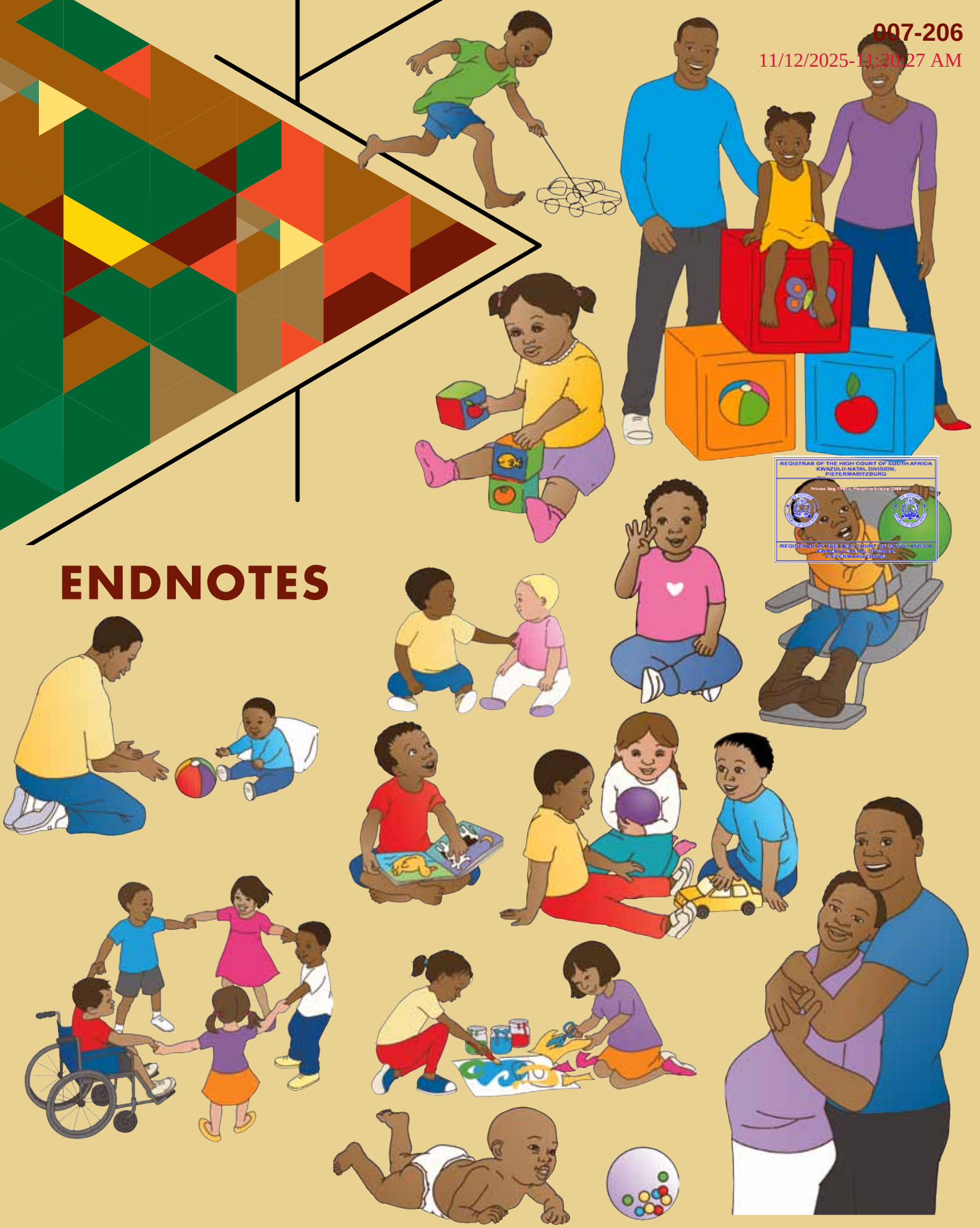
WHO. 2010. *Community-based rehabilitation:* CBR guidelines. Geneva: WHO.

Zellman, G & Perlman, M. 2008. *Child-care quality rating and improvement systems in five pioneer states*. Santa Monica, CA: RAND Corporation.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

007-206
11/12/2025-11:20:27 AM

ENDNOTES



007-206

ENDNOTES

1 National Planning Commission, 2011.

2 Partly adapted from: Statistics South Africa. 2010. Concepts and definitions for Statistics South Africa, 2010 (version 3). Pretoria: Statistics South Africa.

3 Jayaratne, Kelaher & Dunt, 2010.

4 ILO, UNESCO & WHO, 2004; WHO, 2010; & WHO. 2013. Community-based rehabilitation (CBR). Available at: http://www.who.int/disabilities/cbr/en/

5 Jayaratne et al. (2010) provide a useful analysis of child health partnerships which they define as "a comprehensive framework made up of two or more local partnering agencies working towards a common objective of ensuring the …development of young children". Their review of partnerships resulted in the documentation of different types of collaborative working arrangements along a continuum of partnerships from networking to collaboration. Their definitions are used to inform the definitions in this Policy.

6 Jayaratne et al., 2010.

7 UN Committee on the Rights of the Child General Comment 9, 2006.

8 Definition extrapolated from the definition of a child health partnership in Jayaratne et al. 2010.

9 Section 91(2) of the Children's Act No. 38 of 2005 refers to services intended to promote early childhood development and provided by a person other than the child's parent or caregiver, on a regular basis, to children up to school-going age. This definition has been used as a foundation and amended in accordance with the revised preceding definition.

10 Dunst, Trivette, & Hamby, 2007.

11 Department of Social Development, 2012.

12 UNICEF, 2002.

13 Jayaratne et al., 2010.

14 Definition provided in section 1 of the Social Assistance Act as amended by section 3 of the Welfare Laws Amendment Act.

15 Partly adopted from: Britto, Yoshikawa & Boller, 2010.

16 UN Committee on the Rights of the Child General Comment 9, 2006; UNICEF, 2012.

17 United Nations. 2002.

18 Centre on the Developing Child, 2007.

19 Engle et al., 2011.

20 Centre on the Developing Child, 2007.

21 Schoon, I, Jones, E, Cheng, H & Maughan, B. 2012.

22 Barros et al., 2010.

23 Walker, Wachs & Grantham-McGregor, 2011.

24 Adair et al., 2013.

25 Victora et al., 2008.

26 Centre on the Developing Child, 2007.

27 Walker et al., 2011.

28 Centre on the Developing Child, 2007.

29 Centre on the Developing Child, 2007.

30 Walker et al., 2011.

31 Walker et al., 2011.

32 Walker et al., 2011.

33 UNICEF, 2012.

34 Walker et al., 2011.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

35 United Nations, 2010.
36 Walker et al., 2011; Shonkoff, 2009.
37 United Nations, 2013: The UN's Special Rapporteur confirmed in 2013 that ECD is a public good in: UN General Assembly. 2013. Report of the Special Rapporteur on the right to education, 9 August 2013; Education White Paper 5: On Early Childhood Education recognises ECD as a public good which justifies expanded state provisioning; OECD, 2006 confirms the wide-spread recognition of ECD as a public good.
38 Engle et al., 2011; Walker et al., 2011.
39 For a more detailed explanation of the developmental value of ECD (and resulting imperative for public provision of ECD), please refer to Policy Appendix 1 –The scientific and legal case for public provision of ECD services.
40 Walker et al., 2011.
41 Shonkoff, 2009; Centre on the Developing Child, 2007; Wessels et al., 2013. The quadruple burden of diseased facing South Africa in 2013 is identified in a number of national Policy and strategic documents, including the Policy Paper: National Health Insurance in South Africa (2012) and the Department of Health's Annual Performance Plan 2012/13–2014.
42 Shonkoff, 2009; Centre on the Developing Child, 2007.
43 Engle et al., 2011.
44 Engle et al., 2011.
45 Commission on Social Determinants of Health, 2008.
46 Walker et al., 2011.
47 Britto et al. 2013..
48 Moffitt et al., 2011.
49 Wessels et al., 2013; & Earls & Carlson, 1995
50 National Scientific Council on the Developing Child, 2007.
51 UNICEF & Bernard Van Leer Foundation, 2006).
52 United Nations, 2010.
53 National Planning Commission, 2012.
54 National Planning Commission, 2012.
55 UN Committee on the Rights of the Child General Comment 7, 2005.
56 OECD, 2006; International Labour Organization, Sectoral Activities Department, 2012.
57 UN Committee on the Rights of the Child General Comment 7, 2005; International Labour Organization, Sectoral Activities Department, 2012; OECD, 2006; UNESCO, 2010a.
58 UNESCO, 2010a; UN Committee on the Rights of the Child General Comment 7, 2005; United Nations, 2010; Walker et al., 2011; Shonkoff, 2009.
59 See Policy Appendix 1 for further detailed discussion of the legal and developmental foundation for prescribed ECD services.
60 See Policy Appendix 1 for further detailed discussion.
61 UN Committee on the Rights of the Child General Comment 7, 2005.
62 Centre on the Developing Child, 2007.
63 UN Committee on the Rights of the Child General Comment 7, 2005.
64 Article 25 of the CRC and s27(1)© of the Constitution of the RSA, 1996.
65 Taylor, Dearing & McCartney, 2004.
66 Cunha & Heckman, 2006; Britto et al., 2013.
67 Taylor et al., 2004; Cunha & Heckman, 2006; Britto et al., 2013. Naudeau, et al., 2011.
68 DSD, SASSA & UNICEF, 2012.
69 UN Committee on the Rights of the Child General Comment 7, 2005.
70 UN Committee on the Rights of the Child General Comment 7, 2005.
71 Vegas & Santibanez, 2010.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

72 Child Care Act No. 74 of 1983.
73 CEDAW, Article 11(2)(c); ILO Convention (no. 156) on Workers with Family Responsibilities (Article 5(b)).
74 UN Committee on the Rights of the Child General Comment 7, 2005.
75 Samson et al., 2011.
76 UN Committee on the Rights of the Child General Comment 7, 2005.
77 UNICEF, 2015.
78 The right to protection is guaranteed by the CRC, the ACRWC, the Constitution of the RSA and the Children's Act. UN Committee on the Rights of the Child General Comment 7, 2005, provides guidance on steps that ought to be taken to protect the young child from abuse and neglect.
79 UN Committee on the Rights of the Child General Comment 7, 2005.
80 UN Committee on the Rights of the Child General Comment 7, 2005; UN Committee on the Rights of the Child General Comment 9, 2006; CRPD, articles 7 and 24.
81 National Planning Commission, 2011
82 National Planning Commission, 2011.
83 Section 92(1).
84 Proudlock et al., 2013; Bamford, 2013.
85 Proudlock et al., 2013; Bamford, 2013.
86 Bamford, 2013. See note i above.
87 Sipamla,2012.
88 Appendix 3 to Draft Policy for a more detailed discussion of the situation of young children's enjoyment of essential rights and services in South Africa.
89 Stats SA, 2015b.
90 Stats SA, 2004; Stats SA, 2012.
91 SASSA & UNICEF, 2013.
92 Stats SA, 2013.
93 Slemming & Saloojee 2013.
94 Stats SA, 2013.
95 Dorrington, Bradshaw & Laubscher, 2014.
96 Health Systems Trust, 2011.
97 Berry et al., 2013.
98 Department of Health, Medical Research Council & OrcMacro. 2007.
99 Department of Health, 2012b.
100 Hall, Nannan & Sambu, 2013.
101 Department of Health, 2012b.
102 Hall, 2013a.
103 Stats SA, 2013.
104 Shisana et al., 2013.
105 Stephen et al., 2011.
106 Shisana et al., 2013.
107 Department of Health, 2012b; Health Systems Trust. 2011.
108 Shisana et al., 2013.
109 Chopra, 2003; Perez et al., 2005.
110 Hendricks, Goeiman & Hawkridge, 2013.
111 Stats SA, 2013.
112 Agüero, Carter & Woolard, 2010; Samson et al., 2004.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

[113] Hall, 2013b.
[114] SASSA & UNICEF, 2013.
[115] SASSA & UNICEF, 2013.
[116] SASSA & UNICEF, 2013.
[117] Republic of South Africa, 2014.
[118] Hall, 2010b.
[119] Wessels, 2012; Ward & Wessels, 2013.
[120] Ward & Wessels, 2013.
[121] Department of Social Development data, 2013.
[122] Stats SA, 2015a.
[123] Richter et al., 2012.
[124] Biersteker, 2012.
[125] Richter et al., 2012.
[126] Appendices 3 and 4 of Draft Policy for a comprehensive review of the situation of children with disabilities in South Africa.
[127] Using 2011 Mid-year Population Estimates, the child population has grown by 9.2 per cent from 17.3 million in 2001 to 18.9 million in 2011 (Stats SA. 2011. Mid-year Population Estimates, 2011. Pretoria: Stats SA).
[128] South Africa does not yet have a standard/ nationally accepted measuring tool for child disability. Estimates of child disability prevalence generated from various sources are therefore not directly comparable because of different definitions of disability and methods of data collection. Measuring child disability is inherently much more difficult than measuring disability in adults. Census data is argued to be the most reliable to use for child disability at this time (Department of Social Development, Department of Women, Children and People with Disabilities & UNICEF, 2012).
[129] Department for International Development (DFID), 2000.
[130] Michelson, Adnams, & Shung-King, 2003.
[131] Slemming, 2014; Ebrahim, Seleti & Dawes, 2013.
[132] De Koker, de Waal & Voster, 2006.
[133] Ebrahim et al., 2013.
[134] Western Cape Department of Social Development, 2010.
[135] Krashen, 1993..
[136] O'Carroll & Hickman, 2012.
[137] Viviers, Biersteker & Mouane, 2013.
[138] Richter et al., 2012.
[139] Ebrahim, Seleti & Dawes, 2013.
[140] Refer to National Development Plan: Vision 2030, p. 300.
[141] United Nations, 2002; United Nations, 2010.
[142] UN Convention on the Rights of the Child, 1989; UN Committee on the Rights of the Child General Comment 7, 2005. UN General Assembly, 2013.
[143] UN General Assembly. 2010. Status on the Convention on the Rights of the Child: Report of the Secretary General.
[144] UN Committee on the Rights of the Child General Comment 7, 2005; Moscow World Conference, United Nations, Status on the Convention on the Rights of the Child: Report of the Secretary General. 2010.
[145] Department of Education, Education White Paper 5 (2001).
[146] Section 28(2) of the Constitution of the RSA, 1996.
[147] UN Committee on the Rights of the Child General Comment 7, 2005.
[148] UN Committee on the Rights of the Child General Comment 7, 2005.
[149] Juma Musjid Primary School and Others v Essay N.O. and Others 2011 (8) BCLR 761 (CC); M Madzodzo OBO parents of learners at Mpimpo Junior Secondary School and 7 others v The Minister of Basic Education and 4 others.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

150 Derived from UN Committee on the Rights of the Child General Comment 17, 2013: The right of the child to rest, leisure, play, recreational activities, cultural life and the arts.

151 Shonkoff & Phillips, 2000.

152 Moffitt et al., 2011.

153 See Appendix 5 of draft Policy for a comprehensive overview of the status of early learning programmes in South Africa and the rationale for the national integrated early learning programme proposed in this Policy.

154 DBE & UNICEF, 2009.

155 See Appendix 4 of Draft Policy for a detailed discussion of the Policy gaps and proposals for the optimal early development of children with developmental delays and/or disabilities.

156 Shonkoff, 2009.

157 Shonkoff, 2009.

158 Shonkoff, 2009.

159 See Policy Appendices 5 and 6 for a detailed discussion of the vulnerabilities of these groups of children and the rationale for their prioritisation.

160 Stats SA upper-bound poverty line.

161 For more detail refer to Policy Appendix 5: Early Learning Opportunities; & Biersteker, 2007; Department of Social Development, [no date].

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

162 Definitions derived from: Jayaratne et al., 2010.

163 Departmental website: http://www.transport.gov.za/.

164 Departmental website: http://www.justice.gov.za/vg/home.html.

165 Departmental website: http://ww2.ruraldevelopment.gov.za/about-us/vision-and-mission#.UhtREvgaLbg.

166 Departmental website: http://www.srsa.gov.za/pebble.asp?relid=30.

167 DPME website. http://www.thepresidency-dpme.gov.za/dpmewebsite/Default.aspx

168 Departmental website: http://www.thepresidency.gov.za/pebble.asp?relid=3

169 UN Committee on the Rights of the Child General Comment 7, 2005.

170 Education White Paper 5 (2001).

171 See Policy Appendix 7 for a comprehensive comparative review of organisational options, pros and cons.

172 See Policy Appendix 7 for a more detailed discussion of the advantages of the proposed agency.

173 Engle et al., 2011.

174 UN Committee on the Rights of the Child General Comment 7, 2005; UNESCO, 2010a.

175 UNESCO, 2010a.

176 The UN Committee on the Rights of the Child made a number of recommendations to realise the commitment made by Member States in terms of the Plan of Action – 'A World Fit for Children'– to the 'implementation of national integrated early childhood development policies and programmes to ensure the enhancement of physical, social, emotional, spiritual and cognitive development' (United Nations, 2002). The Committee stressed the importance of ensuring sufficient allocation of the public fiscus to services, infrastructure and overall resources for ECD. Moreover, it was recommended that State Parties develop partnerships between government, public services, families and the private sector to finance ECD and early education (UN Committee on the Rights of the Child, 2005).

177 President of the Republic of South Africa and another v Modderklip Boerdery (Pty) Ltd, 2005 (5) SA 3 (CC), 2005, and 'Western Cape Forum for Intellectual Disability v Government of RSA and one other, 18678/2007, 2010, noted that this finding implies that where there is a constitutional (or international) legal obligation created, for example the provision of ECD services – the State is obliged to fund and ensure the provision of the service.

178 Drawing on lessons learned in financing health systems – which constitute an integral ECD service, this follows the WHO approach to public funding to secure universal coverage. http://www.who.int/health_financing/strategy/en/index.html.

179 The scope of the state's duty to provide infrastructure as defined is derived from the 4 A framework for basic education (which

includes early childhood development) as described in detail in the UNESCO & Economic and Social Council's General Comment 13, 1999: Right to Basic Education (1999); paragraphs 6 (a) and (b) and the Children's Act No. 38 of 2005, section 77(2)(b); UN Committee on Economic, Social and Cultural Rights General Comment No. 14, 2000.

180 Atmore, van Niekerk & Ashley-Cooper, 2012; DBE, 2010; van der Berg et al., 20110.

181 UNESCO & Economic and Social Council's General Comment 13, 1999: Right to Basic Education (1999)

182 The obligation to secure infrastructure is founded on the Government of RSA's commitments to ensure the best interests of the child, the rights to equality, care, protection and safety and to quality education in terms of the CRC as spelt out further in General Recommendation 7 on ECD and UNESCO & Economic and Social Council's General Comment 13, 1999: Right to Basic Education (1999), UN CESCR; UNESCO's EFA goal 1 and 6 to provide universal ECCE access and quality education; the Constitution of the Republic of South Africa and the Children's Act No. 38 of 2005.

182 The Occupational Health and Safety Act No. 85 of 1993; The National Building Regulations and Building Standards Act No. 103 of 1977; The National Environmental Management Act, No. 107 of 1998; the Local Government Municipal Finance Management Act No. 56 of 2003; The Municipal Infrastructure Grant (MIG).

183 UN Committee on the Rights of the Child General Comment 7, 2005.

184 Samson et al., 2011; Centre on the Developing Child, 2007.

185 UNESCO, 2007; Fukkink & Lont, 2007; Biersteker & Dawes, 2008.

186 Early et al., 2007.

187 OECD, 2007; Britto et al., 2010.

188 For example, Richter et al., 2012; DSD, 2013; DoH, 2012a.

189 Phillips et al., 2000; Torquati, Raikes & Huddlestone-Casas, 2007.

190 Biersteker, 2008.

191 Currently the career path for an ECD practitioner is from Level 5 into the Level 6 Diploma in Grade R Teaching or the B Ed Foundation Phase.

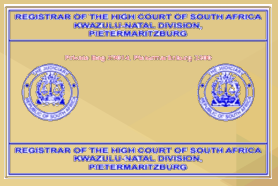
192 UN General Assembly, 2013.

193 Myers, 2006.

194 Montie, Xiang & Schweinhart, 2006; Sylva et al., 2007.

195 United Nations, 2010. Notes that national statistical aggregates can disguise disparities and inequities in access; and that given that quality ECD services targeted to disadvantaged children and families can be a powerful equaliser – indicators must integrate considerations of equity.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG



ENQUIRIES

Department of Social Development
Private Bag X901, Pretoria
Republic of South Africa
Tel: +27 12 312 7653 | Fax: +27 12 312 7988 | Toll Free Number: 0800 60 1011
Website: www.dsd.gov.za

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

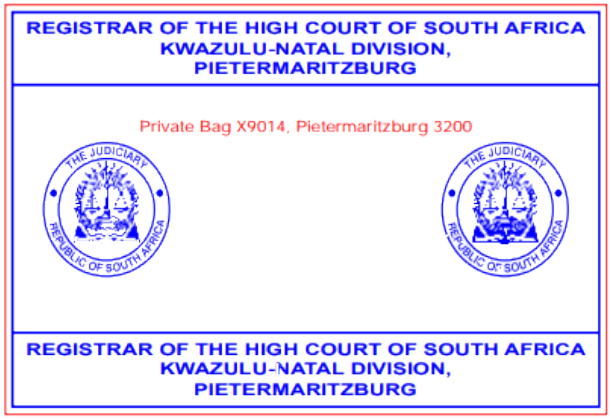
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 04

NOTE: **This document was filed electronically by the Registrar on 11/12/2025 at 11:26:52 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

007-216
"EC 04"

NURTURING CARE

FOR EARLY CHILDHOOD DEVELOPMENT

A FRAMEWORK FOR HELPING CHILDREN **SURVIVE** AND **THRIVE** TO **TRANSFORM** HEALTH AND HUMAN POTENTIAL



unicef for every child

WORLD BANK GROUP

World Health Organization

ECDAN
Early Childhood Development Action Network

The Partnership for Maternal, Newborn & Child Health

IN SUPPORT OF
EVERY WOMAN EVERY CHILD
FOR HEALTHY AND EMPOWERED WOMEN, CHILDREN AND ADOLESCENTS

007-216


REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

NURTURING CARE

FOR EARLY CHILDHOOD DEVELOPMENT

A FRAMEWORK FOR HELPING CHILDREN **SURVIVE** AND **THRIVE** TO **TRANSFORM** HEALTH AND HUMAN POTENTIAL



unicef for every child

WORLD BANK GROUP

World Health Organization

ECDAN Early Childhood Development Action Network

The Partnership for Maternal, Newborn & Child Health

IN SUPPORT OF EVERY WOMAN EVERY CHILD FOR HEALTHY AND EMPOWERED WOMEN, CHILDREN AND ADOLESCENTS

Nurturing care for early childhood development: a framework for helping children survive and thrive to transform health and human potential

ISBN 978-92-4-151406-4

© World Health Organization 2018

Some rights reserved. This work is available under the Creative Commons Attribution-NonCommercial-ShareAlike 3.0 IGO licence (CC BY-NC-SA 3.0 IGO; https://creativecommons.org/licenses/by-nc-sa/3.0/igo).

Under the terms of this licence, you may copy, redistribute and adapt the work for non-commercial purposes, provided the work is appropriately cited, as indicated below. In any use of this work, there should be no suggestion that WHO endorses any specific organization, products or services. The use of the WHO logo is not permitted. If you adapt the work, then you must license your work under the same or equivalent Creative Commons licence. If you create a translation of this work, you should add the following disclaimer along with the suggested citation: "This translation was not created by the World Health Organization (WHO). WHO is not responsible for the content or accuracy of this translation. The original English edition shall be the binding and authentic edition".

Any mediation relating to disputes arising under the licence shall be conducted in accordance with the mediation rules of the World Intellectual Property Organization.



Suggested citation. World Health Organization, United Nations Children's Fund, World Bank Group. Nurturing care for early childhood development: a framework for helping children survive and thrive to transform health and human potential. Geneva: World Health Organization; 2018. Licence: CC BY-NC-SA 3.0 IGO.

Cataloguing-in-Publication (CIP) data. CIP data are available at http://apps.who.int/iris.

Sales, rights and licensing. To purchase WHO publications, see http://apps.who.int/bookorders. To submit requests for commercial use and queries on rights and licensing, see http://www.who.int/about/licensing.

Third-party materials. If you wish to reuse material from this work that is attributed to a third party, such as tables, figures or images, it is your responsibility to determine whether permission is needed for that reuse and to obtain permission from the copyright holder. The risk of claims resulting from infringement of any third-party-owned component in the work rests solely with the user.

General disclaimers. The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of WHO concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries. Dotted and dashed lines on maps represent approximate border lines for which there may not yet be full agreement.

The mention of specific companies or of certain manufacturers' products does not imply that they are endorsed or recommended by WHO in preference to others of a similar nature that are not mentioned. Errors and omissions excepted, the names of proprietary products are distinguished by initial capital letters.

All reasonable precautions have been taken by WHO to verify the information contained in this publication. However, the published material is being distributed without warranty of any kind, either expressed or implied. The responsibility for the interpretation and use of the material lies with the reader. In no event shall WHO be liable for damages arising from its use.

Design and layout: Blossom; Sara Naicker.

Printed in Switzerland

Table of contents

1 **Foreword**

01 Introduction

2 A framework for nurturing care
4 Why this Framework now?
4 What contribution can this Framework make?
4 The audience

02 A case for nurturing care

5 We know why early childhood development is important
9 We know what threatens early childhood development
10 We know that very large numbers of children are at risk of poor development
12 We know that young children need nurturing care to develop to their full potential
17 We know how to support families and caregivers in providing nurturing care
22 Reaching all caregivers and children to meet their needs

03 The time to act is now

24 Vision
25 Targets
26 Guiding principles

04 Five strategic actions

28 Strategic action 1 Lead and invest
29 Strategic action 2 Focus on families and their communities
30 Strategic action 3 Strengthen services
31 Strategic action 4 Monitor progress
32 Strategic action 5 Use data and innovate

05 Making nurturing care happen

36 Roles and responsibilities
37 The health and nutrition sector
38 The education sector
40 The social- and child-protection sectors
42 Committing to action and milestones
44 Additional resources

Annexes

47 Annex 1. Glossary
48 Annex 2. Proposed indicators

50 **References**

54 **Acknowledgements**

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG



REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Foreword

What is one of the best ways a country can boost shared prosperity, promote inclusive economic growth, expand equitable opportunity, and end extreme poverty? The answer is simple: Invest in early childhood development.

Investing in early childhood development is good for everyone – governments, businesses, communities, parents and caregivers, and most of all, babies and young children. It is also the right thing to do, helping every child realize the right to survive and thrive. And investing in ECD is cost effective: For every $1 spent on early childhood development interventions, the return on investment can be as high as $13. Early childhood development is also key to upholding the right of every child to survive and thrive.

We now understand that the period from pregnancy to age 3 is the most critical, when the brain grows faster than at any other time; 80% of a baby's brain is formed by this age. For healthy brain development in these years, children need a safe, secure and loving environment, with the right nutrition and stimulation from their parents or caregivers. This is a window of opportunity to lay a foundation of health and wellbeing whose benefits last a lifetime – and carry into the next generation.

Meanwhile, the cost of inaction is high. Children who do not have the benefit of nurturing care in their earliest years are more likely to encounter learning difficulties in school, in turn reducing their future earnings and impacting the wellbeing and prosperity of their families and societies. Current estimates are that nearly 250 million children aged under five years in low- and middle-income countries – or more than four in every ten – risk missing critical development milestones due to poverty or stunting.

The new Nurturing Care Framework draws on state-of-the-art evidence on how early childhood development unfolds to set out the most effective policies and services that will help parents and caregivers provide nurturing care for babies. It is designed to serve as a roadmap for action, helping mobilise a coalition of parents and caregivers, national governments, civil society groups, academics, the United Nations, the private sector, educational institutions and service providers to ensure that every baby gets the best start in life.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

The Framework builds on the foundation of universal health coverage, with primary care at its core, as essential for all sustainable growth and development. It articulates the important role that all sectors, including the health sector, must play to support the healthy development of all children to develop optimally and reap maximum benefit from pre-school and formal education.

As we work together to realize the vision of the 2030 Goals to leave no one behind, we must act urgently now to make investing in early childhood development a priority in every country, every community and every family. On behalf of our organizations, we commit to be part of the movement to create an inclusive and sustainable world, starting with investment in the earliest years – to realize the right of each and every child to survive and thrive, to build a more sustainable future for all.

Henrietta H. Fore
Executive Director
UNICEF



Tedros Adhanom Ghebreyesus
Director-General
World Health Organization



Annette Dixon
Vice President, Human Development
World Bank Group



Michelle Bachelet
Chair
Partnership for Maternal, Newborn & Child Health



01 Introduction

If we change the beginning of the story, we change the whole story.[1]

The Global Strategy for Women's, Children's and Adolescents' Health (2016-2030)[2] is at the heart of the Sustainable Development Goals.[3] Its vision is a world in which every woman, child and adolescent realizes their rights to health and well-being – both physical and mental. That is a world in which they have social and economic opportunities, and are able to participate fully in shaping prosperous and sustainable societies. And an essential part of this vision is that young children's human rights guarantee them the conditions they need to survive and thrive.[4]

We know why this is important. The period from pregnancy to age 3 is when children are most susceptible to environmental influences.[5] That period lays the foundation for health, well-being, learning and productivity throughout a person's whole life, and has an impact on the health and well-being of the next generation.[6,7]

We know what threatens early childhood development. The biggest threats are extreme poverty, insecurity, gender inequities, violence, environmental toxins, and poor mental health.[6] All of these things affect caregivers – by which we mean parents, families and other people who look after children. The threats reduce these caregivers' capacity to protect, support and promote young children's development.

We know what children need to develop to their full potential. They need nurturing care – the conditions that promote health, nutrition, security, safety, responsive caregiving and opportunities for early learning. Nurturing care is about children, their families and other caregivers, and the places where they interact.



We know what strengthens families and caregivers' capacity to support young children's development. An enabling environment is needed: policies, programmes and services that give families, parents and caregivers the knowledge and resources to provide nurturing care for young children. Community participation is a key part of this environment, which also needs to consider the diversity of children and families.

A framework for nurturing care

The Nurturing Care Framework provides a roadmap for action. It builds on state-of-the-art evidence about how early childhood development unfolds and how it can be improved by policies and interventions.[8] It outlines:

- why efforts to improve health, well-being and human capital must begin in the earliest years, from pregnancy to age 3;
- the major threats to early childhood development;

Nurturing care refers to conditions created by public policies, programmes and services. These conditions enable communities and caregivers to ensure children's good health and nutrition, and protect them from threats. Nurturing care also means giving young children opportunities for early learning, through interactions that are responsive and emotionally supportive.

- how nurturing care protects young children from the worst effects of adversity and promotes development – physical, emotional, social and cognitive; and

- what caregivers need in order to provide nurturing care for young children.

The Framework describes how a whole-of-government and a whole-of-society approach can promote nurturing care for young children. It outlines guiding principles, strategic actions, and ways of monitoring progress.

Early experiences have a profound impact on children's development. They affect learning, health, behaviour and – ultimately – adult social relationships, well-being and earnings.[9,10] The period from pregnancy to age 3 is when children are most susceptible to environmental influences. Investing in this period is one of the most efficient and effective ways to help eliminate extreme poverty and inequality, boost shared prosperity, and create the human capital needed for economies to diversify and grow.[11] The world is increasingly digital, which means there is an ever-greater premium on the abilities to reason, continually learn, effectively communicate and collaborate with others – all of which originate in early childhood.[12] We know that millions of young children are not reaching their full potential because of poor health, inadequate nutrition, exposure to stress, a lack of love and early stimulation, and limited opportunities for early learning. The good news is that the situation is changing, thanks to current scientific and implementation knowledge, and increasing global and country commitments.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Early childhood development covers children aged 0–8 years (see Annex 1). This Framework focuses on the period from pregnancy to age 3 because it is scientifically proven that this is a very sensitive period for brain development. Yet, in many settings, this period is not usually addressed in programming for early childhood development. In these earliest years, the health sector is uniquely positioned to provide support for nurturing care. From age 3, children move into more formal preschool settings where the education sector plays a pivotal role. The Nurturing Care Framework is mindful that optimal development results from interventions in many stages of life. It focuses on the period from pregnancy to age 3 in order to draw attention to the health sector's extensive reach, and to make use of it.



Why this Framework now?

The Sustainable Development Goals have embraced young children's development, seeing it as key to the transformation that the world seeks to achieve by 2030.[3] Embedded in the SDGs on hunger, health, education and justice are targets on malnutrition, child mortality, early learning and violence – targets that, together with others, outline an agenda for improving early childhood development. The UN Secretary-General's Global Strategy for Women's, Children's and Adolescents' Health 2016–2030 synthesized the new vision under the objectives of Survive, Thrive and Transform.[2] Never before has the opportunity for energizing investment in early childhood development been as good as it is now. Global institutions – including UNICEF, the World Bank Group, UNESCO and the World Health Organization – have prioritized early childhood development in their programmes of work.[13] It is more urgent than ever that we work together in a unified way towards common goals. This Framework will help to guide the actions we must take to achieve results.

What contribution can this Framework make?

This Framework provides strategic directions for supporting the holistic development of children from pregnancy up to age 3. It aims to inspire multiple sectors – including health, nutrition, education, labour, finance, water and sanitation, and social and child protection – to work in new ways to address the needs of the youngest children. It articulates the importance of responsive caregiving and early learning as integral components of good-quality care for young children. And it illustrates how existing programmes can be enhanced to be more comprehensive in addressing young children's needs. The Framework promotes the use of local assets, it presumes adaptation to the local context, and it promotes ownership at community level. It describes the foundations, actions and government leadership that must be in place for all children to reach their potential.

The audience

The Framework addresses a broad range of stakeholders. First are policy-makers and programme managers in ministries of health, nutrition, education, child protection, social protection, and other sectors, at national and local level. It also addresses civil-society groups, development partners, professional associations, academic institutions and funding initiatives, both global and national. In addition, it is intended as a source of inspiration – for parliamentarians, service providers, educational institutions, the private sector and the media – for ways in which they can help ensure all children develop to their full potential. Last, but not least, the Framework speaks – through these stakeholder channels – to caregivers who provide nurturing care for their young children every day.



The Framework calls out to all levels of government and all sectors – especially the health sector, whose services have extensive reach among pregnant women, families and young children. It asks them to:

- address gaps in support for the youngest children, complementing the education sector's work to improve pre-primary education;
- work together with social protection and child protection, to ensure the material and social security of families and communities, and to protect young children from neglect, violence and abuse; and
- help to realize the rights of all children, especially the most vulnerable, and ensure that no child, anywhere, is left behind.

02 A case for nurturing care

We know why early childhood development is important

The science of early childhood development

Over the last three decades, scientific findings from a range of disciplines have converged. They prove that, during pregnancy and the first three years after birth, we lay down critical elements of our health, well-being and productivity, which will last throughout childhood, adolescence and adulthood. A new-born baby's brain contains almost all the neurons it will ever have. By age 2, massive numbers of neuronal connections have been made in response to interactions with the environment, and especially interactions with caregivers.[14]

This rapid brain development is driven by a genetic pattern established over hundreds of thousands of years, but it is steered by the young child's experiences. The foetus first begins to experience the world through touch. Then later in pregnancy, come taste, sound, smell and sight. After birth, it is these senses that enable the developing child to learn from their surroundings and to adapt, physiologically and psychologically.[15] This early adaptive learning is what makes the period from pregnancy to age 3 critical, and it modifies the way genes are expressed.[16] These epigenetic processes occur throughout life, but in this period they create blueprints for future adaptations to the environment.



Because of these early developmental processes, experiences in pregnancy through to age 3 significantly affect health, learning and productivity, as well as social and emotional well-being. These effects last the rest of childhood, and on into adolescence and adulthood. For example, early interventions have been shown to substantially improve adult cardiovascular health.[17] And interpersonal skills – fostered through secure affectionate relationships with caregivers – engender empathy and self-control that inhibit crime and violence.[18] So, abilities created in early childhood not only last an individual's life, they also have an effect on the next generation's human development.

The importance of nurturing care for newborn and premature babies

Nurturing care starts before birth, when mothers and other caregivers can start talking and singing to the foetus.[19] By the end of the second trimester of pregnancy, the growing foetus can hear. And, from birth, the baby can recognize the mother's voice.[19] Early bonding is facilitated by skin-to-skin contact, breastfeeding and the presence of a companion to support the mother. These also build the foundations for optimal nutrition, quality interactions and care. Soon after birth, babies respond to faces, gentle touch and holding, as well as the soothing sound of baby talk. Caregivers soon learn to appreciate how babies respond to them, which is essential for the optimal development of the baby's rapidly growing brain.[14,19]



Scientific findings from neuroscience and developmental psychology show that these caregiver-child interactions are highly beneficial for early childhood development, and have long-lasting effects.[20] Starting from the first months, quality time with the baby – including smiling, touching, talking, storytelling, listening to music, sharing and reading books, and engaging in play – builds neural connections that strengthen the child's brain.[14,21]

Nurturing care is necessary for all babies, but premature and low-birthweight babies (and babies with congenital conditions) need it even more. Unfortunately, they often get less of it. Caregivers need guidance in their interaction with these vulnerable babies, because these babies' behaviour and responses are often less predictable than others'. Without nurturing care, these infants are at risk of difficulties in their development. These difficulties can challenge caregivers who are already stressed by the birth of a so-called small baby.[22] As a result, premature and low-birthweight babies may receive less attention and are sometimes neglected or maltreated, which puts them at greater risk of poor development.[23] Health services and professionals are responsible for creating a supportive environment – before birth, at birth, and in the first months afterwards. They need to give caregivers information and advice, and to support families, particularly ones with babies who are experiencing perinatal problems.

Interventions during the neonatal period – such as kangaroo care – improve neonatal outcomes in small babies and have long-term beneficial effects throughout life.[24] However, to produce the biggest benefits, kangaroo care must be accompanied by specific, enhanced nurturing care at home. Similarly, mothers of premature and low-birthweight children must be given optimal support to feed their babies breast milk exclusively from birth – because breast milk is the best food for almost all new-borns.[25] There would also be greater benefits for mothers and babies if health services gave parents information about how breast milk nurtures both the child and the parent-child relationship.

The economics of early childhood development

We acquire basic learning and social skills at a young age, and our subsequent abilities build on these foundations. Early abilities make it easier to learn new skills, as well as build confidence and the motivation to learn more. Early intervention is effective and also makes later interventions more cost-effective and more likely to succeed.[11,26]

There are many interventions – preventive and promotive – to improve nurturing care between pregnancy and age 3. These achieve more and cost less than attempts to compensate for early deficits with remedial interventions at later ages. There have been long-term studies in countries across the socioeconomic spectrum looking at nutritional and psychosocial programmes implemented from pregnancy to age 3. These studies show that the programmes have significant long-term benefits, including for adult health, well-being, education, earnings, personal relationships and social life.[7,8]

Without intervention, adults who experience adversity in early childhood are estimated to earn close to a third less than their peers' average annual income.[9] This makes it harder for them and their families to improve their lives, which means it is less likely their children will escape poverty. These individual costs add up, constraining wealth creation and national earnings. Estimates show that some countries spend less on health now than they will lose in future from the consequences of poor growth and development in early childhood.[7]

There is now considerable evidence about how children benefit from home visits that provide nutritional counselling, any required supplements, and cognitive stimulation.[27,28] The benefits include improved cognitive development in childhood and increased earnings in adulthood.[10] And when participants grew up and had children of their own, those children developed better than children in the control group – which demonstrates important inter-generational benefits.[10]

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG PROVINCIAL DIVISION,
PIETERMARITZBURG

Care before pregnancy

One thing is essential to protect children's health and development, and that is the care their parents get, to make sure they are in good health before they conceive.[29,30]

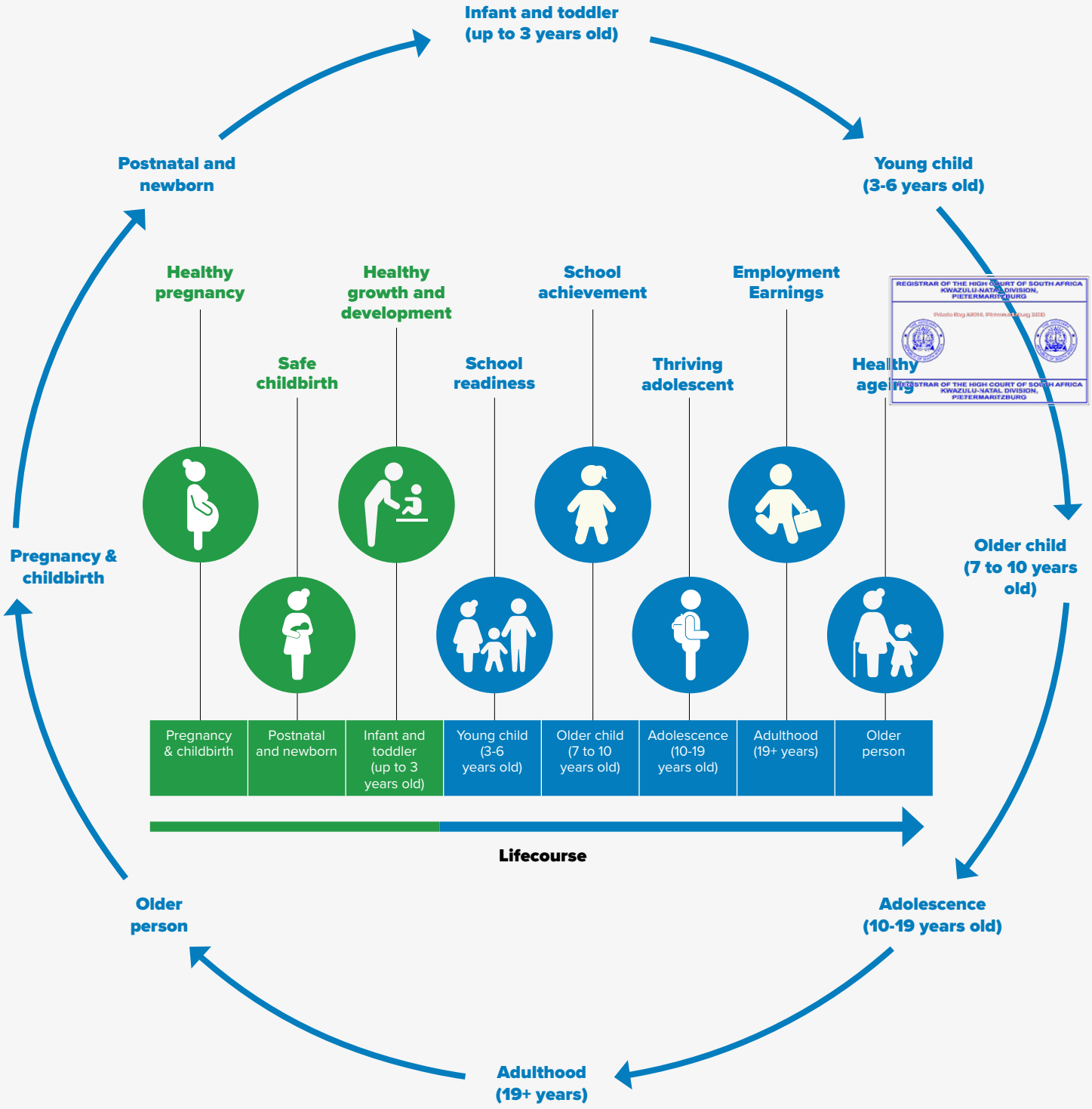
Care before pregnancy improves men's and women's physical and mental health. It also reduces the chances of their children being born prematurely, with low birthweight, birth defects or other birth-related conditions that could hinder optimal development.

Studies have defined the mechanisms by which parents' poor metabolic and mental health before pregnancy can affect their children's development, in infancy and beyond.[31,32] Importantly, studies also show that this transgenerational transmission can be mitigated by interventions to improve the parents' health before conception and to support infants' health in the post-natal period.

Interventions address the behaviour – as well as the individual and environmental risk factors – that contribute to poor outcomes, both in the mother and the child. These risk factors include nutrition (such as micronutrient deficiencies, and being overweight or obese), parents' mental health, substance use (such as alcohol and tobacco), immunization, environmental toxins, genetic conditions, infections (such as HIV and sexually transmitted infections), infertility, child spacing, and violence (whether in the home or outside it).[33]

Adolescence is a critical window of opportunity for promoting and supporting care before pregnancy. The best interventions can delay pregnancy and ensure preparedness for it. These can help mothers, by allowing them to complete school, as well as helping children, by minimizing the probability that they will have low birthweight or stunting.[33]

NURTURING CARE AND ITS CONTRIBUTIONS THROUGH THE LIFE COURSE



We know what threatens early childhood development

Having an optimal environment, from pregnancy to age 3, supports the baby's physical, emotional, social and cognitive development. And an adverse environment harms development – both in the short term and, importantly, the longer term. Relentless adversity – when it is severe, with no support and no opportunity for compensation or recovery – negatively affects young children's psychological and neurological development.[5]

There are threats to children's development during pregnancy and birth, as well as when they are new-borns, infants and toddlers. When adversity in pregnancy leads to low birthweight or preterm birth, this raises the risk of developmental difficulties and chronic diseases in adulthood.[6,17] Other factors that threaten early childhood development include inadequate maternal nutrition, exposure to environmental pollutants and toxic chemicals, HIV infection, poor mental health in caregivers, sub-optimal breastfeeding, malnutrition, illnesses, injuries, limited stimulation, neglect, maltreatment, disabilities, and violence at home and in the community.[6] Discrimination between boys and girls – and the way they are socialized into different gender roles in childhood – can also have negative effects on children's development at this young age.[34]

It is very difficult for families to provide care for their young children when they are in extreme poverty or struggling for survival – amid natural disaster, displacement, war or conflict.[35] This is compounded by factors including young parenthood, disability, family violence, race or ethnicity-based discrimination, substance abuse and maternal depression. Threats to early child development tend to cluster together, often in conjunction with lack of services and social exclusion. So being exposed to one risk usually means being exposed to many.[36] This adversity and lack of support can undermine families' capacity to provide nurturing care for their young children. Protecting, supporting families and caregivers – and promoting nurturing care among them – depends on the resilience of communities and systems. That resilience is the result of coordinated action among many stakeholders – across sectors and across levels of government, both national and local.

IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG



We know that very large numbers of children are at risk of poor development

In low- and middle-income countries, extreme poverty means an estimated 250 million under-5s (43% of all under-5s in these countries) are at risk of suboptimal development and stunted growth.[6] In 76 countries, an estimated 30% – or more – of young children are at risk of poor learning, inadequate education and reduced adult earnings. Unprecedented numbers of children live in fragile states and conditions of violence, war, disaster and displacement.[37,38] While the proportion of children at risk is highest in countries where resources are constrained, children all over the world are exposed to adversities that impair their optimal development. This agenda is thus truly global.



Humanitarian settings and nurturing care

The concentration of adversities amongst children living in conditions of war, disaster and displacement means they have a greater risk of impaired development, which can limit their possibilities throughout their lives. Some 250 million children are living in countries affected by armed conflict, while 160 million are very likely to suffer from famine and crises of food security.[39] Despite this enormous need, there is a severe lack of early childhood development services in humanitarian settings. Approximately 2% of global humanitarian funding is spent on education, but early childhood development accounts for only a tiny fraction of that.[39]

It is important to build caregivers' capacity for nurturing care. Crisis and displacement threaten that capacity, because of the risks that children and families confront. Even before caregivers flee or get displaced, they can face greatly increased stress and economic insecurity, undermining their well-being. The causes include disaster, conflict, violence, war, and the loss of family members. And fleeing itself weakens the families' ability to provide nurturing care for their children – with instability, lack of access to shelter and basic services as well as more exposure to violence. Finally, once families have fled or been displaced, there can be instability, violence, discrimination and exclusion in the host community.[39] That too can restrict access to services for health, education, and social and child protection. Even if families stay in their homes (or return to them), it can take years to restore stability, security and safety. Emergency conditions can last decades, spanning the lives of generations.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

That means there is an urgent need to integrate the Nurturing Care Framework into humanitarian policies, programmes and services – and to step up investment. Four principles are important in these often chaotic and rapidly changing contexts[37,38]:

1. Take a holistic approach to families' and children's well-being. That means paying attention to protecting them, so that they survive. But it also means paying attention to mental health, nutrition and opportunities for learning. Families and children feeling the worst adversity and stress may need more intensive services.

2. Re-establish security and routines as quickly as possible, as they bring comfort. Do this through early-learning programmes, networks of family support, and other services.

3. Rebuild communities' social capital, paying attention to social cohesion and encouraging positive relationships between members of displaced and host communities.

4. Research nurturing care – including measurement, implementation, and evaluation – in a way that is sensitive to cultures and contexts. This is vital for informing practice and policy in humanitarian settings.

We know that young children need nurturing care to develop to their full potential

Nurturing care is the set of conditions that provide for children's health, nutrition, security and safety, responsive caregiving and opportunities for early learning. Nurturing children means keeping them safe, healthy and well nourished, paying attention and responding to their needs and interests, encouraging them to explore their environment and interact with caregivers and others.

Nurturing care is not only important for promoting young children's development. It also protects them from the worst effects of adversity by lowering their stress levels and encouraging emotional and cognitive coping mechanisms. Nurturing care is especially important for children with development difficulties and disabilities, as well as for preventing the maltreatment of children.

Caregivers are the closest people to the young child in the period from pregnancy to age 3 and thus the best providers of nurturing care.

Caregivers are most able to provide their children with nurturing care when they are secure - emotionally, financially and socially. Caregivers must also be able to participate in social networks, be empowered to make decisions in the best interest of the child, and be affirmed in the important role they play in the lives of the children in their care.

The need for nurturing care does not end when the child reaches the age of 3. Nurturing care adapted to children's developmental needs should continue throughout middle childhood and into adolescence, to consolidate gains and address challenges associated with each stage.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

To reach their full potential, children need the five components of nurturing care.

COMPONENTS OF NURTURING CARE



Component 1: Good health

Young children's good health is the result of caregivers[6,7]:

- monitoring children's physical and emotional condition;
- giving affectionate and appropriate responses to children's daily needs;
- protecting young children from household and environmental dangers;
- having hygiene practices which minimize infections;
- using promotive and preventive health services; and
- seeking care and appropriate treatment for children's illnesses.

These actions depend on caregivers' physical and mental well-being. For example, when mothers are anaemic it can cause apathy that makes them less able to engage in responsive caregiving. The situation can be made worse if the child is also apathetic or listless because of being undernourished or frequently ill.[40] Nurturing care therefore means we need to pay attention to the health and well-being of caregivers as well as children.

Component 2: Adequate nutrition

The mother's nutrition during pregnancy affects her health and well-being, as well as the developing child's nutrition and growth.[41] When pregnant women do not have enough micronutrients, they need supplements, including iron. Young children flourish on exclusive breastfeeding – from immediately after birth to the age of 6 months – together with skin-to-skin body contact.[42,24] From the age of 6 months, young children need complementary foods that are frequent and diverse enough, and which contain the micronutrients they need for the rapid growth of their body and brain.[40] This is in addition to breast milk, and needs to be offered in a way that accommodates the social and emotional interaction involved in feeding a young child. And when children's daily diet fails to support healthy growth, they need micronutrient supplements or treatment for malnutrition (including obesity).[40] Food safety and family food security are essential for adequate nutrition.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Nurturing care is what the infant's brain expects and depends upon for healthy development.



Component 3: Responsive caregiving

Responsive caregiving includes observing and responding to children's movements, sounds and gestures and verbal requests. It is the basis for:

- protecting children against injury and the negative effects of adversity;
- recognizing and responding to illness;
- enriched learning; and
- building trust and social relationships.

Responsive caregiving also includes responsive feeding, which is especially important for low-weight or ill infants.[43] Before young children learn to speak, the engagement between them and their caregivers is expressed through cuddling, eye contact, smiles, vocalizations and gestures. These mutually enjoyable interactions create an emotional bond, which helps young children to understand the world around them and to learn about people, relationships and language.[19] These social interactions also stimulate connections in the brain.

Interventions to support responsive caregiving and provide opportunities for early learning

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Infants and very young children are completely dependent on their caregivers to recognize and respond to their needs. These needs are not only for nutrition and safety, but also for social engagement, cognitive stimulation, emotional regulation and soothing. Effective caregivers observe their child's cues, interpret what the child wants and needs, and respond consistently and appropriately.[19] Caregivers provide the foundation for early learning when they make eye contact with their young child, follow the child's gaze and talk to the child, taking turns. When caregivers are sensitive, responsive, predictable and loving, they facilitate the child's early social and emotional development, promote secure emotional attachment between the infant and parent, and help their child to learn.[44]

To promote responsive caregiving and provide opportunities for early learning, interventions train providers to:

- observe how the caregiver comforts, responds and shows love to the child, and guides their exploration;
- use that information to praise the caregiver, build their confidence, get them to talk more to their child, and identify enjoyable activities that the caregiver and child can do together at home – using household objects and homemade toys, as well as talking, singing, and sharing books;
- strengthen the quality of parent-child interactions using a set of developmentally and age-appropriate recommendations on play and communication; and
- increase the amount of time parents spend with their children.

Generic guidance packages can be adapted for a range of sectors, including health, education, nutrition, child care, emergencies, child and social protection, and other family services.[45] They can then give service providers the knowledge and skills to support caregivers' ability to provide responsive care and early learning opportunities. This can be part of service providers' routine contacts as well as purposefully planned ones.

Component 4: Opportunities for early learning

Children do not start to learn only when they begin kindergarten or pre-primary classes at the age of 3 or 4, and are taught colours, shapes and letters. Rather, learning is a built-in mechanism for human beings, ensuring our successful adaptation to changing circumstances. It begins at conception, initially as a biological mechanism called epigenesis.[16,46] In the earliest years, we acquire skills and capacities interpersonally, in relationship with other people, through smiling and eye contact, talking and singing, modelling, imitation and simple games, like “wave bye-bye”. Playing with common household items – like tin cups, empty containers, and cooking pots – can help a child learn about objects’ feel and quality, and what can be done with them. Even a busy caregiver can be given the motivation and confidence to talk with a child during feeding, bathing, and other routine household tasks. These interactions help the child learn about other people. Children need affectionate and secure caregiving from adults in a family environment, with guidance in daily activities and relationships with others. This gives young children their important early experiences of social learning.

Component 5: Security and safety

Young children can not protect themselves and are vulnerable to unanticipated danger, physical pain and emotional stress. Extreme poverty and low income pose serious risks that have to be mitigated, by social assistance that may include cash transfers.[47] Pregnant women and young children are also most vulnerable to environmental risks, including air pollution and exposure to chemicals. Young children, once they are mobile, can touch and swallow objects that can harm them, and an unclean or unsafe environment is full of potential threats. Young children can experience extreme fear when people abandon them – or threaten to abandon or punish them. Across the world, toddlers are the group most often harshly punished, by being beaten painfully with sticks, belts and other objects. These experiences cause uncontrollable fear and stress that can programme the young child’s response systems in ways that can lead to emotional, mental and social maladjustment. Children can withdraw socially, learn to mistrust adults, or act out their fear in aggression towards other children. Ensuring caregivers’ mental health, working with them to prevent maltreatment, is needed. Nurturing care includes making sure that defenceless young children feel safe and secure.



Nurturing care for children with disabilities

Newborns and young children with disabilities and developmental difficulties need nurturing care just as much as any other child – or more. Childhood disabilities impose a huge emotional and economic burden on the affected families and children.[48] Caring for children with disabling conditions is demanding, especially in places with inadequate infrastructure and access to services and support. Unfortunately, families often face many challenges and disadvantages. These include living in settings with inadequate access to good-quality early identification, inadequate referral to early childhood intervention services, and inadequate support for caregivers and family. Families may also lack financial resources, and they may face environmental barriers, discrimination and social exclusion, as well as stigma from society and providers.[49]

There are frameworks for designing and delivering holistic interventions in local contexts. These are provided by the International Classification of Functioning, Disability and Health, and the Community-Based Rehabilitation programme.[50] They see young children with disabilities as rights-holders who are fully included in all mainstream services, and who also receive indicated interventions and support based on their individual needs. They use strategies to address inequalities in health and well-being for children who have disabilities or developmental difficulties – and for their families.[51] These strategies focus on:

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

- strengthening formal services and support, particularly ones based in the community or in primary health care;
- raising awareness in the community, to reduce stigma and improve access to care;
- social support from parents' groups and associations; and
- empowering caregivers and families.[52]

There are also training programmes for families of children with disabilities, building caregivers' skills. These programmes aim to improve caregivers' play interactions, home routines, and capacity to communicate with children.[53] They also try to improve caregivers' confidence in managing challenging behaviours, to strengthen their knowledge of their child's condition, and to improve their problem-solving and coping strategies. Other elements can be added to the programmes, according to families' needs and children's difficulties.



We know how to support families and caregivers in providing nurturing care

For children to develop in the way that's best for their whole lives, caregivers need to have time and resources for providing nurturing care. This is facilitated by enabling environments of policies, services, community and family.

We know how to create these enabling environments. International conventions are concerned with peace, security and human rights. Global policies encourage healthy environments and universal coverage. Countries' social protection systems protect families and individuals when they face economic and social adversity. And workplace policies allow families time off work – or on-site facilities – to feed and care for young children. Health, education and social welfare services provide caregivers with the necessary information and support, including specialized services for children with developmental difficulties. Community groups and faith communities also provide support for caregivers. There are home visits for vulnerable families, giving them support, information and assistance, and linking them with families and children who share their needs. And those who provide all this consider local attitudes, beliefs and norms, in order to build on practices that are positive and to mitigate ones that are harmful for young children's development. At each level, a conducive environment enables families and caregivers to provide nurturing care for young children.

Table 1 shows the services and interventions that address the five components of nurturing care. It also shows a selection of global goals, along with laws and policies. These illustrate how these different factors interact to build enabling environments.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

ENABLING ENVIRONMENTS FOR NURTURING CARE



TABLE 1

Laws, policies and interventions for creating enabling environments

	Laws and policies	Services and interventions
Component 1: Good health	**Universal health coverage** This is when everyone gets the good-quality health services they need without suffering financial hardship. It is especially important that caregivers and families are able to access the full range of these services from health facilities and in their communities. These should include promotive and preventive services, as well as treatment, rehabilitation and palliative care.	• Family planning • Immunization for mothers and children • Prevention and cessation of smoking, alcohol and substance use • Prevention of mother-to-child transmission of HIV • Support for caregivers' mental health • Antenatal and childbirth care • Prevention of preterm births • Essential care for newborns with extra care for small and sick babies • Kangaroo care for low-birthweight babies • Support for timely and appropriate care-seeking for sick children • Integrated management of childhood illness • Early detection of disabling conditions (such as problems with sight and hearing) • Care for children with developmental difficulties and disabilities
Component 2: Adequate Nutrition	**The International Code of Marketing of Breast-milk Substitutes, and the accompanying guidance** The inappropriate marketing of food products is an important factor that negatively affects mothers' choice to breastfeed in the best way. There is a Code and guidance on ending this inappropriate promotion of foods for infants and young children. These are important tools for creating an environment that enables mothers to make the best possible feeding choice, based on impartial information and free of commercial influences. And it helps mothers to be fully supported when they make that choice. **Baby-friendly Hospital Initiative (BFHI)** Maternity services play an important role, supporting mothers in bonding with their children through body contact and optimal breastfeeding practices. The services do this supporting mother to put their baby to the breast immediately after birth, not providing water and not allowing formula samples to be distributed. The BFHI's ten steps describe the essential conditions for protecting, promoting and supporting breastfeeding. And the Baby-friendly Community Initiative extends this support for breastfeeding beyond health facilities.	• Maternal nutrition • Support for early initiation, exclusive breastfeeding and continued breastfeeding after 6 months • Support for appropriate complementary feeding and for transition to a healthy family diet • Micronutrient supplementation for mother and child, as needed • Fortification of staple foods • Growth monitoring and promotion, including intervention and referral when indicated • Deworming • Support for appropriate child feeding during illness • Management of moderate and severe malnutrition as well as being overweight or obese

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

	Laws and policies	Services and interventions
Component 3: Responsive caregiving	**Paid parental leave** Paid parental leave is associated with several health benefits for children. They include supporting the bonding between mother and child, increasing the initiation and duration of breastfeeding, and improving the likelihood of infants' being vaccinated and receiving preventive care. New fathers are more involved with their young children and take on more child-care responsibilities when they take leave from work. **Affordable child-care services** There has been an increase in the number of women in the workforce and therefore, caregivers need affordable, good-quality day care for their children. This is also important for the high numbers of single mothers, and for caregivers or children living with disabilities. **Urban design** This should include green and child-friendly spaces that promote play between caregivers and children, as well as learning.	• Skin-to-skin contact immediately after birth • Kangaroo care for low-birthweight babies • Rooming-in for mothers and young infants, and feeding on demand • Responsive feeding • Interventions that encourage play and communication activities of caregiver with the child • Interventions to promote caregiver sensitivity and responsiveness to children cues • Support for caregivers' mental health • Involving fathers, extended family and other partners • Social support from families, community groups and faith communities
Component 4: Opportunities for early learning	**Universal access to good-quality day care for children, as well as pre-primary and primary education** Developmentally appropriate early education is crucial to children's cognitive and social development, and to their preparation for formal schooling. It is important for children across all demographic groups to have access to tuition-free pre-primary and primary education. This is especially important for children from vulnerable populations, as stress adversely affects children's learning.	• Information, support and counselling about opportunities for early learning, including the use of common household objects and home-made toys • Play, reading and story-telling groups for caregivers and children • Book sharing • Mobile toy and book libraries • Good-quality day care for children, and pre-primary education • Storytelling of elders with children • Using local language in children's daily care
Component 5: Security and safety	**Social protection and social services** Social protection encompasses both insurance and income assistance (such as social grants and pensions) and provides direct, regular and predictable income for poor and vulnerable households. An important and growing part of social welfare in many countries, social assistance provides income security that reduces household poverty, mitigates against shocks, improves access to health and other services, and can increase immunization coverage, improve children's and mothers' health and nutrition, and boost school attendance and achievement. **Minimum wage** When caregivers are not able to earn adequate income, children's basic needs – including health care and education – cannot be met and early childhood development suffers. A minimum wage has the potential to improve the lives of millions of children, whether their caregivers work in the formal or informal economy.	• Birth registration • Provision of safe water and sanitation • Good hygiene practices – at home, at work and in the community • Prevention and reduction of indoor and outdoor air pollution • Clean environments free of hazardous chemicals • Safe family and play spaces in urban and rural areas • Prevention of violence by intimate partners and in families, as well as services for addressing it • Social care services • Cash or in-kind transfers and social insurance • Supporting family care and foster care over institutional care

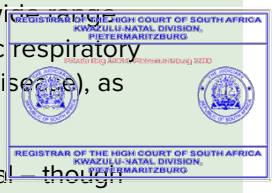
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Environmental health

To protect children's health and support their development, it is essential that they have access to clean water and sanitation, good hygiene practices, clean air and a safe environment. But increasing urbanization, industrialization, and climate change are all taking their toll on the environments in which children grow, play and learn.[54]

For example, one factor that gets in the way of children's development is lack of access to water, sanitation and hygiene (WASH) and poor practice around it. These lead to repeated diarrhoea, intestinal worm infections, malaria and faecal-oral contamination.[55] Most WASH interventions focus on improving sanitation, treating water at the point of use, and improving mothers' hand washing. In many places, young children crawl and play in environments full of microbes, including human and animal faeces. That means we need to improve infants' and young children's environmental hygiene by promoting clean and protective play spaces.[56]

We need to create sustainable environments and reduce children's exposure to modifiable environmental hazards. Those are critical parts of the nurturing care agenda, and are essential for enabling children to thrive. There is strong evidence that exposure to air pollution – indoor and outdoor – can lead to a wide range of diseases in children and adults.[57] These include acute and chronic respiratory conditions (such as pneumonia and chronic obstructive pulmonary disease), as well as lung cancer, ischemic heart disease, and stroke.[57]



Even low-level exposure to environmental toxins can result in substantial – though silent – disability. Toxins such as mercury and lead are harmful to everyone, but young children are the most vulnerable. Their nervous systems, which are still developing, absorb 4–5 times more lead than adults', and mercury can affect the development of unborn babies' brains.[54,57] These toxins and pollutants damage the brain, affecting cognition, school performance, and social and emotional behaviour, and can cause intellectual disability. Creating environments that are healthy, green and free of pollutants will ensure that young children and their families can flourish.[54]

HIV and early childhood development

Women of child-bearing age are living with HIV in increasing numbers. That is because of expanded access to life-saving treatment, and – unfortunately – also because levels of infection among young women have persisted. In some countries with high HIV burdens in southern Africa, as many as a third of children are born to women living with HIV.[58] Even with life-saving treatment, families affected by HIV face challenges because of the stigma, and because of the financial strain caused by out-of-pocket costs for treatment.[59] Women living with HIV are more likely to experience depression during pregnancy and after their child is born, even if their baby is not infected with HIV.[60]

In addition to these social and personal risks, there are concerns about the baby during pregnancy. There may be adverse effects from exposure to the human immunodeficiency virus (HIV) and anti-retroviral drugs. Uninfected but HIV-exposed children are more likely to be stillborn, or have low birth weight or be born premature. Those who survive are more likely to have developmental delays and difficulties.[61] Women living with HIV need additional support, and so do their young children.

Programmes to prevent mother-to-child transmission of HIV are being successfully expanded.[62] This gives us a unique opportunity to integrate support for nurturing care. Several programmes in southern Africa are testing the benefits. For young children, these could include better responsive caregiving, through play and communication. There can also be benefits for women, including better mental health, improved adherence to – and retention in – treatment, as well as greater use of health services, including family planning.

Caregivers' mental health

Good mental health and strong motivation are important for caregivers. They enable caregivers to recognize the child's needs and respond appropriately, empathize with a young child's experiences, and to manage their own emotions and their reactions to their baby's dependence. Mental health problems among women who are pregnant or have recently given birth are among the most common causes of pregnancy-related morbidity. In resource-constrained low- and middle-income countries, the prevalence of common perinatal mental disorders – including depressive, anxiety and adjustment disorders – is much higher than in high-income settings.[63,64] That is because of risk factors such as socioeconomic stresses, unplanned pregnancy, being younger or unmarried, lacking the empathy and support of an intimate partner, being subject to violence, and having hostile in-laws.[37] Protective factors include having more education and secure income-generating work, and having a kind, trustworthy partner. Depression also affects fathers.[65] Mental health problems affect emotions, concentration, judgement and thinking. Depressed women are likely to have depressed mood, irritability and pessimism, as well as difficulty expressing warmth, affection, and pleasure.[66] They are also likely to be preoccupied with worries and anxiety, including worries about infant care.[67] These influence their social interactions, including their interactions with the baby. Depression among mothers has been directly linked to[66,68]:

- higher rates of child diarrhoeal and respiratory diseases, stunting and hospital admissions;
- lower completion of recommended immunisation schedules; and
- social and emotional difficulties among young children.



There are effective interventions for reducing depression and promoting maternal mental health. They have been tested in low- and middle-income countries where there are very few mental health specialists. And they are generally implemented by trained community health workers under professional supervision.[69,70] Interventions designed to improve mothers' mental health have a positive impact on infants' health and development. And interventions to promote infants' health and development have a positive effect on mothers' mood.[71] The effects on infant health and development appear to be stronger when interventions for mothers and babies are provided together.[70]

Preventing children from being maltreated

Maltreatment of children includes physical, sexual and emotional abuse, as well as neglect. Maltreatment is most often – but not only – at the hands of parents and caregivers. Globally, physical abuse affects an estimated 23% of children, emotional abuse 36% and neglect 16%, while sexual abuse affects an estimated 18% of girls and 8% of boys.[72]

Maltreatment – and other adverse childhood experiences – can have strong, long-lasting effects on brain architecture, psychological functioning, mental health, behaviours around health risks (such as smoking, alcohol and drug abuse, unsafe sex, and violence), non-communicable diseases (such as cardiovascular disease and cancers) and communicable diseases (such as HIV and STDs).[73] Violence against women – including violence by intimate partners – is closely linked to maternal depression and to the maltreatment of children.[74]

Preventing children from being maltreated is critical to protecting their brains, improving their development in early childhood, and laying the foundations for lifelong health and well-being. There are evidence-based strategies, addressing the wider context in which people maltreat children. They include paying attention to responsive caregiving and non-violent discipline, in order to create positive interactions between caregivers and children.[75] Despite this, evidence-based approaches to addressing child maltreatment are still poorly developed in most low- and middle-income countries.[76] But there have been greater efforts to remedy this, since the 2030 Agenda for Sustainable Development included Target 16.2: "End all forms of violence against children."

Reaching all caregivers and children to meet their needs

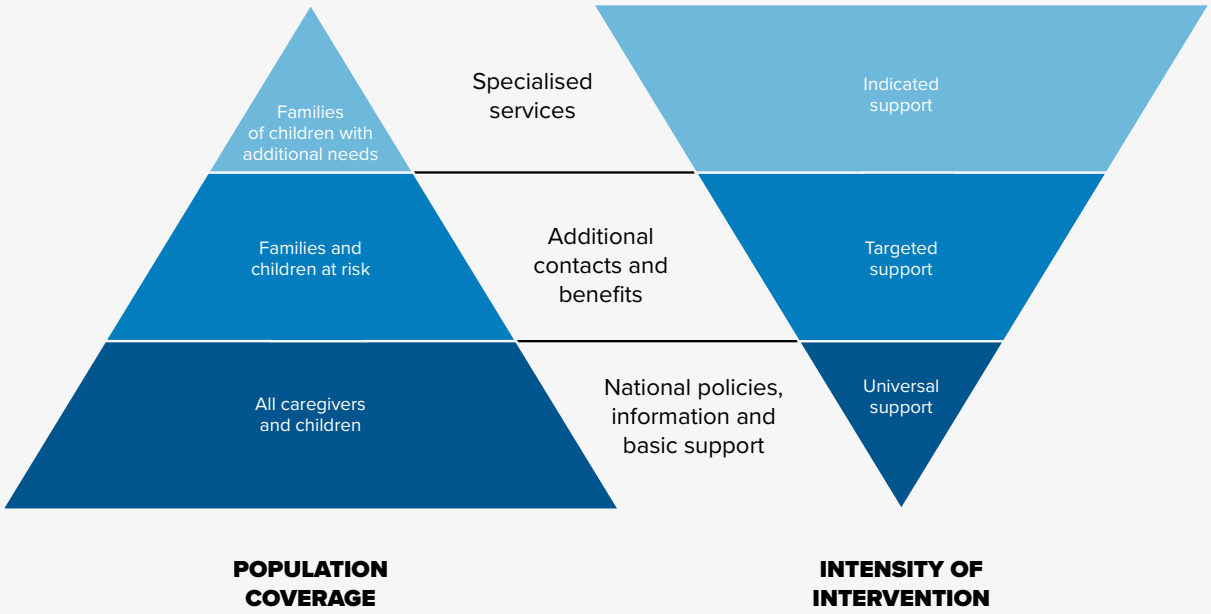
All families need some support, but some families need all the support they can get.

To provide nurturing care for young children, not all children and families need the same intensity and range of interventions and services. All families need information, affirmation and encouragement. At times, some families need more support, through referrals, resources and tailored services. This is particularly true for low income families who bear a disproportionate burden of the adversities. A small proportion of families need longer-term intensive support – as when caregivers or children experience difficulties that endure over time. In this Framework, we recognize three levels of support: universal, targeted and indicated. The services in all these levels have to work together, forming a seamless continuum of care. That is because families might move between levels, depending on the challenges they face at different points in their lives.

Universal support

This is support for nurturing care for everyone, through health promotion and primary prevention. It tries to make problems less likely. And when there are problems, universal support identifies them early and refers caregivers and children to the right service. It focuses on providing information and resources to support care and gives guidance that is appropriate for the child's age and the family's circumstances. It also gives guidance on transitions, such as when mothers return to work or when day care is needed. Universal support is designed to benefit all families, caregivers and children in a country or district. The core principle is that everybody is expected to benefit regardless of their risk or financial means.

MEETING FAMILIES' AND CHILDREN'S NEEDS



Examples of universal support include:

- laws and policies such as birth registration, paid parental leave after childbirth, and baby-friendly hospital services;
- public-service information about children's development, disseminated by mass media and by services for health, education, social development, agricultural extension and any others that reach large numbers of families;
- using caregivers' and young children's routine contacts with services to give basic advice and guidance on nurturing care.

The last example includes routine contacts with health services (such as antenatal care, postnatal care, immunizations and home visits), education (including adult education), social services (including places that pay out cash transfers and pensions) and the faith sector, as well as community groups and services. Antenatal and postnatal clinics show videos that tell pregnant women about their babies' abilities, and how to promote their child's development. Other services create materials to promote respect for indigenous communities' values, languages and traditions, and to encourage fathers and other male caregivers to participate in child care.

Targeted support

This focuses on individuals or communities who are at risk of later problems because of factors such as poverty, undernutrition, adolescent pregnancy, HIV, violence, displacement and humanitarian emergencies. It aims to reduce the damaging effects of stress and deprivation, to strengthen individuals' capacity to cope, and to provide extra help. Families and caregivers who are at risk still need access to universal support. But they also need extra contact with trained providers (professional or non-professional), whether that is in facilities, in their community, or at home. They may also need extra resources, such as financial benefits. And they need continuous assessment to spot when they are ready to stop getting targeted support – or to move them on to even more specialized, indicated support.

Examples of targeted support include:

- programmes of home visits that target very young mothers and their children, with the visitors being either professionals or community workers trained to proficiency and with adequate incentives and support;
- participatory groups, based in the community, ensuring the inclusion of caregivers who are marginalized and least likely to attend;
- children's day care that is affordable or free for low-income families, of good quality, and provided at community day-care centres or through other forms of organized care for young children.



Indicated support

This is for individual families or children who have additional needs. They include young children without caregivers, or with depressed mothers or violent homes, as well as children whose birthweight was very low, or who have disabilities, developmental difficulties or severe malnutrition. These children and families need extra services and assistance based on their identified needs.

Examples of indicated support include:

- treatment and help with perinatal depression – either through mothers' groups or home visits, provided by trained professionals or non-professional, community-based workers – all for women who have been positively screened for maternal depression;
- good-quality care for preterm infants, from birth, directly engaging with caregivers and interacting with them, and with adequate follow-up and monitoring in the first months or years;
- interventions, including family-centred rehabilitation and community support, for children who have developmental delays and disabilities.

03 The time to act is now

The vision: a world in which every child is able to develop their full potential and no child is left behind.

Vision

Giving every child a good start in life is essential. It ensures that everyone can fulfil their potential, equally and with dignity. The Sustainable Development Goals (SDGs) are an opportunity to connect early childhood development with efforts to achieve equity, prosperity and sustainable growth. They offer a more peaceful shared future that protects children's environment, starting today. The Framework's vision is "a world in which every child is able to develop their full potential and no child is left behind".

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA

NURTURING CARE AT THE CENTRE OF THE GLOBAL STRATEGY AND THE SDGs



Targets

The Sustainable Development Goals (SDGs) are the world's plan for making progress on its biggest problems.[3] Naturally, many of those affect young children, or begin in early childhood. So it follows that the SDGs' goals and targets have a direct influence on the enabling environments and the services that young children need in order to develop. And at the same time, early childhood development is essential for attaining many of the ambitious SDGs. That is why the Nurturing Care Framework is an essential part of the SDGs.

The Global Strategy for Women's, Children's and Adolescents' Health has distilled 17 SDG targets, around its three themes: Survive, Thrive and Transform.[2] This subset of targets is associated with the actions necessary to put the Nurturing Care Framework into practice.

The Nurturing Care Framework highlights five SDG targets as examples to guide national programming and investment in support of nurturing care.

Goal 1, target 1.2

By 2030, reduce at least by half the proportion of men, women and children of all ages living in poverty in all its dimensions according to national definitions.

Goal 2, target 2.2

By 2030, end hunger and ensure access by all people, in particular the poor and people in vulnerable situations, including infants, to safe, nutritious and sufficient food all year round.

Goal 3, target 3.2

By 2030, end preventable deaths of new-borns and children under 5 years of age, with all countries aiming to reduce neonatal mortality to at least as low as 12 per 1 000 live births and under-5 mortality to at least as low as 25 per 1 000 live births.

Goal 4, target 4.2

By 2030, ensure that all girls and boys have access to quality early childhood development, care and pre-primary education so that they are ready for primary education.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Goal 16, target 16.2

By 2030, end abuse, exploitation, trafficking and all forms of violence against and torture of children.

These targets need to be top priorities. Governments – working with all concerned stakeholders – must create action plans that address them in an integrated way. That will help to build a solid foundation for every child to receive nurturing care.



GUIDING PRINCIPLES

THE CHILD'S RIGHT TO SURVIVE AND THRIVE

Government and society are obliged to guarantee and protect children's rights. They are also obliged to ensure families have the protection and assistance they need to fully assume their responsibilities in the community. The Nurturing Care Framework stems from the universal acceptance of children's rights. It is based on the obligations states assumed when they ratified the Convention on the Rights of the Child and Special Comment 7 on Early Childhood Development.[4,34]

LEAVE NO CHILD BEHIND

Equity, including gender equity, is at the core of realizing human rights. Governments must ensure interventions cover population groups equitably, particularly groups that are excluded, marginalized or vulnerable in other ways. Those at high risk include the children of minorities, refugees, prisoners, drug users and sex workers. It is fundamental that governments make sure children with disabilities are not left behind, nor young children in humanitarian settings. Universal health coverage is also central to ensuring that all children reach their developmental potential.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

FAMILY-CENTRED CARE

Families are at the centre of nurturing care for young children. In the period from pregnancy to age 3, intimate family members are the people most consistently present in children's lives. As such, they are the primary providers of nurturing care. To provide it, families – in all their diversity and all their forms, biological and social – need information, resources and services. Mothers, fathers, grandparents and other primary caregivers all need to be included in programmes that are designed to educate and support families in providing nurturing care.

WHOLE-OF-GOVERNMENT ACTION

Nurturing care requires a whole-of-government approach in which policies across all sectors contribute systematically to improving nurturing care for young children. Intersectoral government structures – with political and financial support – can facilitate coordination, identify common goals, monitor joint actions, and build effective collaboration.

A WHOLE-OF-SOCIETY APPROACH

The holistic nature and shared importance of early childhood development calls for a comprehensive approach involving all actors. That includes governments, civil society, academic institutions, the private sector, families, and everyone involved in providing care for young children. The whole-of-society approach fully includes and appreciates ethnic, cultural and human diversity. Moving from policy to action demands a concerted effort. It demands the engagement of all sectors of society, at the local, national, regional and global levels. Joint ownership and shared responsibility will ensure that well designed and cost-effective interventions have the desired reach and impact.

04 Five strategic actions

If you are doing nothing, do something.
If you are doing a little, do more.
If you are doing a lot, do better.[77]

There is a set of best practices consistently found in programmes that have been effective in improving early childhood development, whether in high-, middle- or low-income countries. Effective national programmes need strong political commitment, sustained by governments and driven by a determination to reduce inequities, poverty and social injustice.

To empower families to provide nurturing care, they need a combination of policies, services, and public awareness. Evidence-informed investments must create enabling environments, strong monitoring systems and accountability mechanisms.

In line with these best practices, this Framework proposes five strategic actions:

For each strategic action, countries' governments need to lead and coordinate the activities.

FIVE STRATEGIC ACTIONS

1. Lead and invest

2. Focus on families and their communities

3. Strengthen services

4. Monitor progress

5. Use data and innovate

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG



Strategic action 1
Lead and invest

Families and other caregivers are the foundation for early childhood development, so they need support. That requires sustained financial investment, as well as supportive laws and policies, services and community resources. It relies on a joined-up government-led strategy, closely coordinated among different sectors and levels of government. And it involves the collaboration of relevant institutions and stakeholders – local, national and international.

Different sectors need to coordinate – and, where appropriate, integrate – their policies, services and information. To oversee these efforts, coordinating mechanisms are essential at national, provincial, municipal and community level. Planning at each level should be informed by an assessment of the local situation. This should provide, amongst others, information on families and children at risk, local beliefs and practices that can be harnessed, the opportunities for strengthening services, and the community resources that can be mobilized.

To create the enabling environments for nurturing care, funding is needed for systems, the workforce and infrastructure. And it has to be sustainable, equitably distributed, efficient and flexible. It can come from a mixture of public and private sources – including contributions from households, in many settings. Combining this mixture with varied service-delivery models requires governance for allocating resources, along with coordination and accountability.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Proposed actions at country level

1. Convene a high-level multi-sector coordination mechanism. This should have a budget and official authority to co-ordinate across relevant sectors and stakeholders.
2. Assess the current situation and identify the opportunities within and across different sectors for strengthening support for nurturing care.
3. Develop a common vision, set goals and targets, and prepare a coordinated plan of action. Support this with a national integrated policy on early childhood development.
4. Assign clear roles and responsibilities for implementing the national plan, at all levels of government. And give sub-national and local authorities the means to act.
5. Prepare a long-term financing strategy. This should build on any available funding streams that support the components of nurturing care.

Strategic action 2

Focus on families and their communities

The goal is to make a lasting impact on early childhood development, through political commitment, policies and investment. For that to happen, caregivers must be informed, be able to act, and have legal recourse when their entitlements are not met. Therefore, improving nurturing care depends on empowering families and communities and must be done with respect for the local context, while building on the positive social norms and practices that already prevail in the community. Problems such as stunting, which are often invisible, need to be made visible, so that families and communities can take action.

Social accountability increases communities' awareness of what they are entitled to, as well as boosting demand for services. Effective mechanisms for empowering communities and families include participatory budgeting and monitoring, citizen report cards, and ombud offices supported by legislation. These help communities and families to demand more, better-quality services, and to contribute to implementing and improving them. There are also interventions to empower caregivers and communities to strengthen home-care practices. These include participatory learning and action, practised in groups for women, fathers or other parts of the community. Families can also be empowered by home visits from nurses, midwives, social workers, or community health workers – and by counselling, at a health facility or through community services.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

It is important to have a strong communication strategy to create widespread understanding and awareness of the importance of enabling young children to reach their full potential. It will also help people to understand how children learn and how they benefit from caregiver engagement – as well as how this leads to them to become adults who have better health, earn more and are socially engaged. It can motivate individuals and communities to lead the change, be accountable, and hold those in power to account for achieving results.

Proposed actions at country level

1. Draw on families' positive voices, beliefs, practices, and needs. Incorporate them in local and national plans.
2. Support communities in identifying local champions who can take on nurturing care and become the drivers of change in their communities.
3. Plan and implement national communication strategies. These should inform and empower communities and families to provide nurturing care.
4. Strengthen and support community platforms for nurturing care. These include faith groups, traditional leaders, community health workers, women's groups, and parent organisations.
5. Involve community groups and leaders in planning, budgeting, implementing and monitoring activities and create accountability for the results.

Strategic action 3
Strengthen services

Families and caregivers need integrated systems of support for nurturing care. The health system has an extensive reach among caregivers and young children. It must step up its role, strengthening services so they address the components of nurturing care in an integrated way. The health sector can provide a platform for coordination with other sectors. Its contributions can be a stepping-stone towards the education sector's work in providing pre-primary education. It can also complement social and child protection's efforts to assist vulnerable families. There are many other opportunities to strengthen existing services, such as within agriculture, WASH, and humanitarian efforts. These can be expanded and enhanced to address young children's well-being and development.

Optimizing the roles of existing staff and paying attention to retaining a qualified workforce is essential. Countries may also decide to take on, and build up, new staff to complement the existing workforce. To strengthen the workforce capacity for the long term, guidance on nurturing care must be integrated into the curriculum for professionals, frontline workers and volunteers, both while they are in training and once they are in service.

System strengthening also includes the updating of information systems, with common indicators to track the quality and coverage of interventions promoting nurturing care. For consistency of materials and training curricula, sectors need a shared understanding of what nurturing care means and what it looks like. This will help to build a qualified workforce, acquire competencies, and improve service quality. If community health workers are involved, they need adequate remuneration, supportive supervision and links to formal health care and specialized services.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Adaptation of generic approaches to national and local contexts is critical. In addition, starting small and building the system one step a time will enable the identification of the most feasible, acceptable and effective implementation approaches at scale.

Proposed actions at country level

1. Identify opportunities for strengthening existing services in a range of sectors such as health, education, child and social protection, agriculture and the environment.
2. Update national standards and service packages to reflect the five components of nurturing care.
3. Update competency profiles and strengthen the workforce's capacity. Use both pre-service and in-service and bring professionals from different sectors together.
4. Provide mentors and supervision for trained staff, build national centres of excellence, and ensure services are of good quality.
5. Strengthen capacities for monitoring individual children's development. And, for children and families that need it, facilitate timely referrals to specialized care.

Strategic action 4
Monitor progress

Measurement and accountability are essential for effectively implementing policies, programmes and services for early childhood development. Effective monitoring systems need to follow a logic model. This should underpin the vision and the national plan, and it should cover inputs, outputs and outcomes.

Many indicators that are relevant for nurturing care – such as those for health and nutrition – are already routine parts of health information systems. But for other components of nurturing care – particularly responsive caregiving, early learning opportunities, and safety and security – new indicators need to be embedded in national monitoring plans and systems.

Countries will need to choose relevant indicators to complement the generic ones recommended by the SDGs and the Global Strategy for Women's, Children's and Adolescents' Health (see Annex 2). Joint monitoring across sectors will provide a clear picture of whether progress is being made as intended, and will generate information to enable cross-sectoral decision-making.

It is important to plan the systems for collecting data and the way these data will be used and reported. Disaggregated data – including sex, age, income, wealth, race or ethnicity, migratory status, disability and geographic location – are needed to provide information on inequities and to enable at-risk populations to be targeted.

Routine data collection has a cost in terms of staff time and other resources. For that reason, each data-collection point should be related to a specific decision-making mechanism, and sufficient funds should be allocated for follow-up action.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION
PIETERMARITZBURG

Score cards and dashboards are helpful ways to present data to policy-makers, programme staff and service providers, as well as to the media, civil society and parliamentarians. Presenting data to families and communities is also a critical part of any accountability mechanism, improving transparency and joint action. Research is needed to develop better instruments and measurement methods to use in population-based monitoring of children's development.

Proposed actions at country level

1. Agree on the indicators for tracking progress in early childhood development, in line with the national plan and the relevant SDG targets.
2. Update routine information systems to include the indicators, allowing disaggregation. Build capacity, so frontline workers can collect quality data.
3. Make data available to all stakeholders – including families and communities – in a user-friendly format.
4. Support periodic population-based assessment of children's developmental status and home-care practices, as well as risk factors and protective factors for nurturing care.
5. Use data to make decisions about programming for nurturing care and to ensure accountability. That should include an annual review of progress, covering all sectors.

Strategic action 5
Use data and innovate

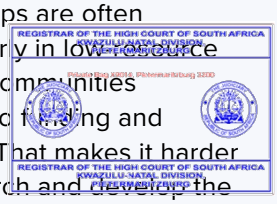
Achieving holistic well-being for young children requires more scientific evidence. For example, research in local contexts is needed on:

- the best approaches for assessing children's and families' holistic needs;
- effective components of multi-faceted interventions for diverse communities; and
- effective approaches for scale-up and implementation across contexts.

Interventions are often designed in controlled studies, and countries need to tailor them to their local contexts. Implementation research looks at how to do that. It can also inform the models used for scaling up interventions. Here are some examples of implementation-research questions:

- How to create demand for good-quality nurturing care interventions?
- What is the extra cost of delivering new interventions using existing systems?
- What indicators can be added to existing health information systems to inform progress?

Building the local evidence is necessary for making nurturing care part of all systems, and will require partnerships between implementers, policy-makers, and researchers. Currently, these partnerships are often underdeveloped, particularly in low-resource settings, where scientific communities may lack experience due to funding and infrastructure constraints. That makes it harder for them to conduct research and develop the local evidence base.



To address the knowledge gaps, it is essential that countries take the lead in research, fostering national leadership and setting priorities. Important approaches include enabling peer review and joint learning and establishing multidisciplinary teams. These help to share good practices and address implementation problems. National learning and research platforms can be very helpful in this regard.

Proposed actions at country level

1. Foster collaboration among programme implementers, researchers and scientists, in order to develop a local evidence base for nurturing care.
2. Provide leadership in identifying local research priorities, and make resources available for implementation research.
3. Use local and global evidence to create innovations that can be scaled up.
4. Support a national platform for learning and research. And form communities of practice to enable peer learning.
5. Document and publish research findings and lessons learned. Make them available globally in the public domain.

THE LOGIC MODEL

IMPACT
Every child is able to develop to their full potential and no child is left behind
All children are developmentally on track

Outcomes (Components of nurturing care)

Good health	Adequate nutrition	Responsive caregiving	Opportunities for early learning	Security and safety
• Caregivers are mentally and physically healthy • Antenatal, childbirth and postnatal care are of good quality • Mothers and children are immunized • Care-seeking for childhood illness is timely • Childhood illness is appropriately managed	• Caregivers' nutritional status is adequate • Breastfeeding is exclusive and initiated early • Complementary feeding and child nutrition are appropriate • Micronutrient supplementation is given as needed • Childhood malnutrition is managed	• The child has secure emotional relations with caregivers • Caregivers are sensitive and responsive to the child's cues • Caregiver-child interactions are enjoyable and stimulating • Communication is bi-directional	• Communication is language-rich • There are opportunities for age-appropriate play and early learning at home and in the community	• Families and children live in clean and safe environments • Families and children practise [illegible] • Children experience supportive discipline • Children do not experience neglect, violence [illegible] of conflict

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION PIETERMARITZBURG

Outputs (Strategic actions)

1. Lead and invest	2. Focus on families	3. Strengthen services	4. Monitor progress	5. Use data and innovate
• High-level multi-sectoral coordination mechanism established • Current situation assessed • Common vision, goals, targets and action plan developed • Roles and responsibilities at national, sub-national and local levels assigned • Sustainable financing strategy put in place	• Families' voices, beliefs, and needs incorporated in plans • Local champions to drive change identified • National communication strategies implemented • Community promoters of nurturing care strengthened • Community groups and leaders involved in planning, budgeting, implementing and monitoring activities	• Opportunities for strengthening existing services identified • National standards and service packages updated • The workforce's competency profiles updated and capacity strengthened • Trained staff mentored and supervised • Children's development monitored and, when needed, timely referrals made.	• Indicators for tracking early childhood development agreed • Routine information systems updated to generate relevant data • Data made accessible in user-friendly formats • Periodic, population-based assessment of early childhood development conducted • Data used for decision-making and accountability	• Multi-stakeholder collaboration on research for nurturing care established • Priorities identified and resources made available for researching implementation • Innovations, based on new evidence, implemented • National learning and research platform put in place • Research findings, and lessons learnt, published

Inputs

Provide leadership, coordinate and invest	Ensure families and communities are empowered to act and able to realize quality nurturing care	Strengthen existing systems and services, ensuring joint dynamic action between sectors and stakeholders	Monitor progress, using relevant indicators, keep people informed and account for results	Strengthen local evidence, and innovate to scale up interventions

Enabling environments for nurturing care – created by policies, programmes and services

Financing nurturing care

To create the enabling environments for nurturing care, funding is needed for systems, the workforce and infrastructure. And that funding has to be sustainable, equitably distributed, efficient and flexible. It can come from a mixture of public and private sources – including contributions from households, in many settings.[78] Combining this mixture with varied service-delivery models requires governance for allocating resources, along with coordination and accountability.

Investment is still inadequate for the range of inputs needed for nurturing care. More financing from all sources will be needed to improve nurturing care services' coverage, quality and equity. Increases in public funding are essential. Governments must increase both the allocation and efficiency of spending from their domestic resources.[79] They should do this by:

- giving priority to crucial investments for the period from pregnancy to age 3;
- having policy dialogues about the resources for health, nutrition, education, social protection and child protection; and
- strengthening public financial management in these areas.



Donors need to harmonize their financing to support the implementation of government-led programmes for nurturing care. International donors need to step up to close the financing gap for low-income countries and those affected by conflict, disasters and humanitarian crises. And the private sector can play a critical role in two ways: its corporate social responsibility (CSR) initiatives can contribute to budgets, and private-sector organizations can implement nurturing care policies and services internally.

In low-income settings, it is common to have out-of-pocket spending for children's day care and early childhood programmes. That leads to high household spending, raising concerns about equity. As well as fees, households may be asked to contribute cash to help cover salaries, and food and manual labour to help maintain infrastructure. In some countries, subsidies and a sliding scale of fees can help to reduce the burden on the neediest families. And programmes of conditional cash transfers can increase household income and give people an incentive to use nurturing care services.

We are all working towards a future in which governments prioritize and adequately fund good-quality programmes, delivered at scale and reaching all children from pregnancy to age 3.[80] Meanwhile, there are a number of opportunities to address gaps in financing. These include:

- bi-lateral and multi-lateral funds through international development aid;
- new investors include the Power of Nutrition, and the Global Financing Facility Trust Fund in support of Every Woman Every Child; and
- foundations that seek to support the provision of nurturing care for young children in many of the world's most disadvantaged settings.

Opportunities for supporting nurturing care

The evidence shows that providers who work with families can be trained to effectively promote and support early childhood development through services they already deliver, as well as by building caregiving skills. These providers include community health workers, social workers and children's day-care workers, as well as primary health-care providers, paediatricians and others working with children who have developmental disabilities. That means support for nurturing care can be fully integrated into existing services. It just requires strengthening the existing skills of people who work with families that have young children. The opportunities include:

- child health and nutrition – pre-conception care, antenatal care, postnatal care, immunization, monitoring growth, sick child care, nutrition counselling, management of acute malnutrition and rehabilitation, and services for children with developmental difficulties or disabilities;
- education – secondary education, adult education, children's day-care services and centres, pre-primary education, and services for children with developmental difficulties or disabilities;
- social protection – income-support programmes, health insurance schemes, work-based child care programmes, and care for children outside the family; and
- child protection – services for children at risk of neglect and maltreatment, and children in institutional care.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Monitoring individual children as they grow

Developmental monitoring (not to be confused with monitoring progress, the subject of strategic action 4) aims to keep track of, and support, each child's development. It differs from screening, which has a predetermined timeframe, and which aims to detect any aberrations. Developmental monitoring enables the child's functioning to be interpreted by looking at factors such as expressive communication, receptive communication, gross motor and fine motor skills, relating, play and self-help.[81]

It supports the way the family provides stimulating, nurturing care in the child's daily life. It looks for biopsychosocial risk factors that may be present, and assesses how the family is dealing with these risk factors. And it educates providers about the rights of children with developmental difficulties, as well as how to support families using interventions, including community-based resources.[81]

Approaches for monitoring children's individual development are recommended as part of the Nurturing Care Framework. They are characterized by informed watching, enjoying and supporting the child's development, with the family. And they also include partnering with caregivers to enhance strengths, address risk factors, and provide additional individualized support and services when needed.[82]

05 Making nurturing care happen

To facilitate a seamless continuum of care across sectors: plan together, implement by sector, monitor and improve together.

Roles and responsibilities

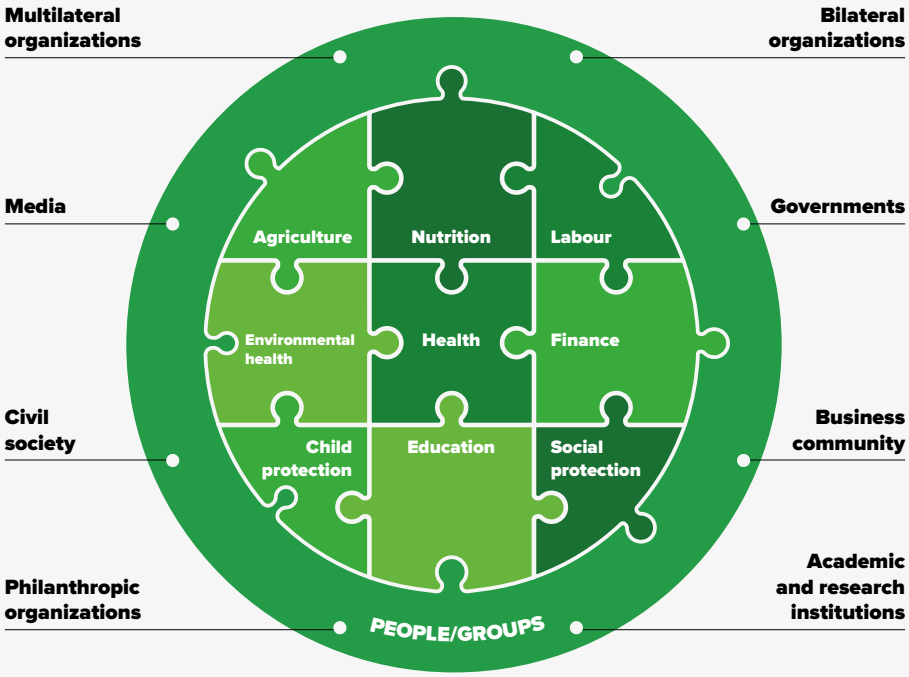
Early childhood development is key to human development, and human development is in the interests of everyone in society. Since it has such broad effects, it makes sense that no sector can be solely responsible for it. The health sector has many points of contact with pregnant women, families and people who care for young children. But it needs to be supported by actions in other sectors – including nutrition, education, social protection, child welfare, agriculture, labour, finance, water and sanitation – under a whole-of-government approach.

It is also essential to involve all relevant stakeholders, including caregivers and families, communities and municipalities, service providers and sector managers, political leaders and civil society, and donors and the private sector.

Children everywhere in the world are entitled to urgent results. To achieve those results, stakeholders must plan together, implement by sector and by level of government, and monitor and be accountable together. An effective coordinating function is essential, though countries will have different mechanisms to make that happen. The sectors most closely in contact with families and children are: health and nutrition, education, and social and child protection. It describes their role in accelerating action on nurturing care.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

EVERY SECTOR AND ALL STAKEHOLDERS COMMITTING TO ACTION



The health and nutrition sector

The health and nutrition sector has not previously been seen as an important player in early childhood development. Yet the services that health workers offer – for mothers during pregnancy and for children up to the age of 3 – are perfectly timed to address early childhood development. For antenatal care, contact with the health service can ensure the mother's well-being, make sure there are enough nutrients in utero to support the baby's brain development, and prevent unsafe childbirth, with its birth injuries and risks to the mother's health. Promoting and supporting breastfeeding at birth enables the mother and child to bond. And continuing with exclusive breastfeeding enhances the child's cognitive and emotional development. When children come for immunization, the contact with caregivers provides an opportunity to inform them about the importance of affectionate care and stimulation. Services for at-risk children – such as rehabilitation programmes for infants who are acutely malnourished or who have low birthweight – are also important opportunities to provide counselling on responsive caregiving and early learning. Health-care workers are also familiar with families' and communities' culture, values, and traditions that promote nurturing care.

Here are five recommended ways for the health sector to promote nurturing care.

1. Ensure women and young children have access to good-quality health and nutrition services

Because many health and nutrition interventions have a direct impact on children's development, they must be good quality and have high levels of coverage. The drive to universal health coverage is an opportunity to ensure that, along the continuum of care, service packages for women and young children are accessible, affordable and effective.

2. Make health and nutrition services more supportive of nurturing care

There are many touch points where families have contact with services, including antenatal care, postnatal care, and sick- and well-child visits. Support for responsive caregiving must be integrated in them, including opportunities for early learning, supporting caregivers' mental health, and security and safety. This enhances the quality of routine services, and contributes to caregivers' satisfaction and their demand for services.

3. Increase outreach to families and children with the greatest risk of sub-optimal development

Families and children who are at risk of sub-optimal development will benefit from additional contacts, beyond routine services. Home visits and caregivers' groups have been shown to be effective in helping families and children to overcome their challenges with nurturing care. Community health workers, trained to proficiency, can play an important role in providing support, extending the care provided in health facilities. Social assistance programs which are well-targeted to the poorest and most vulnerable families can provide support and encourage the use of available social services.[47]

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

4. Establish specialized services for families and children with developmental difficulties and disabilities

As well as strengthening routine and targeted support, countries must invest in local expertise and services that address the needs of families and children who need extra support. They include children with developmental difficulties or disabilities, those with chronic health conditions, and those at risk of maltreatment, as well as caregivers with substance-abuse difficulties or mental illness. These services can involve care by non-specialist providers. They have been effective in helping caregivers improve children's communication and adaptive skills, as well as fostering caregivers' well-being, self-confidence, caregiving skills and knowledge.

5. Collaborate with other sectors to ensure a continuum of nurturing care

The health sector must collaborate with other sectors to ensure that families and children – particularly those who are most vulnerable – are supported by a full complement of safety nets. Collaboration will help to foster an enabling environment in which no family or child is left behind. This collaboration can provide affordable and good-quality children's day care, financial grants for poor families, clean and safe environments, social and legal support in cases of intra-family violence, and child-friendly employment conditions.

The education sector

Traditionally, the education sector has been more involved in serving older children. Only in more recent years has it started to include preschool-age children. It also has an important role in supporting children under 3. Large numbers of children are in day care, some just 2 or 3 months old, while their caregivers seek employment or go to work. Providers of day care need time, resources, training and supervision to give nurturing care to the children placed with them. As more and more young children around the world enter preschools, curricula and overall programming must be made appropriate for young children's development. They must not just be adapted from curricula designed for older children. The education sector also has an important role in providing appropriate pre-service training for physicians, nurses, social workers, and others involved in supporting nurturing care.

Here are five recommended ways for the education sector to promote nurturing care:

1. Reinforce the fact that education begins at birth

Learning is not the same as schooling. Learning does not wait until children reach the classroom. Learning begins at home, during pregnancy. Community child-care programmes and caregivers' groups can be important hubs for promoting early learning experiences at home and outside it. These early moments provide the foundation for lifelong learning, which supports children's cognitive, physical, social and emotional development. Opportunities for early learning are best provided in an atmosphere that promotes curiosity, motivation, a strong self-concept, self-regulation and an appreciation of the language and culture at home. By engaging and starting early, education partners can help to assure continuity in messaging and support for nurturing care – at home, in child-care programmes, in preschool, in primary school, and beyond.

2. Ensure good health practices, hygiene and nutrition in early childhood programmes

Preschools and other early-childhood programmes are a good place to provide nutritious meals and snacks, and allow ample physical activity. They are also good for promoting visual, hearing and oral health, practising good hygiene, improving dietary and feeding practices at home, and promoting respect and inclusion among children of diverse backgrounds. Partnerships between actors in health, hygiene, nutrition, and children's rights can also be useful in these settings. They facilitate the monitoring and promotion of young children's growth, physical development, hygiene practices, social and emotional development, and overall well-being.

3. Put family engagement at the core of early childhood programmes

Education has traditionally focused on children, but there is increasing evidence for the importance of engaging families in preschool and child-care programmes. Caregivers can [illegible] take part in decision-making, and they can be included in education and networking events. All these things promote a sense of empowerment and inclusiveness, so that families feel confident about the important role they play in their children's lives. Barriers – whether financial, social or cultural – can limit families' and children's participation in programmes. When families feel valued, and when they are involved in the programme's design and delivery, they are likely to be more successful and to sustain their efforts.

KWAZULU-NATAL DIVISION, PIETERMARITZBURG
KWAZULU-NATAL UNIVERSITY PIETERMARITZBURG

4. Integrate children who have additional needs and reach out to the most vulnerable

All children have the right to participate in early childhood programmes. But the most vulnerable families are often invisible: services do not reach them. It is essential to identify vulnerable children and families, through community assessment, dialogues and outreach. As preschools and community-based child care expand, there is a new opportunity to embrace children with special needs, and to prepare teachers and administrators to ensure they fully participate.

5. Invest in education for adolescents and adults

Adult education is associated with better early childhood development, as is ensuring secondary education for young people as many will become mothers and fathers. Integrating nurturing care into secondary school curricula can prepare future caregivers to promote and support the development of the next generation of children.



REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

The social- and child-protection sectors

In some countries, the social- and child-protection sectors are referred to as social welfare. Whatever the terminology, they have a critical role to play in creating an enabling environment for nurturing care. They do this by providing the safety nets that strengthen families' capacity to provide nurturing care and to access services when needed. Interventions include:

- targeted financial and social support for the most vulnerable households with young children;
- urban planning and green spaces that are sensitive to young children's needs;
- free or affordable child-care facilities for children aged 0 to 3;
- links to community-based centres for children; and
- caregiving programmes.

Having a safe, supportive and nurturing environment, with affectionate and responsive caregivers, helps children to build resilience to adversity, trauma, threats and significant life stressors.

Here are five recommended ways for social and child protection to help support nurturing care.

1. Guarantee identity citizenship for every child

Because of inadequate civil registration and national identification systems, millions of people in low- and middle-income countries are being denied basic services and protection of their rights. Services that are inaccessible to non-citizens include universal health coverage, education and social protection, as well as humanitarian assistance in emergencies and conflicts. In order to support nurturing care, countries need to register the birth of every child and record all the vital events after that. Birth registration should also be linked to identification to ensure access to services and rights.

2. Shield families and children from poverty

To alleviate the effects of poverty, particularly extreme poverty, on young children, it is essential to have basic income security for children, pregnant women, workers injured on duty, people of working age who are unable to earn an adequate income, and older people. Identifying vulnerable populations and giving them basic social security not only improves provides essential support for making basic investments in families' well being, but improve also improves the quality of life in the home. It also the quality of life in the home, it also facilitates access to essential services, especially in health care.

3. Link benefits to services that support nurturing care

Social protection mechanisms reach many vulnerable families, and so provide important opportunities for scaling up nurturing care. They reach young children, pregnant women and their families, giving them information, support, protection and services. Linking these mechanisms to nurturing care has been shown to have benefits for both, and can increase the impact of social protection programmes.



4. Ensure there is a continuum of care

Children can be at risk of sub-optimal development because of biological factors, such as disability, or environmental factors, such as violence in the community or at home. These children need to be referred to appropriate community-based services that provide more specialized care. Children also need the means to reach those services, including transport and translation. To serve those in greatest need, ensure that there are staff with appropriate qualifications, centres that provide integrated services, and systems that combine these services into a continuum of care.

5. Protect children from maltreatment and family dissolution

Ensure that professionals in all sectors understand how dangerous the maltreatment of children is. These professionals should also be able to spot when a child is being maltreated, and know what to do if they suspect maltreatment. Professionals also need to be able to respond in the best interests of the child and understand the importance of preventing young children from suffering the adverse effects of family separation. Identify strategies to reduce child and domestic violence, such as fathers' groups, national campaigns, parenting programmes and local champions. Seek to find solutions that keep families together.



REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Committing to action

Concrete commitments and collective action are needed to implement the strategic actions and realize this Framework's vision. Governments and concerned stakeholders made commitments to the Global Strategy for Women's, Children's and Adolescents' Health. These are the foundation on which to build additional commitments to support nurturing care.

This is the call for commitments from individuals and organizations at all levels to work together towards the relevant SDG targets and to achieve the proposed milestones, at country and global levels.

MILESTONES TO BE ACHIEVED IN THE NEXT 5 YEARS (BY 2023)



NATIONAL MILESTONES	GLOBAL MILESTONES
All countries have developed a national coordination mechanism and a plan to address nurturing care in a holistic way.	Global stakeholders have established functional mechanisms for multi-sectoral coordination and harmonized action in support of nurturing care.
All countries are addressing nurturing care in national communication strategies and through community structures and local leaders.	Global stakeholders have launched a global advocacy campaign for nurturing care and promote effective approaches for engaging communities and giving them agency.
All countries are strengthening their workforce's capacity to support responsive caregiving and early learning – among all families and children, including those with additional needs.	Global stakeholders have developed and updated guidelines, service packages and implementation guidance for nurturing care, and promote their use
All countries are collecting data about the quality and coverage of interventions for all five components of nurturing care.	Harmonized global indicators and measurement framework for nurturing care are available and used to assess implementation and impact.
All countries are investing in local research to strengthen implementation of nurturing-care interventions.	Global stakeholders have identified research priorities for nurturing care and invest in studies to address them.

Governments, parliamentarians, and policy-makers will

- commit to a vision of equity and human development, with young children and their families at its centre;
- support nurturing care by coordinating policies, budgets, operational plans, work-force development, training packages, tools and activities across a range of sectors;
- make resources available – human, technical and financial – to strengthen policies, information and services at national, sub-national and local levels; and
- work towards a whole-of-government and a whole-of-society approach to support nurturing care.

Civil society will

- advocate for increased attention to nurturing care, and more investment in it;
- strengthen communities' ability to support nurturing care;
- increase families' and local stakeholders' knowledge of young children's rights; and
- track progress, and hold itself – and other stakeholders – to account for commitments.

Academic and research institutions will

- generate new evidence about nurturing care's benefits, its impact on current and future generations, and effective approaches to implementing it – as well as costs and cost-effectiveness;
- generate evidence about how to adapt proven interventions and programmes, so they serve specific groups of families and children – including those in indigenous and hard-to-reach communities;
- integrate nurturing care into training for professionals who work with young children and families; and
- make information about evidence and innovations widely available.

The business community will

- invest in creating an enabling environment for nurturing care – in the work place, the community and society – by investing resources, and introducing corporate policies that give adequate and equal paid maternity and paternity leave.

The media will

- speak for those who are most deprived;
- create awareness and promote best practices in nurturing care; and
- help change social norms about early childhood, by using current scientific knowledge to inform its messages.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

The United Nations and other multilateral organizations and initiatives will

- combine all the evidence into a single coherent approach;
- develop norms and guidance;
- provide technical and financial assistance to countries and partners;
- monitor progress in coverage, quality and outcomes of policies and interventions; and
- work in partnership to keep nurturing care high on the sustainable-development agenda.

Bilateral development partners and philanthropic institutions will

- mobilize financial and technical resources;
- stimulate research and innovation; and
- support the implementation and monitoring of national policies and plans for nurturing care.

Additional resources

This Nurturing Care Framework provides a roadmap for action. We will support it with online resources to help it to be adapted for use in different countries.

We will develop the website over time, in collaboration with stakeholders. It will provide information about countries' progress, along with resources to guide policy-making and programming.

These resources will include:

- guidance to inform policy-making and planning
- tools for advocacy and communication
- tools for strengthening services' capacity
- guidance on monitoring and evaluation
- stories from countries
- recent research findings.

For more information, please visit **www.nurturing-care.org**

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG



Annexes

Annex 1. Glossary

Annex 2. Proposed indicators




REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Annex 1. Glossary

Caregiver – a person who is very closely attached to the child and responsible for their daily care and support. Primary caregivers include parents, families and other people who are directly responsible for the child at home. They also include carers outside the home, such as people working in organized day care.

Developmental delay – a description used when a young child's development is delayed in one or more areas, compared with other children's. This can include the development of gross-motor skills, fine-motor skills, speech and language, cognitive and intellectual, and social and emotional skills, as well as executive functions.

Developmental difficulty – any condition that puts a child at risk of suboptimal development, or that causes a child to have a developmental deviance, delay, disorder or disability. The term encompasses all children who have limitations in functioning and developing to their full potential. That includes those living in hunger or social deprivation, those who had a low birthweight, and those with cerebral palsy, autism, sensory problems, cognitive impairments such as Down syndrome, or other physical disabilities, such as spina bifida.

Disability – any difficulty encountered in three interconnected areas: impairments in body functions or alterations in body structure; limitations or difficulties in executing activities; and restrictions in participating in any area of life. Disability arises from the interaction of health conditions with contextual factors, including environmental and personal factors.

Early childhood development – children's cognitive, physical, language, motor, and social and emotional development, between conception and age 8. Within that, the Nurturing Care Framework focuses on the period from pregnancy to age 3.

Epigenesis – DNA modifications that do not change the DNA sequence, but can modify genes' activity by helping to determine whether they are turned on or off. Epigenetic change is a regular and natural occurrence, and it can be influenced by factors including age, environment, lifestyle, and disease.

Family-centered approach – policies, procedures and practices tailored to focus on children's and families' needs, beliefs, and cultural values. This approach means working in partnership with families, recognizing and building on their strengths.



Nurturing care – an environment created by caregivers. It ensures children's good health and nutrition, protects them from threats, and gives them opportunities for early learning, through interactions that are emotionally supportive and responsive.

Whole-of-government approach – public-service agencies working across portfolio boundaries, formally and informally, to achieve a shared goal. This produces an integrated government response to particular issues. It aims to achieve policy coherence in order to improve the effectiveness and efficiency of policies and programming.

Whole-of-society approach – all relevant stakeholders working to support national efforts. These stakeholders include individuals, families, communities, intergovernmental organizations, religious institutions, civil society, academia, the media, voluntary associations and – when appropriate – the private sector and industry. This approach aims to strengthen coordination among these stakeholders, in order to make their efforts more effective.

Annex 2. Proposed indicators

There are already global indicators for monitoring progress towards attaining the Nurturing Care Framework's vision and targets. These indicators come from the monitoring frameworks for the Sustainable Development Goals (SDGs) and the Global Strategy for Women's, Children's and Adolescents' Health.[83] Table 2 shows some of the indicators for each of the Nurturing Care Framework's components – though many other indicators are also relevant.

Population-based indicators are not equally available for the five components of nurturing care. In particular, there are very few for responsive caregiving and early learning. And no one collects comparable country data on the coverage of counselling interventions for helping caregivers to provide nurturing care. This is not covered by demographic and health surveys, nationally representative household surveys, or UNICEF's Multiple Indicator Cluster Surveys (MICs).

Around the world, work is in progress on developing new indicators for assessing development in children under 5 years old. The aim is to arrive at a harmonized monitoring framework. In particular, indicators are needed for assessing development in children aged 0–3 years. This will enable countries to track progress towards SDG target 4.2.1, on children under 5 years old who are developmentally on track in health, learning and psychosocial well-being.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

TABLE 2
Examples of population-based indicators supporting nurturing care

What is monitored	Existing indicators
Maternal mortality ratio	SDG 3.1.1
Under-five mortality rate	SDG 3.2.1
Neonatal mortality rate	SDG 3.2.2
Adolescent birth rate	SDG 3.7.2
Good health	
Coverage index of essential health services, including those for RMNCAH: family planning, antenatal care, skilled birth attendance, breastfeeding, immunization, and childhood illnesses treatment	SDG 3.1.2, 3.7.1, 3.8.1
Proportion of women aged 15–49 who received four or more ante-natal care visits	Global Strategy

Proportion of mothers and newborns who have postnatal contact with a health provider within two days of delivery	Global Strategy
Percentage of children fully immunized	Global Strategy
Proportion of children with suspected pneumonia taken to an ap-propriate health-care provider	Global Strategy
Percentage of children with diarrhoea receiving oral rehydration salts (ORS)	Global Strategy
Adequate nutrition	
Prevalence of stunting (height for age <-2 standard deviation from the median of the WHO Child Growth Standards) among children under 5 years old	SDG 2.2.1
Prevalence of malnutrition (weight for height >+2 or <-2 standard deviation from the median of the WHO Child Growth Standards) among children under 5 years old, by type (wasting or overweight)	SDG 2.2.2
Prevalence of anaemia in women aged 15–49, disaggregated by age and pregnancy status	Global Strategy
Percentage of infants under 6 months old who are fed exclusively with breast milk	Global Strategy
Proportion of children aged 6–23 months who receive a minimum acceptable diet	Global Strategy
Responsive caregiving	
Proportion of children under 5 years old who are developmentally on track in health, learning and psychosocial well-being, by sex	SDG 4.2.1
Percentage of children aged 0–59 months left alone, or in the care of another child under 10 years old, for more than an hour at least once in the past week	MICS
Opportunities for early learning	
Percentage of children aged 0–59 months who have three or more children's books at home	MICS
Percentage of children aged 0–59 months who play with two or more of the playthings at home	MICS
Security and safety	
Proportion of population living below the national poverty line, by sex and age	SDG 1.2.1
Proportion of children aged 1–17 years who experienced any physical punishment and/or psychological aggression by caregivers in the past month	SDG 16.2.1
Proportion of children under 5 years old whose births have been registered with a civil authority	SDG 16.9.1
Percentage of population using safely managed drinking water services	SDG 6.1.1
Percentage of population using safely managed sanitation services, including a hand-washing facility with soap and water	SDG 6.2.1

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

References

1. Christakis D. Media and children [video]. City: Publisher; 2011 (https://www.youtube.com/watch?v=BoT7qH_uVNo, accessed 2 May 2018).

2. Survive, Thrive, Transform – The Global Strategy for Women's, Children's and Adolescents' Health (2016 – 2030). New York: United Nations; 2015.

3. Transforming our World: The 2030 Agenda for Sustainable Development. New York: United Nations; 2015.

4. The United Nations Convention of the Rights of the Child. New York: United Nations; 1989.

5. Shonkoff JP, Garner AS, Committee on Psychosocial Aspects of, Child Family, Health et al. The lifelong effects of early childhood adversity and toxic stress. Pediatrics. 2012;129(1):e232–46.

6. Black MM, Walker SP, Fernald LCH, et al. Early childhood development coming of age: science through the life course. Lancet. 2017;389(10064):77–90.

7. Richter LM, Daelmans B, Lombardi J, et al. Investing in the foundation of sustainable development: pathways to scale up for early childhood development. Lancet. 2017;389(10064):103–18.

8. Britto PR, Lye SJ, Proulx K, et al. Nurturing care: promoting early childhood development. Lancet. 2017;389(10064):91–102.

9. Gertler P, Heckman J, Pinto R, et al. Labor market returns to an early childhood stimulation intervention in Jamaica. Science. 2014;344(6187):998–1001.

10. Hoddinott J, Maluccio JA, Behrman JR, Flores R, Martorell R. Effect of a nutrition intervention during early childhood on economic productivity in Guatemalan adults. Lancet. 2008;371(9610):411–6.

11. Heckman JJ. Skill formation and the economics of investing in disadvantaged children. Science. 2006;312(5782):1900–2.

12. The State of the World's Children 2017: Children in a digital world. New York: UNICEF; 2017.

13. Chan M, Lake A, Hansen K. The early years: silent emergency or unique opportunity? Lancet. 2017;389(10064):11–3.

14. Lagercrantz H. Infant brain development: Formation of the mind and the emergence of consciousness. Switzerland: Springer International Publishing; 2016.

15. Hepper P. Behavior during the prenatal period: Adaptive for development and survival. Child Development Perspectives. 2015;9(1):38–43.

16. van IJzendoorn MH, Bakermans?Kranenburg MJ, Ebstein RP. Methylation matters in child development: Toward developmental behavioral epigenetics. Child Development Perspectives. 2011;5(4):305–10.

17. Campbell F, Conti G, Heckman JJ, et al. Early childhood investments substantially boost adult health. Science. 2014;343(6178):1478–85.

18. Nofziger S, Rosen NL. Building self-control to prevent crime. In: Teasdale B, Bradley M, editors. Preventing crime and violence. Basel, Switzerland: Springer International Publishing; 2017:43–56.

19. Murray L, Andrews E. The social baby. London: The Children's Project; 2002.

20. Tomlinson M, Cooper P, Murray L. The mother-infant relationship and infant attachment in a South African peri-urban settlement. Child Dev. 2005;76(5):1044–54.

21. Vally Z, Murray L, Tomlinson M, Cooper PJ. The impact of dialogic book-sharing training on infant language and attention: a randomized controlled trial in a deprived South African community. J Child Psychol Psychiatry. 2015;56(8):865–73.

22. Muller-Nix C, Forcada-Guex M, Pierrehumbert B, Jaunin L, Borghini A, Ansermet F. Prematurity, maternal stress and mother-child interactions. Early human development. 2004;79(2):145–58.

23. Spittle AJ, Treyvaud K, Doyle LW, et al. Early emergence of behavior and social-emotional problems in very preterm infants. Journal of the American Academy of Child & Adolescent Psychiatry. 2009;48(9):909–18.

24. Charpak N, Tessier R, Ruiz JG, et al. Twenty-year follow-up of kangaroo mother care versus traditional care. Pediatrics. 2017;139(1).

25. Rollins NC, Bhandari N, Hajeebhoy N, et al. Why invest, and what it will take to improve breastfeeding practices? Lancet. 2016; 387(10017):491–504.

26. Heckman JJ. The economics, technology, and neuroscience of human capability formation. Proc Natl Acad Sci U S A. 2007;104(33):13250–5.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

27. Yousafzai AK, Rasheed MA, Rizvi A, Armstrong R, Bhutta ZA. Effect of integrated responsive stimulation and nutrition interventions in the Lady Health Worker programme in Pakistan on child development, growth, and health outcomes: a cluster-randomised factorial effectiveness trial. Lancet. 2014;384(9950):1282–93.

28. Grantham-McGregor SM, Fernald LC, Kagawa RM, Walker S. Effects of integrated child development and nutrition interventions on child development and nutritional status. Ann N Y Acad Sci. 2014;1308:11–32.

29. Stephenson J, Heslehurst N, Hall J, et al. Before the beginning: nutrition and lifestyle in the preconception period and its importance for future health. Lancet. 2018.

30. Fleming TP, Watkins A, Velazquez MA, et al. Origins of lifetime health around the time of conception: causes and consequences. Lancet. 2018.

31. Chan JC, Nugent BM, Bale TL. Parental advisory: Maternal and paternal stress can impact offspring neurodevelopment. Biol Psychiatry. 2017.

32. Li J, Tsuprykov O, Yang X, Hocher B. Paternal programming of offspring cardiometabolic diseases in later life. J Hypertens. 2016;34(11):2111–26.

33. Barker M, Colbourn T, Dombrowkski SU, et al. Intervention strategies to improve nutrition and health behaviours before conception. Lancet. 2018.

34. Lytton H, Romney DM. Parents' differential socialization of boys and girls: A meta-analysis. Psychological Bulletin. 1991;109(2):267.

35. Jordans MJD, Tol WA. Mental health and psychosocial support for children in areas of armed conflict: call for a systems approach. BJPsych Int. 2015;12(3):72–5.

36. Sameroff A. A unified theory of development: a dialectic integration of nature and nurture. Child Dev. 2010;81(1):6–22.

37. Murphy KM, Rodrigues K, Costigan J, Annan J. Raising children in conflict: An integrative model of parenting in war. Peace and Conflict: Journal of Peace Psychology. 2017;23:46.

38. Murphy KM, Yoshikawa H, Wuermli A. Implementation research for early childhood development programming in humanitarian contexts. Annals of the New York Academy of Science. 2018; 1419: 218-229

39. Bouchane K, Yoshikawa H, Murphy KM, Lombardi J. Early childhood programs for refugees. Paris: UNESCO. 2018.

40. Black RE, Allen LH, Bhutta ZA, et al. Maternal and child undernutrition: global and regional exposures and health consequences. Lancet. 2008;371(9608):243–60.

41. Victora CG, Adair L, Fall C, et al. Maternal and child undernutrition: consequences for adult health and human capital. Lancet. 2008;371(9609):340–57.

42. Rollins NC, Bhandari N, Hajeebhoy N, et al. Why invest, and what it will take to improve breastfeeding practices? Lancet. 2016;387(10017):491–504.

43. Engle PL, Pelto GH. Responsive feeding: implications for policy and program implementation. J Nutr. 2011;141(3):508–11.

44. Tomlinson M, Cooper P, Murray L. The mother-infant relationship and infant attachment in a South African peri-urban settlement. Child Dev. 2005;76(5):1044–54.

45. Lucas JE, Richter LM, Daelmans B. Care for child development: an intervention in support of responsive caregiving and early child development. Child Care Health Dev. 2018;44(1):41–9.

46. Shonkoff JP. Leveraging the biology of adversity to address the roots of disparities in health and development. Proc Natl Acad Sci U S A. 2012;109 Suppl 2:17302–7.

47. Walque, Damien de, Lia Fernald, Paul Gertler, and Melissa Hidrobo. 2017. "Cash Transfers and Child and Adolescent Development." In *Disease Control Priorities*, Third Edition, 325–41. Washington DC: World Bank. http://dcp-3.org/chapter/2472/cash-transfers-and-child-and-adolescent-development

48. Maulik PK, Darmstadt G. Childhood disability in low- and middle-income countries: overview of screening, prevention, services, legislation, and epidemiology. Pediatrics. 2007;120(Supplement 1):S1–S55.

49. Green S, Davis C, Karshmer E, Marsh P, Straight B. Living stigma: The impact of labeling, stereotyping, separation, status loss, and discrimination in the lives of individuals with disabilities and their families. Sociological Inquiry. 2005;75(2):197–215.

50. The International classification of functioning, disability and health. Geneva: World Health Organization; 2001.

51. Yousafzai AK, Lynch P, Gladstone M. Moving beyond prevalence studies: screening and interventions for children with disabilities in low-income and middle-income countries. Arch Dis Child. 2014;99(9):840–8.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL, DIVISION,
PIETERMARITZBURG

52. Reichow B, Servili C, Yasamy MT, Barbui C, Saxena S. Non-specialist psychosocial interventions for children and adolescents with intellectual disability or lower-functioning autism spectrum disorders: a systematic review. PLoS Med. 2013;10(12):e1001572;discussion e.

53. Hamdani SU, Akhtar P, Zill EH, et al. WHO Parents Skills Training (PST) programme for children with developmental disorders and delays delivered by Family Volunteers in rural Pakistan: study protocol for effectiveness implementation hybrid cluster randomized controlled trial. Global Mental Health. 2017;4:e11.

54. Inheriting a sustainable world? Atlas on children's health and the environment. Geneva: World Health Organization; 2017.

55. Progress on drinking water, sanitation and hygiene. Geneva: World Health Organization; 2017.

56. Burning opportunity: clean household energy for health, sustainable development, and wellbeing of women and children. Geneva: World Health Organization; 2016.

57. Don't pollute my future! The impact of the environment on children's health. Geneva: World Health Organization; 2017.

58. National Department of Health. National Antenatal Sentinel HIV and Syphilis Survey Report 2015. Pretoria, South Africa: National Department of Health; 2017.

59. Richter LM, Sherr L, Adato M, et al. Strengthening families to support children affected by HIV and AIDS. AIDS Care. 2009;21 Suppl1:3–12.

60. Sherr L, Cluver L. World Health Day focus on HIV and depression – a comorbidity with specific challenges. J Int AIDS Soc. 2017;20(1):21956.

61. Williams PL, Marino M, Malee K, et al. Neurodevelopment and in utero antiretroviral exposure of HIV-exposed uninfected infants. Pediatrics. 2010;125(2):e250–60.

62. UNAIDS. Ending AIDS: Progress towards the 90-90-90 targets. Geneva: UNAIDS; 2017.

63. Cooper PJ, Tomlinson M, Swartz L, Woolgar M, Murray L, Molteno C. Post-partum depression and the mother-infant relationship in a South African peri-urban settlement. Br J Psychiatry. 1999;175:554–8.

64. Fisher J, Cabral de Mello M, Patel V, et al. Prevalence and determinants of common perinatal mental disorders in women in low- and lower-middle-income countries: a systematic review. Bull World Health Organ. 2012;90(2):139G–49G.

65. Ramchandani P, Stein A, Evans J, O'Connor TG, team As. Paternal depression in the postnatal period and child development: a prospective population study. Lancet. 2005;365(9478):2201–5.

66. Howard LM, Molyneaux E, Dennis CL, Rochat T, Stein A, Milgrom J. Non-psychotic mental disorders in the perinatal period. Lancet. 2014;384(9956):1775–88.

67. Murray L. The impact of postnatal depression on infant development. J Child Psychol Psychiatry. 1992;33(3):543–61.

68. Rahman A, Iqbal Z, Bunn J, Lovel H, Harrington R. Impact of maternal depression on infant nutritional status and illness: a cohort study. Arch Gen Psychiatry. 2004;61(9): 946–52.

69. Rahman A, Malik A, Sikander S, Roberts C, Creed F. Cognitive behaviour therapy-based intervention by community health workers for mothers with depression and their infants in rural Pakistan: a cluster-randomised controlled trial. Lancet. 2008;372(9642):902–9.

70. Rahman A, Fisher J, Bower P, et al. Interventions for common perinatal mental disorders in women in low- and middle-income countries: a systematic review and meta-analysis. Bull World Health Organ. 2013;91(8):593–601l.

71. Barlow J, Coren E, Stewart-Brown S. Meta-analysis of the effectiveness of parenting programmes in improving maternal psychosocial health. Br J Gen Pract. 2002;52(476):223–33.

72. Stoltenborgh M, Bakermans-Kranenburg MJ, van Ijzendoorn MH. The neglect of child neglect: a meta-analytic review of the prevalence of neglect. Soc Psychiatry Psychiatr Epidemiol. 2013;48(3):345–55.

73. Danese A, Moffitt TE, Harrington H, et al. Adverse childhood experiences and adult risk factors for age-related disease: depression, inflammation, and clustering of metabolic risk markers. Arch Pediatr Adolesc Med. 2009;163(12):1135–43.

74. Norman RE, Byambaa M, De R, Butchart A, Scott J, Vos T. The long-term health consequences of child physical abuse, emotional abuse, and neglect: a systematic review and meta-analysis. PLoS Med. 2012;9(11):e1001349.

75. Burrows S, Butchart A, Butler N, Quigg Z, Bellis MA, Mikton C. New WHO Violence Prevention Information System, an interactive knowledge platform of scientific findings on violence. Inj Prev. 2018;24(2):155–6.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

76. Butchart A, Mikton C, Dahlberg LL, Krug EG. Global status report on violence prevention 2014. Inj Prev. 2015;21(3):213.

77. Marmot, M. Promoting intersectoral and interagency action for health and well-being in the WHO European Region: working together for better health and well-being. High-level Conference. Paris, France. 7–8 December 2016.

78. Financing early childhood development: an analysis of international and domestic sources in low- and middle-income countries vol 1. Washington, DC: Results for Development Institute; 2016.

79. Shekar M, Kakietek J, D'Alimonte M, et al. Investing in nutrition: the foundation for development – an investment framework to reach the global nutrition targets. Washington, DC: World Bank; 2016.

80. Gustafsson-Wright E, Gardiner S, Smith K. Ensuring effective outcome-based financing in early childhood development. Washington, DC: Center for Universal Education at Brookings; 2016.

81. Ertem IO, Dogan DG, Gok CG, et al. A guide for monitoring child development in low- and middle-income countries. Pediatrics. 2008;121(3):e581–9.

82. Ertem IO, Krishnamurthy V, Mulaudzi MC, et al. Similarities and differences in child development from birth to age 3 years by sex and across four countries: a cross-sectional, observational study. Lancet Glob Health. 2018;6(3):e279–e91.

83. Every Women Every Child. Indicator and monitoring framework for the Global Strategy for Women's, Children's and Adolescent's Health (2016-2030). New York: United Nations; 2016.



Acknowledgements

The Nurturing Care Framework was created in response to strong evidence and growing recognition that the early years are critical for human development. Commitments to the Sustainable Development Goals and the Global Strategy provide the impetus for countries and stakeholders to act. More than 1000 individuals and organizations from 111 countries informed the drafting process of this framework. Details of the consultation process and additional resources can be accessed at www.nurturing-care.org.

The World Health Organization (WHO), UNICEF and The World Bank Group (WBG), supported by The Partnership for Maternal, Newborn & Child Health (PMNCH) and the Early Childhood Development Action Network (ECDAN), are grateful to all those who contributed to this document.

Management team: Raoul Bermejo, UNICEF; Pia Britto (co-chair), UNICEF; Olive Cocoman (acting project coordinator), PMNCH, Bernadette Daelmans (chair), WHO; Tarun Dua, WHO (co-chair); Leslie Elder, Global Financing Facility supported by the WBG; Matthew Frey, PATH; Dan Irvine, World Vision International; Sheila Manji (project coordinator), PMNCH; Lori McDougall, PMNCH; Sara Poehlman, Save the Children; Linda Richter, University of the Witwatersrand – DST-NRF Centre of Excellence in Human Development; Marta Seoane Aguilo, WHO; Mark Tomlinson, Stellenbosch University, Institute for Child and Adolescent Health Research; Shekufeh Zonji, ECDAN; Mark Young, UNICEF.

Advisory committee: Lisa Bohmer, Conrad N. Hilton Foundation; Betzabe Butron Riveras, Pan American Health Organization; Amanda Devercelli, WBG; Cyril Engmann, PATH; Ilgi Ertem, Ankara University; Jane Fisher, Monash University; Liana Ghent, International Step by Step Association; Esther Goh, Bernard van Leer Foundation; Nelson Gomonda, Sanitation and Water for All; Deepa Grover, UNICEF; Rob Hughes, The Children's Investment Fund Foundation; Ghassan Issa, Arab Network for Early Childhood Care and Development; Patricia Jodrey, USAID; Romilla Karnati, Save the Children; Melissa Kelly, Asia-Pacific Regional Network for Early Childhood; Betty Kirkwood, London School of Hygiene & Tropical Medicine; Sarah Klaus, Open Society Foundations; Vibha Krishnamurthy, Ummeed Child Development Center; Vesna Kutlesic, Eunice Kennedy Shriver National Institute of Child Health and Human Development; Joan Lombardi, Bernard van Leer Foundation; Florencia López Bóo, Banco Interamericano de Desarollo; Jane Lucas; Stephen Lye, Alliance for Human Development, University of Toronto; Kofi Marfo, Aga Khan University Institute for Human Development; Dominique McMahon, Grand Challenges Canada / Grands Défis Canada; Mohamad Mikati, Duke University Medical Center; Kate Murphy, International Rescue Committee; Asifa Nurani, Blue Ocean Consulting Limited; Frank Oberklaid, The Royal Children's Hospital – Melbourne and Murdoch Children's Research Institute; Lynette Okengo, Africa Early Childhood Network; Nosa Orobaton, Bill & Melinda Gates Foundation; Rafael Perez-Escamilla, Yale University; Manfred Pretis, Medical School Hamburg; Laura Rawlings, World Bank Group; Sweta Shah, Aga Khan Foundation; Manpreet Singh, Bill & Melinda Gates Foundation; Kate Somers, Bill & Melinda Gates Foundation; Giorgio Tamburlini, Centro per la Salute del Bambino Onlus; Valerie Unite, Childhood & Early Parenting Principles; Susan Walker, University of Melbourne; Donald Wertlieb, Tufts University; Hiro Yoshikawa, New York University, Steinhardt; Aisha Yousafzai, Harvard T.H. Chan School of Public Health.

Coordinating writers: Bernadette Daelmans, Linda Richter and Mark Tomlinson

Advocacy and communications working group: Anna Astvatsatryan, Global Financing Facility; Olive Cocoman, PMNCH; Kate Consavage, USAID; Bernadette Daelmans, WHO; Marie Durling, SUN Movement Secretariat; Erin Elzo, Executive Office of the Secretary-General; Aisha Mahmood Faquir, WBG; Natalie Fawcett, Theirworld; Esther Goh,

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA

Bernard van Leer Foundation; Katelin Gray, PATH; Anna Gruending, PMNCH; Dan Irvine (chair), World Vision International; Joanna Koch, Alliance for Health Promotion; Joan Lombardi, Early Opportunities; Thiago Luchesi, Save the Children; Sheila Manji (convener), PMNCH; Amanda Medlock, 1,000 Days; Kate Moriarty, Theirworld; Samantha Mort, UNICEF; Yemurai Nyoni, The Children's Investment Fund Foundation; Rafik Al Ouerchafani, Global Partnership to End Violence; Danielle Porfido, 1,000 Days; Carolyn Reynolds, PATH; Marta Seoane Aguilo, WHO; Constance Shumba, Aga Khan Foundation; Meghan Stanley, World Vision International; Melanie Swan, Plan International; Veronic Verlyck, PMNCH; Sara Watson, Ready Nation; Ann-Marie Wilcock, UNICEF; Shekufeh Zonji, ECDAN.

WHO internal working group: Rajiv Bahl; Mercedes Bonnet Semenas; Marie Noelle Brune-Drisse; Stephanie Burrows; Alex Butchart; Alarcos Cieza; Shalini Desai; Larry Grummer-Strawn; Sabine Kiesselbach; Martina Penazatto; Sabine Rakotomalala; Nigel Rollins; Shekhar Saxena; Chiara Servili; Juana Willumsen.

We acknowledge and thank the authors of the 2016 Lancet series *Advancing Early Childhood Development: From Science to Scale* for providing the key messages that informed the development of the Nurturing Care Framework.

We convey gratitude to the **48 member states** who engaged in the consultation process. In particular, we give thanks to Dr Oka Rene Kouame and Dr Raymonde Goudou Coffiee, Government of Côte d'Ivoire; Dr Manoj Khalani and Dr Ajay Khera, Government of India; Dr Stewart Kabaka, Government of Kenya; and Dr Patricia Mupeta Bobo, Government of Zambia, for their participation in the advisory committee and for organizing in-person consultations.

We give thanks to the WHO and UNICEF regional offices for convening regional consultations for the Region of the Americas and the Eastern Mediterranean Region. And we thank the International Step by Step Association, International Developmental Pediatrics Association, the Aga Khan University Institute for Human Development, the Africa Early Childhood Network and the Arab Network for Early Childhood Development for offering their conferences, meetings, or training as platforms to solicit inputs on the draft Framework.

We express our appreciation for the 1 000 contributions from dedicated stakeholders in 111 countries for their valuable feedback on the Nurturing Care Framework. Contributions were received from across a range of sectors, including health, education, nutrition, WASH, environmental health, and social and child protection.



A complete list of organizations that participated in the consultation process is available at www.nurturing-care.org.

We are grateful for the financial support provided by Bernard van Leer Foundation, Botnar Foundation, Conrad N. Hilton Foundation, King Baudouin Foundation USA, Open Society Foundations, PATH, and Save the Children.

Technical and administrative support: Anne-Marie Cavillon; Susan Helary; Joanna McManus; Alix Rethoret; Bettina Schwethelm; John Watson.

Translation support for online consultations: Aga Khan Foundation; Bernard van Leer Foundation; Pan-American Health Organization; UNICEF China.

Editor: Christopher Shevlin, Robert Taylor Communications.



Photo credit:

Cover and title page: Flickr Creative Commons License/Harsha

Page IV: Nyani Quarmyne/Panos Pictures

Page 3: © UNICEF/UN032020/LeMoyne

Page 5: Save the Children

Page 9: Giacomo Pirozzi/Panos

Page 10: Mark Henley/Panos Pictures

Page 13: © UNICEF/UN046138/Kljajo

Page 15: © UNICEF/UN034623/LeMoyne

Page 16: © UNICEF/Marco Dormino

Page 25: © UNICEF/UN062342/Zammit

Page 27: © UNICEF/UN064705/Ose

Page 39: Jane Lucas

Page 41: Aga Khan Development Network/J-L. Ray

Page 44: Flickr Creative Commons License/White Ribbon Alliance Uganda


REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

NURTURING CARE
FOR EARLY CHILDHOOD DEVELOPMENT

ISBN 978-92-4-151406-4

For more information see:
www.nurturing-care.org

007-279

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

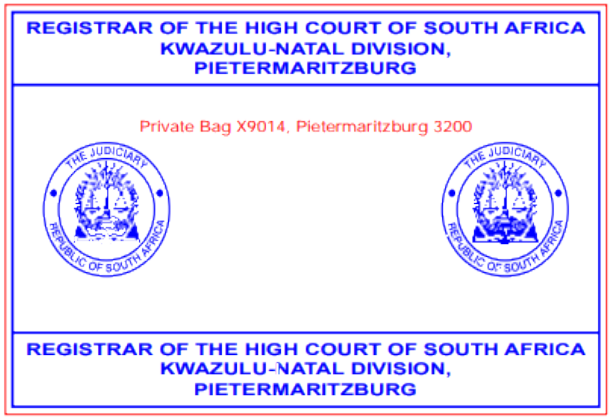
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 05

NOTE: **This document was filed electronically by the Registrar on 11/12/2025 at 11:28:17 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

"EC 05"

ECD Census 2021
because children count



ECD CENSUS
2021 Report

007-283
11/12/2025-11:28:17 AM

Acronyms

DBE	Department of Basic Education
DSD	Department of Social Development
ECD	Early Childhood Development
ELP	Early Learning Programme[1]
EMIS	Education Management Information System
LtP	Learning through Play
MIS	Management Information System
Q	Income quintile where Q1 refers to the poorest income quintile and Q5 to the richest

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Preferred Citation: Department of Basic Education. 2022. *ECD Census 2021: Report.* Pretoria: Department of Basic Education.

1 Early Learning Programmes are also commonly referred to as pre-schools, creches, educare centres, day mothers or playgroups (but not Grade R).

007-283

Contents

Forewords 02
About the ECD Census 2021 04
Acknowledgments 04
Project Collaborators 05
Executive Summary 06
Introduction 08
Methodology 16
Results 28
Discussion Points 62
Next Steps 64
References 65



007-285
11/12/2025-11:28:17 AM

FOREWORDS





Angie Motshekga - Minister of Basic Education

I've always been a firm believer in the fact that building the future we strive for starts with strengthening early learning and development. And as we begin a new chapter for Early Childhood Development (ECD) in South Africa, under the curatorship of the Department of Basic Education, we are proud of the success and insights gathered through the first national ECD Census. These will be the building blocks for us to improve access to quality ECD services for our young children and families.

From the outset, the primary objective of the ECD Census was to gather reliable, verified data on Early Learning Programmes (ELPs) that would help us move towards a centralised management information system to enable improved resource allocation, oversight and support of ELPs throughout the country. The data on chil- dren accessing ECD services and the number of practitioners providing those services, is instrumental for our planning and will allow us to prioritise the poorest children most in need of public assistance.

It is encouraging to recognise the progress made by the sector in terms of provision of quality ECD services in the country – despite the devastating pressure that the Covid-19 pandemic has placed on the system. Additionally, the priorities and areas of growth are clear – continued professionalisation and training of the ECD workforce, strengthening play-based curriculum implementation, and improving our processes for registering and funding ELPs in order to expand access.

The ECD Census also shone a light on the role of Learning through Play in our sector. As a country we need to afford our youngest citizens opportunities to learn in the manner which comes most naturally to them – through play. We also need to provide our practitioners and ELPs with the tools and competencies to facilitate this kind of learning to equip them with the skills needed for the future.

This partnership with the LEGO Foundation is an important one, whose outcomes will be lasting. It will assist us to improve the quality of ECD in South Africa.

We're energised to create the foundation that our children need to thrive, together. Because every child counts.

007-285

FOREWORDS





Anne-Birgitte Albrectsen - CEO of The LEGO Foundation

The resilience of children and families over the past few years in SA has been nothing short of extraordinary. Despite the tumultuous climate, the determination and agility of learners and caregivers have been inspiring to witness. This has been especially true for the ECD sector in SA who suffered and continue to deal with the impact that Covid had on the sector.

At the LEGO Foundation, we believe that learning through play is one of the key vehicles to help children build social and emotional learning skills to successfully navigate life's challenges and uncertainties. At the heart of it all, children play to make sense of the world around them. To find meaning in life's many experiences by connecting it to something already known to them. Through play, children learn about themselves and the great big world around them. It also unlocks skills they need for study, work and relationships, making play a fundamental building block to our society's success.

We appreciate that an enabling environment for quality learning through play needs to be in place for quality learning to happen. And for a country to scale such environments, solid national systems need to be in place. It is for this reason that we saw the need to partner with government and invest in systems-building proj- ects like the ECD Census that will pave the way for South Africa to foster quality early learning environments and give children the nurturing care and stimulation they so desperately need in these pivotal years.

Findings from the ECD Census indicate that little time is allocated for free play, and materials and equipment that lend themselves to these activities, are not very common. It is also concerning to note that opportunities for free play, where children have more agency in their learning, is more common in higher quintile ELPs.

We look forward to building on the foundation laid by the ECD Census and continuing to work with the government and the ECD sector of South Africa as they build systems to drive quality learning in the early years. We celebrate this incredible achievement as a significant mile- stone in the learning journey of all children in South Africa.

007-287
11/12/2025-11:28:17 AM

ABOUT THE ECD CENSUS 2021

The Department of Basic Education commissioned the ECD Census 2021 to collect data on all Early Childhood Development programmes in the country to better understand the early childhood development landscape in South Africa.

The ECD Census 2021 counts all registered and non-registered ECD programmes to build a data management information system for the ECD sector. Funded by the LEGO Foundation, the data and indicators will also provide a basic assessment of the enabling environment for quality learning through play.

The first national census highlights opportunities to broaden the access to quality learning for every child in South Africa. The information gathered will be used to integrate ECD into the Education Management Information System (EMIS) and expand education support and play-based learning programmes. The census also makes observations on the facilities available at the sites to enable planning for greater inclusion of children with disabilities and the delivery of integrated health and safety programmes.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

ACKNOWLEDGMENTS

The ECD Census 2021 has been the largest effort to map the South African ECD landscape to date, and its success was only possible through a partnership between government, civil society and the private sector.

The LEGO Foundation's role has been invaluable as not just the funder, but as a sector coordinator, and overall supporter of the project.

The Department of Social Development offered critical support in identifying ECD services both through existing databases and local DSD officials provided much-needed guidance to the data collection teams in the field.

The ikapadata team deserves gratitude for conducting the fieldwork under extraordinary circumstances. Their fieldworkers worked tirelessly as they visited each and every ward in the country to identify Early Learning Programmes.

We would also like to thank Nelson Mandela Foundation, Brian Liggett and Prof Andy Dawes who offered their advice, insights and knowledge for the duration of this project. We would also like to thank the project steering committee (UNICEF, StatsSA, Department of Planning, Monitoring and Evaluation) for their ongoing support and guidance throughout the project.

But most importantly, none of this would have been possible without the selfless support of NGOs, ward councillors, community members, NECDA, and especially the ECD principals and practitioners who so willingly opened their doors to us.

Thank you!

007-287



REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

PROJECT COLLABORATORS

Basic Education
Social Development

The LEGO Foundation

ikapadata
Data For Social Impact

NECDA
WORKING IN PARTNERSHIP
"Building a better Future for Children"

impande

NELSON MANDELA FOUNDATION
Living the legacy

unicef

007-289
11/12/2025-11:28:17 AM

EXECUTIVE SUMMARY



007-289

EXECUTIVE SUMMARY

The ECD Census 2021 constitutes the first complete mapping of early childhood development (ECD) services in South Africa. Its purpose is to integrate Early Learning Programmes (ELP) into the Department of Basic Education's (DBE) Education Management Information System (EMIS), identify gaps in the access to and quality of ELPs in South Africa, support research on ECD, and gain insights into the enabling environment for Learning through Play (LtP).



The ECD Census was initiated by the DBE in partnership with the LEGO Foundation. The data collection was carried out by service provider ikapadata (Pty) Ltd.

Data for the Census was collected between August 2021 and February 2022. Over 360 fieldworkers visited every ward in the country to identify ELPs of any size and type. Grade R classes were not included in the Census.

The instruments used for data collection covered the following themes: location, address, opening times, services, fees, registration and registration status, subsidies, affiliations, land and facilities ownership, enrolment and presence of children, staff counts, teaching environment and practices, attitudes towards LtP, infrastructure, access to water and electricity, learning and playing environment and materials, equipment, and access control.

In total, 42420 ELPs were captured during fieldwork. The province with the most ELPs is Gauteng (10376), followed by KwaZulu-Natal (8089) and Eastern Cape (5426). About 60% of ELPs are urban, 40% are rural.

Over 1.6m children enrolled in ELPs were counted during the Census, but only 1.1m children were physically present during site visits. Based on ECD practitioners' estimates, about 1.5m children usually attend ELPs on a day to day basis and just under 2m children did so before the Covid pandemic.

Forty percent of ELPs are fully or conditionally registered with DSD as a partial care facility, an early learning programme or both, while 16% are in the process of registering. Forty-two percent of programmes are not registered with DSD. One third of ELPs stated that they receive a subsidy from DSD.

The large majority (69%) of ELPs mention fees as their main source of funding, followed by government funding (27%) and donations/fundraising (4%). The average monthly fee amount is R509 per child. Many (77%) ELPs provide meals for learners, and at just under half (48%) of ELPs parents also contribute to the meals. Government provides meals at 17% of ELPs. At 59% of ELPs children can wash their hands using water from a tap and flush toilets are available at 60% of ELPs.

Just over half (52%) of ECD practitioners have an ECD qualification at NQF level 4-9, and 27% underwent a relevant skills programme. Twenty-two percent do not have any relevant qualifications.

More than half (54%) of ELP programmes allocate less than 30 minutes per day to free play as part of their daily programme. ELPs that are subsidised by the government have on average more types of play and learning materials (13.5) than those that are not subsidised (11.1). Only 56% of ELPs have access to age-appropriate children's books.

The next steps after the conclusion of data cleaning and verification will be the integration of the dataset into EMIS. An anonymised version of the dataset will be made available to the public via DataFirst at the University of Cape Town. This will coincide with the full report, and provincial profiles being released.

007-291
11/12/2025-11:28:17 AM

INTRODUCTION



007-291

INTRODUCTION

Rationale for the ECD Census 2021

The lack of accurate data and formality in the ECD sector continues to hamper government and civil society's efforts to harness its full potential. Having a comprehensive and well-maintained ECD database in place, similar to DBE's Education Management Information Systems for schools, would represent a huge leap forward in providing access to early learning opportunities and measuring the impact of the sector on children's development and well-being. Knowing exactly how many ECD services are operating in which parts of the country, and what their challenges are in terms of infrastructure, funding, qualifications and government support will enable the relevant decision makers in government and civil society to allocate resources more effectively and efficiently. This knowledge will be of particular value during the ECD function shift as DBE is taking over responsibility for the ECD sector from DSD.



The data and insights gained from this exercise will also be of immense value to academics and researchers working on early childhood development. Those who are designing studies on early childhood development in South Africa will for the first time have a reliable sampling frame for ELPs available, and they will be able to use the ECD Census results for their own explorations of factors that are enabling or hindering the advancement of ECD in the country.

Finally, the Census also shines light on the role of Learning through Play (LtP) in the South African ECD sector, and looks at factors that will enable or hinder quality LtP taking place in ELPs. This includes factors such as availability of relevant play and learning materials, practitioner attitudes, dedicated time for free play, and indoor and outdoor spaces for play. Learning through Play is considered a crucial component of early childhood development because children make sense of the world around them through play. Play has a positive impact on cognitive and physical development and offers stimuli for problem-solving, imagination, language, observation and concentration.

The result of a successful collaboration between DBE and the LEGO Foundation, the ECD Census 2021 represents an exemplary partnership between government and civil society.

007-293
11/12/2025-11:28:17 AM



REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Early Childhood Development Services in South Africa

Significant progress has been made in terms of provision for Early Childhood Development (ECD) services in South Africa after the first democratic elections in 1994. Since then, the South African government has put in place several policies and programmes intended to prioritise ECD as a critical component of overcoming the negative impact of poverty on young children.

As noted in the *Education White Paper 5* of 2001 (Department of Education, 2001a), children from poor families were increasingly at risk of stunted growth, poor adjustment to school, increased grade repetition, and higher dropout rates. This led the government to increase funding for ECD centres for children aged 0-4 years through the Department of Social Development, and for Grade R in public schools for children aged 5-6 years through the Department of Education. The primary goal was to provide universal access for five-year olds to formal Grade R programmes by 2014. Ten years later, 67% of five-year olds were enrolled in Grade R (Jamieson *et al*, 2011), and by 2016, this percentage had increased to an estimated 77% of the population of 5-year olds in South Africa (Atmore et al, 2019). According to a report by the DBE (2019) using General Household Data from 2010 to 2019, the picture in 2019 is more complex. While 87% of 4-6 year olds attended an Early Learning Programme in 2019, only 54% of 5-year olds were attending Grade R (this figure includes learners that are repeaters). A substantial proportion (28%) were attending an ECD Center but were not enrolled in Grade R.

While the *White Paper* focused primarily on access to Grade R, the *National Integrated Plan for ECD 2005–2010*, and later the *National Plan of Action for Children* (NPAC) in South Africa 2012–2017, made provision for an integrated government approach to early childhood development programmes for children from birth to four years of age (i.e. pre-Grade R). The strategic plans cover both traditional center-based ECD programmes, as well as non-traditional home-based and community based services in informal settings. Here the goal was to ensure universal access to two years of ECD exposure before Grade R, which would require increased coordination between government departments (Atmore *et al,* 2012a). These plans culminated in the National Integrated Policy for Early Childhood Development in 2015 covering development from conception until the year before children are required to enter compulsory schooling.

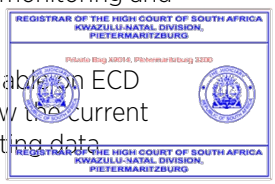
It was estimated that, in 2015, approximately 63% of children aged 3-5 years were enrolled in some form of early learning programme such as Grade R, creche, or playgroup (Hall *et al* 2017), indicating a significant increase in access to ECD programmes since 2001. Despite this progress, by 2017, nearly 1.1 million 3-5 year olds still had no access to any form of early learning programme (Hall *et al*, 2019). Most importantly, this access gap is widest among poorer children such that a 3-year old child from a rich household was twice as likely to attend an ECD programme as compared to a child of the same age from a poor household (Hall *et al*, 2019). The attendance gap between rich and poor disappears as children enter Grade 1, where all poor children are able to access fully subsidised primary and secondary education. Early learning programmes outside of public schools are only partially subsidised,

007-293

requiring most parents to pay fees. In 2017, nearly 45% of parents paid over R200 per month in fees for ECD services (Hall *et al*, 2019). This suggests that much of the existing inequality in access to ECD programmes is due to costs, especially since the majority of children in South Africa come from poorer households. These gaps are further exacerbated when one considers the quality of the ECD services.

While increased access to early learning services is encouraging, the desired early learning outcomes for children will only be realised if the programmes accessed are of sufficient quality. Notwithstanding the progress made since 1994, the ECD sector in South Africa still faces significant challenges, including those related to infrastructure, types of ECD programmes offered, ECD practitioners qualifications and training, as well as institutional capacity and funding (Atmore *et al*, 2012). Furthermore, several studies have shown that poorer children are more likely to receive poorer quality ECD programmes and that higher quality ECD services are related to better learning outcomes (Biersteker *et al*, 2016; Dawes *et al*, 2020).

Unfortunately, there is no reliable national data that enables regular monitoring of the quality of early learning programmes .Neither does South Africa have an administrative data system for ECD similar to those used by the Department of Basic Education, e.g the South African School Administration and Management System (SA-SAMS), and by the Departments of Health. For example, there is no reliable data on the number of registered and unregistered ECD sites and how many children are enrolled and are attending these sites on a regular basis. As a result, all data on ECD services is drawn from national survey data, such as the StatsSA General Household Survey (GHS) and the National Income Dynamics Study (NIDS), which is not optimal nor sustainable for robust programme monitoring and planning.



Below we review the state of data available on ECD services in South Africa and explain how the current study contributes to and builds on existing data.

Data Sources on Early Childhood Development

National ECD Audit Data

The first nationwide ECD audit was completed in 2000 (DoE, 2001). In total, 23,482 ECD sites across South Africa were found. There were 1,030,473 children enrolled, making up 16% of the population of children aged 0-7 years, 86% of which were in attendance on the day of the audit. Half the learners in attendance were female and half male. Of the 837,753 children with valid age data, 49% were 5–6 year olds, 33% were 3–5 year olds, and only 16% were under the age of 3 years. The rest were over 7 years of age. Within the 5-6 year age cohort, 43% were enrolled, indicating that less than half of the national cohort of 5-6 year olds were being accommodated.

Forty percent of ECD services were located in rural areas and 60% in urban areas. Nearly half of the sites audited were community-based, a third were home-based, and the remainder school-based. Most of the learners under the age of five years were at home based sites, while the 5-7 year olds were in community based or school based sites. The majority of ECD sites (72%) were, however, within one kilometer of the nearest primary school. While provincial distribution of sites mirrored population distribution data, access to ECD services was lower than the national average in the three provinces with the greatest number of poor children – Limpopo, Eastern Cape and KwaZulu-Natal (Atmore, 2012a). English was used as a language of instruction in 83% of the sites, despite being the home language of only 12% of enrolled learners (although some sites had more than one language of instruction).

Educator quality was found to be poorest at ECD sites catering predominantly for black African learners (Atmore, 2012a). Of the 54,503 practitioners working at the ECD sites, only 12% were fully qualified and 23% had no form of training at all. The majority had some sort of training (mainly through NGOs) or qualifications that were not recognised by the Department of Education. Unfortunately, the lack of qualifications was not offset by years of experience since those with the highest qualifications also had the most years of ECD experience (i.e. five years or more). Significantly, nearly 70% of black African practitioners had not received any training at all, while only 5% of black African practitioners were fully qualified as compared to 35% of their White colleagues.

The audit data was also used to generate indices providing summaries of key aspects of ECD provisioning including indices for infrastructure and support. In terms of infrastructure, different types of ECD services (school, home, and community) had similar proportions of sites above, below, and at

007-295
11/12/2025-11:28:17 AM

national average levels. However, a higher proportion of sites (23%) providing services to predominantly black African learners were below average as compared to the national proportion of sites scoring below average (18%). In contrast, a higher proportion of sites servicing White learners were above the national average (68%) as compared to the proportion of sites scoring above average nationally (20%). Overall, 53% of sites had electricity, piped water, and flushing toilets, whereas 8% of sites had no access to any of these basic services.

With respect to support, a higher proportion of sites servicing predominantly White learners (35%) scored above average as compared to the proportion of sites scoring above average at a national level (19%). Two thirds of sites were registered with either the previous Department of Education (mainly schools) or the previous Department of Welfare (home and community based sites). The majority of sites relied on learner fees as their primary source of income, with more than 25% of sites reporting that they had no other source of income. Nearly a third of sites charged fees of less than R25 per month, and in about half of these sites the fees were not paid regularly. This over-reliance on parental sources of income places most ECD programmes in a highly vulnerable financial position. The sector as whole was, for the most part, poorly funded.

Significantly, the proportion of African sites receiving a 'below average' rating with respect to both the infrastructure and support indices either equated to or exceeded the combined proportions of the other four population groups.

The Department of Social Development conducted a second national ECD audit in 2013 (DSD, 2014). As with the 2001 audit, the aim was "to obtain comparative information on the nature and extent of ECD provisioning, services, resources and infrastructure from all nine provinces across registration statuses in order to inform and support ongoing policy and planning initiatives in the ECD sector". The 2013 audit covered a number of themes (some of which were not covered in the 2000 audit), including the location and registration of ECD sites, human resources, children, programmes, health and safety, nutrition and food, infrastructure and transportation. The 2013 audit also provides greater detail on each of these themes in comparison to the 2000 audit.



A total of 17,846 ECD sites were audited with an enrolment figure of 972,623 children aged 0-5 years. A key reason why these enrolment figures are lower than the ones reported in the 2001 audit is that the previous audit included children in Grade R (which at the time was still largely provided by non-school based programmes), whereas the 2013 audit does not. It does, however, indicate that around a third of ECD sites offered Grade R. Below we briefly review key findings in the 2013 audit and compare it with findings from the 2000 audit where possible.

Programme Types & Access

In both audits, the majority of ECD sites that were audited were located in urban areas, and the overall urban/rural divide was relatively the same. However, whereas 49% of ECD sites in the first audit were located in formal urban settings, only 20% of the ECD sites in the 2013 audit were located in similar settings. In contrast, 39% of ECD sites audited in 2013 were located in informal urban settings as compared to 11% in the 2000 audit. The majority of learners for both audits were enrolled in community-based programmes.

However, a higher proportion of learners were enrolled in home and school-based programmes in the 2000 audit (43%) compared to the 2013 audit (27%). At the time of the first audit, nearly 75% of ECD sites were located within 1km of the nearest primary school. This figure had dropped to 58% for the 2013 audit. These differences can be explained by the fact that the 2013 audit included programmes located at "schools" that offered Grade R (presumably these were pre-schools) but excluded schools that offered Grade 1.

007-295



Registration & Funding

Whereas two thirds of ECD programmes were registered with either the Department of Education or Welfare in the 2000 audit, the proportion of registered sites in the 2013 audit dropped to just over half (56%). However, this figure is likely to be overestimated since a large number of unregistered sites were not accounted for in the 2013 audit. In 2000, only 25% reported receiving government funding from either the education or welfare departments in addition to monthly fees. A large number of ECD sites (28%) reported having no other source of income apart from monthly learner fees. In the 2013 audit, 40% of ECD programmes reported receiving a subsidy from DSD. While the majority of programmes receiving the subsidy were registered with DSD, about 30% of registered programmes had not received any subsidy. The 2013 audit does not report the percentage of ECD sites that rely on fees alone.

Infrastructure. Of the ECD programmes in the 2000 audit, just over half (53%) reported having access to mains electricity, piped water and flushing toilets, 22% reported only having piped water, and 8% reported having access to none of these basic amenities. The 2013 audit showed that 56% of programmes had flushing toilets and 80% had access to piped water. Fewer than 2% had no toilets of any kind. With respect to access to mains electricity, 83% of programmes had electricity for lighting and 53% for cooking, whereas 8% had no electricity for lighting and 1.5% had no electricity for cooking.

Staff & Programme Quality. The 2000 audit data showed that the majority of practitioners (63%) either had no ECD training or received training from an NGO that was not accredited by the Department of Education. In the 2013 audit, 61% of practitioners had no specialised ECD training. What is most concerning is that the highest qualification of 64% of practitioners in the 2013 audit was below matric (or equivalent). Unregistered programmes had the highest proportions of practitioners with less than matric (92%). Unfortunately, the report does not specify the highest school grade achieved by practitioners (although the data is available and was incorporated as a component of the educator index). In terms of learner-practitioner ratios, the figure estimated in the 2000 audit was 19:1. The ratio reported in the 2013 audit report was significantly higher, however, this was likely due to overestimating the number of practitioners in the workforce (a point which we elaborate on in the next section).

007-297
11/12/2025-11:28:17 AM

Audit vs Government Data

In a 2016 report comparing the 2013 audit data with household data from StatsSA and educational data from DBE and DSD, Gustafsson (2017) identified significant discrepancies in learner enrolment and ECD staffing figures. They note that a key weakness of the audit report is that it does not examine the audit data in light of emerging statistics from other sources.

Data from the General Household Survey (2013-2015) indicated that 766,000 children aged 4 years old were enrolled in ECD programmes, including those enrolled in schools and with day mothers (around 74% of children who should be in pre-Grade R). Based on data from DBE, the report estimates that in 2016, around 34,000 pre-Grade R children were enrolled in schools. The 2013 audit estimated 222,000 children aged 4 years enrolled in ECD programmes. This leaves a gap of 544,000 children, and even after taking into account missed children as estimated in the audit report, there are still approximately 325,000 children unaccounted for in this age cohort.

The authors explain that this discrepancy is likely due to unregistered ECD sites that were not captured in the audit data. Taking the 325,000 unaccounted for children and dividing it by the average number of learners enrolled in ECD programmes, they estimate that approximately 6,325 ECD sites were unaccounted for in the 2013 audit (this figure excludes day mothers). Looking at provincial figures, the authors show that, according to DSD statistics for Kwa-Zulu Natal in 2016, the province had 2,622 fully registered and conditionally registered ECD sites. In contrast, the 2013 audit only captured 1,636 registered sites in the province. While the difference could partly be explained by some unregistered ECD sites becoming registered between the two time periods, the gap is more indicative of the problems around identifying ECD sites, particularly those that aren't registered.

Gustafsson and colleagues (2017) also examine the discrepancies relating to staffing in the ECD sector.

A major problem with the 2013 audit data is that it reports two sets of conflicting results with respect to the number of practitioners and assistant practitioners employed by and present on the day of the audit. The first set of results is based on questions directed at the person in charge of the ECD programme (presumably the principle or programme manager). The questions required numbers of staff in each of five age cohorts, which led to significant double counting of staff across the different age groups. A second set of questions were posed directly to individual staff members, which resulted in much lower staff counts. Using estimated child-teacher ratios, Gustafsson and colleagues (2017) show that results based on the second set of questions were in line with figures derived from other data sources and are therefore more reliable than results using the first set of audit questions. Unfortunately, all ratios discussed in the audit report are based on the inflated staff data (i.e. from the first set of questions). As such, the child-teacher ratios reflected in the 2013 audit report are considerably lower than ratios reported in other publications and are therefore largely invalid.



Finally, the authors note that without reliable estimates of the numbers of children accessing ECD services in the target age cohort, and the number of practitioners providing those services, government planning and funding systems will likely fail to reach the poorest children most in need of public assistance. Estimating the number of pre-grade R children that are funded by the state, they show that 77% of the target population for a year of pre-Grade R education are in fact not funded. Breaking this down they estimate that, of the population of children that should be enrolled in an ECD programme in the year before they enter Grade R, 23% are funded by the state, 51% are enrolled but not funded by the state, and 26% are not enrolled at all. These figures are critical to understand if the government wishes to achieve their strategic goal of providing universal access to one year of education prior to Grade R.

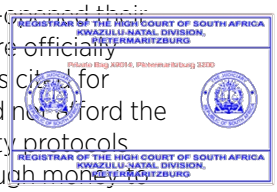
007-297

Impact of Covid on ECD sector

The importance of sufficient government funding for pre-Grade R ECD programmes became even more apparent during the Covid-19 pandemic. On 18 March 2020, following the government's declaration of a state of national disaster to contain the spread of COVID-19, ECD programmes across South Africa were instructed to cease all operations and close their doors. On 6 July 2020, the High Court ruled that the ECD sites could re-open immediately, as long as they were able to meet specified safety standards. Unfortunately, the sector was slow to recover, mainly because of ECD programmes' over-reliance on fees as their primary source of income. In the absence of these fees, and without government funding to subsidise the loss of income, the sector has been placed in an even more precarious financial position than ever before.

A 2020 report based on data from the National Income Dynamics Study – Coronavirus Rapid Mobile Survey (NIDS-CRAM) showed that "the ECD sector was operating at just a fraction of its pre-crisis levels a month after programmes could reopen" (Wills, et al, 2020). Estimating the extent of the decline in children's attendance rates, the report shows that less than 5% of children aged 0-6 were attending ECD programmes in the month after the sector re-opened, compared to 38% in 2018. Eighty three percent of survey respondents with children who were enrolled in an ECD programme pre-lockdown reported that their children had not yet returned after programmes were officially allowed to re-open. Over half (55%) of these respondents stated that the reason why their children had not yet returned was because the programmes had not yet re-opened. Amongst those who reported that their children had returned, findings showed that attendance was nearly twice as high for respondents living in urban areas (16%) as compared to those in rural areas (8%).

While the NIDS-CRAM Survey findings provide insight from the perspective from caregivers, two surveys conducted in April and August 2020 (First and Second Surveys Assessing the Impact of COVID on ECD) shed light on the situation from the perspective of ECD providers (Bridge et al, 2020a, 2020b). Data from the second survey in August confirmed the delayed re-opening of ECD programmes and showed that 68% of 4,500 ECD providers had not yet re-opened their programmes one month after they were officially allowed to do so. The two main reasons cited for continued closures was that they could not afford the costs of the additional health and safety protocols and that they simply did not have enough money to re-open.



Findings from the first survey in April showed that 99% of ECD providers (there were 3,925 in the sample) did not collect any fees during the period that they were closed and 83% had not been able to pay the full salaries of their staff. Moreover, only 38% of these providers received child subsidies from DSD at the time (despite many more being registered with the department) and only 35% of the ECD workforce accounted for in the survey were registered with the Unemployment Insurance Fund and could therefore qualify for income protection from the Temporary Employment Relief Scheme (TERS).

Vangasali Campaign

In 2020, the Department of Social Development, the Nelson Mandela Foundation and GovChat commissioned the Vangasali campaign which consists of three phases: (1) data collection, (2) standardising the process for ECD registration across the country, and (3) mass registration of unregistered ELPs. The first phase, data collection, aimed at finding every ELP in the country by inviting them to participate in the campaign via an online form, email or WhatsApp. The list of participating ELPs was merged with already existing lists of ELPs, resulting in a combined list of 52288 ELPs. The main difference between the Vangasali and the ECD Census datasets is that the ELPs in the Vangasali dataset had not been visited and mostly not been contacted while the ELPs in the ECD Census dataset have all been visited. It is therefore possible that the Vangasali dataset includes ELPs that had not been active already at the time they were added to the dataset. It is also possible that the Vangasali dataset contains duplicates as identifying information of ELPs in the Vangasali dataset is partially missing and address data is inconsistent. Nonetheless, the Vangasali dataset offered immense value to the ECD Census as it provided the basis for the list of so-called "known" ELPs fieldworkers were expected to look out for and visit in each EA before they had to start looking for additional ELPs.

007-299
11/12/2025-11:28:17 AM

METHODOLOGY



REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

007-299

METHODOLOGY

Questionnaire Development and Pilot Study

The fieldworkers captured the data with the help of two instruments. One was for the responses of the ECD programme manager or someone with in-depth knowledge of the programme, the other was used to capture observations (e.g. on infrastructure or number of children present) made by the fieldworkers. The separation of the two instruments was to cater for the possibility that the interview and observations had to be captured on two separate occasions, e.g. only the observations could be done during the first visit and the interview was possible during the second visit the following day. The instruments covered the following themes: location, address, opening times, services, fees, registration and registration status, subsidies, affiliations, land and facilities ownership, enrolment and presence of children, staff counts, teaching environment and practices, attitudes towards LtP, infrastructure, access to water and electricity learning and playing environment and materials, equipment, and access control.



The first draft of the instruments were developed by ikapadata together with the LEGO Foundation and DBE. As much as possible, existing questionnaires from other audits, surveys and studies in the ECD sector were used to construct the questions for each theme to enable a certain level of comparability and consistency between the census data and legacy datasets. The process entailed a listing of all the questions we could find in existing questionnaires under the theme headings, followed by a discussion which of these questions should be kept for the draft questionnaire and what additional questions should be added to each section.

The first draft underwent several rounds of reviews by various ECD experts and practitioners until a pilot draft was agreed on by the relevant stakeholders from ikapadata, LEGO Foundation and DBE. The instruments were piloted over nine fieldwork days between the 7th of June and the 25th of June 2021. In total, four teams of eleven fieldworkers visited 179 ECD programmes in 27 wards for the pilot. The insights gained from the pilot led to further substantial changes to the instruments. Perhaps most importantly, the decision was taken to drop the in-field categorisation of the ECD programmes due to a lack of shared little shared understanding of the objective criteria that distinguish different types of programmes.

The final interview questionnaire was translated into six other languages: Afrikaans, Sepedi, Sesotho, Setswana, Xhosa, and Zulu.

007-301
11/12/2025-11:28:17 AM

Approach

The organisation of fieldwork relied on wards, which were chosen as the smallest geographical and administrative unit for subdividing the fieldwork effort. The decision to use wards, opposed to merely geographical units such as census enumeration areas, was guided by the fact that wards have meaning in the public consciousness, and they have easily identifiable stakeholders (e.g. ward councillors) in charge of them. Wards were assigned to fieldwork teams, whose responsibility it was to identify and capture every eligible ECD programme in a ward before they could move on to the next ward. Eligible ECD programmes were divided into "known" and "new" categories. Known ECD programmes refer to the estimated 34 000 ECD programmes that were extracted from the Vangasali dataset and that had good enough address information to place them in a ward through geocoding. New ECD programmes are the ones that were identified only during fieldwork. However, this clear distinction does not necessarily reflect reality as there are probably plenty of instances where a known programme could not be found where we expected it to be and was then later captured as a new ECD programme at its actual location. It is therefore better to see this approach as a strategy to lead fieldworkers to already known ECD programmes in a "fresh" ward as much as possible since ECD practitioners at those programmes were usually a great source of information about other ECD programmes nearby. Aside from known ECD programmes themselves, other key sources of information were the local DSD offices, as well as ECD forums operating in the area. For this reason, the fieldworkers were provided with the contact details of ward councillors, local DSD officials and ECD forums and expected to contact them whenever they entered a new area or municipality to obtain up-to-date lists of known ECD programmes in the area.

In order to ensure that fieldwork teams did not leave a ward prematurely before all programmes in that ward had been identified and captured, they were required to follow a ward completion protocol. The protocol entailed the following instructions:

- All known and new ECD programmes in the ward had to be flagged as either "Complete" or "Unavailable". Any programmes with statuses "Open" and "Return" still needed to be contacted or visited. Quality control (QC) staff checked the statuses on their end to confirm this.
- The team must have visited all populated areas in a ward and asked community members about ECD programmes. This had to be achieved by speaking to community members and submitting a Capture Location form in each populated area. The form submissions populated the Progress Map which was then used by the QC staff to confirm that all relevant areas had been covered.
- Only once QC staff confirmed the above and gave the team's driver the green light, was the team allowed to move on.



Training

The fieldwork staff, consisting of 341 fieldworkers and 26 regional coordinators, were trained over a series of eleven training workshops across the country. The first training workshop also served as a "training of the trainers" and was also attended by the trainers, who would go on to deliver the training workshops in the other provinces. The training schedule and content had been carefully planned with the intention to ensure the highest level of consistency between training workshops. The goal was to give the trainers a training kit consisting of slides, a training manual and data tools that would guide them through the workshops. This meant that all training participants across the different venues across the country received the same training.

The training presentation consisted of a collection of 85 slides that corresponded directly to the training schedule, so it was clear what slide the trainer was meant to show at any point during the training. Equally, the training manual was a 22-page document with detailed additional information for each section of the schedule and presentation. The presentation itself provided many visual prompts and examples to help illustrate key concepts of the survey. For example, it contained images of types of dwellings or learning materials to ensure that the recruits had a solid understanding of what was meant by certain terms used in the questionnaires. Other concepts explained to the participants included the principles behind LtP.

At the end of the first and second training day, the recruits were asked to complete an assessment on their tablet, the results of which were automatically compiled on a dashboard and discussed the following training day.

007-301

On the third day of training, the fieldworkers were in the field for the pilot. Recruits were grouped into four to five different teams who were then sent to different ECD programmes that had previously been prepared by the fieldwork management team. At each pilot site, one of the fieldworkers would lead through the interview with the ECD manager while the rest of the fieldworkers were capturing the responses on their tablets. Then each fieldworker would complete the observations form on their own.

On the last day of training, an additional training session for regional coordinators was held to clarify their roles and responsibilities during fieldwork.

Training Workshop in Johannesburg



After the last training day, the trainers together with the research consultants who were present at the training, decided on the final selection of fieldworkers, using the assessment results and impressions from the training and pilot as selection criteria. Additional training was provided to all the regional coordinators during September to ensure efficient and effective team management.

The fingerprints of all recruits were taken during training and processed for criminal background checks by a third party supplier. Any recruits with a criminal record were excluded from being selected to work on this project.

007-303
11/12/2025-11:28:17 AM

Fieldwork

The main fieldwork period for the Census commenced on the 24th of August and ended on the 10th of December 2021. In total, 341 enumerators and 26 regional coordinators were in the field during that period. Fieldwork for mop-ups continues in January and February 2022 with a smaller contingent of fieldworkers.

Fieldwork management was divided across three regional teams: Sea, Veld and Town. On the ground, regional coordinators, who were responsible for supporting the fieldwork teams with stakeholder engagements, quality control and logistics, reported directly to fieldwork management. The fieldworkers were grouped into teams of two to four fieldworkers, including one driver.

Fieldwork on the ground was largely determined by the ward completion principle, in that the fieldwork teams worked their way through their wards by, first, visiting all known ECD programmes in a ward, then, second, working with stakeholders in identifying new ECD programmes, and, third, literally covering as much ground as possible visiting all populated areas of a ward and asking ward residents whether they knew any programmes in the area. This approach helped us to complete the Census systematically and comprehensively, and we would recommend it for future iterations of the Census.

Another crucial aspect of fieldwork logistics concerned building trust and awareness in the ECD sector. This was to a large extent achieved by a media awareness campaign guided by the Lego Foundation and DBE, which included a virtual Census launch event as well as coverage by print media and radio. It also meant that the Census had its own brand identity with its own logo, colour scheme, etc. These efforts contributed immensely to the success of the Census as our fieldworkers were generally welcomed by the ECD practitioners and local stakeholders. It also meant that the fieldworkers were equipped with branded collateral (face masks, fact sheets, posters that were given to ECD programmes as a token of gratitude for their time) that looked professional and trustworthy.

The awareness campaign arguably also contributed to the safety of our fieldworkers, which ultimately was our highest priority. Given the scale of the project - about 320 fieldworkers traversing the country for about four months - it seemed almost inevitable at the beginning of the project that at least a few fieldworkers would experience serious threats to their safety. Thankfully we can report that no fieldworker suffered any serious physical harm in the course of the Census. The measures that were taken to minimise this risk include the following:



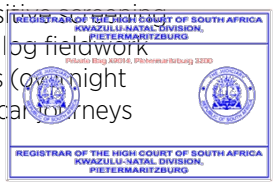
- Drivers were not allowed to drive at night, or at least to avoid it as much as possible, and were instructed to book overnight accommodation instead of returning home late at night.
- Fieldworkers were asked to report unsafe driving of their team drivers. Where this happened, new drivers were added to the team.
- Fieldworkers were instructed that they must leave an area if they sense any sort of danger. Where this occurred, efforts were undertaken to reenter the area under safe conditions.
- Fieldworkers were also instructed not to offer resistance when being robbed of their possessions - we would not hold them accountable for stolen tablets etc in such circumstances.
- The fieldwork teams were allowed to hire local community members, often recommended by the ward councillor, who would accompany them during their time in a community, steer them away from danger, and negotiate between the fieldworkers and community members who questioned their presence in the community.
- It was stressed during training that the fieldworkers must not make any contact with the children at the ECD programmes. While doing so might not evoke any immediate sense of danger, sticking to this principle served to minimise potential misunderstandings between fieldworkers and community members.
- In terms of Covid prevention measures, the fieldworkers were all equipped with two branded face masks which they were instructed to wear at all times in the presence of others and particularly when visiting an ECD programme.

007-303

Quality Control

The fieldworkers used SurveyCTO, a reliable and secure mobile data collection tool with offline capabilities, to submit data from the field to our database. Aside from the survey instruments ("Interview" and "Observations") they also had access to the following forms:

- Add New ECD Programme: Every time a fieldworker identified a new ECD programme (e.g. via local stakeholders or by talking to community members) they had to first add it to the existing list of ECD programmes before they could select it in one of the survey instruments. Once they submitted one of these forms, a new entry would automatically be added to the list of ECD programmes on the backend.
- Fix Ward: This form was used to "fix the ward" of known ECD programmes. This was necessary more often than expected as a result of the often incomplete or inaccurate address details for ECD programmes stored in the Vangasali dataset, resulting in inaccurate ward allocations. As fieldwork was organised through wards, it was important that fieldworkers had a quick way of reassigning ECD programmes to their correct ward so they would show up under their correct ward on the tablet when completing the survey instruments.
- Capture Location: In order to ensure complete geographical coverage, fieldworkers were required to submit their GPS location via this form whenever they were in a populated area without an ECD programme. In total, just over 100k GPS locations were captured that way.
- Contact ECD Programme: fieldworkers were required to complete this form every time they made contact with an ECD programme, even if it was just a phone call that had not been answered. One purpose of this was to keep track of the availability of ECD programmes as we knew that the contact details of a good number of ECD programmes sourced from the Vangasali dataset were outdated. The other purpose was to enforce the rule that fieldworkers must contact ECD programmes before a visit to ensure that they are available and willing to participate in the Census and not be surprised by our visit. In total, about 37000 contact attempts were documented using this form.
- Administrative forms: aside from the project-specific forms, the fieldworkers were required to complete a daily health check form (for Covid-screening - a missed or positive screening triggered a Slack alert), a form to log fieldwork expenses, a form to log per diems (overnight travel), and one form for logging car journeys (odometer readings).



All form submissions were directly imported from SurveyCTO into a database hosted on Airtable, a cloud-based relational database solution. The database also stored information about the teams, fieldworkers and wards, and as submissions were automatically linked to all three, our office staff were able to view all submissions either in their raw format (i.e. rows and columns) or through data aggregations (e.g. number of completed forms per team, fieldworker or ward). With the help of calculated fields, submissions were automatically flagged for quality control purposes (e.g. unusually short interviews), which would trigger an automated quality control alert in a shared Slack channel. It also gave our quality control staff deep insights into performance at a team and individual level as we were able to see, for example, how many ECD programmes each team would visit per day, on average, and rank teams accordingly at any point during the Census. Further, the Airtable database served as our administrative hub as we used it to send automated email communications to recruits and fieldworkers, calculate monthly payslips, and keep track of local stakeholders, among other things.

Assigned wards, lists of known ECD programmes in those wards, and the relevant contact details of local stakeholders were shared with the fieldworkers via an online user interface called the Fieldwork Portal. After signing up to the portal during training, fieldworkers were able to see the list of wards assigned to their team, including the "status" and progress indicator (percent of known and new ECD programmes completed). By tapping on a ward they were also able to see a list of relevant stakeholders for that ward and all known ECD and added new ECD

007-305
11/12/2025-11:28:17 AM

programmes in the ward with their contact details, address and, if available, a map showing the location of the programme. Additionally, the fieldworkers could update their personal information and view their latest pay slip (and later also bonus payments) via the portal. The portal was built with the help of Stacker, a software that adds a portal-like user interface to Airtable databases.

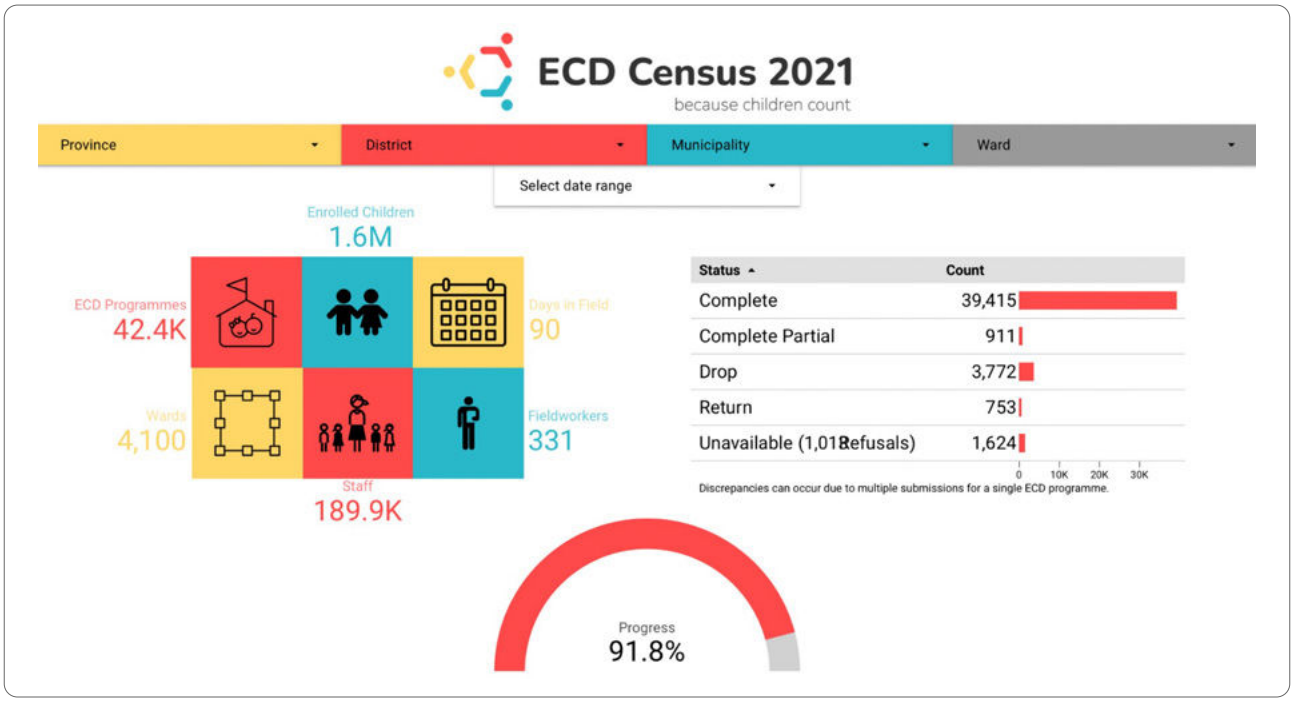
The communication between QC staff and fieldwork teams happened on Slack. Every regional coordinator had their own Slack channel accessible to every team's driver reporting to the regional coordinators. These channels had multiple functions:

- General exchange of information and issuing of instructions from fieldwork management to fieldwork staff.
- Quality control alerts asking for clarification from fieldwork teams. These alerts were automatically triggered by the backend every time a submission matched certain quality control criteria.
- Ward completion protocol: once a team initiated the ward completion protocol, QC staff would check the lists of ECD programmes and a map showing the geographical coverage of that ward before allowing the team to move on to the next ward.
- Sharing of challenges and lessons from the field within and between teams

Google Data Studio was used to visualise data collection progress and preliminary results, as well as to track key QC variables via a dedicated dashboard. A data table was automatically populated with the latest datasets from Airtable on an hourly basis and used to present graphs and figures in a visually appealing format. Dashboard users, which included ikapadata staff and relevant external stakeholders, were able to drill down into key results geographically and by team down to the individual fieldworker level. This enabled our QC team to spot significant differences between teams and fieldworkers, giving them the opportunity to rectify fieldworker bias or misunderstandings early on.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Dashboard

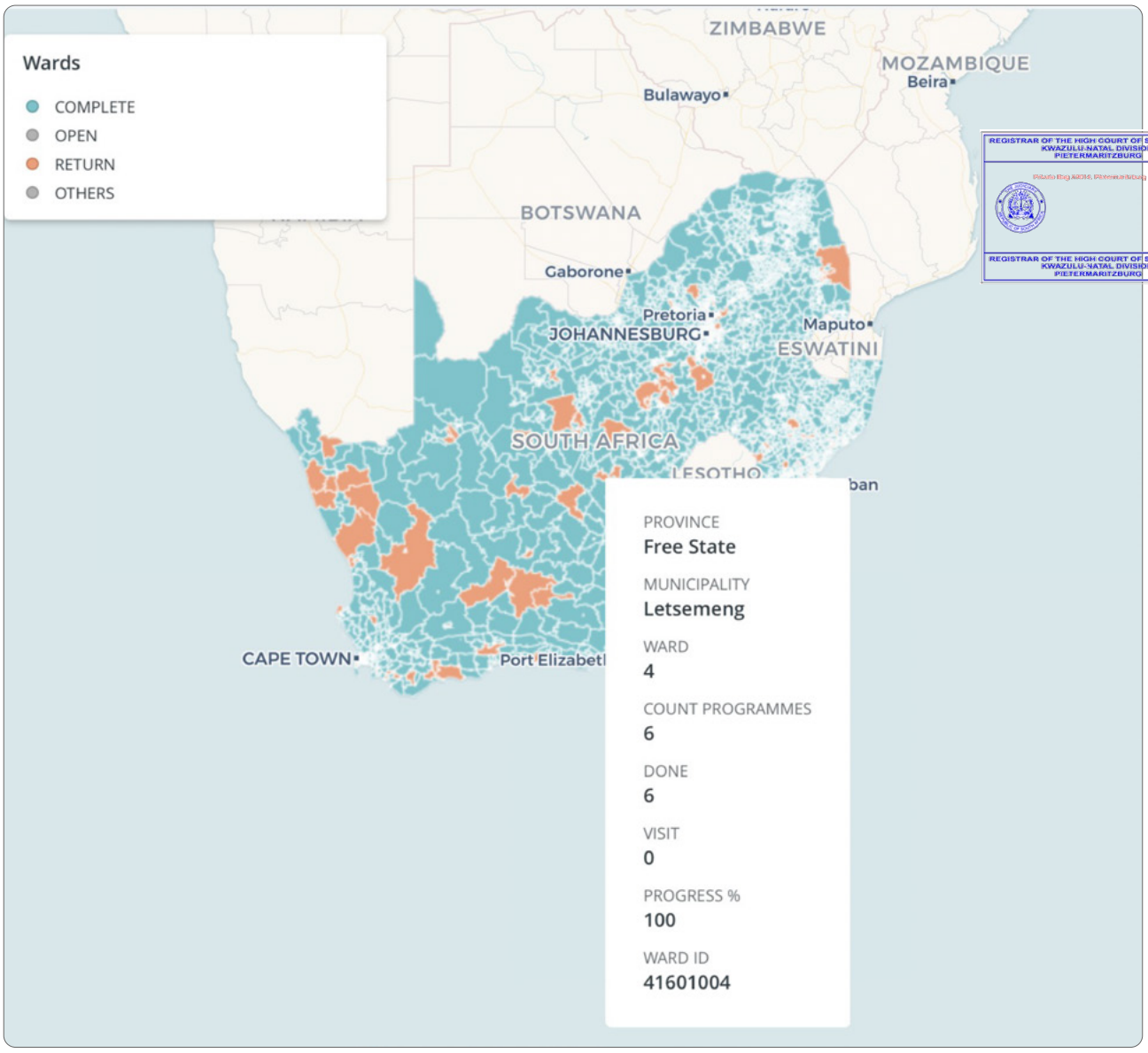


007-305

The dashboard also gave access to a live progress map compiled in Carto, an online mapping platform for creating interactive maps (see below). The incoming data was automatically synced to Carto such that the map was continuously updated in real time. The progress map showed all wards according to their status: *Open*, *Return* (in progress), and *Complete*.

Users were able to click on a ward to see the number of ECD programmes in that ward, and the percentage of completed ECD programmes (in *Return* wards that were not yet completed). This map purposefully did not show locations of individual ECD programmes as the map was shared with external stakeholders.

Progress Map



A team of 15 call agents conducted telephonic backchecks on 12% of the ELPs. If the discrepancy between the information they gathered on the phone and what was gathered in the field reached a certain threshold, the regional coordinator responsible for the area where the ELP was enumerated was asked to repeat the site visit. The same call agents also conducted telephone interviews with ELP principals who were not available for an interview at the time of the fieldworkers visit to the ELP.

007-307
11/12/2025-11:28:17 AM



Learning Opportunities

With any fieldwork project, and especially with a project of this scale, there are certain aspects that went exceptionally well, and others that one would do differently if given the opportunity to repeat the exercise. The purpose of this section is to provide practical advice for future data collection projects in the ECD sector based on the experiences we had during the Census.

Work closely with local stakeholders

The fact that we worked with ward councillors, local DSD officials, and ECD forums was definitely a factor that contributed significantly to the success of the Census. While it can be time consuming, it creates trust in the community, reduces the risk of potentially dangerous "misunderstandings" (especially when working with children), and helps identify ECD programmes that might have gone undetected if not for the help of these local stakeholders. It is worth adding another category to the list of local stakeholders to consult though: local public clinics. We learned that many public clinics maintain their own lists of ECD programmes in the area for public health purposes (e.g. immunisation campaigns). We only capitalised on this source of information relatively late, during mop-ups, when those lists often offered information about previously unidentified programmes in wards we had already visited.

Create awareness

Thanks to the efforts of our partners in this endeavour, namely the Lego Foundation and DBE, awareness around the Census had been created in the ECD sector and the public at large, even before our fieldworkers started to knock at ECD centres' doors. It is easy to underestimate how much time and effort the awareness campaign saved us, as the absence of trouble is easier to ignore than trouble itself. Nevertheless, we would encourage anyone attempting similar work in the sector to invest the necessary time and resources in clearly communicating who you are and your intentions as widely as possible to ensure that you are met with as many open doors as possible.

007-307

Come with branded collateral

The reach of the awareness campaign becomes amplified when it is matched with visible collateral on the ground. While the effect is difficult to measure, we believe that the fact that our fieldworkers wore branded face masks and name tags, and handed out information material that matched the logos and colours used for the media campaign, immediately created trust among ECD managers who might have otherwise felt cautious about individuals trying to gain access to their sites without proper credentials.

Smaller teams are better

We started fieldwork with the assumption that larger teams (three or four fieldworkers per team) would work better in urban and high-density areas than smaller teams. The idea was that such teams would be able to share a car but then split up into smaller groups and roam wards by foot. In theory, this assumption might still hold true for smaller data collection exercises where one can keep a very close eye on all teams at all times and interfere when teams make decisions that are bad for fieldwork efficiency. However, with a project of this scale, where one cannot micro-manage every team all the time, larger teams tend to work less efficiently as they do not always split up into smaller groups but go from site to site in one big group, which effectively means that only one or two fieldworkers are actually collecting data while the rest of the team sits and waits. It is therefore recommended [illegible] smaller teams of two fieldworkers per car. Although this increases the expenses on car rentals significantly, it also means that less time will be spent in the field, so overall costs will be reduced and fieldwork will finish sooner.



Use your tools effectively

We developed a whole range of tools such as the fieldwork portal, various forms for fieldwork administration, a relational database and automations in the form of Slack notifications specifically for this project, and we do believe that the success of the Census depended to a large part on having this toolbox at our disposal. Yet we also encountered instances where these tools became counterproductive, especially in the hands of fieldworkers who were not clear on the right priorities for this project. More precisely, we found that in the early stages of fieldwork some teams had spent hours on "administration" every day, which often meant that they were "fixing ward numbers" or "adding contact details" for ECD programmes which weren't at the location where the fieldworkers expected them to be based on the available address or GPS data. We had to remind these fieldworkers that the main purpose of the Census was to find and visit actual ECD programmes on the ground and that they had to spend as much time as possible on the road looking for new programmes and talking to residents in order to achieve that instead of trying to "fix" things on their tablets. In the future, we would therefore stress a pragmatic approach to fieldwork instead of creating the illusion that it can be done by merely filling out forms on a tablet.

Do not rely too heavily on existing lists

There is no doubt that access to the Vangasali dataset and some other sources of ECD programme details gave us a huge advantage and saved our fieldworkers an enormous amount of time in the field. In fact, known programmes from the Vangasali dataset were, more often than not, our fieldworkers' first point of entry into a ward, which in turn led them to previously unknown ECD programmes in the area. Nevertheless, there were also caveats to that approach. The Vangasali dataset is essentially a patchwork of all sorts of lists of ECD programmes, which meant that its reliability varied tremendously. For example, many programmes from that list were no longer operating or had moved to a new location. Relatedly, and perhaps the biggest challenge of all, were the inconsistent address fields. Although we had already removed all ECD sites from the list that we were not able to geocode (i.e. locate using GPS coordinates) to at least the street level, the reality was that our fieldworkers often struggled to locate even those programmes with GPS locations simply because the address information available to them was incorrect. As a result, a lot of time was spent in the field searching for supposedly known ECD programmes with often little success. Therefore, our recommendation would be to only "preload" known ECD programmes with accurate GPS locations or complete and reliable street addresses.

007-309
11/12/2025-11:28:17 AM

Incentivise fieldworkers

It is recommended to incentivise fieldworkers to find new ECD programmes. We started with a basic incentive of R10 per completed ECD programme per team member (e.g. if a team had 100 completed ECD programmes at the end of fieldwork, each team member received a R1000 bonus), which we later increased to R25 for ECD programmes beyond a certain threshold (see details about incentives under *Progress and Performance* above). We do not have a clear picture what difference the incentives ultimately made as the R10 bonus was paid from the beginning and the R25 bonus was introduced just as fieldworkers started to run out of open wards so whatever positive effect it might have had on performance, it was somewhat mitigated by the fact that teams generally struggled to reach previous performance peaks due to a lack of easily available new programmes. But we did see a marked increase in a few teams who seemed to be genuinely motivated by the extra bonus while still being able to find enough new programmes to make it worthwhile.

There are a couple of suggestions we would make in terms of incentives though, based on our experience. First, a purely "quantitative" bonus system is biased against fieldworkers who are operating in rural and generally less populated areas where ECD programmes are just more scarce and fieldworkers spend more time in the car travelling between wards and sites. It would therefore be fairer, and more encouraging, to have different incentive amounts according to area types. The other suggestion would be to give fieldworkers easy access to their bonus accounts and pay bonuses out frequently in order to make them more tangible and "real". While we gave fieldworkers the opportunity to view and track their bonus amounts via the fieldwork portal, this was only possible at a relatively late stage and bonuses were only paid with their last payslip. Ideally, a daily reminder or SMS notifications ("You earned R80 in bonuses today!" or "You are only one submission away from unlocking the R25 bonus!") would go a long way to maximise the benefit of such an incentive structure.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Bring sector experts to the training

One learning opportunity from the training was that information specific to the ECD sector needed more attention. While topics such as ECD registration were dealt with in the training, some of these concepts remained unclear to at least some of the fieldworkers. Realising that, we provided extra training to the regional coordinators after the start of fieldwork who then met with their teams and reminded them of the main points. In future though, we would either recruit trainers from the ECD sector (only one of the three trainers was an ECD professional) or bring sector experts to the workshop to cover the relevant sections of the training.

007-309



007-311
11/12/2025-11:28:17 AM

RESULTS



007-311

ECD census 2021 in numbers



Number of ELPs

42,420

Average number of children per ELP

39

Ratio ELPs registered with DSD

41%

Ratio ELPs receiving subsidy

33%

Number of children registered

1,7m

Number of staff

198k

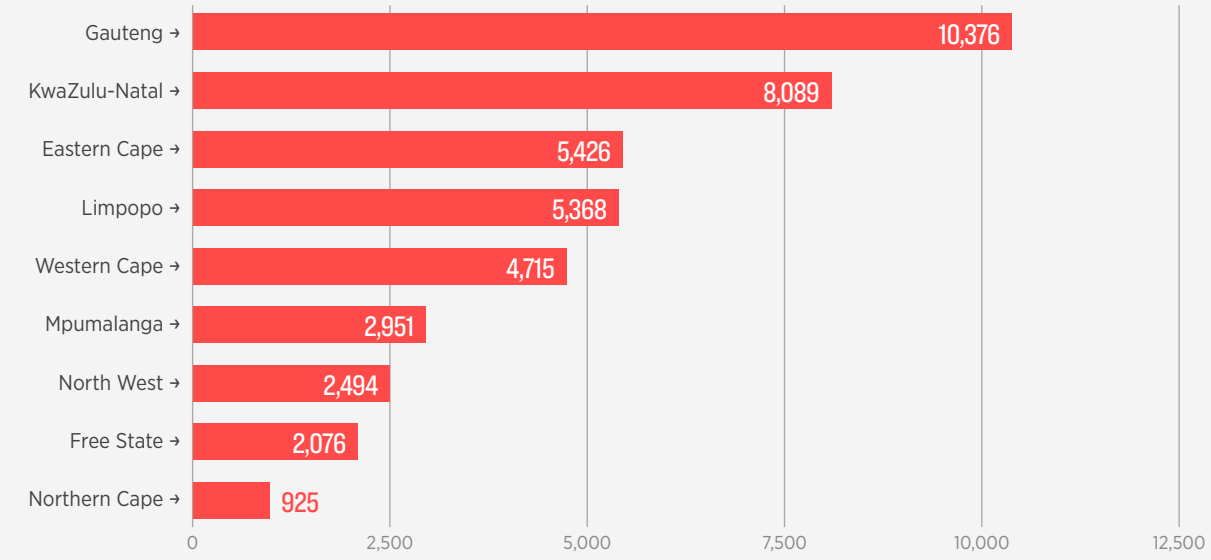
007-313
11/12/2025-11:28:17 AM



Geographical Distribution

In total, 42420 ELPs were counted during the Census. The province with the highest total number of ELPs is Gauteng (25% of all ELPs), followed by KwaZulu-Natal (19%), the Eastern Cape and Limpopo (both 13%).

ECD Programmes per Province

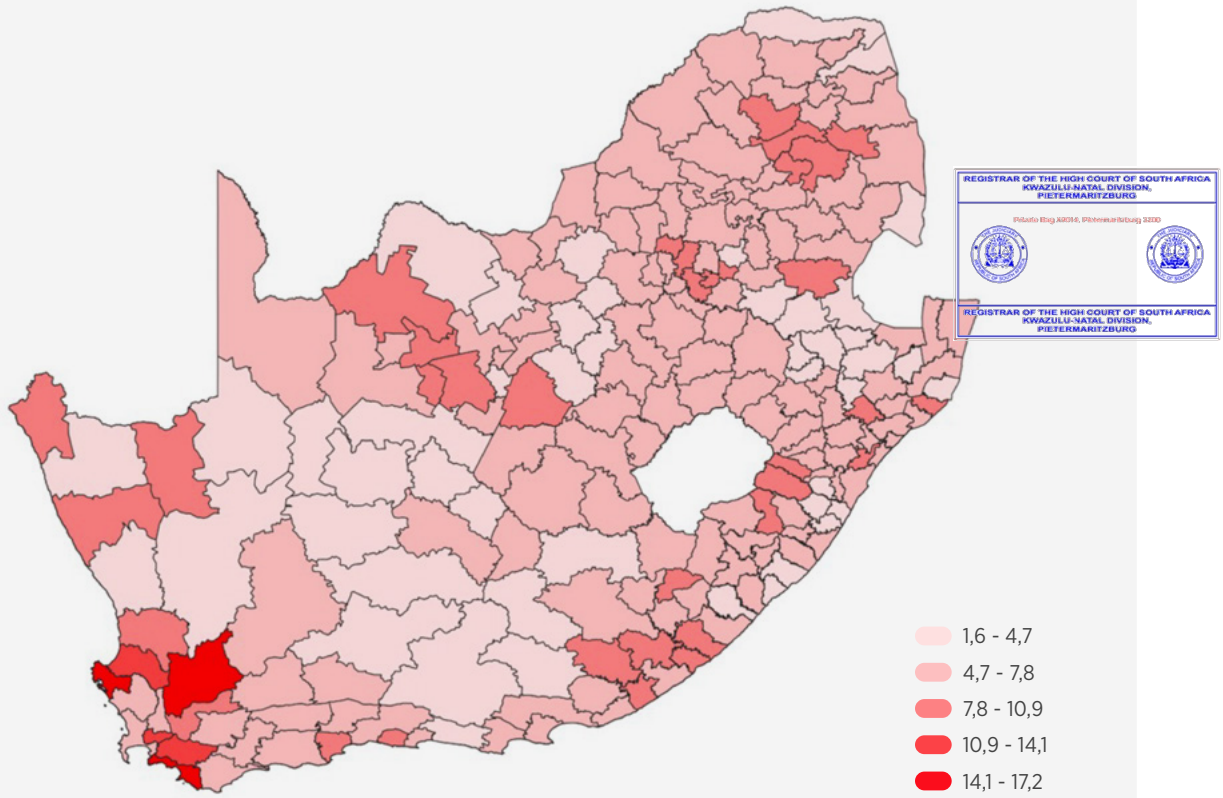


007-313

The following visualisation reflects the chart above by mapping the ratio of ECD programmes per 1000 children (based on Census 2011 data) by municipality. The breakdown by municipality displays a much stronger variance (1.6-17.2) across municipalities than the provincial breakdown above suggests.

On average, there are 6.2 ECD programmes per 1000 children between 0-5 years nationwide. This ratio varies geographically though

ECD Programmes per 1000 Children (Municipality)



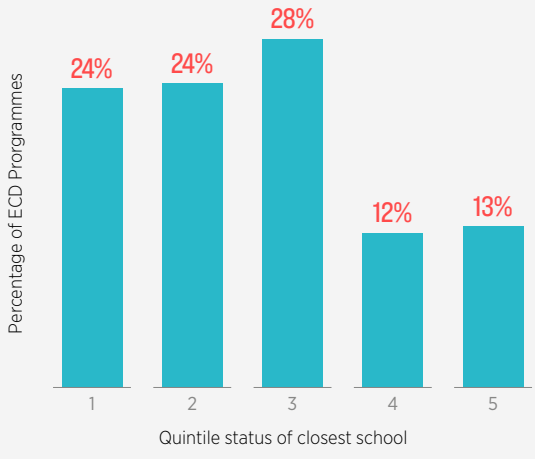
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Quintiles

The GPS locations for ECD programmes collected during fieldwork were used to conduct a spatial join to the NatEmis database of South African schools (2021, Quarter 2) to obtain the socio-economic quintile of the closest school for each ECD programme.

Almost half (48%) of the ECD programmes fall into one of the two lower quintiles 1 and 2, over a quarter (28%) into the middle quintile 3 and a quarter into the two highest quintiles 4 and 5.

Quintiles



007-315
11/12/2025-11:28:17 AM

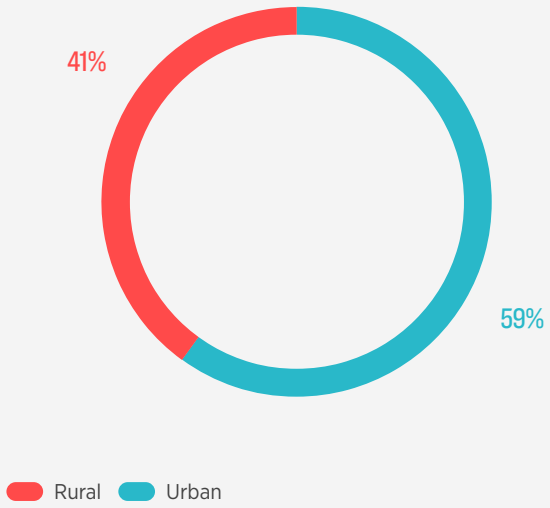


Urban vs Rural

Six out ten (60%) ECD programmes are located in urban[2] areas, which is an almost perfect match compared to the proportion of urban enumeration areas (59%) according to national census demarcations used by StatsSA.

Figure

Urban vs Rural Distribution

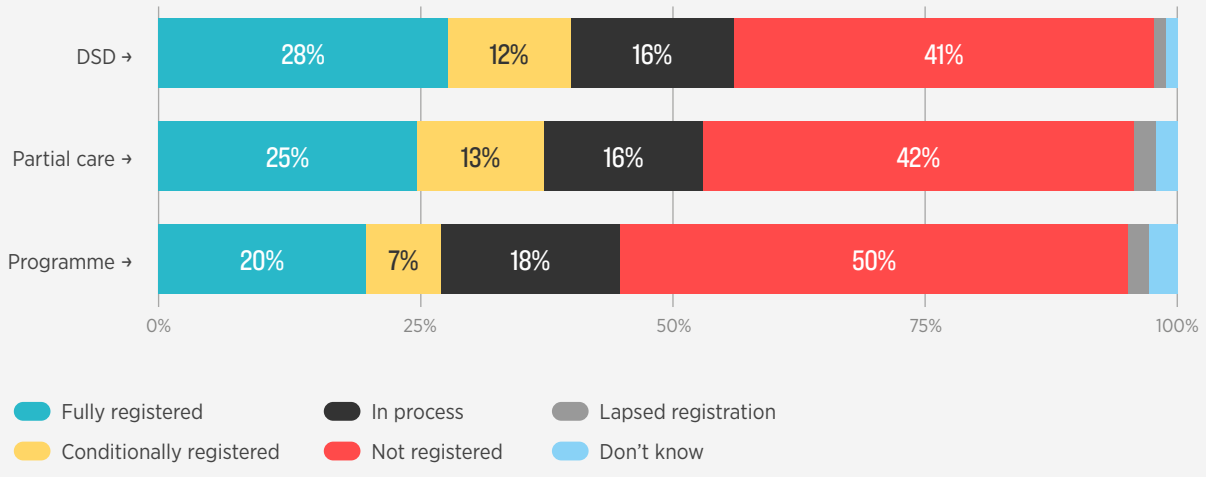


Registration Status and Affiliations

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Four out of ten (40%) of ELPs are (conditionally) registered with DSD as a partial care facility or ECD programme, and another 16% are in the process of registering. A large proportion (41%) however are not registered, or their registration has lapsed, and they also have not started the application process. Registration with DSD includes both registration as a partial care facility or as an ECD programme. Some respondents were not sure whether their ELP was registered as one or the other but knew that they were registered with DSD in some way.

Registration with DSD

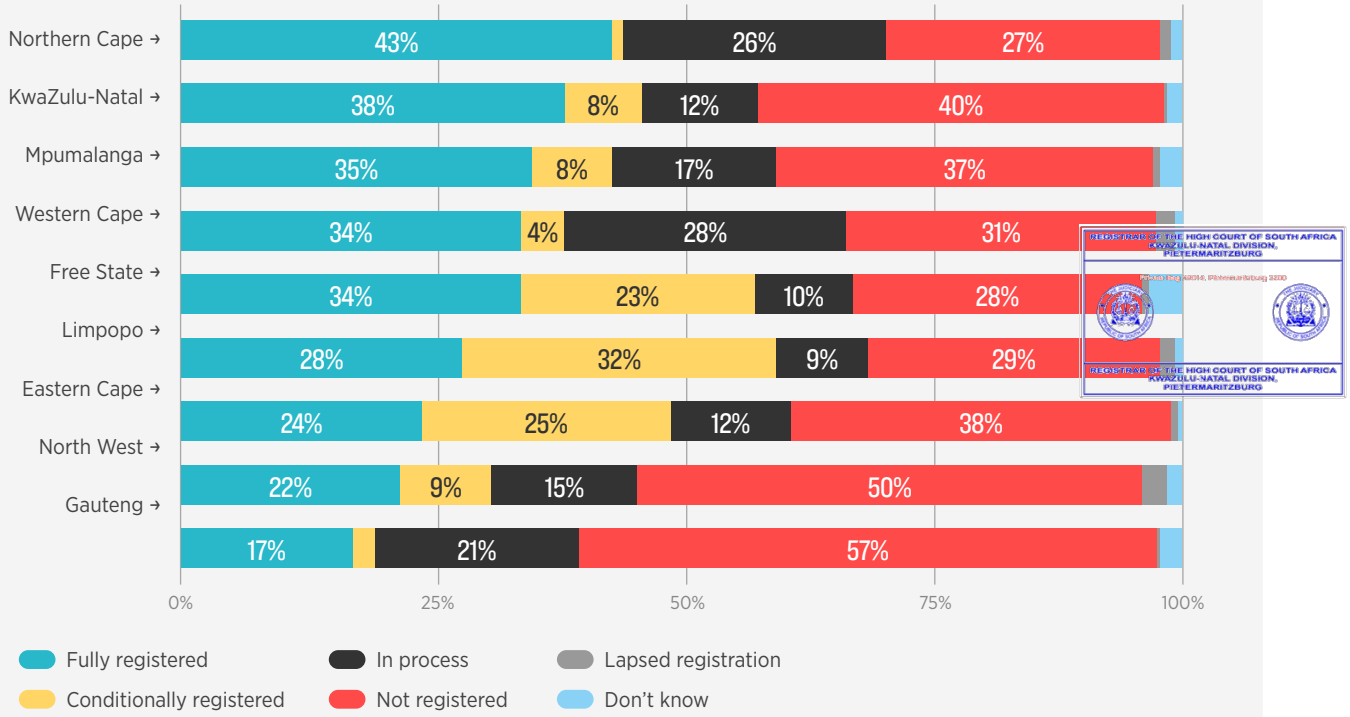


2 The urban vs rural classification was derived from plotting the ECD programmes' GPS locations on StatsSA's map of census enumeration areas which are classified into urban (formal and informal) and non-urban (commercial farms, traditional or tribal authority areas, and other non-urban areas) categories.

007-315

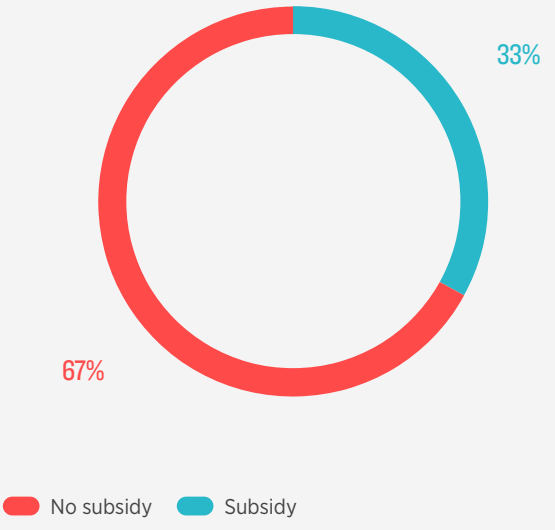
Registration with DSD fluctuates significantly between provinces though, and the trend that is discernible is untypical of other provincial results as the Northern Cape tops the list with 43% of the province's ECD programmes fully registered (either as an ECD programme or partial care facility or both) vs 17% in Gauteng.

Registration with DSD



A third (33%) of ELPs receive a subsidy from the Department of Social Development (DSD). It is noteworthy that 3737 (25%) of the 15123 ECD Programmes fully or conditionally registered as a partial care facility with DSD, claim not to receive a subsidy from DSD, while 1269 (5%) of 23636 programmes not registered as a partial care facility claim to receive the subsidy. Similarly, 333 (3%) of 12220 programmes that are not registered as an NPO supposedly also receive the subsidy although registration as an NPO is another prerequisite to receiving the subsidy. There are also 1166 ECD Programmes that claim not to receive the DSD subsidy but their primary funding source are government subsidies (although it is not clear whether these might include other types of subsidies distributed locally or provincially).

DSD Subsidy

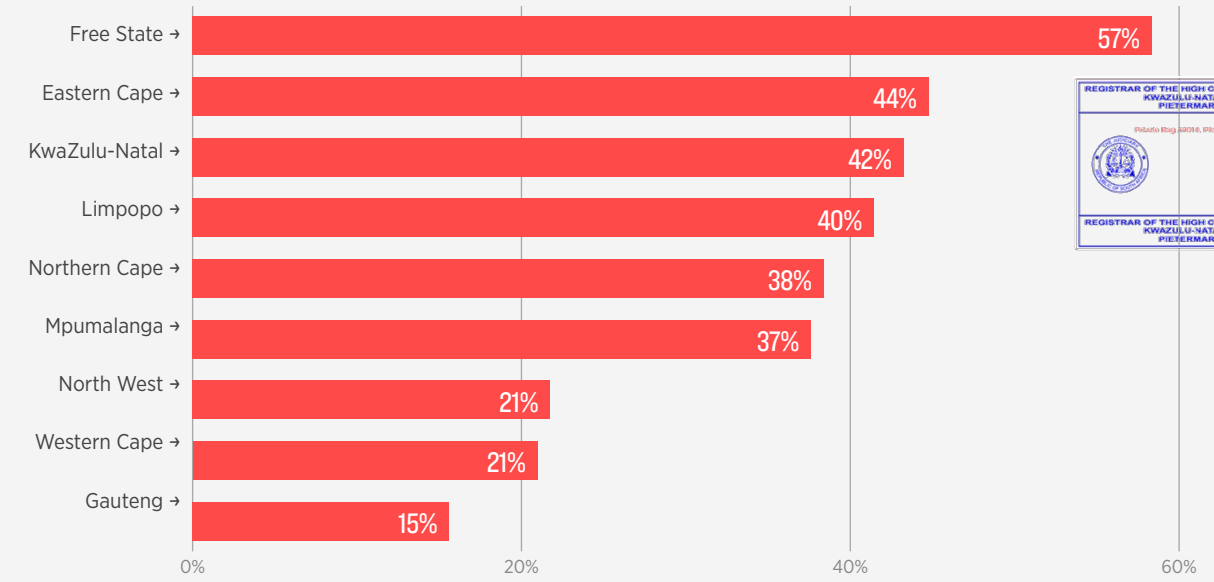


007-317
11/12/2025-11:28:17 AM

The highest poverty rates for young children are in Limpopo, KwaZulu-Natal and the Eastern Cape (Hall et al., 2019). While a large proportion of centres in these provinces do receive DSD subsidy support, a higher proportion of ECD centres in the Free State also report receiving DSD subsidies.

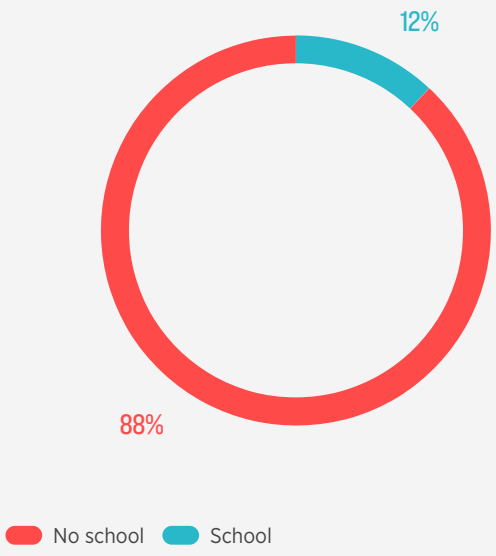
Twelve percent of ELPs are affiliated with a school, i.e. they are either on school premises or part of a school with an EMIS number. Despite this relatively low ratio of school-based ECD programmes, 76% of ECD programmes are within a 1km radius of a primary or combined school, which is in line with the ECD Audit 2001 (75%) but different to the results of the ECD audit in 2013 (58%).

Subsidised ECD Programmes by Province





Affiliation with a School

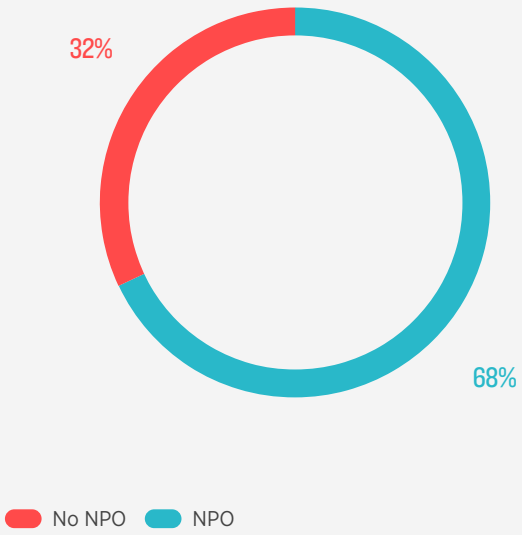


007-317

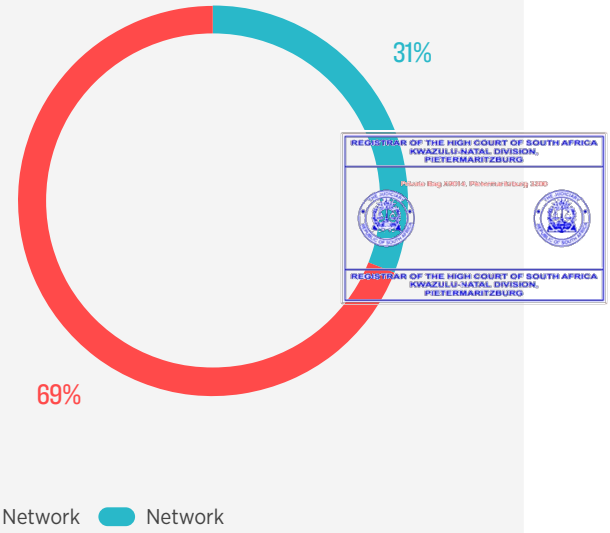
More than two thirds (68%) of ELPs are registered as a non-profit organisation (NPO), and just under a third (31%) are part of a larger network or organisation comprising multiple ELPs, such as a regional ECD Forum.

Almost a quarter of ELPs (24%) offer an aftercare programme, meaning they provide a space for school-going youth to learn and play after school while their primary caregivers are working or unavailable.

Registered as an NPO

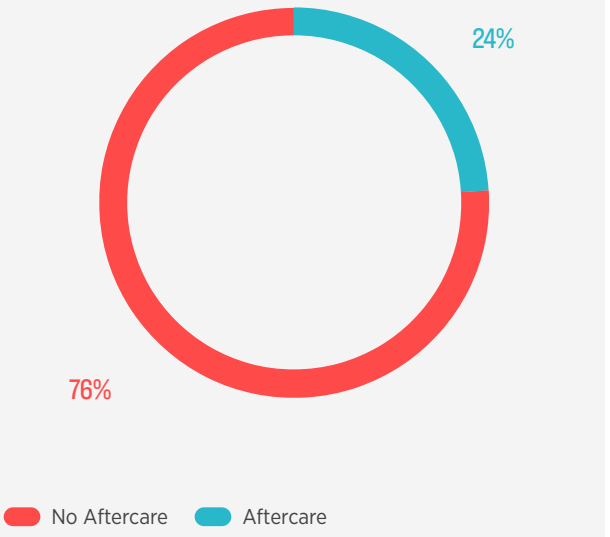


Part of a Larger Network





Aftercare



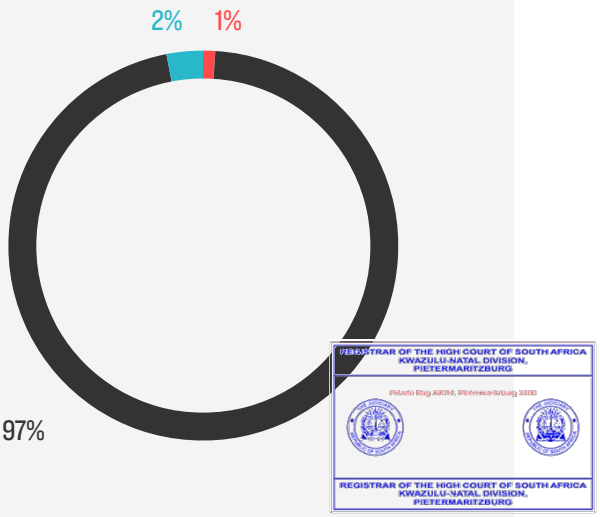
007-319
11/12/2025-11:28:17 AM

Opening Days and Hours

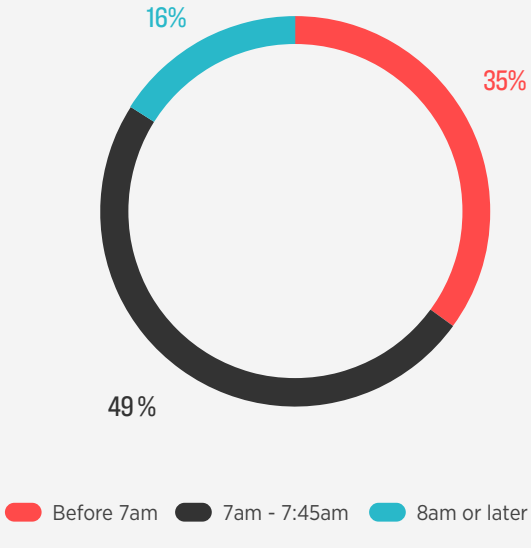
Almost all (97%) of ECD programmes are open five days per week. Over two percent are open at least six days per week. A very small minority (less than 1%) of ECD programmes are open for fewer than five days per week. An important piece of information that was not captured by this question is the number of days in the week the children typically attend the programme. For example, a playgroup might technically operate on five days a week but the children attending the play sessions rotate based on the day of the week. It is recommended to capture this information in future iterations of the census.

Six out of ten (61%) of ELPs open before 8am in the morning and close at 4pm or later. About half of them (49%) open between 7am and 8am, and about a third (35%) open before 7am. Just under two thirds (64%) close at 4pm or later on a day to day basis, regardless of opening times.

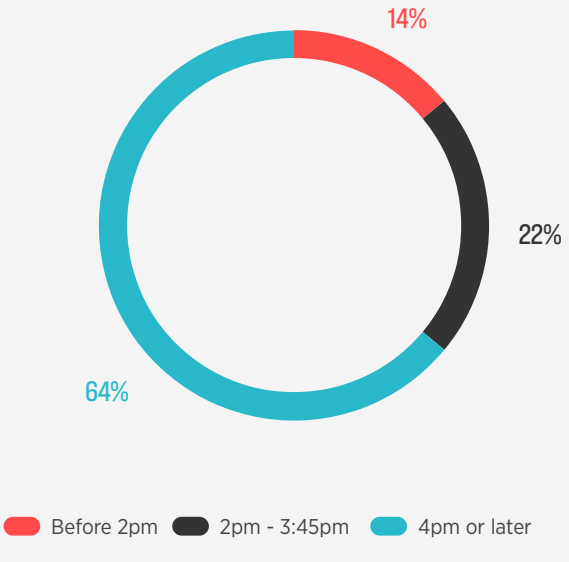
Days Open per Week



Opening Time



Closing Time



007-319

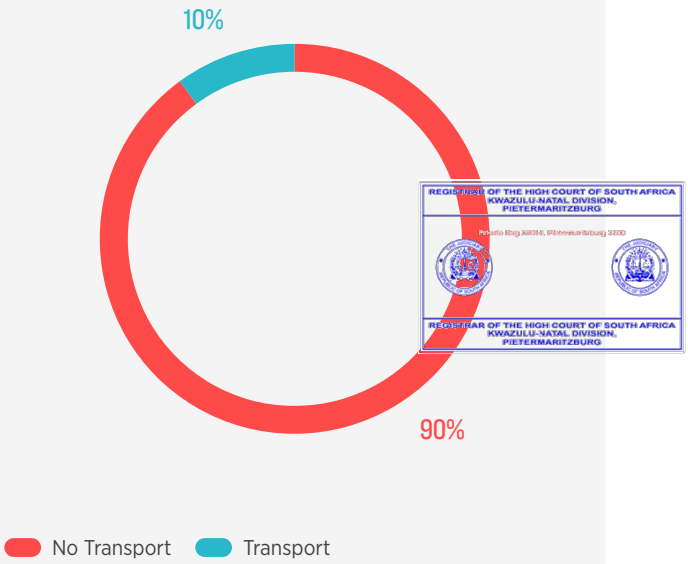


In KwaZulu-Natal, the Eastern Cape, and Northern Cape, the majority of centres operate for less than eight hours per day. Centres in the Western Cape and Gauteng stay open for longer (averaging more than 10 hours). This is consistent with expectations and could be linked to employment patterns.

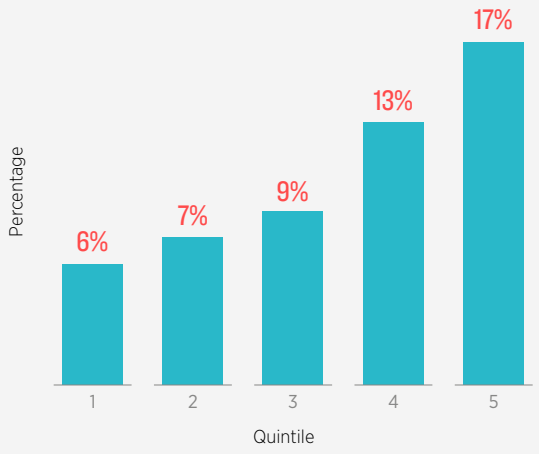
With regards to access, only 10% of ECD programmes offer transport for children attending the ECD programme.

The breakdown by quintile shows that ECD programmes in higher quintiles are more likely to offer transport compared to ECD programmes in lower quintiles, with quintile 5 programmes being about three times more (17%) likely to provide this service than quintile 1 programmes (6%).

Transport



Transport by Quintile



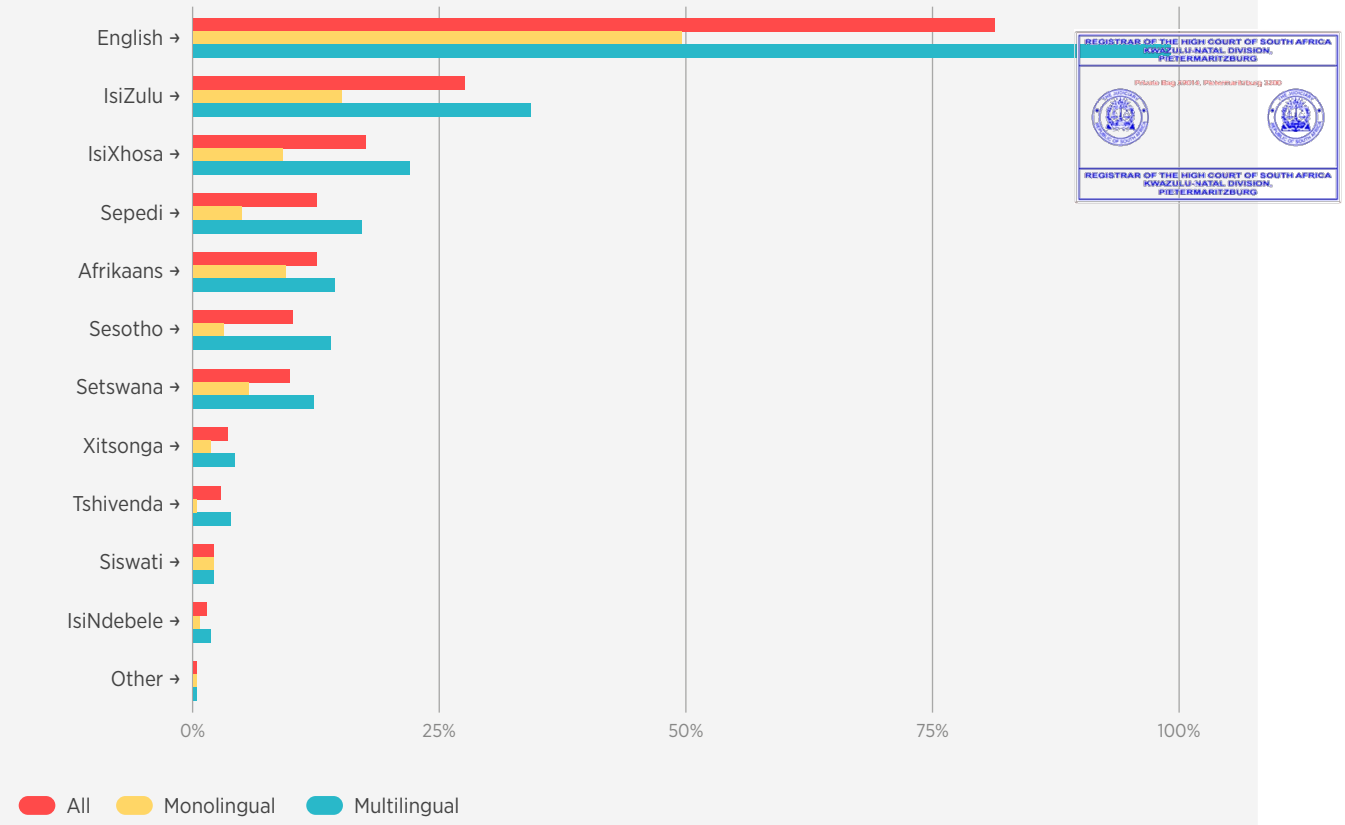
007-321
11/12/2025-11:28:17 AM

Language

For the great majority of ELPs (80%), English is one of the spoken languages. At the ELPs where English is not spoken, isiZulu (29%), isiXhosa (19%) and Afrikaans (19%) are the most spoken languages.

At a majority (55%) of ELPs, two languages are commonly spoken among children. More than a third (36%) of ELPs are unilingual, with English being the language of choice at about half (49%) of those places. About nine percent are multilingual with three or more languages spoken. English is spoken at almost all (98%) ELPs where more than one language is spoken.

Languages spoken at ELPs



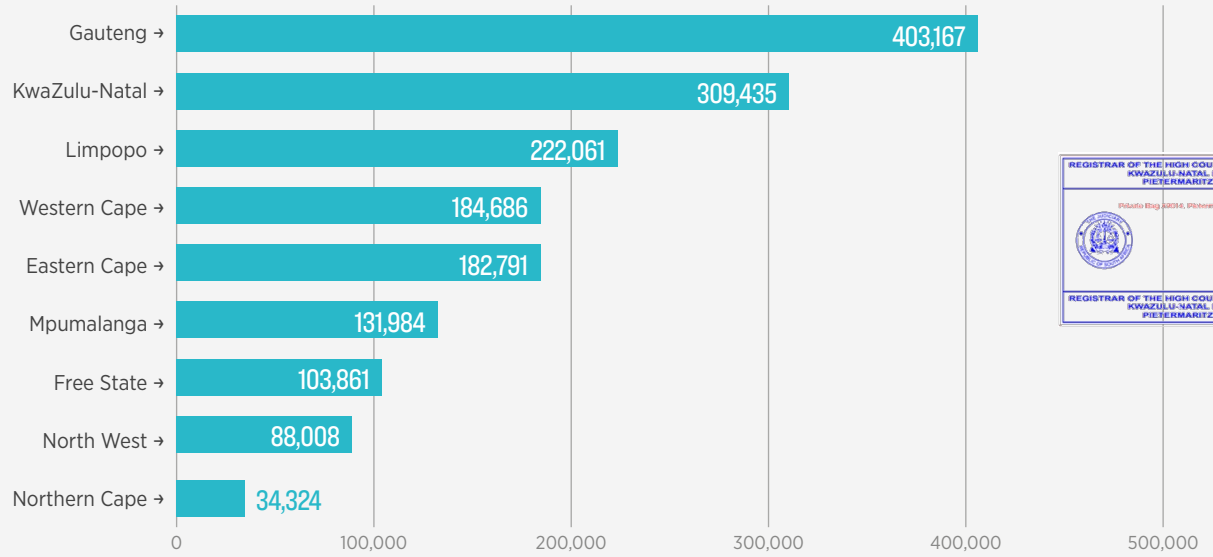
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

007-321

Enrolment and Attendance

In total, 1,660,317[3] children are enrolled in the 42,420 ECD programmes counted for the Census. This means that the average number of children enrolled in an ECD Programme is 39.

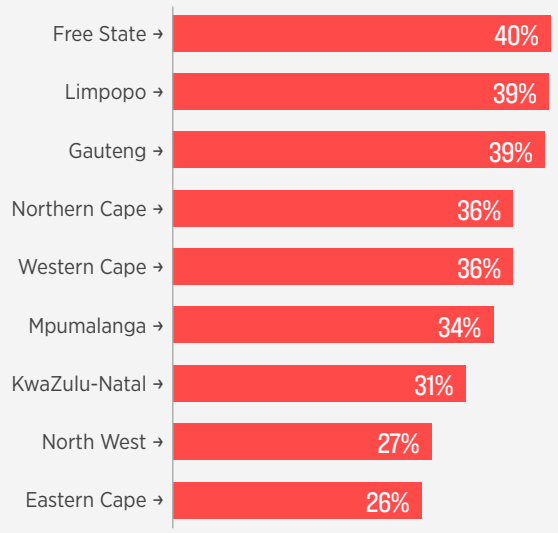
Enrolled Children per Province



REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Taking into account the population figures for children aged 3-5 (Census 2011), one can calculate the percentage of children enrolled in ECD programmes per province (counting only children born between 2016 and 2018 as it is expected that younger children are often cared for at home). Here, the ratio ranges from (almost) 40% in the Free State, Limpopo and Gauteng, to 27% in North West province and 26% in the Eastern Cape.

Enrolled Children per Province



3 Absolute figures throughout the report, such as total enrolment and children present as well as staff counts, usually include imputed values for missing observations (e.g. "Don't know"). The imputed estimates are using other, non-missing, children and staff counts, municipality, quintile, and geotype (urban/rural) as predictors.

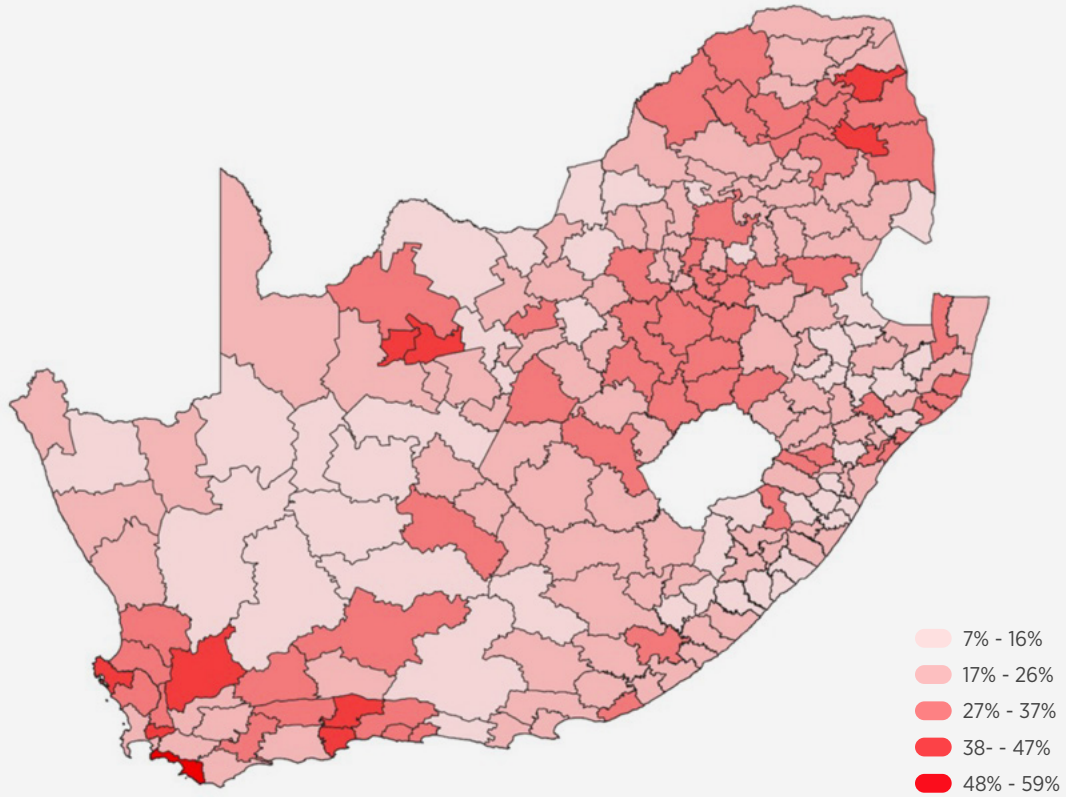
007-323
11/12/2025-11:28:17 AM



REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Looking at the enrolment vs child population ratio at the municipality level on the map below, it becomes apparent that strong regional variances exist between municipalities.

Enrolment vs Child (0-5) Population Ratio by Municipality

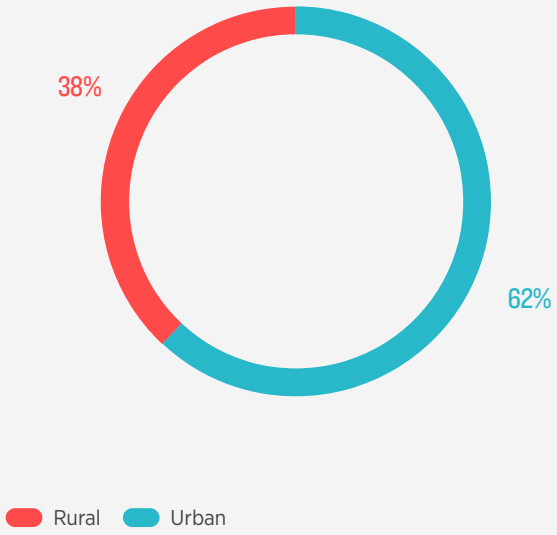


007-323

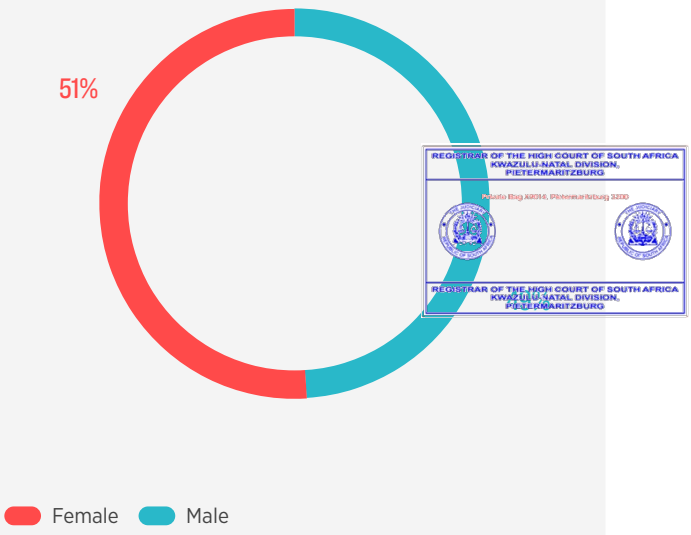
In terms of urban/rural divide, the distribution of children in ECD programmes largely reflects the geographical distribution of ECD programmes, with 62% of children enrolled in ECD programmes in urban areas and 38% in rural areas.

The gender distribution of enrolled children is an almost perfect 50/50 split between male and female children. Only 38 children were categorised as "Other" in gender terms.

Enrolled Children by Urban vs Rural



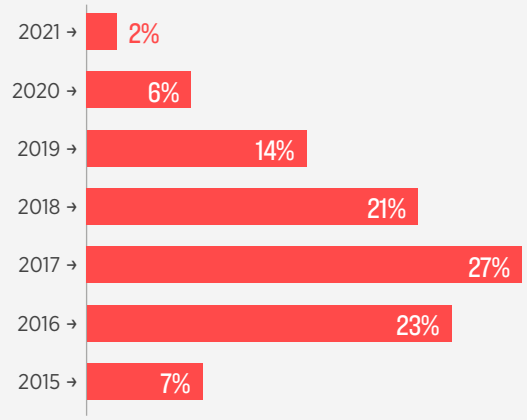
Gender of Enrolled Children



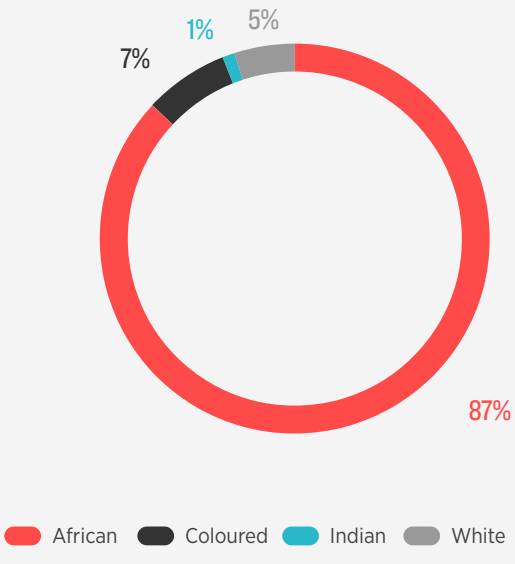
Close to three quarters (71%) of the children enrolled in ECD programmes are between the ages of three and five years at the time of the Census (born between 2016 and 2018). A small number of children of school-going age (those born in 2013, 2014, or part of 2015) were also enrolled in ECD programmes. The reasons for children of school-going age still being enrolled in ECD programmes included developmental difficulties and disabilities preventing them from progressing to schools.

The great majority (87%) of enrolled children are African/Black, followed by coloured (7%) and white (5%) children.

Year of Birth of Enrolled Children



Population Group of Enrolled Children



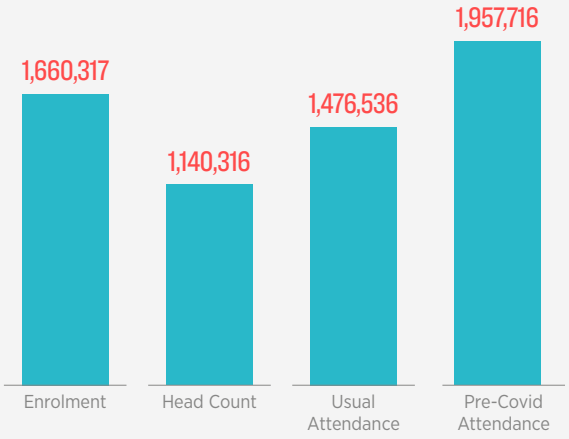
007-325
11/12/2025-11:28:17 AM



Enrolment figures do not necessarily translate into attendance rates though. In awareness of the fact that attendance fluctuates depending on the day of the week or time in the month and is impacted by external factors such as weather conditions and social unrest, especially in the context of a pandemic, three separate measures of attendance were employed:

1. Head count conducted by the enumerator. This is arguably the most objective measure but is impacted by external factors as well as the time of the day when the count was done as children might not have yet arrived or already left the site.
2. The ECD practitioner's estimate of how many children usually attend the ECD programme (if different from the head count). As a self-reported measure there might be a subjective bias in the responses.
3. The ECD practitioner's estimate of how many children usually attended the ECD programme before the start of the Covid pandemic. This measure is also self-reported and there might be a recall bias in the responses.

Enrolment and Attendance



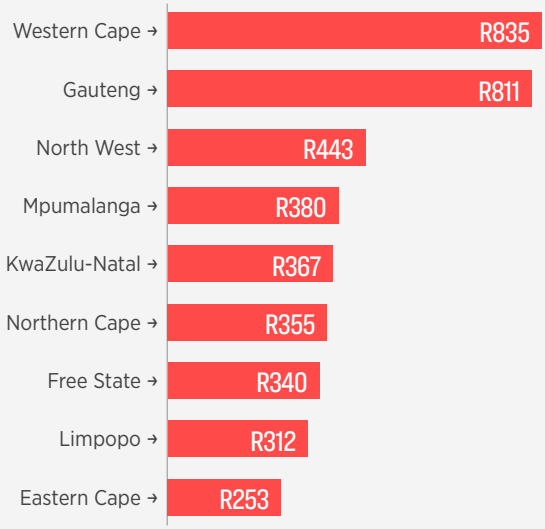
The actual average daily attendance of children at the time of the Census arguably lies somewhere between the head count of 1.14m children and the usual attendance of 1.48m children. It is also likely that attendance has increased during the months since the end of data collection in line with the broader opening up of society after the fourth Covid wave, with the current figure closer to the "usual" attendance rate. It is unlikely, though, that current attendance is close to the estimated precovid-attendance count, which is closer to 2m children. Nevertheless, it is worth noting that enrolment does not necessarily reflect attendance and that actual attendance is 10%-30% below enrolment.

007-325

Fees, Funding and Banking

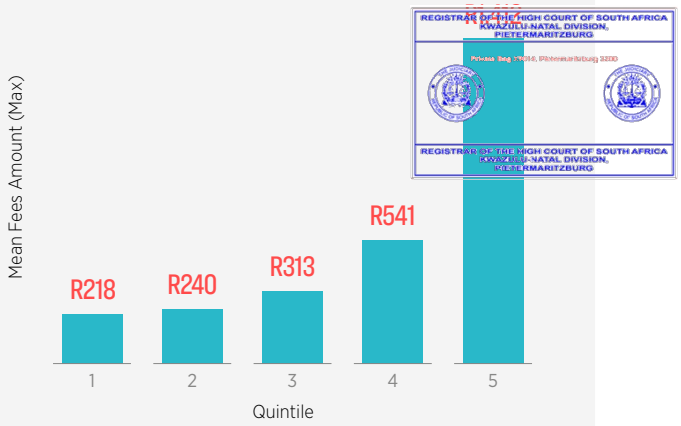
Although the great majority (94%) of ECD programmes charge fees, most (62%) of them also allow at least some children to attend the ECD programme without having to pay a fee. On average, the highest[4] monthly fee charged by ECD programmes is R509. However, significant differences exist between provinces, with monthly fees in Western Cape and Gauteng more than three times higher than fees in the Eastern Cape. It is important to note though that while the fees are higher in some provinces, fees amounts vary strongly within those provinces. For example, in the Western Cape, half of the programmes charge R450 or less per month.

Average Maximum Monthly Fee Amount by Province



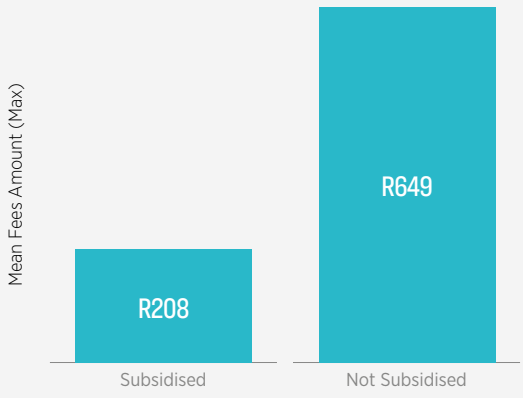
Differences in fee amounts are also clearly discernible between socio-economic quintiles. In particular, primary caregivers of children attending quintile 5 programmes are paying significantly higher fees compared to the other primary caregivers. The average quintile 1 and 2 caregiver, pays approximately half of the value of the Child Support Grant, at the time of the Census.

Average Maximum Monthly Fee Amount by Quintile



ECD programmes subsidised by DSD charge significantly lower fees (average of R208) than ECD programmes that are not subsidised (average of R649).

Average Maximum Monthly Fee Amount by Subsidy



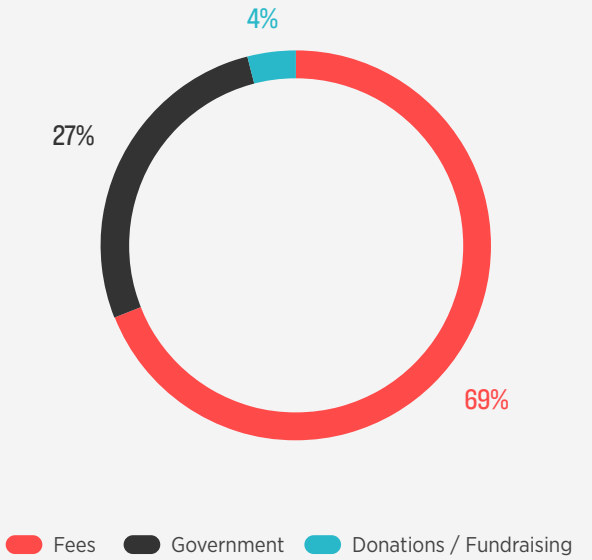
4 Question: What is the maximum monthly fee per child?

007-327
11/12/2025-11:28:17 AM

The primary funding source for ECD programmes are fees (69%), followed by government subsidies (27%). The remaining 4% depend on donations, fundraising and other sources of income.

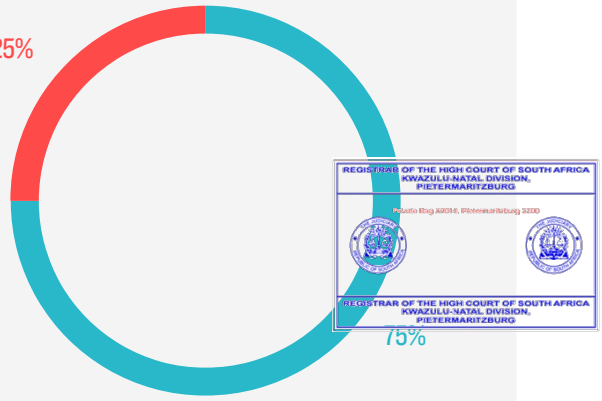
Three out of four (75%) ECD programmes reportedly have a bank account in the name of the programme.

Primary Funding Source



Figure

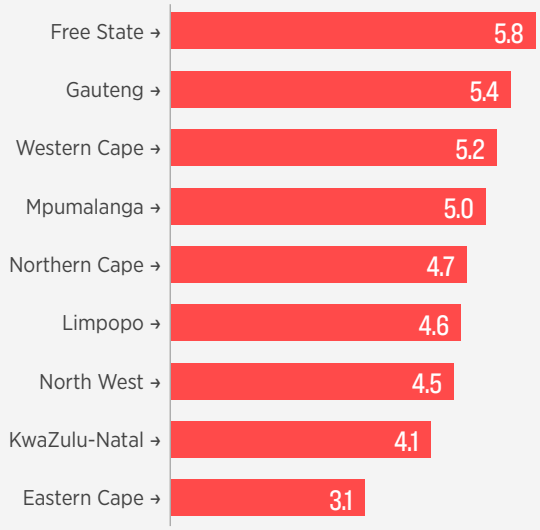
Bank Account



Staff

In total, 198361 staff work in ECD programmes across the country, which means that, on average, there are 4.7 staff members per ECD programme. This figure varies significantly from province to province though, with Free State having the highest staff ratio of 5.8 and Eastern Cape the lowest with 3.1.

Average Number of Staff per Province



007-327

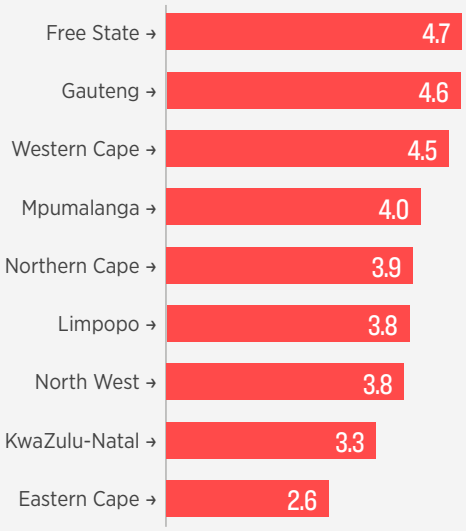
007-328
11/12/2025 11:28:17 AM



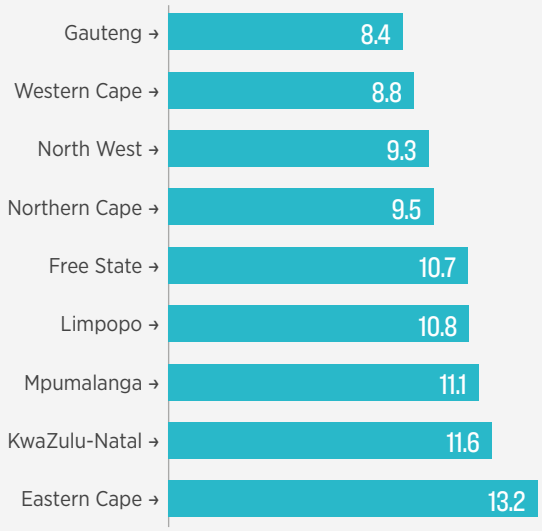
Leaving out support staff and taking into account only ECD practitioners, Grade R educators and managers who also function as ECD practitioners[5] (basically excluding support and "pure" managerial staff), the total figure of "teaching" staff comes to 165059 and the average per ECD programme to 3.9.

A slightly different picture emerges if one looks at the average ratio of enrolled children per teaching staff member, which nationally stands at 10.1, but ranges from 8.4 in Gauteng to 13.2 in Eastern Cape.

Average Number of Teaching Staff per Province



Average Ratio Enrolled Children per Teaching Staff by Province



5 We do not have the exact count of ECD managers who are also fulfilling practitioner functions but we do know at which ECD programmes at least some of the managers also fulfill those functions. We therefore added one practitioner at every ECD programme where this is the case, meaning that the resulting total of educators and practitioners is a conservative estimate.

007-328

007-329
11/12/2025-11:28:17 AM

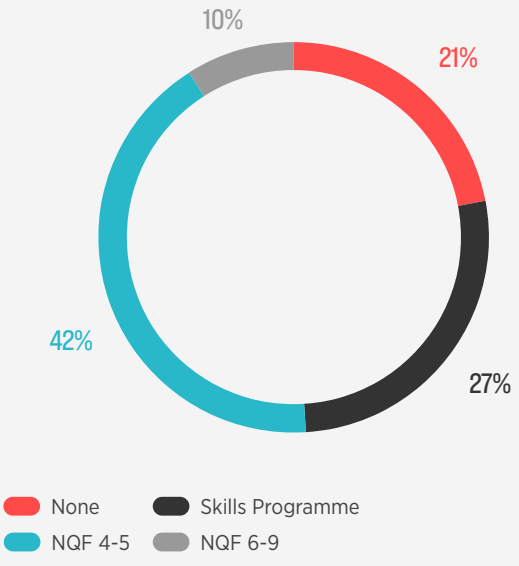


REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

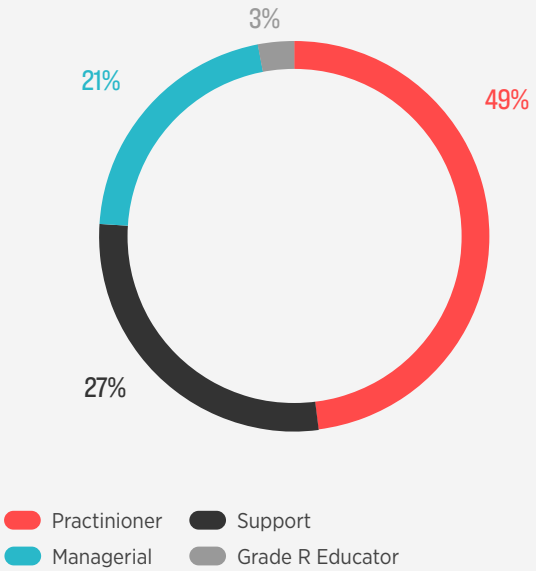
Close to a quarter (22%) of the teaching and managerial staff[6] working in the ECD sector do not have a relevant ECD qualification. Over a quarter (27%) participated in an accredited skills programme, about four out of ten (42%) have an NQF Level 4 or 5, and 10% an NQF Level 6 or higher.

About half (49%) of those working in the ECD sector are ECD practitioners. More than a quarter (28%) are support staff (e.g. security, cleaners), and about one out of five (21%) are in managerial positions. However, in 89% of cases at least some of the managers also work as ECD practitioners.

Qualification of Teaching Staff



Staff Categories

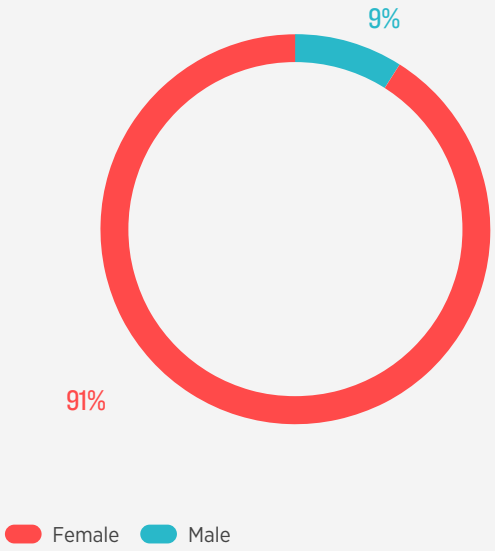


6 For these calculations we used the total staff count and subtracted the support staff count.

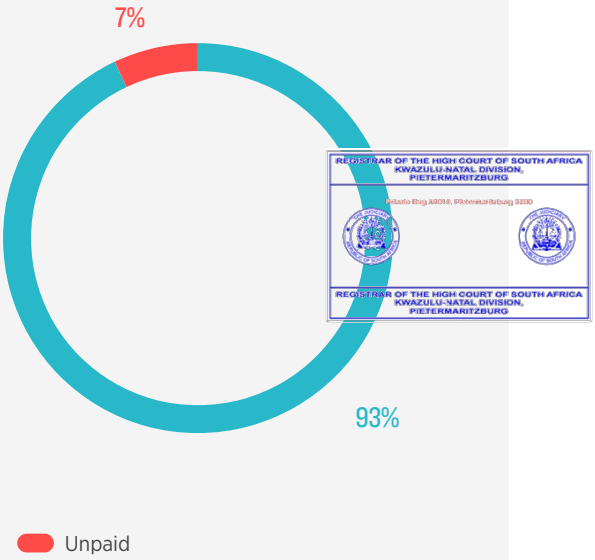
007-329

Nine out of ten (91%) staff working in the sector are female and almost all (93%) are paid staff members. Most staff (93%) have a permanent position, and almost all (95%) work full-time.

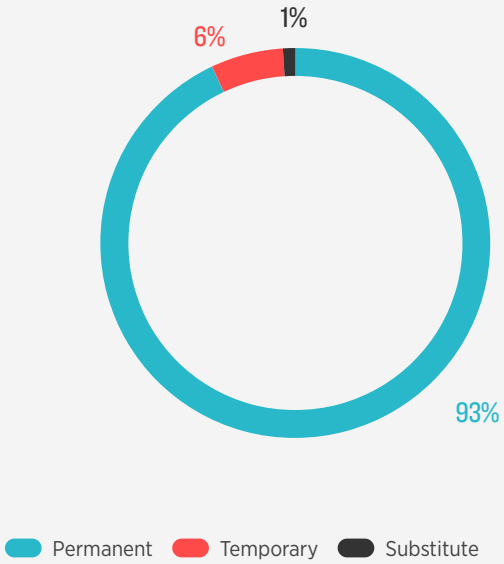
Staff Gender



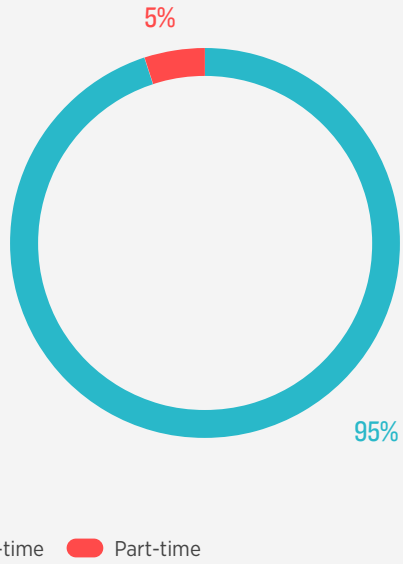
Paid vs Unpaid



Staff Type of Employment



Staff Full- vs Part-Time



007-331
11/12/2025-11:28:17 AM

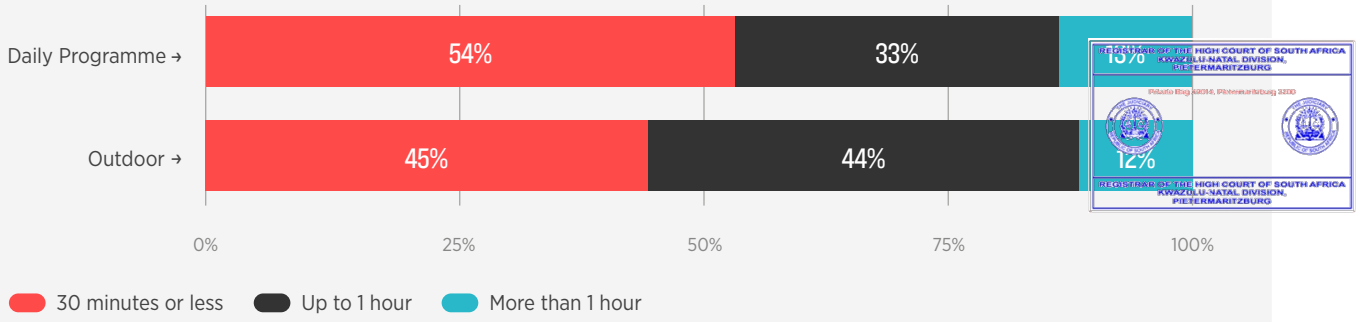
Learning through Play

Two separate questions were asked about the amount of time available for free play during the day:

1. How much time is there for free play as part of the daily programme?
2. How much time is there for free play when the children are outside?

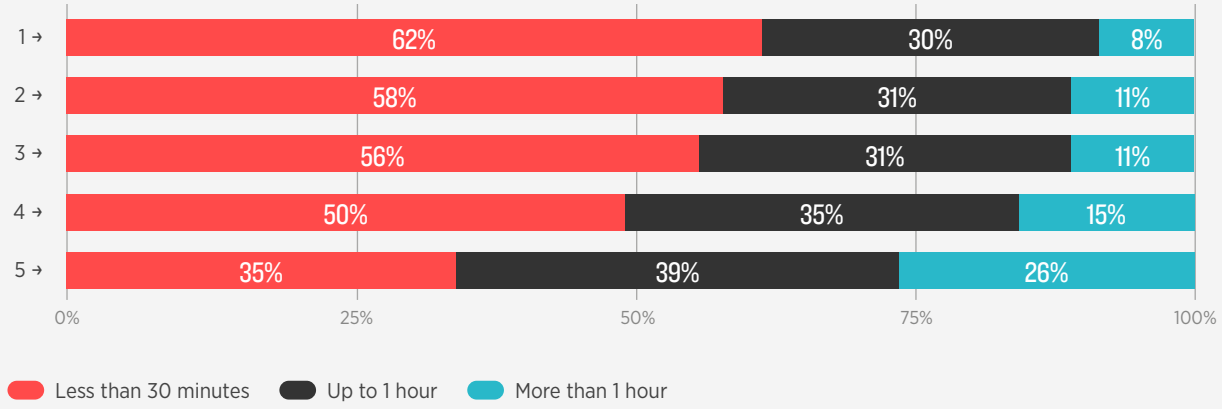
Generally, more time is spent on free play outdoors, with 44% of respondents saying that children spend up to an hour on free play outside compared to 33% for free play as part of the daily programme. But in both instances, around half (54% and 45%, respectively) of the ECD programmes allow less than 30 minutes for free play per day.

Free Play



Generally, higher quintile ECD programmes dedicate more time to free play as part of the daily programme than lower quintile ECD programmes. For example, 65% of quintile 5 programmes have more than 30 minutes of free play per day, compared to 38% of quintile 1 programmes.

Free Play by Quintile

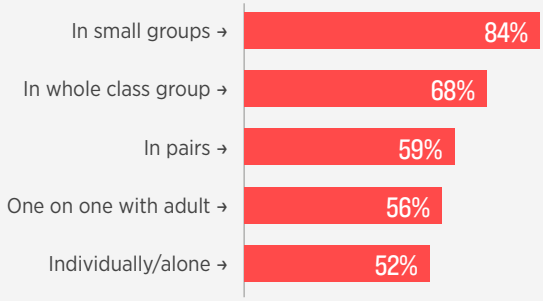


007-331



The most common grouping for children to do activities are small groups, which applies to 84% of ECD programmes. Generally though, programmes let children play and learn in a wide range of groupings.

Groupings



007-333
11/12/2025-11:28:17 AM

A series of seven questions probed the respondents' attitudes towards child agency in learning and playing. For each item, the respondents were asked to indicate their agreement with one of two statements (or agreement or disagreement with both): one of the two statements expressed a preference for children's agency, the other for ECD practitioners' agency. These are the pairs of statements put to the respondents (1 child agency; 0 practitioner agency):

Choice

- (1) Children should choose their own learning activities in the classroom.
- (0) Practitioners should be responsible for choosing the playing and learning activities for the children.

Understand

- (1) If children don't understand, they should try to find the answer independently before asking the practitioner.
- (0) It is better if children tell the practitioner when they don't understand.



Explore

- (1) Children learn best by exploring new things on their own.
- (0) Children learn best when new things are explained by the practitioner.

Play

- (1) Early learning is best when children are free to play with whatever they choose.
- (0) Play in the Programme should be connected to learning outcomes.

Questions

- (1) If children answer their own questions, they will be more likely to understand.
- (0) If the practitioner answers children's questions, they will be more likely to get the correct answer.

Learn

- (1) Children learn best from their peers.
- (0) Children learn best from the practitioner.

Order

- (1) It is important for children to be free to talk and play.
- (0) It is important for the class to be orderly and quiet.

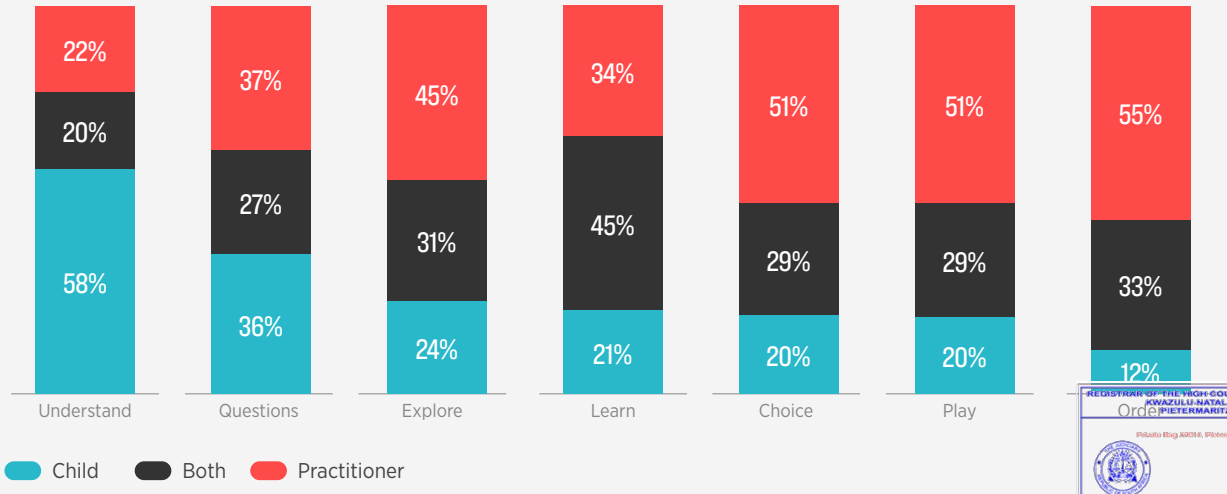
Questions

- (1) If children answer their own questions, they will be more likely to understand.
- (0) If the practitioner answers children's questions, they will be more likely to get the correct answer.

Generally, respondents tended to favour practitioner agency, the only exception being the "Understand" item where more than half (58%) were of the opinion that "if children don't understand, they should try to find the answer independently before asking the practitioner".

007-333

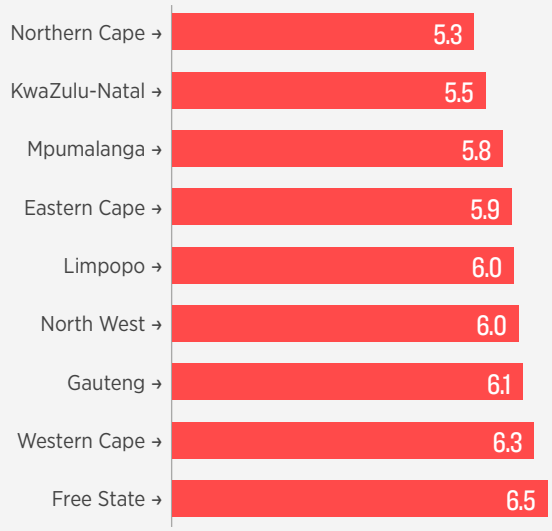
Agency Items[7]



REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

An agency scale was constructed by assigning two points for each "pro-child" response and one point for agreement with both statements. While the scale ranges from 0-14, the average score is 6.0, reflecting the bias towards practitioner agency depicted in the chart above. The score is fairly consistent across quintiles (5.8-6.2) and programmes with (6.0) and without (5.9) NQF-qualified practitioners, and only minor variations between provinces can be detected, with Northern Cape showing an average of 5.3 vs 6.5 in Free State.

Agency Scale by Province



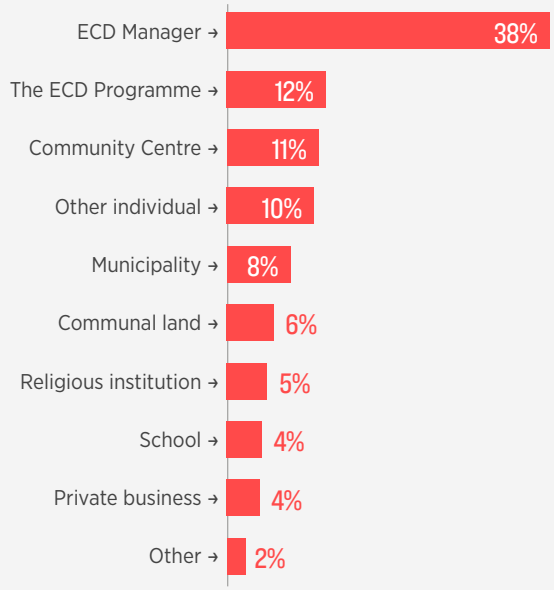
7 The "None" part in the Practitioner/None category accounts for 0.2%-0.4% per item.

007-335
11/12/2025-11:28:17 AM

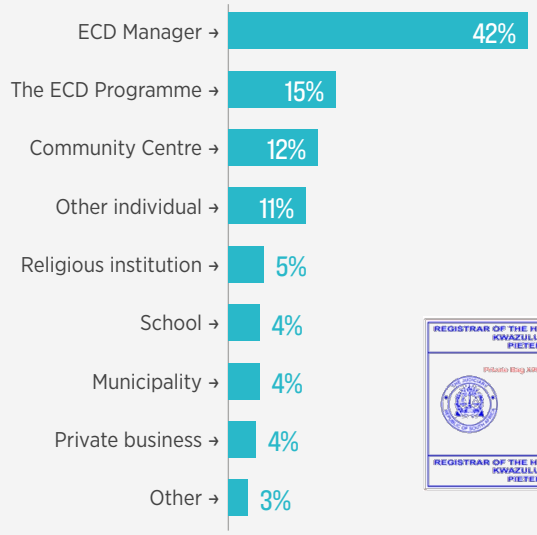
Ownership

The land and facilities used by an ECD programme is most commonly (38% and 42%, respectively) owned by the person in charge of the ECD programme, followed by the ECD programme itself (12% and 15%), a community centre (11% and 12%) or another individual (10% and 11%).

Ownership of Land



Ownership of Facilities



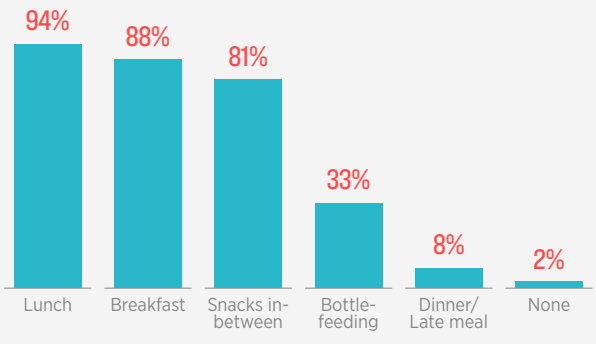


Meals and Cooking

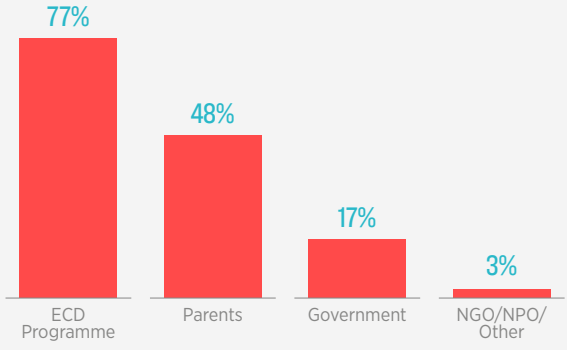
Virtually all (99%) ECD programmes incorporate at least one meal time into the daily programme, usually lunch (94%), breakfast (88%) or snacks between meals (81%).

Usually (77% of the time) the ECD programme provides at least some of the meals, but about half of the time (48%) primary caregivers also contribute. Less than two out of ten (17%) ECD programmes receive support in the form of food from the government.

Meals



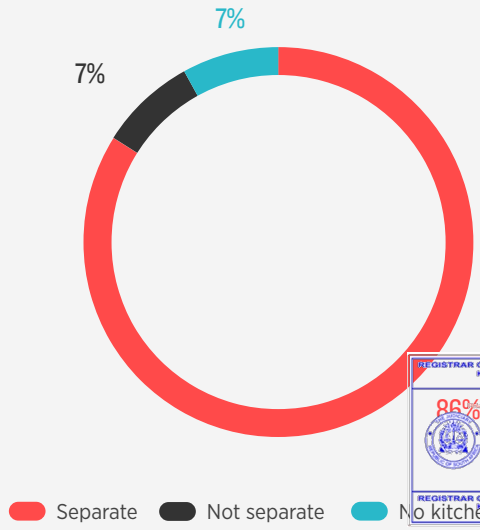
Providers of Meals



007-335

The great majority (85%) of ECD programmes have an area for cooking and preparing meals separated from where the children engage in daily activities. Seven percent do not have that space, and the other seven percent do not have any designated food preparation area or do not provide meals.

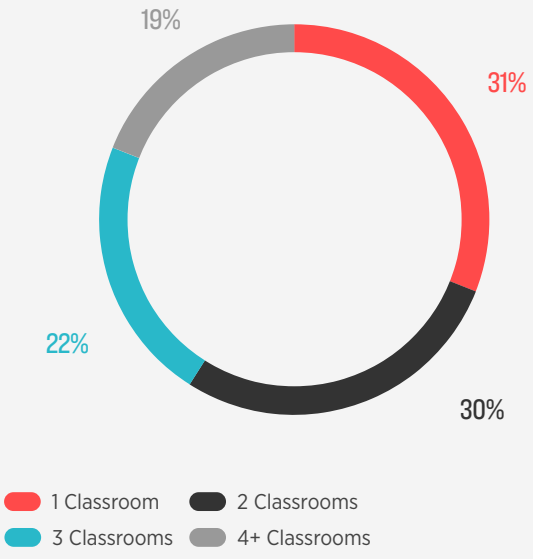
Separate Meal Preparation Area



Space

The great majority (81%) of ECD programmes have three or less classrooms for the children, and the average number of children per classroom is 17. The enumerators found that the indoor play area's floor space is large enough for children to safely move around at 82% of the ECD programmes.

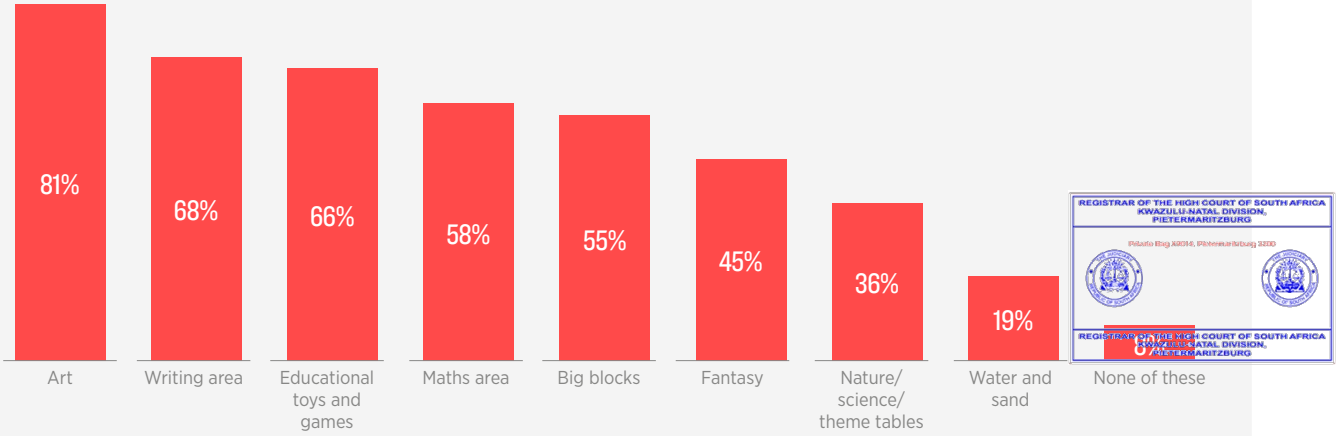
Number of Classrooms



007-337
11/12/2025-11:28:17 AM

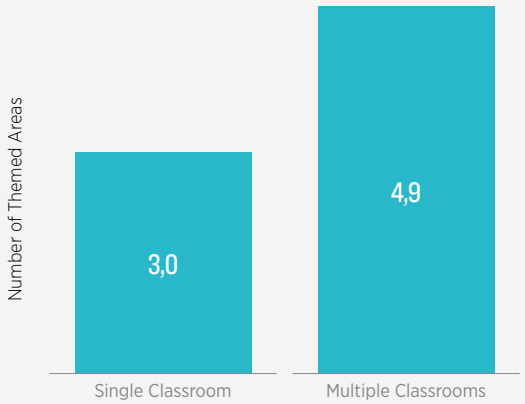
During their observations, the enumerators were asked to identify themed areas for each ECD programme. The most frequently (81%) identified area was for art (draw, paint, cut, model etc) while the least common was for playing with water and sand (19%).

Themed Areas



The number of themed areas per ECD programme depends very much on the number of classrooms though. Single-classroom ECD programmes, accounting for almost a third (31%) of all ECD programmes, have on average three themed areas, while other ECD programmes have closer to five themed areas.

Number of Themed Areas by Classrooms



007-337

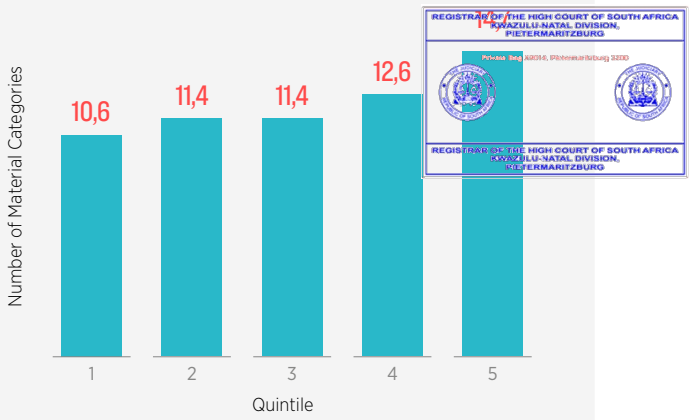
Materials for Playful Learning

The enumerators were required to look out for a wide range of materials at the ECD programme. The table below shows the relative frequency of each category of materials.

Materials	%
Picture cards, posters, charts	84%
Furniture for children	84%
Paint, crayons	84%
Pencils, pens, chalk	79%
Books	77%
Carpets or sleeping mats	73%
Glue, paper, scissors	72%
Games with numbers or shapes	71%
Dolls, stuffed animals, toy cars	64%
Balls, Hula-hoops, Sandbags	53%
Materials for counting	52%
Wooden or plastic blocks	52%
Clay, play dough or similar	52%
Construction toys	50%
Skipping ropes, Scooters	48%
Toys from recycled materials	44%
Theme tables	41%
Fantasy toys	38%
Instruments for rhythm	37%
Buckets, spades, sand moulds	37%
None of these	2%

On average, an ECD programme has twelve of these categories of items, with half of the ECD programmes having up to and including twelve and the other half having more than twelve. Higher-quintile ECD programmes have access to a wider range of materials though, compared to lower quintiles. For example, ECD programmes in quintile 5 had, on average, items in 15 different categories, whereas programmes in quintile 1 had items in 11 categories.

Number of Materials by Quintile



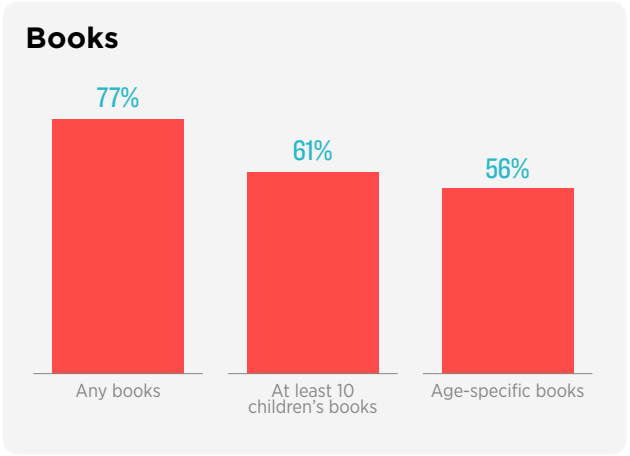
ECD programmes subsidised by DSD are also able to present a wider selection of learning and playing materials, with, on average, 13 or 14 categories vs 11 categories for those with no DSD subsidy.

Number of Materials by Subsidy



007-339
11/12/2025-11:28:17 AM

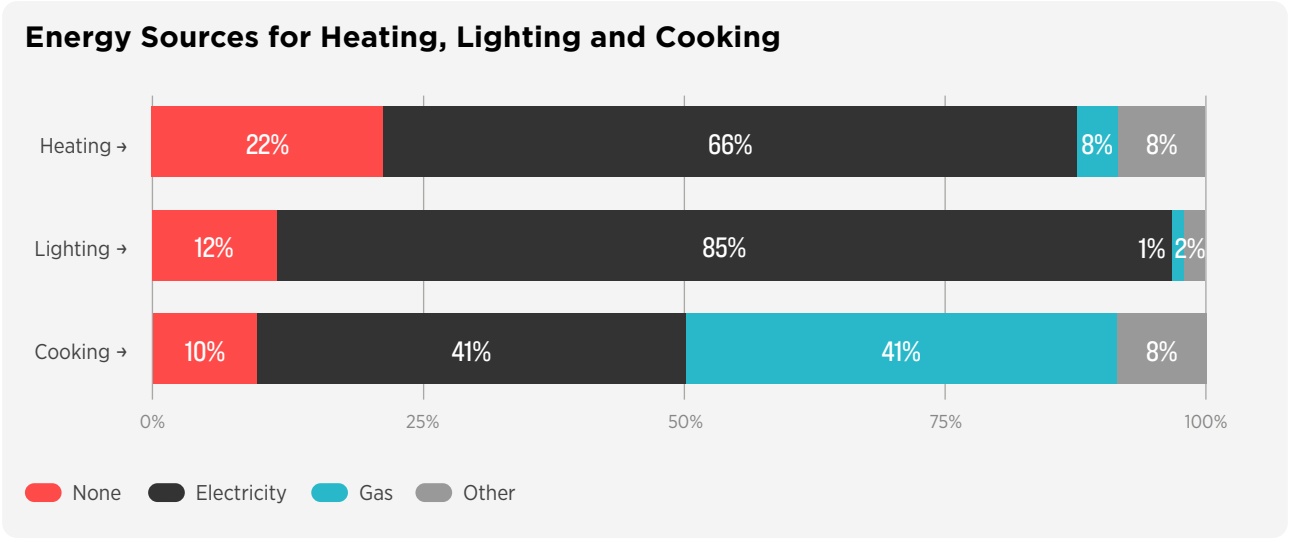
While 77% of ECD programmes have some sort of collection of books, only 61% have at least 10 children's books to play with, and only 56% have age-appropriate books for different age groups.



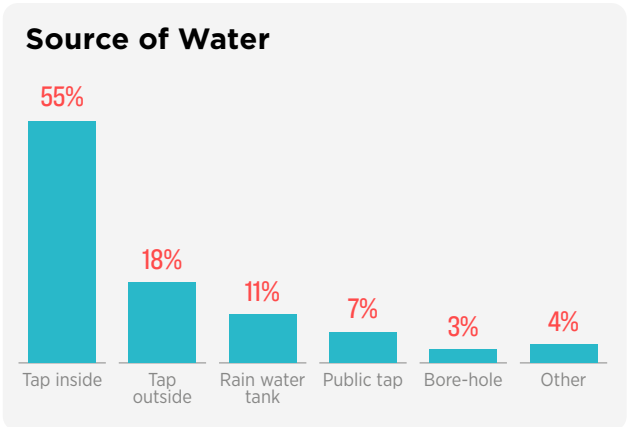
Energy, Water and Hygiene

Most ECD programmes have access to electricity for lighting (85%), heating (66%) and cooking (41%). A large proportion (41%) use gas specifically for cooking.





The majority (55%) of ECD programmes have access to running water inside the building. Less than 1% (0.7%; combined with Other option) do not have access to any water. Almost all (98%) ECD programmes with access to water say that the water is drinkable.



007-339

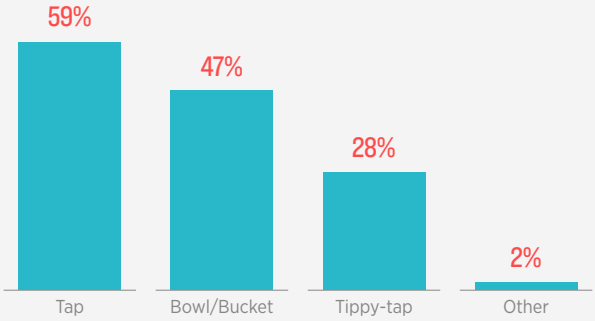
007-340
11/12/2025 11:28:17 AM



REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

The children at the majority (59%) of ECD programmes use taps to wash their hands. At almost a quarter (22%) of ECD programmes the children exclusively use a bowl or bucket to wash their hands.

Handwashing Facilities

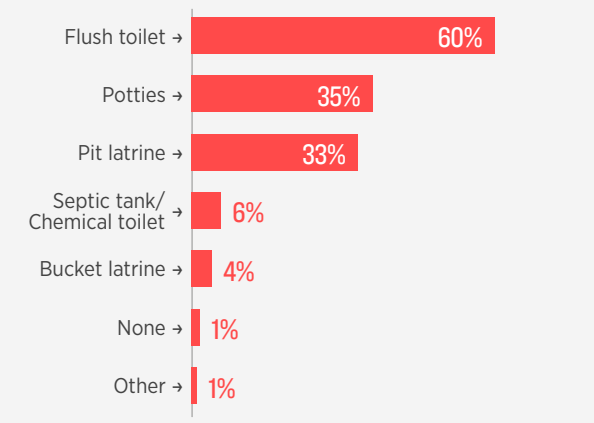


Sanitation

On average, 16 registered children share one toilet at an ECD programme, not counting toilets for staff members, and at half of the programmes more than twelve children are expected to share one toilet. However, four out of ten (40%) ECD programmes are not connected to a sewage system. While the majority of programmes (60%) have flush toilets connected to sewage, a fairly large proportion rely on pit latrines with (12%) or without ventilation (22%), flush toilets connected to septic tanks (3%), chemical toilets (2%), bucket latrines (4%). Between one and two percent (1.5%) do not have any toilet facilities. Over a third (35%) of programmes have potties for small children.

It is further noteworthy that less than one percent (0.5%) of programmes offer toilets for people with disabilities.

Types of Sanitation

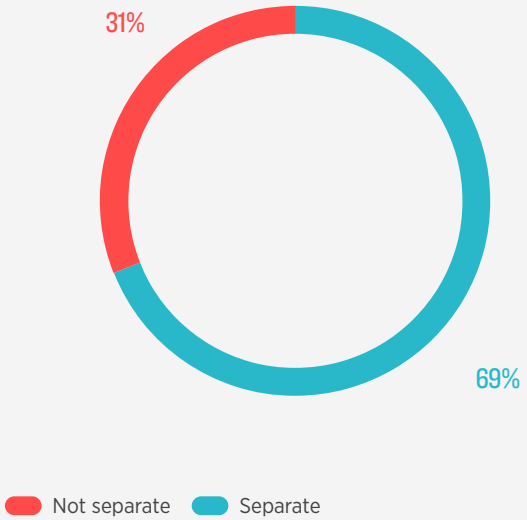


007-340

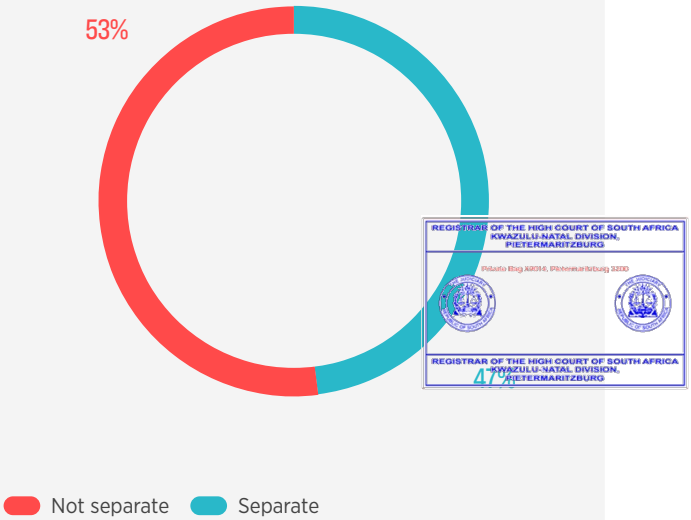
007-341
11/12/2025-11:28:17 AM

Over two thirds (69%) of programmes have separate toilets for staff and children and just under half (48%) have separate toilets for boys and girls.

Toilets for Staff and Children



Toilets for Boys and Girls

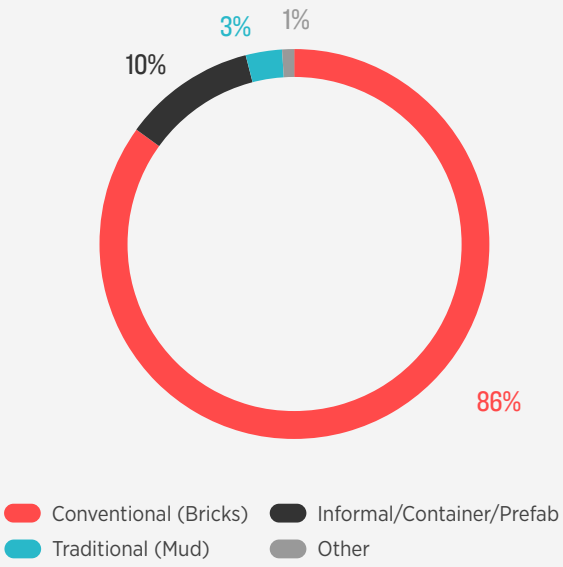


Infrastructure

Only a small number (195) of enumerated ECD Programmes are mobile, i.e. they move from place to place or are operating out of a movable vehicle (e.g. van). It is likely that more of such programmes exist as they are the most difficult to find for obvious reasons, but it is safe to say that they constitute only a very small fraction of the ECD sector

Of the "stationary" ECD programmes, the great majority (86%) are housed in conventional dwellings, i.e. brick or block buildings with tile or zinc roofs. A substantial proportion (11%) operate in more informal settings, such as shacks, containers and prefab dwellings. A smaller minority (3%) are situated in "traditional" dwellings (mortar or mud walls). Most buildings (82%) are used only for the ECD Programme.

Building Type



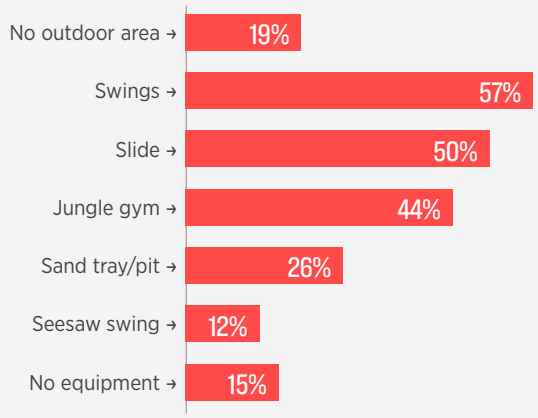
007-341

While most ECD programmes are in conventional buildings, the majority (62%) of informal structures belong to programmes not registered with DSD.

About four out of five (81%) ECD programmes have an outdoor play area which can be on the programme's premises but can also be a public space (e.g. park) nearby that is used by the ECD programme. However, another significant proportion (15%) have access to an outdoor area but none of the most common outdoor playground equipment, meaning that about a third (34%) of ECD programmes do not have access to an outdoor playground with suitable equipment.

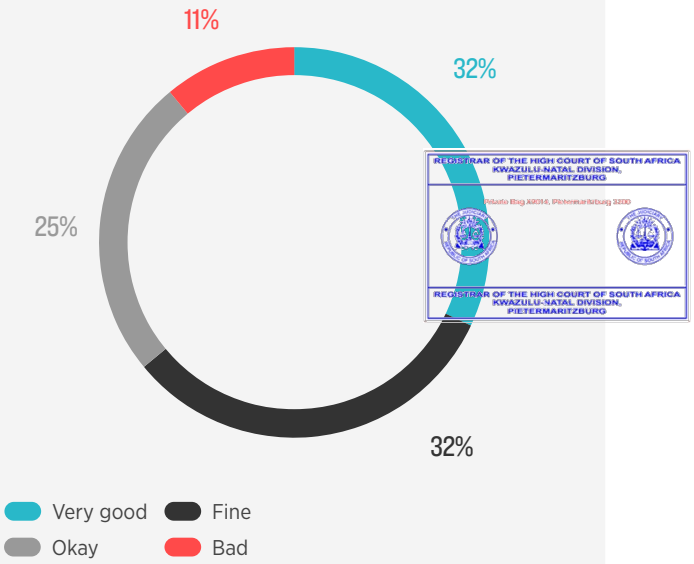
In terms of equipment that is available, swings (57%), slides (50%), and jungle gyms (44%) are the most common ones. Less frequent are sand trays/pits (26%) and seesaw swings (12%).

Outdoor Play Area



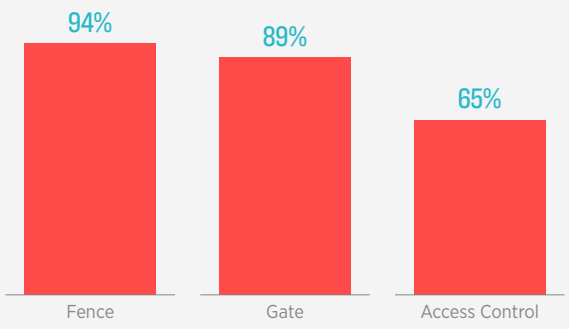
Only about two thirds of the equipment are in a very good or mostly in working condition (63%). At a quarter (25%) of playgrounds at least some of the equipment is in working condition and at one of ten (11%) playgrounds the equipment is mostly broken and unused.

Quality of Outdoor Equipment



In terms of security, almost all (94%) of ECD programmes have a fence around their premises, most (89%) have a lockable gate to prevent unauthorised access, and two thirds (65%) have someone checking who enters and leaves the facility.

Security



007-343
11/12/2025-11:28:17 AM

DISCUSSION POINTS

Enrolment and Attendance

Overall enrolment and attendance is lower than previously estimated

A primary insight emerging from the analysis of the ECD Census data is the relatively low enrolment and attendance of children in ECD programmes across South Africa. Until now, due to the lack of reliable data, figures for enrolment had only been estimates. Arguably the most thorough attempt had been made by Martin Gustafsson (2017) who in 2017 estimated, based on all data sources available to him, that 2.4m South African children aged 0-4 were enrolled in ECD programmes at the time. Assuming fairly equal-sized age cohorts this would translate to about 2.9m children aged 0-5 (which is the age range used in this report). The ECD Census is telling us that the true figure is in fact much lower than that, at around 1.7m. Even if one takes into account a degree of undercounting during the Census, it seems very unlikely that the total count of "missed" children could fill the gap between the estimated and observed figure, especially since one can assume that any missed ECD programmes are likely to be relatively small as larger ECD programme are less likely to have been overlooked in the field.

Furthermore, the Census data shows that enrolment and actual attendance differ significantly, with attendance about 30% below enrolment. Based on an estimated 6.7m children aged 0-5 in South Africa, it is possible to deduce that only about 25% of children aged 0-5 are taken care of at an ECD programme on any given day. These results point to the need for considerable expansion of ECD programmes, as well as the need for a more comprehensive understanding of their demand, especially since almost half (48%) of these centres are from quintiles 1 and 2.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

It must be pointed out though that the ECD Census was done during a global pandemic, between the third and fourth South African Covid waves. Previous studies, media reports as well as anecdotal reports have established that the ECD sector had been severely impacted by the pandemic, with many programmes closing down temporarily or permanently, their services curtailed by lockdown regulations, primary caregivers unable to afford fees, or worried about their children getting infected, and staff getting ill or not wanting to risk infection. Therefore, it is very likely that attendance rates have already increased and will continue to increase as the sector continues to recover from the pandemic shock. Nonetheless, whether this increase will be significant enough to meaningfully alter the overall attendance rate is debatable.

DSD Registration and Subsidies

Proportion of registered ECD programmes is lower than previous estimates and not concentrated in lower quintiles

The Census shows that unregistered rates are much higher than previous estimates, as a large proportion (60%) of centres are not registered with the DSD. This is in contrast to the 2001 audit (DoE, 2001) which showed that approximately one-third of centres were not registered and the 2013 audit (Department of Social Development, 2014) which reported that 44% were not registered.

The 2013 audit suggested that a large percentage of unregistered centres are likely to be in urban informal areas. While the Census does show that roughly two-thirds of unregistered centres are in urban areas, of these a smaller proportion are in lower quintile areas (28 percent in quintiles 1 and 2), while the majority of unregistered urban centres are those in quintiles 3 to 5 (28, 21 and 23 percent, respectively). This is contrary to prior reports that suggest a greater focus on registration is needed in low-income urban areas (Department of Social Development, 2014).

Greater efforts of streamlining the registration status need to be made, particularly in provinces such as the North West and Gauteng. Limpopo still remains the province with the highest proportion of registrations, as per prior reports (Department of Social Development, 2014). Learning and adapting registration intervention efforts carried out in Limpopo may be beneficial.

007-343

The allocation of subsidies remains unequal

Arguably, one of the most pressing reasons to centralise the ECD centre database is to inform the better allocation of resources to improve service quality and child outcomes. The highest poverty rates for young children are in Limpopo, KwaZulu-Natal and the Eastern Cape (Hall et al., 2019). The Census shows that while a large proportion of centres in these provinces do receive DSD subsidy support, a higher proportion of ECD centres in the Free State also report receiving DSD subsidies.

In the 2013 audit, 69 percent of fully registered centres reported receiving a subsidy from DSD, a sharp increase from 25 percent in 2001. Currently, this is estimated to be even higher, at 78 percent of fully or conditionally registered centres. The 2013 estimates showed that a small proportion (6 percent) of unregistered centres also reported receiving subsidies, but the current estimate has increased to 14 percent. This inconsistency could either be a result of incorrect data capturing in the field, although the data capture form was programmed to alert the fieldworkers to potential mistakes such as this one when they entered the information on their tablets, or a reflection of challenges in the record keeping of ECD programmes by DSD. The truth is likely a combination of both factors, although it is worth considering that it is impossible to investigate the extent of bad record keeping due to the lack of a central database of subsidised programmes, which in itself could be seen as an obstacle to ensuring the accuracy of subsidy payments. Furthermore, a small proportion of programmes that receive subsidies but are not conditionally or fully registered in the 4th and 5th quintile report receiving DSD subsidies. This further reiterates the need for central oversight and the important contribution of the Census to both reliable data efforts, as well as informing the move towards a centralised information system to improve resource allocation.



Even school-based or school-affiliated programmes remain unregistered

The Census is consistent with prior reports that roughly 12 percent of children were at school-based programs, which is slightly lower than 2001 estimates of 19 percent. In terms of registration status, the 2001 audit found that most school-based sites were registered, this was later estimated to be 44 percent in 2013. However, Census estimates show that about half (49%) of school-based sites do not have any registration (full or conditional) with the DSD. Furthermore, this percentage is distributed across all quintiles. The fact that even school-based programmes distributed across all quintiles are not registered, points to red flags in the registration process and the need for streamlining, or easing this process.

Current distinctions between types of ELPs are not reflected in the data or on the ground

The government's National Integrated Early Childhood Development Policy (DSD, 2015) distinguishes between ECD Centres, child-minders (or "or day mothers") and playgroups, among others, as different types of ELPs. In practice, these distinctions are often difficult to establish. For one, ELPs themselves often do not classify themselves according to these categories (e.g. they would call themselves a creche or preschool), and if they do, they do not always fulfil the official criteria of the category they have chosen. For example, 18% of only 320 ELPs with "day mother" in the name have more than six children enrolled although the day mothers are supposed to look after only six or less children. Similarly, playgroups which are supposed to be attended by children in the company of their parents or caretakers not more than three days a week often seem indistinguishable from what is commonly referred to as ECD Centres.

007-345
11/12/2025-11:28:17 AM



REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Staffing

Staffing seems consistent

Consistent with prior estimates, practitioners and educators account for nearly half of the ECD sector staff. On average, there is not much of a difference across the percentage of staff that are practitioners by registration status. Differences occur for managerial staff and educators, where they account for a larger proportion of total staff at unregistered centres. This could be because unregistered centres enrol fewer students on average. Support staff such as cooks, cleaners and security guards account for a larger proportion of staff at registered centres. Consistent with prior reports, the vast majority of staff are female.

Ratios seem to have improved

The average ratio of children to practitioners and educators (this excludes support staff) is on par with previous estimates and data shows improvement over the past few years. In 2013, this was reported to be 20.6 (with assistants) and 22.3 (without assistants). The Census shows that this is 17.9.

Unregistered centres typically have lower ratios, possibly due to their smaller relative size than registered centres. However, by province, the Eastern Cape is still faced with higher ratios.

Qualifications of practitioners have improved but still need work

Close to half of the teaching staff working in the ECD sector are not trained and qualified at the desired level (excluding non-accredited skills programmes). The 2001 audit data showed that the majority of practitioners (63%) either had no ECD training or received training from an NGO that was not accredited by the Department of Education. In the 2013 audit, a similar percentage (61%) of practitioners had no specialised ECD training. The current data suggest that there seem to have been improvements as 52% of teaching staff have an NQF qualification.

A higher proportion of staff at registered centres hold NQF qualifications which may be translated to better service quality. If qualifications are a barrier to registration, offering additional training or professional development activities at unregistered centres, particularly in the Free State and Limpopo may help with obtaining registrations.

Lastly, there remains inequity across race in line with the 2001 audit. Average educator qualifications for predominantly black-African centres remain lower than non-black-African dominated centres, on average.

Infrastructure and Operations

Accessibility seems consistent

The findings regarding ECD centres' days of operation are similar to that of the 2013 audit, which suggests that caregivers generally use non-centre-based care if they work over weekends. Only 2.5% of ECD centres are open at least 6 days per week, this is consistent with the 1-3% estimate from 2013.

In KwaZulu-Natal, the Eastern Cape, and Northern Cape, the majority of centres operated for less than nine hours per day in 2013. In contrast, registered centres in the Western Cape and Gauteng centres stayed open for longer. While the Census is consistent with lower opening hours in KwaZulu-Natal, the Eastern Cape, and Northern Cape, on average, unregistered centres stay open for longer hours in comparison to registered centres (with the exception of the Northern Cape).

The majority of informal structures are unregistered

Infrastructure is critical in the provision of high-quality services and conducive learning environments. The 2013 audit found that most ECD centres are located in formal structures. The Census is consistent with these prior findings with only 11% being housed in informal or container structures and 3% in mud dwellings.

The great majority, 86%, are located in conventional brick dwellings, and of those 60% are (conditionally) registered with DSD or in the process of registering. In comparison though, only 38% of ELPs not housed in formal structures are registered with DSD.



Electrification and sanitation largely the same compared to earlier audits

Results from the 2001 audit showed that 53% of sites had electricity, piped water, and flushing toilets, whereas 8% of sites had no access to any of these basic services. The 2013 audit showed that 56% of programmes had flushing toilets and 80% had access to piped water. Fewer than 2% had no toilets of any kind. With respect to electricity, 83% of programmes had electricity for lighting and 53% for cooking, whereas 8% had no energy source for lighting and 1.5% had no energy source for cooking.

The Census produced very similar results in terms of electricity for lighting (85%), and consistency with regard to running water (81%; including public taps) and lack of access to a toilet (2%).

Consistency across meals provision, safety and transport

Virtually all ECD programmes incorporate at least one meal time into the daily programme, usually lunch or breakfast. Children at most centres appear to be relatively safe, with almost all centres having a fence or a lockable gate. Only a small percentage of ECD programmes offer transport for children attending the ECD programme. These results are all consistent with those from the 2013 audit.

Registered programmes have more Learning and Teacher Support Materials (LTSM)

In 2013, most provinces reported insufficient and poor condition of materials for arts and craft, and music and movement. This was similar across registration status. The Census shows that registered programmes typically have more materials on hand, with starker differences across Limpopo, Mpumalanga and the Eastern Cape. This suggests that registered programmes are better positioned to provide quality service.

In summary, the Census shows a lot of consistency with prior estimates relating to the distribution of staff, health, sanitation, and usage of other facilities or services. Improvements are noted in staff ratios, however as previously stated – the lack of comparably reliable data hinders this conclusion. The Census illuminates differences in quality by staff qualification, materials access, and infrastructure by registration status. It is shown that registered centres have more qualified staff and support materials that are conducive to better learning environments. The fact that learners at unregistered centres may spend longer hours in environments with less qualified staff, and materials for stimulation, point to the need for a boost in professional development activities as well as materials provision in unregistered centres.

007-347
11/12/2025-11:28:17 AM

Learning through Play

Both the LEGO Foundation and the DBE share a common belief that play-based approaches to early learning are the key to achieving positive holistic developmental outcomes for children. In this respect, giving children agency in their own learning is fundamental, but results suggested that practitioner attitudes didn't always reflect this, and mostly valued the role and agency of the teacher over that of the child.

Also, relatively little time is allocated to free play – both indoors and outdoors and materials and equipment that lend themselves to free play, such as fantasy toys and sand pits, are less common than other types of toys. Another concerning finding was that almost a third of ELPs didn't have a suitable outdoor playground facility. Additionally, we know the importance of children having access to picture books and shared reading, but almost half of ELPs didn't have age-appropriate books available.

These attitudes shift somewhat in the higher quintiles where more agency is given to children. Overall though, the impression left by the findings is that LtP remains an undervalued tool amongst ECD practitioners. This finding indicates the need for more awareness raising around LtP and play-based practitioner training to fully leverage the value of LtP in a resource-strapped ECD environment.

The data also shows that subsidised ELPs, and higher-quintile ELPs, have access to more educational materials and toys. This points to a general lack of resources in the sector and it supports the call for stronger government support.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

NEXT STEPS

The ECD Census marks a crucial milestone on the way to a better functioning ECD system in South Africa but there is a lot of important work still ahead. One of the first tasks will be the integration of the list of ELPs into DBE's Education Management Information System so sites of early learning for young children can receive the same attention as schools.

This will dovetail with an effort to build out and pilot a tailor made ECD Management Information System (MIS) at both national and provincial levels. Ultimately, this MIS will incorporate modules for registration, funding, and quality assurance and support. Provinces will play a central role in the continuous effort to maintain the database of ELPs.

The Census data is already being used to inform policy decisions and resource planning. We expect that it will lead to an expansion of the existing support programmes to ELPs as decision makers both in government and civil society will be able to target the allocation of resources more effectively.

An anonymised version of the dataset will be made available to the public via DataFirst at the University of Cape Town, which, together with other recently published datasets such as the Thrive by Five Index, we hope will spark a new wave of research into ECD in South Africa.

Additionally, a detailed set of provincial profiles will be published alongside policy briefs and a basic dashboard where the public will be able to engage with the data and insights.

007-347

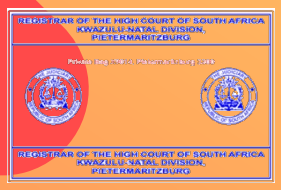
REFERENCES

1. Atmore, E., Van Niekerk, L., & Ashley-Cooper, M. A. (2012a). Early childhood education: The difference between policy and reality. J. Hofmeyer.(ed.). *Transformation Audit*, 81-87.
2. Atmore, E., Van Niekerk, L. J., & Ashley-Cooper, M. (2012b). Challenges facing the early childhood development sector in South Africa. *South African Journal of Childhood Education*, 2(1), 120-139.
3. Biersteker, Linda & Dawes, Andrew & Hendricks, Lynn & Tredoux, Colin. (2016). Center-based early childhood care and education program quality: A South African study. *Early Childhood Research Quarterly*. 36.
4. BRIDGE, Illifa Labantwana, the Nelson Mandela Foundation, National ECD Alliance, SmartStart, SA Congress for ECD. 2020a. *The Plight of the ECD Workforce: An urgent call for relief in the wake of covid-19*.
5. BRIDGE, Illifa Labantwana, National ECD Alliance, SmartStart, SA Congress for ECD. 2020b. Second Survey Assessing the Impact of COVID on ECD.
6. Dawes, A., Biersteker, L., Girdwood, L., Snelling, M. and Horler, J. (2020). *Early Learning Programme Outcomes Study Technical Report*. Cape Town: Innovation Edge and Ilifa Labantwana.
7. Department of Education. (2001a). *Education White Paper 5 On Early Childhood Education: Meeting The Challenge Of Early Childhood Development In South Africa*. Pretoria: Department of Education.
8. Department of Education. (2001b). *Nationwide audit of early childhood development provisioning*. Pretoria: Department of Education.
9. Department of Education, Department of Health, Department of Social Development & UNICEF. (2005). *National integrated plan for early childhood development in South Africa 2005–2010*. Pretoria: Department of Education.
10. Department of Basic Education, Department of Social Development, & UNICEF. (2010). *Tracking public expenditure and assessing service quality in early childhood development in South Africa*. Pretoria: Department of Basic Education.
11. Department of Basic Education. (2015a). Second & third quarterly reports on the performance of the department in meeting its strategic objectives for 2014/15. In: *Presentation to the portfolio committee of basic education, South African parliament*. Pretoria: Department of Basic Education.
12. Department of Basic Education. (2015b). *The South African national curriculum framework for children from birth to four*. Pretoria: Department of Basic Education.
13. Department of Basic Education. (2019). *General Household Survey (GHS): Focus on Schooling 2019*. Pretoria: Department of Basic Education.
14. Department of Social Development (2015). *Norms and standards for registration of early childhood development (ECD) centres*. Pretoria: Department of Social Development.
15. Department of Social Development (2015). *National Integrated Early Childhood Development Policy*. Pretoria.
16. Gustafsson, M. (2017). *Enrolments, staffing, financing and the quality of service delivery in early childhood institutions*. Unpublished report.
17. Hall, K., Sambu, W., Berry L., Giese, S., & Almeleh, C. (2017). *South African Early Childhood Review 2017*. Cape Town: Children's Institute, university of Cape Town and Ilifa Labantwana.
18. Hall, K., Sambu, W., Almeleh, C., Mabaso, K., Giese, S., & Proudlock, P. (2019). *South African Early Childhood Review 2019*. Cape Town: Children's Institute, University of Cape Town and Ilifa Labantwana.
19. Jamieson L., Bray R., Viviers A., Lake L., Pendlebury S & Smith C. (eds) (2011) *South African Child Gauge 2010/2011*. Cape Town: Children's Institute, University of Cape Town

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

NOTES


REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG



ECD Census 2021

because children count

ECD Census 2021

because children count



ikapadata

Data For Social Impact

ikapadata (Pty) Ltd info@ikapadata.com

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

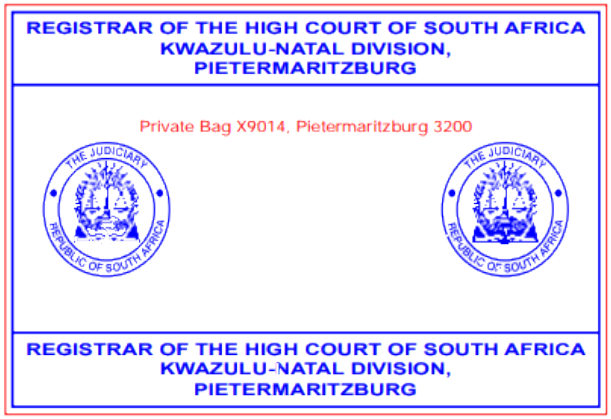
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 06

NOTE: **This document was filed electronically by the Registrar on 11/12/2025 at 11:28:57 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.



SOUTH AFRICA'S 2030 STRATEGY FOR EARLY CHILDHOOD DEVELOPMENT PROGRAMMES

EVERY CHILD MATTERS

basic education
Department:
Basic Education
REPUBLIC OF SOUTH AFRICA

Read to Lead
A Reading Nation is a Leading Nation

30 YEARS OF FREEDOM

007-355
11/12/2025-11:28:57 AM



South Africa's 2030 Strategy for Early Childhood Development Programmes

Every Child Matters

Published by the National Department of Basic Education of South Africa.

Contact:

National Department of Basic Education: Early Childhood Development Directorate
222 Struben Street, Pretoria
Call Centre Email: Callcentre@dbe.gov.za
Media Email: media@dbe.gov.za
Switchboard: 012 357 3000
Call Centre: 0800 202 933
www.education.gov.za

Suggested citation: Department of Basic Education of the Republic of South Africa. 2023. South Africa's 2030 Strategy for Early Childhood Development Programmes. Pretoria.

ISBN Number: 978-1-4315-3988-8

2023

Back cover image courtesy of DataDrive2030.

007-355

Contents

Commonly used acronyms 4
Glossary of terms 4
1. Introduction 5
The importance of getting the early years right 5
Scope and policy context 5
Children's rights 6
Recognising the central role of parents and caregivers 6
Childcare and inclusive economic growth 7
Building new partnerships for collaborative delivery 7
Key terms 8
2. Vision and priorities 8
2030 Outcomes 8
3. Context and starting-point 10
Young children in South Africa 10
The access and quality gaps for ECD programmes 10
Profile of early learning programmes 10
Assets and resources 11
Problem statement 11
4. Theoretical framework 13
Quality early learning and development 14
5. The new service delivery model 15
Parent support programmes 15
Early learning programmes 16
Mechanisms to implement the new service delivery model 16
6. Modelling 18
Early learning programmes 18
Infrastructure for ELPs 18
Workforce 19
7. Outputs and enablers 20
8. Key milestones 22
9. Resource requirements 23
Budgetary implications 23
New funding sources and models 24
10. Conclusion 25
Appendix: Thematic summaries 26
Notes and references 29

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

007-357
11/12/2025-11:28:57 AM

Commonly used acronyms

ECD	Early childhood development
ECD - EI	ECD Employment Initiative
ELP	Early learning programme
CHW	Community Health Worker
DBE	Department of Basic Education
NCF	National Curriculum Framework
NDP	National Development Plan
NIECDP	National Integrated Early Childhood Development Policy
PPP	Public Private Partnerships
QASS	Quality Assurance and Support System
SASSA	South African Social Security Agency

Glossary of terms

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,

Key terms in this Strategy are presented below, in line with the definitions provided in the National Integrated Early Childhood Development Policy 2015.

ECD programmes – The National Integrated ECD Policy defines ECD programmes as, "Programmes that provide one or more forms of daily care, development, early learning opportunities and support to children from birth until the year before they enter formal school." It lists types of ECD programmes, which include both early learning programmes and parent support programmes.

ECD practitioner – A person who provides an ECD programme.

Early learning programmes – These are ECD programmes that are attended by children on a part-time or full-time basis, in a range of spaces, and which provide early learning and development opportunities. These include ECD centres, playgroups, day mothers, as well as toy libraries and mobile ECD programmes.

Parent support programmes – These are a broad range of ECD programmes provided to a parent or caregiver, which support one or more aspects of parenting. They include home visiting and outreach ECD programmes (such as workshops and virtual resources).

007-357

1. Introduction

The early years of every child's life provide the foundations for their future flourishing and success. In recognition of this, in the National Development Plan 2030 (NDP), government committed to universal access to early childhood development (ECD) by 2030, including two years of quality preschool.[1] These are ambitious goals, and their achievement will depend on new models of co-operation, collaboration and co-ordination, not only across departments and spheres of government, but also with the ECD sector, social partners, business and donors – and just as importantly, with families and communities.

The purpose of the 2030 Strategy for ECD Programmes is, therefore, both to provide a road map towards these goals, and to provide the basis for a new social compact between all ECD role-players, in order that effort and resources are aligned behind a common strategy.

The overarching strategy is informed by the Department of Basic Education's (DBE's) six social justice principles, each of which has been defined to carry a specific meaning and purpose for ECD:

- **Access:** Ensure rapid ECD programme expansion (new facilities and workforce) towards universal access by 2030;
- **Redress:** Ensure that historically disadvantaged population groups are prioritised;
- **Equity:** Ensure that ECD access and quality do not depend on a child's background or location;
- **Quality:** Ensure a strong focus on quality and that regulatory standards and requirements reflect the known mediators of positive child outcomes;
- **Inclusivity:** Ensure that every child's unique abilities and needs are accommodated in ECD programme provisioning; and
- **Efficiency:** Ensure that plans for quality access are realistic in a constrained fiscus and strategically leverage resources already in the system.

The importance of getting the early years right

Evidence from around the world confirms that the years between birth and school are a critical window of opportunity and risk, not only for every child, but also for their family and wider society. A child's brain and body develops rapidly during this period, and this development can be helped or impeded by factors such as health, nutrition, nurture and stimulation. When children benefit from these, by the time they start school, they are much more likely to have in place the foundations for their personal wellbeing and future success. However, when children are denied these elements of nurturing care, there is a high risk that they will start school without having reached key developmental milestones, making it harder for them to reach their full potential, and creating costs and challenges within the schooling and social systems.



The opportunity for government and for our social partners, therefore, is to invest substantially and strategically in the early years, in particular by supporting equitable access to quality ECD programmes, in order that no child is left behind.

Scope and policy context

The National Integrated Early Childhood Development Policy (NIECDP) was published by government in 2015. It defines a national comprehensive package of ECD services and support, with certain essential components. The comprehensive package includes elements that are subject to progressive realisation in terms of South Africa's constitution, such as appropriate housing, social protection, and access to basic services and sanitation. The essential package, on the other hand, encompasses, 'those services where there is a more immediate obligation on Government to provide the services, which is an essential precondition for the realisation of young children's rights that are not subject to progressive realisation but are immediately realisable'.[2] These include basic maternal and child health care and nutrition, support for parents and caregivers to ensure a child's optimal development, early learning programmes (ELPs), and public information.

The elements of the essential package relating to parent support, ELPs and public information are the focus areas for this Strategy. This encompasses both parent support programmes and attendance-based programmes such as ECD centres.

The role and opportunity of these types of programmes are described in more detail in Section 4. The other NIECDP priorities are equally important and require effective collaboration and planning across departments. Government's plan for these services, including maternal and child health, social grants and nutrition delivery will be developed in close conjunction with the relevant departments and set out in the updated NIECDP, with the DBE playing a key leadership and co-ordinating role.

Children's rights

The NIECDP explicitly recognises a right to ECD, in line with those rights that are immediately realisable in South Africa's Constitution, and states that, 'This Policy provides Government's recognition of the universal right of all children in South Africa to early childhood development services and the fundamental developmental importance of early childhood development.'[3]

South Africa is also a signatory to the UN Convention on the Rights of the Child that contains various provisions relating to the holistic development of young children. General Comment No7, 'Implementing Child Rights in Early Childhood', states that the Committee on the Rights of the Child, 'interprets the right to education during early childhood as beginning at birth and closely linked to young children's right to maximum development.'[4]

The rights framing is useful not only because it urges us towards child-centred policy-making, but because it foregrounds the necessity of identifying the resources and capacity to provide those services that underpin the realisation of children's rights.

Recognising the central role of parents and caregivers

Government has a central role to play in leading, designing and co-ordinating the right mix of services and support for young children. However, government cannot replace parents and caregivers. The home is where every young child spends the majority of their time, and is the setting that will have the strongest influence on a child's development. Every day, parents and caregivers in South Africa show huge resourcefulness and ingenuity in how they care for and raise their children, in even the most constrained circumstances. This Strategy does not seek to replace those efforts, but to build on them. This requires government to provide and ensure access to the services and resources that will empower every parent to perform their role as a child's first nurturer and teacher.

Childcare and inclusive economic growth

While the focus of this Strategy is on ensuring that every child has access to the early learning and development opportunities that ensure they will flourish, the benefits of ECD programmes go beyond the child and extend to the family, community and economy.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Increasingly over the past decade, global attention has turned to the role that quality childcare plays in women's economic empowerment and inclusive economic growth. The benefits are three-fold. Firstly, when primary caregivers, usually women, can access childcare they are also able to work. Conversely, mothers who cannot access childcare are often caught in a downward spiral of labour market exclusion and low income. Secondly, the ECD sector is a critical part of South Africa's care economy and has the potential to unlock new jobs and micro-enterprise development opportunities. It is estimated that around 300,000 new jobs can be created in the ECD sector,[5] advancing the livelihoods of excluded economic groups, in particular women and youth, in remote, rural and underserviced areas. Thirdly, these new jobs and services have multiplier benefits for communities; creating demand for auxiliary goods and services (such as food) and strengthening the local economy.

This wider lens helps us to see a child's early development as everyone's concern and as a foundational investment in a stronger society and economy. It also draws attention to the central role that business has to play in leading the solution-building for equitable ECD programme access. Business is one of the main beneficiaries of the childcare provided by ELPs. Similarly, business has a critical interest in improving outcomes from the education system and in building a more skilled workforce, both of which rest on putting stronger foundations in place in the early years. Where industries develop active strategies to support a social good like ECD programmes, it also positions them better to attract international

investors who are prioritising ESG (environmental, social and governance) goals.

Building new partnerships for collaborative delivery

The success of this Strategy will, therefore, depend on collaboration in delivery – collaboration across departments and spheres of government, but also and crucially, collaboration with social partners, business and donors, and with families and communities and the thousands of ECD practitioners, workers and programmes that are the backbone of the existing system.

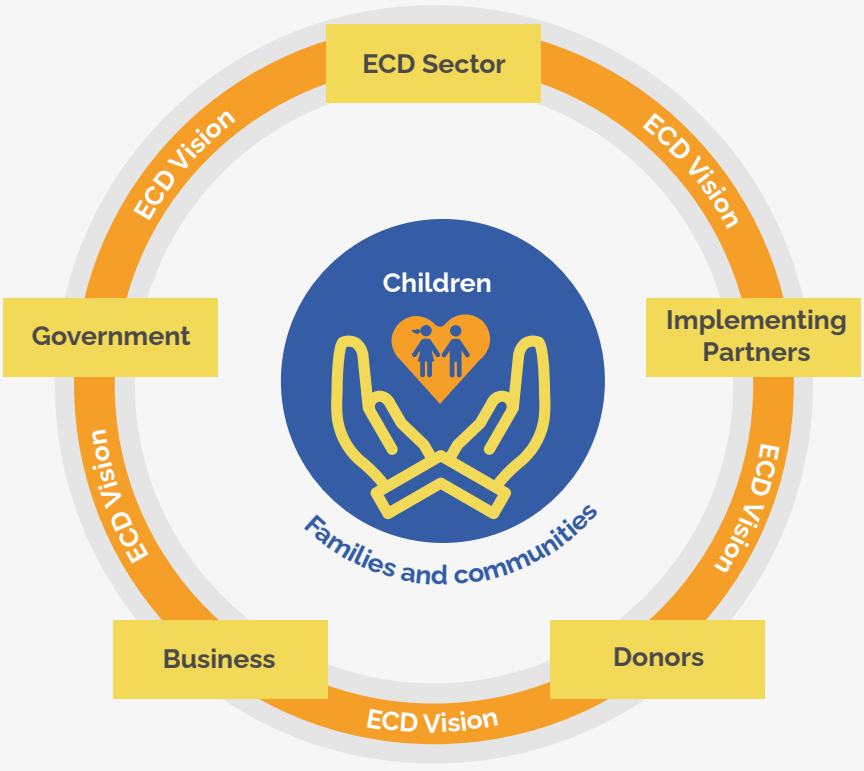
The Strategy provides a framework to bring together the endeavours of these partners with government's efforts, in order to create a Social Compact for ECD that is a powerful engine for achieving the country's ambitious goals for our children. This will include both new solutions, such as new institutional arrangements for public-private partnerships (PPPs), as well as strategies to ensure that solutions that are already abundant in communities become even more effective and efficient.

The proposed social compact will provide a structured mechanism to organise all role-players around a shared vision, and to forge explicit and implicit agreement about the part that each will play towards its realisation. It will give recognition to the many forms of collaborative work that already exists in ECD, and build from these to innovate and resource new models of partnership. It will therefore, by design, strengthen and institutionalise systems for participation and shared solution-building in ECD.

The vision and plan for the Social Compact for ECD will be co-developed by all role-players, with this Strategy marking the start of the process.

The invitation to all partners is to join this Social Compact for ECD and commit to playing our part in achieving our common vision for our children, and defining the collective goals that we will undertake to pursue together.

Figure 1: A new Social Compact for ECD



2. Vision and priorities

The government's vision and impact statement for 2030 is: Universal access to quality ECD prioritising the most vulnerable children.

Within this overarching government vision, this Strategy focuses on ECD programme provisioning specifically, by setting out the DBE's plan for rapidly expanding both access and quality for such programmes.

The definition of universal access is based on the one provided by the NIECDP,[6] and is understood to mean that every community has the right mix and availability of ECD programmes to meet the needs of the families and children in that community.

In particular, in the light of the current context, including the significant set-backs for ECD from the Covid-19 pandemic, it is important that effort and resources are aligned behind goals that are realistic and that prioritise the most vulnerable children and families.

2030 Outcomes

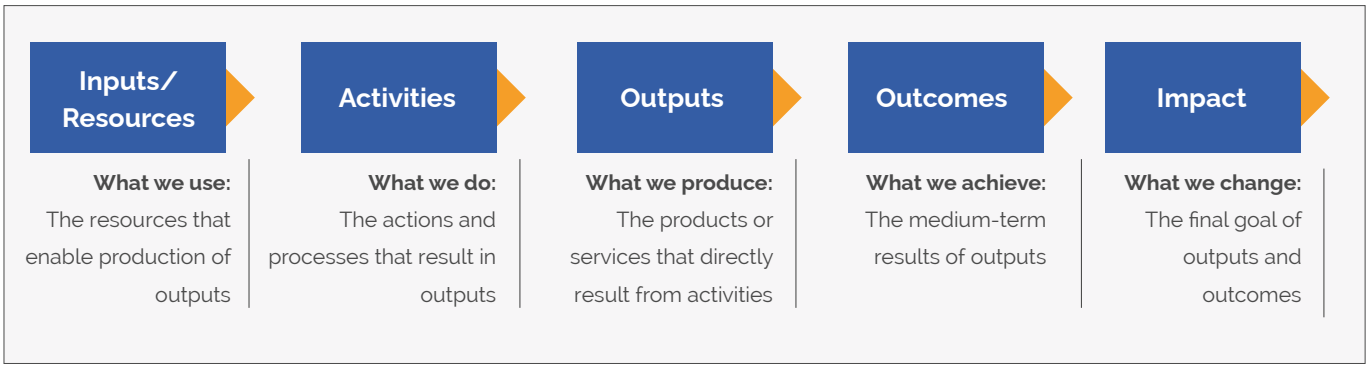
In terms of the structure in Figure 2 below, this Strategy articulates outcomes and high-level outputs, and describes the resources required to make these happen. A separate implementation plan will set out detailed activities beneath each output. In order to achieve the impact articulated above, the DBE has identified five strategic priorities (2030 outcomes) which provide the framework for the Strategy:

1. Every child has access to a flexible package of age-appropriate, affordable ECD programmes.
2. Enabling government systems, leadership, capacity and co-ordination are in place.
3. Sufficient funding and resourcing are targeted effectively.
4. A capable ECD workforce is well-supported and equipped.
5. Programme quality is enhanced through appropriate support and monitoring.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

For each outcome, focal areas are used to group outputs. The focal areas are shown in Table 1, while the detailed outputs are set out in Section 7. The appendix to this Strategy provides a short summary of each focal area that describes its significance and scope.

Figure 2: The structure for the 2030 Strategy for ECD Programmes



(Reflecting the concepts in 'Framework for Strategic Plans and Annual Performance Plans', National Treasury 2010, p.7)

Table 1: 2030 outcomes and focal areas

2030 Outcome	Focal areas
1. Every child has access to a flexible package of age-appropriate, affordable ECD programmes.	Mixed modalities of inclusive provision
	At-scale service delivery arrangements
	Appropriate nutrition provisioning in all ECD programmes
2. Enabling government systems, leadership, capacity and co-ordination are in place.	Leadership, co-ordination and accountability
	Policy, legislative and regulatory reform
	Communications and public information
3. Sufficient funding and resourcing are targeted effectively.	Budget allocations and financing mechanisms
	Appropriate facilities
4. A capable ECD workforce is well-supported and equipped.	Human resource development plan
	Recruitment and pre-registration support
5. Programme quality is enhanced through appropriate support and monitoring.	Curriculum and quality assurance
	Data and monitoring



3. Context and starting point

Young children in South Africa

The annual General Household Survey gives us a good picture of the situation of the young children who government is seeking to reach with ECD programmes, as shown in Figure 2 below.

The access and quality gaps for ECD programmes

The 2021 General Household Survey(GHS) also gives us useful insights on the number of children accessing ELPs.[11] About 2.2 million 0-5 year-olds attend an ELP such as a creche, nursery, pre-school, playgroup or day mother. A further 750,000 children in this age group attend Grade R or Grade 1.

This means that 1.3 million 3-5 year-olds who would most benefit from access to structured early learning opportunities, are not currently attending an ELP. The gap is closely linked to income - 66% of children in Quintile 1 are not in ELPs compared to only 36% of children in Quintile 5. Data on access to other ECD programmes is incomplete. For example, in the 0-2 year-old age group, while 733,000 are attending an ELP, it is not known how many other children are reached by parent support programmes.

The 2021 Thrive by Five Index reported that 57% of children attending ELPs are not on track for cognitive and/or physical development and face barriers to realising their full potential. For early learning specifically, 54% of children were not able to do the learning tasks expected of children their age, with 28% of children falling far behind the expected standard – and poor children least likely to be on track.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Profile of early learning programmes

The DBE's ECD Census 2021 provided valuable insights on ELPs. Selected highlights from the Census 2021 are shown in Figure 3 on the following page.

Figure 2: Snapshot of young children in South Africa

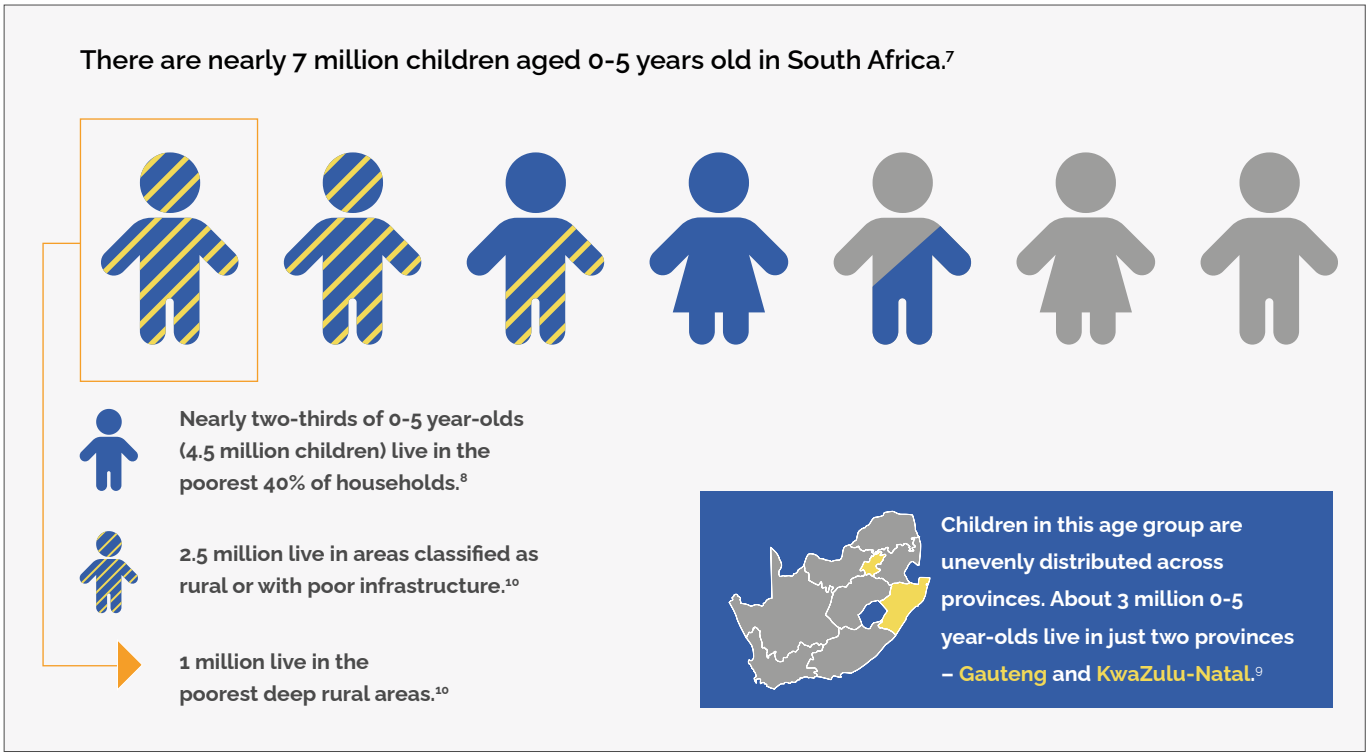
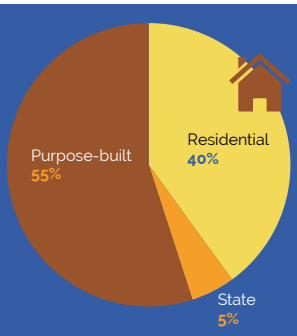


Figure 3: Snapshot of early learning programmes in South Africa



42,420

ELPs in SA, according to the ECD Census[12], but GHS data suggest the actual number might be closer to 66,000[13]



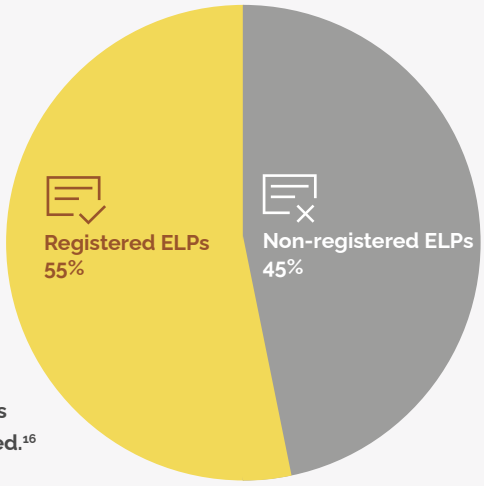
40%

of ELPs run from residential homes, 5% are in state-owned buildings.[14]



39

Average number of children enrolled in an ELP.[15]



Over half of ELPs are not registered.[16]



627,000

children receive the ECD subsidy, of the 2.3 million eligible, if target access is achieved.[17,18]

Assets and resources

The gaps in the system only provide part of the picture. South Africa's ECD ecosystem is underpinned and characterised by a series of important assets and resources, which signpost key leverage points for this Strategy. Harnessing these assets is particularly important in light of the fiscal constraints faced by South Africa. The main assets include:

- **Tens of thousands of ELPs and practitioners, reaching children in even the lowest income contexts – and an estimated R3.7 billion in fees spent by the poorest 60% of households;[19]**
- **Millions of under-employed women with a strong caring instinct and the aptitudes to provide nurturing care, as well as quality learning and development opportunities;**
- **Community and residential venues where millions of children are safely cared for every day;**
- **NGOs and non-state actors with wide and deep experience in supporting ECD programmes;**
- **The informal economy – local contexts of diverse economic activity in which ELPs can operate and thrive; and**
- **A substantial donor and development partner funding base increasingly aligned to at-scale solutions.**

Problem statement

This information helps us to define the problem that this Strategy seeks to address, which is that, the majority of children do not have access to quality ECD programmes, and the poorest children are most likely to miss out.

A range of factors underlie the unequal coverage and quality of ECD programmes. These include historical factors and deep-seated socio-economic factors. Four underlying conditions or factors are particularly relevant to government's efforts to engineer improved access and quality:

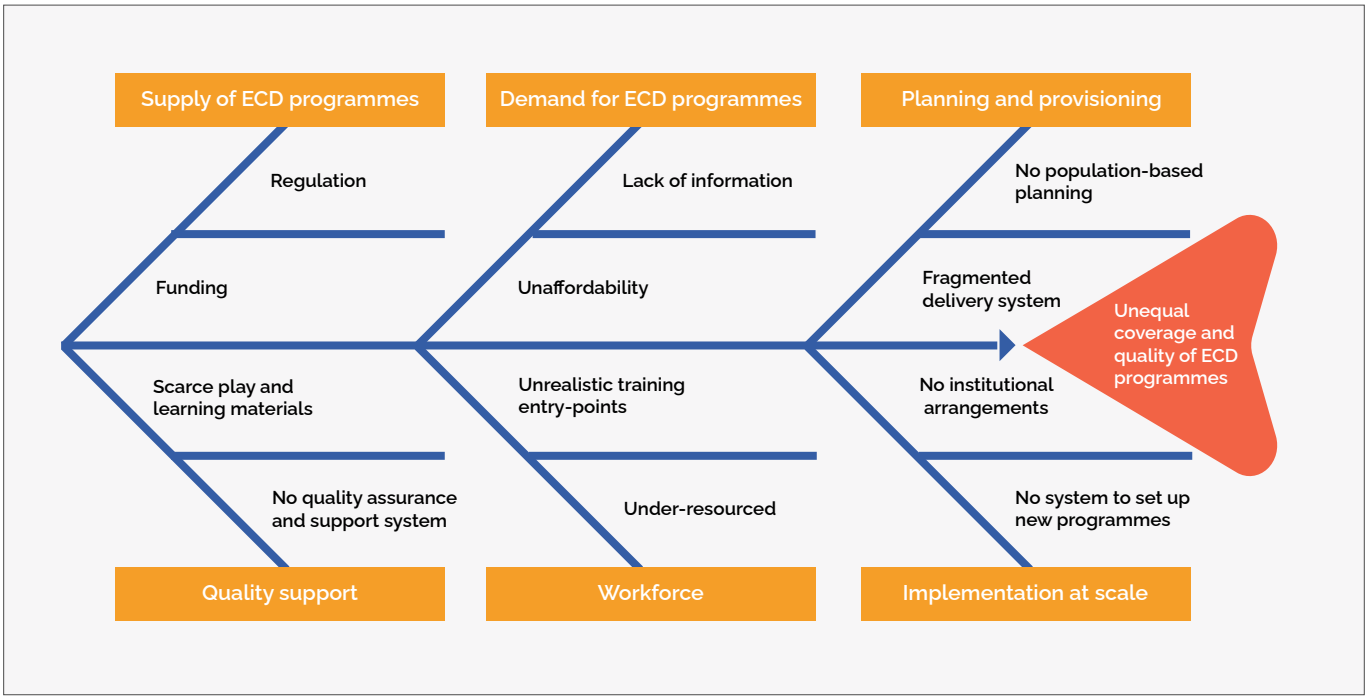
1. Supply-side barriers for ECD programmes (such as regulation and funding) and demand-side barriers for parents and caregivers (such as poor information and unaffordability) prevent the system from working in the interests of all children.
2. ECD planning and provisioning are not joined up, and do not use population-based planning methods, nor do they include mechanisms for the managed set up of new programmes.
3. There is not enough total funding in the system and parent fees cannot bridge the gap.
4. Poor working conditions for ECD practitioners, as well as the lack of sustainable jobs, training and opportunities for progression, act as a major barrier to recruitment and retention.

The way in which these underlying factors in the ECD system interact with prevailing social and economic conditions, creates an implementation gap – the gap between the goals of policy and the programmes actually provided and received. Understanding the implementation gap highlights the fifth and critical underlying factor:

5. The institutional arrangements and delivery systems for at-scale ECD programme provisioning are not in place.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

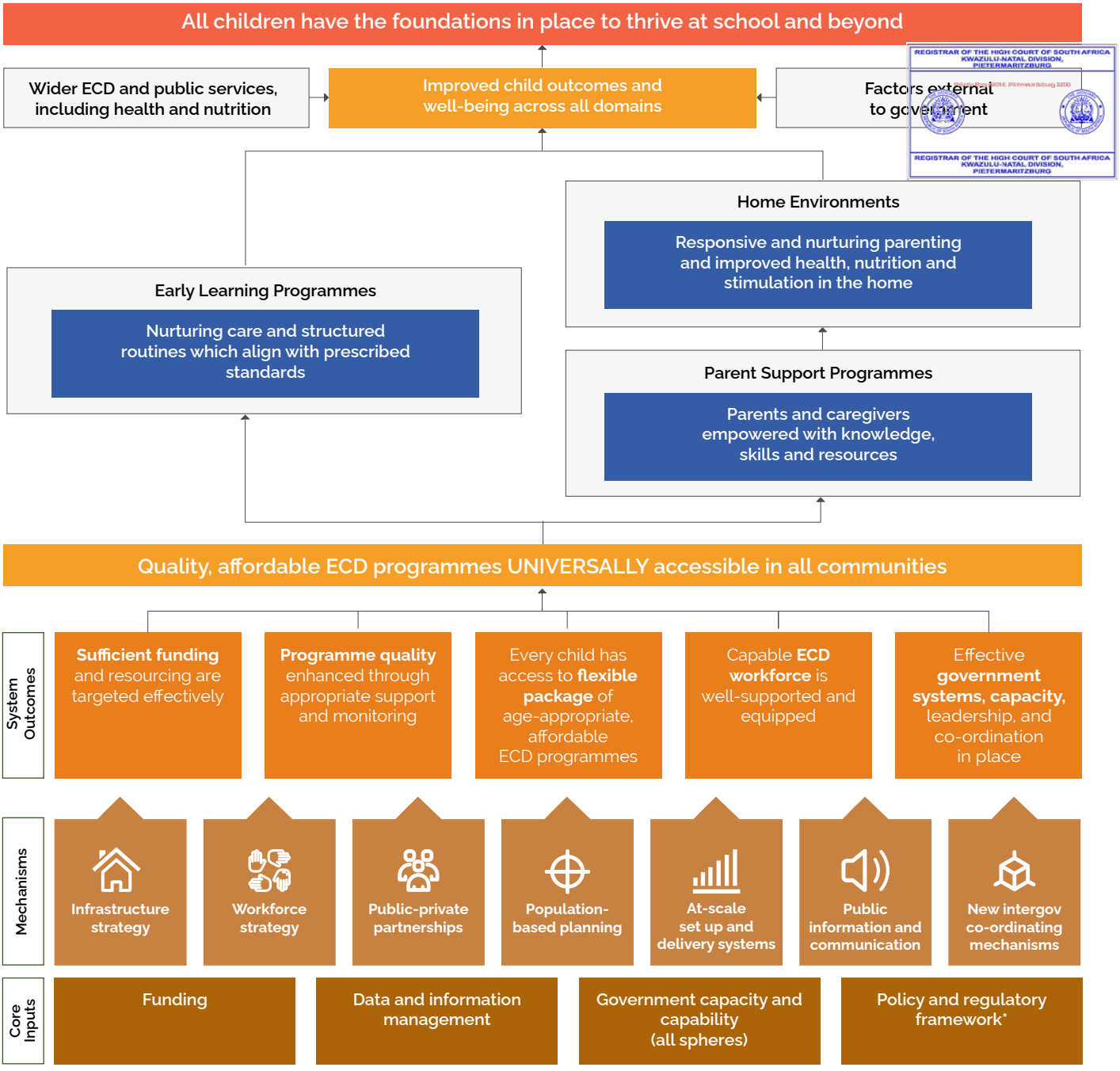
Figure 4: Contributing factors to unequal coverage and quality of ECD programmes in South Africa



4. Theoretical framework

A theory of change helps to ensure that the mechanisms proposed in this Strategy will ultimately lead to all children having the foundations in place to thrive at school. It also helps to clarify how system inputs, mechanisms and outputs, relate to the outcomes and impact that government is seeking.

Figure 5: A theory of change for ECD programmes from the perspective of the role of government



*Including all areas of policy, such as regulation, curriculum and qualifications/human resource development framework

Quality early learning and development

Early learning and development takes place across several domains. These include social and emotional (such as pro-social behaviour and forming attachments), cognitive (such as reasoning and early maths), self-regulation (such as concentration, memory and self-control), language and emergent literacy (such as listening, speaking and sounds), and physical (including fine and gross motor).

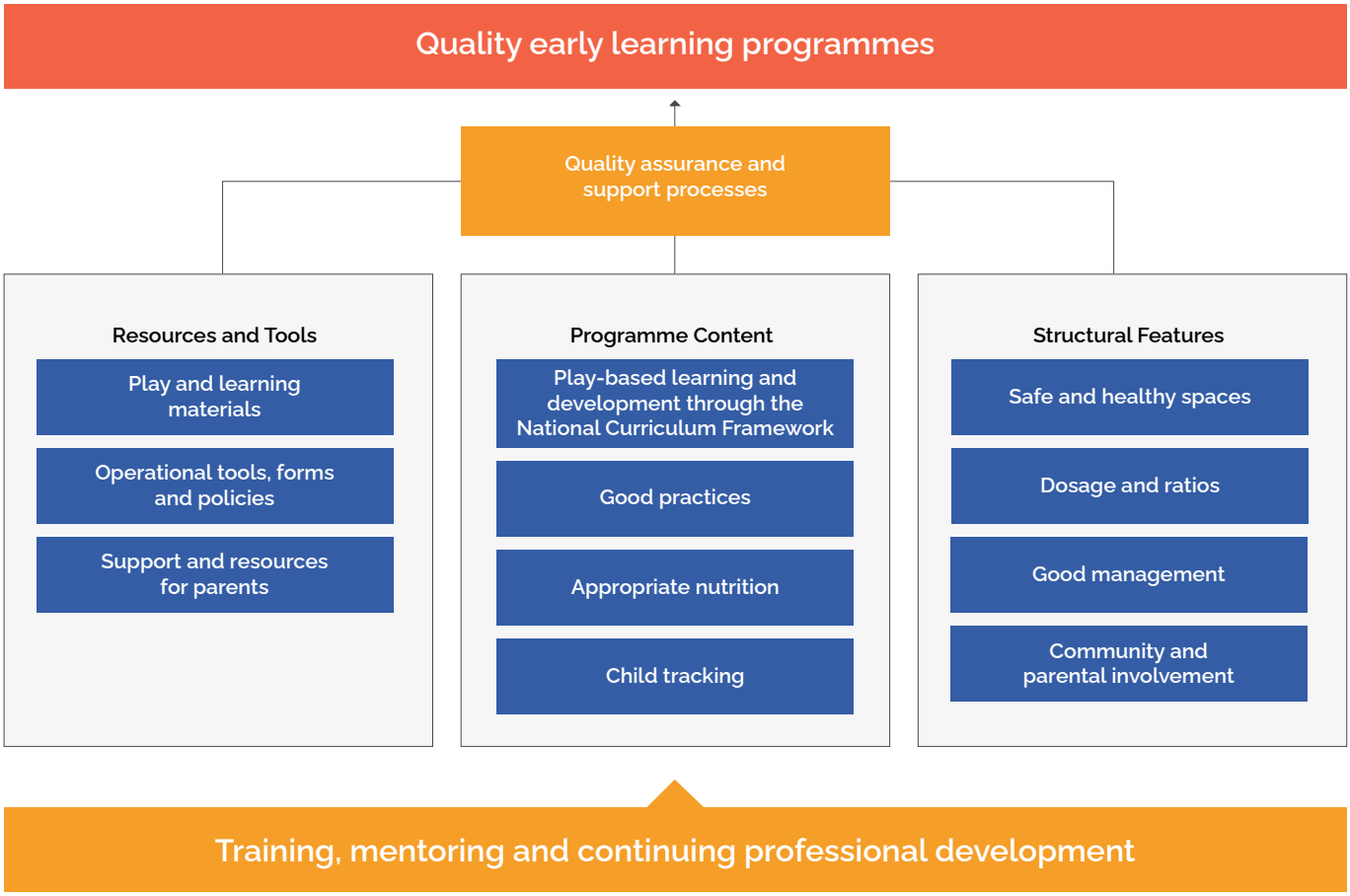
Evidence continues to suggest that children's development across these domains is enabled by playful learning environments both in and out of the home, where there are stable and nurturing relationships, lots of talk and interaction, opportunities for child-directed play supported by adults, interactive storytelling, and plenty of physical activity. Children who benefit from these things in the early years, are more likely to develop according to their age and ability, and to have the foundations in place to succeed at school and beyond. Quality ECD programmes are therefore understood to be the programmes that provide or support these types of opportunities and environments.

The idea of critical programme features draws attention to what research says about the ingredients of programmes that provide the opportunities and environments described above. Importantly, in terms of ELPs specifically, evidence suggests that these ingredients can be supported in a range of settings, and that it is the presence of certain programme features (shown in Figure 6) that determine quality, more than the [illegible]

Each box shows a component of quality which studies suggest is linked to improved child outcomes.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Figure 6: Critical features of high quality early learning programmes



5. The new service delivery model

The DBE's new service delivery model is summarised as a publicly planned, publicly co-ordinated mixed provisioning model

The term "service delivery model" is used to refer to the delivery arrangements that enable properly planned, funded and regulated ECD programmes to reach every child. The concept of a service delivery model goes beyond the mix of ECD programmes in the system, and also refers to the co-ordinating and contracting arrangements which enable universal coverage and quality, and which address all elements of service delivery, including facilities, workforce and resourcing.

The proposed mixed provisioning approach is in line with the vision set out in the NIECDP, which describes a partnership model between state and non-state role players to achieve the outcomes for which government remains responsible. It indicates a shift towards state-led planning and strategy, where government discharges its responsibility for equitable access and quality, by ensuring that the right leadership, co-ordinating mechanisms, policies and funding are in place for service providers to expand and thrive where they are needed. Where necessary, government steps in itself to provide programmes directly.

In this sense, state-led planning and strategy are understood to be at the heart of the new Social Compact for ECD, under which government's leadership role is supported by new institutional arrangements for public-private partnerships, including new partnerships with business and donors. "Mixed provisioning" refers to a range of ECD programme modalities which are responsive to the circumstances and needs of families and communities. For all programmes, the priority will be two-fold: To unlock a new supply of quality programmes towards universal access, and to build quality and sustainability. The ECD programmes provided will be broadly based on the age of the child.

- *Parent support programmes:* The goal is to widen access to different parent support programmes (such as home visiting and outreach programmes) that target 0-2 year-olds and are developed, co-ordinated and supported with the Department of Health, to complement their role in delivering early health and nutrition services.
- *Early learning programmes:* The goal is to ensure that 3-5 year-old children in all communities have access to an ELP close to where they live, as well as to widen access for 0-2 year-olds so that all parents who want to work can access childcare.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

For both programme types, new processes and tools for population-based planning will be developed to identify and target vulnerable and under-served communities.

The DBE will also seek to strengthen the interfaces of these programmes with other components of the essential package, and explore how different service touch-points – such as clinics and South African Social Security Agency (SASSA) offices – can be more effectively leveraged to support parents and children.

Parent support programmes

The DBE will work with the Department of Health, Department of Social Development and social partners, to build on recent scoping work and develop a comprehensive picture of existing parent support programmes. A plan will be developed which will encompass:

- Mapping the different forms of parent support programmes (such as early intervention services, Community Health Workers (CHWs), parent skills workshops) on to departmental mandates towards a common understanding of roles and responsibilities;
- Reviewing the legislative framework for different types of parent support programmes to more clearly reflect agreed roles and responsibilities;
- Agreeing on clearer co-ordination mechanisms for parent support programmes at both national inter-departmental level and local implementation level;

- Improving data collection, monitoring and evaluation of parent support programmes;
- Understanding the footprint, reach and strengths of existing parent support programmes;
- Developing a package of support to strengthen the role and reach of key professionals, such as CHWs and family and community motivators;
- Designing a strategy and plan towards the rapid roll-out of effective parenting programmes in under-served and vulnerable communities; and
- Exploring the benefits of developing a new community-based family support programme.

Community-based family support programmes have been used in other middle-income countries, such as Cuba and Ecuador, to build the capability of parents and caregivers to support children's health, development and learning in the home. These types of programmes take various forms but are generally characterised by three essential elements: family, community and an inter-sectoral approach. They are generally more cost-efficient than attendance-based programmes, do not require specific infrastructure or facilities and, by harnessing existing community assets, can be rolled out more quickly. They also provide an opportunity to create new skills development and employment opportunities for women in particular.

Early learning programmes

In terms of ELPs specifically, government's approach will reflect the evidence showing that effective early learning and development can be provided in a wide range of settings. Therefore, the three main ELP modalities – ECD centres, playgroups and day mothers – will continue to be provided, alongside mobile ECD programmes and toy libraries.

In terms of venues for ELPs, in the short-term, in order to achieve the required rate of growth, and in line with the DBE's principles of equity and redress, there will be a need for ELPs to make use of existing premises, including residential venues. At the same time, and using population-based planning, the DBE will begin planning and working towards provision of more purpose-built ECD centres. As more resources become available, the balance of modalities will shift towards these larger facilities.

Mechanisms to implement the new service delivery model

The DBE has identified the mechanisms and inputs that will be critical to the successful implementation of the service delivery model. These are shown in the theory of change in Figure 5 as well as in Figure 7 on th[illegible] extent to which the four main inputs are in place is likely to be decisive. While progress has been made, government's ability to execute this Strategy will depend on further and early progress in [illegible] new budget allocations, building comprehensive information management systems and revising the legislative framework.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Crucially, the capability of all levels of government must also be significantly strengthened, alongside fit-for-purpose intergovernmental co-ordination mechanisms. Government needs to identify the capacity and capabilities (and the associated funding) required in each department, and in each sphere of government, to effectively discharge ECD functions and to deliver the outcomes described in this document. Linked to this, effective processes for leadership, co-ordination and accountability need to be redefined, collectively agreed and fully implemented. This will include mechanisms to track departmental progress against a fully adopted monitoring and evaluation framework.

The seven mechanisms in the theory of change include the two key components of new supply – infrastructure and workforce.

The DBE will publish a new infrastructure plan encompassing both existing facilities and new-build centres. It will also develop a human resource development plan providing accessible training and upskilling pathways as well as model role descriptions.

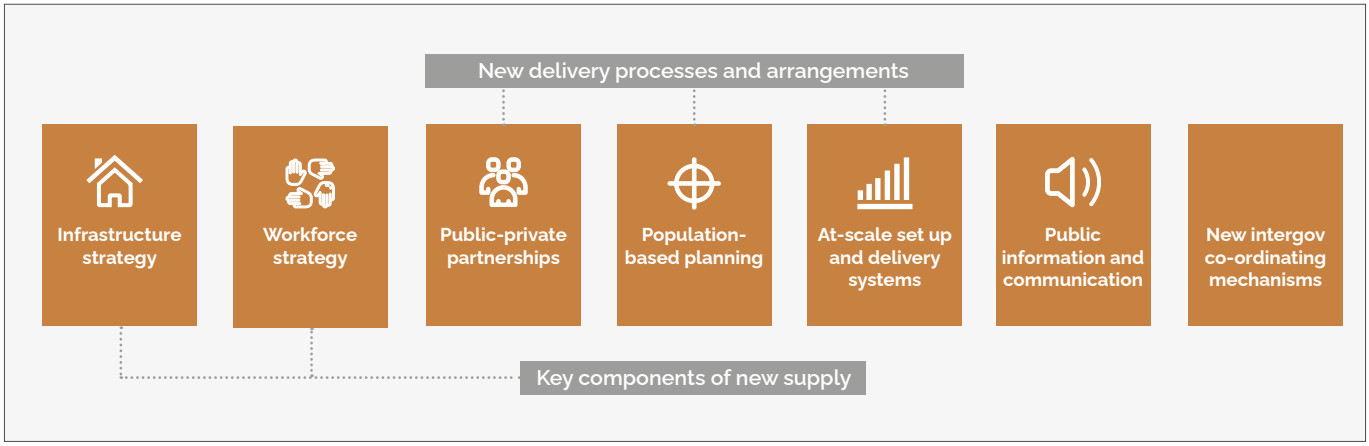
Three of the mechanisms pertain directly to the new delivery processes and arrangements that will ensure universal service coverage. New population-based planning tools and protocols will use an assessment of gaps and assets in an area to target resources accurately and efficiently. New strategies and arrangements for PPPs, which encompass both service delivery and ELP infrastructure, will more effectively leverage other resources in the system, including business capability, donor funding and the expertise of social partners.

These new forms of PPPs will create the right conditions for at-scale recruitment, programme set up and support systems to establish and grow. Finally, to stimulate demand at the same time as building supply, the DBE will develop and systematise public communications targeting parents and caregivers.

It should be noted that as a cross-cutting mechanism, registration of ELPs is a critical in-field priority, and enabler of quality, access and funding. Many ELPs operate outside the regulatory net, meaning not only that they are not subject to monitoring and oversight, but also that vulnerable children cannot access the ECD subsidy. Early legislative reform, the red tape reduction work with the Presidency, and new in-field tools and systems, will help to build [illegible] approaches required to ensure that every ELP is in the regulatory and funding fold.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Figure 7: Mechanisms needed to deliver quality, affordable ECD programmes accessible in all communities



007-371
11/12/2025-11:28:57 AM

6. Modelling

Early learning programmes (ELPs)

While ELP attendance remains non-compulsory, there will be some families who choose not to access such programmes. This is often the case, for example, when the parent or caregiver stays at home to look after a younger sibling. ELP access by 2030 is therefore modelled at 70%, 85% and 95% respectively for 3, 4 and 5 year-olds.

Table 2: Current and target access to group ELPs by age group

	Current access		Target supply/places		Gap in supply/places
Age (years)	Children	Percentage	Children	Percentage	Children
0-2	733,303	21%	1,074,719	30%	353,328
3	517,071	42%	855,219	70%	361,559
4	745,808	64%	988,428	85%	305
5	941,121	86%	1,035,189	95%	101,978
Total	**2,937,303**	**42%**	**3,953,557**	**57%**	1,182,080



Current access is defined as children accessing any form of ELP or Grades R-2. The gap in supply/places describes the capacity required in ELPs only (i.e. not including Grades R, 1, 2). The gap is therefore larger than the difference between current access and target supply, as it accounts for children who are not in age-appropriate programmes.

This would mean that the total coverage of ELPs for the 3–5 year-old age group rises from 2.2 million in 2021 to 2.9 million in 2030. In addition, in line with the central role of childcare in inclusive economic growth, ELP coverage will need to expand for the 0–2 year-old age group, from the baseline of 733,000 in 2021. The DBE proposes a target of 1 million places for this age group by 2030.

These combined numbers mean that the number of new places at ELPs needed per year between 2024 and 2030 would be around 170,000 (assuming a steady rate of expansion over seven years). Over the period, new access to ELPs would be created for 1.2 million additional children.

The supply of these new places at ELPs has two components – venues and practitioners. The number of new venues needed can be modelled using different average programme sizes for modalities. The number of new practitioners and assistants needed can be modelled using the minimum adult-child ratios in the Norms and Standards for ECD Programmes.

Based on these, to achieve the 2030 targets:[21]

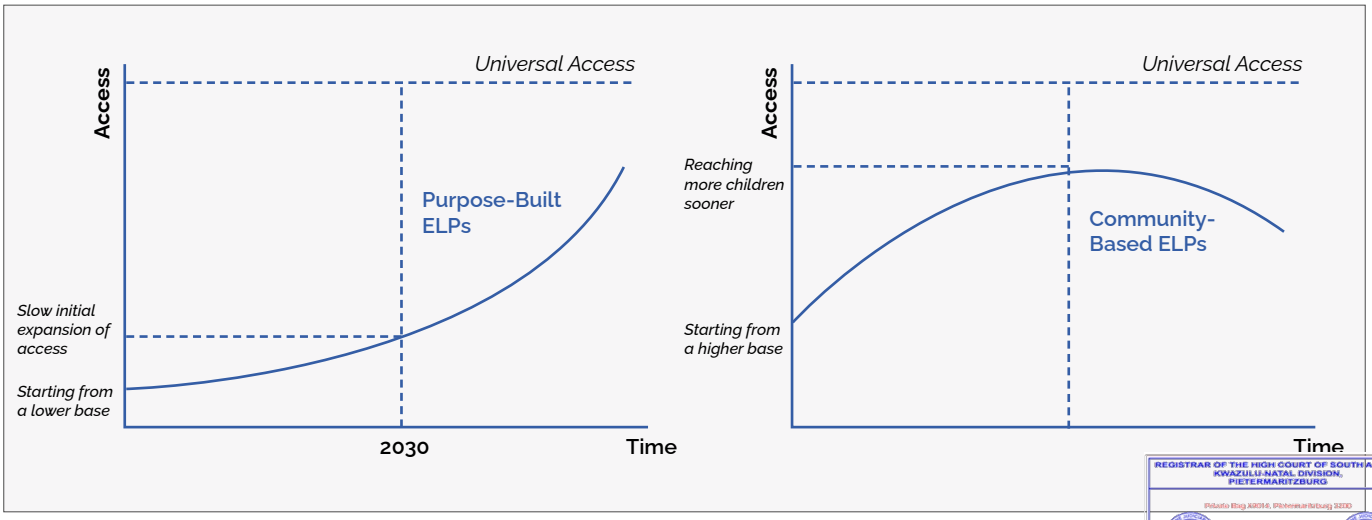
- An estimated 270,000 new ECD practitioners and assistants will be needed; and
- An estimated 115,000 new venues will be needed.

Infrastructure for ELPs

As discussed in the previous section, in the short-term, as a pragmatic and affordable strategy for equitable access, there will be a greater need for ELPs to be run from community-based facilities that make use of existing infrastructure, including residential venues and multi-purpose premises such as community halls, places of worship and libraries. This changing role of different types of infrastructure over time, towards universal access, is shown in Figure 8.

Page 18 of 30
007-371

Figure 8: The changing role of different infrastructure for ELPs over time to achieve early progress towards universal access



REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Workforce

For ELPs, current norms and standards stipulate one assistant for every practitioner. It will therefore be necessary to map different recruitment, training and professional development journeys for these different roles, for the purposes of resource allocation.

These teaching staff are usually complemented by various site-based staff, including administrators, cooks, cleaners and gardeners, whose roles are often integral to ELP operations and quality, and therefore need to be visible and supported. Other support staff, such as mentors and coaches, will also need to be included in the detailed human resource development plan.

The 2030 target is to ensure that one million 0-2 year-olds will have access to parent support programmes, in addition to the children in this age group who will attend an ELP. The relative balance of the different parent support programmes as well as workforce requirements and roll-out strategies, will be considered and agreed with the Department of Health.

These strategies will be cognisant of what already exists and of the opportunities to better leverage key existing roles, such as those of CHWs and social workers.

7. Outputs and enablers

Focus Areas	Main high-level outputs by 2030	Key enablers and resource requirements
Mixed modalities of inclusive provision	• Universal access to learning through play for 3-5 year-olds; • Strengthened content and reach of parent support programmes; • New processes and initiatives to more effectively leverage all service contact points; • New policies, tools and processes for inclusive ECD programmes.	• Infrastructure and workforce availability; • Department of Health capacity and prioritisation; • Willing and able social partners for parent support programme expansion; • System integration for efficient signposting, referrals and support.
At-scale service delivery arrangements	• Suite of population-based planning tools and processes for Provincial Education Departments; • Service specifications and contracting arrangements for delivery systems; • ECD service commissioning in place in most under-served areas.	• Provincial Education Departments' adoption of population-based planning methods and capacitation of district teams; • Non-state actors and major donors as willing and capable partners for PPPs; • Sufficient accurate data for population-based planning tools.
Appropriate nutrition provisioning	• Cost-efficient nutrition delivery model and guidelines developed and implemented.	• Effective collaboration with Department of Health; • Capacity to monitor quality of nutrition provisioning.
Leadership, co-ordination and accountability	• Fully functioning intra/inter-governmental processes and structures (per NIECDP); • Necessary government capacity and tools of trade defined for all spheres; • District ECD Co-ordinating Committees (DECCs) established and running; • Shared government outcomes framework and integration of KPIs in MTSF and APPs.	• Political prioritisation led by the Presidency; • Cross-government buy-in and prioritisation of ECD; • Sufficient provincial and municipal capacity/resources for DECCs to be effective.
Policy, legislative and regulatory reform	• Full review of NIECDP and clear policy framework for parent support programmes; • Enabling regulatory processes that reduce red tape rolled out; • Children's Amendment Bill enacted and new Norms and Standards implemented; • Stand-alone ECD legislation developed and passed.	• Municipal co-operation and buy-in for red tape reduction; • Expedited Children's Amendment Bill ; • Collaboration with the Departments of Social Development and Health on short and long-term legislative reform; • Effective processes to support change management and adoption of new regulatory processes.
Communications and public information	• Public awareness campaign on comprehensive ECD rolled out; • Effective communication channels with the ECD sector established; • Expansion of Department of Health Side by Side campaign.	• Sufficient capacity/resources in place to run a public awareness campaign; • Collaboration with other Departments in the running of a public awareness campaign.
Budget allocations and financing mechanisms	• Subsidy budget increased to ensure higher value and reach; • Systems for co-funding with non-state actors including results-based financing; • ECD prioritised for employment stimulus funding; • New budget lines for parent support programmes.	• Fiscal position and political will to prioritise ECD; • Shared vision between government and non-state actors; • A strong social compact that enables donors and private business to invest in the sector.
Appropriate facilities	• Infrastructure strategy, including new-build ECD infrastructure plan and financing; • Minimum infrastructure standards for all venue types; • Plan for unused state-owned facilities in place and implemented.	• Information available on the current ECD infrastructure conditions; • Collaboration with local government on the identification of infrastructure that can be leveraged for centre/non-centre based programmes.

7. Outputs and enablers continued

Focus Areas	Main high-level outputs by 2030	Key enablers and resource requirements
Human resource development plan	• Human resource development plan developed and implemented; • Clearly articulated qualifications, training and CPD framework in place; • Model workforce role/job descriptions.	• Collaboration with government departments and agencies to define and implement qualifications and training framework; • Sufficient social partners and training institutions to deliver high quality training programmes.
Recruitment and pre-registration support	• 100,000+ ELP jobs created/sustained under ECD Employment Initiative (ECD-EI); • Pre-registration support systems funded and operationalised; • Recruitment plan and tools of trade for parent support practitioners.	• Full integration of ECD-EI into wider government employment stimulus agenda; • New frameworks and funding mechanisms to support ELPs pre-registration.
Curriculum and quality assurance	• Guidelines and learning and teaching support materials for implementation of National Curriculum Framework (NCF); • Provision of comprehensive training on NCF; • Quality assurance and support system (QASS) developed, resourced and implemented.	• Collaboration with social partners on [illegible] support; • Availability of practitioner training on new materials; • Sufficient and appropriate capacity and capability to implement QASS system.
Data and monitoring	• Management, Information and Administration System for ECD embedded in DBE; • Digital infrastructure for population-based planning developed and operationalised; • Standardised tools and data systems in place to track child outcomes.	• Sufficient human capacity and appropriate tools of trade to enable data capturing and usage; • Technology and data partnerships for population-based planning; • Collaboration on Thrive by Five 2025.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

8. Key milestones

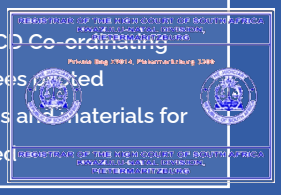
The milestones listed are not an exhaustive list of outputs, but show key events and indicators that will help government to plan and track progress.

2024

- ECD outcomes framework in place
- Updated NIECDP published
- Children's Amendment Bill tabled
- Infrastructure strategy finalised
- Workforce plan finalised
- Nutrition strategy finalised
- Red tape reduction measures rolled out
- Framework for ELP pre-registration support
- Population-based planning tools built

2025

- Parent support programmes scale-up plan in place
- Population-based planning and PPPs piloted
- Unused state-owned sites audit completed
- ECD Employment Initiative rolled out
- Inclusive ECD Policy and tools finalised
- Children's Amendmen Bill, Regulations and Norms and Standards enacted
- Standard draft by-law issued
- District ECD Co-ordinating Committees [illegible]ted
- Guidelines an[illegible]aterials for NCF issued



2026

- National ECD awareness and info campaign
- CHW support package rolled out
- Framework for PPPs in state-owned sites
- New qualifications and training framework
- QASS pilots and evaluation completed
- Nutrition delivery systems in place
- ECD sector communication channels in place

2027

- Population-based planning and PPPs rolled out
- Draft ECD Bill consulted on
- Model workforce role descriptions published
- District ECD Co-ordinating Committees rolled out

2028

- ECD Bill tabled in Parliament
- QASS rolled out nationally
- New framework and standards for Grade RR
- New ECD national management, information and administration system in place

2029

- New ECD information portal for parents
- ECD Act and new regulations adopted

9. Resource requirements

The goals and strategies in this Strategy have substantial resource implications. A detailed ECD financing plan is being developed separately, which will address not only what resources are needed but also the different financing sources and models.

The financing plan will consider resource implications and requirements in six main areas:

- Building the quality and compliance of ELPs (including the ECD subsidy);
- Increasing the supply of ELPs (workforce, infrastructure and pre-registration support);
- Scaling up access to parent support programmes;
- Improving training and qualifications pathways;
- Implementing the nutrition delivery model; and
- Building government capacity and systems.

Some of the budgetary implications of the ECD subsidy expansion and unlocking new supply of ELPs are discussed below. Other key areas, including parent support programmes and nutrition, will be elaborated in the ECD financing plan.

Budgetary implications

ECD subsidy

The purpose of the ECD subsidy is to ensure that cost is not a barrier to ELP access and quality for any child. To fund a basic level of quality within ELPs, it is estimated that the value of the subsidy should be approximately R8,420 per child per year (2022 prices).[22] A declining per capita value means that even children who do benefit from it may not receive quality services unless parents pay fees. In addition, to ensure equitable access, ECD subsidy funding for the ECD subsidy needs to be at a level that ensures it reaches all poor children who should have access to an ELP by 2030.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Given current fiscal constraints, however, it is not envisaged that the subsidy will be able to reach the full cost of ELP provision by 2030. The proposed 2030 target subsidy value is R8,138 per child per annum, which would be approximately 65% of the full cost of provision in that year after accounting for inflation.

Table 3: Cost of increasing the reach and value of the ECD subsidy to 2030

	2023	2024	2025	2026	2027	2028	2029	2030
Eligible children in ELPs (millions)	1.88	1.94	2.00	2.07	2.13	2.19	2.25	2.32
Children subsidised (millions)	0.72	0.95	1.18	1.40	1.63	1.86	2.09	2.32
Weighted average annual per child subsidy value (Rand)	4,488	4,675	5,023	5,480	6,026	6,652	7,355	8,138
Total cost of subsidies (R billion)	3.23	4.44	5.92	7.72	9.87	12.42	15.42	**18.93**

Source: Ilifa Labantwana 2023, Internal modelling and calculations.

Table 3 above details the budget implications for simultaneously increasing the reach and value of the ECD subsidy. In 2023, the ECD subsidy is valued at R4,488 per child per year (approximately 53% of the cost of provision) and reaches 720,000 of the 1.88 million eligible children in ELPs, at a cost of R3.23 billion. By 2030, an annual budget of R18.93 billion will be required to reach all 2.32 million eligible children accessing ELPs with an average subsidy of R8,138 per child per year.

New ELP supply

As discussed in Section 6, an estimated 115,000 additional venues will be required to achieve universal access targets. This includes nearly 7,500 purpose-built ECD centres, costing an estimated R1-3 million each to build. This effort should be shared by government and the non-state sector and will be detailed in the new Infrastructure Plan.

Given the long lead-in times and high costs of new infrastructure projects, the government proposes leveraging home and community-based venues in the short- to medium-term, as well as repurposing unused state-owned facilities in order not to delay progress towards universal access. These strategies will require increases in the maintenance component of the ECD Conditional Grant.

In addition to new venues, to achieve universal access, an estimated 270,000 new ECD practitioners and assistants will be needed for ELPs. The workforce strategy will have two key elements: Firstly, job creation and retention through a new ECD Employment Initiative (ECD-EI); secondly, support for training and qualifications.

Workforce stipends are particularly important in supporting the sustainability of new practitioners, especially in the period when they are preparing their programme for registration and eligibility for the ECD subsidy. The ECD-EI will, therefore, continue to be developed in conjunction with the Presidential Employment Initiative.

It is likely that 50% of the existing ECD workforce (around 100,000 practitioners and assistants) require training, in addition to the critical need to train new practitioners to support programme expansion. In terms of qualifications, while a NQF Level 4 as a base qualification is an important long-term goal, evidence suggests that it is not necessarily a driver of improved outcomes for children and that there may be other more cost-effective and practical options for practitioner skills development in the short- to medium-term – especially for those already in service. Based on estimated training costs of R9,000 per person,[23] training for existing and new workers by 2030 would cost approximately R3.43 billion.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

New funding sources and models

The DBE is committed to exploring and leveraging innovative new financing models, including public-private partnerships, results-based financing, blended finance and catalytic pooled funds. Exploratory work on public-private partnerships, including service commissioning models, and results-based financing through the Education Outcomes Fund, is already underway and will be prioritised in 2024.

Conclusion

Equitable access to early learning and development opportunities is the cornerstone of improved educational outcomes and inclusive economic growth. Therefore, progress towards expanding these opportunities and ensuring that no child is left behind needs to be early and rapid.

The shift of the ECD function to the DBE has provided an opportunity to review the ECD provisioning landscape with a strategic and solution-oriented lens. This has highlighted the fundamental importance of moving forward in partnership – not only with the ECD sector, implementing partners, donors and business, but also with families and communities. The proposed new Social Compact for ECD will therefore underpin the success of this Strategy. The immediate challenge is to create the right framework for collaboration and delivery, which structures all role-players into formal partnership, and which is operationalised through and with the provincial and municipal spheres of government.

The next phase of the development of this Strategy will be conversations with each of the role-players in this Compact, including all spheres of government, to help to build a collective understanding of the part that each can play in making our shared vision a reality.



Appendix: Thematic summaries

1. Every child has access to a flexible package of age-appropriate, affordable ECD programmes

Mixed modalities of inclusive provision

This theme is about the appropriate mix and typology of ECD programmes in the system, so that all young children and their families receive the support and services that meet their needs, regardless of circumstances or (dis)ability, and that parents and caregivers can exercise choice about the types of programmes they wish to access.

Successful partnership between all role-players requires a shared vision of the role and purpose of different ECD programme modalities and of the right balance of state and non-state provision; as well as a differentiated plan for the enablement of all forms of provision and for a multi-sectoral approach to inclusive ECD.

At-scale delivery arrangements



This theme is about the specific methods that will be used to bridge the current service delivery gap. It encompasses the institutional arrangements, population-based planning and delivery systems required for at-scale ECD programme provisioning.

Successful partnership between all role-players requires a clear delivery framework, flexible service specifications, and an enabling environment for non-state actors to expand and thrive in under-served communities.

Appropriate nutrition provisioning in all ECD programmes

This theme is about ensuring that all ELPs provide children with nutritious meals to support their growth and development. Early nutrition plays a significant role in preventing malnutrition and stunting, and supporting a child's physical development, wellbeing and learning outcomes. Nutrition provisioning also has the potential to improve regular attendance at ELPs.

Successful partnership between all role-players requires a shared vision, clearly articulated standards, and a well-defined delivery model to ensure that all children are provided with a daily nutritious meal.

2. Enabling government systems, leadership, capacity and co-ordination are in place

Leadership, co-ordination and accountability

This theme is about how different actors, including departments and spheres of government, are empowered to deliver government's ECD policy goals in line with their mandates. It encompasses the DBE's leadership role as well as systems for co-ordination and clear measures of accountability.

Successful partnership between all role-players requires clearly defined roles and responsibilities, transparency, institutionalised co-operation and a shared outcomes framework.

Policy, legislative and regulatory reform

This theme is about the changes that are needed to legislation, policy and practice in order to create a fit-for-purpose policy and regulatory regime. It encompasses a full review of the NIECDP to clearly reflect the targets and mandates of government departments. It also includes immediate red tape reduction measures, short-term amendments to the Children's Act and long-term development of a stand-alone ECD Act.

Appendix: Thematic summaries continued

Successful partnership between all role-players requires a shared understanding of appropriate minimum standards for all ECD programmes and shared effort and resourcing for supporting compliance with those standards.

Communications and public information

This theme is about what and how information is provided to families and communities, in order to encourage parents and caregivers to access ECD programmes, and to strengthen knowledge and skills. It also encompasses how the government communicates effectively with and listens to the ECD sector. It matters because where communities understand and value ECD it unlocks both the supply of and demand for ECD programmes, and strengthens home learning environments.

Successful partnership between all role-players requires shared messaging on ECD and the role of parents as a child's first teacher.



3. Sufficient funding and resourcing are targeted effectively

Budget allocations and financing mechanisms

This theme is about the quantum of funding, sources of funding, and appropriate funding mechanisms required to ensure access to quality ECD programmes for every child.

Successful partnership between all role-players requires a clear articulation of the funds required to achieve the goals in this Strategy, where those funds will come from, and how they will be administered and monitored in the ECD system.

Appropriate facilities

This theme is about the physical infrastructure required to achieve universal access to ECD programmes. It encompasses the upgrading of existing venues (including recognition of and support to home and community-based ECD programmes), the repurposing of unused state-owned sites, and the building of new facilities.

Successful partnership between all role-players requires joint efforts and plans to identify state and community assets that can be more effectively leveraged, to support compliance with minimum standards in all venues and to innovate new financing mechanisms for purpose-built facilities.

4. A capable ECD workforce is well-supported and equipped human resource development

Human resource development

This theme is about having sufficient and skilled human resources to enable universal provision of quality ECD programmes. It recognises that the ECD workforce is the backbone of the ECD sector, and the expansion, upskilling, supervision and mentoring of the workforce are prerequisites to both access and quality.

Successful partnership between all role-players requires a strategic human resource development plan, implemented through a multi-sectoral approach that includes social partners, training authorities and qualification bodies.

Appendix: Thematic summaries continued

Recruitment and pre-registration support

This theme is about the value chain that is needed to unlock a new supply of ELPs and to support ECD practitioners during the set up phase. It includes community engagement, recruitment processes, managed set up and pre-registration support.

Successful partnership between all role-players requires new forms of collaboration to implement high-volume recruitment and managed ELP set-up in under-served areas, and to deliver pre-registration and wage support for compliance and sustainability.

5. Programme quality is enhanced through appropriate support and monitoring

Curriculum and quality assurance



This theme is about ensuring that every child has an opportunity to access age- and developmental stage-appropriate early learning opportunities from birth to until the year before entering school through the effective implementation the South African National Curriculum Framework (NCF) for Birth to Four.

Successful partnership between all role-players requires clear guidelines on the implementation of the NCF, supporting materials and training, and well-articulated quality and support standards in a single national system.

Data and monitoring

This theme is about generating and collating reliable and timely data across the goals set out in the Strategy, for the purposes of planning, monitoring, evaluation and learning. This entails developing and reporting on key indicators and supporting the adoption of user-friendly data capture tools and processes. The information collected will enable the DBE to track progress against agreed goals, to plan strategically and to use new feedback loops to inform course correction.

Successful partnership between all role-players requires a well-implemented data and information system that is accessible and utilised by all stakeholders.

Notes and references

[1] National Planning Commission (2012). National Development Plan 2030. Our future – making it work.
[2] Department of Social Development (2015). National Integrated Early Childhood Development Policy. p.55
[3] Ibid. p.48 (see also pp21-23)
[4] Committee on the Rights of the Child (2005). General Comment No. 7 (2005) Implementing child rights in early childhood. https://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/GeneralComment7Rev1.pdf
[5] Ilifa Labantwana calculation using Statistics SA (2022). General Household Survey 2021.
[6] Department of Social Development (2015). National Integrated Early Childhood Development Policy. p.23
[7] Statistics South Africa 2022, General Household Survey 2021. (Ilifa Labantwana calculations using background data)
[8] Ibid.
[9] Ibid.
[10] GeoTerraImage (GTI) company (2020). 2020 projections based on Statistics South Africa 2018.
[11] Statistics SA (2022). General Household Survey 2021.
[12] Department of Basic Education (2022). Early Childhood Development Census 2021.
[13] Statistics South Africa (2022). General Household Survey 2021. (Assuming average programme size of 33 children.)
[14] Department of Basic Education (2022). Early Childhood Development Census 2021.
[15] Ibid.
[16] Ibid.
[17] World Bank Group (2022). South Africa Public Expenditure and Institutional Review for Early Childhood Development. p.3
[18] Ilifa Labantwana calculation using Statistics SA (2022). General Household Survey 2021. (Number of children receiving the Child Support Grant.)
[19] World Bank Group (2022). South Africa Public Expenditure and Institutional Review for Early Childhood Development. p.79
[20] Ilifa Labantwana calculations using Statistics SA (2022). General Household Survey 2021.
[21] Ibid.
[22] Ilifa Labantwana (2023). Internal modelling and calculation.
[23] Ilifa Labantwana (2023). Internal research and calculation.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL, DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL, DIVISION,
PIETERMARITZBURG




REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

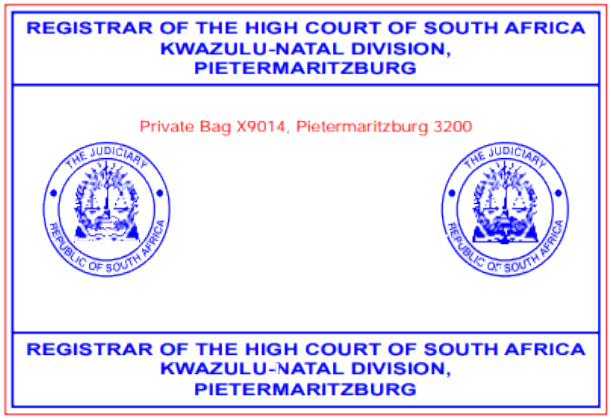
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 07

NOTE: **This document was filed electronically by the Registrar on 11/12/2025 at 11:29:23 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

"EC 07"

thrive5
thrive by five | INDEX

Thrive by five Index Technical Report

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL, DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL, DIVISION,
PIETERMARITZBURG

July 2022



basic education
Department:
Basic Education
REPUBLIC OF SOUTH AFRICA

INNOVATION EDGE

USAID
FROM THE AMERICAN PEOPLE

ECD measure

Sponsored by

Thrive by Five Index 2021
Technical Report, Revised* July 2022

Colin Tredoux, Andrew Dawes and Frances Mattes
(Psychology Department, University of Cape Town)

March 2022, revised July 2022



* This report replaces the previous technical report (April 2022) in its entirety. The most significant changes are to stunting data, which were incorrectly computed in the previous report.

Table of Contents

Executive Summary ***6***

1. Introduction **6**
2. Index design and sampling **7**
3. Key findings **10**
4. To what extent are South African children aged 50-59 months *On Track*? **12**
5. What is their growth status? **12**
6. Predictors of performance on the ELOM 4&5 **13**
7. Thrive By Five Composite Indicator **14**
8. Comment on findings **15**

Introduction ***16***

1. Early abilities and later school performance **16**
   - 1.1. Cognition and Executive Functioning 18
   - 1.2. Early Numeracy and Mathematics 19
   - 1.3. Literacy and language
   - 1.4. Social and emotional functioning 21
   - 1.5. Stunting (low height-for-age) 22
2. Similarities and differences between boys and girls in cognitive skills by age 5 **24**
3. Index rationale and measures **25**
   - 3.1. Why the Index? 25
   - 3.2. Thrive by Five Questions 27
   - 3.3. Thrive by Five Measures 27
   - 3.4. Thrive by Five Composite Indicator 30

Method ***31***

1. Sampling **31**
2. Weighting **33**
3. Procedure **33**
4. Final sample for analysis **33**
5. Missing data and possible data quality problems **35**

Findings ***39***

1. Introduction **39**
2. Early Learning - national outcomes **40**
   - 2.1. Total ELOM 40
   - 2.2. Gross Motor Development 45
   - 2.3. Fine Motor Coordination and Visual Motor Integration 47
   - 2.4. Emergent Numeracy and Mathematics 49
   - 2.5. Cognition and Executive Functioning 51
   - 2.6. Emergent Literacy and Language 53
3. Social and emotional functioning **55**
   - 3.1. Social relations 55
   - 3.2. Emotional readiness 56
   - 3.3. Social relations and emotional readiness (combined) 56

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

4. Physical growth (height-for-age) **57**

5. Exploring potential predictors of learning outcomes (ELOM 4&5 scores) **60**
5.1. Relationship between ELOM 4&5 Total and sex 60
5.2. Relationship between ELOM 4&5 Total, age and growth status 61
5.3. Relationship between ELOM 4&5 Total and social-emotional functioning 62
5.4. Relationship between ELOM 4&5 Total and dosage (cumulative exposure to ECD programme) 63

6. Correlates of ELOM 4&5 Total Scores **64**
6.1. Outcome variable and potential predictors 64
6.2. Correlates of the Total ELOM 4&5 Score considered one at a time 65
6.3. Correlates of the Total ELOM 4&5 Score considered simultaneously – mixed linear model 66

7. Provincial summaries **72**
7.1. Eastern Cape 72
7.2. Free State 79
7.3. Northern Cape 86
7.4. Mpumalanga
7.5. Gauteng 100
7.6. North West 107
7.7. Western Cape 114
7.8. KwaZulu-Natal 121
7.9. Limpopo

8. Appendices **135**
8.1.Appendix: Methods, weighting 135
8.2. Appendix: Methods, sample breakdown by province and quintile 136
8.3 Appendix: Survey glm approach 136
8.4. Appendix: Predictors omitted from regression model 138
8.5. Average fees paid for children aged 4-6 years as a predictor 139
8.6. Appendix: Age distribution across other variables 140
8.7. Appendix: Checking effect of questionable scores in Mpumalanga 141
8.8. Appendix: Total ELOM 4&5 Scores per ward (unweighted data) 143

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

ACRONYMS

CEF	Cognition and Executive Functioning
CI	confidence interval
DBE	Department of Basic Education
DSD	Department of Social Development
ECD	early childhood development
ELL	Emergent Literacy and Language
ELOM	Early Learning Outcomes Measure
ELP	Early Learning Programme
ENM	Emergent Numeracy and Mathematics
FMC-VMI	Fine Motor Coordination and Visual Motor Integration
GMD	Gross Motor Development
HFA	height-for-age
HFAZ	height-for-age Z score
SDG	Sustainable Development Goal
SE	standard error
SD	standard deviation
WHO	World Health Organisation



ACKNOWLEDGEMENTS

This first national Index of the extent to which 4- to 5-year-olds are *On Track* for development would not have been realised without the leadership and commitment of Sonja Giese, Executive Director of Innovation Edge at the time of this study, and the generous funding received from donors. The authors wish to thank Dr Jan Schenk, the CEO of ikapadata, and his fieldwork team for conducting the Thrive by Five data collection under the challenging conditions presented by the Covid-19 pandemic, and for providing us with the dataset used in our analyses. We are also most grateful to Dr Stephen Taylor, Professor Servaas van der Berg, Dr Janeli Kotzé and Grace Bridgman for providing the method used to weight the sample, and for their contributions to our process along the way. Finally, we thank the ELP staff and children who agreed to participate in the study.



Executive Summary

1. Introduction

For both policy and intervention purposes, there is a need for data that can be used to longitudinally monitor the quality of early childhood development (ECD) programme provision and Early Learning outcomes in children under 5 years. *Thrive by Five Index 2021* constitutes the first (baseline) in a series of nationally and provincially representative surveys that will monitor trends over time in the proportions of children 50-59 months who are *On Track* for their age in key areas of development.

The term *On Track* means that a child meets the expected standards for early development in the areas of *health, learning and Social-Emotional Functioning prior to 5 years of age.*

Data for the Index was collected between September and November 2021 by a team of trained assessors managed by ikapadata. Data collection took place prior to the ECD function shift from the Department of Social Development (DSD) to the Department of Basic Education (DBE). The findings can be used to support efforts to ensure that more children receive the nurturing care and services they need to help ensure their development is *On Track*, and to strengthen collective action to support those children who are not. In addition, the Index will permit monitoring of the country's progress towards attainment of Sustainable Development Goal (SDG) Target 4.2. The relevant SDG indicator is: 4.2.1: *The proportion of children under 5 years of age who are developmentally on track in health, learning and psychosocial well-being, by sex*. The indicators in Table 1 were used in analyses to assess the extent to which children were *On Track*.



Table 1: Thrive by Five Indicators

Indicator	Measure and definition
Learning	Measure: Early Learning Outcomes Measure 4&5 Years Assessment tool (ELOM 4&5)
Children's learning is *On Track*	Definition: Total and Domain scores[1] on the ELOM 4&5 fall at or above the 60th percentile of the ELOM 4&5 standard score distribution, established in 2016 (Total Scores range from 0-100; Domain scores range from 0-20)
Social-Emotional Functioning*	Measure: ELOM Social-Emotional Rating Scale (Teacher Assessment of children's social and emotional functioning)
Children's Social Relations are *On Track*	Definition: The Total Score on the ELOM 4&5 Teacher Assessment *Social Relations with Peers and Adults* scale ≥18
Children's Emotional Readiness for School is *On Track*	Definition: The Total Score on the ELOM 4&5 Teacher Assessment *Emotional Readiness for School Scale* ≥ 9

[1] The ELOM 4&5 has 23 items clustered in five domains: Gross Motor Development; Fine Motor Coordination and Visual Motor Integration; Emergent Numeracy and Mathematics; Cognition and Executive Functioning; and Emergent Literacy and Language.

Growth	Measure: Height was measured using a stadiometer
Normal Growth	Definition: The child's height-for-age Z score (HFAZ) falls between -2 and +2 standard deviations (SDs) of the World Health Organisation (WHO) reference group median

* Note: For regression analyses and some descriptions, the *Social Relations with Peers and Adults* and *Emotional Readiness for School* scales are combined into one measure of "*Social-Emotional Functioning*"

The Index sought to provide data to answer the following key questions for the country as a whole and for each province:

1. For learning outcomes overall (the ELOM 4&5 Total Score) – what proportion of children are *On Track* (achieving the expected developmental standard), *Falling Behind* the standard and *Falling Far Behind* the standard?
2. For each of the five ELOM 4&5 learning domains – what proportion of children are *On Track*, *Falling Behind* and *Falling Far Behind* the standard?
3. For the social-emotional domain – what proportion of children meet the expected score for their Social Relations with Peers and Adults, and their Emotional Readiness for School?
4. Height-for-age (HFA) – what proportion of children show normal growth or are stunted or severely stunted in their growth?

Supplementary questions that we addressed include:

5. What is the relationship between children's growth status and their performance on the ELOM 4&5?
6. What is the relationship between children's social and emotional status and their performance on the ELOM 4&5?
7. What is the relationship between performance on the ELOM 4&5 and the years a child has been enrolled in the programme, and their average attendance per week in the term preceding the data collection?

2. Index design and sampling

A multistage cluster sampling strategy was employed to recruit the sample and to permit disaggregation of findings by sex, province and school quintile. The sample consisted of a representative sample of children aged 50-59 months *enrolled in various types of Early Learning Programmes (ELPs)* included in the Vangasali crowd-sourced database[2] and other available information. The sampling frame excluded mobile centres (problematic for geo-sampling) and pure toy libraries.

While the sample can provide a sound picture of children attending services, it cannot be regarded as reliably representative of all children in this age group, for two primary reasons: a) no official enumerated list of ELPs is available and some services attended by children may not have been included in the datasets used for

[2] Vangasali. (2020). *Campaign: Finding every early childhood development (ECD) service to enable registration.* https://www.westerncape.gov.za/sites/www.westerncape.gov.za/files/vangasali_campaign.concept_note.pdf; Nelson Mandela Foundation. (2022). *Vangasali*. https://www.nelsonmandela.org/vangasali

sampling, and b) many children in this age group, particularly from lower income backgrounds, do not attend an ELP.[3]

The ikapadata dataset provided to the authors included 5,585 records of children assessed. Of these, 5,222 were judged to be valid cases with sufficient high-quality information to constitute the sample for analysis. The selected sample consists of children aged from 50-59 months (mean age = 54.74 months, SD = 2.7) from all nine provinces, of which 2,525 (48%) are boys and 2,697 (52%) are girls.[4] Note, however, that in the post-survey construction of sampling weights, an additional number of cases were excluded due to the absence of information required to construct the weights, so weighted analyses are computed on a total of 5,139 children grouped by province in Table 2, by school quintile in Table 3 and by home language in Table 4.

Table 2: Sample in each province

Eastern Cape	Free State	Gauteng	KwaZulu-Natal	Limpopo
N = 587	N = 565	N = 571	N = 575	N = 578
Mpumalanga	**North West**	**Northern Cape**	**Western Cape**	
N = 540	N = 564	N = 600	N = 559	



Table 3: Sample by school quintile

Quintile 1	Quintile 2	Quintile 3	Quintile 4	Quintile 5
N = 1727 (33.6%)	N = 1250 (24.3%)	N = 1144 (22.3%)	N = 495 (9.6%)	N = 523 (10.2%)

Table 4: Sample by home language

Afrikaans	English	isiXhosa	isiZulu	Tshivenda	Setswana
N = 419 (8%)	N = 404 (8%)	N = 791 (15%)	N = 917 (18%)	N = 135 (3%)	N = 1091 (21%)
Sesotho	**siSwati**	**Xitsonga**	**isiNdebele**	**Sepedi**	
N = 561 (11%)	N = 192 (4%)	N = 132 (3%)	N = 75 (1%)	N = 505 (10%)	

Note: numbers in this table are based on the dataset before including the weighting variable. Home languages for the total population in 2018 are reported by Statistics South Africa.[5]

[3] A separate exercise was undertaken to extrapolate findings to the full population of 4- to 5-year-old children in South Africa. This process is detailed in the technical supplement.

[4] Statistics South Africa 2019 mid-year population estimate: males constitute 51% and females 49% of the 0-5 years population. Source: Statistics South Africa. (2019). *Statistical release P0302: Mid-year population estimates 2019.* https://www.statssa.gov.za/publications/P0302/P03022019.pdf

[5] Home languages: Afrikaans = 12.2%; English = 8.1%; isiNdebele = 1.6%; isiXhosa = 14.8%; isiZulu = 25.3%; Sepedi = 10.1%; Sesotho = 7.9%; Setswana = 9.1%; siSwati = 2.8%; Tshivenda = 2.5%; Xitsonga = 3.6%. Source:

2.1. Weighting

Sampling weights were constructed by first determining a stratification weight for province and quintile (based on the number of primary schools sampled relative to the total number of primary schools in Province-Quintile combinations). This weight was multiplied by a second weight that was constructed as a relative weight for each centre sampled in an ECD programme cluster multiplied by the estimated population size of the cluster sampled in the data collection phase. Population size of cluster was estimated by proxy from the number of Grade 3 enrolments in the closest primary or combined school. A comprehensive account of the construction of sampling weights is given in the Appendices. Weighting was also applied for analyses undertaken by Van der Berg and Bridgman when extrapolating the findings to the population of those aged 50-59 months as a whole. This is provided in a separate report.

2.2. Thrive By Five Composite Index

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

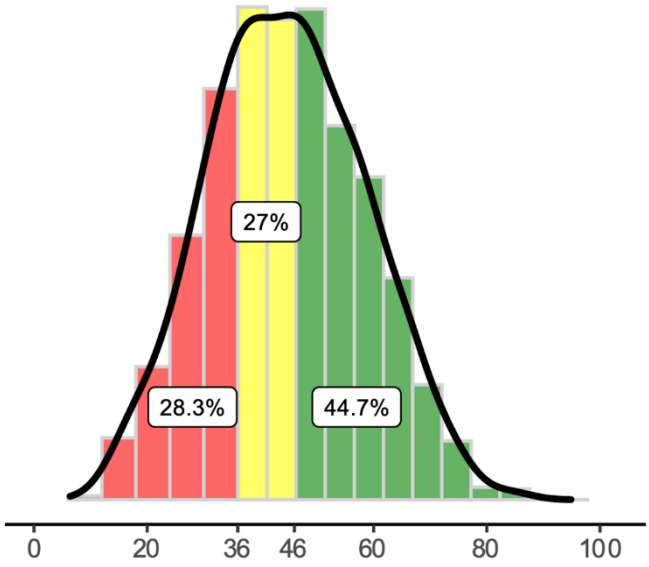
The Thrive by Five Index was constructed for use at national level. It comprises two equally weighted indicators: Stunting (including severe stunting) and ELOM 4&5 Total Score. These were chosen as they are both based on objective, standardised measures and both are crucial for monitoring children's holistic development prior to entering the Foundation Phase of school. Teacher ratings of Social- Emotional Functioning were considered for inclusion but were rejected, as these ratings are subjective and potentially biased, and also because there are high numbers of missing values in these indicators.

The Composite Index describes the proportions of children who fall into one of the following three categories:

1. Children who are thriving (*On Track* in both growth and learning);
2. Children who face barriers to thriving (*On Track* for only one of either growth or learning); and
3. Children who face significant barriers to thriving (not *On Track* for both growth and learning).

Statistics South Africa. (2018). *Statistical release P0318: General Household Survey 2018*. https://www.statssa.gov.za/publications/P0318/P03182018.pdf

3. Key findings



REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Figure 1: National level total ELOM 4&5 distribution (N = 5139)

Figure 1 shows the distribution of Total ELOM 4&5 Scores (i.e., summed over all the domains) for the 5,139 children in the weighted sample, colour-coded to indicate the proportion of children *On Track* (green), *Falling Behind* the standard (yellow) and *Falling Far Behind* the standard (red).

On the basis of the normative scores[6] for the ELOM 4&5:

- 44.7% of children who attend ELPs in South Africa are achieving the standard (are *On Track*);
- 27% are *Falling Behind*; and
- 28.3% are *Falling Far Behind*.

There were significant differences in mean ELOM 4&5 Total Scores across school quintiles (a proxy for the child's socio-economic background), although there was also considerable overlap in the distribution of scores between quintiles. The proportions *On Track* across the five quintiles indicate a socio-economic gradient with greater proportions of children from the higher quintile backgrounds being *On Track*. The mean scores and SDs of the Total ELOM 4&5 Scores across the quintiles give a good sense of differences and overlap, as well as the extent of variation within each quintile (SD):

- Quintile 5: 58.1% *On Track* (mean ELOM 4&5 Total Score = 49.3; SD = 14.66).
- Quintile 4: 48.2% *On Track* (mean ELOM 4&5 Total Score = 45.39; SD = 14.36).
- Quintile 3: 43.1% *On Track* (mean ELOM 4&5 Total Score = 44.19; SD = 13.16).

[6] As per the standard set in 2016 in consultation with technical experts, following a review of other assessment tools, research literature, South African policy, *The South African National Curriculum Framework for Children from Birth to Four* and expert opinion on abilities and knowledge deemed essential for readiness to learn in Grade R and for the skills known to be associated with academic achievement in the Foundation Phase (Grades 1, 2 and 3).

- Quintile 2: 44% *On Track* (mean ELOM 4&5 Total Score = 44.21; SD = 13.51).
- Quintile 1: 38.4% *On Track* (mean ELOM 4&5 Total Score = 42.68; SD = 13.27).

The ELOM 4&5 Total Score is summed across five domains, but it is useful to consider the distribution of children *On Track*, *Falling Behind* or *Falling Far Behind* the standard, in each of the domains. These are reported as follows, with the percentages *On Track* (bolded), *Falling Behind* and *Falling Far Behind* the standard listed after the domain name:

- Gross Motor Development (GMD): **48.3%**, 24.4%, 27.3%
- Fine Motor Coordination and Visual Motor Integration: **30.4%**, 34.5%, 35.1%
- Emergent Numeracy and Mathematics (ENM): **33.9%**, 31.1%, 35%
- Cognition and Executive Functioning (CEF): **41.4%**, 32.1%, 26.5%
- Emergent Literacy and Language (ELL): **54.7%**, 26%, 19.3%

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

It appears that South African children attending this sample of known ELPs are doing better in terms of literacy standards than in other domains. The low percentages *On Track* for the others, all of which are associated with performance in the Foundation Phase and beyond, are of considerable concern.

Regarding children's social and emotional readiness for school:

- 72.5% were *On Track* in terms of *Social Relations with Peers and Adults*, and 66.6% were *On Track* in terms of *Emotional Readiness for School*.

These findings are positive, as both are associated with adjustment to the school environment.

A very important physical indicator of child health in the age group in question is whether they have attained appropriate growth for their age. This WHO reference standard (HFAZ) was computed for the sample:

- 94.36 % of children were of normal HFA;
- 5.12 % had moderately stunted growth; and
- 0.53 % had severely stunted growth.

Overall, 5.65% of the children in this national survey of children attending ELPs were identified as having stunted growth (HFAZ below 2 Standard deviations from the median of the WHO reference population). It remains to be determined whether stunting rates for children who are *not enrolled* in ELPs are significantly different from our finding.

Child-level correlates of performance on the ELOM 4&5 Total Score (predictors) were investigated, and a number of factors were identified as being statistically significant and substantive correlates. Some were clearly of considerable weight when controlling for other factors. We found that the factors most strongly related to performance on the ELOM 4&5 were:

- age of child (important, if obvious), growth status of child (if of normal or stunted growth), socio-economic status (as indexed by school quintile), sex of child, and the social and emotional functioning of the child.

- We also found some evidence that the amount of time (years) children had spent in the ELPs was correlated to their Total ELOM 4&5 Score.

4. To what extent are South African children aged 50-59 months *On Track*?

Research reviewed for this study has consistently found that by 50-59 months of age, language and mathematics skills, executive functioning, fine motor coordination and visual motor functioning are predictive of children's performance in the Foundation Phase of their schooling. ELL and mathematics abilities are highly predictive of later success in these areas. Social and emotional development are both predictive of adjustment to school and to achievements in the primary phase, but to a lesser extent.

Analysis of ELOM 4&5 Total Scores in this study shows that the development of *less than 50%* of South African children attending known ELPs is *On Track* for transition to Grade R. In line with the international literature, *girls outperform boys*, with 9% more achieving the ELOM standard.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

In line with other studies of the relationship between socio-economic background and indicators of school readiness, a clear socio-economic gradient is evident. Almost 60% of children in quintile 5 are *On Track* for Early Learning (they achieve the ELOM 4&5 Total Score standard), while less than 40% of children in quintile 1 are. Of particular concern is that between 28% and 32% of children in quintiles 1 to 4 are *Falling Far Behind* the ELOM standard despite participating in an ELP.

Regarding ELOM 4&5 domains assessed directly, only in the ELL domain are more than 50% (54.7%) of children achieving the expected standard. Of particular concern is poor performance in Fine Motor Coordination and Visual Motor Integration (FMC-VMI), where only 30.4% achieve the standard. Almost 34% (33.9%) achieve the standard in ENM, while just over 41% (41.4%) do so in the CEF domain and 48% (48.3%) do so in GMD. Again, socio-economic gradients are starkly evident in these domains, showing that poorer children are significantly disadvantaged as they proceed to school. The skills gap between wealthier and poorer children is likely to endure and impact on school achievement in a number of areas, but particularly in mathematics. That said, and as will be apparent from the main report that follows, in all quintiles there is considerable variation in the performance of individual children on the ELOM 4&5. Being of lower socio-economic status does not necessarily mean that a child will not be *On Track* - a proportion of children in all three of the lower quintiles achieves the ELOM 4&5 standard.

It is encouraging that children are doing relatively well in the social and emotional domains which are both expected to assist transition to formal schooling and enable learning. More than 70% of children's teacher ratings of their Social Relations with Peers and Adults are at the expected level, and 65% of children are at the expected level for their Emotional Readiness for School.

5. What is their growth status?

HFA is predictive of the sorts of skills measured on the ELOM 4&5. We classified children as being of normal growth, stunted (>2 SDs below the WHO reference group median) or severely stunted (>3 SDs below the WHO median).

We found that 5.65% of children nationally are either moderately stunted (5.12%) or severely stunted (0.53%). Provinces vary, but those where children's health and development is most compromised reside in the Eastern Cape, where 9.98% are either stunted or severely stunted, and the Free State and Limpopo (more than 7.49% in both provinces).

The figures reported here include only moderately and severely stunted children. This is in line with most policy-related research on child growth, which focuses on the implications for development of moderate and severe growth stunting. But as Stevens et al. (2012, p.824)[4] point out, "the hazardous effects of undernutrition happen along a continuum of mild, moderate, and severe undernutrition." The implication is that mild stunting (HFAZ below 1 Standard deviation of the median of the WHO reference population) should not be ignored as it could be a barrier to thriving.

Almost one in five children in the Thrive by Five sample showed signs of mild stunting.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Chronic malnutrition is taking its toll on South African children – particularly those from poorer backgrounds. As a result, the neurological and cognitive development of large numbers of children nationally and in particular provinces is likely being compromised. While a proportion may recover to normal growth in the coming few years, the long-run negative impact of this readily preventable condition on the human capital of the country must be emphasised.

6. Predictors of performance on the ELOM 4&5

What is associated with ELOM 4&5 Total Scores? Our investigation of predictors of ELOM 4&5 Total Scores (using multiple regression analyses) provides insight into the manner in which different variables measured in the study are associated with this outcome. As we report, this was only investigated at national level, as it was at that level that maximum statistical power was available. We stress that these findings cannot be seen as uncovering causal relationships, as they are based on cross-sectional data, and we did not use post-hoc methods of uncovering causal relationships.

We found that children's age, sex, socio-economic status (quintile proxy), fees paid, growth status (normal, stunted and severely stunted), and social and emotional development, and the extent of their exposure to an ELP (years and attendance), were all positively and significantly correlated with their ELOM 4&5 Scores.

A mixed linear model was used to test and quantify the extent to which the predictors we identified were related uniquely to the Total ELOM 4&5 Score, once taking all other predictors into account.

- The results of the model show that moderate and severe growth stunting has a strong impact on the Total ELOM 4&5 Score. Specifically, the std. β coefficient for the difference between children who are "moderately stunted" and those with "normal HFA" is -0.37 (the coefficient for severely stunted children is similar, but less reliable, given a small cell size). Even mild stunting has a significant and substantial relationship with the Total Elom 4&5 score (std β = -0.17).

- Socio-economic status (measured in our sample by quintile score[7]) has a similarly large impact on the Total ELOM 4&5 Score. Differences vary by quintile, but one can see stark differences between children in lower and upper quintiles, particularly between children in quintile 1 and those in quintile 5 (std. β = 0.61) and between children in quintile 1 and those in quintile 4 (std. β = 0.33).
- Social-Emotional Functioning has a surprisingly strong effect on Total ELOM 4&5 Scores (std. β = 0.33). This is followed in strength by the effects for age, and finally sex.
- Together, when variation due to cluster sampling is taken into account, these predictors explain 51% of variation in Total ELOM 4&5 Scores (21% if considering only the fixed effects) - a significant and substantial proportion.

7. Thrive By Five Composite Indicator

The Thrive by Five Composite Indicator describes the proportions of children *On Track* for growth and achieving the ELOM 4&5 standard. It includes three categories:

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

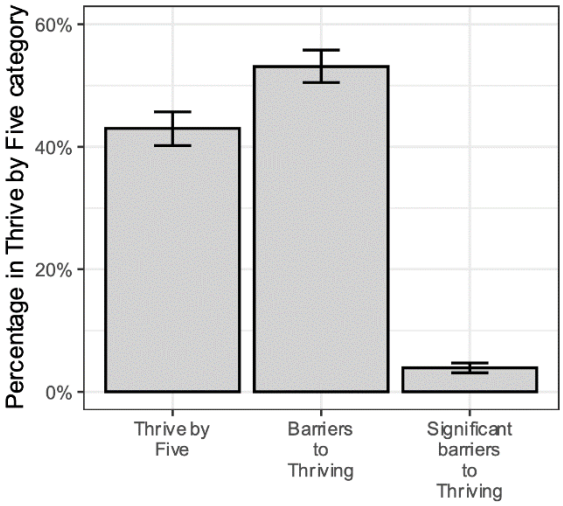
1. Children who **Thrive by Five:** These children are *On Track* for both Early Learning and physical growth.
2. Children who face **Barriers to Thriving:** These children are *On Track* in only one of these areas - either learning or growth.
3. Children who face **Significant Barriers to Thriving:** These children are Not *On Track* for both Early Learning and growth.

This is illustrated for the national level in Table 5 below.

Table 5: Index table for Total ELOM 4&5 Score

Indicator status	Percentage	95% lower CI	95% upper CI
Thriving by Five	42.95%	40.29%	45.66%
Barriers to Thriving	53.13%	50.46%	55.80%
Significant barriers to Thriving	3.92%	3.11%	4.73%

[7] We used an alternate definition of quintile (natemis) for the modelling of the Total ELOM 4&5 score, as discussed later in the report.



REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

8. Comment on findings

It is important to note that the children whose development was assessed in this study were all in some form of ELP and were assessed in the final term of the year. By that point, as many as possible should be achieving the ELOM 4&5 standard for the test as a whole and for all the domains.

However, these children have not had the benefit of a normal ELP year. The Covid-19 pandemic has significantly affected the ECD service sector. Closures of ELPs during various lockdown periods (particularly in 2020)[8] significantly disrupted the amount of programme participation possible for children. In addition, at the time of the fieldwork for this study, crèches and preschools remained subject to standard operating procedures required by the DSD to manage risks of infection. The impact of the pandemic and associated changes to the daily programmes of ELPs have likely changed the nature of the child's experience in several ways and in all probability reduced the amount of benefit they might normally have gained. In addition, for all children, but particularly those in the lower three school quintiles, the impact of the pandemic on livelihoods, household resources and caregiver wellbeing has likely impacted on the health and development of young children.

As a result, one cannot regard the findings of this Index as reflecting children's development under normal societal conditions. However, as we do not have representative data on the pre-pandemic under-5 population, we cannot say whether these findings represent a "Covid-19" effect. That judgement must await comparison with future survey rounds.

[8] Wills, G. & Kika-Mistry, J. (2021). *Early Childhood Development in South Africa during the COVID-19 Pandemic: Evidence from NIDS-CRAM Waves 2 – 5*. https://cramsurvey.org/wp-content/uploads/2021/07/14.-Wills-G-_-Kika-Mistry-J.-2021-Early-Childhood-Development-in-South-Africa-during-the-n-COVID-19-pandemic-Evidence-from-NIDS-CRAM-Waves-2-5.pdf

Introduction

The report proceeds from a brief consideration of the literature on early childhood predictors of later school performance. Thereafter the study questions, survey design, sample and findings are presented for the country as a whole and then for each province.

1. Early abilities and later school performance

In this section, we briefly present the evidence for *key* predictors of children's early academic outcomes. We do not present a comprehensive literature review. Most of the research to which we refer below is from high-income countries, as there is limited evidence available in the Global South.

It is important to recognise that development in the early years is uneven, with some abilities emerging prior to others, as illustrated in Figure 2.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

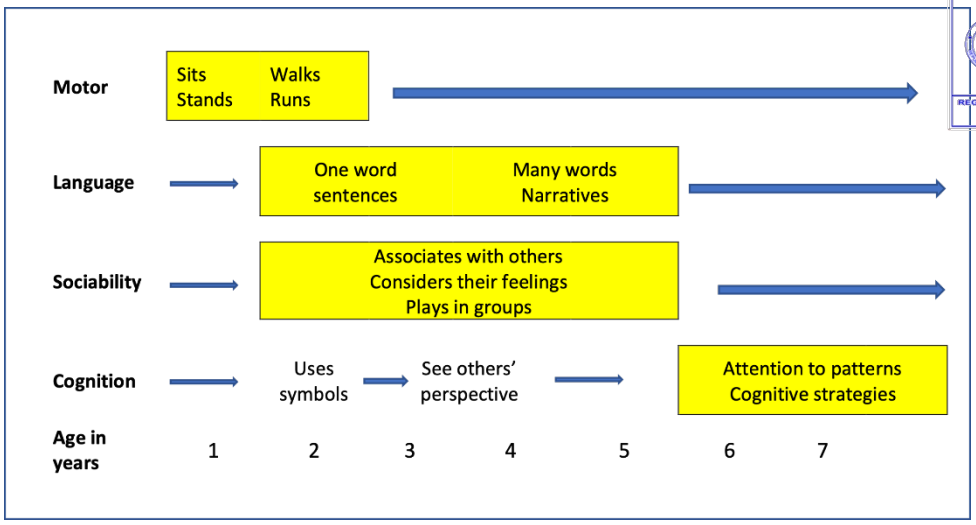


Figure 2: The uneven pace of development with rapid progress at different times in different domains. Source: Dawes et al. (2004)[9]

At an individual level, some children will be behind others in one area but ahead in another. Socio-economic status and the quality of the early home learning environment have major influences on the health, psychological development and later academic achievement of children. Internationally it is seen that those from wealthier home backgrounds outperform their more disadvantaged counterparts, particularly on tests of literacy and language, numeracy and mathematics, and cognitive abilities (Boyden et al., 2018; Duncan et al., 2007; Duncan et al., 2010; Letourneau et al., 2013; Tran, Luchters & Fisher, 2017).[10] South African studies using the Early Learning Outcomes Measure (ELOM 4&5,

[9] Dawes, A., Bray, R., Kvalsvig, J., Rama, S., & Richter, L. (2004). *Indicators of South African children's psychosocial development in the early childhood period. Phase 1 & 2 Report for UNICEF South Africa*. Cape Town: Human Sciences Research Council. http://www.hsrc.ac.za/en/research-outputs/view/1258

[10] Boyden, J., Dawes, A., & Tredoux, C. G. (2018). Improving children's chances: Using evidence from four low- and middle-income countries to set priorities for the SDGs. In S. Verma, & A. Petersen (eds), *Sustainable Development Goals: Using Developmental Science to Improve Young Lives Globally*. Springer.

Duncan, et. al. (2007). School readiness and later achievement. *Developmental Psychology*, 44(1), 1428-1446.

Duncan, G. J., Ziol-Guest, K. M., & Kalil, A. (2010). Early-childhood poverty and adult attainment, behaviour, and health. *Child Development*, 81(1), 306–325.

the measure of child development used in this study) also show similar differences related to socio-economic circumstances in children aged 50-59 months for all domains, but most markedly for ELL and CEF (see the ELOM Technical Manual; Dawes, et al., 2020).[11]

It is important to recognise that the skills in different domains do *not* develop independently, but rather influence one another. For example, early language abilities will affect a child's understanding of the instructions that must be followed to solve a mathematics problem. Similarly, the ability to construct groups from a mixed assortment of objects (one of the ELOM 4&5 ENM items) involves a range of skills including the (cognitive) ability to distinguish between different classes and subclasses of objects. That skill in turn is dependent on the ability to perceive differences in shape, size, colour and function (ELOM 4&5 numeracy and mathematics items). Short-term and working memory are executive functions that are required to solve most problems, but they can be disrupted by poor emotional regulation and anxiety (which are assessed in this study by the ELOM 4&5 Emotional Readiness for School scale). The child's ability to work collaboratively with peers and with practitioners (assessed in this study with the ELOM 4&5 Social Relations with Peers and Adults scale) will affect the extent to which early learning benefits from such engagements.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION
PIETERMARITZBURG

Other literature to which we refer below points to the importance of cognitive development (including executive functioning) and visual motor and perceptual skills for both early language and literacy, and early mathematics abilities. Gross Motor Development and social and emotional functioning are particularly important in the transition to Grade R. Motor development has also been found to have a social and emotional benefit in the primary phase of schooling, as motor competence facilitates peer engagement through participation in games, and is associated with emotional wellbeing as well as with academic achievement (Kamphorst et al., 2021; Pagani & Meisser, 2012).[12]

One of the most rigorous and comprehensive meta-analytic studies of the influence of early abilities and social-emotional functions on later school achievement was conducted by Duncan et al. (2007).[13] In that analysis, six American, British and Canadian longitudinal datasets were used to model outcomes. Children were first assessed between 54 and 72 months of age. The strongest predictors at school entry were *emergent mathematics skills*, *early reading ability* and ability to pay *attention* (assessed through teacher reports). No relationship between measures of emotional and behavioural difficulties and later school achievement was apparent, but more recent studies cast doubt on this conclusion. A major contemporary study of some 33,000 American children attending public pre-K by Ricciardi

---

Letourneau, N. L., Duffett-Leger, L., Levac, L., Watson, B., & Young-Morris, C. (2013). Socioeconomic status and child development: A meta-analysis. *Journal of Emotional and Behavioral Disorders*, *21*(3), 211–224. https://doi.org/10.1177/1063426611421007

Tran, T. D., Luchters, S., & Fisher, J. (2017). Early childhood development: impact of national human development, family poverty, parenting practices and access to early childhood education. *Child: Care, Health and Development*, *43*(3), 415-426.

[11] Dawes, A., Biersteker, L., Girdwood, E., Snelling, M. J. T. L., Tredoux, C. G. et al. (2020). *Early Learning Outcomes Measure (ELOM) Technical Manual.* Claremont, Cape Town: The Innovation Edge. http://elom.org.za/wp-content/uploads/2020/06/ELOM-Technical-Manual_2020.pdf

[12] Kamphorst, E., Cantell, M., Van Der Veer, G., Minnaert, A. & Houwen, S. (2021). Emerging School Readiness Profiles: Motor Skills Matter for Cognitive and Non-cognitive First Grade School Outcomes. *Frontiers in Psychology, 12*. https://doi.org/10.3389/fpsyg.2021.759480

Pagani, L. S., & Messier, S. (2012). Links between motor skills and indicators of school readiness at kindergarten entry in urban disadvantaged children. *Journal of Educational and Developmental Psychology*, *2*(1), 95–107. doi: 10.5539/jedp.v2n1p95

[13] Duncan, G. J., Claessens, A., Huston, A.C., Pagani, L.S., et al. (2007) School readiness and later achievement. *Developmental Psychology, 44*, 1428-1446.

et al. (2021)[14] investigated the extent to which a range of preschool abilities assessed at age 4 years predicted school achievement in Grade 5. Cognitive, language and fine and gross motor functioning at this age were significantly related to academic performance in Grade 5, along with Social-Emotional Functioning measures, although these had smaller effects. Nonetheless, it was evident that Social-Emotional Functioning "exerted a continual influence on later academic success" (p. 118).

When considering predictors of later academic outcomes from preschool assessments on tools such as the ELOM 4&5, it is important to distinguish between skills and traits that enable the child to transition to Grade R and skills that studies have shown to predict later academic performance. This was taken into account when the ELOM 4&5 was developed: Domains and items included in the ELOM 4&5 were informed by research literature, South African policy, the 0-4 curriculum, and expert opinion on abilities and knowledge deemed essential for a) readiness to learn in Grade R, and b) the foundational skills known to be associated with academic achievement in the Foundation Phase.

In what follows, our focus is on the relationship between children's abilities and functioning in specific domains prior to entering formal schooling, and their later academic performance. As will be evident, domains are not functionally independent ("silos"), but affect one another. This is particularly the case for skills assessed in the CR, FMC-VMI and social-emotional domains of the ELOM 4&5.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

1.1. Cognition and Executive Functioning

Behavioural and emotional regulation are important features of executive functioning (EF). With neurological maturation and ongoing socialisation, improved attention, concentration and emotional evenness are apparent, increasing the benefit from learning opportunities in the classroom and other environments. Enhanced EF also allows more capable, active and flexible manipulation of information using rules, working memory and other cognitive facilities (Nayfeld et al., 2013).[15] These cognitive skills operate across domains, allowing for "conscious, goal-directed control of thoughts and actions" (Baptista et al., 2016, p. 22),[16] and the ability to solve novel problems, in contrast to using lower-level skills such as letter and numeral recognition or production and simple arithmetic tasks.

Research on EF is proving helpful in identifying capacities that underpin both early mathematics and literacy abilities in the Foundation Phase. As Fitzpatrick et al. (2014, p. 25)[17] note, as children reach school age "executive function skills can help [them] hold information or instructions in mind during classroom activities, focus on task-relevant stimuli during problem-solving tasks, and resist internal or external distractions".

[14] Ricciardi, C., Manfra, L., Hartman, S., Bleiker, C., Dineheart, L., and Winsler, A. (2021). School readiness skills at age four predict academic achievement through 5th grade. *Early Childhood Research Quarterly, 57*, 110–120. doi: 10.1016/j.ecresq.2021.05.006

[15] Nayfeld, I., Fuccillo, J., & Greenfield, D. B. (2013). Executive functions in early learning: Extending the relationship between executive functions and school readiness to science. *Learning and Individual Differences*, *26*, 81-88.

[16] Baptista, J., Osório, A., Martins, E. C., Verissimo, M., & Martins, C. (2016). Does social-behavioral adjustment mediate the relation between executive function and academic readiness? *Journal of Applied Developmental Psychology, 46*, 22-30.

[17] Fitzpatrick, C., McKinnon, D., Blair, C. B., & Willoughby, M. T. (2014). Do preschool executive function skills explain the school readiness gap between advantaged and disadvantaged children? *Learning and Instruction, 30*, 25–31. http://dx.doi.org/10.1016/j.learninstruc.2013.11.003

Studies in high-income countries commonly find a social gradient for EF, with poorer children performing worse than their wealthier counterparts. Research using the ELOM 4&5 reports similar findings. (See the ELOM Technical Manual). However, a recent South African study using different measures of EF tells another story. Howard et al. (2020)[18] found that very disadvantaged South African preschool children outperformed Australian children from higher socio-economic strata on tests of working memory and cognitive flexibility. The reasons for these surprising findings are not clear.

1.2. Early Numeracy and Mathematics

Early mathematics skills are strongly predictive of later school success – more so than language ability (Duncan et al., 2007; Siegler et al., 2012).[19] In Duncan's meta-analytic study, knowledge of numbers and ordinality on school entry were the most powerful predictors of later mathematics achievement.

Foundational components for mathematics learning include the ability to name symbols used to represent numerosity (numerals) and discriminate between two quantities as represented by sets or numerals. These components also include the ability to detect number patterns, perform the operations of addition and subtraction, and apply these skills to real-life situations, generally assessed through word problems (Geary, 2011).[20] The ability to identify numerals grows over the early childhood years and has also been shown to be predictive of later mathematics abilities (Chard et al., 2005).[21] Oral counting fluency and number identification are known as "gateway skills" and are comparable to letter-naming fluency measures in assessing reading ability.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Duncan and colleagues did not examine the role of fine motor skills in predicting school achievement. Studies since then have established that fine motor skills and visual-spatial abilities in 5-year-olds make a specific contribution to mathematics skills by the end of Grade 2 (e.g., Pagani & Messier, 2012). These latter authors note that:

> "…early math skills were strongly related to both fine motor and perceptual-motor abilities. The relationship with fine motor ability is likely influenced by the fact that early informal knowledge of numbers is generated by manipulating objects and exploring their properties" (p. 101).

Components of executive functioning - verbal working memory, short-term memory, inhibitory control and planning abilities (including flexible use of rules) - as assessed by the ELOM 4&5 are all associated with mathematics skills in 5- to 6-year-old children (Bull et al., 2001; Gunderson, et al., 2012; Le Fevre et. al., 2010).[22] The use of measurement

---

[18] Howard, S. J., Cook, C. J., Everts, L., Melhuish, E., Scerif, G., Norris, S., Twine, R., Kahn, K., & Draper, C. E. (2020). Challenging socioeconomic status: A cross-cultural comparison of early executive function. *Developmental Science*, 23(1), https://doi.org/10.1111/desc.12854

[19] Siegler, R. S., Duncan, G. J., Davis-Kean, P. E., Duckworth, K., Claessens, A., Engel, M., Susperreguy, M. I., and Chen, M. (2012) Early predictors of high school mathematics achievement. *Psychological Science, 23*(7), 691-697.

[20] Geary, D. C. (2011). Cognitive Predictors of Achievement Growth in Mathematics: A Five Year Longitudinal Study. *Developmental Psychology, 47*(6), 1539–1552.

[21] Chard, D. J., Clarke, B., Baker, S., Otterstedt, J., Braun, D., & Katz, R. 2005. Using measures of number sense to screen for difficulties in mathematics: preliminary findings. *Assessment for Effective Intervention, 30*(2), 3–14.

[22] Bull, R., & Scerif, G. (2001). Executive functioning as a predictor of children's mathematics ability: Inhibition, switching, and working memory. *Developmental Neuropsychology, 19*(3), 273-293

Gunderson, E. A., Ramirez, G., Beilock, S. L., & Levine, S. C. 2012. The relation between spatial skill and early number knowledge: the role of the linear number line. *Developmental Psychology*, 48(5), 1229–41

vocabulary relating to size in the early years (as measured on the ELOM 4&5) is predictive of later spatial problem-solving tasks (Pruden et al., 2011).[23] Of interest is that significant correlations (Pearson coefficients ranging between 0.22 and 0.45) have been observed between ELOM 4&5 numeracy scales (counting and addition/subtraction) and three ELOM 4&5 EF measures (Pencil Tapping, Puzzle Completion and the Dimensional Card Sort task). These measure inhibitory control, working memory and problem-solving. The strongest relationship was with Pencil Tapping, which assesses working memory, inhibitory control and attention.

Attention-related skills such as task persistence and self-regulation are expected to increase the time during which children engage and participate in academic endeavours. The ability to control and sustain attention as well as participate in classroom activities is known to predict achievement test scores and grades during preschool and the early elementary grades. Likewise, mastery of foundational concepts of numbers allows for a deeper understanding of more complex mathematical problems and flexible problem-solving techniques (e.g., Baroody, 2016).[24]

1.3. Literacy and language

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Research on how children acquire reading skills points to both the importance of specific academic skills and also to the role of cognitive and conceptual abilities, and oral language. Those who have an opportunity to read early clearly have an advantage, as early reading ability is the most powerful predictor of reading ability in middle childhood (Duncan et al., 2007).

Basic oral language skills become critical for understanding texts as the level of difficulty of reading passages increases. Emergent early childhood literacy skills identified as strong predictors of later literacy achievement include: a large vocabulary, being capable of explanatory talk, demonstrating some letter identification before age 5, understanding narrative and story, understanding writing functions, knowing nursery rhymes and demonstrating phonological awareness (O'Carroll and Hickman, 2012; Strickland and Riley-Ayers, 2006).[25] Skills related to print knowledge, phonological processing and oral language are fundamental and independent predictors of later literacy development (National Early Literacy Panel, 2008).[26]

Phonological awareness is one of the most researched early literacy skills. It is consistently found to predict the acquisition of later word-reading skills in every language in which it has been studied (Papadimitriou & Vlachos,

LeFevre, J.-A., Fast, L., Skwarchuk, S.-L., Smith-Chant, B. L., Bisanz, J., Kamawar, D., & Penner-Wilger, M. (2010). Pathways to mathematics: Longitudinal predictors of performance. *Child Development, 81*(6), 1753-1767.

[23] Pruden, S. M., Levine, S. C., & Huttenlocher, J. 2011. Children's spatial thinking: Does talk about the spatial world matter? *Developmental Science, 14*, 1417–30

[24] Baroody, A. J. (2016). Using number and arithmetic instruction as a basis for fostering mathematical reasoning. In M. T. Battista (Ed.), *Reasoning and sense making in the mathematics classroom: Pre-K-Grade 2* (pp. 27–69). Reston, VA: National Council of Teachers of Mathematics.

[25] O'Carroll, S., & Hickman, R. (2012). Narrowing the literacy gap: Strengthening language and literacy development between birth and six years for children in South Africa. Wordworks: Cape Town.

Strickland, D., & Riley-Ayers, S. (2006) Early literacy: Policy and practice in the preschool years. National Institute for Early Education Research at Rutgers University, *Policy Brief.* http://www.readingrockets.org/article/early-literacy-policy-and-practice-preschool-years.

[26] National Early Literacy Panel (NELP) (2008). *Developing early literacy: Report of the National Early Literacy Panel.* Washington, DC, National Institute for Literacy. http://lincs.ed.gov/publications/pdf/NELPReport09.pdf

2014).[27] Letter knowledge has been consistently shown to be a strong predictor of early reading. Letter identification is the strongest predictor among reading readiness skills of later literacy achievements, such as decoding, spelling and reading comprehension skills (Burgess & Lonigan, 1998; McBride-Chang, 1999; National Early Literacy Panel, 2008; Scarborough, 1998; Schatschneider et al., 2004; Wagner et al., 1994).[28] Orthographic knowledge is also fundamental and refers to understanding about words in their written form. It includes the knowledge that certain sequences of letters compose words that represent spoken sounds.

Many of the skills required for formal learning of reading and writing involve specific visual motor abilities. Visual motor integration and eye-hand coordination have been shown to be independent predictors for handwriting ability (e.g., Tseng & Murray, 1994).[29] Pagnani and Messier (2012) argue that "In addition to gross and fine motor skills … visual perceptual skill should be regarded to be among the most significant factors related to math and reading achievement" (p. 97).

In sum, literacy skill acquisition is strongly underpinned by perceptual motor skills of the kind assessed in FLOM 4&5 including spatial awareness and orientation, and auditory, visual and temporal sensory awareness (Excell & Linington, 2011, Joubert et al., 2015).[30]



A recent study of socio-economically disadvantaged Grade 1 learners in the Western Cape has identified [illegible] in these areas as major barriers to literacy (Wildschut et al., 2016).[31]

1.4. Social and emotional functioning

Children's social and emotional functioning is associated with successful transitioning to school (Arnold et al., 2012; Collie et al., 2019; Denham et al., 2012).[32] Key competencies predictive of adjustment include self-control, persistence,

---

[27] Ibid

[28] Burgess, S. R., & Lonigan, C. J. (1998). Bidirectional relations of phonological sensitivity and prereading abilities: Evidence from a preschool sample. *Journal of Experimental Child Psychology*, *70*(2), 117-141.

Lonigan, C. J., Schatschneider, C., Westberg, L., & NELP (2008). Identification of children's skills and abilities linked to later outcomes in reading, writing, and spelling. *Developing early literacy: Report of the National Early Literacy Panel.* Washington, DC, National Institute for Literacy, pp. 55–106.

Scarborough, H. 1998. Predicting the future achievement of second graders with reading disabilities: contributions of phonemic awareness, verbal memory, rapid naming, and IQ. *Annals of Dyslexia, 48*, 115–136.

Schatschneider, C., Fletcher, J. M., Francis, D. J., Carlson, C. D. & Foorman, B. R. (2004). Kindergarten prediction of reading skills: a longitudinal comparative analysis. *Journal of Educational Psychology, 96(*2), 265–82.

[29] Tseng, M. H., & Murray, E. A. (1994). Differences in perceptual-motor measures in children with good and poor handwriting. *Occupational Therapy Journal of Research, 14*(1) 19-36.

[30] Excell, L., & Linington, V. (2011) Move to literacy: Fanning emergent literacy in early childhood education in a pedagogy of play. *South African Journal of Childhood Education, 1*(2) 27 – 45.

Joubert, I. (Ed) (2015) *Literacy in the Foundation Phase.* Revised Second Edition. Pretoria: Van Schaik.

[31] Wildschut, Z., Moodley, T., & Aronstam, S. (2016), The baseline assessment of Grade 1 learners' literacy skills in a socio-economically disadvantaged school setting, *South African Journal of Childhood Education 6*, 1-9.

[32] Arnold, D. H., Kupersmidt, J. B., Voegler-Lee, M. E., & Marshall, N. (2012). The association between preschool children's social functioning and their emergent academic skills. *Early Childhood Research Quarterly*, *27*(3), 376-386.

Collie, R. J., Martin, A. J., Nassar, N., & Roberts, C. L. (2019). Social and emotional behavioral profiles in kindergarten: A population-based latent profile analysis of links to socio-educational characteristics and later achievement. *Journal of Educational Psychology, 111*(1), 170-187. http//dx.doi.org/10.1037/edu0000262

mastery orientation, academic self-efficacy and social competence (Child Trends, 2014).[33] Whether children have sufficient confidence and focused attention to engage with learning materials, whether they can engage in the cooperative behaviours required for learning in groups, and whether their emotional maturity affects their ability to deal with learning challenges and form positive relationships with peers and teachers are all important indicators of social and emotional readiness to learn in the early years of school.

The study by Ricciardi et al. (2021) referred to earlier points to the influence of Social-Emotional Functioning on academic outcomes from preschool through the primary phase. In another recent study, temperament has been found to moderate performance in both language and mathematics achievement (Valiente et al., 2021).[34] These robust new findings in a previously under-researched area point to the cross-cutting importance of early childhood psychological wellbeing for overall performance in primary school.

1.5. Stunting (low height-for-age)

Growth stunting or linear growth faltering (i.e., when the height of a child is two or more SDs below the WHO reference norm) is a chronic (long-term) condition that is a reflection of the overall poor health status of the child and is known to compromise neurological and cognitive development. Stunting is a significant problem in South Africa. In 2016, 27% of children under 5 years of age were estimated to be stunted (Hall et al., 2019).[35] This is a probable significant loss of potential, with major consequences for the affected children and for the human capital of the country. Determinants of stunting are illustrated in Figure 3.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Denham, S. A., Bassett, H., Mincic, M., Kalb, S., Way, E., Wyatt, T., & Segal, Y. (2012). Social-emotional learning profiles of preschoolers' early school success: A person-centered approach. *Learning and Individual Differences, 22,* 178–189. http://dx.doi.org/10.1016/j.lindif.2011.05.001

[33] Child Trends (2014). Measuring elementary school students' social and emotional skills. Providing educators with tools to measure and monitor social and emotional skills that lead to academic success. Retrieved from: https://www.childtrends.org

[34] Valiente, C., Doane, L. D., Clifford, S., Grimm, K. J., & Lemery-Chalfant, K. (2021). School readiness and achievement in early elementary school: Moderation by students' temperament. *Journal of Applied Developmental Psychology, 74*. https://doi.org/10.1016/j.appdev.2021.101265

[35] Hall, K., Sambu, W., Almeleh, C., Mabaso, K., Giese, S. & Proudlock, P. (2019). *South African Early Childhood Review 2019.* Cape Town: Children's Institute, University of Cape Town and Ilifa Labantwana. https://ilifalabantwana.co.za/wp-content/uploads/2019/09/SA-ECR_2019_12_09_2019_online_pages.pdf>

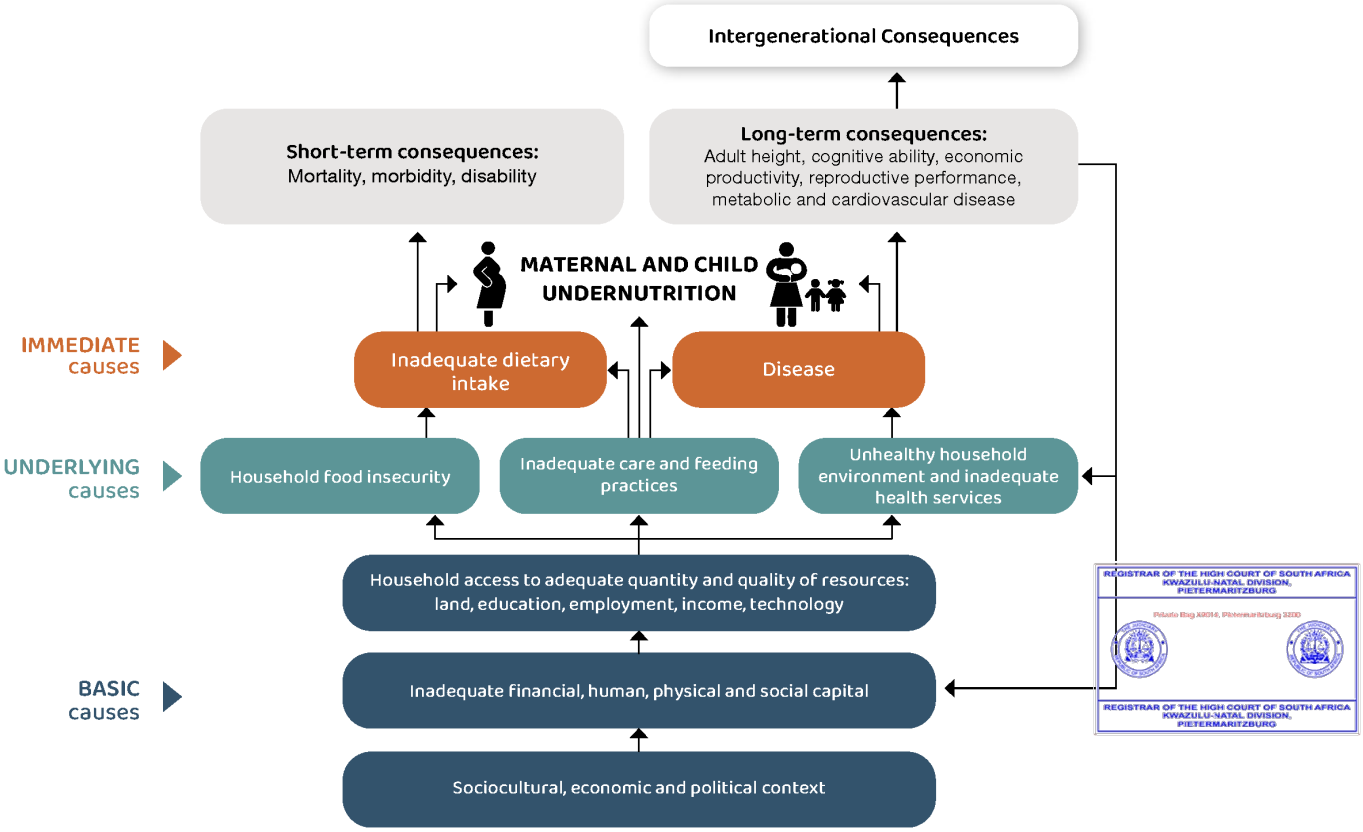


Figure 3: UNICEF framework for determinants of child undernutrition[36] [37]

As Benny and colleagues note (p. 16):

> "…even before conception or during pregnancy, maternal undernutrition, exposure to toxins, chronic stress, alcohol and drug intake, or conditions such as HIV, can damage foetal development, resulting in stunting during infancy that may persist throughout life, also affecting subsequent generations. Such early disadvantages may be compounded by undernutrition and recurrent infections in early childhood, growth being especially susceptible to disturbances in the first 1,000 days of life starting at conception".

The effects of early stunting depend on the child's age and the duration of deprivation, but can persist throughout childhood and adolescence, compromising the child's ability to learn in school and eventually impacting on their life opportunities. In the Young Lives longitudinal study of the development of children growing up in poverty in four low-

[36] Source: United Nations International Children's Fund. *Multi-sectoral Approaches to Nutrition: Nutrition-specific and Nutrition-sensitive Interventions to Accelerate Progress*. New York: UNICEF; 2014. The dark black arrows show that the consequences of undernutrition can feed back to the underlying and basic causes of undernutrition, perpetuating the cycle of undernutrition, poverty and inequities (Source: Benny, Boyden & Penny, 2018).

[37] Benny, L., Boyden, J., &, Penny, M. (2018) Early is best but it's not always too late: Evidence on nutrition and growth from the Young Lives study in Ethiopia, India, Peru and Vietnam, Summative Report. Oxford: Young Lives. https://assets.publishing.service.gov.uk/media/5b9a8b6040f0b6788dda2bc5/Nutrition_and_Growth_Summative_Report_June_2018_0.pdf

and middle-income countries,[38] children who were stunted at 12 months were more likely to remain stunted and cognitively compromised throughout childhood and adolescence. Boys were more at risk than girls.

However, stunting and its effects in the early years are not necessarily irreversible. Evidence of recovery in a proportion of children prior to age 5 (and beyond) has been forthcoming from longitudinal studies. For example, in the Indian Young Lives cohort, the stunting rate at 12 months was 33% but at 60 months only 21% of those children remained stunted. Across the four countries in the Young Lives study, the risk of stunting was greater for boys than girls across childhood.

In South African studies, both the National Income Dynamics Study (NIDS) and the Birth to Twenty Cohort study findings provide evidence of substantial catch-up growth (Casale, 2016; Desmond & Casale, 2017; Casale 2019)[39]. However, catch -up does not necessarily translate into enduring cognitive gains. Casale and Desmond (2016) report that Birth to Twenty children who recovered from stunting between 2 and 5 years still did worse than their non-stunted counterparts on cognitive tests at 5 years, and almost as badly as children who remained stunted. Most policy-related research on child growth focuses on the implications for development of moderate and severe growth stunting. But as Stevens et al. (2012, p.824)[40] point out, "the hazardous effects of undernutrition happen along a continuum of mild, moderate, and severe undernutrition." The implication is that mild stunting (HFAZ below 1 Standard deviation of the median of the WHO reference population) should not be ignored as it could be a barrier to thriving.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

The findings suggest a dynamic age and resource-related process. The drivers of recovery are not well understood but Young Lives findings "indicate that growth after early childhood is responsive to positive changes in the household and community environments and that growth promotion after early childhood may yield improvements in child cognitive development" (Georgiadis et al., 2017, p. 81).[41] Where improvements in household wealth, services (sanitation and water) and nutrition were sustained from the early years, growth recovery was also more likely to be maintained.

2. Similarities and differences between boys and girls in cognitive skills by age 5

There has long been considerable interest in sex differences in cognitive skills (particularly in mathematics and language). The findings are mixed for many reasons, not least due to the variety of measures used. The first comprehensive evaluation of the research was conducted by Maccoby and Jacklin (1974).[42] Research from middle-

[38] https://www.younglives.org.uk

[39] Casale, D. and Desmond, C. (2016) Recovery from stunting and cognitive outcomes in young children: evidence from the South African Birth to Twenty Cohort Study. Journal of Developmental Origins of Health and Disease 7: 163-171. Casale, D. (2016). Analysing the links between child health and education outcomes: Evidence from NIDS Waves 1-4. Cape Town: SALDRU, University of Cape Town. SALDRU Working Paper Number 179/ NIDS Discussion Paper 2016/6. Casale, D. (2019). Recovery from stunting in early childhood and subsequent schooling outcomes: Evidence from NIDS Waves 1-5. Cape Town: SALDRU, UCT. (SALDRU Working Paper Number 236, Version 1/ NIDS Discussion Paper 2019/3).

[40] Stevens, G. A., Finucane, M. M., Paciorek, C. J., Flaxman, S. R., White, R. A., Donner, A. J., Ezzati, M., Nutrition Impact Model Study Group. (2012). Trends in mild, moderate, and severe stunting and underweight, and progress towards MDG 1 in 141 developing countries: a systematic analysis of population representative data. The lancet, 380(9844), 824-834. https://doi.org/10.1016/S0140-6736(12)60647-3

[41] Georgiadis, A., Benny, L., Duc, LT., Galab, S., Reddy, P., & Woldehanna, T. (2017) Growth recovery and faltering through early adolescence in low- and middle-income countries: Determinants and implications for cognitive development. *Social Science & Medicine, 179*, 81-90.

[42] Maccoby, E. E., & Jacklin, C. N., 1974. *The Psychology of Sex Differences*. Stanford University Press, Stanford.

and high-income countries has predominated – particularly the USA and the UK. We only provide a brief high-level overview of recent knowledge of similarities and differences in the areas of interest to this study.

In the most recent analysis of longitudinal study data using measures comparable to the ELOM 4&5, Toivainen et al. (2017)[43] report findings from 16 000 twin pairs on both non-verbal and verbal abilities, measured from early childhood (ages 2, 3 and 4 years) through adolescence to age 16. Non-verbal ability was assessed using parents' reports on a standardised test (the PARCA), measuring number, shape, size, conceptual grouping and orientation skills. Verbal abilities were assessed on expressive vocabulary and grammar tests, based on the MacArthur Communicative Development Inventories.

In that large sample study, females outperformed males on both verbal and non-verbal tasks prior to age 5 years.

The larger research literature on this issue can be summarised in the following broad strokes:

- Evidence from studies conducted in the early childhood period (pre-Grade R) can be summarised as showing that girls outperform boys on tests of both language and mathematics as early as 24 months (although the differences are small at that point). Girls retain the advantage in language skills – particularly writing, and language use through school – and the gap widens with age. Boys tend to get ahead of girls in mathematics skills from around Grade 4 (Bornstein et al., 2004;[44] Halpern et al., 2007[45]), although this is not reported in all studies, and it does appear to depend on the measures used by the researchers (Toivainen et al., 2017).
- It is probable that the observed early childhood sex differences are due to more rapid brain development in girls. The twin studies in particular suggest that socialisation during this period, while influential, makes a limited contribution to sex differences in *cognitive* skills such as mathematics and language.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

It is important to stress that all human development is a product of the ongoing interaction of heritable characteristics (Plomin, 2018[46]), socialisation and the learning resources to which the child is exposed. All contribute to differences in the early and later cognitive and language skills of boys and girls. It is not a matter of which one source is responsible for a particular outcome (e.g., reading ability), but rather how different sources of influence interact and combine under particular conditions and during particular points in maturation.

3. Index rationale and measures

3.1. Why the Index?

For both policy and intervention purposes, there is a need for data that can be used to longitudinally monitor the quality of ELP provision and Early Learning outcomes in children in the age band 50-59 months, and to track health and Social-Emotional Functioning. *Thrive by Five Index 2021* constitutes the first (baseline) in a series of nationally and

[43] Toivainen, T., Papageorgiou, K. A., Tosto, M. G., & Kovas, Y. (2017). Sex differences in non-verbal and verbal abilities in childhood and adolescence. *Intelligence*, *64*, 81-88. http://dx.doi.org/10.1016/j.intell.2017.07.007

[44] Bornstein, M. H., Hahn, C.-S., & Haynes, O. M. (2004). Specific and general language performance across early childhood: Stability and gender considerations. *First Language*, 24(3), 267-304.

[45] Halpern, D. F., Benbow, C. P., Geary, D. C., Gur, R. C., Hyde, J. S., & Gernsbacher, M. A. (2007). The science of sex differences in science and mathematics. *Psychological Science in the Public Interest*, *8*(1), 1-51.

[46] Plomin, R. (2018). *Blueprint: How DNA makes us who we are*. London: Allen Lane, Penguin Random House.

provincially representative surveys that will monitor trends over time in the proportions of children 50-59 months who are *On Track* for their age in key areas of development.

The term *On Track* is understood to mean meeting the expected standards for age in each of the domains.

Data for the Index was collected between September and November 2021 by a team of trained assessors managed by ikapadata (see accompanying *Thrive by Five Index 2021 Fieldwork Report).* Data was collected prior to the ECD function shift from the DSD to the DBE. The findings can be used to support future efforts to ensure that more children receive the nurturing care and services they need to help ensure their development is *On Track,* and to strengthen collective efforts to support those who are not. In addition, the Index will permit monitoring of the country's progress towards attainment of SDG Target 4.2:

"*By 2030, all girls and boys have access to quality early childhood development, care and pre-primary education so that they are ready for primary education."*

The relevant SDG indicator is: 4.2.1: *The proportion of children under 5 years of age who are developmentally on track in health, learning and psychosocial well-being, by sex*.



Table 6: Indicators used in the Thrive by Five Index

Indicator	Measure and definition
Learning	Measure: Early Learning Outcomes Measure 4&5 Years Assessment tool (ELOM 4&5)
Children's learning is *On Track*	Definition: Total and Domain scores[47] on the ELOM 4&5 fall at or above the 60th percentile of the ELOM 4&5 standard score distribution, established in 2016
Children's learning is *Falling Behind*	Definition: Total and Domain scores on the ELOM 4&5 fall between the 32nd and 59th percentile
Children's learning is *Falling Far Behind*	Definition: Total and Domain scores on the ELOM 4&5 fall below the 32nd percentile
Social and Emotional Functioning	Measure: ELOM Social-Emotional Rating Scale (Teacher Assessment of children's social and emotional functioning)
Children's Social Relations are *On Track*	Definition: The Total Score on the ELOM 4&5 Teacher Assessment *Social Relations with Peers and Adults* scale ≥18
Children's Social Relations are not *On Track*	Definition: The Total Score on the ELOM 4&5 Teacher Assessment *Social Relations with Peers and Adults* scale < 18

[47] The ELOM 4&5 has 23 items clustered in five domains: Gross Motor Development; Fine Motor Coordination and Visual Motor Integration; Emergent Numeracy and Mathematics; Cognition and Executive Functioning; and Emergent Literacy and Language.

Children's Emotional Readiness for School is *On Track*	Definition: The Total Score on the ELOM 4&5 Teacher Assessment *Emotional Readiness for School Scale* ≥ 9
Children's Emotional Readiness for School is not *On Track*	Definition: The Total Score on the ELOM 4&5 Teacher Assessment *Emotional Readiness for School Scale* < 9
Physical Growth	Measure: Height was measured using a stadiometer
Normal Growth	Definition: The child's (HFAZ) falls between -2 and +2 SDs of the WHO reference group median
Stunted Growth	Definition: The child's HFAZ > 2 SDs below the WHO reference group median. We consider mild stunting (HFAZ > 1SD below median) in the modelling of Total ELOM 4&5 later in the report, but do not report it in the descriptive sections.
Severely Stunted Growth	Definition: The child's HFAZ > 3 SDs below the WHO reference group median

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

*Note: For regression analyses and some descriptions, the *Social Relations with Peers and Adults* and *Emotional Readiness for School* scales are combined into one measure of "*Social-Emotional Functioning*"

3.2. Thrive by Five Questions

The Index sought to provide data to answer these key questions for the country as a whole and for each province:

1. For learning outcomes overall (the ELOM 4&5 Total Score), what proportion of children are *On Track* (achieving the expected developmental standard), *Falling Behind* the standard and *Falling Far Behind* the standard?
2. For each of the five ELOM 4&5 learning domains, what proportion of children are *On Track*, *Falling Behind* and *Falling Far Behind* the standard?
3. For the social-emotional domains, what proportion of children meet the expected score for their Social Relations with Peers and Adults, and their Emotional Readiness for School?
4. What proportion of children show normal growth, or are stunted or severely stunted in their growth?

Supplementary questions that we addressed include:

5. What is the relationship between children's growth status and their performance on the ELOM 4&5?
6. What is the relationship between children's social and emotional status and their performance on the ELOM 4&5?
7. What is the relationship between performance on the ELOM 4&5 and the years a child has been enrolled in the programme, and their average attendance per week in the term preceding data collection?

3.3. Thrive by Five Measures

The measures described below were used to assess children and to derive findings for the Index. All children were assessed in their home languages. Assessors received thorough training in the use of the tools and quality was monitored in the field. For comprehensive information on all data collected and procedures used in the Thrive by Five Index, see the related ikapadata *Fieldwork Report*.

3.3.1.Early Learning Outcomes

Children's learning outcomes were directly assessed using the ELOM 4 & 5 Years Assessment (ELOM 4&5). The instrument is aligned with the South African Early Learning curriculum and was developed and standardised for use with children aged 50-69 months. It provides a reliable and fair assessment of children regardless of their socio-economic and ethnolinguistic background, and is available in all the official languages of South Africa. Content, construct, age and concurrent validity (with the WPSSI-IV), as well as test-retest reliability, have been established (Dawes et al., 2020; Anderson et al., 2021;[48] Snelling et al., 2019.[49]) The predictive validity of ELOM 4&5 for early academic achievement has not been assessed.

The ELOM 4&5 has 23 items clustered in five domains:

1. Gross Motor Development (GMD);
2. Fine Motor Coordination and Visual Motor Integration (FMC-VMI);
3. Early Numeracy and Mathematics (ENM);
4. Cognition and Executive Functioning (CEF); and
5. Emergent Literacy and Language (ELL).



A child's performance on each item in each of the five ELOM 4&5 domains is awarded a raw score, which is then transformed into a scaled score. In each domain, item standard scores are summed to provide a domain Total Score out of 20. The five domain scores are then summed to derive the ELOM 4&5 Total Score out of 100. Further information is available in the *Early Learning Outcomes Measure (ELOM) Technical Manual*.

As illustrated in Table 7, three performance bands have been empirically derived from the ELOM 4&5 Total Score distribution (Dawes et al., 2020):[50]

- *On Track: Achieving the ELOM 4&5 Standard* for learning outcomes for their age group (50-59 months) (child's score falls within the green band in Table 7);
- *Falling Behind* the standard (child's score falls within the yellow band in Table 7); and
- *Falling Far Behind* the standard (child's score falls within the red band in Table 7).

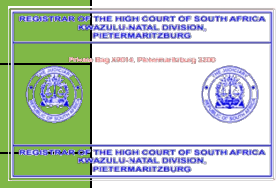
[48] Anderson, K. J., Henning, T. J., Moonsamy, J. R., Scott, M., Du Plooy, C., & Dawes, A.R.L (2021), Test–retest reliability and concurrent validity of the South African Early Learning Outcomes Measure (ELOM). *South African Journal of Childhood Education*, 11(1), a881.

[49] Snelling, M., Dawes, A., Biersteker, L., Girdwood, E., & Tredoux, C. (2019). The development of a South African Early Learning Outcomes Measure: A South African instrument for measuring early learning program outcomes. *Child: Care, Health and Development, 45*, 257–270. https://doi.org/10.1111/cch.12641

[50] Dawes, A., Biersteker, L., Girdwood, E., Snelling, M.J.T.L., Tredoux, C.G. et al. (2020). *Early Learning Outcomes Measure (ELOM) Technical Manual.* Claremont, Cape Town: The Innovation Edge. http://ELOM.org.za/wp-content/uploads/2020/06/ELOM-Technical-Manual_2020.pdf

Table 7: ELOM 4&5 performance bands and score ranges for children aged 50-59 months

	50 – 59 months		
	*Falling Far Behind**	*Falling Behind*	*On Track*: Achieving the Standard
ELOM TOTAL	0 – 36.01	36.02 – 46.31	46.32 – 100
GMD	0 – 5.40	5.41 – 8.59	8.60 – 20
FMC-VMI	0 – 9.70	9.71 – 12.31	12.32 – 20
ENM	0 – 6.34	6.35 – 9.32	9.33 – 20
CEF	0 – 4.07	4.08 – 7.16	7.17 – 20
ELL	0 – 6.53	6.54 – 10.25	10.26 – 20



* Note: In the *Early Learning Outcomes Measure (ELOM) Technical Manual*, *Falling Far Behind* is called *At Risk*. The name has been changed for purposes of clarity and to indicate a gradient of performance.

3.3.2. Social and emotional functioning

Children's social and emotional functioning is associated with their school readiness (Arnold et al., 2012,[51] Collie et al., 2019[52], Denham et al., 2012).[53] Using the ELOM 4&5 scales of social and emotional functioning, each child is rated by their teacher on three brief scales designed to assess their self-care (ability to self-toilet and the quality of their emotional functioning in areas relevant for managing the school environment. The reliability and concurrent validity of the latter two scales were established on a sample of 261 children using the Strengths and Difficulties Questionnaire for comparative purposes. Normative standards have not been derived for these scales. However, expected scores indicating the child's physical maturity and emotional and social readiness for school have been derived for the two scales used in this report. The method used is reported in Dawes et al. (2020):

[51] Arnold, D. H., Kupersmidt, J. B., Voegler-Lee, M. E., & Marshall, N. (2012). The association between preschool children's social functioning and their emergent academic skills. *Early Childhood Research Quarterly*, 27(3), 376-386. https://doi.org/10.1016/j.ecresq.2011.12.009

[52] Collie, R. J., Martin, A. J., Nassar, N., & Roberts, C. L. (2019). Social and emotional behavioral profiles in kindergarten: A population-based latent profile analysis of links to socio-educational characteristics and later achievement. *Journal of Educational Psychology, 111*(1), 170-187. http//dx.doi.org/10.1037/edu0000262

[53] Denham, S. A., Bassett, H. H., Mincic, M., Kalb, S., Way, E., Wyatt, T., & Segal, Y. (2012). Social-emotional learning profiles of preschoolers' early school success: A person-centered approach. *Learning and Individual Differences, 22,* 178–189. http://dx.doi.org/10.1016/j.lindif.2011.05.001

Collie, R. J., Martin, A. J., Nassar, N., & Roberts, C. L. (2019). Social and emotional behavioral profiles in kindergarten: A population-based latent profile analysis of links to socio-educational characteristics and later achievement. *Journal of Educational Psychology*, *111*(1), 170-187. http//dx.doi.org/10.1037/edu0000262

- Social Relations with Peers and Adults scale: A score of 18 and above
- Emotional Readiness for School scale: A score of 9 and above

While these are reliable and valid scales, unlike other measures used in the study, they are based on teacher reports. The reliability of a teacher's ratings will depend on how well he or she knows a child. Also, it is probable that teachers will rate children higher who are compliant, cooperative, well controlled and more proficient in daily tasks (a halo effect). Despite these limitations, the scales provide a brief, but coarse, indication of a child's social and emotional wellbeing. They do not measure behavioural or emotional disorders.

For regression analyses, scores on the two scales are combined to form a measure of Social-Emotional Functioning.

3.3.3. Growth status

Growth status is measured as the child's HFAZ (WHO Multicentre Growth Reference Study Group, 2006). HFA was measured using a stadiometer.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

3.4. Thrive by Five Composite Indicator

The Thrive by Five Composite Indicator was constructed for use at national level. It comprises two equally weighted indicators: stunting (including moderate and severe stunting) and ELOM 4&5 Total Score. These were chosen as they are both based on objective standardised measures and both are crucial for monitoring children's health and development prior to entering the Foundation Phase of school.

The Composite Indicator describes the proportions of children who fall into one of the following three categories: Children who are thriving (*On Track* in both growth and learning), children who face barriers to thriving (*On Track* for only one of either growth or learning) and children who face significant barriers to thriving (not *On Track* for both growth and learning).

Method

A detailed report on the sampling and fieldwork for the Thrive by Five Index accompanies this report. Summary information drawn from that document is included here.

1. Sampling

The sample consisted of a representative sample of children aged 50-59 months *enrolled in various types of ELPs*. The sampling frame excluded mobile centres (problematic for geo-sampling) and pure toy libraries.

While the sample can provide a sound picture of children attending services, it cannot be regarded as reliably representative of all children in this age group for two primary reasons: a) no official enumerated list of ELPs is available and some services attended by children may not have been included in the sampling frame, and b) many children in this age group, particularly from lower income backgrounds, do not attend an ELP. In 2016, 69% of 3- to 5-year-olds participated in some form of programme prior to Grade R (Statistics South Africa, 2018). However, children in the wealthiest 20% of the population were twice as likely to be enrolled as the poorest 20% (Hall et al., 2019).[54]

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

A multistage cluster sampling strategy was employed to recruit the sample and to permit disaggregated findings by sex, province and income quintile. The key outcome measures were a) performance on the ELOM 4&5 instrument (Total Score, and the five subdomains), allowing us to determine the proportion of children who are *On Track* for Early Learning outcomes, b) social and emotional functioning, and c) HFA growth status.

- In the first stage, 48 public and private primary or combined[55] schools per province were randomly selected, stratified by the quintile rank (1-5)[56] assigned by the DBE (432 schools nationally). In the absence of household level data, quintiles were used as proxies for the probable socio-economic background of the children who were assessed. It is recognised that school quintiles are limited and that they cannot necessarily be regarded as reflecting the same socio-economic level in different provinces, as they depend on provincial income distributions (which may differ).[57] Also, while the school may be in a quintile 4 area based on the characteristics of that population, the intake may comprise significant numbers of poor children whose primary caregivers

[54] Statistics South Africa. (2018). Education Series Volume IV: *Early childhood development in South Africa, 2016.* http://www.statssa.gov.za/publications/92-01-04/92-01-042016.pdf
Hall, K., Sambu, W., Almeleh, C., Mabaso, K., Giese, S., & Proudlock, P. (2019). *South African Early Childhood Review 2019*. Children's Institute, Ilifa Labantwana, Department of Planning, Monitoring and Evaluation in the Presidency, The Grow Great Campaign, Innovation Edge. https://ilifalabantwana.co.za

[55] Combined schools in this case refer to schools that include the primary phase as well as later phases. These are often smaller schools in rural or farm areas.

[56] Data on the relative poverty levels of the community living within 3km of a public school are used by Provincial Departments of Basic Education to assign a quintile rank (1 = poorest, 5 = wealthiest) to each school. Ranks are based on the income, education level and unemployment of households in the school catchment area. The Norms and Standards for School Funding are used to allocate funds and regulate fees for the different quintiles. (Quintile 1-3 schools, which are located in the poorer communities, may not charge fees.)

[57] Mestry, R., & Ndhlovu, R. (2014). The implications of the National Norms and Standards for School Funding policy on equity in South African public schools. *South African Journal of Education*, *34*(3), 1-11.

aspire to the better quality of education they perceive to be provided at these schools.[58] These are recognised limitations of the quintile system but we believe this was the best option available. Specifically, we used the variable *quintile_original* in the dataset as our preferred indication of quintile, since this is the quintile rank used for developing the weights. We checked the reasonableness of the proposition that school quintiles reflect socio-economic status by comparing school quintile rankings with whether the ELP received a subsidy from the DSD (DSD subsidies are targeted at ELPs serving low-income communities), and by computing the mean (and SD) scores for average school fees charged (based on interviews with 545 principals in the baseline assessment questionnaire), per quintile. These are reflected in Table 8 below.

Table 8: School quintiles correspond to other, approximate measures of socio-economic status

School quintile	% receiving subsidy	Mean (and SE*) fees charged
1	75%	R210 (R55.3)
2	65%	R196 (R25.3)
3	71%	R235 (R26.9)
4	56%	R379 (R70.1)
5	27%	R1 131 (R276)

* SE = standard error (throughout the report)



- In stage two, since there is no official enumerated list of ELPs in South Africa, we used a multi pronged strategy to build a sampling frame of suitable ELPs. We made use of the Vangasali[59] dataset of ELPs to identify all ELPs in the same ward as the sampled schools and, where necessary, contacted sampled schools and known ELPs within each ward to identify additional ELPs. ELPs were considered eligible if they (1) operated for more than eight hours per week, and (2) had at least six children aged 50 to 59 months (4 years old) in regular attendance who spoke at least one of the official South African languages as their home language. It was originally intended to randomly sample four ELPs within a 10km radius or in the same ward as the schools identified in Stage 1. However, there were often fewer than four eligible ELPs that fulfilled those criteria, in which case the next closest ELPs that did satisfy the criteria were added to the sample. In some cases, these ELPs were in fact closer to other schools in the sample, closer to schools outside the sample, or in wards different from those of the sampled school associated with that cluster of ELPs. Each ELP was called up to five times before they were dropped from the list as being permanently out of reach. Three ELPs in each of the clusters were randomly selected, resulting in a sample of roughly 144 ELPs per province, and 1,250 nationwide.
- In the final stage of sampling, the intention was for four children (two boys and two girls) in each ELP to be randomly selected for assessment. The target was 12 children per school cluster, intended to result in a nationally representative sample of 5,184 children nationwide, 576 per province.

[58] Van Dyk, H., & White, C. J. (2019). Theory and practice of the quintile ranking of schools in South Africa: A financial management perspective. *South African Journal of Education, 39*, S1-S9.

[59] Vangasali is a Government campaign launched in 2020 with the aim of identifying all Early Childhood Development programmes (including ECD centres, playgroups, toy libraries, day mothers) in the country.

Details on the final sample are included in Table 9 below.

2. Weighting

Sampling weights were constructed by first determining a stratification weight for province and quintile (based on the number of primary schools sampled relative to the total number of primary schools in Province-Quintile combinations). This weight was multiplied by a second weight that was constructed as a relative weight for each centre sampled in an ECD programme cluster multiplied by the estimated population size of the cluster sampled in the data collection phase. Population size of cluster was estimated by proxy from the number of Grade 3 enrolments in the closest primary or combined school. A comprehensive account of the construction of sampling weights is given in the Appendices. Weighting was also applied for analyses undertaken by Van der Berg and Bridgman when extrapolating the findings to the 50-59-month population as a whole. This is provided in a separate report.

3. Procedure



For details on the administration of the ELOM 4&5 and the collection of data regarding height/growth status, and Social and Emotional Functioning, the reader is referred to the accompanying ikapadata *Fieldwork Report*.

4. Final sample for analysis

Ikapadata conducted initial data cleaning and labelling and provided a dataset for analysis in December 2021 ("thrive_ELOM_anon.dta"). The dataset contained 5,570 cases, sampled from 432 clusters. Of these, 5,222 were flagged as "valid" by ikapadata, and 348 as "invalid" during data cleaning. (See the metadata file provided by ikapadata, attached to this report.) Invalid cases included duplicates and dummy assessments as well as assessments with children who fell outside the eligibility criteria. The ikapadata team also flagged several records collected by a fieldwork team in Mpumalanga, using an incorrect version of ELOM 4&5 Item 23[60] (see below). We did not invalidate these 88 cases in the "valid case" sample (see explanation in the next section). Once sampling weights were constructed by Dr Taylor, Ms Bridgman and team, the sample was further reduced to 5,139 cases (missing information meant that additional cases had to be dropped from analyses involving weights).

The final sample numbers, disaggregated by sex and quintile, are shown for each province in Table 9. A three-way breakdown is reported in the Appendices. The sample sites are also shown as a layer on a map of South Africa.

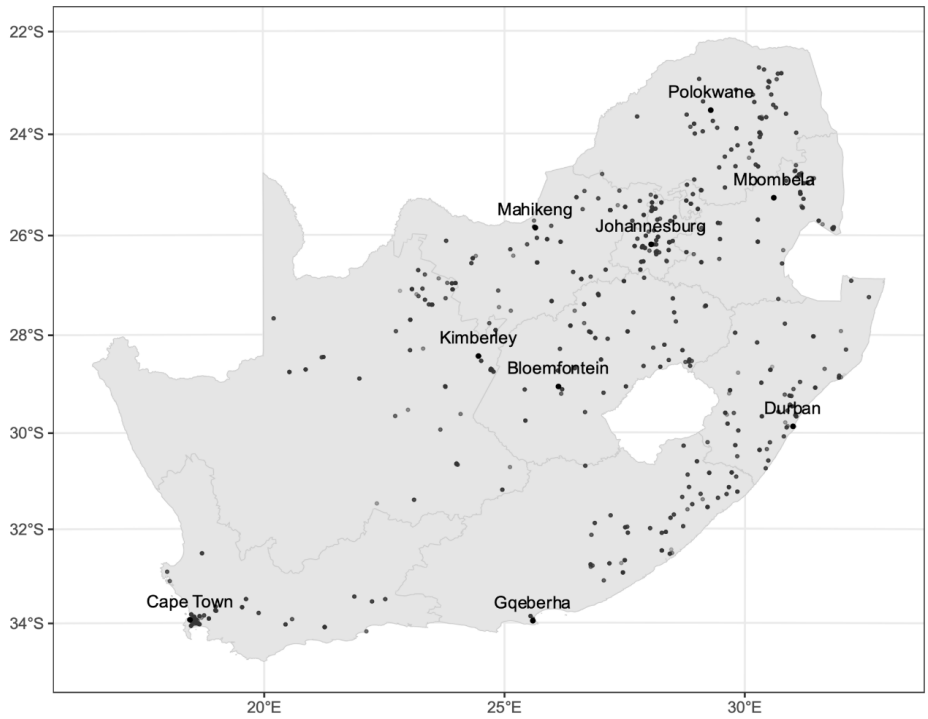
The resultant child sample consists of a representative selection of children aged 50-59 months who were enrolled in ELPs.

[60] See the ikapadata Thrive by Five Fieldwork Report (pp. 19-20)

Table 9: Study sample: breakdown by province, quintile and sex

Income Quintile	Eastern Cape N = 587	Free State N = 576	Gauteng N = 571	KwaZulu-Natal N = 575	Limpopo N = 578	Mpuma-langa N = 588	North West N = 588	Northern Cape N = 600	Western Cape N = 559	National
1	219 (37%)	244 (42%)	62 (11%)	242 (42%)	225 (39%)	180 (31%)	240 (41%)	206 (34%)	121 (22%)	1,739 (33%)
2	184 (31%)	113 (20%)	72 (13%)	126 (22%)	247 (43%)	154 (26%)	107 (18%)	152 (25%)	106 (19%)	1,261 (24%)
3	160 (27%)	132 (23%)	164 (29%)	128 (22%)	94 (16%)	116 (20%)	211 (36%)	92 (15%)	77 (14%)	1,174 (22%)
4	11 (1.9%)	37 (6.4%)	122 (21%)	43 (7.5%)	0 (0%)	80 (14%)	30 (5.1%)	68 (11%)	104 (19%)	495 (9.5%)
5	13 (2.2%)	50 (8.7%)	151 (26%)	36 (6.3%)	12 (2.1%)	58 (9.9%)	0 (0%)	82 (14%)	151 (27%)	553 (11%)
Sex	EC	FS	GAU	KZN	LIM	MPU	NW	NC	WC	National
Male	284 (48%)	278 (48%)	278 (49%)	278 (48%)	295 (51%)	284 (48%)	285 (48%)	275 (46%)	268 (48%)	2,525 (48%)
Female	303 (52%)	298 (52%)	293 (51%)	297 (52%)	283 (49%)	304 (52%)	303 (52%)	325 (54%)	291 (52%)	2,697 (52%)

Note: The numbers in this table are computed on the unweighted sample, N = 5222. The numbers may not match other totals in the report, due to missing data on some variables.



REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Figure 4: *Sample sites (black dots) for Thrive by Five Index 2021*

5. Missing data and possible data quality problems

As indicated above, we followed ikapadata's recommendation to analyse only cases that had been flagged as "valid" (except for the note regarding ELOM 4&5 Item 23 above). It is useful to note that ikapadata flagged the following issues in its report, and in its metadata:

Teacher ratings of the child's Social Relations with Peers and Adults and their Emotional Readiness for School were not obtainable for 442 children (373 of the valid cases), as the practitioner (who is supposed to complete the ratings) was not present when data was collected.

The ikapadata *Fieldwork Report* (pp. 19-20) refers to an error in the isiZulu version of one of five ELL domain items – 23 (Initial Sound Discrimination) that affected 176 cases. These were identified when imported from the ikapadata file.

For Item 23, in the practice and each of the three trials, the assessor says "*I will say three words and you will tell me which one starts with* (the initial sound of the word to be identified by the child – e.g., '*D*'). In the English version of Trial 1, the instruction is as follows: *"I will say three words and you will tell me which one starts with 'D'. BALL DOOR COW."* The correct response is *DOOR*.

In the erroneous form used early in the fieldwork by the Mpumalanga Emalahleni District Municipality team:

- The assessor instruction for the *Practice Trial* was *repeated* in *Trial 1* (of 3). This meant that these children had already been exposed to the content of this trial in the practice round and there was liable to be a practice effect resulting in a correct response and upward bias in their domain scores.
- The list of stimulus words provided by the assessor to the child in both the Practice and Trial 1 of the incorrect isiZulu form was different from that in the version that should have been used. However, the word the child

needed to identify for a correct response to the assessor's question (*Ngizosho amagama amathathu bese wena ungitshela ukuthi yiliphi eliqala ngo-'D'*?) commenced with the *same initial sound* (*'D') as that in the correct version* of Trial 1.

We considered computing the score for the 5th ELOM 4&5 domain (ELL) from the remaining two items. However, this could have resulted in scores that would not be comparable over time (one of the main aims of the Thrive by Five Index exercise). As the correct response was the same as expected for the correct isiZulu version, *we decided to retain the scores of these cases in our dataset*. Discarding them would have had significant implications, reducing the total sample for Mpumalanga to 504 cases (72 below the provincial sample target of 576).

As a result of this choice, we considered the possibility of a limited upward bias in the Mpumalanga ELL domain and on the Total ELOM 4&5 Score for the province as a consequence of practice effects noted above. To assess this, we computed the Mpumalanga scores including and excluding the problematic item. The observed differences are very small, and we do not think that the results are substantively affected. Further information on this computation is included in the Appendices.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION

Of the remaining cases that were considered invalid, it was clear that some data was missing. This was pronounced for the variables assessing children's *Emotional Readiness for School* and their *Social Relations with Peers and Adults* (373 cases, as discussed above). There were also seven missing cases for the variable recording *child's WHO Z-transformed height*, and for the stunting category variable dependent on it.

Table 10: Missing cases, per province and variable

Province	Social and emotional readiness N missing	Sample weights N missing	Height N missing	TOTAL
Eastern Cape	74			74
Free State	17	11	1	29
Gauteng	74		3	77
KwaZulu-Natal	21			21
Limpopo	2		1	3
Mpumalanga	3	48		51
North West	6	24	1	31
Northern Cape	163		1	164
Western Cape	13			13
TOTAL	373	83	7	463

Note: Final column reflects total missing per province; some cases have missing data on more than one category. The tabulation shown above is based on the sample of 5,222 cases, prior to computing the weighting variable.

The variables reflecting the ELOM 4&5 total and domain scores seemed intact, without any missing data. (Although the component items sometimes appeared to have missing data, these may be optional items, or items administered after successfully answering earlier items, but our attention was not brought to any issues regarding their completeness.)

Inspection of the pattern of missing values suggested the following patterns. For variables measuring Social and Emotional Functioning (SEF), the Northern Cape, Gauteng and Eastern Cape had 80% of the missing cases, and one may need to be cautious about considering the results reported later to be representative of SEF in those provinces. For the variable measuring height (and therefore healthy growth), the seven missing data points were spread over five provinces and are so few as to suggest little biasing effect on analyses involving height.

We considered imputation of missing data but did not think that the reason for missing data in the case of the teacher ratings of SEF could reasonably be considered missing at random (it shows clear variation across provinces, for a start), and nor could the missing data for school quintile. The missing data for height (seven cases) could perhaps satisfy this assumption, but since there were so few missing cases, excluding them in analyses would be very unlikely to bias results tangibly.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

We considered variation of scores between fieldwork teams, within quintiles, as a possible indication of adequacy of data collection. The figure below charts the difference between fieldwork teams, and there are some notable differences: between teams 5 and 6 in Mpumalanga, 11 and 12 in the Northern Cape and team 9 and the other three teams in Gauteng for quintile 2. However, there may be good reasons for differences across fieldwork teams (e.g., assignment to different geographic regions, even if of the same quintile), and the differences shown in the figure below might not reflect quality differences.

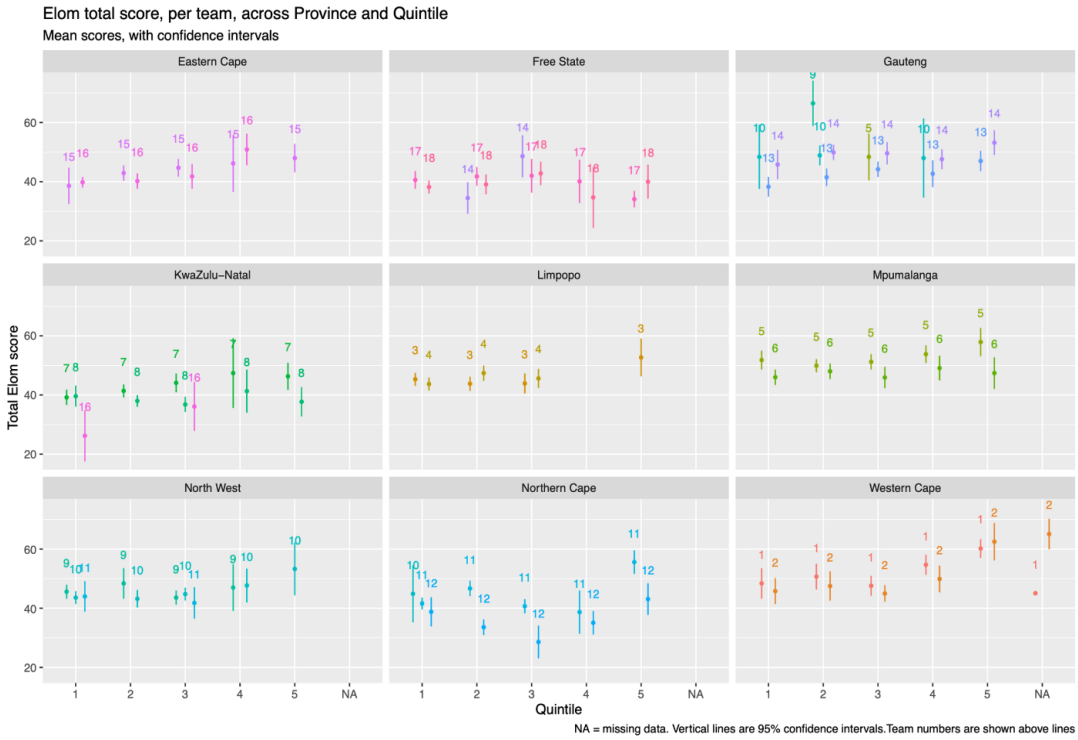


Figure 5: *Variation between rating teams within provinces*

(Note: provinces were defined for this particular analysis on the basis of the national Education Management Information System records)

Another data matter worth noting is regarding the correct variable to use for classifying an ELP's quintile status. The quintile rank system is specific to *schools* in South Africa and ELPs are not officially classified in a similar way. The quintile rank system is a valuable proxy for the wealth status of the children assessed and was used for stratification during the sampling process, as well as for disaggregation in the analysis. There are three approaches that can be used in assigning a quintile status to an ELP:

- Using the quintile status of the primary school that was used when constructing the sample (quintile_original);
- Using the quintile status of the closest primary school in the school sample used to identify clusters (quintile_sample); or
- Using the quintile status of the closest school in the DBE 2021 Masterlist data (quintile_natemis).

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

The research team decided to use the quintile status of the primary schools that was used to construct the sample (quintile_original) for both the construction of the weights, as well as for disaggregation. For the construction of weights, the quintile_original variable is most appropriate because it determined the probability of an ELP having been sampled. For disaggregation, the variable quintile_original was deemed the most conservative choice of classification to use, since it will not introduce any additional measurement error that cannot be accounted for (for example, the closest school being in a typical quintile 5 area, while the ELP is in a neighbouring Q3 area)[61].

[61] Note that in the modelling of Elom total scores reported later in the report we use quintile_natemis instead of quintile_original. Our investigations prior to the constructions of sample weights led us to conclude that this quintile variable is best for modelling purposes, and since the modelling does not use weighted data, we kept it for the modelling in preference.

Findings

1. Introduction

It is most important to recognise that the data used in these analyses was collected between September and November 2021. The Covid-19 pandemic significantly affected the ECD service sector over the two-year period preceding this data collection. Closures of ELPs during various lockdown periods in 2020 and 2021 significantly disrupted the amount of programme participation possible for the cohort of children of interest here. In addition, crèches and preschools were subject to standard operating procedures required by the DSD to manage risks of infection.

The impact of the pandemic and associated changes to the daily programmes of ELPs have likely changed the nature of children's experience in several ways and in all probability reduced the amount of benefit they might normally have gained. In addition, for all children, but particularly those in the lower three school quintiles, the impact of the pandemic on livelihoods, household resources and caregiver wellbeing has likely impacted on their nutritional intake, health and development.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

As a result, one cannot regard the findings that follow as reflecting children's development under normal societal conditions. However, as we do not have representative data on the pre-pandemic population of children under 5 years of age, we cannot say the extent to which these findings represent a "Covid-19" effect. That judgement must await comparison with future survey rounds.

Findings are reported for each of our study questions at national level and then for each province. Unless indicated, these are stratified by sex and, in the case of the national samples, the primary school quintile along which it was stratified.[62] We do not report provincial level ELOM 4&5 scores by quintile, as there are too few cases in some quintiles in certain provinces, and scores would therefore be imprecise.

As noted in the Method section of this report, the sample was weighted to take account of variations in the child populations in each school quintile, and in each province, and using the Grade 3 enrolment in each school to estimate the population size corresponding to the clusters of ELP sites sampled. Weighting allows us to interpret our results as roughly representative for each province and the nation.

Colours are used throughout to indicate percentages of children in each ELOM 4&5 band, using the following key:



Figure 6: *Colour-coded key for figures*

[62] Early Learning Programmes in South Africa are not classified by quintiles, but given our sampling strategy we will be referring to ELPs as quintile 1-5 ELPs based on their stratification.

Percentages of children in each ELOM 4&5 band are also indicated on the frequency histograms that are used to report distributions of scores. (For instance, for ELOM 4&5 Total Score, the percentage of children nationally who are *Falling Far Behind* is 28.3%.) Each frequency histogram has an estimated (Gaussian kernel) density curve overlaid, but the bandwidth is kept constant, and should be considered only a rough estimate.

Descriptive statistics are reported for the ELOM 4&5 Total Score (mean, SD, median and the 10th (p_10) and 90th (p_90) percentile points).

2. Early Learning - national outcomes

Question 1: For learning outcomes overall (the ELOM 4&5 Total Score), what proportion of children are *On Track* (green), *Falling Behind* (yellow) and *Falling Far Behind* (red)?

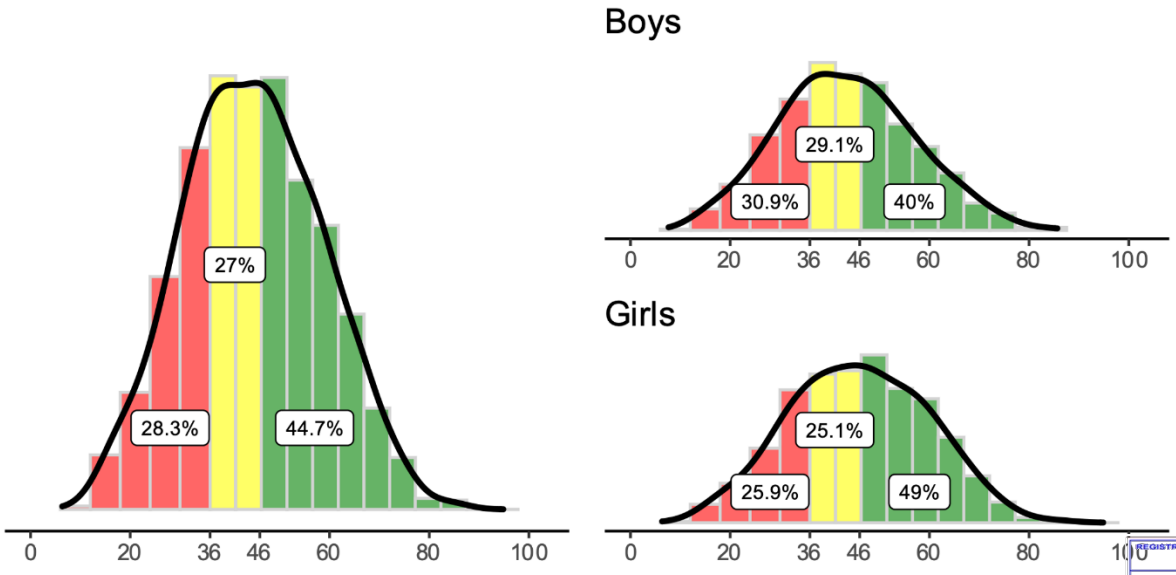
2.1. Total ELOM



Table 11: National: Descriptive statistics for Total ELOM 4&5 Score

_	Mean	SD	SE	Median	p_10	p_90	N
Total	44.62	13.74	0.45	44.39	26.94	63.14	5,139
Boys	43.30	13.50	0.51	43.01	25.95	61.55	2,486
Girls	45.86	13.85	0.53	45.97	28.12	64.51	2,653
Quintile 1	42.68	13.27	0.74	41.31	25.88	59.99	1,727
Quintile 2	44.21	13.51	0.78	44.04	26.59	62.41	1,250
Quintile 3	44.19	13.16	0.74	44.65	27.26	61.55	1,144
Quintile 4	45.39	14.36	1.41	45.29	26.72	65.04	495
Quintile 5	49.30	14.66	1.57	50.50	30.39	67.22	523

Note: The Total ELOM 4&5 Score ranges in theory from 0 to 100, but the minimum and maximum observed scores in this sample were 6.37 and 94.86.



REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Figure 7: *National: Frequency distributions, with density curves overlaid, for Total ELOM 4&5 Score, separated by sex*

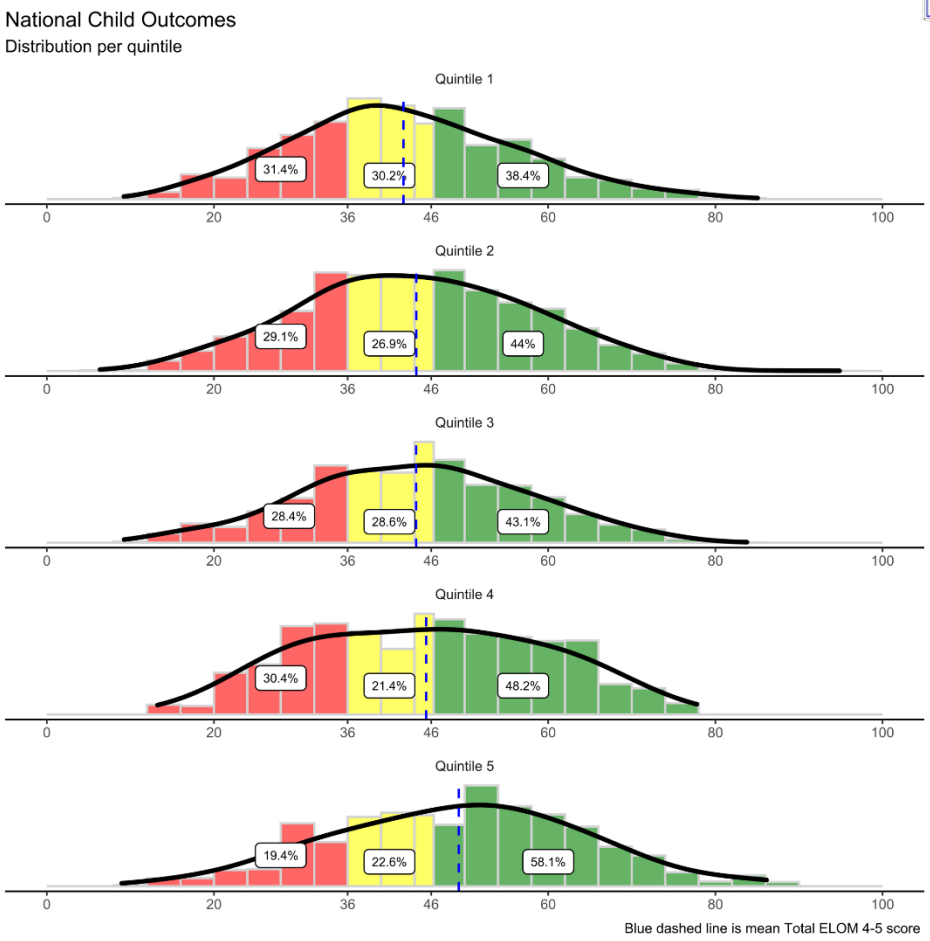


Figure 8: *National: Frequency distributions, with density curves overlaid, for Total ELOM 4&5 Score, separated by quintile*

A child's performance on each item in each of the five ELOM 4&5 domains is awarded a raw score, which is then transformed into a scaled score. In each domain, Item scaled scores are summed to provide a domain scaled score out of 20. In theory, scores for each ELOM domain range from 0-20, while the Total ELOM 4&5 Score ranges from 0-100. Thus, a mean score of 44.62 for the Total ELOM 4&5 should be considered a score of 44.62 out of a possible 100. The five domain scores are then summed to produce the ELOM 4&5 Total scaled score out of 100. Only scaled scores are used in analyses conducted for this report. Further information is available in the ELOM Technical Manual.

Table 11 shows that at the national level:

- The mean ELOM 4&5 Total Score is 44.62 (SD = 13.74).
- Girls perform better than boys with mean scores of 45.86 (SD = 13.85) and 43.30 (SD = 13.50) respectively. This 2.5 point difference represents a sex difference of approximately 20% of an SD, which is small but notable.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

ELOM 4&5 Total Scores are approximately normally distributed. Differences exist between the proportions of children who are *On Track* (for achieving the ELOM 4&5 standard), *Falling Behind* and *Falling Far Behind* the expected standard. As can be seen in **Figure 7**:

- Nationally, 44.7% of children's development is *On Track*, while 27% are *Falling Behind* the expected standard and a further 28.3% are *Falling Far Behind* the standard.
- Overall, girls are performing better than boys, with nearly half *On Track* and 25.9% *Falling Far Behind*, while only 40% of boys are *On Track* and 30.9% are *Falling Far Behind*. This trend is also evident in four of the five ELOM 4&5 learning domains, as is discussed below.

As is expected, performance on the ELOM 4&5 improves significantly from lower to higher quintiles. **Table 11** shows:

- Children in quintile 1 ELPs score on average 42.68 (SD = 13.27), while those in quintile 5 programmes score almost 7 points higher with an average of 49.3 (SD = 14.66). This is a statistically significant difference and represents a medium-sized effect (Cohen's d = 0.47).[63]
- 58.1% of quintile 5 children are *On Track* (achieving the ELOM 4&5 standard), and only 19.4% are *Falling Far Behind*, compared with 38.4% of quintile 1 children who are *On Track* and 31.4% who are *Falling Far Behind* the standard.

There is substantive variation in performance across quintiles, as well as there being clear differences between boys and girls favouring the latter.

The following table and figure condense the national picture into a single index of performance.

[63] Cohen (1977, p.24): A Cohen's d value of 0.2 to .49 is considered a "small" effect size, 0.5 to .79 is considered "medium" and 0.8 or greater is a "large" effect size. Cohen, J. (1977). *Statistical power analysis for the Behavioral Sciences*, Revised Edition. Academic Press: New York. Note that while Cohen's values are commonly used, they are not universally accepted.

This composite indicator describes the proportions of children *On Track* for growth and achieving the ELOM 4&5 standard. It includes three categories:

1. Children who **Thrive by Five:** These children are *On Track* for both Early Learning and physical growth.
2. Children who face **Barriers to Thriving:** These children are *On Track* in only one of these areas - either learning or growth.
3. Children who face **Significant Barriers to Thriving:** These children are not *On Track* for both Early Learning and growth.

Table 12*:* Composite Indicator (Learning and Growth)

Indicator status	Percentage	95% lower CI	95% upper CI
Thriving by Five	42.95%	40.24%	45.66%
Barriers to Thriving	53.13%	50.46%	55.80%
Significant barriers to Thriving	3.92%	3.11%	4.73%

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

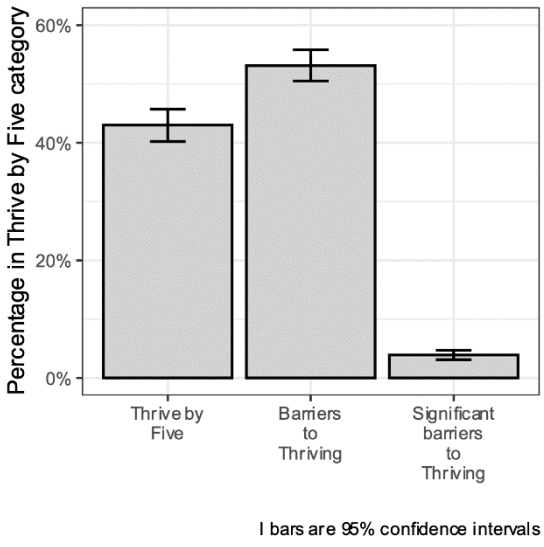


Figure 9: *Index figure for Total ELOM 4&5 Score*

The Thrive By Five Index table and figure can also be shown for quintiles, where quintiles are grouped into quintiles 1-3 (no-fee school clusters) and quintiles 4-5 (since they do not seem to differ much within those ranges on the Total ELOM 4&5 Score, but do differ between ranges).

Table 13: Composite Indicator, per quintile groups

Quintile group	Indicator status	Percentage	95% lower CI	95% upper CI
Quintiles 1-3	Thriving by Five	40%	37.2%	42.8%
Quintiles 1-3	Barriers to Thriving	55.7%	52.9%	58.6%
Quintiles 1-3	Significant Barriers to Thriving	4.3%	3.4%	5.2%
Quintiles 4-5	Thriving by Five	52.4%	45.8%	59%
Quintiles 4-5	Barriers to Thriving	44.9%	39%	50.7%
Quintiles 4-5	Significant Barriers to Thriving	2.8%	0.8%	4.7%

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

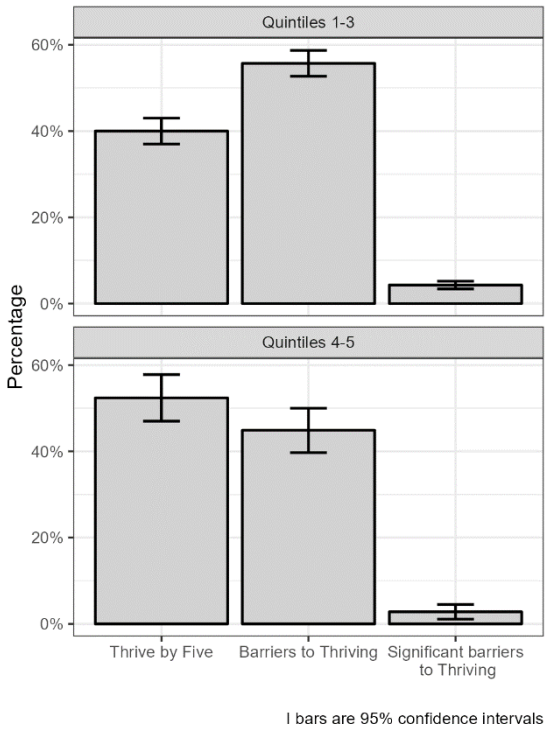


Figure 10: *Index figure for Total ELOM 4&5 Score, per quintile groups*

Question 2: For each of the five ELOM 4&5 learning domains, what proportion of children are *On Track* (green), *Falling Behind* (yellow) and *Falling Far Behind* the standard (red)?

Standard scores for all ELOM 4&5 domains range from 0-20.

2.2. Gross Motor Development

Table 14: *National: Descriptive statistics for Gross Motor Development (score out of 20)*

_	Mean	SD	Median	p_10	p_90	n
Total	8.22	3.91	8.16	2.91	12.97	5,139
Boys	8.28	3.87	8.27	2.91	12.97	2,486
Girls	8.16	3.95	7.75	2.91	12.97	2,653
Quintile 1	8.10	3.78	7.68	2.91	12.92	1,727
Quintile 2	8.25	3.93	8.16	2.91	12.97	1,250
Quintile 3	8.49	3.85	8.67	3.43	12.97	1,144
Quintile 4	8.17	4.06	8.27	2.91	13.70	495
Quintile 5	7.80	4.05	7.60	2.36	12.97	523

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

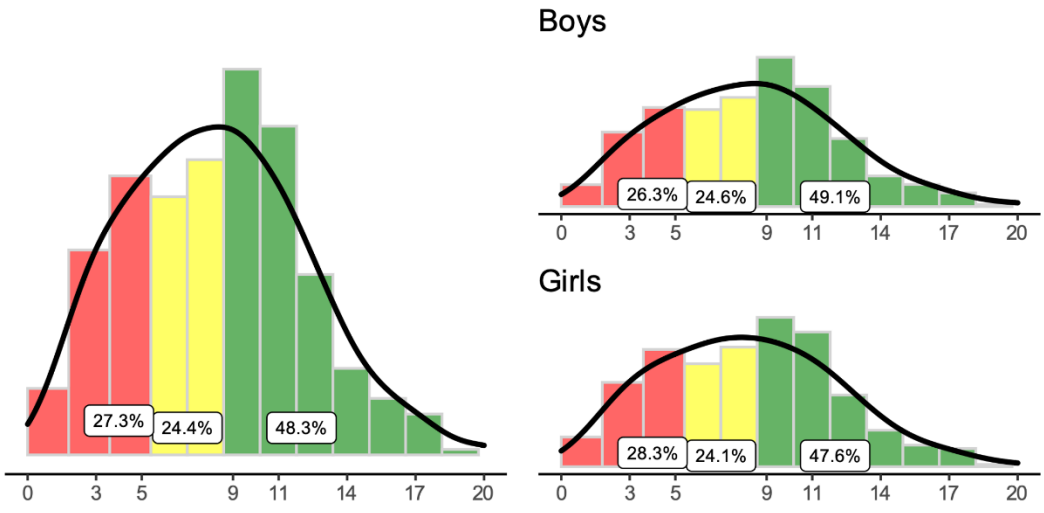
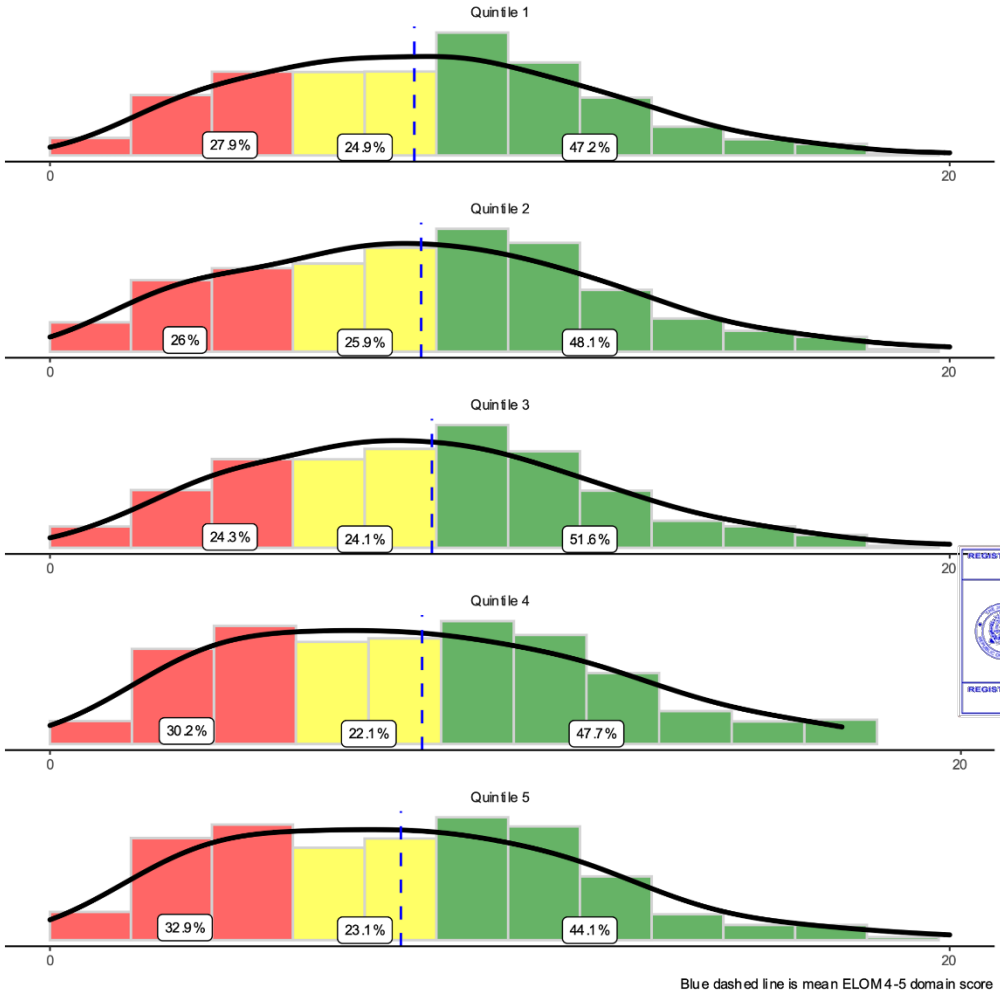


Figure 11: *National: Frequency distributions, with density curves overlaid, for Gross Motor Development, separated by sex*



REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Figure 12: *National: Frequency distributions, with density curves overlaid, for Gross Motor Development, separated by quintile*

A score of 8.60 must be achieved to meet the standard for GMD.

- GMD scores have a fairly narrow range across both sex and quintile, with a mean score of 8.22 and SD of 3.91 out of a possible 20 points.
- The distribution of scores is somewhat symmetrical, with a slight skew. ELOM 4&5 bands follow this trend, with 48.3% of children *On Track*, 24.4% *Falling Behind* and 27.3% *Falling Far Behind*.
- Only a slight sex difference is apparent for this domain. The score distributions are similar for boys and girls, with boys scoring slightly higher.
- Some slight differences are apparent across quintiles, with quintile 5 children perhaps scoring slightly lower than the other quintiles.

2.3. Fine Motor Coordination and Visual Motor Integration

Table 15: *National: Descriptive statistics for Fine Motor Coordination and Visual Motor Integration (out of 20)*

_	Mean	SD	SE	Median	p_10	p_90	n
Total	11.01	3.57	0.10	10.73	6.52	16.38	5,139
Boys	10.51	3.47	0.11	10.72	5.86	15.85	2,486
Girls	11.48	3.60	0.12	11.27	6.53	16.50	2,653
Quintile 1	10.53	3.60	0.19	10.29	5.86	15.96	1,727
Quintile 2	10.86	3.51	0.15	10.73	6.52	16.27	1,250
Quintile 3	10.80	3.35	0.18	10.73	6.23	15.41	1,144
Quintile 4	11.50	3.61	0.29	11.27	6.52	16.50	493
Quintile 5	12.22	3.73	0.34	11.92	6.95	17.06	523

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

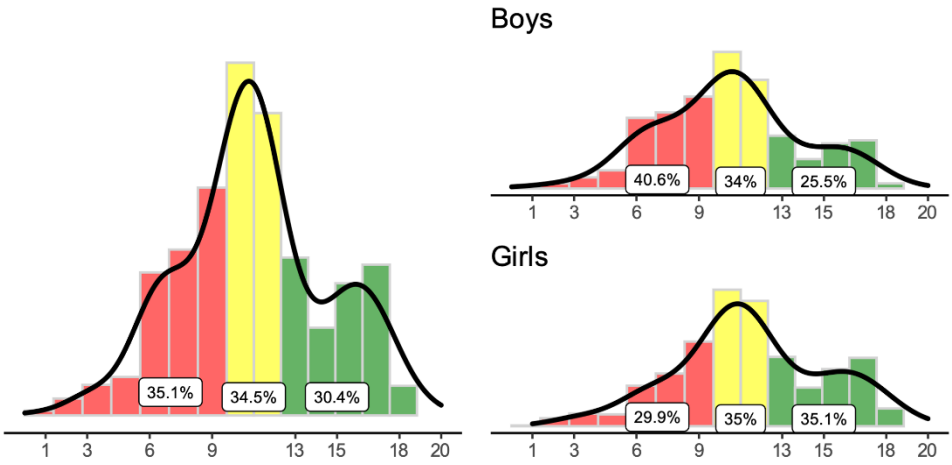
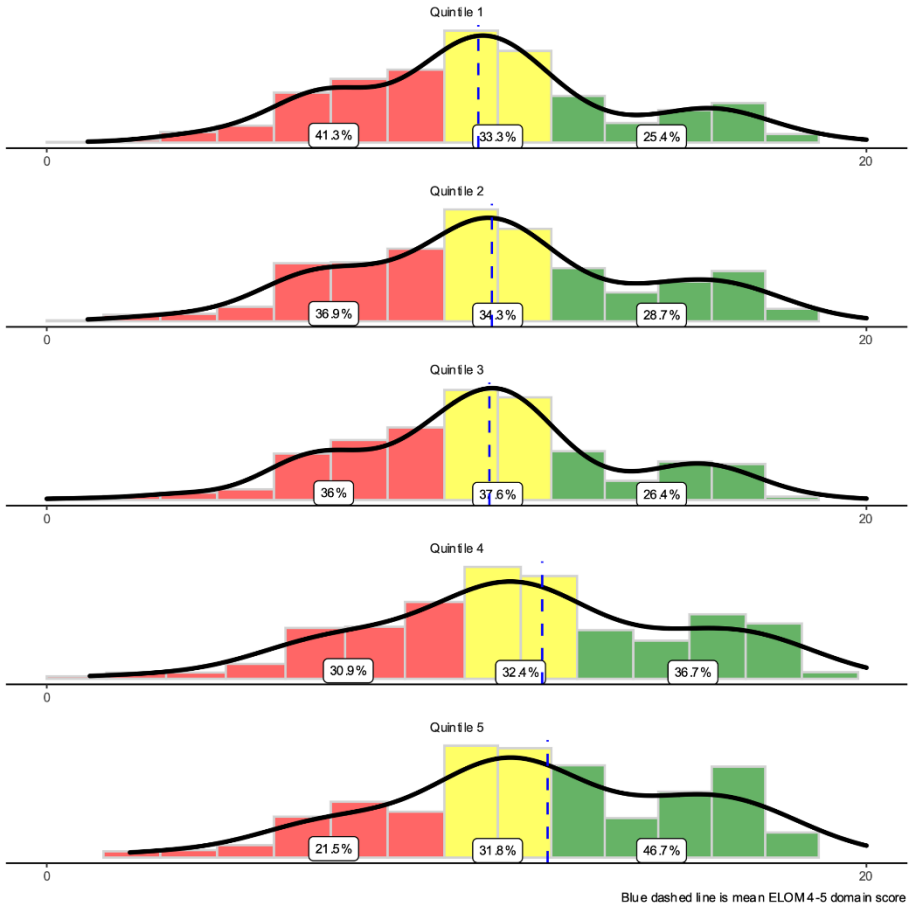


Figure 13: *National: Frequency distributions, with density curves overlaid, for Fine Motor Coordination and Visual Motor Integration, separated by sex*



REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Figure 14: *National: Frequency distributions, with density curves overlaid, for Fine Motor Coordination and Visual Motor Integration, separated by quintile*

A score of 12.32 must be achieved to meet the standard for FMC-VMI.

- Across the sample, the mean score for this domain is 11.01 (SD = 3.57).
- Boys score lower, with a mean of 10.51 (SD = 3.47), whereas girls score higher, with a mean of 11.48 (SD = 3.60). This is a fairly small difference (Cohen's d = 0.27).
- FMC-VMI mean scores show a social gradient, increasing from 10.53 (SD = 3.60) in quintile 1 children to 12.22 (SD = 3.73) in quintile 5 children.

There is a notable difference in the distribution of ELOM 4&5 bands between boys and girls and between quintiles:

- Girls fare better than boys with 35.1% *On Track* and 29.9% *Falling Far Behind*, while 25.5% of boys are *On Track* and as many as 40.6% are *Falling Far Behind*.
- Children in quintile 1 demonstrate a much greater chance of *Falling Far Behind* (41.3%), with only 25.4% being *On Track*, compared with those in quintile 5 (21.5% *Falling Far Behind*, while 46.7% are *On Track*).

2.4. Emergent Numeracy and Mathematics

Table 16: *National: Descriptive statistics for Emergent Numeracy and Mathematics (score out of 20)*

_	Mean	SD	SE	Median	p_10	p_90	n
Total	7.92	3.78	0.12	7.92	2.65	13.46	5,139
Boys	7.69	3.69	0.14	7.66	2.65	12.53	2,486
Girls	8.14	3.84	0.15	7.92	2.65	13.57	2,653
Quintile 1	7.61	3.74	0.22	7.66	2.65	12.34	1,727
Quintile 2	8.10	3.69	0.17	7.92	3.47	13.57	1,250
Quintile 3	7.76	3.70	0.23	7.69	2.38	12.43	[illegible]
Quintile 4	7.86	3.93	0.35	7.81	2.38	13.57	495
Quintile 5	8.59	3.92	0.37	8.26	3.80	13.69	521

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

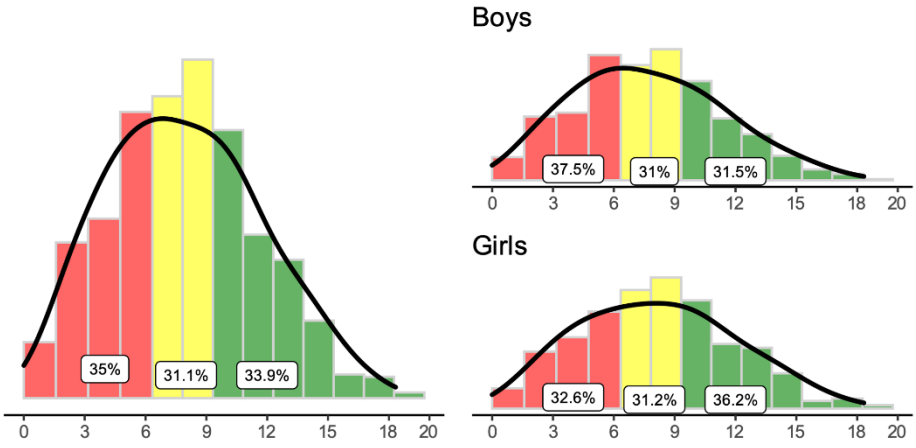
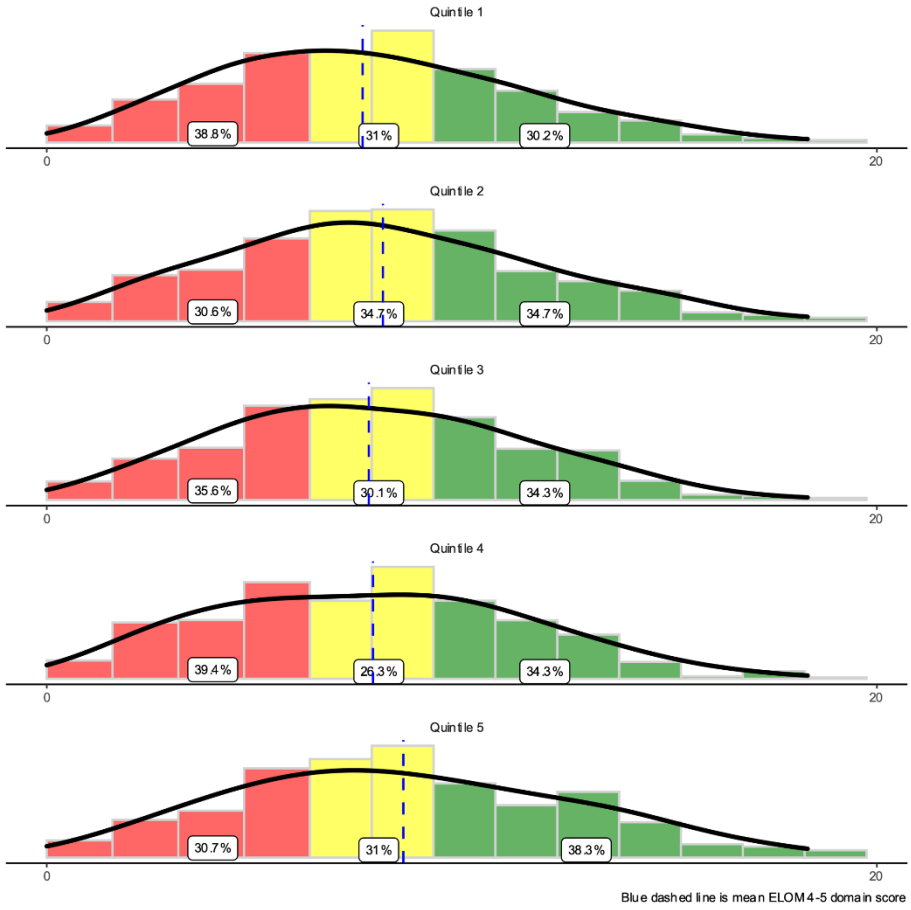


Figure 15: *National: Frequency distributions, with density curves overlaid, for Emergent Numeracy and Mathematics, separated by sex*



REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Figure 16: *National: Frequency distributions, with density curves overlaid, for Emergent Numeracy and Mathematics, separated by quintile*

A score of 9.30 must be achieved to meet the standard for ENM. A similar general pattern to that for the Total ELOM 4&5 Score distribution is evident in some respects:

- The mean score in this domain for the whole sample is 7.92 (SD = 3.78).
- Overall, 33.9% of children achieve the ENM standard and are *On Track*. Of some concern, given the influence of this domain on later school performance, is that 31.1% are *Falling Behind* and 35% are *Falling Far Behind*; 66.1% of children do not meet the standard.
- Once again, boys score lower, with a mean of 7.69 (SD = 3.69), whereas girls score higher, with a mean of 8.14 (SD = 3.84). This difference is very small (Cohen's d = 0.12). A greater proportion of girls are *On Track* (36.2%), while 32.6% are *Falling Far Behind*; 31.5% of boys are *On Track* and 37.5% are *Falling Far Behind*.
- As with the Total ELOM 4&5 Scores, a social gradient is evident in this domain, with the mean for quintile 1 children = 7.61 (SD = 3.74) and that for quintile 5 children = 8.59 (SD = 3.92). It also seems as if the advantage in this domain is only at the top end of the income distribution (quintile 5), with children in quintile 4 performing very similarly to children in quintiles 2 and 3.

- Note the large SD in relation to the mean scores here, which indicates considerable variation *between individuals*. In particular, the difference between the mean scores for boys and girls is much smaller than the differences *within* the samples of boys and girls.

2.5. Cognition and Executive Functioning

Table 17: *National: Descriptive statistics for Cognition and Executive Functioning (score out of 20)*

_	Mean	SD	SE	Median	p_10	p_90	n
Total	6.95	4.01	0.12	6.48	2.11	12.77	5,139
Boys	6.67	3.96	0.13	6.29	2.11	12.61	2,486
Girls	7.23	4.03	0.15	6.63	2.26	12.77	2,653
Quintile 1	6.33	3.78	0.20	6.05	2.11	11.75	1,727
Quintile 2	6.67	3.87	0.20	6.29	2.11	11.75	1,250
Quintile 3	6.73	3.85	0.21	6.29	2.11	12.61	1,144
Quintile 4	7.53	4.05	0.29	7.05	2.26	12.84	495
Quintile 5	8.64	4.44	0.54	8.24	3.11	15.12	523

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

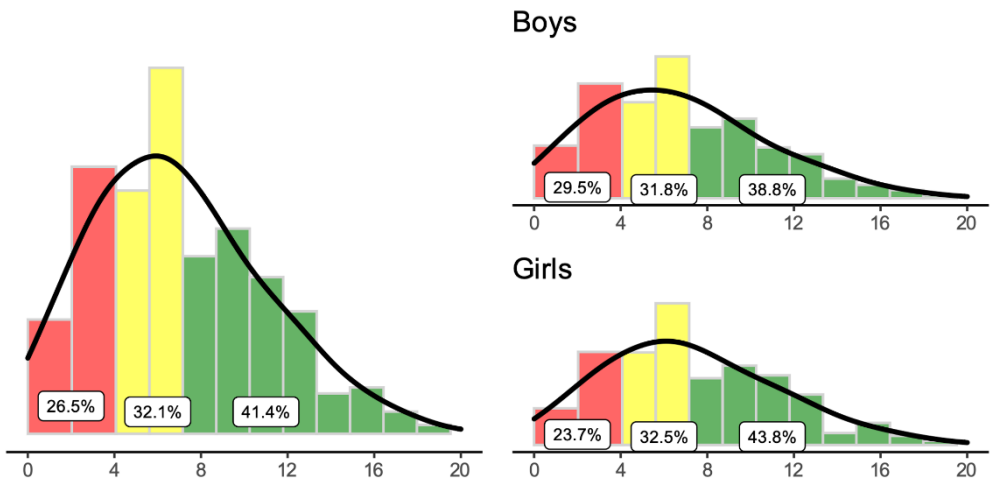
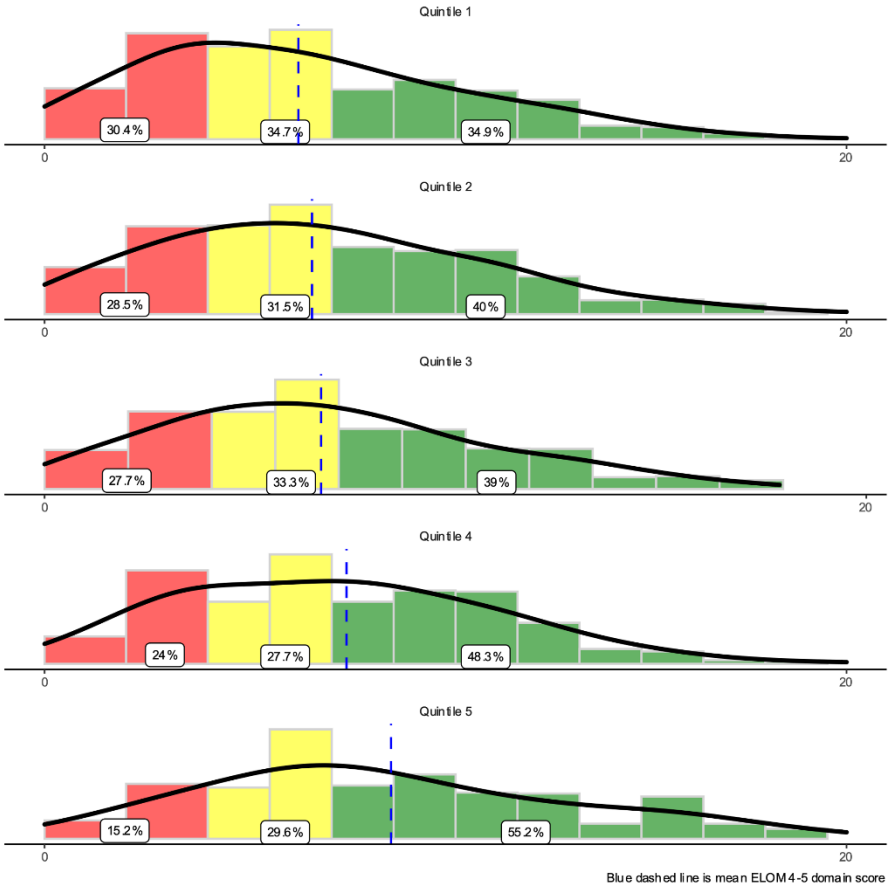


Figure 17: *National: Frequency distributions, with density curves overlaid, for Cognition and Executive Functioning, separated by sex*



REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Figure 18: *National: Frequency distributions, with density curves overlaid, for Cognition and Executive Functioning, separated by quintile*

A score of 7.17 must be achieved to meet the standard for CEF. Overall, scores are relatively low, but many children are *On Track*, particularly those in quintile 4 and 5 ELPs.

- On average, children score only 6.95 (SD = 4.01) out of a possible 20.
- Again, we see a sex difference, with girls outperforming boys. Girls achieve a mean CEF score of 7.23 (SD = 4.03), with 43.8% of the sample *On Track* and 23.7% *Falling Far Behind*. Boys, on the other hand, achieve a mean score of 6.67 (SD = 3.96, Cohen's d = 0.14), but only 38.8% are *On Track*, 31.8% are *Falling Behind* and 29.5% are *Falling Far Behind*.

Quintile differences are also apparent:

- A very steep social gradient is evident for this domain. Average CEF scores increase from 6.33 (SD = 3.78) for quintile 1 children to 8.64 (SD = 4.44) for quintile 5 children. Here, attention should be paid to the large SDs within quintiles, which indicate large variation in individual scores within quintiles.
- Children in quintile 1 have a greater chance of *Falling Far Behind* (30.4%), with only 34.9% *On Track* and achieving the standard.
- In quintile 5 children, only 15.2% are *Falling Far Behind*, 29.6% are *Falling Behind* and a fairly high 55.2% are *On Track* to meet the expected standards for CEF.

2.6. Emergent Literacy and Language

Table 18: *National: Descriptive statistics for Emergent Literacy and Language*

_	Mean	SD	SE	Median	p_10	p_90	n
Total	10.53	4.45	0.13	10.60	4.87	16.66	5,139
Boys	10.16	4.39	0.16	10.47	4.66	16.30	2,486
Girls	10.87	4.48	0.15	10.93	4.87	16.78	2,653
Quintile 1	10.11	4.36	0.23	10.39	4.66	16.09	1,727
Quintile 2	10.33	4.38	0.23	10.47	4.87	16.65	1,250
Quintile 3	10.41	4.35	0.23	10.60	4.87	16.65	1,14[illegible]
Quintile 4	10.34	4.59	0.42	10.47	4.87	16.66	495
Quintile 5	12.05	4.56	0.48	12.67	5.91	18.28	523

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

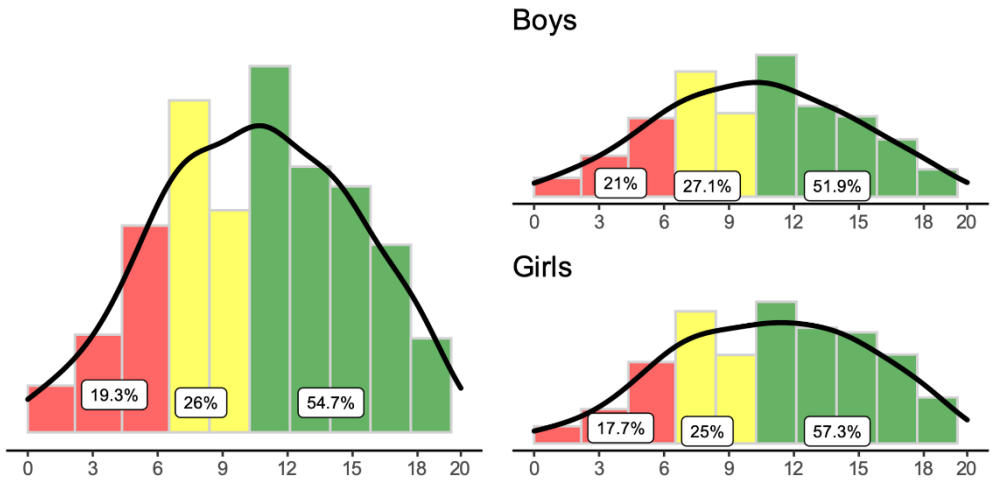
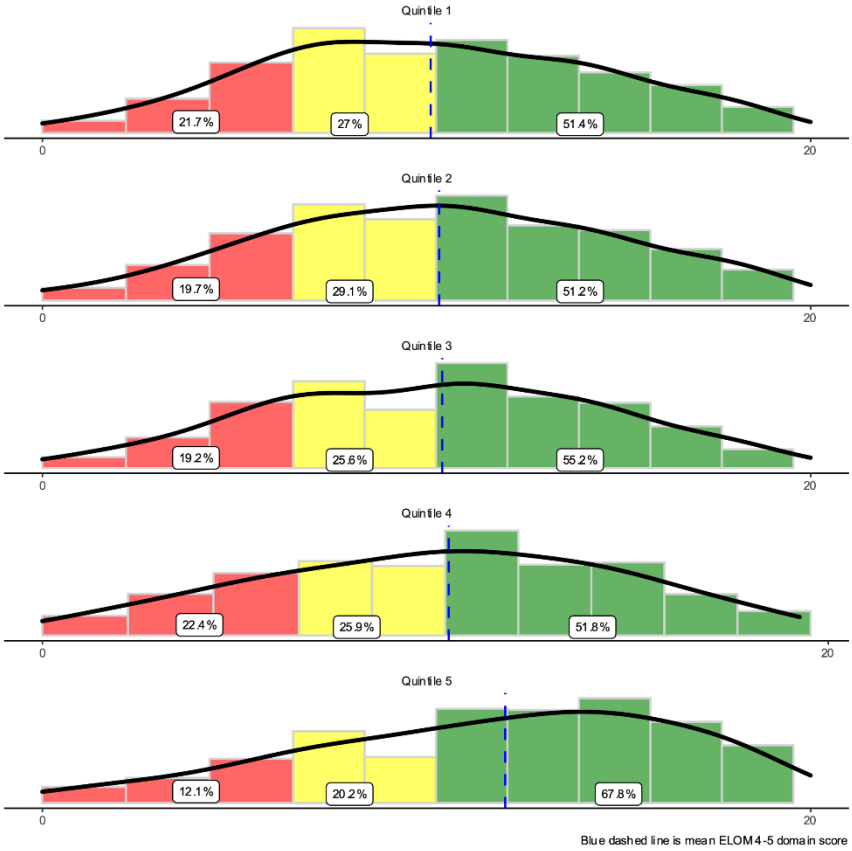


Figure 19: *National: Frequency distributions, with density curves overlaid, for Emergent Literacy and Language, separated by sex*



REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Figure 20: *National: Frequency distributions, with density curves overlaid, for Emergent Literacy and Language, separated by quintile*

A score of 10.26 must be achieved to meet the standard for ELL.

Children performed relatively well on the ELL domain:

- The difference between girls and boys is quite small and the mean score is 10.53 (SD = 4.45). Boys scored a mean of 10.16 (SD = 4.39) and girls scored a mean of 10.87 (SD = 4.48).

The ELL scores show the expected pattern across quintiles:

- The mean for quintile 1 children is 10.11 (SD = 4.36), increasing to a mean of 12.05 (SD = 4.56) for quintile 5 children. This is a medium-sized effect (Cohen's d = 0.43).

The distribution of ELOM 4&5 bands is promising for this domain:

- Overall, 54.7% are *On Track* (57.3% of girls and 51.9% of boys), and only 19.3% are *Falling Far Behind* (17.7% of girls and 21% of boys).
- As is expected, children in quintile 1 demonstrate a greater chance of *Falling Far Behind* (21.7%, but with 51.4% *On Track*), while in quintile 5 there are 12.1% *Falling Far Behind* and a substantial 67.8% of children are *On Track*.

In sum, analysis of ELOM 4&5 Total Scores in this study shows that the development of *less than 50%* of South African children attending known ELPs is *On Track*. In line with the international literature, *girls outperform boys*, with 9% more *On Track* and achieving the ELOM 4&5 standard. Apart from the GMD domain, in which boys tend to outperform girls, this pattern remains in the other domains. A social gradient is evident across the board, with children in the higher quintiles outperforming the rest.

Poor performance in domains related to later school achievement is of considerable concern – particularly for those children in lower quintiles. That said, there is considerable interindividual variation in performance on the ELOM 4&5, with the development of a proportion of children in all five quintiles being *On Track* in Early Learning domains.

3. Social and emotional functioning

Question 3: What proportion of children meet the expected score for Social Relations with Peers and Adults?

The table and figures below address this question, disaggregated by sex.



3.1. Social relations

Table 19: National: Social Relations

_	Don't meet standard	Meet standard	Lower 95% CI[64] limit	Upper 95% CI limit
Total	27.5%	72.5%	69.5%	75.5%
Boys	32.4%	67.6%	64%	71.1%
Girls	22.8%	77.2%	74.1%	80.3%

Nationally:

- 72.5% meet the expected score for Social Relations with Peers and Adults, whereas 27.5% do not.
- Girls are more likely to meet this standard (77.2%) than boys (67.6%).

For this domain, we don't see the same socio-economic gradient playing out as we do in the learning domains, and *fewer* children from quintiles 4 and 5 achieve the expected score.

Question 4: What proportion of children meet the expected score for their Emotional Readiness for School?

The table and figures provide results for this question, disaggregated by sex.

[64] CI = confidence interval.

3.2. Emotional readiness

Table 20: National: emotional readiness

_	Don't meet standard	Meet standard	Lower 95% CI limit	Upper 95% CI limit
Total	33.4%	66.6%	64.2%	69.0%
Boys	37.3%	62.7%	59.5%	65.9%
Girls	29.7%	70.3%	67.6%	73.0%

Nationally:

- 66.6% of children meet the expected score for Emotional Readiness for School, while 33.4% do not
- Girls are more likely to meet this standard (70.3%) than boys (62.7%).

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

3.3. Social relations and emotional readiness (combined)

We have created a composite score of social and emotional functioning which combines social relations and emotional readiness. Social relations and emotional readiness were each converted to a score out of 12 and then summed to compute a new score out of 24. The resulting combined variable is labelled "Social-Emotional Functioning". The table below reports the distribution at the national level.

Table 21: National: Social-Emotional Functioning

_	Mean	SD	Median	p_10	p_90	n
Total	19.20	3.93	20.0	14.0	24.0	5,139
Boys	18.74	4.05	19.5	13.5	24.0	2,486
Girls	19.63	3.76	20.5	14.5	24.0	2,653

Nationally:

- Children score 19.2 out of 24 on the combined socio-emotional variable.
- Girls score slightly higher than boys.
- Children in different quintiles score similarly, with a narrow range of scores between 18.8 and 19.4.

4. Physical growth (height-for-age)

Question 5: What proportion of children demonstrate normal growth, moderate stunting and severe stunting?

Table 22: National: Physical Growth

	Severely Stunted	Moderately Stunted	Normal HFA[65]	Lower 95% CI limit	Upper 95% CI limit
Total	0.53%	5.12%	94.36%	93.40%	95.31%
Boys	0.36%	5.09%	94.56%	93.27%	95.84%
Girls	0.69%	5.15%	94.17%	92.98%	95.36%
Q 1	0.68%	5.45%	93.87%	92.18%	95.56%
Q 2	0.45%	5.75%	93.80%	92.00%	95.60%
Q 3	0.29%	5.70%	94.02%	91.94%	96.10%
Q 4	0.77%	3.95%	95.29%	91.25%	99.32%
Q 5	0.70%	3.10%	96.21%	94.26%	98.16%

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Table 23: Provinces: Physical Growth

	Severely Stunted	Moderately Stunted	Normal HFA	Lower 95% CI limit	Upper 95% CI limit
Eastern Cape	0.74%	9.24%	90.02%	87.10%	92.94%
Free State	0.90%	6.98%	92.13%	89.24%	95.01%
Gauteng	0.48%	5.19%	94.33%	91.33%	97.33%
KwaZulu-Natal	0.05%	1.90%	98.05%	96.97%	99.14%
Limpopo	1.00%	6.49%	92.51%	90.19%	94.82%
Mpumalanga	0.51%	2.83%	96.66%	94.85%	98.48%
North West	0.13%	5.71%	94.16%	92.21%	96.11%
Northern Cape	0.30%	6.01%	93.69%	90.92%	96.45%
Western Cape	0.86%	4.38%	94.77%	92.46%	97.08%

[65] It is useful to note that the WHO defines severe stunting as being when normalised HFA < -3SD (i.e., ZHFA < -3), and stunting as being when normalised HFA < -2SD (i.e., ZHFA < -2). Rough translations of these into expected percentages would mean that in a normal population we would expect 0.44% to be severely stunted and 5.4% to be stunted. Note that we do not show results here for the category 'mild stunting', but see the modelling section later in the report.

The WHO-reference standard (HFAZ) was computed for the sample.

Nationally:

- 94.36% of children are of normal HFA.
- 5.12% have moderately stunted growth, and 0.53% are severely stunted.
- Overall, one in eighteen children in this study is identified as potentially having long-term malnutrition.
- More children have stunted or severely stunted growth in the lower quintiles than upper quintiles.

Provincially:

- Children's health and development is most compromised in those who reside in the Eastern Cape, where 9.9% of children are either stunted or severely stunted, and the Free State and Eastern Cape (at least 7.49% in both provinces). Rates of severe stunting are highest in Limpopo, with 1% of children being severely stunted.
- KwaZulu-Natal shows that 98.05% of children have normal HFA.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Thrive by Five stunting rate is considerably lower than the 27% reported for the under-five population in the 2016 South African Demographic and Health Survey (Hall et al., 2019). [66] As only children aged between 50 and 59 months were measured in the present study, the findings may not be directly comparable.

However data from the South African National Income Dynamics Study (NIDS) provides some comparison. Over five waves of the study (2008-2017), the rate for children under three years varies from 16 to 18 per cent while that for 4-6 year olds ranges from 10 to 13 per cent.

Both local and international studies show degrees of growth recovery ('catch-up') between infancy and toddlerhood and age five. Both the NIDS and the Birth to Twenty Cohort study findings provide evidence of substantial catch-up growth through early childhood (Casale, 2016; Desmond & Casale, 2017; Casale 2020) [67]. The Young Lives study findings from four low-and-middle income countries shows that between 27 and 40 per cent of children recover from stunting at 12 months by age five (Benny Boyden & Penny, 2018) [68].

---

[66] Hall, K., Sambu, W., Almeleh, C., Mabaso, K., Giese, S., & Proudlock, P. (2019). South African Early Childhood Review 2019. Cape Town: Children's Institute, University of Cape Town and Ilifa Labantwana. https://ilifalabantwana.co.za/sa-early-childhood-review-2019/

[67] Casale, D. and Desmond, C. (2016) Recovery from stunting and cognitive outcomes in young children: evidence from the South African Birth to Twenty Cohort Study. Journal of Developmental Origins of Health and Disease 7: 163-171. Casale, D. (2016). Analysing the links between child health and education outcomes: Evidence from NIDS Waves 1-4. Cape Town: SALDRU, University of Cape Town. SALDRU Working Paper Number 179/ NIDS Discussion Paper 2016/6. Casale, D. (2020). Recovery from stunting in early childhood and subsequent schooling outcomes: Evidence from NIDS Waves 1–5, Development Southern Africa, 37:3, 483-500, DOI: 10.1080/0376835X.2020.1715790.

[68] Benny, L., Boyden, J., &, Penny, M. (2018) Early is best but it's not always too late: Evidence on nutrition and growth from the Young Lives study in Ethiopia, India, Peru and Vietnam, Summative Report. Oxford: Young Lives. https://assets.publishing.service.gov.uk/media/5b9a8b6040f0b6788dda2bc5/Nutrition_and_Growth_Summative_Report_June_2018_0.pdf

The Thrive by Five data is cross-sectional. We do not have growth data of children at earlier points in development. However, it is very probable that our findings of much lower stunting rates than national surveys of children under five may reflect catch-up growth.

The figures reported here include only moderately and severely stunted children. This is in line with most policy-related research on child growth, which focuses on the implications for development of moderate and severe growth stunting. But as Stevens et al. (2012, p.824)[69] point out, "the hazardous effects of undernutrition happen along a continuum of mild, moderate, and severe undernutrition." The implication is that mild stunting (HFAZ below 1 Standard deviation of the median of the WHO reference population) should not be ignored as it could be a barrier to thriving.

Almost one in five children in the Thrive by Five sample showed signs of mild stunting. Findings from the NIDS study (Casale, 2020) reinforce the importance of attending to this group of children. Casale classified children's catch-up by 4 to 5 years as incomplete (p. 6) if they were mildly stunted. She reports that children in the 'incomplete catch up' group did worse on education outcome measures (grade completion and failure) "compared to the children who were never stunted" (p. 14). Most important, there was also little difference in education outcomes between this group and those who remained stunted.



Finally, Subramanian, Karlsson and Kim (2022, p. e179[70]) observe that "By definition (following the WHO normative distribution), the stunting prevalence among children living in ideal environments is expected to be around 2·3%." One can apply this estimate to South Africa to judge our distance from this rate. In Thrive by Five, we find 5.65% of the children fall below the 2SD cut-point for stunting. If this number is representative, it would mean that some 2.5% of 1.2 million children (30 000 children) in this age group in ELPs in South Africa are below the cut-point for stunting.

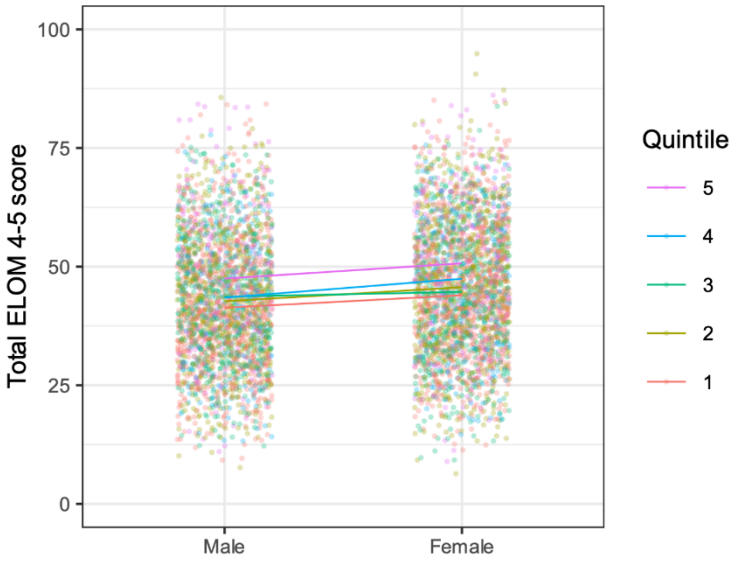
[69] Stevens, G. A., Finucane, M. M., Paciorek, C. J., Flaxman, S. R., White, R. A., Donner, A. J., Ezzati, M., Nutrition Impact Model Study Group. (2012). Trends in mild, moderate, and severe stunting and underweight, and progress towards MDG 1 in 141 developing countries: a systematic analysis of population representative data. *The lancet, 380*(9844), 824-834. https://doi.org/10.1016/S0140-6736(12)60647-3

[70] Subramanian, S. V., Karlsson, O., & Kim, R. (2022). Revisiting the stunting metric for monitoring and evaluating nutrition policies. The Lancet Global Health, 10(2), e179-e180. DOI: https://doi.org/10.1016/S2214-109X(21)00504-0

5. Exploring potential predictors of learning outcomes (ELOM 4&5 scores)

To investigate the potential predictors of ELOM 4&5 scores we began by exploring the data graphically. Figures allow us to map multiple variables into an axis space to see whether potential patterns exist and whether certain predictors covary with others in interesting ways. The following figures consist of scatterplots (with fitted regression lines), which map up to three variables into the axis space, as well as boxplots, which allow us to visualise the distributions of continuous variables across categories such as sex and quintile.

5.1. Relationship between ELOM 4&5 Total and sex

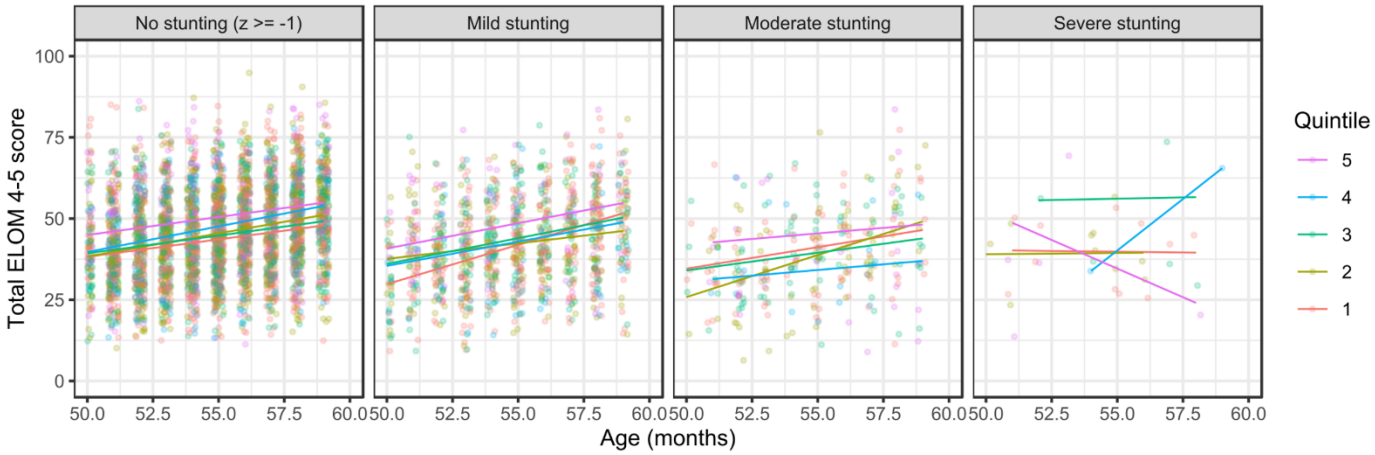


REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Figure 21: *National ELOM 4&5 Total Score by sex*

The figure above shows the differences between ELOM 4&5 Total Scores across child's sex, with quintile colour-coded to show an additional potential dependency on quintile. Here we can see that, on average, girls tend to do better on the ELOM 4&5 than boys. This is the case across all domains, except GMD, and particularly for girls in quintiles 4 and 5, who perform markedly better than all other children in quintiles 1, 2 and 3. A notable part of the picture, though, that should not be ignored, is the large amount of variation in ELOM 4&5 Total Scores among children within sex and quintile categories.

5.2. Relationship between ELOM 4&5 Total, age and growth status



Note: We are including the 'mild stunting' category in this figure, which some researchers would not consider a stunting category of sufficient interest. We believe that the figure above shows it is an important category. For stunting definitions see Table 6

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Figure 22: *National ELOM 4&5 Total Score by age and growth status*

The figure above shows the relationship between ELOM 4&5 Total Scores and age, for children of both non-stunted and classes of stunted growth status. Note that there are very few cases in the severely stunted category, making the pattern seen there uncertain. Note also that we are displaying results for the 'mild stunting' category, too. As is expected, ELOM 4&5 Total Scores are positively related to age. ELOM 4&5 Total Scores increase with age and this is true regardless of stunting effects. However, differences are evident in ELOM 4&5 scores between children who are not stunted and those who are stunted: Both mild and moderately stunted children start out with lower scores than their counterparts at age 50 months (lower intercept values), and these differences are worse for greater stunting and persist as children get older. However, it is promising that stunted children of higher ages do better than stunted children of lower ages, suggesting that the effect of stunting is perhaps less deleterious to ELOM 4&5 performance than first thought.

A socio-economic gradient is present, with systematically higher performance from children in quintile 1 through to those in quintile 5. This is more clearly the case for the quintile_natemis variable, as shown below.

The change in Total ELOM 4&5 performance over age groups is worth pointing out. Considering just the children who are not in any stunted category (i.e., with height for age z ≥ -1), with unweighted data, we find:

- At age 50 months, for children who are not stunted in Q1, mean ELOM 4&5 Total Score = 40.87 (SD = 12.84, n = 55).
- At age 50 months, for children who are not stunted in Q5 mean ELOM 4&5 Total Score = 52.61 (SD = 16.16, n = 29). This is a difference of 11.75 points between Q1 and Q5.
- At age 59 months, for children who are not stunted in Q1, mean ELOM 4&5 Total Score = 48.17 (SD = 12.54, n = 94).

- At age 59 months, for children who are not stunted in Q5 mean ELOM 4&5 Total Score = 59.15 (SD = 14.63, n = 24). This is a difference of 10.98 points between Q1 and Q5.
- The improvement in Total Score from age 50 to age 59 months for Q1 children = 7.3 points. The improvement in Total Scores from age 50 to age 59 months for Q5 children = 6.54 points.

From 50 to 59 months, children who are not in any stunted category in both quintile 1 and quintile 5 improve by approximately 7 points. This equates to approximately 0.7 points per month, which can be attributed to age-related developments. Thus, age and socio-economic status have a notable impact on ELOM 4&5 Total Scores, in addition to Early Learning programming benefits (discussed below).

5.3. Relationship between ELOM 4&5 Total and social-emotional functioning

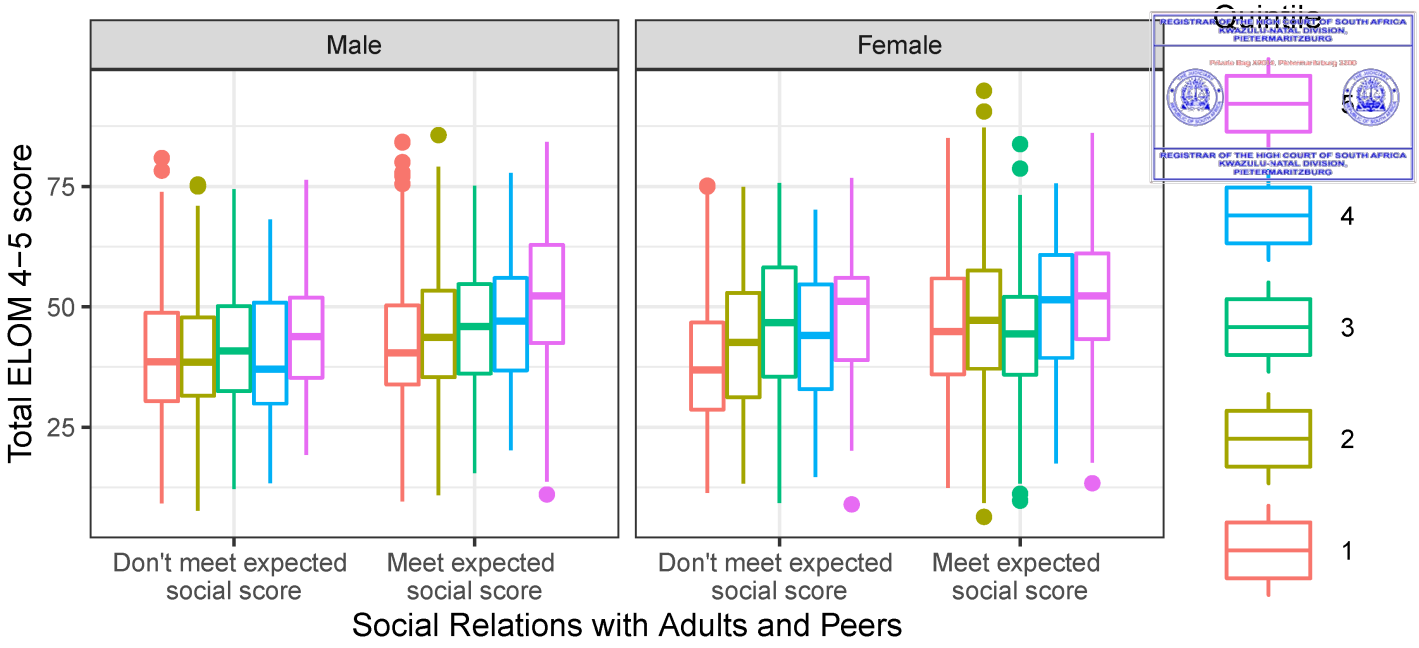


Figure 23: *ELOM 4&5 Total by Social Relations with Adults and Peers*



Figure 24: *ELOM 4&5 Total by Emotional Readiness for School*

A difference is evident between children meeting and not meeting the expected score for Social Relations with Peers and Adults on the ELOM 4&5 Total Score, as well as for the expected score for Emotional Readiness for School. In both cases, children who meet the expected standards perform better than children who do not meet those requirements. There is, nonetheless, also a lot of variation within categories, and overlap between categories on the ELOM 4&5 Total Score.

5.4. Relationship between ELOM 4&5 Total and dosage (cumulative exposure to ECD programme)

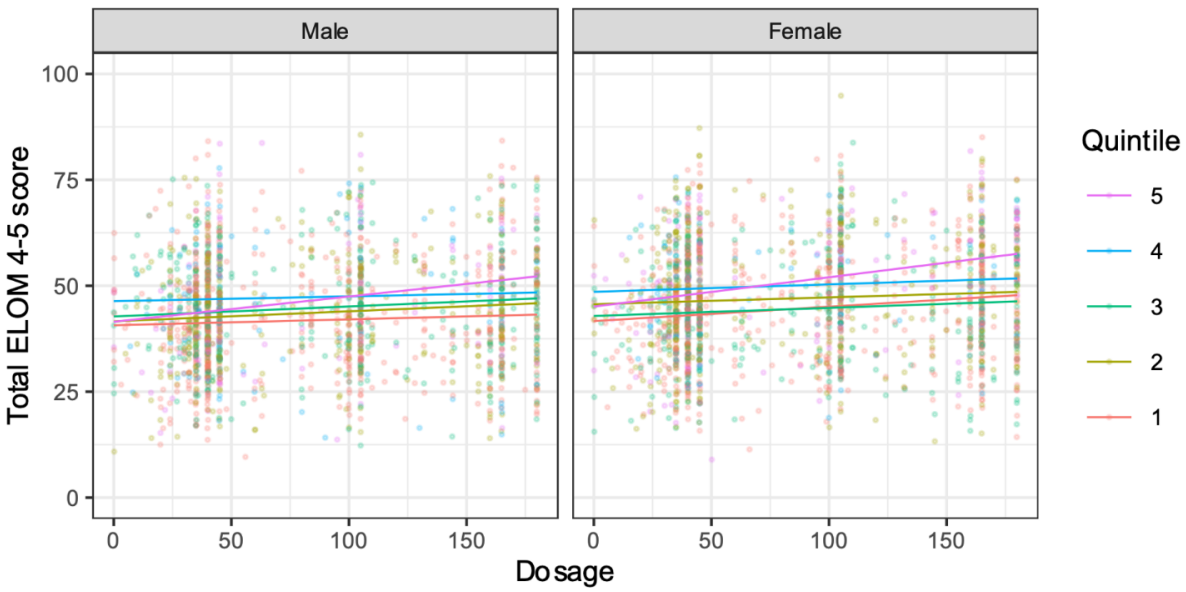


Figure 25: *ELOM 4&5 Total by dosage (cumulative exposure to ELP)*

'Dosage' has been operationalised here as the cumulative exposure to the ELP and is calculated by multiplying the teacher-reported average attendance in the last term by the number of months enrolled (maximum of 36 months [12 months for 3 years]). The variable, number of months the child had been enrolled in the programme, contained some improbable values (specifically, scores above 36 months, indicating that the children had been enrolled for 3 to 5 years in some cases). While these values may reflect cases of children who have been in the ELP from crèche age to the current day, it is more likely to be erroneous data. We therefore truncated these values to create an upper limit of 3 years of enrolment in the ELP (3 years x 12 months = a maximum of 36 months enrolled).

What is evident from the figure above is that there is a varying and perhaps uncertain relationship between exposure to the ELP and ELOM 4&5 performance. Generally, as dosage increases, there is a slight increase in ELOM 4&5 Total Score. This is more pronounced in girls than boys, especially girls in quintile 4 and quintile 5. However, close inspection of the figure shows that there is a lot of scatter present in the data. The patterns which emerge may be meaningful but are weak. Ultimately, it is critical to note that there is a high degree of individual variation in the data, that is, there are far greater differences within groups (e.g., within boys or within girls) than there are between groups. It is important to recognise that this is cross-sectional data. We do not have baseline scores, and we are wary about concluding anything about programme effects from this data. We return to the question of dosage effects in the Appendices to the report.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

6. Correlates of ELOM 4&5 Total Scores

In this section we report analyses that consider correlations of ELOM 4&5 Total Scores at the national level with other variables. We start by looking at relations between potential predictors and ELOM 4&5 Total Scores one at a time (i.e., not controlling for any other factors or variables), and then move on to consider potential predictors simultaneously (i.e., in which the tests of significance and the computation of regression coefficients are done with several potential predictors of interest simultaneously).

6.1. Outcome variable and potential predictors

We considered only the ELOM 4&5 Total Score at the national level as an outcome variable, and thus do not report any analyses for subdomains of the ELOM, or for provinces of South Africa, or more granular areal units. This is done in order to capitalise on the maximum statistical power available to us, making estimates of relationships between variables more reliable and more precise. It is also done in order to keep the analysis manageable - there are five subdomains in the ELOM, and there are nine provinces in South Africa, and reporting analyses for each of the 45 or 54 (if including the national level data) resulting combinations would be unparsimonious, and perhaps tedious for the reader, and may also result in increased Type 1 error rates.

We identified the following potential correlates or predictors of performance on the ELOM 4&5 Total Score: age of child, socio-economic status (as indexed by school quintile, see earlier discussion - we treated this as an interval scale to simplify the analysis when computing correlations, although such an assumption is contestable), growth status of child (simplified for the correlation analysis to have two categories, stunted [moderately and severely stunted] vs normal

HFA [no stunting, or mildly stunted][71], sex of child, child's social relations (as assessed by the teacher), child's emotional readiness (also assessed by the teacher) and finally, a measure of "dosage", as outlined earlier.

There was a moderately strong correlation (r = 0.57) between child's emotional readiness and child's social relations. We therefore combined the social and emotional scores into a composite score of Social-Emotional Functioning. Social relations and emotional readiness were each converted to a score out of 12 and then summed to compute a new score out of 24. The resulting composite variable, "Social-Emotional Functioning," was used as a predictor.

6.2. Correlates of the Total ELOM 4&5 Score considered one at a time

The correlation matrix shown below reports the correlations between the predictors and the ELOM 4&5 Total Score, as well as between the predictors themselves. Significance tests (from bootstrap methods[72]) of individual correlations are reported with superscripted asterisks, where *** = p < .001, ** = p < .01, and * = p < .05.

Table 24: *Correlation matrix for ELOM 4&5 and predictors*

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL, DIVISION,
PIETERMARITZBURG

	Total ELOM 4&5	Age	Quintile	Growth	Sex	Social-emotional	Dosage
Total ELOM 4&5	1	0.24***	0.15***	-0.08***	0.08***	0.25***	0.13***
Age (in months)	0.24***	1	-0.01	0.01	-0.03	0.11***	0.07***
Quintile	0.15***	-0.01	1	-0.03	0.01	-0.06***	0.01
Growth status	-0.08***	0.01	-0.03	1	-0.01	0.03*	0
Sex	0.08***	-0.03	0.01	0.01	1	0.1***	0.03
Social-emotional	0.25***	0.11***	-0.06***	-0.03	0.1***	1	0.04*
Dosage	0.13***	0.07***	0.01	0	0.03	0.04*	1

We find that Total ELOM 4&5 Score is positively and significantly correlated with age of child, socio-economic status (as indexed by school quintile, see earlier discussion), growth status of child, sex of child, child's socio-emotional development (as assessed by the teacher) and dosage. These correlations should be taken as a rough indication only of relationships between the variables, as some variables are treated as being on interval scales and it is questionable whether this is appropriate.

Another predictor (not shown here), amount of fees paid to the ELP, was found to be a moderately strong correlate with Total ELOM 4&5 Score (r = 0.3***). However, there was a significant amount of data missing from this variable, as

[71] In other words, the categories used were Height for age standard (z) score ≥ -2, and Height for age standard (z) score < -2.

[72] It appears to be more appropriate to compute bootstrap p values for correlations computed on weighted data (Long, 2020).

well as from the attendance-related variable which is used to compute dosage (fees_amount_4_6, missing n = 3102 and dosage, missing n = 1393).

Therefore we ran our model without fees or the dosage variable, but we do report a model in the Appendices that considers dosage.

6.3. Correlates of the Total ELOM 4&5 Score considered simultaneously – mixed linear model

In the descriptive statistics reported earlier, we used a sampling weight correction, as explained in the Method section. However, we did not use a weight correction in the regression modelling. There are several reasons for not doing so, and many authors point to disadvantages in including sampling weights for regression models.[73]

We conducted a mixed linear regression analysis (or mixed linear model) to identify correlates of the Total ELOM 4&5 Score to test and quantify the extent to which the predictors we identified were related uniquely to the Total ELOM 4&5 Score, once taking all other predictors into account. Mixed linear models allow us to investigate effects at both level of the individual but also allow us to take clustering in the data into account.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

The outcome variable was the Total ELOM 4&5 Score, and the predictors were as discussed earlier[74]. We did not consider potential interactions or nonlinear relations between predictors and outcome.

The results of the mixed linear analysis are shown in **Table 25** and **Table 26** below. Significance tests of individual predictors are reported with associated p-values, at α = .05.

All the predictors entered into the model significantly predict Total ELOM 4&5 Scores (p < 0.001). When running the analyses, we made use of "dummy variables" to represent categorical variables. Note that in this table specific contrasts are shown as effects, e.g., the coefficient for Stunted [Mild stunt vs None] in the table is the coefficient that compares the group that is mildly stunted with the reference group (not stunted).

In order to assess the effects of all levels of categorical variables simultaneously, we conducted omnibus ANOVA tests on predictor terms, and these are shown in the table below.

Table 25: ANOVA summary table for mixed linear modelling of ELOM 4&5 Total

Variable	Chisq	df	p <
Age	251.39	1	.001
Stunted	81.69	3	.001
Quintile_natemis	61.04	4	.001
Sex	35.01	1	.001

[73] Lumley (2010) concludes "… it often makes little practical difference whether sampling weights are used in fitting regression models… when there is a substantive difference [between weighted and unweighted analyses] it may indicate that a few influential observations happen to have large sampling weights, so that neither the weighted nor the unweighted analysis is entirely reliable".

[74] However, it should be noted that we used a variable reflecting school quintile that we obtained by augmenting quintile_natemis with scores from quintile_sample. This quintile variable appeared to reflect the socio-economic gradient of ELPs better than the quintile variable used to create the weights and relied on elsewhere in the report. A re-analysis of the relationship with the quintile variable used to create the weights can be made available on request.

Social-emotional combined	621.60	1	.001

Table 26: Coefficient summary table for mixed linear modelling of ELOM 4&5 Total

Predictors	Total for ELOM over all items						
	Estimates	std. Error	std. Beta	standardised std. Error	CI	standardised CI	p
(Intercept)	-33.68	3.47	-0.15	0.04	-40.48 – -26.88	-0.23 – -0.06	**<0.001**
Age (months)	0.98	0.06	0.19	0.01	0.86 – 1.10	0.17 – 0.21	**<0.001**
Stunted [Mild stunt vs None]	-2.40	0.40	-0.17	0.03	-3.17 – -1.62	-0.23 – -0.12	**<0.001**
Stunted [Mod stunt vs None]	-5.11	0.70	-0.37	0.05	-6.48 – -3.74	-0.47 – -0.27	**<0.001**
Stunted [Severe stunt vs none]	-4.42	1.95	-0.32	0.14	-8.23 – -0.60	-0.59 – -0.04	**0.023**
Quintile natemis [2 vs 1]	0.55	0.76	0.04	0.06	-0.95 – 2.04	-0.07 – 0.14	0.474
Quintile natemis [3 vs 1]	1.90	0.78	0.14	0.06	0.37 – 3.44	0.03 – 0.25	**0.015**
Quintile natemis [4 vs 1]	4.59	1.13	0.33	0.08	2.37 – 6.81	0.17 – 0.49	**<0.001**
Quintile natemis [5 vs 1]	8.48	1.20	0.61	0.09	6.12 – 10.83	0.44 – 0.78	**<0.001**
Sex	1.82	0.31	0.13	0.02	1.21 – 2.42	0.09 – 0.17	**<0.001**
Socioemotional combined	1.20	0.05	0.33	0.01	1.10 – 1.29	0.31 – 0.36	**<0.001**

Random Effects	
σ2	97.75
τ00 id_ecd	48.43
τ00 id_cluster_sample	13.53
ICC	0.39
N id_cluster_sample	381
N id_ecd	1149
Observations	4642
Marginal R2 / Conditional R2	0.205 / 0.513

In the first row of the detailed table, the Intercept represents the Total ELOM 4&5 Score when the predictors are all set at 0 (continuous predictors), and when the dichotomous predictors are set to the reference category (e.g., boys, in the case of sex). The intercept does not have a meaning as a score on the ELOM 4&5 in this analysis (indeed, it is an impossible score), and can be ignored. In our model, a boy child from quintile 1 who is severely stunted and has the same score on the continuous predictors as the mean of the sample (e.g., age = 54.74 months, social-emotional

combined score = 19.09) could have a score in the range of approximately 31 to 54 on the ELOM 4&5 Total, depending on the sample cluster they are in.

The following rows of the table contain raw and standardised coefficient estimates for each of the predictors in the model, along with confidence intervals, and p-values of the tests that the coefficients = 0. In this case, the p-values are not of particular interest to us given the large sample size - when sample sizes are very large, p-values are more likely to be very small, and an over-reliance on these results can lead to claiming support for results which in fact are of little practical significance.

The standardised Beta coefficients (std. Beta), which are more interesting, have been standardised so that the units of each predictor are on the same scale and they are therefore comparable. They estimate the amount of change in Total ELOM 4&5 Score in SD units by dividing each numeric variable by twice its SD.

The two figures immediately below illustrate the effects graphically, showing their unstandardised sizes in the first of the figures, and the standardised effects in the second. Note that confidence intervals are shown, as well as the line of null effect (0), to give a sense of the uncertainty in the estimates.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

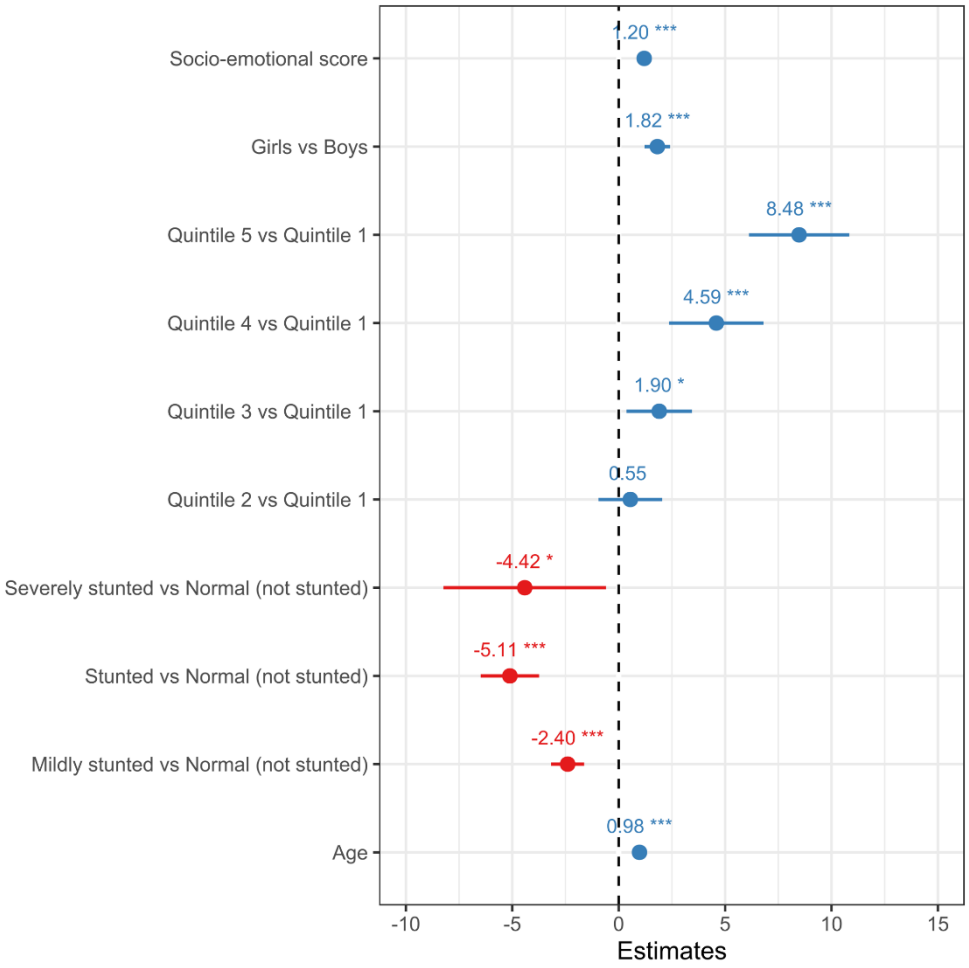


Figure 26: *Effects in the model of Total ELOM 4&5 Score: unstandardised*

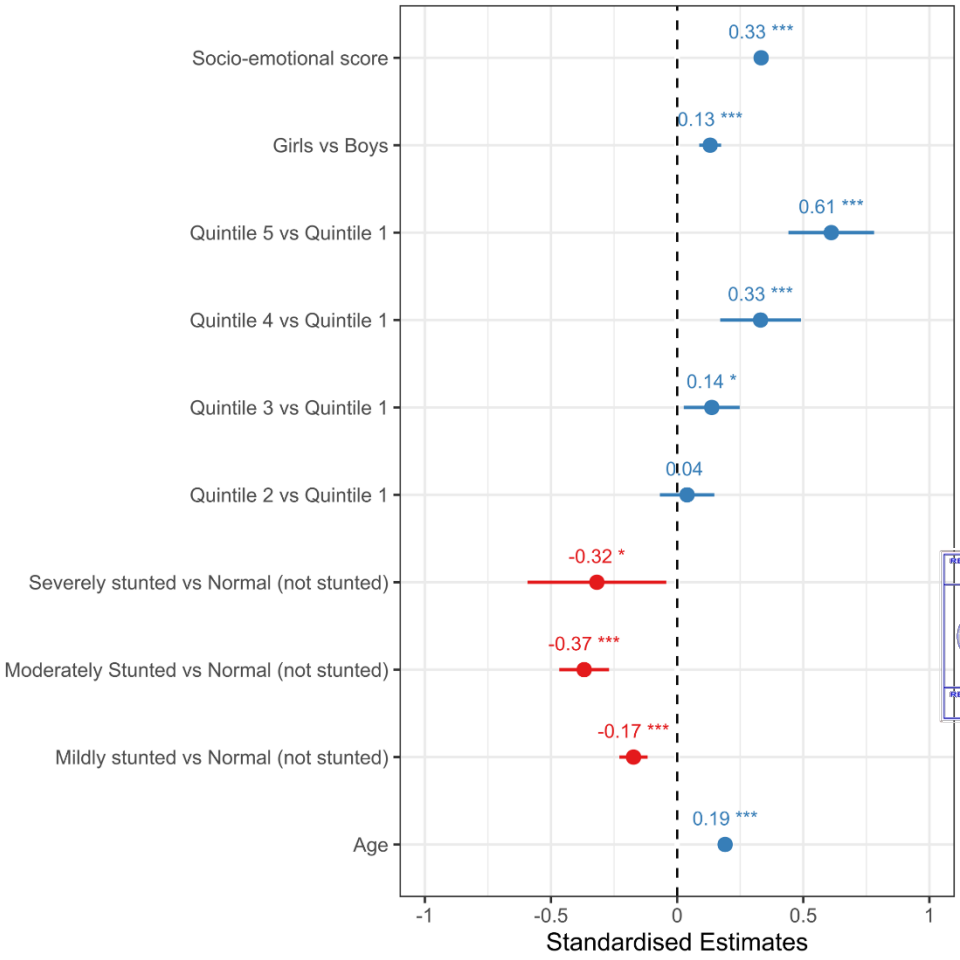


Figure 27: *Effects in the model of Total ELOM 4&5 Score: standardised*

The coefficients in the standardised model correspond to standard-deviation changes of each numeric predictor, or the difference between the two conditions for binary (dummy) predictors.

The size of standardised coefficients allows us to determine the relative importance of predictor variables on the outcome variable. That is, the size of the predictor coefficient is an indication of the effect that that predictor has on the total ELOM 4&5 Score. However, comparisons of these should still be undertaken cautiously, and the confidence intervals reported in the coefficient table can help in judging relative size.

We find that moderate growth stunting has a strong impact on the Total ELOM 4&5 Score (std. β = -0.37), i.e., the greatest difference in Total ELOM 4&5 Scores will be found between children who are moderately stunted and those with no stunting (there is a similar difference between those severely stunted and those with no stunting, but the cell size is small, and the estimate of effect less reliable). The difference between mildly stunted children and those with no stunting is smaller, but is still significant, and underscores the importance of considering this group, who might in some classification systems not be considered stunted (std. β = -0.17).

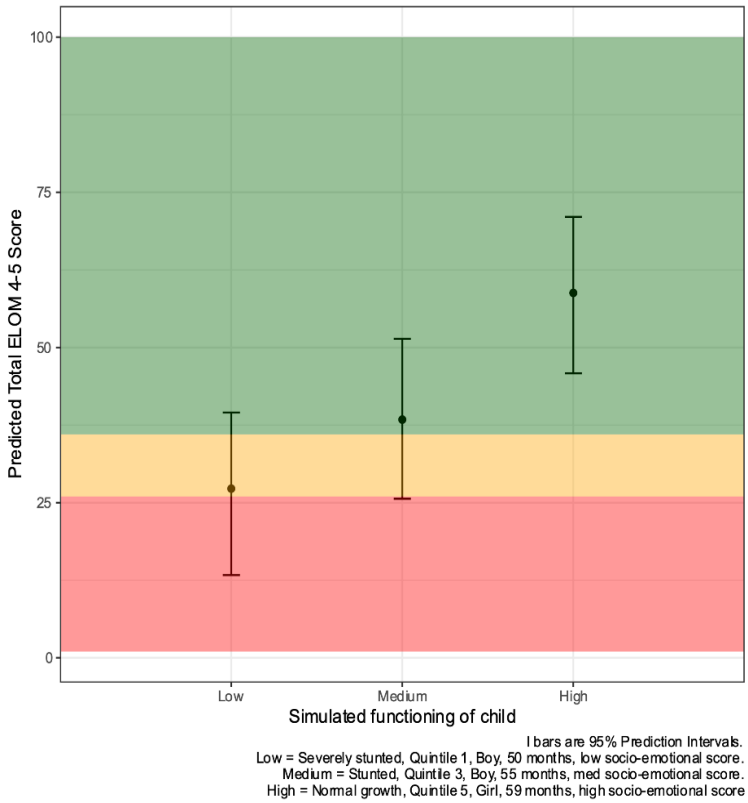
Socio-economic status (measured in our sample by quintile (natemis) score) also has a strong effect on the Total ELOM 4&5 Score. Differences vary by quintile, but one can see stark differences between children in lower and upper quintiles, particularly between children in quintile 1 and those in quintile 5 (std. β = 0.61) and between children in quintile 1 and those in quintile 4 (std. β = 0.33).

Socio-emotional development has a surprisingly large effect on Total ELOM 4&5 Scores (std. β = 0.33). This is followed in strength by the effects for age, and finally sex. Note that the confidence intervals give a sense of the uncertainty in the estimates and show that there is some degree of overlap in the coefficients for socio-economic status categories, as well as growth status categories.

The marginal R-squared statistic represents the amount of shared variance explained only by fixed effects in the model and provides a measure of how well the fixed effects model fits the actual data. R^2 = 0.21**,** thus 21% of the variance in Total ELOM 4&5 Scores is explained by the variance in growth status, socio-economic status, sex, age and socio-emotional development. Conditional R^2 estimates the variance explained by the entire model, i.e. with both fixed effects and random effects, and in this model, conditional R^2 = 0.51.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

To demonstrate what the estimates of the model coefficients mean in practical terms, we consider three example children, and use the model to predict what their ELOM 4&5 performance would be. We consider a girl child from quintile 5, of 59 months of age, with normal growth status, and who has a social-emotional score of 24 (the 90th percentile). We contrast her against a boy from quintile 3, of 50 months of age, who is stunted, and who has a social-emotional score of 19.5 (the 50th percentile), and a boy from quintile 1, of 50 months of age, who is severely stunted, and who has a social-emotional score of 14 (the 10th percentile). These cases are intended to be very different from each other, but of course are not at all exhaustive of the data; they are just for demonstration purposes (and results will in addition depend on the clusters children were sampled in). The figure below shows these predictions, with associated 95% prediction intervals.



REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Figure 28: *Predictions for three simulated children*

Although the point predictions for the three cases are quite clearly different, there is a lot of uncertainty in the predictions. This is not surprising if one considers the large amount of variation within categories that we have drawn attention to in several places in the report. Simply put, there is a lot that we don't understand about the determinants of performance on the ELOM 4&5.

7. Provincial summaries

7.1. Eastern Cape

Table 27: Provincial summary

Sample	587 children
	284 (48%) boys and 303 (52%) girls
	Children were drawn from 145 ELPs across 44 sample clusters
The quintile breakdown of this sample, computed with unweighted data	Quintile 1 n = 219 (37.3%) Quintile 2 n = 184 (31.3%) Quintile 3 n = 160 (27.3%) Quintile 4 n = 11 (1.9%) Quintile 5 n = 13 (2.2%)
Social-Emotional Functioning	27.4% of children don't achieve the expected score for social relations with Peers and Adults 37.9% of children don't achieve the expected score for Emotional Readiness for School
Stunting	9.98% of children have stunted growth (9.24% moderately stunted and 0.74% severely stunted)
ELOM Total Score (details below)	Overall, 38.1% of children are *On Track*, 28.5% are *Falling Behind* and 33.4% are *Falling Far Behind* the expected standard for Early Learning
Summary	The Eastern Cape shows some promising results in GMD and emerging literacy and language. However, significant numbers of children perform poorly in the FMC-VMI and ENM domains in particular (especially in the case of boys).

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Question 1: For learning outcomes overall (the ELOM 4&5 Total Score), what proportion of children are *On Track* (green), *Falling Behind* (yellow) and *Falling Far Behind* (red)?

Table 28: *Eastern Cape: Descriptive statistics for ELOM 4&5 Total Score*

	Mean	SD	SE	Median	p_10	p_90	n
Total	43.18	13.92	0.80	41.42	25.92	61.99	587
Boys	41.95	13.37	1.13	40.23	25.86	60.97	284
Girls	44.26	14.31	0.91	44.09	25.96	63.25	303

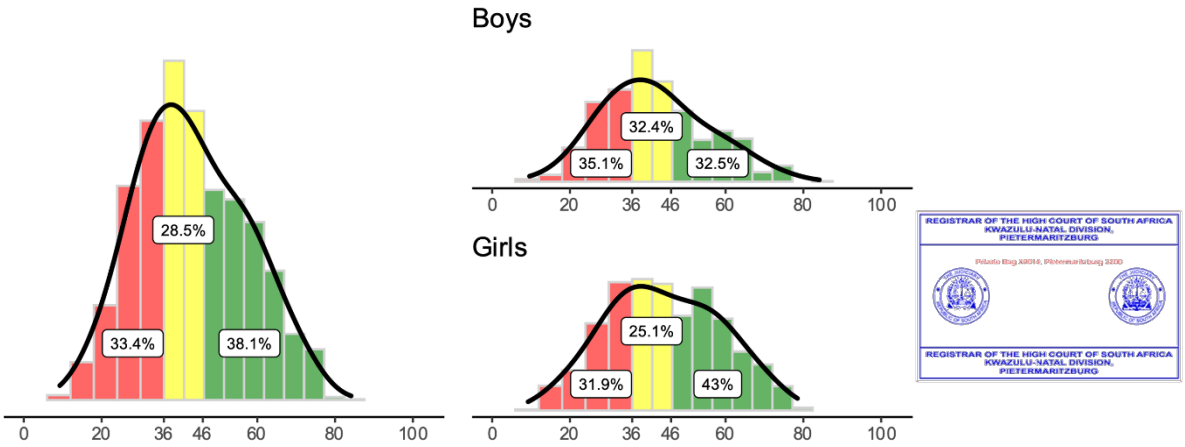


Figure 29: *Eastern Cape: Frequency distributions, with density curves overlaid, for ELOM 4&5 Total Score, separated by sex*

Table 28 shows that at the provincial level:

- Children in the Eastern Cape achieved a mean ELOM 4&5 Total Score of 43.18 (SD = 13.92).
- Girls outperform boys with mean ELOM 4&5 Total Scores of 44.26 (SD = 14.31) and 41.95 (SD = 13.37) respectively.

ELOM 4&5 Total Scores show a reasonable approximation towards a normal distribution. The figure shows:

- Only 38.1% achieve the standard, while 33.4% are *Falling Far Behind*.
- On average, more girls are *On Track* than boys (43% versus 32.5%); 35.1% of boys are *Falling Far Behind*.

Question 2: For each of the five ELOM 4&5 learning domains, what proportion of children are *On Track* (green), *Falling Behind* (yellow) and *Falling Far Behind* the standard (red)?

7.1.1.Gross Motor Development

Table 29: *Eastern Cape: Descriptive statistics for Gross Motor Development*

	Mean	SD	SE	Median	p_10	p_90	n
Total	8.85	3.92	0.24	8.67	3.91	14.44	587
Boys	8.88	3.92	0.25	8.67	3.58	14.44	284
Girls	8.83	3.93	0.32	8.72	3.91	13.70	303

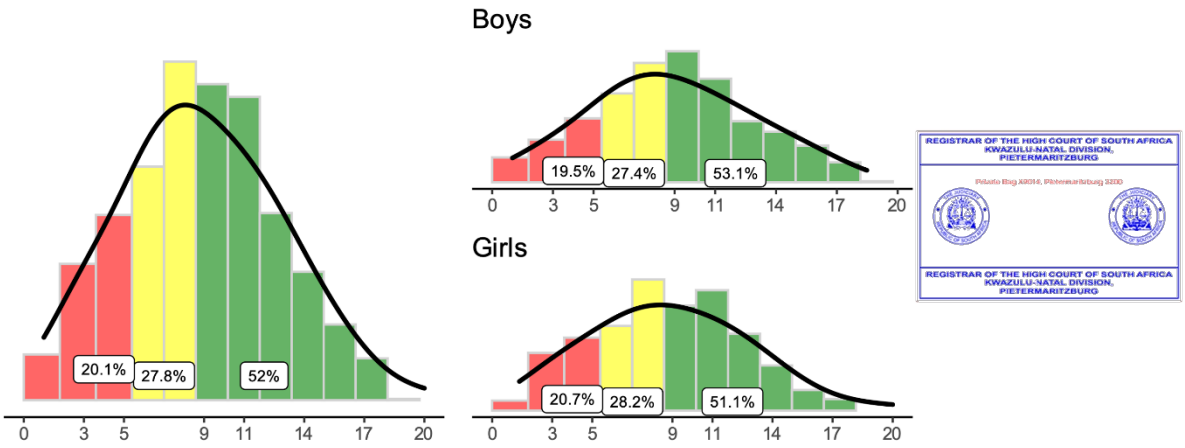


Figure 30: *Eastern Cape: Frequency distributions, with density curves overlaid, for Gross Motor Development, separated by sex*

Scores for this domain are fairly evenly distributed across the sample. **Table 29** and **Figure 30** show that:

- On average, children in the Eastern Cape achieved a mean GMD score of 8.85 (SD = 3.92).
- This is the most promising domain for children in the Eastern Cape, with 52% of children *On Track*.
- 53.1% of boys and 51.1% of girls are *On Track*, 27.4% and 28.2% are *Falling Behind* and a further 19.5% and 20.7% are *Falling Far Behind*, respectively.

7.1.2.Fine Motor Coordination and Visual Motor Integration

Table 30: *Eastern Cape: Descriptive statistics for Fine Motor Coordination and Visual Motor Integration*

	Mean	SD	SE	Median	p_10	p_90	n
Total	10.84	3.52	0.23	10.73	6.23	16.14	587
Boys	10.57	3.53	0.37	10.60	6.52	15.85	284
Girls	11.07	3.51	0.24	10.83	5.86	16.41	303

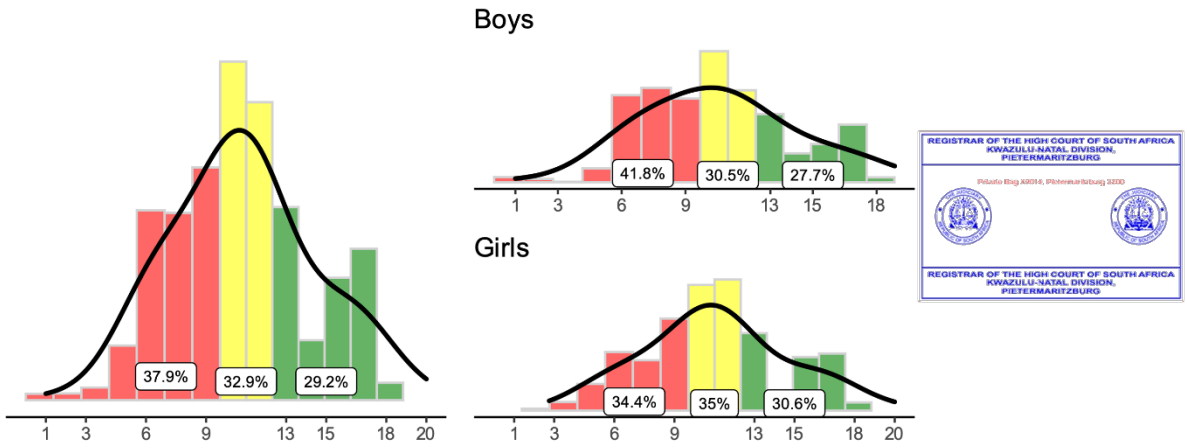


Figure 31: *Eastern Cape: Frequency distributions, with density curves overlaid, for Fine Motor Coordination and Visual Motor Integration, separated by sex*

- The average score for this domain is relatively high at 10.84, with a small SD of 3.52 (see **Table 30)**.
- However, the figure shows that across the sample, only 29.2% of children are *On Track*.
- Of concern is that 41.8% of boys in the Eastern Cape are *Falling Far Behind* the standard for this domain, as are 34.4% of girls.

7.1.3.Emergent Numeracy and Mathematics

Table 31: *Eastern Cape: Descriptive statistics for Emergent Numeracy and Mathematics*

	Mean	SD	SE	Median	p_10	p_90	n
Total	7.31	3.69	0.21	6.64	2.38	12.15	587
Boys	6.95	3.51	0.26	6.50	2.38	10.85	284
Girls	7.62	3.81	0.32	6.84	2.38	13.57	303

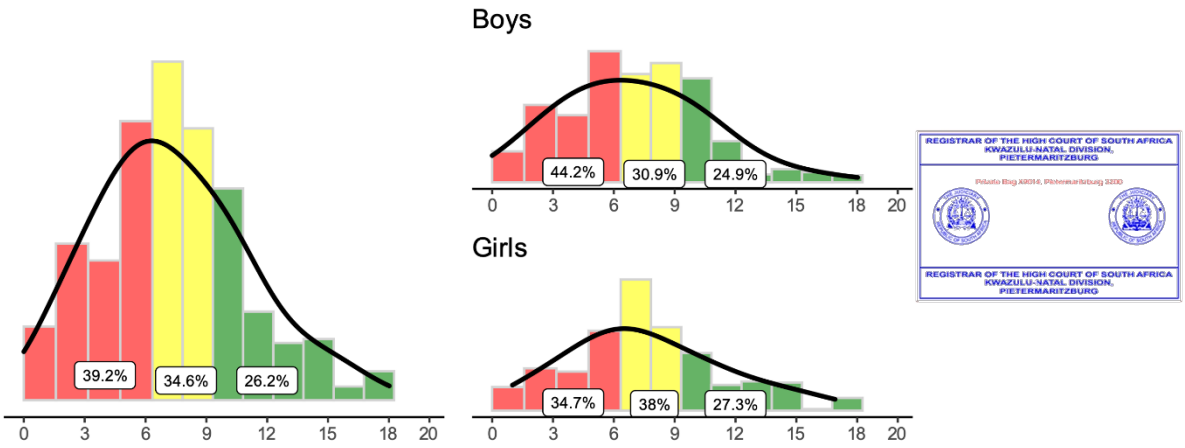


Figure 32: *Eastern Cape: Frequency distributions, with density curves overlaid, for Emergent Numeracy and Mathematics, separated by sex*

These scores approximate a normal although slightly skewed distribution, with more children achieving lower scores than higher scores, and with few being *On Track*.

- **Table 31** shows that, on average, children scored only 7.31 (SD = 3.69).
- Across the sample, only 26.2% of children are *On Track* in this domain.
- Even more concerning is that 39.2% of children are *Falling Far Behind* (44.2% of boys and 34.7% of girls).

7.1.4.Cognition and Executive Functioning

Table 32: *Eastern Cape: Descriptive statistics for Cognition and Executive Functioning*

	Mean	SD	SE	Median	p_10	p_90	n
Total	6.09	3.91	0.24	5.71	1	11.94	587
Boys	5.74	3.79	0.42	5.03	1	11.09	284
Girls	6.39	4.00	0.27	6.29	1	12.61	303

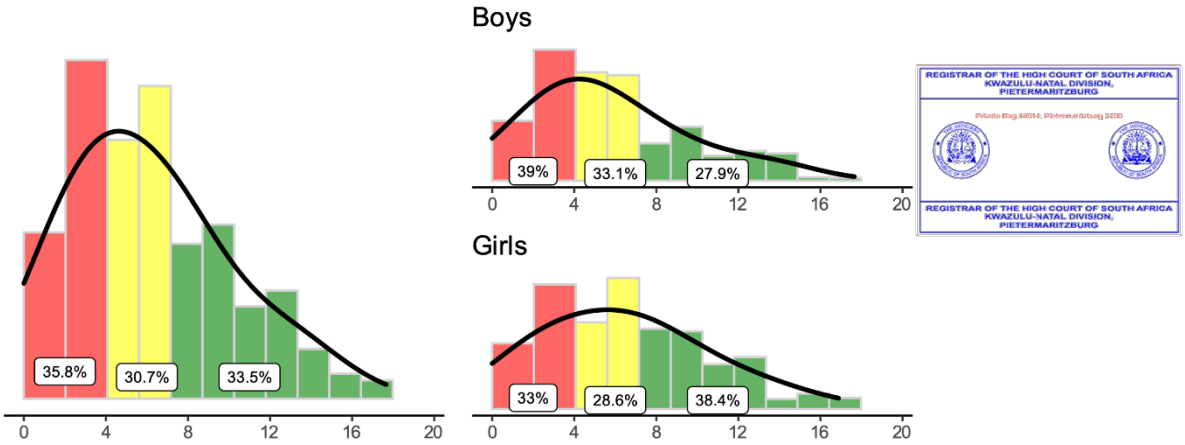


Figure 33: *Eastern Cape: Frequency distributions, with density curves overlaid, for Cognition and Executive Functioning, separated by sex*

Children in the Eastern Cape performed quite poorly in this domain.

- Children scored 6.09 (SD = 3.91) on average. Such a large standard deviation in relation to the mean indicates a huge amount of variation in the scores.
- Across the province, only 33.5% of children are *On Track*, while 30.7% are *Falling Behind* and 35.8% are *Falling Far Behind*.
- 38.4% of girls are *On Track*, with 33% *Falling Far Behind*, while only 27.9% of boys are *On Track* and 39% are *Falling Far Behind*.

7.1.5.Emergent Literacy and Language

Table 33: *Eastern Cape: Descriptive statistics for Emergent Literacy and Language*

	Mean	SD	SE	Median	p_10	p_90	n
Total	10.09	3.93	0.26	9.78	4.87	15.31	587
Boys	9.80	3.79	0.33	9.70	4.87	15.07	284
Girls	10.34	4.04	0.34	10.47	5.59	16.06	303

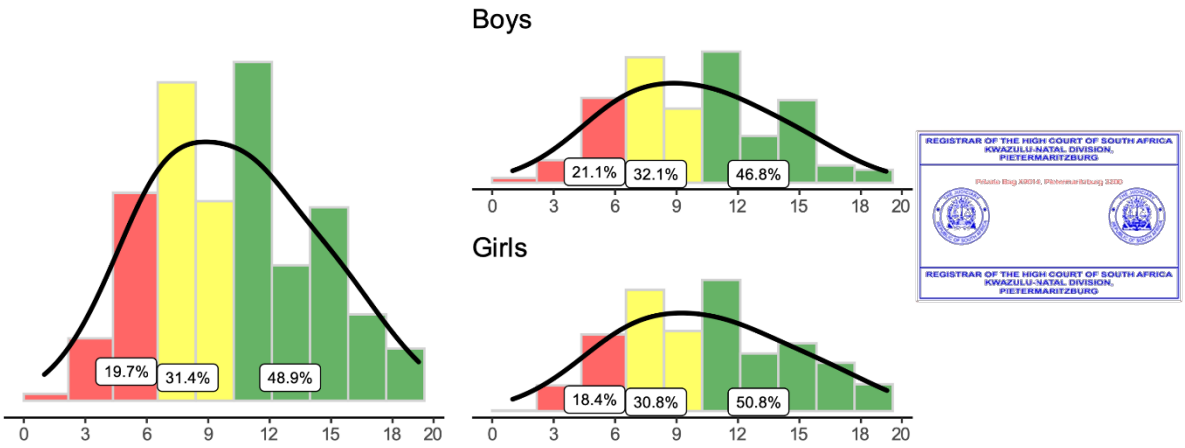


Figure 34: *Eastern Cape: Frequency distributions, with density curves overlaid, for Emergent Literacy and Language, separated by sex*

ELL scores are more promising. The distribution of scores approximates a normal distribution:

- Children in the Eastern Cape achieved on average 10.09 (SD = 3.93).
- The majority (48.9%) of children are *On Track* for achieving the expected standard, while 31.4% are *Falling Behind* and 19.7% are *Falling Far Behind*.
- There is less difference between sexes for this domain, with 50.8% of girls *On Track* compared with 46.8% of boys.

7.2. Free State

Table 34: Provincial summary

Sample	565 children
	277 (48%) boys and 298 (52%) girls
	Children were drawn from 135 ELPs across 42 sampling clusters
The quintile breakdown of this sample, computed with unweighted data	Quintile 1 n = 244 (42.4%) Quintile 2 n = 113 (19.6%) Quintile 3 n = 132 (22.9%) Quintile 4 n = 37 (6.4%) Quintile 5 n = 50 (8.7%)
Social-Emotional Functioning	21.5% of children don't achieve the expected score for Social Relations with Peers and with Adults 23.3% of children don't achieve the expected score for Emotional Readiness Towards School
Stunting	7.9% of children have stunted growth, (6.98% moderately stunted and 0.9% severely stunted)
ELOM Total Score (details below)	Overall, 31.8% of children are *On Track*, 26.7% are *Falling Behind* and 41.5% are *Falling Far Behind* the expected standard for Early Learning
Summary	The results of the Free State are concerning. While children perform best on ELL, much attention should be paid to Free State children's development in FMC-VMI and ENM, and even more so to boys' development in these domains.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Question 1: For learning outcomes overall (the ELOM 4&5 Total Score), what proportion of children are *On Track* (green), *Falling Behind* (yellow) and *Falling Far Behind* (red)?

Table 35: *Free State: Descriptive statistics for Total ELOM 4&5 Score*

	Mean	SD	SE	Median	p_10	p_90	n
Total	40.08	13.83	1.11	38.64	23.47	58.93	565
Boys	38.66	13.65	1.05	36.80	23.34	57.91	273
Girls	41.50	13.89	1.34	40.90	25.04	60.26	292

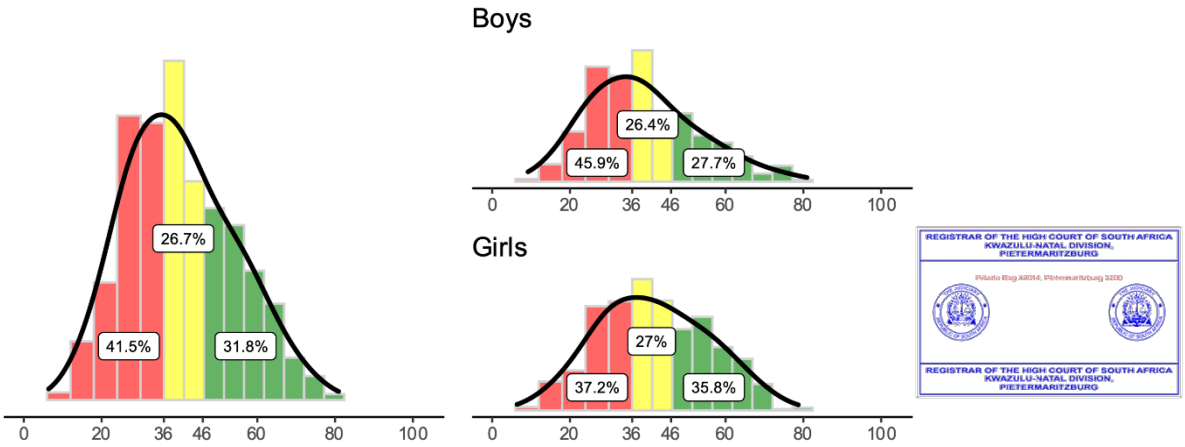


Figure 35: *Free State: Frequency distributions, with density curves overlaid, for Total ELOM 4&5 Score, separated by sex*

Table 35 shows:

- Children in the Free State achieved a mean ELOM 4&5 Total Score of 40.08 (SD = 13.83).
- Boys and girls scored similarly, with mean ELOM 4&5 Total Scores of 38.66 (SD = 13.65) and 41.50 (SD = 13.89) respectively (Cohen's *d* = 0.21, indicating a small effect).

ELOM 4&5 Total Scores show a reasonable approximation towards a normal distribution. The figure shows:

- Only 31.8% of children achieve the standard, while 41.5% are *Falling Far Behind*.
- On average, more girls are *On Track* for school than boys (35.8% versus 27.7%), while boys are at greater risk of *Falling Far Behind* (45.9% compared with 37.2%).

Question 2: For each of the five ELOM 4&5 learning domains, what proportion of children are *On Track* (green), *Falling Behind* (yellow) and *Falling Far Behind* the standard (red)?

7.2.1.Gross Motor Development

Table 36: *Free State: Descriptive statistics for Gross Motor Development*

	Mean	SD	SE	Median	p_10	p_90	n
Total	6.73	3.57	0.23	6.13	2.36	11.45	565
Boys	6.68	3.58	0.26	6.13	2.36	11.45	273
Girls	6.77	3.56	0.29	6.13	2.36	11.45	292

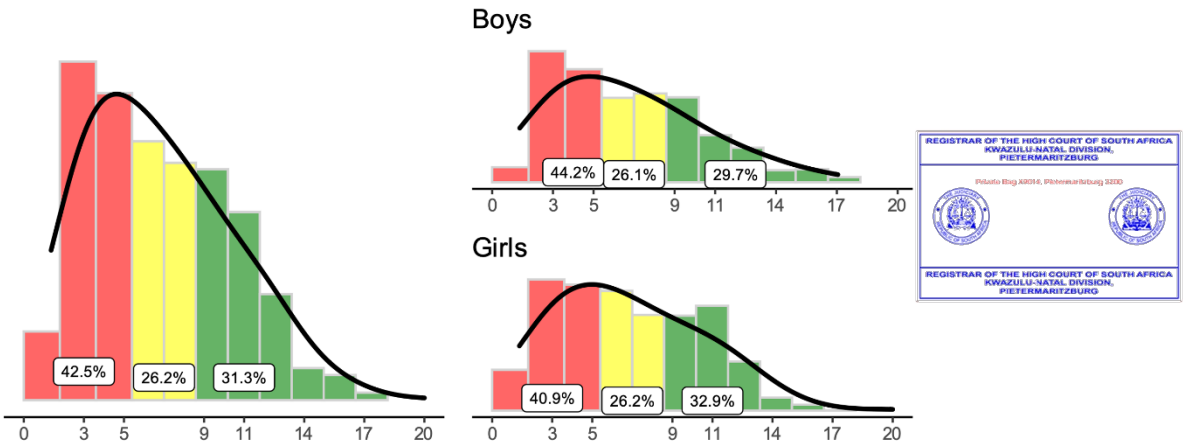


Figure 36: *Free State: Frequency distributions, with density curves overlaid, for Gross Motor Development, separated by sex*

Table 36 shows that on average:

- Children in the Free State scored similarly and achieved a mean GMD score of only 6.73 (SD = 3.57).
- The figure shows that scores for this domain are highly skewed across the sample, with only 31.3% of children *On Track*, 26.2% *Falling Behind* and a further 42.5% *Falling Far Behind*.
- Fewer boys are *On Track* than girls (29.7% compared with 32.9% respectively) and more boys are *Falling Far Behind* than girls (44.2% compared with 40.9%).

7.2.2.Fine Motor Coordination and Visual Motor Integration

Table 37: *Free State: Descriptive statistics for Fine Motor Coordination and Visual Motor Integration*

	Mean	SD	SE	Median	p_10	p_90	n
Total	10.02	3.25	0.24	10.00	6.23	14.76	565
Boys	9.60	3.01	0.25	9.64	5.86	13.30	273
Girls	10.44	3.42	0.31	10.72	6.52	15.55	292

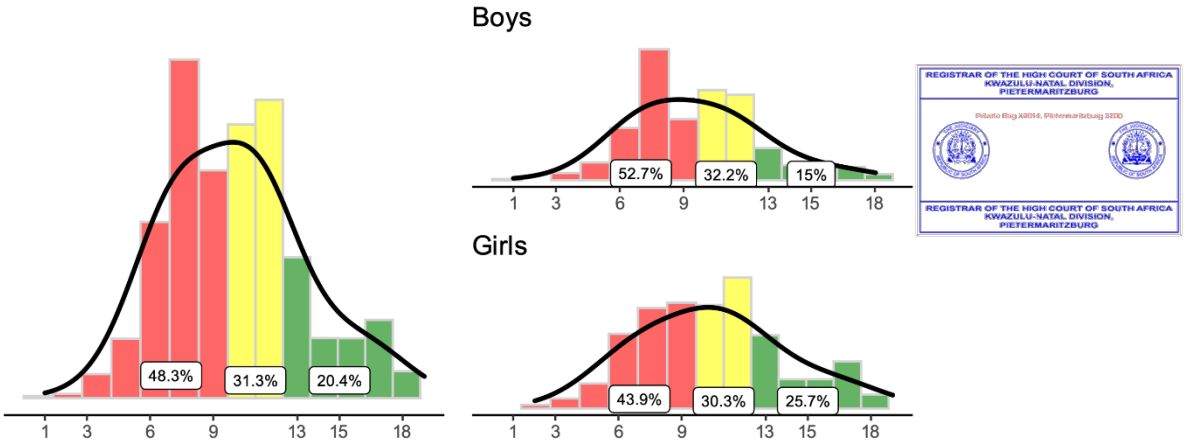


Figure 37: *Free State: Frequency distributions, with density curves overlaid, for Fine Motor Coordination and Visual Motor Integration, separated by sex*

FMC-VMI scores are concerning:

- The average score for this domain is 10.02, with a relatively small standard deviation of 3.25.
- Of concern is that nearly half the sample is *Falling Far Behind* the domain standards, with only 20.4% of children *On Track*.
- 15% of boys and 25.7% of girls are *On Track*, with a worrying 52.7% of boys *Falling Far Behind*.

7.2.3.Emergent Numeracy and Mathematics

Table 38: *Free State: Descriptive statistics for Emergent Numeracy and Mathematics*

	Mean	SD	SE	Median	p_10	p_90	n
Total	7.15	3.49	0.24	6.61	2.38	12.15	565
Boys	7.12	3.33	0.24	6.50	2.38	10.92	273
Girls	7.18	3.65	0.32	6.61	2.38	12.27	292

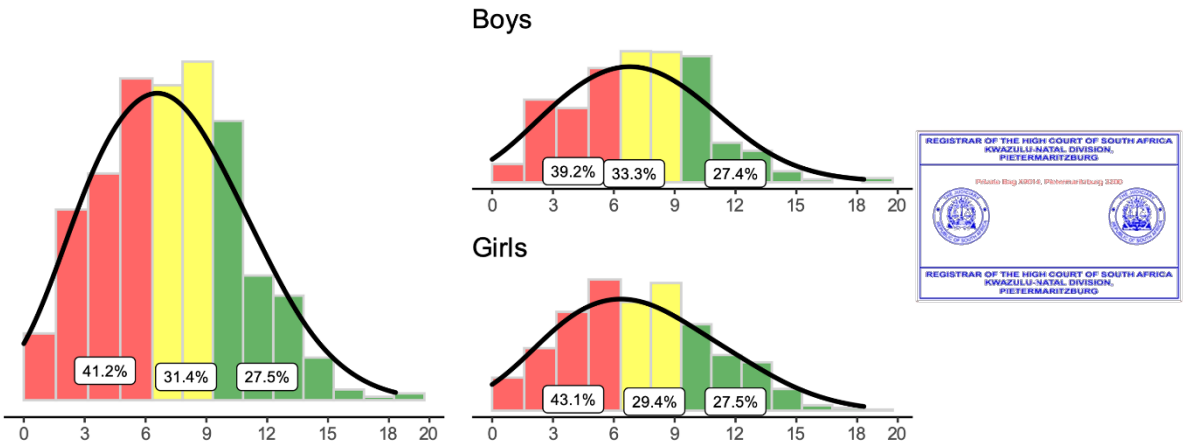


Figure 38: *Free State: Frequency distributions, with density curves overlaid, for Emergent Numeracy and Mathematics, separated by sex*

- On average, children scored 7.15 (SD = 3.49).
- In the total Free State sample, 41.2% of children are *Falling Far Behind*, and only 27.5% are *On Track* for this domain.
- There are no appreciable sex differences of note in this domain.

7.2.4.Cognition and Executive Functioning

Table 39: *Free State: Descriptive statistics for Cognition and Executive Functioning*

	Mean	SD	SE	Median	p_10	p_90	n
Total	6.13	4.10	0.29	5.29	1	12.61	565
Boys	5.82	4.20	0.27	5.13	1	12.84	273
Girls	6.44	3.99	0.39	6.13	1	11.09	292

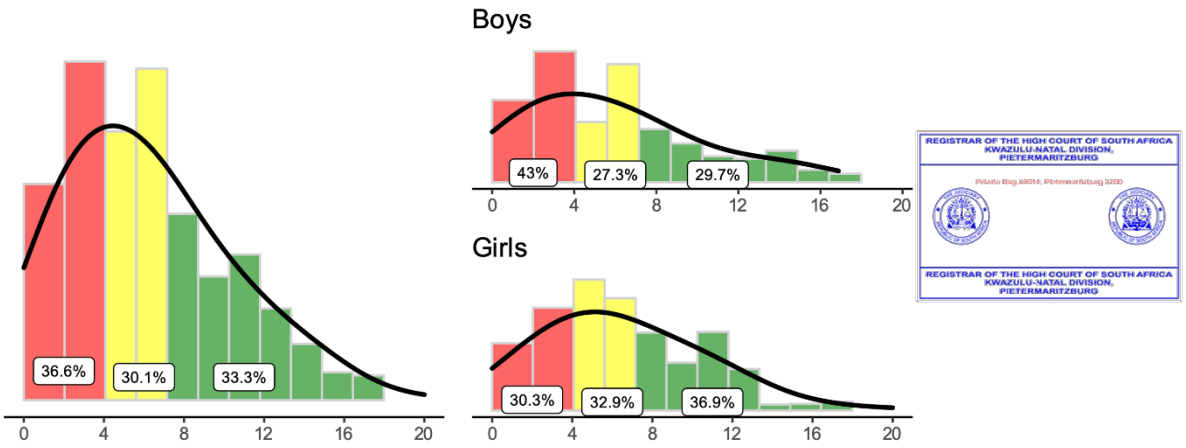


Figure 39: *Free State: Frequency distributions, with density curves overlaid, for Cognition and Executive Functioning, separated by sex*

Children in the Free State achieved low results in this domain:

- Children scored 6.13 on average (SD = 4.10). The large standard deviation per mean score indicates a very large amount of variation in the individual scores.
- Similar proportions of children are *On Track* (33.3%) and *Falling Far Behind* (36.6%).
- Girls and boys score similarly, but a larger proportion of boys (43%) are *Falling Far Behind* the expected standard for this domain compared with 30.3% of girls.

7.2.5.Emergent Literacy and Language

Table 40: *Free State: Descriptive statistics for Emergent Literacy and Language*

	Mean	SD	SE	Median	p_10	p_90	N
Total	10.05	4.87	0.39	9.82	3.72	17.56	565
Boys	9.43	4.63	0.40	8.88	3.40	17.56	273
Girls	10.66	5.04	0.43	10.84	3.72	17.56	292

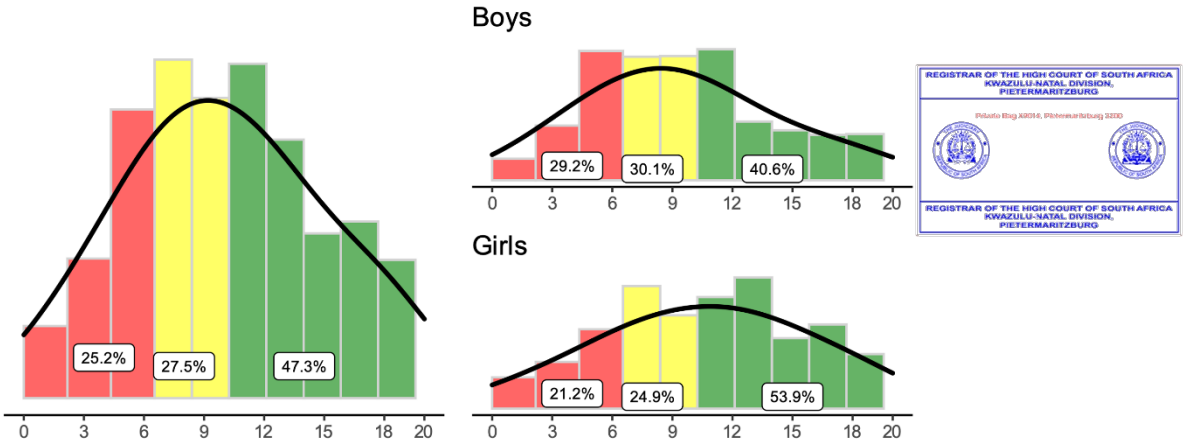


Figure 40: *Free State: Frequency distributions, with density curves overlaid, for Emergent Literacy and Language, separated by sex*

ELL scores follow a flatter distribution than is seen in other domains, indicating that similar proportions of children achieved scores across the whole range of possible scores. Of the five domains, children in the Free State performed best in this domain:

- Children achieved an average score of 10.05 (SD = 4.87). Note the large variation around the mean.
- It is encouraging that 47.3% of children are *On Track* for achieving the expected standard. Still, 25.2% of children are *Falling Far Behind* the standard.
- 53.9% of girls are *On Track*, compared with 40.6% of boys.

7.3. Northern Cape

Table 41: Provincial summary

Sample	600 children
	275 (46%) boys and 325 (54%) girls
	Children were drawn from 144 ELPs across 48 sampling clusters
The quintile breakdown of this sample, computed with unweighted data	Quintile 1 n = 206 (34.3%) Quintile 2 n = 152 (25.3%) Quintile 3 n = 92 (15.3%) Quintile 4 n = 68 (11.3%) Quintile 5 n = 82 (13.7%)
Social-Emotional Functioning	33.5% of children don't achieve the expected score for Social Relations with Peers and Adults 49.7% of children don't achieve the expected score for Emotional Readiness for School
Stunting	6.31% of children have stunted growth, (6.01% moderately stunted and 0.3% severely stunted)
ELOM Total Score (details below)	Overall, 37.2% of children are *On Track*, 25.2% are *Falling Behind* and 37.6% are *Falling Far Behind* the expected standard for Early Learning
Summary	The Northern Cape shows some promising results in the GMD domain. However, children are underperforming significantly in the FMC-VMI domain. ENM and CEF are also of concern, with only slightly better results in emergent literacy.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION

Question 1: For learning outcomes overall (the ELOM 4&5 Total Score), what proportion of children are *On Track* (green), *Falling Behind* (yellow) and *Falling Far Behind* (red)?

Table 42: *Northern Cape: Descriptive statistics for Total ELOM 4&5 Score*

	Mean	SD	SE	Median	p_10	p_90	n
Total	41.51	14.41	1.48	39.72	23.67	60.17	600
Boys	40.07	14.59	1.77	38.83	21.84	58.18	275
Girls	42.79	14.16	1.37	43.79	24.05	61.86	325

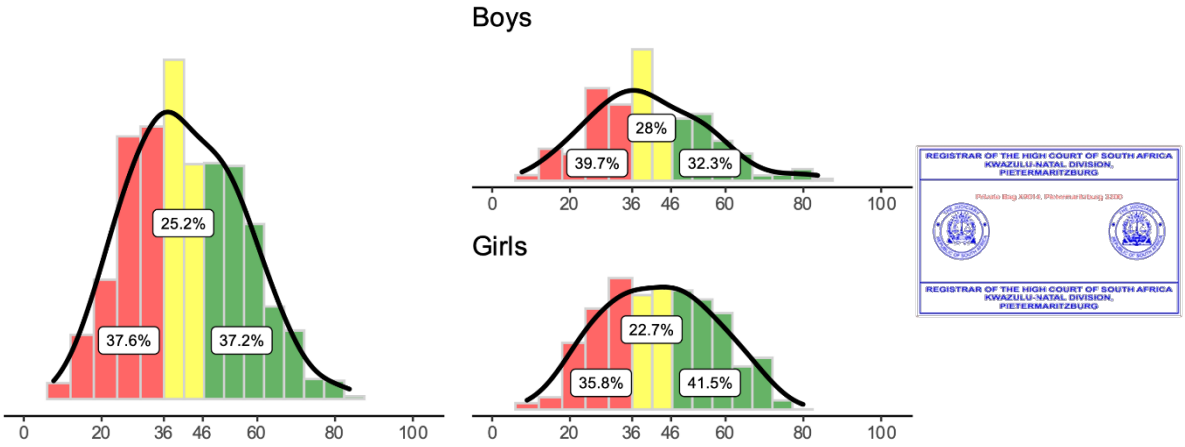


Figure 41: *Northern Cape: Frequency distributions, with density curves overlaid, for Total ELOM 4&5 Score, separated by sex*

Table 42 shows that at the provincial level:

- Children in the Northern Cape achieved a mean ELOM 4&5 Total Score of 41.51 (SD = 14.41).
- Girls score 2 points higher than boys, with mean ELOM 4&5 Total Scores of 42.79 (SD = 14.16) and 40.07 (SD = 14.59) respectively (Cohen's *d* = 0.19, indicating a small effect).

ELOM 4&5 Total Scores show a reasonable approximation towards a normal distribution. **Figure 41** shows:

- A total of 37.2% achieve the standard, while 37.6% are *Falling Far Behind*.
- Girls fare much better than boys, with 41.5% *On Track* to meet the standard, whereas only 32.3% of boys are *On Track*.

Question 2: For each of the five ELOM 4&5 learning domains, what proportion of children are *On Track* (green), *Falling Behind* (yellow) and *Falling Far Behind* the standard (red)?

7.3.1.Gross Motor Development

Table 43: *Northern Cape: Descriptive statistics for Gross Motor Development*

	Mean	SD	SE	Median	p_10	p_90	n
Total	8.20	3.72	0.39	8.16	3.58	12.89	600
Boys	8.24	3.53	0.42	7.68	3.91	12.85	275
Girls	8.16	3.89	0.42	8.67	2.91	12.97	325

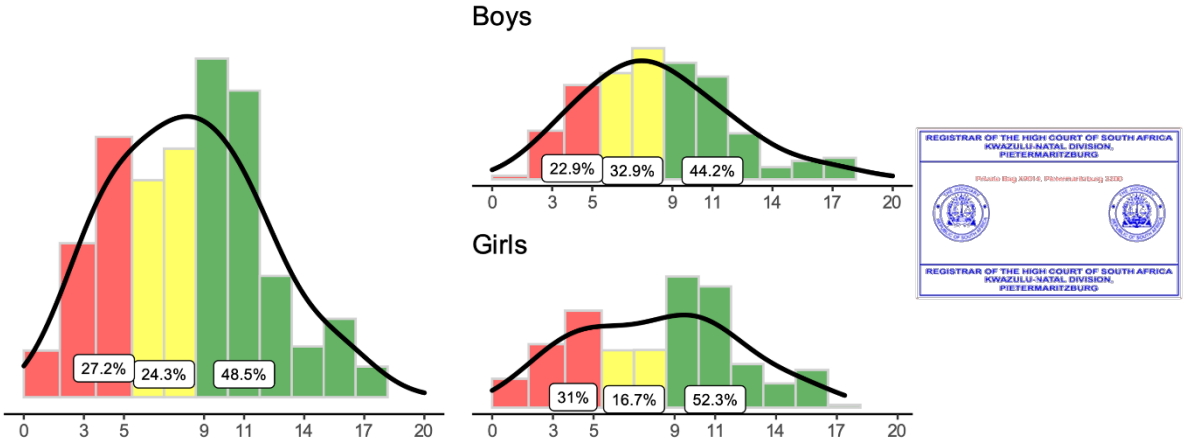


Figure 42: *Northern Cape: Frequency distributions, with density curves overlaid, for Gross Motor Development, separated by sex*

Of all five domains, children performed the best in GMD.

- On average, children in the Northern Cape achieved a mean GMD score of 8.20 (SD = 3.72).
- Overall, 48.5% of children are *On Track*, 24.3% are *Falling Behind* and 27.2% are *Falling Far Behind*.
- Boys and girls performed similarly. Although more girls are *On Track* than boys (52.3% and 44.2% respectively), still more girls are *Falling Far Behind* than boys (31% and 22.9% respectively).

7.3.2.Fine Motor Coordination and Visual Motor Integration

Table 44: *Northern Cape: Descriptive statistics for Fine Motor Coordination and Visual Motor Integration*

	Mean	SD	SE	Median	p_10	p_90	n
Total	10.17	3.76	0.32	10.18	5.86	15.85	600
Boys	9.87	3.88	0.36	10.00	5.86	15.96	275
Girls	10.44	3.63	0.34	10.72	6.23	15.42	325

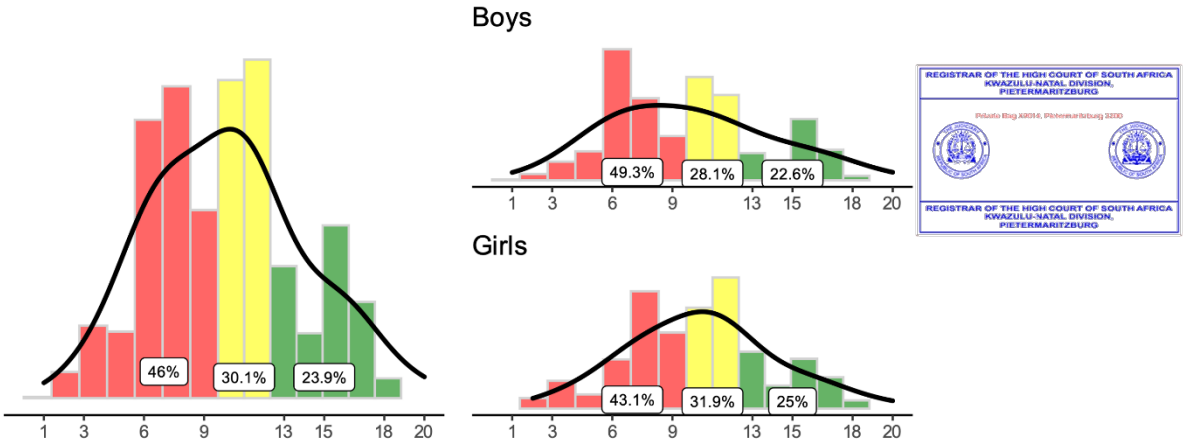


Figure 43: *Northern Cape: Frequency distributions, with density curves overlaid, for Fine Motor Coordination and Visual Motor Integration, separated by sex*

The figure shows that the scores are unevenly distributed, with clusters of scores comprising those in the *Falling Far Behind* category, those *Falling Behind* and those *On Track* for meeting the expected standard. Northern Cape FMC-VMI scores are somewhat concerning:

- The average score is 10.17 (SD = 3.76). There is little variation in mean scores for the sample.
- Only 23.9% of children are *On Track* and 46% are *Falling Far Behind* in this domain.
- Nearly half of boys (49.3%) in the Northern Cape are *Falling Far Behind* the standard for this domain, as are 43.1% of girls.

7.3.3.Emergent Numeracy and Mathematics

Table 45: *Northern Cape: Descriptive statistics for Emergent Numeracy and Mathematics*

	Mean	SD	SE	Median	p_10	p_90	n
Total	7.59	3.80	0.31	6.84	2.38	13.46	600
Boys	7.22	3.91	0.41	6.84	2.38	12.43	275
Girls	7.92	3.67	0.30	7.92	4.03	13.57	325

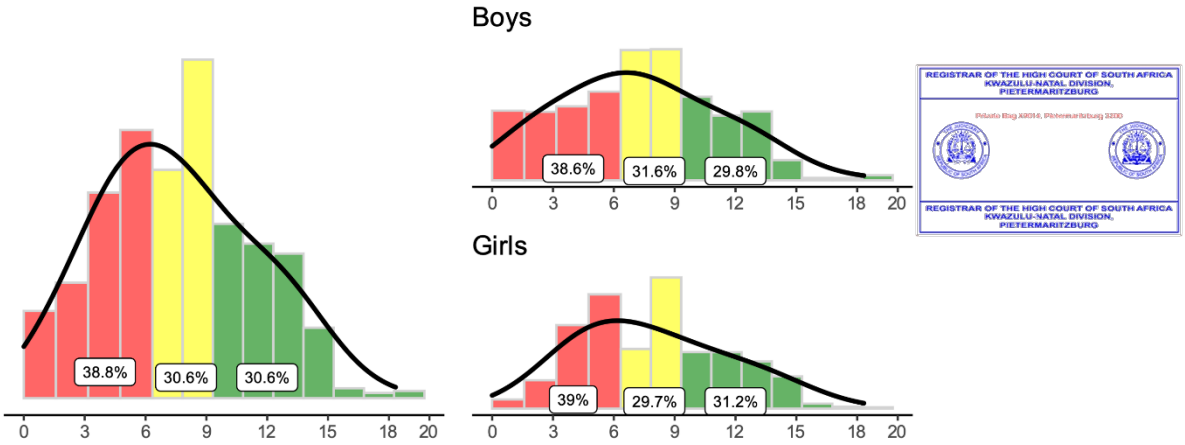


Figure 44: *Northern Cape: Frequency distributions, with density curves overlaid, for Emergent Numeracy and Mathematics, separated by sex*

ENM scores approximate a normal distribution, although a peak can be seen in which a large proportion of children score approximately 9 out of 20 (which places them into the *Falling Behind* category).

- On average, children scored only 7.59 (SD = 3.80).
- Only 30.6% of children are *On Track* in this domain, while 38.8% of children are *Falling Far Behind* the standard.
- There are no appreciable sex differences in this domain.

7.3.4.Cognition and Executive Functioning

Table 46: *Northern Cape: Descriptive statistics for Cognition and Executive Functioning*

	Mean	SD	SE	Median	p_10	p_90	n
Total	6.62	4.08	0.36	6.13	1.26	12.61	600
Boys	6.43	4.31	0.52	5.79	1.00	12.84	275
Girls	6.79	3.86	0.34	6.29	2.26	12.61	325

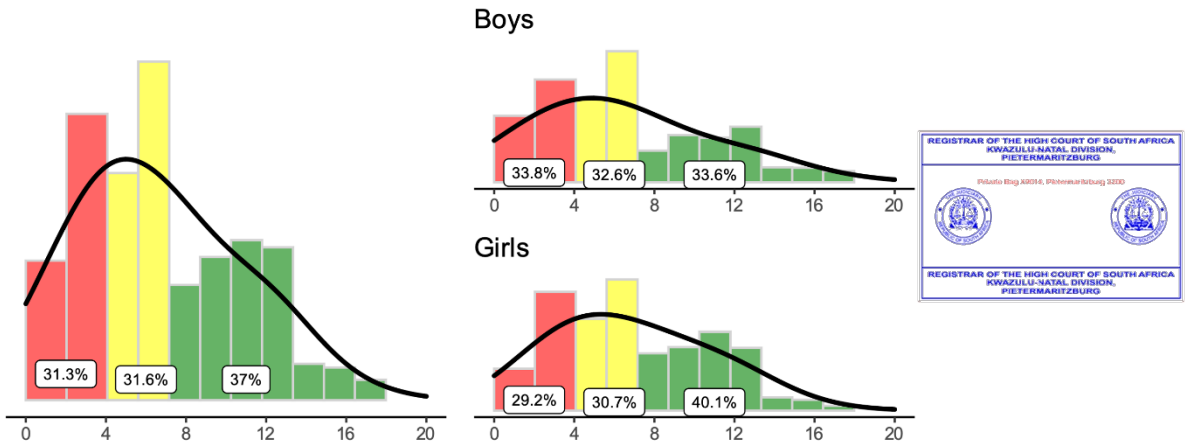


Figure 45: *Northern Cape: Frequency distributions, with density curves overlaid, for Cognition and Executive Functioning, separated by sex*

Children in the Northern Cape performed quite poorly in this domain:

- On average, they scored 6.62 (SD = 4.08). Such a large standard deviation in relation to the mean indicates a large amount of variation in the actual scores.
- There are roughly similar proportions of children in each risk category for this domain. Across the province, 37% of children are *On Track*, while 31.6% are *Falling Behind* and a further 31.3% are *Falling Far Behind*.
- Girls fare somewhat better than boys, with 40.1% *On Track* compared with only 33.6% of boys who are *On Track*.

7.3.5.Emergent Literacy and Language

Table 47: *Northern Cape: Descriptive statistics for Emergent Literacy and Language*

	Mean	SD	SE	Median	p_10	p_90	n
Total	8.93	4.62	0.35	8.55	3.09	15.52	600
Boys	8.31	4.30	0.40	7.84	3.19	14.59	275
Girls	9.48	4.82	0.33	10.03	2.64	15.88	325

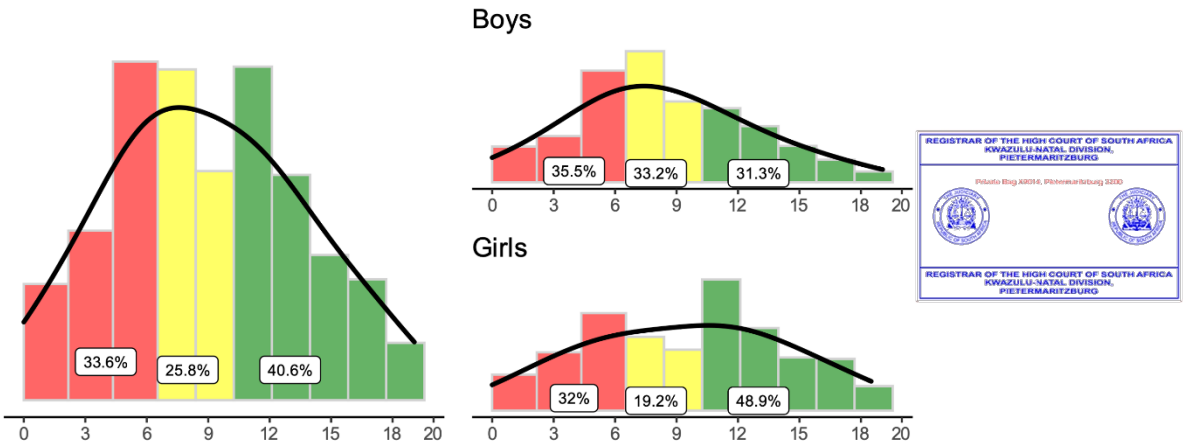


Figure 46: *Northern Cape: Frequency distributions, with density curves overlaid, for Emergent Literacy and Language, separated by sex*

ELL scores have relatively similar proportions of children achieving very low, average and very high scores.

- On average, children in the Northern Cape scored 8.93 (SD = 4.62) in this domain, with considerable variation in individual scores.
- 40.6% of children are *On Track* for achieving the expected standard, while 25.8% are *Falling Behind* and 33.6% are *Falling Far Behind*.
- Nearly half of girls are *On Track*, while 32% are *Falling Far Behind*, as are 35.5% of boys.

7.4. Mpumalanga

Table 48: Provincial summary

Sample	540 children[75]
	262 (49%) boys and 278 (51%) girls[73]
	Children were drawn from 129 ELPs across 44 sampling clusters
The quintile breakdown of this sample, computed with unweighted data	Quintile 1 n = 180 (33.3%) Quintile 2 n = 154 (28.5%) Quintile 3 n = 98 (18.1%) Quintile 4 n = 80 (14.8%) Quintile 5 n = 28 (5.2%)
Social-Emotional Functioning	18.0% of children don't achieve the expected score for Social Relations with Peers and Adults 36.7% of children don't achieve the expected score for Emotional Readiness for School
Stunting	3.3% of children have stunted growth, (2.83% moderately stunted and 0.51% severely stunted)
ELOM Total Score (details below)	Overall, 63.3% of children are *On Track*, 24.5% are *Falling Behind* and 12.2% are *Falling Far Behind* the expected standard for Early Learning
Summary	Overall, the development of more than 60% of children in Mpumalanga is *On Track*. Children perform particularly well in the ELL and CEF domains. Girls tend to perform better than boys. Efforts should be made to address poor performance in FMC-VMI.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION

Question 1: For learning outcomes overall (the ELOM 4&5 Total Score), what proportion of children are *On Track* (green), *Falling Behind* (yellow) and *Falling Far Behind* (red)?

[75] Children for whom weights available, otherwise 588.

Table 49: *Mpumalanga: Descriptive statistics for Total ELOM 4&5 Score*

	Mean	SD	SE	Median	p_10	p_90	n
Total	50.81	12.00	1.15	51.31	35.03	66.89	540
Boys	49.22	12.17	1.27	48.17	34.30	67.13	262
Girls	52.35	11.65	1.16	53.42	35.96	66.11	278

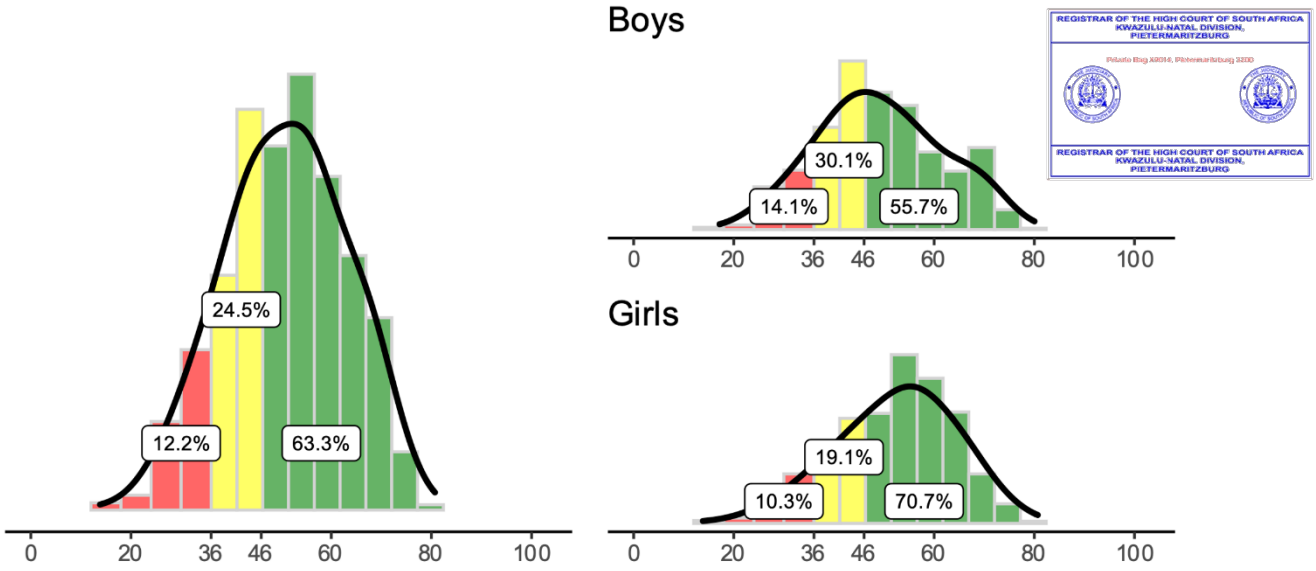


Figure 47: *Mpumalanga: Frequency distributions, with density curves overlaid, for Total ELOM 4&5 Score, separated by sex*

Table 49 shows that at the provincial level:

- The mean Total ELOM 4&5 Score is 50.81 (SD =12.0).
- Girls perform somewhat better than boys, with mean scores of 52.35 (SD = 11.65) and 49.22 (SD = 12.17) respectively. This 3-point difference is small but notable (Cohen's *d* = 0.26).

ELOM 4&5 Total Scores are approximately normally distributed. However, differences exist between the proportions of children who are *On Track* (for achieving the ELOM 4&5 standard), *Falling Behind* and *Falling Far Behind* of not achieving the expected standard prior to school, as can be seen in **Figure 47**

- A promising 63.3% of children's development is *On Track*, while 24.5% are *Falling Behind* and only 12.2% are *Falling Far Behind* the standard.

- Overall, a much greater proportion of girls are *On Track* (70.7%), with only 10.3% *Falling Far Behind*; 55.7% of boys are *On Track* and 14.1% are *Falling Far Behind*.

Question 2: For each of the five ELOM 4&5 learning domains, what proportion of children are *On Track* (green), *Falling Behind* (yellow) and *Falling Far Behind* the standard (red)?

7.4.1.Gross Motor Development

Table 50: *Mpumalanga: Descriptive statistics for Gross Motor Development*

	Mean	SD	SE	Median	p_10	p_90	n
Total	8.92	3.87	0.23	8.75	3.91	13.90	540
Boys	8.83	3.88	0.30	8.72	3.91	12.97	262
Girls	9.01	3.88	0.23	9.12	3.91	13.90	278

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

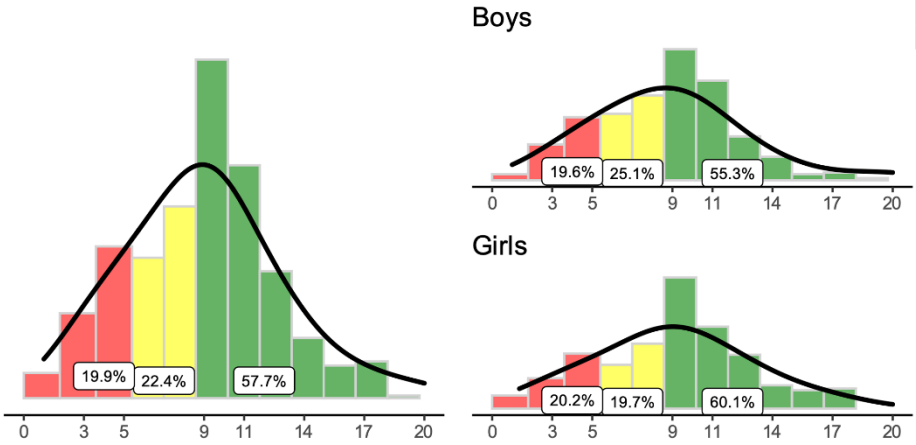


Figure 48: *Mpumalanga: Frequency distributions, with density curves overlaid, for Gross Motor Development, separated by sex*

The distribution of scores is largely symmetrical and approximates a normal distribution.

- Scores for GMD average 8.92 (SD = 3.87).
- Overall, 57.7% of children are *On Track* in this domain, with 22.4% *Falling Behind* and 19.9% *Falling Far Behind* the expected standard.
- Girls fare slightly better than boys in this domain. The figure shows the score distributions are nearly identical, with 4.8% more girls *On Track* than boys.

7.4.2.Fine Motor Coordination and Visual Motor Integration

Table 51: *Mpumalanga: Descriptive statistics for Fine Motor Coordination and Visual Motor Integration*

	Mean	SD	SE	Median	p_10	p_90	n
Total	11.90	3.40	0.25	11.38	7.07	16.50	540
Boys	11.30	3.36	0.27	11.27	6.52	16.27	262
Girls	12.48	3.35	0.29	11.69	8.98	17.06	278

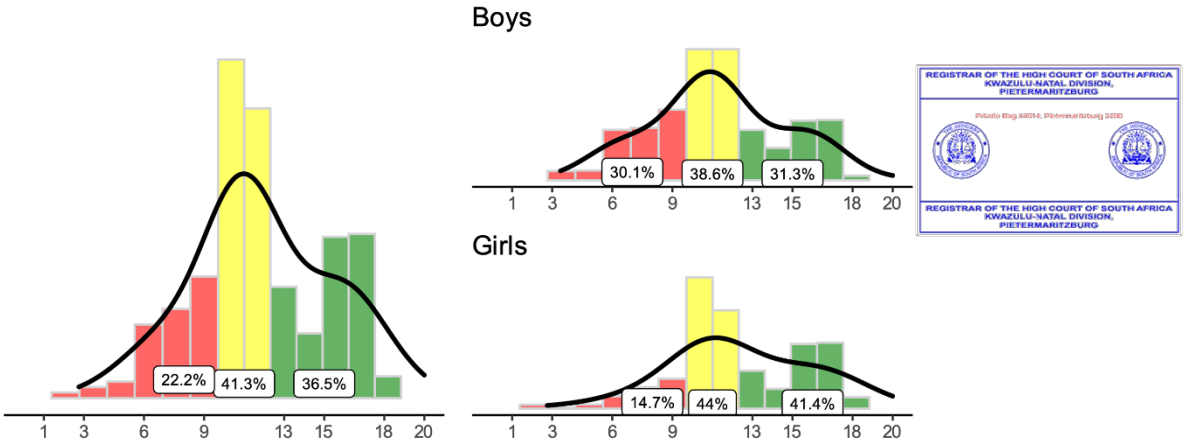


Figure 49: *Mpumalanga: Frequency distributions, with density curves overlaid, for Fine Motor Coordination and Visual Motor Integration, separated by sex*

- Across the sample, the mean score is 11.90 (SD = 3.40).
- In this domain, most children are *Falling Behind* the standard (41.3%), followed by children who are *On Track* (36.5%), and then those who are *Falling Far Behind* (22.2%).
- There is a dramatic difference in the distribution of the ELOM 4&5 bands between boys and girls, with 41.4% of girls *On Track* and only 14.7% *Falling Far Behind*, while only 31.3% of boys are *On Track* and as many as 30.1% are *Falling Far Behind*.

7.4.3.Emergent Numeracy and Mathematics

Table 52: *Mpumalanga: Descriptive statistics for Emergent Numeracy and Mathematics*

	Mean	SD	SE	Median	p_10	p_90	n
Total	9.76	3.37	0.25	9.68	5.19	13.69	540
Boys	9.33	3.51	0.24	9.31	4.03	13.69	262
Girls	10.19	3.18	0.30	10.65	6.43	13.72	278

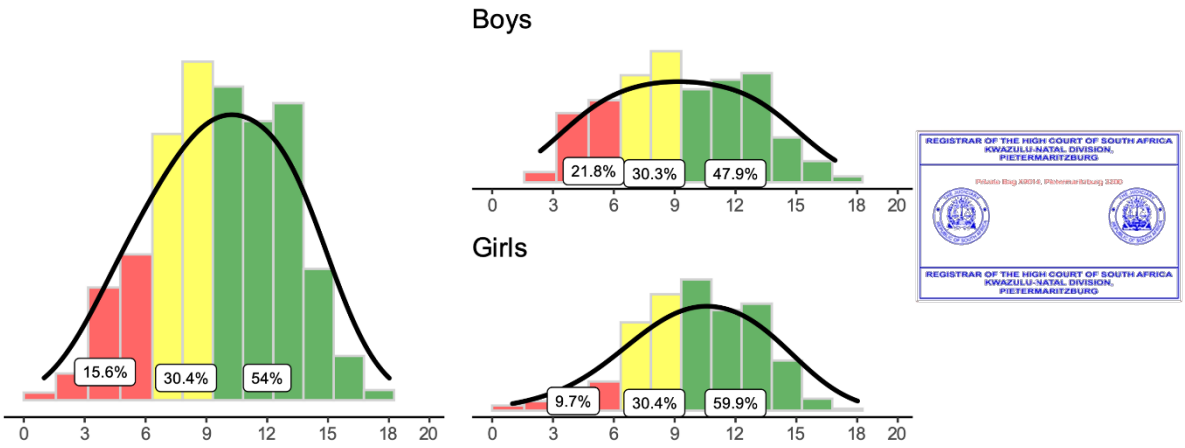


Figure 50: *Mpumalanga: Frequency distributions, with density curves overlaid, for Emergent Numeracy and Mathematics, separated by sex*

ENM scores in Mpumalanga are encouraging:

- The mean score for the whole sample is 9.76 (SD = 3.37).
- Overall, a promising 54% of children are *On Track* to achieve the ENM standard, but 46% do not meet the standard.
- Once again, girls fare much better than boys, with 59.9% *On Track* and only 9.7% *Falling Far Behind*, while 47.9% of boys are *On Track* and 21.8% are *Falling Far Behind*.

7.4.4.Cognition and Executive Functioning

Table 53: *Mpumalanga: Descriptive statistics for Cognition and Executive Functioning*

	Mean	SD	SE	Median	p_10	p_90	n
Total	8.57	3.57	0.29	8.24	4.37	12.84	540
Boys	8.40	3.72	0.34	8.24	3.37	12.84	262
Girls	8.73	3.41	0.29	8.40	4.37	12.84	278

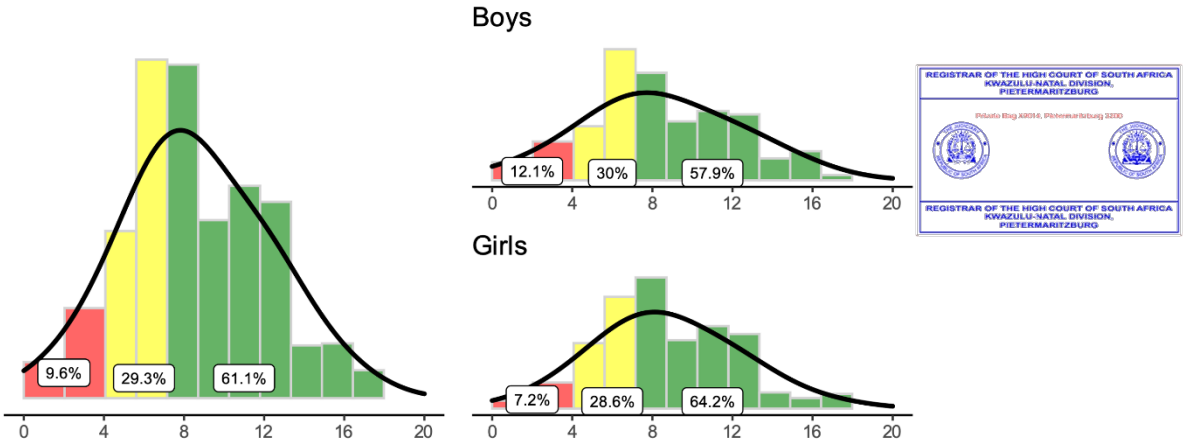


Figure 51: *Mpumalanga: Frequency distributions, with density curves overlaid, for Cognition and Executive Functioning, separated by sex*

- On average, children scored 8.57 (SD = 3.57) out of a possible 20 for CEF tasks.
- Most children (61.1%) are *On Track* for this domain.
- Again, girls outperform boys. While mean differences are negligible, the proportions of children in the different ELOM 4&5 bands vary by sex. A total of 64.2% of girls are *On Track* and only 7.2% are *Falling Far Behind*, while 57.9% of boys are *On Track* and 12.1% are *Falling Far Behind* the expected domain standard.

7.4.5.Emergent Literacy and Language

Table 54: *Mpumalanga: Descriptive statistics for Emergent Literacy and Language*

	Mean	SD	SE	Median	p_10	p_90	n
Total	11.66	4.26	0.46	12.09	5.91	17.56	540
Boys	11.36	4.28	0.54	11.44	5.59	17.56	262
Girls	11.95	4.24	0.45	12.67	6.36	17.56	278

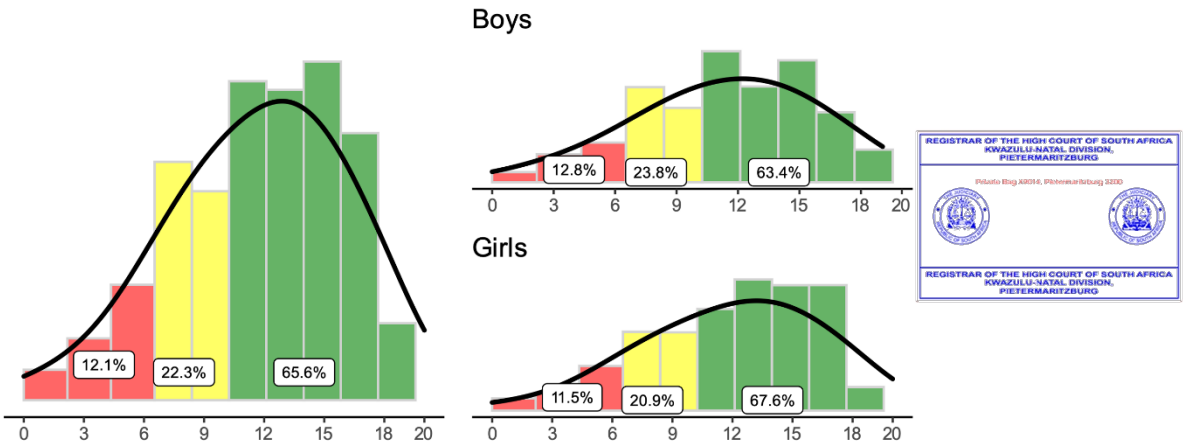


Figure 52: *Mpumalanga: Frequency distributions, with density curves overlaid, for Emergent Literacy and Language, separated by sex*

- ELL scores are, on average, the highest of the five domains. Across the Mpumalanga sample, the mean score is 11.66 (SD = 4.26).
- Across the board, 65.6% of Mpumalanga children are *On Track* for this domain.
- Boys and girls score similarly, on average - 67.6% of girls and 63.4% of boys are *On Track*, and only 11.5% of girls and 12.8% of boys are *Falling Far Behind*.

7.5. Gauteng

Table 55: Provincial summary

Sample	571 children
	278 (49%) boys and 293 (51%) girls
	Children were drawn from 143 ELPs across 40 sampling clusters
The quintile breakdown of this sample, computed with unweighted data	Quintile 1 n = 62 (11%) Quintile 2 n = 72 (12.6%) Quintile 3 n = 164 (28.7%) Quintile 4 n = 122 (21.4%) Quintile 5 n = 151 (26.4%)
Social-Emotional Functioning	50.7% of children don't achieve the expected score for Social Relations with Peers and Adults 34.2% of children don't achieve the expected score for Emotional Readiness for School
Stunting	5.7% of children have stunted growth, (5.19% moderately stunted and 0.48% severely stunted)
ELOM Total Score (details below)	Overall, 50.6% of children are *On Track*, 22.7% are *Falling Behind* and 26.8% are *Falling Far Behind* the expected standard for Early Learning
Summary	The results of Gauteng are mixed. While children perform best on ELL and CEF, performance is weakest in FMC-VMI and ENM, particularly in the case of boys.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Question 1: For learning outcomes overall (the ELOM 4&5 Total Score), what proportion of children are *On Track* (green), *Falling Behind* (yellow) and *Falling Far Behind* (red)?

Table 56: *Gauteng: Descriptive statistics for Total ELOM 4&5 Score*

	Mean	SD	SE	Median	p_10	p_90	n
Total	45.61	13.97	1.03	46.69	26.82	63.48	571
Boys	44.93	13.43	1.07	45.80	26.85	62.75	278
Girls	46.26	14.45	1.49	47.18	26.72	65.23	293

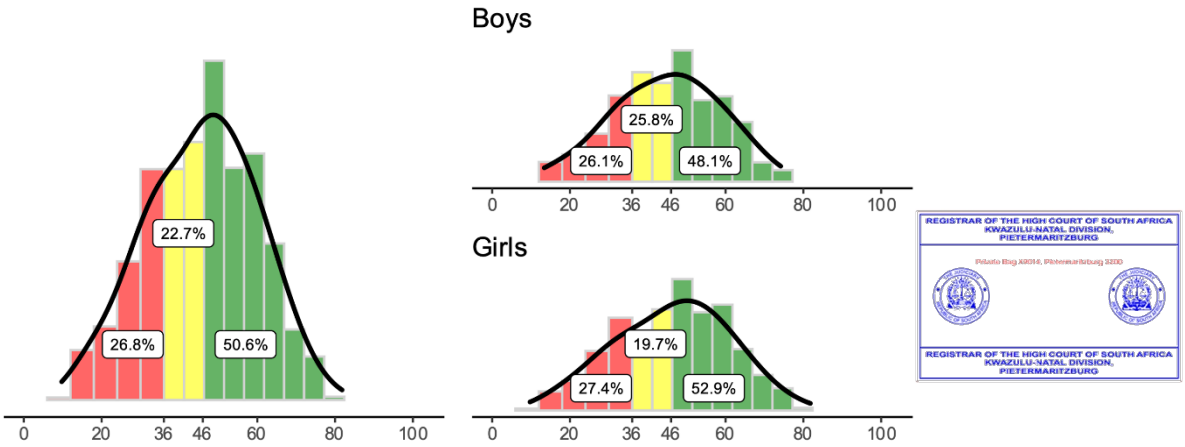


Figure 53: *Gauteng: Frequency distributions, with density curves overlaid, for Total ELOM 4&5 Score, separated by sex*

- Children in Gauteng achieved a mean ELOM 4&5 Total Score of 45.61 (SD = 13.97).
- Boys and girls score similarly, with mean ELOM 4&5 Total Scores of 44.93 (SD = 13.43) and 46.26 (SD = 14.45) respectively.

ELOM 4&5 Total Scores show a reasonable approximation towards a normal distribution. The figure shows:

- Across the Gauteng sample, just over half of children are *On Track* to achieve the standard, while 49.5% are not.
- On average, more girls are *On Track* than boys (52.9% versus 48.1%), and an equal proportion (27.4% and 26.1% respectively) are *Falling Far Behind*.

Question 2: For each of the five ELOM 4&5 learning domains, what proportion of children are *On Track* (green), *Falling Behind* (yellow) and *Falling Far Behind* the standard (red)?

7.5.1.Gross Motor Development

Table 57: *Gauteng: Descriptive statistics for Gross Motor Development*

	Mean	SD	SE	Median	p_10	p_90	n
Total	7.53	3.81	0.29	7.57	2.36	12.81	571
Boys	7.73	3.73	0.30	7.68	2.36	12.81	278
Girls	7.34	3.89	0.43	7.20	2.91	12.81	293

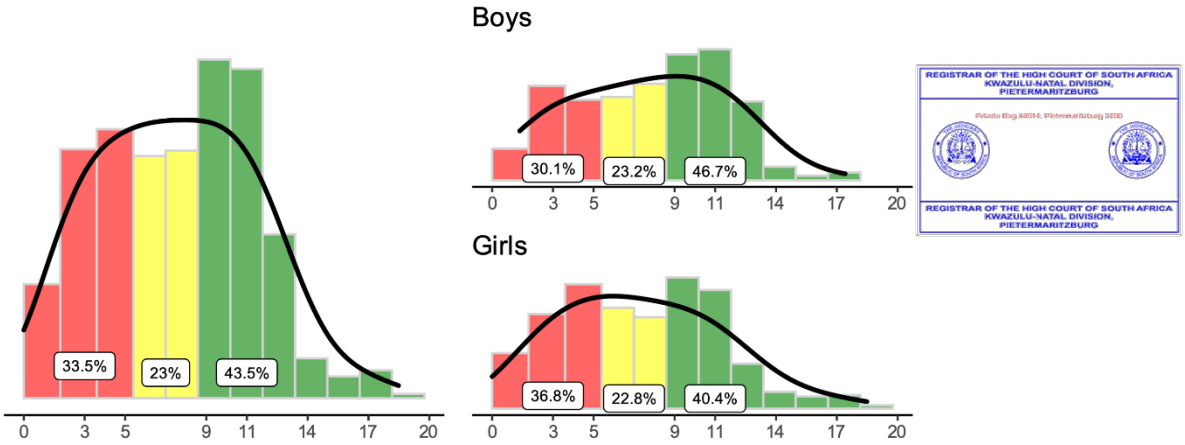


Figure 54: *Gauteng: Frequency distributions, with density curves overlaid, for Gross Motor Development, separated by sex*

GMD scores follow a more uniform distribution than is seen in other domains, indicating that similar proportions of children achieved scores across the whole range of possible scores. The table shows that on average:

- Children in Gauteng achieved similar scores and attained a mean GMD score of 7.53 (SD = 3.81).
- Overall, 43.5% of children are *On Track*, 23% are *Falling Behind* and a further 33.5% are *Falling Far Behind*.
- Fewer girls in Gauteng are *On Track* than boys (40.4% compared with 46.7% respectively), and more girls are *Falling Far Behind* than boys (36.8% compared with 30.1%).

7.5.2.Fine Motor Coordination and Visual Motor Integration

Table 58: *Gauteng: Descriptive statistics for Fine Motor Coordination and Visual Motor Integration*

	Mean	SD	SE	Median	p_10	p_90	n
Total	11.40	3.74	0.23	11.27	6.52	16.50	571
Boys	10.94	3.48	0.25	10.73	6.52	15.96	278
Girls	11.84	3.93	0.32	11.38	6.52	16.93	293

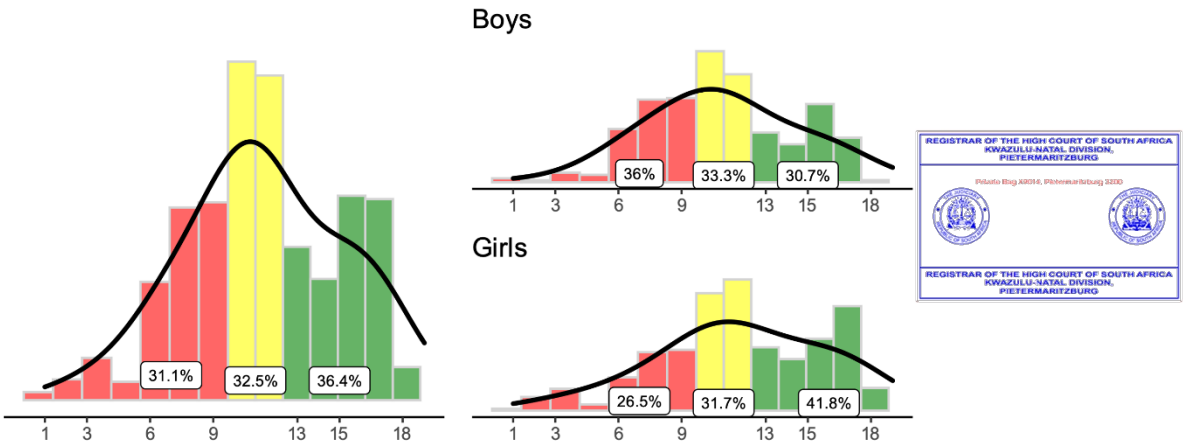


Figure 55: *Gauteng: Frequency distributions, with density curves overlaid, for FMC-VMI, separated by sex*

The distribution of scores approximates a normal distribution but there are large clusters of scores across the range.

- The average score for this domain is 11.40 (SD = 3.74).
- Overall, 36.4% of children are *On Track*, 32.5% are *Falling Behind* and a further 31.1% are *Falling Far Behind*.
- Among girls, 41.8% are *On Track*, while 58.2% are not. Among boys, only 30.7% of boys meet the expected domain standard and 69.3% do not.

7.5.3.Emergent Numeracy and Mathematics

Table 59: *Gauteng: Descriptive statistics for Emergent Numeracy and Mathematics*

	Mean	SD	SE	Median	p_10	p_90	n
Total	8.11	3.91	0.29	7.92	2.65	13.57	571
Boys	8.04	3.79	0.33	7.92	3.47	13.57	278
Girls	8.18	4.02	0.38	7.93	2.65	13.57	293

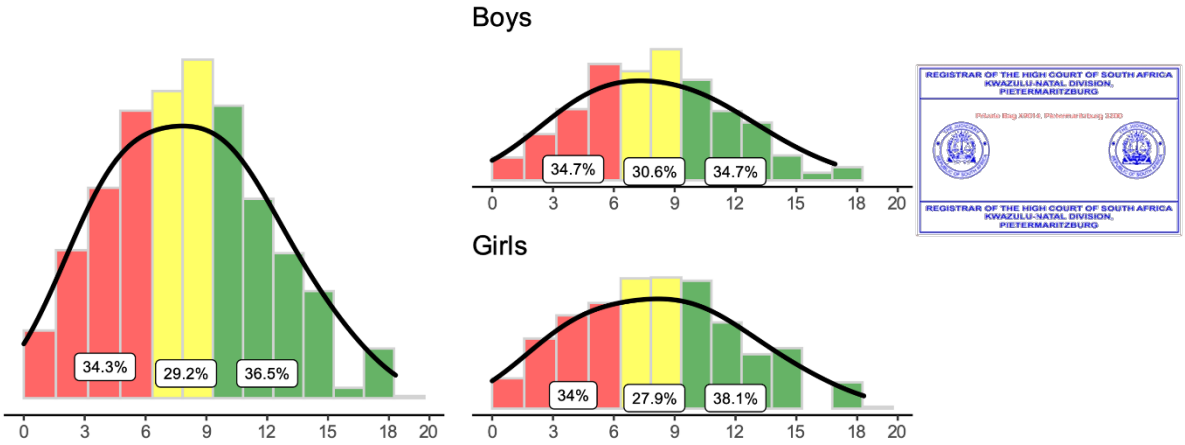


Figure 56: *Gauteng: Frequency distributions, with density curves overlaid, for Emergent Numeracy and Mathematics, separated by sex*

The figure shows that ENM scores approximate a normal distribution.

- On average, children scored 8.11 (SD = 3.91). The large standard deviation relative to the mean score indicates a very large amount of variation in the individual scores for this domain.
- Across the Gauteng sample, 36.5% of children are *On Track* for this domain, while 34.3% are *Falling Far Behind*.
- There are no appreciable sex differences in this domain.

7.5.4.Cognition and Executive Functioning

Table 60: *Gauteng: Descriptive statistics for Cognition and Executive Functioning*

	Mean	SD	SE	Median	p_10	p_90	n
Total	7.71	3.69	0.23	7.14	3.11	12.61	571
Boys	7.41	3.65	0.24	7.14	2.26	12.42	278
Girls	7.98	3.72	0.33	7.47	3.11	12.84	293

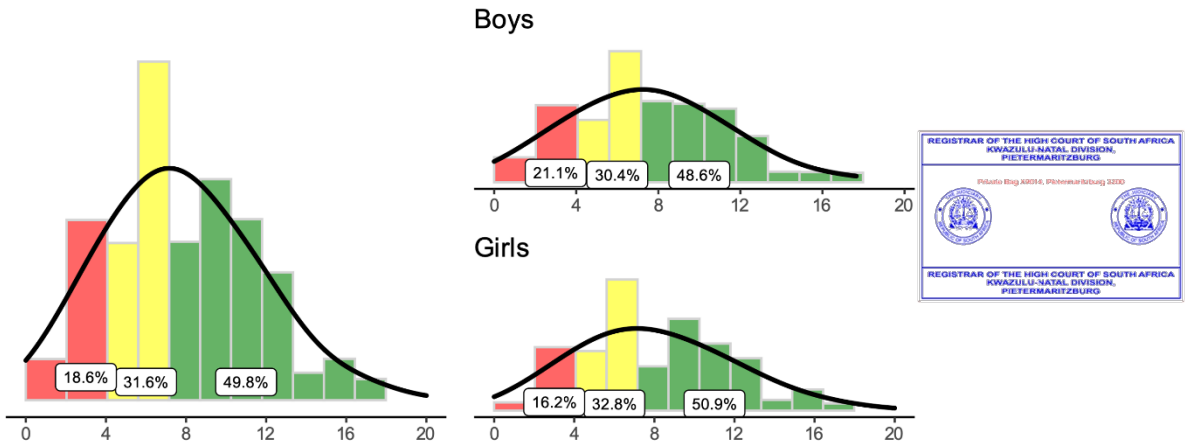


Figure 57: *Gauteng: Frequency distributions, with density curves overlaid, for Cognition and Executive Functioning, separated by sex*

Children in Gauteng produced some promising results in this domain.

- Children scored 7.71 on average (SD = 3.69). The large standard deviation relative to the mean score indicates substantial variation in individual scores.
- Almost half of Gauteng children are *On Track*, while 31.5% are *Falling Behind* and 18.6% are *Falling Far Behind*.
- There are no appreciable sex differences in this domain, although slightly more boys (21.1%) are *Falling Far Behind* the standard than girls (16.2%).

7.5.5.Emergent Literacy and Language

Table 61: *Gauteng: Descriptive statistics for Emergent Literacy and Language*

	Mean	SD	SE	Median	p_10	p_90	n
Total	10.86	4.65	0.28	11.17	4.66	16.78	571
Boys	10.80	4.63	0.40	10.93	3.44	16.78	278
Girls	10.91	4.67	0.35	11.25	4.87	16.78	293

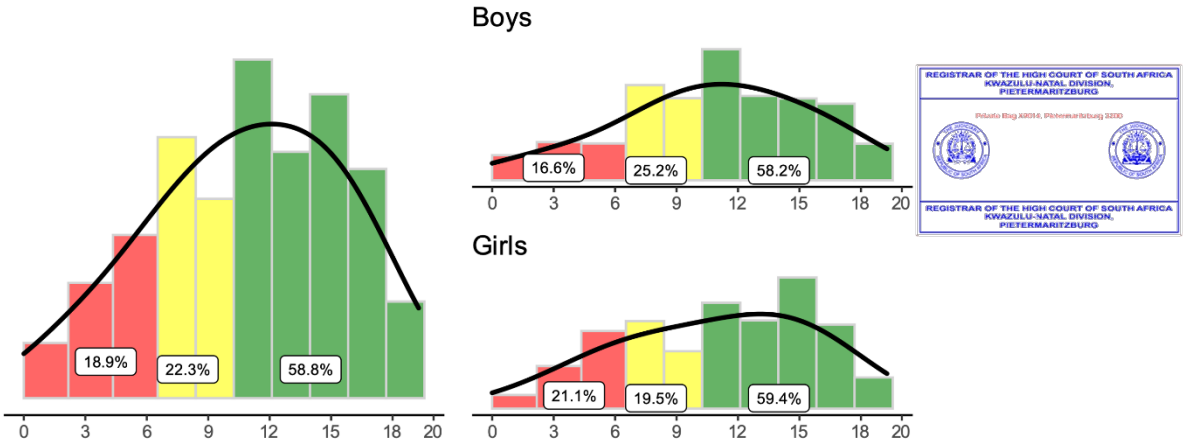


Figure 58: *Gauteng: Frequency distributions, with density curves overlaid, for Emergent Literacy and Language, separated by sex*

Of the five domains, children in Gauteng performed best in this domain:

- Children achieved an average score of 10.86 (SD = 4.65). Note the large standard deviation indicating considerable variation in children's abilities.
- The majority of children (58.8%) are *On Track* for achieving the expected standard. Still, 22.3% are *Falling Behind* and 18.9% are *Falling Far Behind*.
- Boys and girls perform similarly in this domain.

7.6. North West

Table 62: Provincial summary

Sample	564 children (588 in total, but 24 were missing weighting data)
	273 (48%) boys and 291 (52%) girls
	Children were drawn from 134 ELPs across 38 sampling clusters
The quintile breakdown of this sample, computed with unweighted data	Quintile 1 n = 228 (40.4%) Quintile 2 n = 107 (19%) Quintile 3 n = 199 (35.3%) Quintile 4 n = 30 (5.32%) Quintile 5 n = 0 (0%)
Social-Emotional Functioning	32.3% of children don't achieve the expected score for Social Relations with Peers and with Adults 46.6% of children don't achieve the expected score for Emotional Readiness Tasks and Behaviour
Stunting	5.84% of children have stunted growth, (5.71% moderately stunted and 0.13% severely stunted)
ELOM Total Score (details below)	Overall, 44.5% of children are *On Track*, 30% are *Falling Behind* and 25.5% are *Falling Far Behind* the expected standard for Early Learning
Summary	The North West shows some promising results. However, weak performances are evident in the FMC-VMI and ENM domains, with boys consistently at greater risk than girls of not achieving domain standards.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Question 1: For learning outcomes overall (the ELOM 4&5 Total Score), what proportion of children are *On Track* (green), *Falling Behind* (yellow) and *Falling Far Behind* (red)?

Table 63: *North West: Descriptive statistics for Total ELOM 4&5 Score*

	Mean	SD	SE	Median	p_10	p_90	n
Total	44.84	12.05	0.85	44.65	29.39	62.08	564
Boys	43.81	12.27	1.09	43.99	28.63	61.95	273
Girls	45.84	11.76	1.05	45.15	30.51	62.08	291

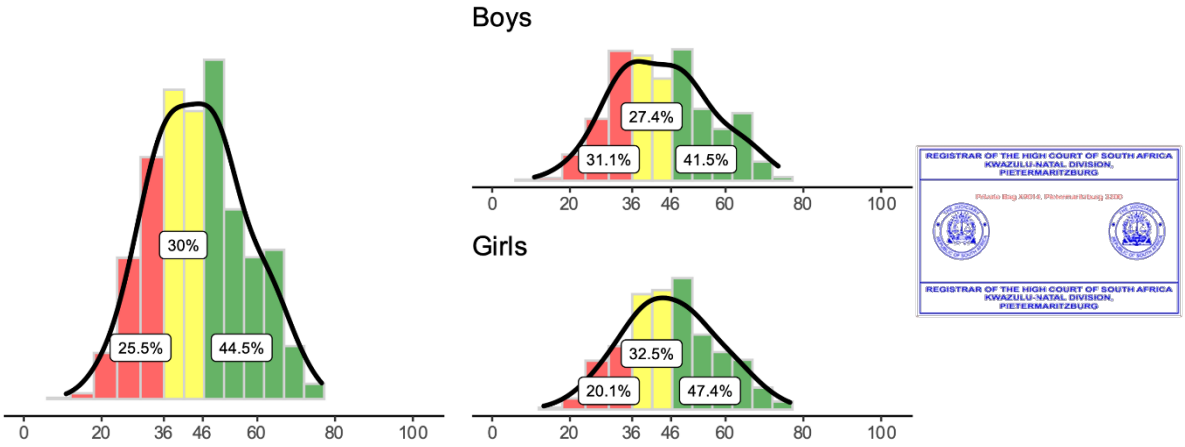


Figure 59: *North West: Frequency distributions, with density curves overlaid, for Total ELOM 4&5 Score, separated by sex*

Table 63 shows that:

- Children in North West achieved a mean ELOM 4&5 Total Score of 44.84 (SD = 12.05).
- Boys and girls score similarly, with mean ELOM 4&5 Total Scores of 43.81 (SD = 12.27) and 45.84 (SD = 11.76) respectively.

ELOM 4&5 Total Scores show a reasonable approximation towards a normal distribution. **Figure 59** shows that:

- 44.5% of North West children are *On Track* for the standard, while 25.5% are *Falling Far Behind*.
- On average, more girls are *On Track* than boys (47.4% versus 41.5%), with more boys *Falling Far Behind* the standard (31.1% compared with 20.1% of girls).

Question 2: For each of the five ELOM 4&5 learning domains, what proportion of children are *On Track* (green), *Falling Behind* (yellow) and *Falling Far Behind* the standard (red)?

7.6.1.Gross Motor Development

Table 64: *North West: Descriptive statistics for Gross Motor Development*

	Mean	SD	SE	Median	p_10	p_90	n
Total	8.28	3.62	0.26	8.67	3.43	12.92	564
Boys	8.52	3.86	0.33	8.75	2.91	12.97	273
Girls	8.06	3.37	0.30	8.16	3.58	12.89	291

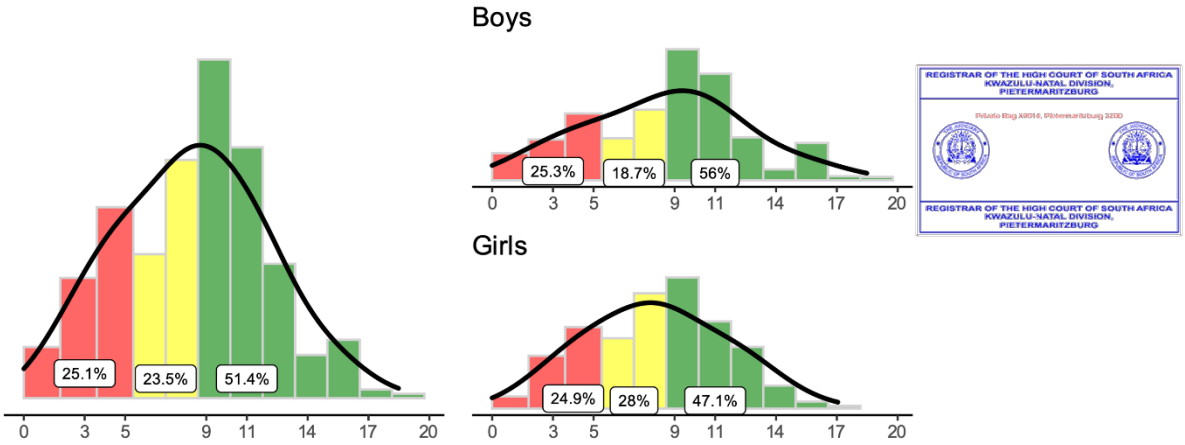


Figure 60: *North West: Frequency distributions, with density curves overlaid, for Gross Motor Development, separated by sex*

Scores for this domain show little variation across the sample.

- On average, children in North West achieved a mean GMD score of 8.28 (SD = 3.62).
- More than half of children (51.4%) are *On Track*, while 25.1% are *Falling Far Behind*.
- Boys perform better than girls in this domain, with 56% of boys compared with 47.1% of girls *On Track*.

7.6.2.Fine Motor Coordination and Visual Motor Integration

Table 65: *North West: Descriptive statistics for Fine Motor Coordination and Visual Motor Integration*

	Mean	SD	SE	Median	p_10	p_90	n
Total	11.49	2.93	0.21	10.83	8.26	15.96	564
Boys	11.10	2.80	0.29	10.73	7.62	15.41	273
Girls	11.87	3.01	0.28	11.38	8.98	15.96	291

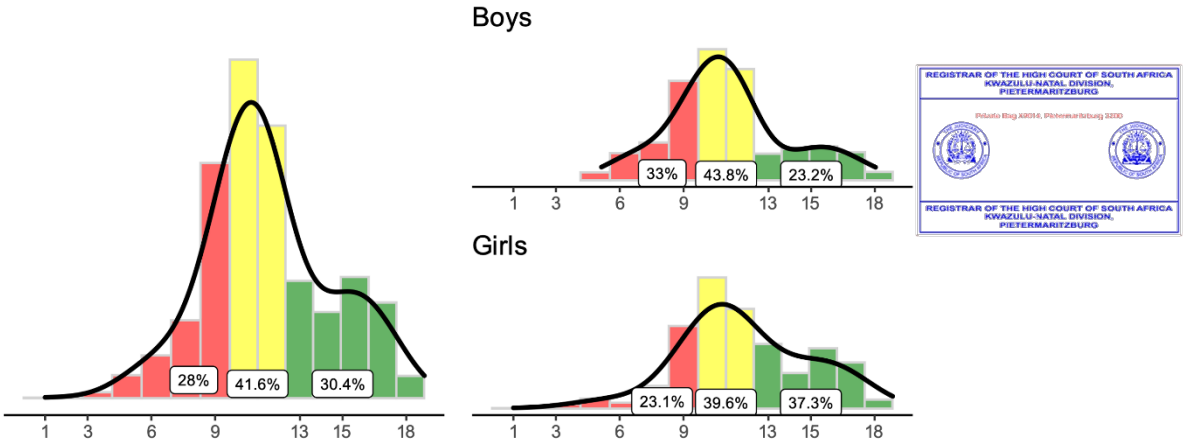


Figure 61: *North West: Frequency distributions, with density curves overlaid, for Fine Motor Coordination and Visual Motor Integration, separated by sex*

- The average score for this domain is 11.49, with a small standard deviation of 2.93.
- The scores are unevenly distributed, with only 30.4% of North West children *On Track* in this domain, and 28% *Falling Far Behind*.
- Girls perform better than boys in this domain. Only 23.2% of boys in this province are *On Track* for achieving the expected domain standard, compared with 37.3% of girls.

7.6.3.Emergent Numeracy and Mathematics

Table 66: *North West: Descriptive statistics for Emergent Numeracy and Mathematics*

	Mean	SD	SE	Median	p_10	p_90	n
Total	7.98	3.28	0.16	7.92	4.03	12.27	564
Boys	7.74	3.23	0.25	7.69	2.80	12.15	273
Girls	8.22	3.33	0.23	8.04	4.03	12.46	291

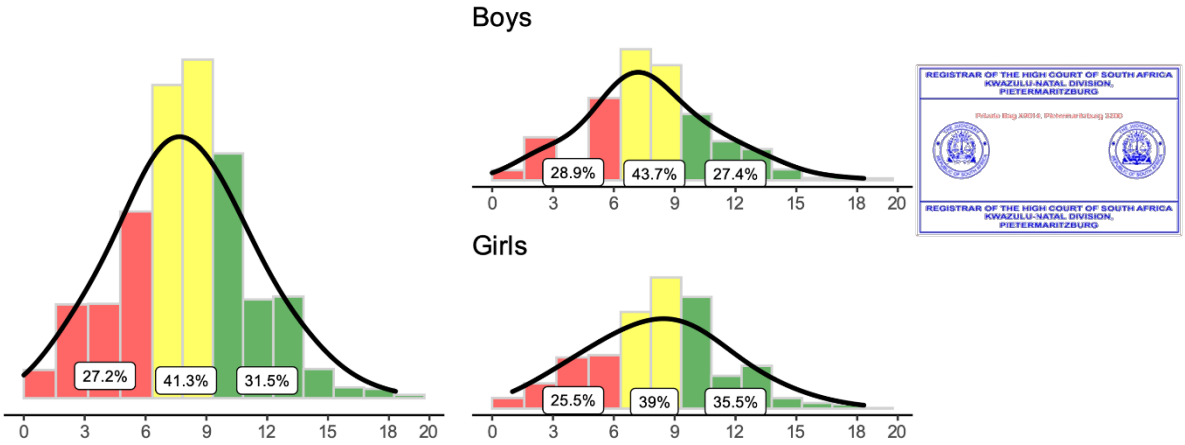


Figure 62: *North West: Frequency distributions, with density curves overlaid, for Emergent Numeracy and Mathematics, separated by sex*

The ENM scores approximate a normal distribution.

- On average, children scored 7.98 (SD = 3.28).
- 31.5% of children are *On Track* for ENM, while 27.2% are *Falling Far Behind*.
- Girls perform better than boys, with only 27.4% of boys *On Track*, compared with 35.5% of girls.

7.6.4.Cognition and Executive Functioning

Table 67: *North West: Descriptive statistics for Cognition and Executive Functioning*

	Mean	SD	SE	Median	p_10	p_90	n
Total	7.03	3.94	0.29	6.48	2.26	12.61	564
Boys	6.71	4.10	0.35	6.13	2.11	12.61	273
Girls	7.33	3.76	0.37	6.71	3.11	12.61	291

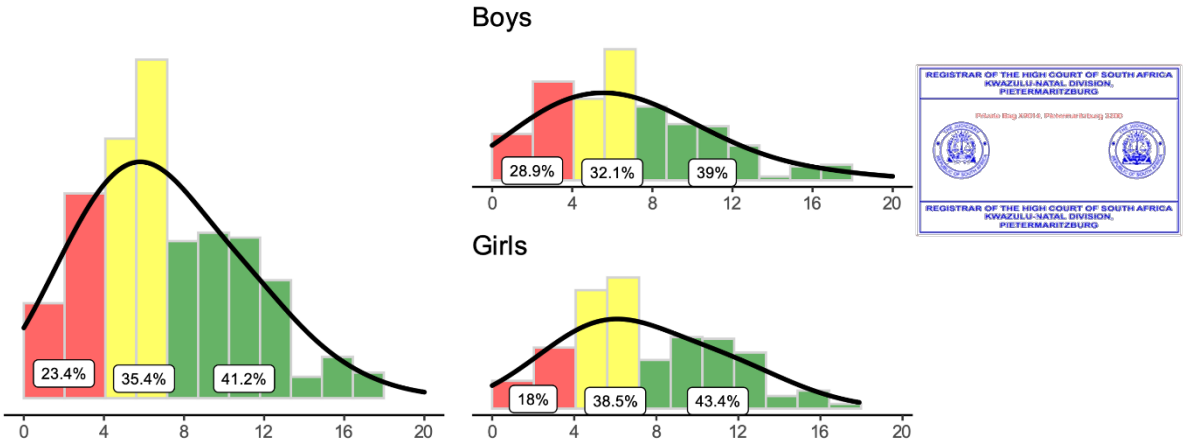


Figure 63: *North West: Frequency distributions, with density curves overlaid, for Cognition and Executive Functioning, separated by sex*

Children in North West province performed relatively well in this domain.

- Children scored 7.03 (SD = 3.94) on average. Such a large standard deviation in relation to the mean indicates a huge amount of variation in the children's scores.
- The figure shows that 41.2% of children across the province are *On Track*, while 35.4% are *Falling Behind* and 23.4% are *Falling Far Behind*.
- On average, boys and girls performed similarly. However, more girls are *On Track* than boys, and fewer girls are *Falling Far Behind* than their male counterparts (18% compared with 28.9%).

7.6.5.Emergent Literacy and Language

Table 68: *North West: Descriptive statistics for Emergent Literacy and Language*

	Mean	SD	SE	Median	p_10	p_90	n
Total	10.06	4.05	0.24	10.27	4.87	15.40	564
Boys	9.75	3.83	0.26	10.03	4.87	14.47	273
Girls	10.35	4.23	0.36	10.27	4.87	16.30	291

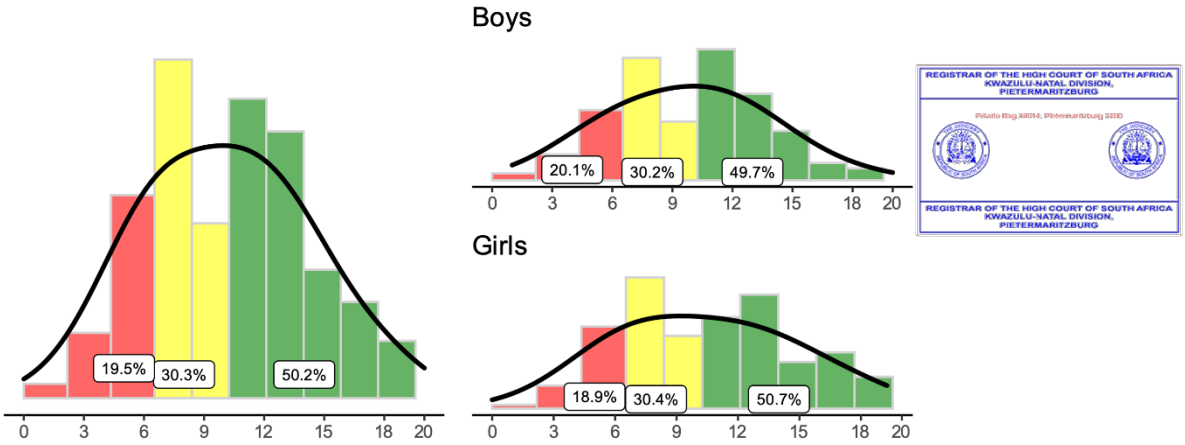


Figure 64: *North West: Frequency distributions, with density curves overlaid, for Emergent Literacy and Language, separated by sex*

The distribution of ELL scores is more uniform than the other domains. This is the most promising domain for children in North West:

- Children in North West achieved on average 10.06 (SD = 4.05).
- Half of North West children are *On Track* for achieving the expected standard in this domain, while 30.3% are *Falling Behind* and 19.5% are *Falling Far Behind*.
- There is a negligible sex difference in this domain, with roughly half of both boys and girls *On Track*.

7.7. Western Cape

Table 69: Provincial summary

Sample	559 children
	268 (48%) boys and 291 (52%) girls
	Children were drawn from 134 ELPs across 38 sampling clusters
The quintile breakdown of this sample, computed with unweighted data	Quintile 1 n = 121 (21.6%) Quintile 2 n = 106 (19%) Quintile 3 n = 77 (13.8%) Quintile 4 n = 104 (18.6%) Quintile 5 n = 151 (27%)
Social-Emotional Functioning	33.1% of children don't achieve the expected score for Social Relations with Peers and with Adults 41.1% of children don't achieve the expected score for Emotional Readiness Overall
Stunting	5.2% of children have stunted growth, (4.38% moderately stunted and 0.86% severely stunted)
ELOM Total Score (details below)	Overall, 64.8% of children are *On Track*, 19.2% are *Falling Behind* and 16% are *Falling Far Behind* the expected standard for Early Learning
Summary	The Western Cape shows promising results for the Learning Total Score and across domains. Girls generally performed better than boys, with children excelling in the ELL and CEF domains. ENM is an area of concern requiring special attention.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Question 1: For learning outcomes overall (the ELOM 4&5 Total Score), what proportion of children are *On Track* (green), *Falling Behind* (yellow) and *Falling Far Behind* (red)?

Table 70: *Western Cape: Descriptive statistics for Total ELOM 4&5 Score*

	Mean	SD	SE	Median	p_10	p_90	n
Total	52.40	15.19	1.80	52.42	32.12	72.01	559
Boys	50.55	15.31	1.96	50.75	30.44	68.72	268
Girls	53.99	14.93	1.97	54.61	33.04	72.67	291

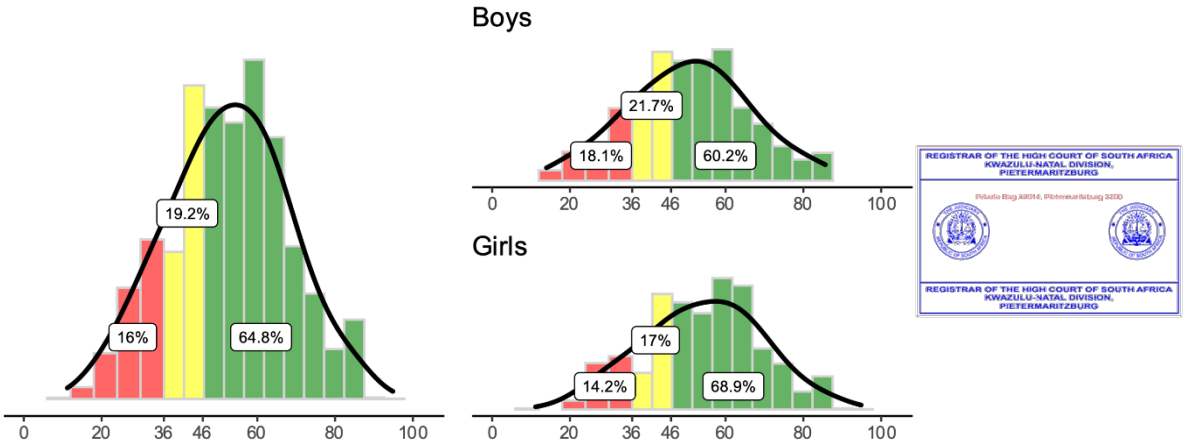


Figure 65: *Western Cape: Frequency distributions, with density curves overlaid, for Total ELOM 4&5 Score, separated by sex*

Table 70 shows that in the Western Cape:

- Children achieved a mean ELOM 4&5 Total Score of 52.40 (SD = 15.19).
- Girls scored, on average, 3 points higher than boys, with mean ELOM 4&5 Total Scores of and 53.99 (SD = 14.93) and 50.55 (SD = 15.31) respectively (Cohen's *d* = 0.23, indicating a small effect).

ELOM 4&5 Total Scores show a reasonable approximation towards a normal distribution. **Figure 65** shows that:

- The majority of Western Cape children (64.8%) achieve the standard and only 16% are *Falling Far Behind*.
- On average, more girls are *On Track* for school than boys (68.9% versus 60.2%).

Question 2: For each of the five ELOM 4&5 learning domains, what proportion of children are *On Track* (green), *Falling Behind* (yellow) and *Falling Far Behind* the standard (red)?

7.7.1.Gross Motor Development

Table 71: *Western Cape: Descriptive statistics for Gross Motor Development*

	Mean	SD	SE	Median	p_10	p_90	n
Total	8.78	4.78	0.33	8.67	2.36	14.44	559
Boys	9.48	4.84	0.46	8.72	3.43	15.87	268
Girls	8.18	4.65	0.41	8.43	2.22	14.44	291

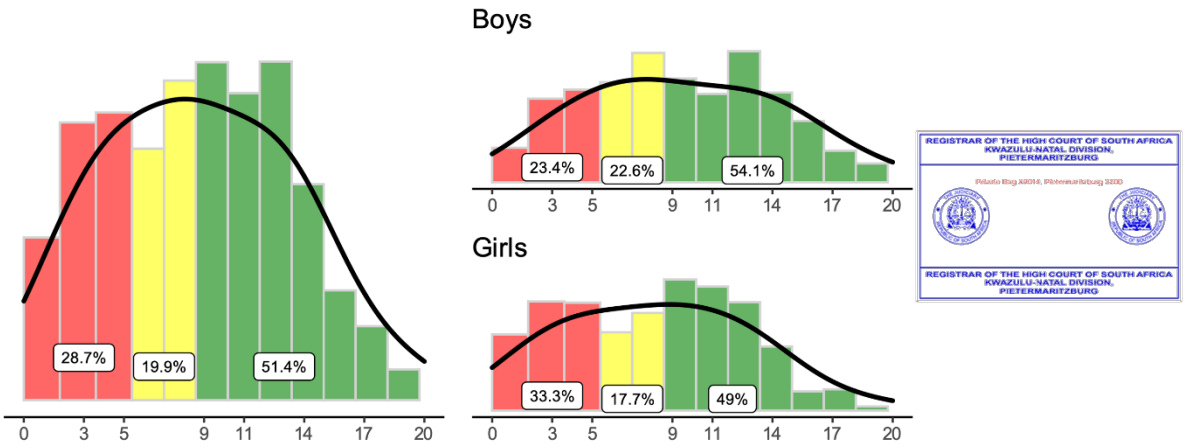


Figure 66: *Western Cape: Frequency distributions, with density curves overlaid, for Gross Motor Development, separated by sex*

Scores for this domain are evenly distributed across the sample.

- On average, children in the Western Cape achieved a mean GMD score of 8.78 (SD = 4.78).
- 51.4% of children are *On Track*, with 19.9% *Falling Behind* and 28.7% *Falling Far Behind*.
- Boys performed better in this domain than girls: 54.1% of boys and 49% of girls are *On Track*, while 23.4% compared with 33.3% are *Falling Far Behind*, respectively.

7.7.2.Fine Motor Coordination and Visual Motor Integration

Table 72: *Western Cape: Descriptive statistics for Fine Motor Coordination and Visual Motor Integration*

	Mean	SD	SE	Median	p_10	p_90	n
Total	12.76	3.46	0.40	11.92	8.71	17.47	559
Boys	11.95	3.35	0.38	11.56	7.06	16.93	268
Girls	13.46	3.41	0.47	12.73	9.63	18.03	291

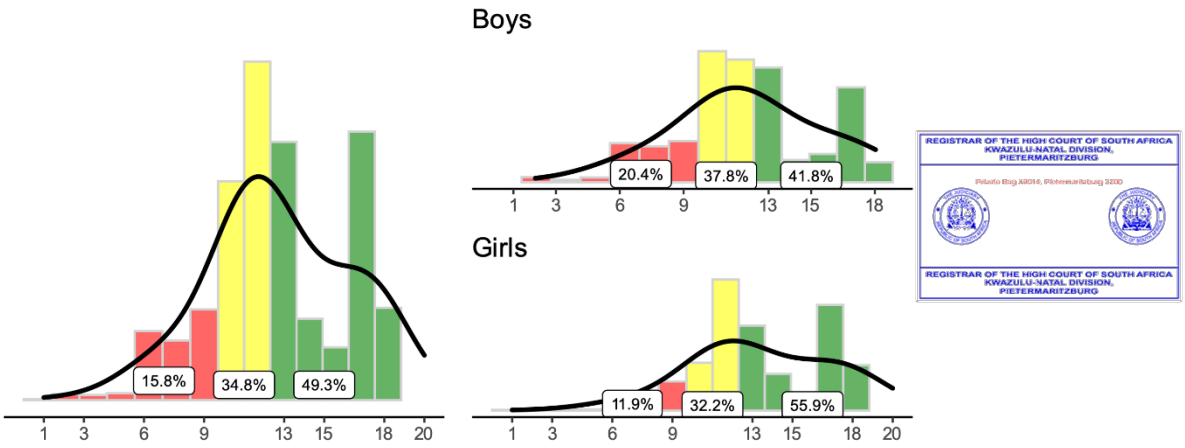


Figure 67: *Western Cape: Frequency distributions, with density curves overlaid, for Fine Motor Coordination and Visual Motor Integration, separated by sex*

The scores for this domain are unevenly distributed, with large clusters of scores in the *Falling Behind* category and the *On Track* category.

- The average score for this domain is 12.76, with a small SD of 3.46.
- Overall, almost half of Western Cape children are *On Track* for this domain, while 15.8% are *Falling Far Behind*.
- As with the other domains, girls perform significantly better than boys (55.9% are *On Track*, compared with 41.8% respectively).

7.7.3.Emergent Numeracy and Mathematics

Table 73: *Western Cape: Descriptive statistics for Emergent Numeracy and Mathematics*

	Mean	SD	SE	Median	p_10	p_90	n
Total	8.75	3.84	0.47	7.93	4.03	14.70	559
Boys	8.31	3.75	0.45	7.92	3.80	14.81	268
Girls	9.14	3.88	0.56	9.08	4.03	14.70	291

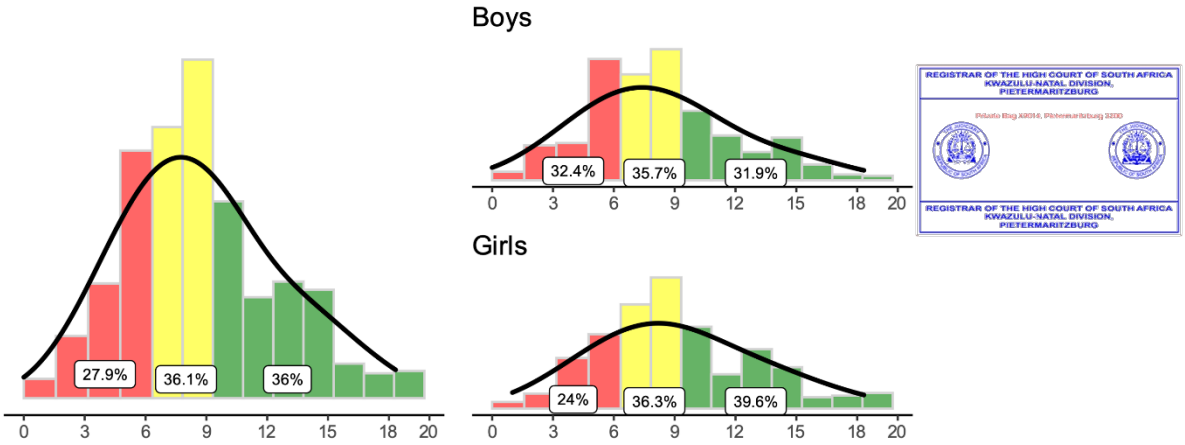


Figure 68: *Western Cape: Frequency distributions, with density curves overlaid, for Emergent Numeracy and Mathematics, separated by sex*

These scores depicted in the figure show a normal, although slightly skewed, distribution, with more children achieving lower scores.

- On average, children scored 8.75 (SD = 3.84).
- There are roughly similar proportions of Western Cape children *Falling Far Behind* (27.9%), *Falling Behind* (36.1%) and *On Track* (36%) for this domain.
- However, girls performed better than boys, with fewer *Falling Far Behind* and more being *On Track* for this domain (39.6% of girls compared with 31.9% of boys).

7.7.4.Cognition and Executive Functioning

Table 74: *Western Cape: Descriptive statistics for Cognition and Executive Functioning*

	Mean	SD	SE	Median	p_10	p_90	n
Total	9.63	4.68	0.61	9.25	3.37	15.97	559
Boys	8.98	4.64	0.62	8.81	3.11	15.73	268
Girls	10.18	4.65	0.63	10.50	3.94	15.97	291

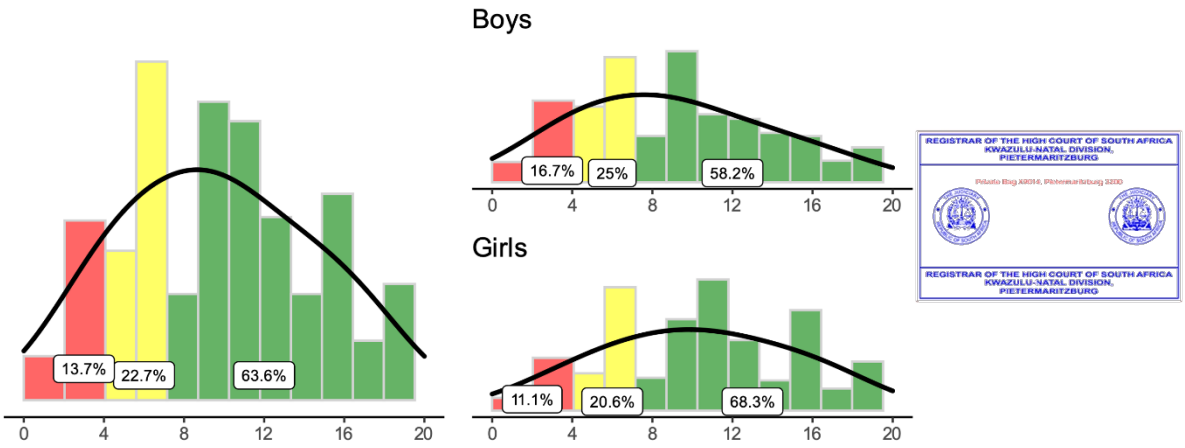


Figure 69: *Western Cape: Frequency distributions, with density curves overlaid, for Cognition and Executive Functioning, separated by sex*

Children in the Western Cape produced promising results in this domain:

- Children scored 9.63 on average (SD = 4.68).
- 63.6% of children are *On Track*, while 22.7% are *Falling Behind* and only 13.7% are *Falling Far Behind*.
- On average, there is no evident sex difference. However, the distributions of ELOM 4&5 bands vary: 68.3% of girls are *On Track*, with only 11.1% *Falling Far Behind*, while 58.2% of boys are *On Track* and 16.7% are *Falling Far Behind*.

7.7.5.Emergent Literacy and Language

Table 75: *Western Cape: Descriptive statistics for Emergent Literacy and Language*

	Mean	SD	SE	Median	p_10	p_90	n
Total	12.48	4.42	0.62	12.91	6.49	18.33	559
Boys	11.83	4.50	0.62	11.66	5.91	18.33	268
Girls	13.03	4.27	0.63	13.15	7.06	18.33	291

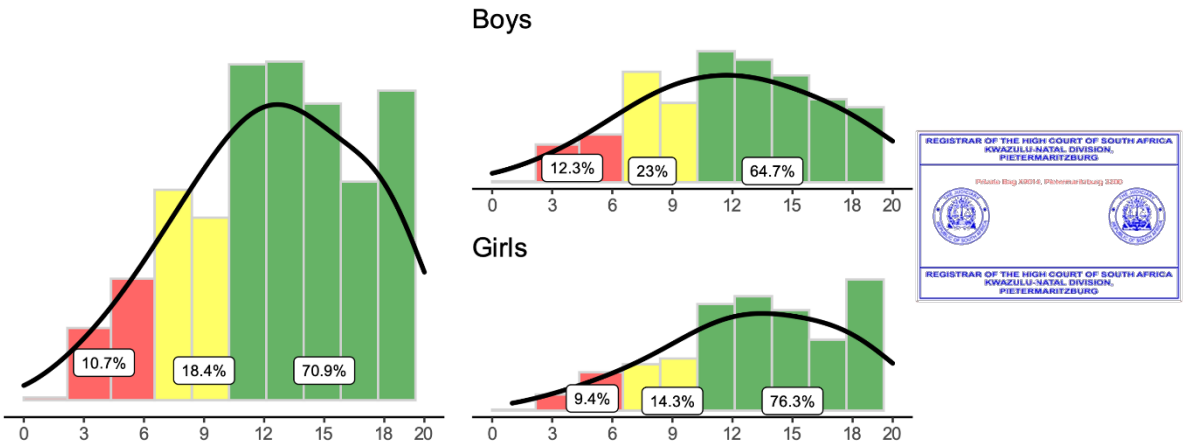


Figure 70: *Western Cape: Frequency distributions, with density curves overlaid, for Emergent Literacy and Language, separated by sex*

Children in the Western Cape performed particularly well in this domain:

- Children achieved, on average, 12.48 (SD = 4.42).
- The distribution of ELL scores is skewed, with the majority (70.9%) of children achieving the expected standard.
- These positive results are even more prominent in girls, where 76.3% are *On Track* and only 9.4% are *Falling Far Behind* the standard.

7.8. KwaZulu-Natal

Table 76: Provincial summary

Sample	575 children
	278 (48%) boys and 297 (52%) girls
	Children were drawn from 138 ELPs across 48 sampling clusters
The quintile breakdown of this sample, computed with unweighted data	Quintile 1 n = 242 (42.1%) Quintile 2 n = 126 (21.9%) Quintile 3 n = 128 (22.3%) Quintile 4 n = 43 (7.5%) Quintile 5 n = 36 (6.3%)
Social-Emotional Functioning	13.9% of children don't achieve the expected score for Social Relations with Peers and Adults 22% of children don't achieve the expected score for Emotional Readiness for School
Stunting	1.95% of children have stunted growth, (1.9% moderately stunted and 0.05% severely stunted
ELOM Total Score (details below)	Overall, 29.5% of children are *On Track*, 33.6% are *Falling Behind* and 36.9% are *Falling Far Behind* the expected standard for Early Learning
Summary	Overall, the development of most children in KwaZulu-Natal is not *On Track*. Children perform particularly poorly in ENM, CEF and FMC-VMI domains. Girls tend to perform better than boys.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION

Question 1: For learning outcomes overall (the ELOM 4&5 Total Score), what proportion of children are *On Track* (green), *Falling Behind* (yellow) and *Falling Far Behind* (red)?

Table 77: *KwaZulu-Natal: Descriptive statistics for Total ELOM 4&5 Score*

	Mean	SD	SE	Median	p_10	p_90	N
Total	39.67	11.63	0.87	39.10	23.81	53.97	575
Boys	38.16	11.50	1.23	37.68	22.78	52.43	278
Girls	41.10	11.59	0.80	40.43	25.11	57.36	297

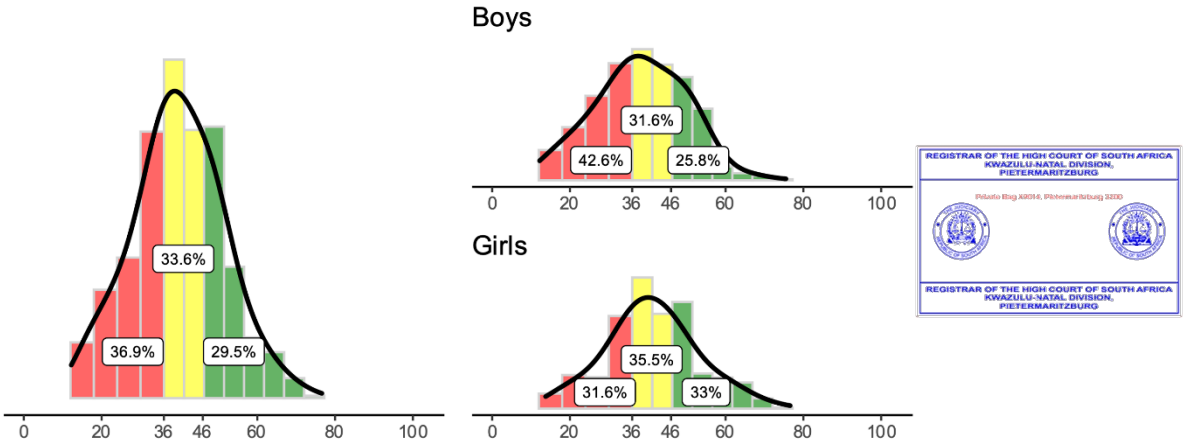


Figure 71: *KwaZulu-Natal: Frequency distributions, with density curves overlaid, for Total ELOM 4&5 Score, separated by sex*

Table 77 shows that in KwaZulu-Natal:

- The mean Total ELOM 4&5 Score is low at 39.67 (SD =11.63).
- Girls perform better than boys with mean scores of 41.10 (SD = 11.59) and 38.16 (SD = 11.50) respectively. This 3-point difference is small but meaningful (Cohen's *d* = 0.38).

ELOM 4&5 Total Scores are approximately normally distributed. However, differences exist between the proportions of children who are *On Track* (for achieving the ELOM 4&5 standard), *Falling Behind* and *Falling Far Behind* the expected standard.

- Only 29.5% of children in KwaZulu-Natal are *On Track*, while 33.6% are *Falling Behind* and a further 36.9% are *Falling Far Behind* the standard.
- More girls are *On Track* (33%), with 31.6% *Falling Far Behind*, while only 25.8% of boys are *On Track* and a large 42.6% are *Falling Far Behind*.

Question 2: For each of the five ELOM 4&5 learning domains, what proportion of children are *On Track* (green), *Falling Behind* (yellow) and *Falling Far Behind* the standard (red)?

7.8.1.Gross Motor Development

Table 78: *KwaZulu-Natal: Descriptive statistics for Gross Motor Development*

	Mean	SD	SE	Median	p_10	p_90	n
Total	8.20	3.89	0.21	7.75	2.91	12.97	575
Boys	8.17	3.74	0.35	8.27	3.43	12.92	278
Girls	8.24	4.03	0.21	7.60	2.91	14.37	297

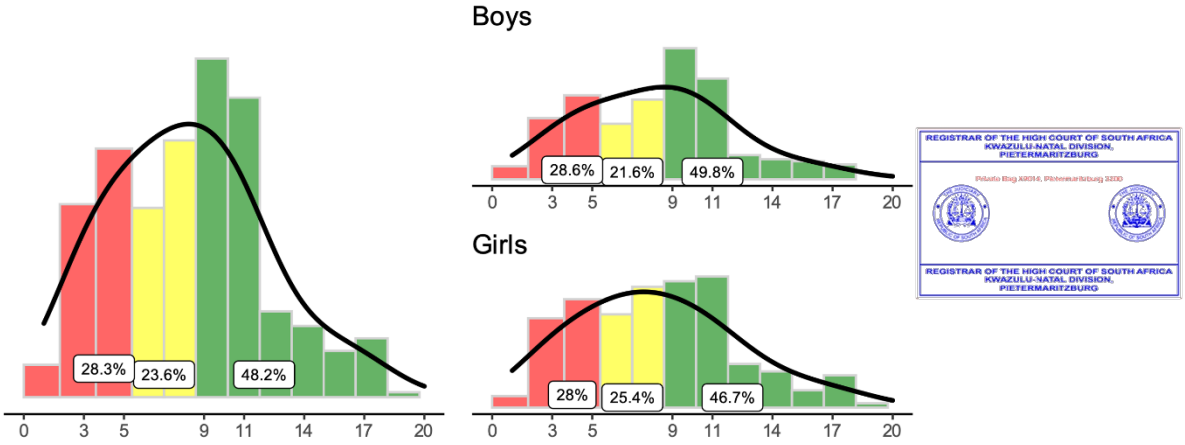


Figure 72: *KwaZulu-Natal: Frequency distributions, with density curves overlaid, for Gross Motor Development, separated by sex*

The distribution of scores is asymmetrical, with a slight skew.

- The average score for GMD is 8.20 (SD = 3.89).
- Overall, 48.2% of children are *On Track*, 23.6% are *Falling Behind* and 28.3% are *Falling Far Behind*.
- Sex differences are negligible, although slightly more boys (49.8%) are *On Track* than girls (46.7%).

7.8.2.Fine Motor Coordination and Visual Motor Integration

Table 79: *KwaZulu-Natal: Descriptive statistics for Fine Motor Coordination and Visual Motor Integration*

	Mean	SD	SE	Median	p_10	p_90	n
Total	9.84	3.38	0.20	10.07	5.86	14.87	575
Boys	9.24	3.35	0.26	9.64	5.14	13.56	278
Girls	10.41	3.32	0.24	10.29	6.52	15.30	297

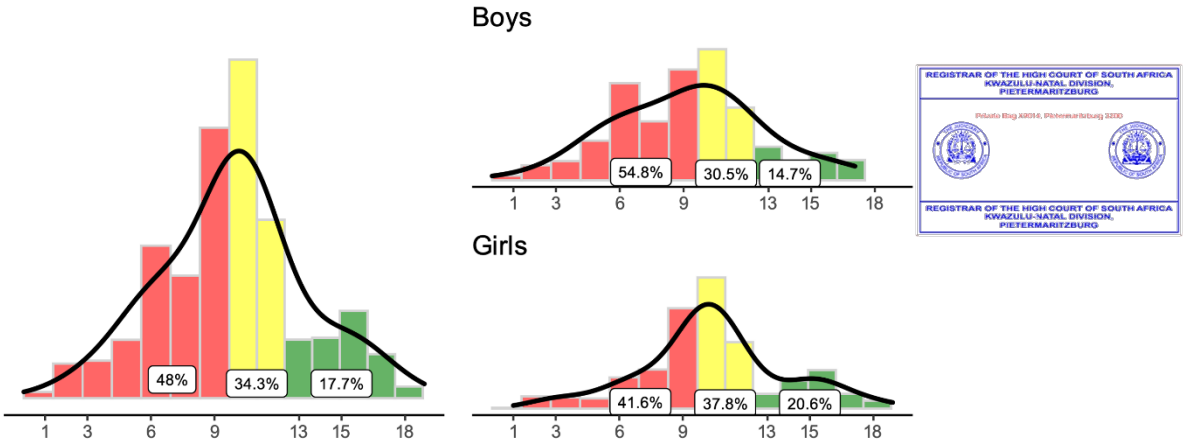


Figure 73: *KwaZulu-Natal: Frequency distributions, with density curves overlaid, for Fine Motor Coordination and Visual Motor Integration, separated by sex*

FMC-VMI scores are of particular concern:

- Children from KwaZulu-Natal score 9.84 (SD = 3.38) on average in this domain.
- In this domain, nearly half the children (48%) are *Falling Far Behind* the standard, followed by children who are *Falling Behind* (34.3%), with only 17.7% *On Track.*
- These worrying results are even more pronounced for boys, where 54.8% are *Falling Far Behind* and only 14.7% are *On Track*.

7.8.3.Emergent Numeracy and Mathematics

Table 80: *KwaZulu-Natal: Descriptive statistics for Emergent Numeracy and Mathematics*

	Mean	SD	SE	Median	p_10	p_90	n
Total	6.49	3.50	0.28	6.27	2.38	11.10	575
Boys	6.41	3.51	0.38	5.45	2.38	11.10	278
Girls	6.57	3.50	0.37	6.27	2.38	11.74	297

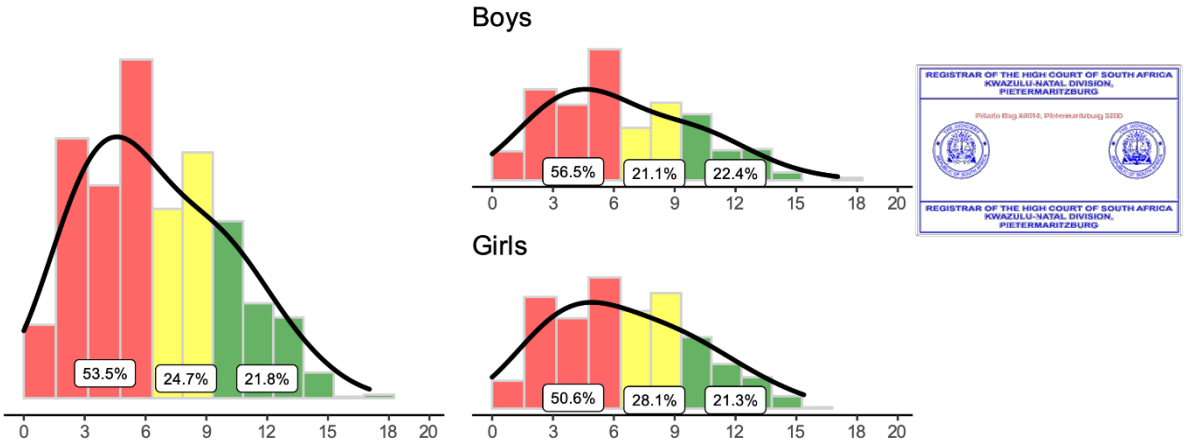


Figure 74: *KwaZulu-Natal: Frequency distributions, with density curves overlaid, for Emergent Numeracy and Mathematics, separated by sex*

ENM scores are also concerning:

- The mean score for the whole sample is only 6.49 (SD = 3.50). This large standard deviation in relation to the mean is indicative of a large amount of variation within the individual scores for this domain.
- Overall, 53.5% of children are *Falling Far Behind* the ENM standard in KwaZulu-Natal.
- Once again, this is worse in the case of boys, where 56.5% are *Falling Far Behind*, and 50.6% of girls are *Falling Far Behind*.

7.8.4.Cognition and Executive Functioning

Table 81: *KwaZulu-Natal: Descriptive statistics for Cognition and Executive Functioning*

	Mean	SD	SE	Median	p_10	p_90	n
Total	5.45	3.40	0.19	5.22	1	10.16	575
Boys	5.35	3.39	0.27	5.22	1	9.83	278
Girls	5.55	3.42	0.23	5.03	1	10.73	297

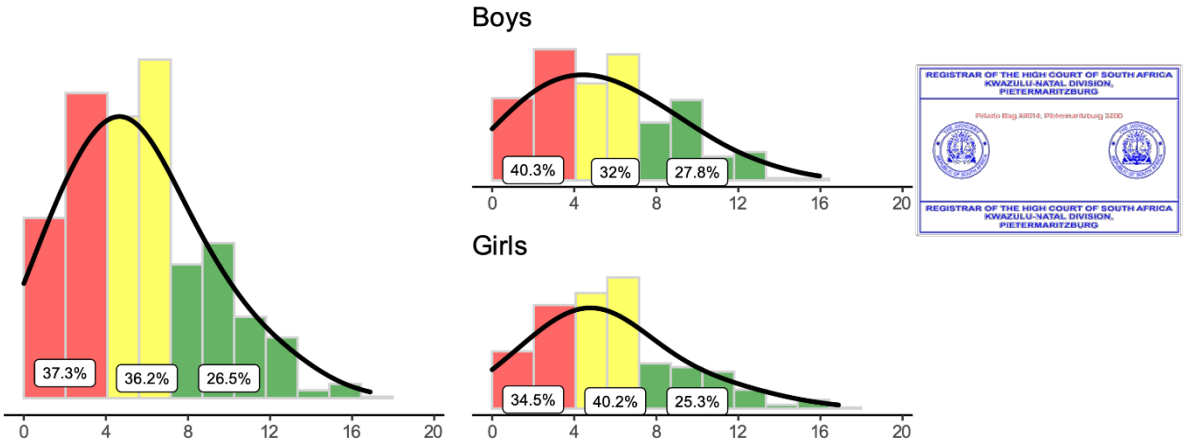


Figure 75: *KwaZulu-Natal: Frequency distributions, with density curves overlaid, for Cognition and Executive Functioning, separated by sex*

- On average, KwaZulu-Natal children scored poorly on CEF, with a mean of 5.45 (SD = 3.40).
- Most children (73.5%) are not *On Track* for this domain, and only 26.5% of children are.
- On average, there is no difference between boys and girls. However, as in the previous domains, the majority of boys (40.3%) are *Falling Far Behind* the standard, while only 27.8% are *On Track*. The case is not much better for girls.

7.8.5.Emergent Literacy and Language

Table 82: *KwaZulu-Natal: Descriptive statistics for Emergent Literacy and Language*

	Mean	SD	SE	Median	p_10	p_90	n
Total	9.68	4.04	0.25	9.70	4.87	15.12	575
Boys	8.99	3.90	0.31	9.13	3.72	14.22	278
Girls	10.33	4.07	0.30	10.47	5.91	15.52	297

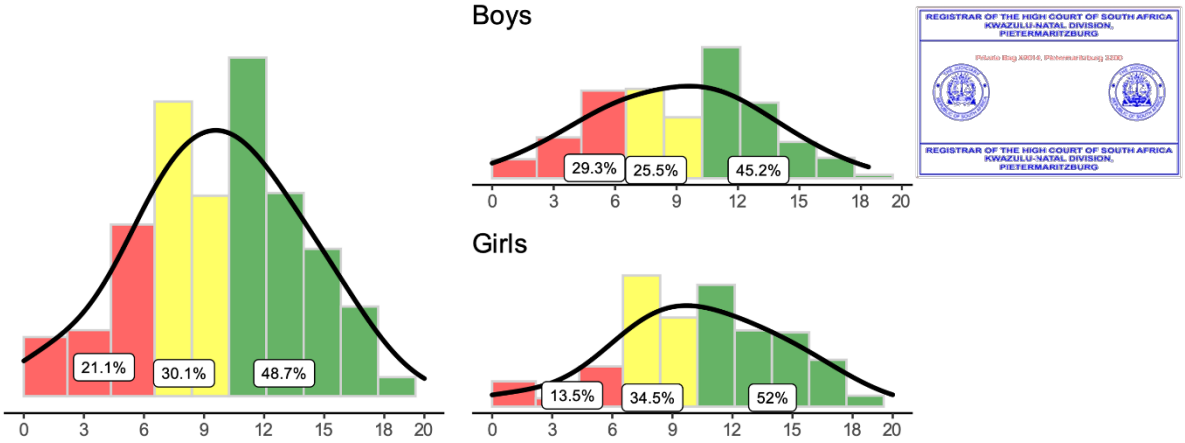


Figure 76: *KwaZulu-Natal: Frequency distributions, with density curves overlaid, for Emergent Literacy and Language, separated by sex*

Children in KwaZulu-Natal showed more promising results in the ELL domain:

- Children achieved a mean score of 9.68 (SD = 4.04).
- 48.7% are *On Track*, and only 21.1% are *Falling Far Behind*.
- The distribution of ELOM 4&5 bands for this domain for the province is promising, especially for girls. A total of 52% of girls and 45.2% of boys are *On Track*.

7.9. Limpopo

Table 83: Provincial summary

Sample	578 children.
	295 (51%) boys and 283 (49%) girls
	Children were drawn from 145 ELPs across 47 sampling clusters
The quintile breakdown of this sample, computed with unweighted data	Quintile 1 n = 225 (38.9%) Quintile 2 n = 247 (42.7%) Quintile 3 n = 94 (16.3%) Quintile 4 n = 0 (0%) Quintile 5 n = 12 (2.1%)
Social-Emotional Functioning	17.1% of children don't achieve the expected score for Social Relations with Peers and with Adults 31.1% of children don't achieve the expected score for Emotional Readiness Towards School
Stunting	7.5% of children have stunted growth, (6.49% moderately stunted and 1% severely stunted
ELOM Total Score (details below)	Overall, 44.7% of children are *On Track*, 28.5% are *Falling Behind* and 26.8% are *Falling Far Behind* the expected standard for Early Learning
Summary	Limpopo shows some promising results for the ELL domain. However, FMC-VMI and CEF are weak, especially for boys.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Question 1: For learning outcomes overall (the ELOM 4&5 Total Score), what proportion of children are *On Track* (green), *Falling Behind* (yellow) and *Falling Far Behind* (red)?

Table 84: *Limpopo: Descriptive statistics for Total ELOM 4&5 Score*

	Mean	SD	SE	Median	p_10	p_90	n
Total	44.69	12.67	0.65	44.33	29.17	61.15	578
Boys	43.20	12.40	0.72	42.52	28.48	59.25	295
Girls	46.21	12.78	1.05	46.91	30.47	62.42	283

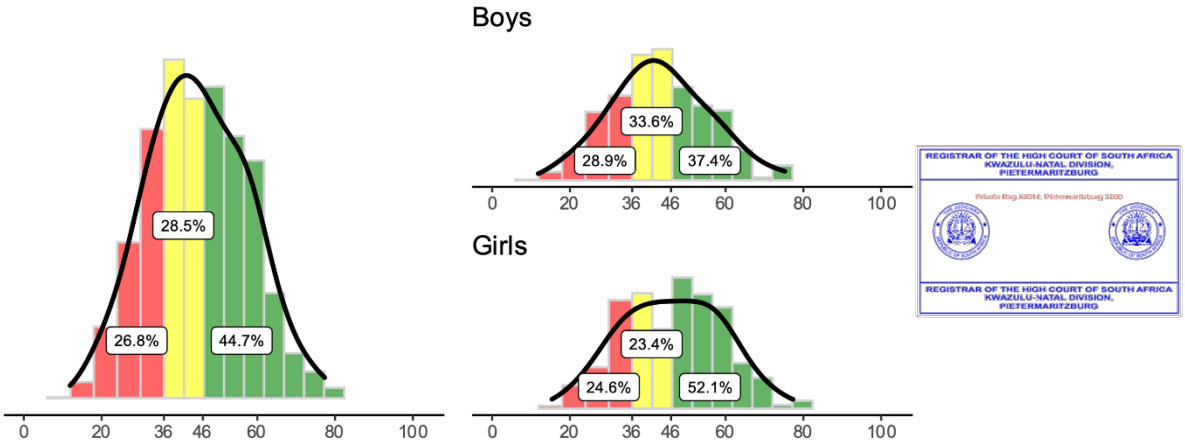


Figure 77: *Limpopo: Frequency distributions, with density curves overlaid, for Total ELOM 4&5 Score, separated by sex*

Table 84 shows that:

- Children in Limpopo achieved a mean ELOM 4&5 Total Score of 44.69 (SD = 12.67).
- Girls scored 3 points higher, on average, than boys, with a mean score of 46.21 (SD = 12.78) compared with 43.20 (SD = 12.40) respectively (Cohen's *d* = 0.24, indicating a small effect).

ELOM 4&5 Total Scores show a reasonable approximation towards a normal distribution. **Figure 77** shows that:

- 44.7% of Limpopo children achieve the standard, while 26.8% are *Falling Far Behind*.
- On average, more girls are *On Track* than boys (52.1% versus 37.4%); 28.9% of boys are *Falling Far Behind* the standard, compared with 24.6% of girls.

Question 2: For each of the five ELOM 4&5 learning domains, what proportion of children are *On Track* (green), *Falling Behind* (yellow) and *Falling Far Behind* the standard (red)?

7.9.1.Gross Motor Development

Table 85: *Limpopo: Descriptive statistics for Gross Motor Development*

	Mean	SD	SE	Median	p_10	p_90	n
Total	8.39	3.41	0.22	8.16	3.91	12.92	578
Boys	8.14	3.32	0.23	7.60	3.91	12.81	295
Girls	8.64	3.50	0.28	8.67	3.91	12.97	283

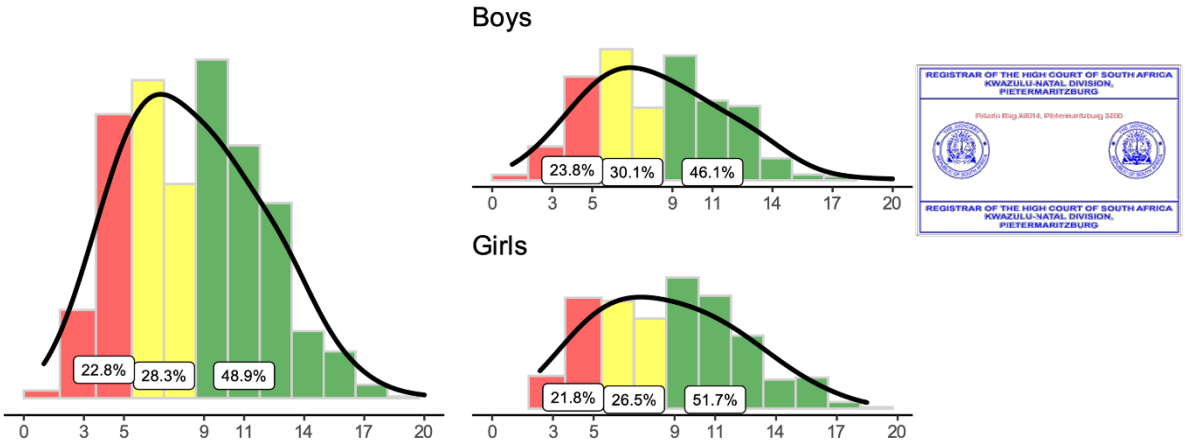


Figure 78: *Limpopo: Frequency distributions, with density curves overlaid, for Gross Motor Development, separated by sex*

Scores for this domain show little variation across the sample.

- On average, children in Limpopo achieved a mean GMD score of 8.39 (SD = 3.41).
- Nearly half of children are *On Track*, while 22.8% are *Falling Far Behind*.
- Girls perform slightly better than boys in this domain, with 51.7% of girls *On Track*, compared with 46.1% of boys.

7.9.2.Fine Motor Coordination and Visual Motor Integration

Table 86: *Limpopo: Descriptive statistics for Fine Motor Coordination and Visual Motor Integration*

	Mean	SD	SE	Median	p_10	p_90	n
Total	10.80	3.44	0.19	10.73	6.52	15.96	578
Boys	10.37	3.44	0.21	10.29	6.23	15.96	295
Girls	11.24	3.40	0.26	11.27	6.88	15.96	283

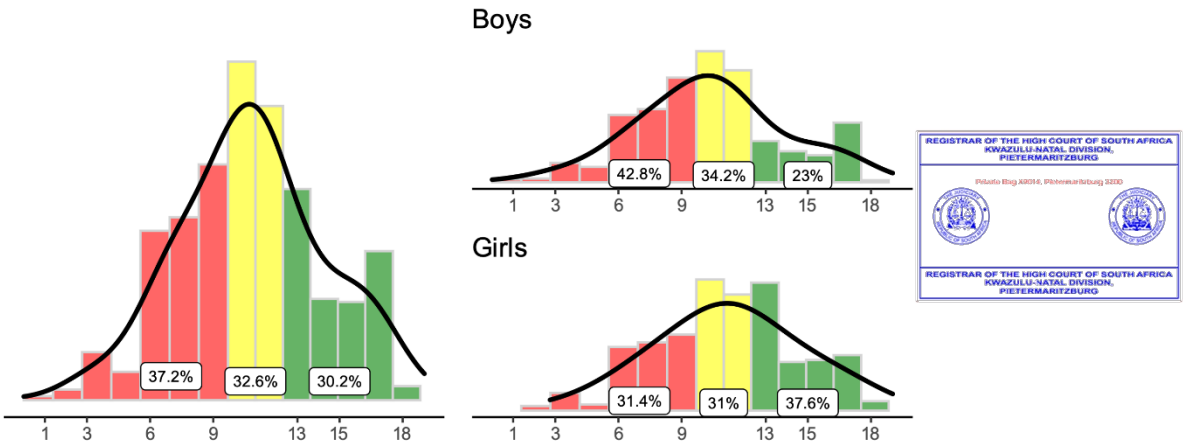


Figure 79: *Limpopo: Frequency distributions, with density curves overlaid, for Fine Motor Coordination and Visual Motor Integration, separated by sex*

These scores are unevenly distributed, with large clusters of scores comprising those in the *Falling Far Behind* category, those *Falling Behind* and those *On Track* for meeting the expected standard.

- The average score for this domain is 10.80 (SD = 3.44).
- Overall, a concerning 69.8% of Limpopo children are not *On Track* to meet the expected standard for FMC-VMI.
- As with the other domains, girls perform significantly better than boys (37.6% of girls are *On Track*, compared with only 23% of boys) and 31.4% of girls are *Falling Far Behind* compared with 42.8% of boys.

7.9.3.Emergent Numeracy and Mathematics

Table 87: *Limpopo: Descriptive statistics for Emergent Numeracy and Mathematics*

	Mean	SD	SE	Median	p_10	p_90	n
Total	8.80	3.70	0.15	8.90	3.85	13.57	578
Boys	8.43	3.64	0.21	7.96	3.80	13.57	295
Girls	9.19	3.73	0.19	9.34	4.03	13.69	283

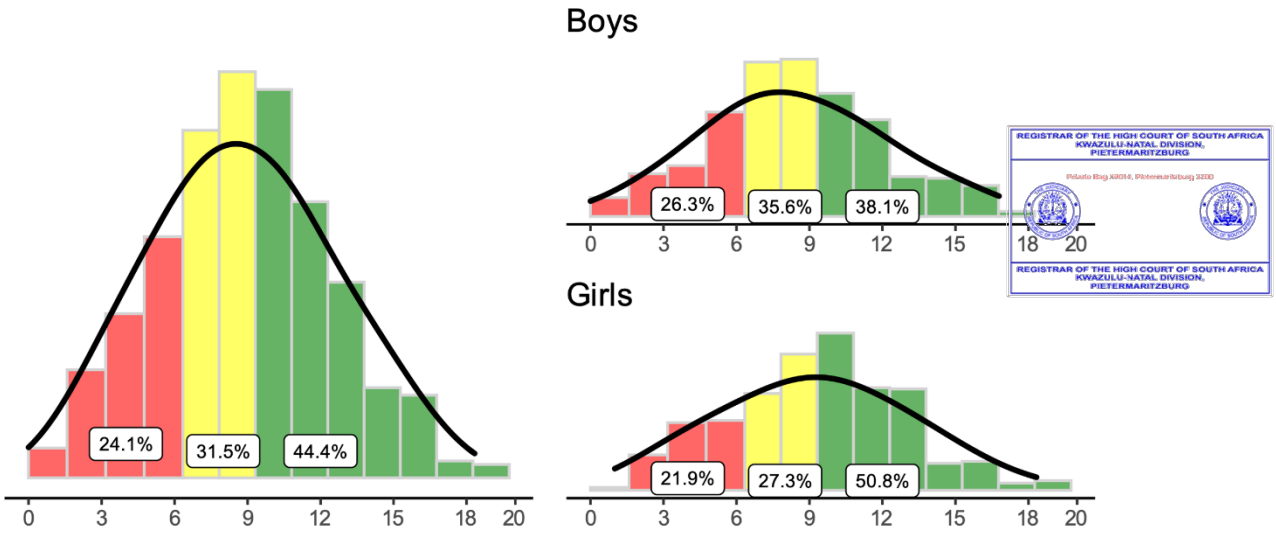


Figure 80: *Limpopo: Frequency distributions, with density curves overlaid, for Emergent Numeracy and Mathematics, separated by sex*

These scores approximate a normal distribution.

- On average, children scored 8.80 (SD = 3.70).
- 44.4% of children in Limpopo are *On Track* and 24.1% of children are *Falling Far Behind* in ENM.
- More than half (50.8%) of girls are *On Track*, compared with only 38.1% of boys.

7.9.4.Cognition and Executive Functioning

Table 88: *Limpopo: Descriptive statistics for Cognition and Executive Functioning*

	Mean	SD	SE	Median	p_10	p_90	n
Total	6.31	3.67	0.18	6.05	2.26	10.92	578
Boys	6.01	3.51	0.20	5.37	2.11	10.92	295
Girls	6.62	3.82	0.30	6.29	2.26	11.50	283

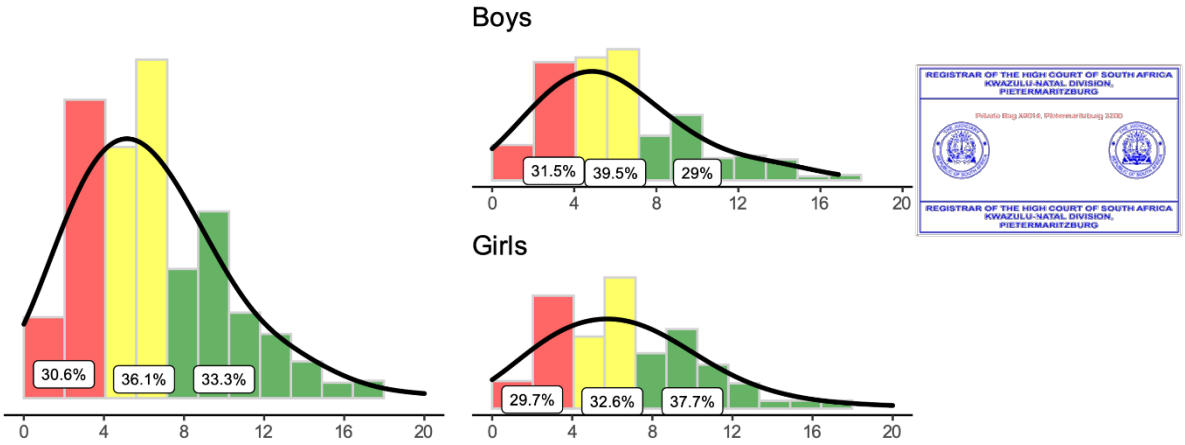


Figure 81: *Limpopo: Frequency distributions, with density curves overlaid, for Cognition and Executive Functioning, separated by sex*

These scores show a normal, although slightly skewed, distribution, as a greater proportion of children achieved lower scores. Children in Limpopo produced poor results in this domain:

- Children scored 6.31 on average (SD = 3.67).
- Only 33.3% of Limpopo children are *On Track*, while 36.1% are *Falling Behind* and 30.6% are *Falling Far Behind*.
- On average, there is no evident sex difference. However, the ELOM 4&5 band distributions vary: 37.7% of girls are *On Track*, with 29.7% *Falling Far Behind*, while only 29% of boys are *On Track* and 31.5% are *Falling Far Behind*.

7.9.5.Emergent Literacy and Language

Table 89: *Limpopo: Descriptive statistics for Emergent Literacy and Language*

	Mean	SD	SE	Median	p_10	p_90	n
Total	10.38	4.74	0.33	10.48	4.44	16.78	578
Boys	10.25	4.70	0.34	10.27	4.17	16.66	295
Girls	10.52	4.78	0.40	10.60	4.44	17.56	283

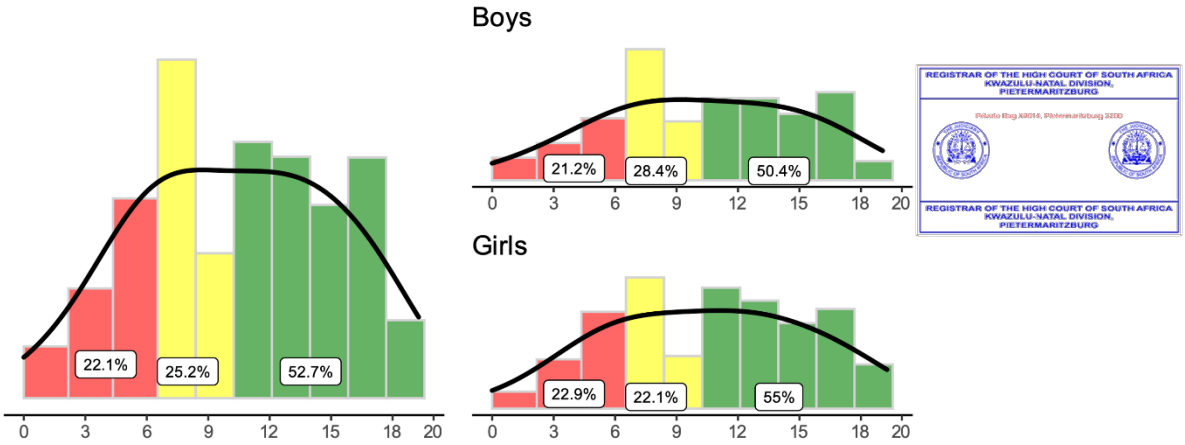


Figure 82: *Limpopo: Frequency distributions, with density curves overlaid, for Emergent Literacy and Language, separated by sex*

The scores are more uniformly distributed than in the other domains, with similar proportions of scores achieved across the range of possible scores. Of the five domains, this is the most promising:

- Children in Limpopo achieved a mean score of 10.38 (SD = 4.74) for this domain.
- More than half of Limpopo children (52.7%) are *On Track* for achieving the expected standard in ELL.
- This is even more prominent among girls, where 55% are *On Track*, compared with 50.4% of boys.

8. Appendices

8.1. Appendix: Methods, weighting

Document received from Stephen Taylor, reporting the work on constructing sample weights, with Grace Bridgman, Servaas van der Berg and Janeli Kotzé.

Sampling weights for ECD index

A first step is to calculate the weight associated with every school, which is the inverse of the probability of that school's selection. The stratification in terms of province and quintile means that this weight is given by the total number of schools in a Province-Quintile cell (PQ_N) divided by the number of schools selected in that Province-Quintile cell (PQ_n):

(1) $$PQ_w = \frac{PQ_N}{PQ_n}$$

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

For example, according to Equation 1, if 10 schools were selected out of a possible 100 schools in a particular Province-Quintile cell, then $PQ_w = 10$.

Then, a few steps are needed to calculate the appropriate weights to give to each centre sampled in an ECD programme cluster. The first step is to calculate the relative weight given to ECD Centre *i* relative to other sampled centres within a cluster. This is given by 1 divided by the number of ECD centres within each cluster (where the cluster is given by the school identified).

(2) $$C_{rw} = \frac{1}{sum\ of\ centres}$$

The next step is to make the weights given to the cluster commensurate to the estimated population size of that cluster, which is proxied for by Grade 3 enrolments (Grade 2 can also work). Grade 1 is not optimal since the rate of grade repetition is often especially high in Grade 1, thus creating inflated enrolment numbers. Grade R or pre-Grade R enrolments at schools would also not be ideal since in many schools the numbers enrolled in these grades are significantly lower than the numbers enrolled in Grade 1 or above. Since nearly 100% of primary school-aged children are indeed enrolled in primary school, the number of Grade 3 enrolments therefore represents a good estimate of the population of young children in the area around the school. An important caveat to acknowledge is that if the ECD participation rate in an area is different from the school participation rate, this will lead to a degree of bias in the representivity. But this potential bias is likely to be far less than that which would occur if no weights were included to proxy for the child population in the area, and at this stage the school enrolment numbers are the best available proxy. The centre weight is then adjusted as follows:

(3) $$C_w = C_{rw} * Gr3enr$$

The next issue is to assign each sampled child (learner) a weight, which is simply the weight assigned to a centre (which already takes into consideration the size of the centre and the size of the linked school) divided by the number of children who were sampled:

(4) $L_w = \frac{C_w}{C_n}$

For example, if Centre *i* had sampled 5 children, then the learner weight should be 20/5 = 4.

Finally, we combine the stratification weight with this learner weight to create a total weight to be associated with each learner in the dataset as follows:

(5) $TOTWGT_L = PQ_w * L_w$

For example, each learner in Centre *i* should be given a weight of 10*4 = 40.

Applying these weights to the sample allows us to interpret results as roughly representative of children attending ELPs near to primary/combined schools.

8.2. Appendix: Methods, sample breakdown by province and quintile

Table 90: *Breakdown of sample by province, quintile and sex (unweighted data)*

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Quintile	Sex	Eastern Cape	Free State	Gauteng	KwaZulu-Natal	Limpopo	Mpumalanga	North West	Northern Cape	Western Cape
1	Male	111	118	31	117	110	86	114	100	60
1	Female	108	126	31	125	115	94	126	106	61
2	Male	85	53	31	60	132	76	51	70	52
2	Female	99	60	41	66	115	78	56	82	54
3	Male	80	66	86	63	48	54	103	41	41
3	Female	80	66	78	65	46	62	108	51	36
4	Male	4	15	60	25	NA	40	17	26	51
4	Female	7	22	62	18	NA	40	13	42	53
5	Male	4	26	70	13	5	28	NA	38	64
5	Female	9	24	81	23	7	30	NA	44	87

NA = no data

8.3 Appendix: Survey glm approach

An alternative approach to running the linear models we report in the main report is to use methods that take the survey design and sampling weights into account. We have conducted such an analysis using the R package “survey”, and in particular the function svyglm. We find that coefficient and standard error estimates are slightly different (and more conservative in the case of svyglm), but none of our substantive conclusions would be changed. The table of model coefficients is reported immediately below.

In the descriptive statistics reported earlier, we used a sampling weight correction, as explained in the Method section. However, we did not use a weight correction in the regression modelling. There are several reasons for not doing so,

and many authors point to disadvantages in including sampling weights for regression models. Lumley (2010) concludes "… it often makes little practical difference whether sampling weights are used in fitting regression models… when there is a substantive difference [between weighted and unweighted analyses] it may indicate that a few influential observations happen to have large sampling weights, so that neither the weighted nor the unweighted analysis is entirely reliable".

Nevertheless, we decided to run an alternate analysis on the data, using the svyglm() function from the R "survey" package (Lumley, 2020). The results reported below are for the same model specification as discussed earlier, but run with sampling weights in svyglm. Note the coefficients in the table are unstandardised.

Table 91: *Appendix: Modelling with survey weights included*

term	estimate	std.error	statistic	p <
(Intercept)	-32.23	6.77	-4.76	0.001
Age_months	1.07	0.12	8.92	0.001
Stunted mild stunt vs none	-2.01	0.66	-3.05	0.001
Stunted mod stunt vs none	-4.46	1.25	-3.57	0.001
Stunted severe stunt vs none	-3.29	2.98	-1.10	0.27
Quintile_natemls 2 vs 1	1.02	0.87	1.18	0.24
Quintile_natemis 3 vs 1	3.08	1.03	2.99	0.001
Quintilenatemis 4 vs 1	8.05	1.22	6.58	0.001
Quintile_natemis 5 vs 1	6.51	3.16	2.06	0.04
Sex	1.79	0.52	3.46	0.001

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

The coefficients and statistical tests based on this model largely correspond to those in the mixed linear model run earlier. We find that socio-economic status (measured in our sample by quintile (natemis) score) has a large effect on Total ELOM 4&5 Scores, particularly in the case of quintiles 4 and 5. For example, a change from quintile 1 to quintile 4 will result in an increase of 8.05 ELOM 4&5 points. Note, the standard errors here are relatively large in relation to the coefficients, which again points to a large amount of variance in the data, but are also a consequence (often thought desirable, and more accurate) of using sampling weights. Also note that there is no significant difference between children's performance in quintile 1 and 2. Moderate growth stunting has a strong impact on the Total ELOM 4&5 Score. Moderately stunted children will score 4.46 points lower on the ELOM 4&5 Total than children who have no stunting, with all other variables held constant. In turn, mildly stunted children will score 2.01 points lower on the ELOM 4&5 Total than children who are not stunted, with all other variables in the model held constant. Sex, age and socio-emotional development also have significant effects on Total ELOM 4&5 Scores. We conclude that there is no substantive difference between the linear modelling using unweighted data and that using weighted data, at least for our purposes.

8.4. Appendix: Predictors omitted from regression model

We considered several additional predictors for our regression modelling, but which we did not end up including. We report some reasons and analyses here to clarify these decisions.

An interesting potential predictor was the “dosage”, i.e., cumulative amount of time spent by children in the Early Learning Programmes that were the location for data collection in the ELOM 4&5 survey. We created a variable that reflected this, by multiplying the teacher-reported average attendance in the last term (variable “attendance”) with the total truncated (as discussed earlier) number of months the child was enrolled (variable “months_enrolment_trunc”).

Unfortunately, data pertaining to years of enrolment and average attendance at the ELP was seriously incomplete in the sample, and we did not feel it could be entered in the final model.

Table 92: *Missing data table for dosage variables*

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

skim_variable	n_missing	complete_rate
total_elom	0	1.00
attendance	1,402	0.73
months_enrolment	1,486	0.72
dosage	1,486	0.72

When we enter dosage into the mixed linear model described earlier, it has a negligible, if statistically significant relationship to the Total ELOM 4&5 Score, once adjusted for other variables in the model, as shown in the table below.

Table 93: *ANOVA summary table for mixed linear modelling of ELOM 4&5 Total*

Variable	Chisq	df	p <
Age	182.06	1	.001
Growth (stunting)	55.29	3	.001
Quintile_natemis	44.58	4	.001
Sex	34.42	1	.001
Socio-emotional combined	408.64	1	.001
Dosage	3.68	1	.001

As can be seen from the detailed table of contrasts, the effect for dosage, both when unstandardised and standardised, is negligible. What can also be seen, though, is that some of the other coefficients in the model have been substantively affected, suggesting patterns of intercorrelation that we do not fully understand.

Table 94: *Coefficient summary table for mixed linear modelling of ELOM 4&5 Total including dosage*

Predictors	Estimates	std. Error	std. Beta	standardised std. Error	CI	standardised CI	p
(Intercept)	-29.64	3.91	-0.13	0.05	-37.31 – -21.96	-0.23 – -0.04	**<0.001**
age months	0.94	0.07	0.19	0.01	0.80 – 1.08	0.16 – 0.22	**<0.001**
stunted [Mild stunt]	-2.19	0.45	-0.16	0.03	-3.07 – -1.32	-0.23 – -0.10	**<0.001**
stunted [Mod stunt]	-4.88	0.79	-0.36	0.06	-6.43 – -3.33	-0.48 – -0.25	**<0.001**
stunted [Severe stunt]	-3.19	2.20	-0.24	0.16	-7.51 – 1.12	-0.56 – 0.08	0.147
quintile natemis [2]	0.09	0.85	0.01	0.06	-1.58 – 1.76	-0.12 – 0.13	0.915
quintile natemis [3]	1.26	0.89	0.09	0.07	-0.48 – 3.00	-0.04 – 0.22	0.157
quintile natemis [4]	5.48	1.25	0.41	0.09	3.02 – 7.94	0.22 – 0.59	**<0.001**
quintile natemis [5]	6.89	1.31	0.51	0.10	4.33 – 9.45	0.32 – 0.70	**<0.001**
gender [Female]	2.06	0.35	0.15	0.03	1.37 – 2.75	0.10 – 0.20	**<0.001**
socioemotional combined	1.10	0.05	0.32	0.02	0.99 – 1.21	0.29 – 0.35	**<0.001**
dosage	0.01	0.00	0.03	0.02	-0.00 – 0.01	-0.00 – 0.06	
Random Effects							
σ^2	94.04						
$\tau_{00\ id_ecd}$	39.51						
$\tau_{00\ id_cluster_sample}$	18.70						
ICC	0.38						
$N_{\ id_cluster_sample}$	342						

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

8.5. Average fees paid for children aged 4-6 years as a predictor

We mentioned that a potentially interesting predictor, given some earlier research, is the average fee charged in ELPs for children in the age range 4 to 6 years. However, this variable had a great many missing observations, and was strongly correlated with some other predictors (in particular with quintile, treated as a numeric variable). We preferred to keep quintile as a proxy for socio-economic advantage, especially since data was nearly complete for that variable.

Table 95: *Missing data table for dosage variables*

skim_variable	n_missing	complete_rate
quintile	212	0.96
fees_amount_4_6	3.134	0.4

8.6. Appendix: Age distribution across other variables

A point of some interest is whether the distribution of child's age is even across some important variables in the dataset. It might, for instance, be that apparent differences across quintiles or provinces or sex might be explicable in terms of age differences.

We considered this briefly and report a breakdown below. We do not think that it is an important source of difference, and it should also be noted that the ELOM 4&5 does NOT take age into account or suggest any corrections for age in the technical manual, thus essentially treating age in the 50 to 59 months range as an uninvestigated source of variation. It is, however, possible that some of the differences we reported in various places in the report would change if adjusted for age differences.

Table 96: *Age (in months) distribution data across several variables (weighted sample)*

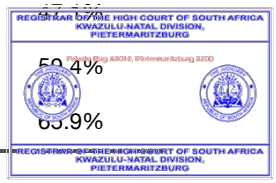
	Mean	SD	Lower 95% CI	Upper 95% CI	Median	md_se
Eastern Cape	54.67	2.69	54.35	54.98	55	0.25
Free State	54.58	2.63	54.22	54.94	55	0.25
Gauteng	54.55	2.66	54.26	54.84	55	0.25
KwaZulu-Natal	54.67	2.79	54.26	55.07	55	0.25
Limpopo	55.13	2.48	54.81	55.45	55	0.25
Mpumalanga	55.13	2.73	54.76	55.50	55	0.25
North West	54.75	2.55	54.46	55.05	55	0.25
Northern Cape	55.12	2.94	54.69	55.54	55	0.25
Western Cape	54.73	2.82	54.32	55.13	55	0.25
Male	54.82	2.70	54.67	54.98	55	0.25
Female	54.71	2.68	54.53	54.90	55	0.25
Quintile 1	54.75	2.64	54.56	54.94	55	0.25
Quintile 2	54.89	2.66	54.67	55.11	55	0.25
Quintile 3	54.86	2.69	54.56	55.16	55	0.25
Quintile 4	54.61	2.72	54.26	54.96	55	0.25
Quintile 5	54.51	2.82	54.17	54.85	54	0.25

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

The following tables shows a) the mean and SD for performance of children for each month in the age range 50 to 59 months in the national sample, and b) the percentage of children in each month who fall into the ELOM 4&5 bands.

Table 97: *Total ELOM 4&5 Scores by age in months*

Age (in months)	n (unweighted)	Mean ELOM total	SD ELOM total	Falling Far Behind	Falling Behind	On Track
50	342	39.03	13.87	43.2%	24.6%	32.1%
51	456	39.28	12.69	40.8%	31.7%	27.5%
52	507	41.78	13.54	39.6%	26.3%	34.1%
53	532	42.95	14.14	33%	25.2%	41.8%
54	538	43.35	13.04	31.8%	29.3%	38.9%
55	657	44.46	12.66	27.6%	28.3%	44.2%
56	577	45.76	12.60	21.7%	29.8%	48.6%
57	552	45.74	13.38	23.6%	29.3%	[illegible]
58	638	49.70	13.68	17.7%	22.8%	59.4%
59	423	51.32	13.37	12.4%	21.7%	65.9%



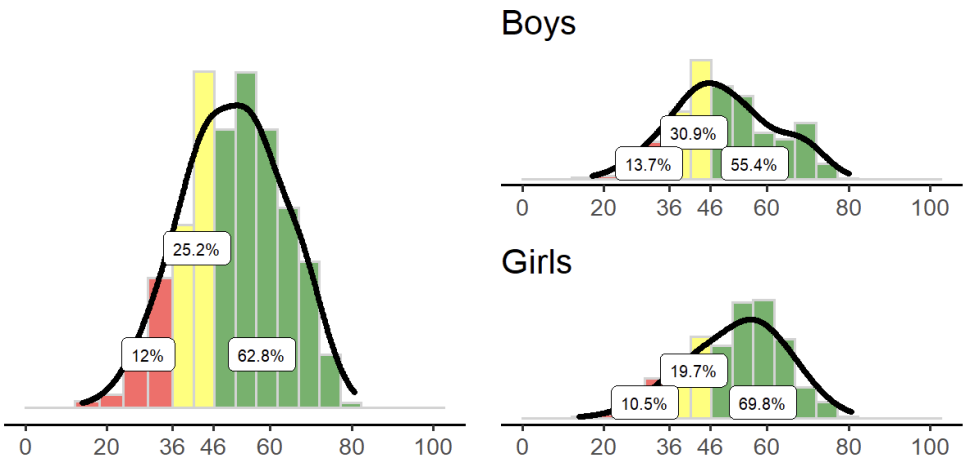
This table suggests that it might be prudent for the ELOM 4&5 developers to consider creating criterion scores for the ELOM bands that are adjusted for child's age in months.

8.7. Appendix: Checking effect of questionable scores in Mpumalanga

We mentioned in the Method section that we were concerned about the data collection in Mpumalanga, regarding Item 23 on the ELOM. This item may have inflated the domain scores for ELL, and also the ELOM Total Score (since it sums over the domains). We therefore report computations in this section for the Mpumalanga sample for the domain in question, and the Total ELOM Score, with the cases in question removed.

Table 98: *Mpumalanga: Descriptive statistics for Total ELOM 4&5 Score, Item 23 bad cases removed*

_	Mean	SD	SE	Median	p_10	p_90	n
Total	50.87	11.98	1.31	51.34	35.10	66.89	474
Boys	49.28	12.12	1.52	47.47	34.59	67.13	229
Girls	52.38	11.67	1.27	54.05	35.96	66.11	245



REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Figure 83: *Mpumalanga: Frequency distributions, for Total ELOM 4&5 Score, separated by sex, Item 23 bad cases removed*

Emergent Literacy and Language

Table 99: *Mpumalanga: Emergent Literacy and Language, Item 23 bad cases removed*

_	Mean	SD	SE	Median	p_10	p_90	n
Total	11.69	4.34	0.52	11.76	5.91	17.56	474
Boys	11.26	4.33	0.60	11.38	5.59	17.56	229
Girls	12.09	4.31	0.51	12.67	6.16	17.56	245

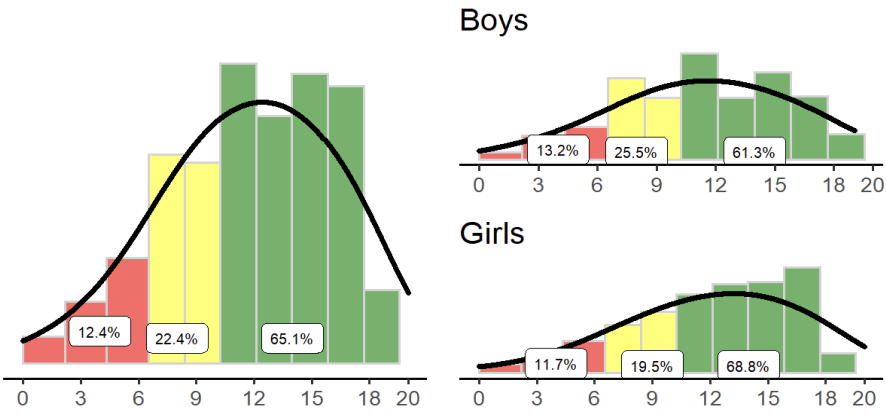
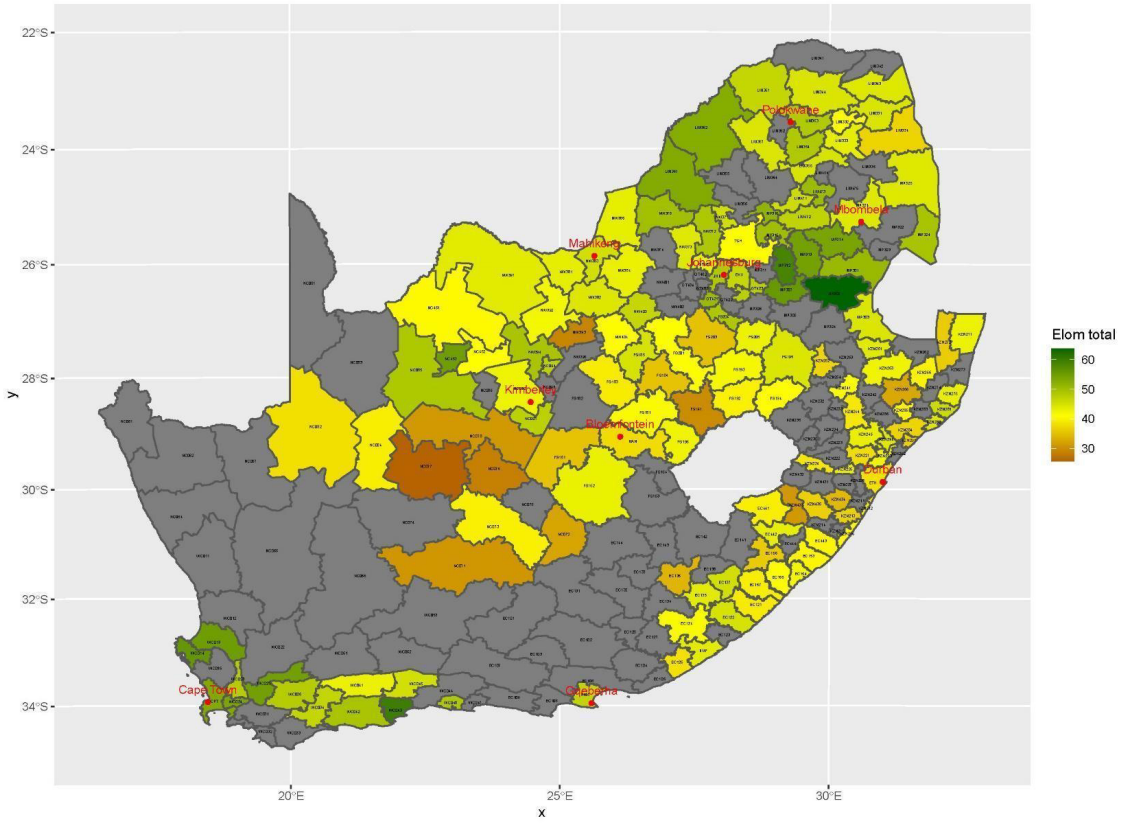


Figure 84: *Mpumalanga: Frequency distributions, with density curves overlaid, for Emergent Literacy and Language, separated by sex, Item 23 bad cases removed*

The reader should refer back to the main report. The differences are very small, and we do not think that the results are substantially affected by keeping or removing the bad Item 23 cases.

8.8. Appendix: Total ELOM 4&5 Scores per ward (unweighted data)



REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

The Index was made possible with the support of the American people through a contract with the United States Agency for International Development (USAID).

This Thrive by Five Technical Report was also produced under a subcontract with the ECD Measure Group, hosted at the University of Nebraska Medical Center under the Research Technical Assistance Center (RTAC) contract. The RTAC is made possible by the generous support of the American people through USAID under the terms of contract no. 7200AA18C00057.

The contents do not necessarily represent the views of USAID or the United States Government.

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

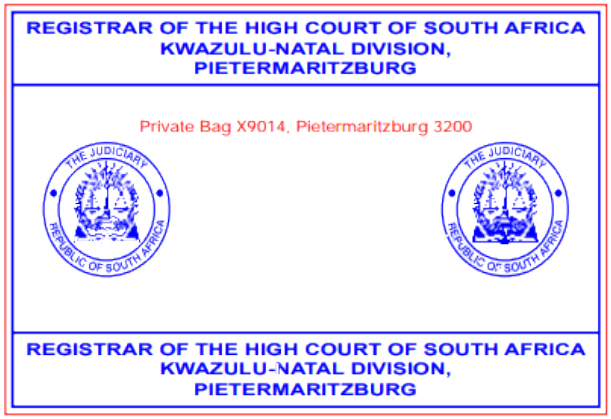
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 08

NOTE: **This document was filed electronically by the Registrar on 11/12/2025 at 11:30:12 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

South African Journal of Childhood Education
ISSN: (Online) 2223-7682, (Print) 2223-7674

007-532
"EC 08"

Litigation and social mobilisation for early childhood development during COVID-19 and beyond

Authors:
Nurina Ally[1,2]
Rubeena Parker[3]
Tess N. Peacock[4]

Affiliations:
[1]Department of Public Law, Faculty of Law, University of Cape Town, Cape Town, South Africa

[2]Former Executive Director, Equal Education Law Centre, Cape Town, South Africa

[3]Head of Research, Equal Education Law Centre, Cape Town, South Africa

[4]Director, Equality Collective, Nqileni Village, Cape Town, South Africa

Corresponding author:
Nurina Ally,
nurina.ally@uct.ac.za

Dates:
Received: 14 July 2021
Accepted: 18 Oct. 2021
Published: 09 Mar. 2022

How to cite this article:
Ally, N., Parker, R. & Peacock, T.N., 2022, 'Litigation and social mobilisation for early childhood development during COVID-19 and beyond', *South African Journal of Childhood Education* 12(1), a1054. https://doi.org/10.4102/sajce.v12i1.1054

Copyright:
© 2022. The Authors. Licensee: AOSIS. This work is licensed under the Creative Commons Attribution License.

Read online:
Scan this QR code with your smart phone or mobile device to read online.

Background: Litigation has been utilised to advance a range of socio-economic rights in post-apartheid South Africa, including the right to basic education. Nonetheless, there has not been significant litigation or sustained broad-based mobilisation around issues impacting the early childhood development (ECD) sector in the democratic era. The coronavirus disease 2019 (COVID-19) pandemic, however, saw some ECD stakeholders turning to the courts to advocate for their survival, as well as to mobilise and advocate for sector reforms.

Aim: This article aimed to critically reflect on the role of litigation and social mobilisation in advancing the right to ECD during and beyond the COVID-19 pandemic.

Setting: The article assesses two South African cases with national implications.

Methods: The article critically assesses two South African cases relating to ECD during the pandemic. At the time of writing, these were the only South African judgements specifically relating to the impact of COVID-19 on the ECD sector.

Results: The two cases played an important role in: (1) reopening the ECD sector during the pandemic; and (2) making efforts to ensure that the sector could remain open. However, the cases were not based on a holistic rights-based approach to ECD, which remains an area for further development.

Conclusion: The article concludes that litigation may play a significant role in advancing children's rights to ECD, particularly as a complement to broader social mobilisation strategies. The cases highlight the (1) need and potential for building a holistic rights-based foundation of ECD jurisprudence post the pandemic; and (2) strategic use of litigation interventions as part of broader mobilisation strategies.

Keywords: early childhood development; legal mobilisation; strategic litigation; COVID-19; children; international law.

Introduction – COVID-19 plunges ECD sector into crisis

In March 2020, the President of South Africa declared a national state of disaster to contain the spread of the coronavirus disease 2019 (COVID-19) pandemic. Early Childhood Development ('ECD') services across the country were shut down, along with the rest of the economy. Following months of closure, the ECD sector was plunged into crisis. According to one study, only 13% of children were attending an ECD programme between mid-July and mid-August 2020, reflecting the lowest ECD programme attendance since the early 2000s (Wills, Kotze & Kika-Maistry 2020:2). The study revealed that 'supply-side barriers' (the closure of ECD services) were the primary reason for non-attendance (Wills et al. 2020:21).

As various sectors of the economy and society reopened – including the phased reopening of schools – there was little to no communication or guidance offered by the Department of Social Development ('DSD') regarding the ECD sector. It was only after urgent litigation and a scathing court judgement in Skole-Onsersteuningsentrum NPC and Others v Minister of Social Development and Others ('*SOS*') that the sector was permitted to reopen and began to recover. However, even then, the ability of ECD providers to reopen remained hampered because of government subsidies having been withheld during the lockdown in all the provinces other than the Western Cape. Again, urgent litigation ensued in the case of *SA* Childcare (Pty) Ltd & Others v Minister of Social Development & Others ('*SACA*'), and a court order reprimanding government authorities was handed down, requiring the payment of subsidies to qualifying ECD providers.

Note: Special Collection: Early Childhood Development in Theory and Practice.

007-532

Whilst litigation has been utilised to advance a range of socio-economic rights in post-apartheid South Africa, including the right to basic education, there has not been significant litigation or sustained broad-based mobilisation around issues impacting the ECD sector in the democratic era. Atmore (2021:14) suggested that this is because ECD stakeholders are 'scared to litigate' and 'are fearful of speaking out for fear of losing funding opportunities'. The COVID-19 pandemic, however, saw some ECD stakeholders turning to the courts to advocate for their survival, as well as to mobilise and advocate for sector reforms.

We proceed by outlining the state of the ECD sector in South Africa before the pandemic. We thereafter provide an overview of the *SOS* and the *SACA* cases, with a view to highlighting the role that litigation played in (1) reopening the ECD sector; and (2) efforts to ensure that the sector could remain open. We thereafter reflect on lessons that can be drawn from the cases, particularly (1) the need and potential for building a holistic rights-based foundation for ECD jurisprudence post the pandemic; and (2) the strategic use of litigation interventions as part of broader mobilisation strategies.

Background – The early childhood development sector in South Africa

There are over 6 million children in South Africa under 6 years of age and 62% of those children are considered 'multidimensionally poor' (Statistics South Africa 2020:16). The provision of holistic ECD services is widely accepted to reduce poverty and socio-economic inequality and is critical for the development of young children (Daelmans et al. 2017). The 'essential package' of ECD services includes not only early learning, but also primary level maternal and child health, social services (including income support), nutritional support, and support for primary caregivers (Ilifa Labantwana 2014).

The importance of ECD as a holistic package of services has been acknowledged by the South African government in the National Development Plan 2030 (National Planning Commission 2012:264). The *Children's Act*, 2005 ('Children's Act') also recognises that ECD includes the 'emotional, cognitive, sensory, spiritual, moral, physical, social and communication development of children' (Section 91(1)). Furthermore, the National Integrated Early Childhood Development Policy, 2015 ('ECD Policy') goes some way towards detailing how universal access to comprehensive, age-appropriate, and quality ECD services may be achieved from conception to the year before a child enters formal school (Republic of South Africa 2015). Notably, the ECD Policy specifically acknowledges ECD as a 'universal right and public good' (2015:18).

However, despite these policy commitments – and whilst there has been substantial growth in access to ECD services over the past 20 years (Wills et al. 2020:15) – nearly 3.2 million children aged 0 to 5 years still have no access to any form of ECD programme (Ilifa Labantwana n.d.). Moreover, the access to ECD services has largely been driven by private providers who run ECD programmes as small or micro businesses. Unlike the basic education sector, where two-thirds of children can access no-fee schools (Wills et al. 2020:7), ECD programmes charge fees for their services in order to remain viable. This is the case even for the few programmes that are subsidised, as the subsidy (at R17 per child per day) is not enough to cover the running costs of an ECD programme (Wills et al. 2020:8). Barriers to registration for ECD providers also severely impact the ability of ECD programmes to obtain government subsidy (Wills et al. 2020:32).

In 2019, in a move signalling potential opportunities for reform, President Ramaphosa announced that the responsibility for ECD centres would be moved from the DSD to the Department of Basic Education (DBE) (Ramaphosa 2019). He also announced the introduction of 2 years compulsory pre-school (Grade RR and Grade R). However, little clarity regarding the implementation of these proposals followed and, as will become clear in the cases discussed below; the confusion regarding the roles of DSD and DBE was acutely manifest during the pandemic.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION
PIETERMARITZBURG

The COVID-19 pandemic dealt a severe blow to the already-strained ECD sector. As Wills et al. (2020:4) noted, the significant decline in ECD programme attendance rates has not only threatened the long-run developmental outcomes of children – an issue of global concern (Shumba et al. 2020; Yoshikawa et al. 2020) – but has also brought the sector to the brink of collapse.[1] The ECD sector is now in a 'highly precarious position', with potential ripple effects on millions of households relying on ECD services (Wills et al. 2020:1).

As a fragile sector impacting on the most vulnerable members of society, clear communication and sufficient support was needed at the onset of the pandemic (see, e.g. Yoshikawa et al. 2020 on mechanisms to mitigate the impact of COVID-19 on ECD). Instead, the sector was caught in the throes of a lack of government coordination, unlawful, enforced closure and non-payment of subsidies. A turn to the courts ultimately proved necessary, with two cases being launched that would aim to reopen the sector and ensure that there would be some support to sustain ECD services and programmes.

Litigating to reopen the sector

As the South African government considered easing restrictions following the initial 'hard lockdown', a heated debate emerged over the reopening of schools (Joint Media Statement 2020; Spaull & Van der Berg 2020; South African Paediatric Association 2020). After weeks of uncertainty, the Minister of Basic Education eventually announced that the phased reopening of schools would begin from 01 June 2020

1.While the NIDS-CRAM Wave 3 Synthesis Report indicated an improvement in ECD attendance from July/August 2020 to November/December 2020, such attendance was still below pre-pandemic levels (Spaull et al. 2021:6).

(which was delayed to 08 June 2020). However, despite the reopening of schools, the position in relation to the ECD sector remained unclear.

On 28 May 2020, the Minister of Cooperative Governance and Traditional Affairs (COGTA) published regulations, thus moving South Africa to Lockdown Level 3 (Department of Co-Operative Governance and Traditional Affairs (2020), referred to as the 'COGTA Regulations'). This signalled a substantial shift in the regulation of activity during the pandemic, with socio-economic activity now being permitted unless expressly prohibited. The COGTA Regulations listed certain sectors excluded from reopening, including 'education services', which would only be allowed to reopen 'as set out in the directions issued by the Cabinet members responsible for education' (Table 2, Item 9 of the COGTA Regulations). No specific reference was made to partial care and ECD services, nor to the cabinet member responsible for the DSD in the list of exclusions.

On the face of it, it appeared that the ECD sector would reopen, subject to health protocols and physical distancing measures (along with the rest of socio-economic activity). However, a day after the COGTA Regulations were published and following a period of effective public silence, the DSD issued a circular stating that the ECD sector could not yet reopen (Mchunu 2020). This appeared to contradict the COGTA Regulations. The circular also indicated that the DSD had held its *first* engagement with ECD stakeholders on 26 May 2020 (Mchunu 2020) – a startling revelation in light of the fact that 2 months had already passed since the national state of disaster was announced.

In addition to contradicting the COGTA Regulations, the DSD's circular was also inconsistent with the directions published by the DBE on 29 May 2020 (DBE Directions 2020). The DBE Directions, providing for the phased return of learners according to staggered dates, indicated that 'ECD' and Grade R would be phased back from 06 July 2020 (Direction 4(1) of the DBE Directions). In subsequent amendments to the DBE Directions – on 01 and 23 June 2020 – the DBE limited the phased return of children attending Grade R and lower in *schools*, excluding ECD programmes under the Children's Act from its ambit.

Amidst reining confusion, civil society organisations and stakeholders sought clarity from the DSD. In a media statement dated 04 June 2020, the DSD indicated that the 'ECD sector will remain closed under Level 3 regulations' without revealing any concrete timeline for sector reopening (DSD Media Statement 2020). With the DSD's statement indicating a blanket and indefinite closure of the ECD sector, a legal challenge was mounted by the Skole-Ondersteuningsentrum ('SOS'), Bronkieland Kleuterskool ('BK') and Solidarity (collectively referred to as 'the Applicants') on 09 June 2020.[2] The SA Childcare Association ('SACA')[3] joined the case as *amicus curiae* [a friend of the court].

2.Skole-Ondersteuningsentrum is a non-profit company providing ECD support services. Bronkieland Kleuterskool is a private pre-primary school. Solidarity is a trade union, which represented the interests of its social worker members involved in ECD.

3.The SACA provides professional support services to ECD and after-care centres.

Whilst the Applicants framed their case as being primarily concerned with 'private' pre-schools, the *amicus curiae* intervened to highlight that the 'relief is for each and every ECD and Partial Care centre in South Africa' (Founding Affidavit [*amicus curiae*] 2020:para 25). The thrust of the case was to seek confirmation that the blanket closure of the ECD sector by the DSD was unconstitutional and unlawful. To this end, the Applicants argued that the COGTA Regulations, properly interpreted, did not empower the DSD to limit the reopening of the ECD sector.

In support of their challenge, the Applicants emphasised that various fundamental rights were implicated by the continued closure of ECD programmes. In particular, it was submitted that children's rights to basic education (section 29[1][a] of the Constitution) and to have their best interests considered paramount (section 28[2] of the Constitution) would be unjustifiably limited if ECD programmes remained closed. Drawing on expert opinion, the Applicants and *amicus curiae* noted emerging evidence indicating that COVID-19 did not impact on children as seriously as adults and highlighted the crucial role of ECD services to children's holistic learning and development (including access to food security, cognitive and sensorimotor stimulation, emotional support and social interaction) (Founding Affidavit [*amicus curiae*] 2020:26; Founding Affidavit [Applicants] 2020:15–18). The Applicants also underscored the heightened need for ECD facilities to ensure effective care and support for children under Lockdown Level 3 as parents increasingly returned to work (Founding Affidavit (Applicants) 2020:18). Finally, it was submitted that ECD providers faced an existential crisis if the ECD sector was not reopened. As the owner of BK indicated in a supporting affidavit:

> 'It pains me to state that the financial position of Bronkieland has now reached such a dire level that I will have to close the school down in the event that the school is not permitted to re-open in July'. (Supporting Affidavit [Bronkieland] 2020:8)

On 29 June 2020, the day before the matter was due to be heard, the DBE made an eleventh-hour amendment to the DBE Directions, this time removing all references to pre-Grade R. The effect of this amendment was to now limit the reopening of *all* pre-Grade R ECD programmes, whether in schools or not. Whilst no substantive response was filed by the DSD, on 30 June 2020 (the very day that the matter was due to be heard) the DSD submitted a notice arguing that the application had been rendered moot in light of the DBE's amended directions. Judge Fabricius, who had already begun drafting his judgement in the matter, was taken aback by this last-minute submission (*SOS* para 22), which the *amicus curiae* described as the 'product of a strategically planned ambush' (quoted in *SOS* para 25).

Moreover, it transpired that the DBE had issued a letter indicating that schools, which had already begun to phase in pre-Grade R children, did not have to reverse this position (*SOS* para 34). Not only did this letter contradict the DSD's position on the return of children to ECD programmes, but

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION

it also contradicted the DBE's own amended directions. In an effort to explain the incongruity between the DSD and DBE's positions, the DSD eventually submitted that the DBE had no authority to regulate pre-Grade R and that the letter issued by the Minister of Basic Education was of no force and effect (*SOS* para 50). This was a significant submission, effectively exposing the lack of coordinated engagement between government departments and a fundamental confusion around the roles and responsibilities for ECD.

With a trail of inconsistent and contradictory messaging by the DBE and DSD on ECD reopening having been established, Judge Fabricius handed down a scathing judgement on 06 July 2020. Traversing a plethora of issues arising from the eleventh-hour amendments and circulars, Judge Fabricius effectively agreed with the Applicants' interpretation of the COGTA Regulations and held that the indefinite and blanket closure of ECD programmes by the DSD was unlawful (*SOS* paras 14–17, para 30). The Court accordingly declared that all private pre-school institutions offering ECD services (Grade R and lower) were entitled to reopen immediately, subject to 'appropriate and/or prescribed safety measures being in place' (*SOS* para 51 read with para 1). The Court also censured the DSD with a punitive costs order for its haphazard approach to the matter, which the Court indicated was unacceptable 'in a case of this nature, involving millions of children' (*SOS* para 51 read with para 2).

In a news interview following the judgement, Minister Lindiwe Zulu claimed that the DSD had determined a date for the reopening of ECD programmes even prior to the judgement, and plans for reopening had already substantially progressed (SABC 2020). But, no such plans were communicated to the Court. Despite the Minister's claims then, it seems clear that the SOS judgement played an important role in bringing the indefinite and blanket closure of ECD programmes by the DSD to an end, thereby mitigating the impact of COVID-19 on children.

However, shortly after this judgement, another case was launched in order to ensure that ECD providers would actually have the means to support their reopening.

Litigating to keep the sector open

Even though the SOS judgement required the reopening of the ECD sector, the DSD failed to create an enabling environment in which ECD programmes could realistically reopen. Instead, onerous, costly and in some cases, exclusionary requirements were put in place as conditions for reopening. Lutuli (2021:41), for example, described the requirements as 'largely unreasonable given the poor resources available to the majority of ECD centres'. Such requirements were principally articulated in directions issued by the Minister of Social Development on 10 July 2020 (DSD Directions 2020), and in Standard Operating Procedures and Guidelines incorporated in the DSD Directions by reference (SOPs 2020).

In addition to the onerous requirements and protocols preventing ECD programmes from reopening, reports emerged of Members of Executive Councils (MEC) in eight provinces (with the exception of the MEC in the Western Cape) withholding, either entirely, or in part, subsidies to be paid to registered ECD programmes.

The subsidy of R17 per child per day is divided into three portions, namely, nutrition, stimulation and administration. In some cases, the entire subsidy went unpaid, whilst in others, only the administrative portion was paid, despite clear undertakings made in the DSD Directions and in various statements made by the Minister that provinces 'must continue to subsidise ECD centres or partial care facilities during the national state of disaster' (Mchunu 2020; Direction 14 of the DSD Directions).

With onerous reopening requirements and withheld subsidies being unpaid, ECD providers were unable to pay employees or comply with COVID-19-related health and safety standards, resulting in a severe contraction of the ECD sector. By way of illustration, a survey of 5300 practitioners conducted in September 2020, found that 68% of practitioners had not reopened their ECD programmes, citing the two main reasons for not opening as follows: (1) not being able to afford compliance with the health and hygiene requirements imposed by DSD; and (2) not having enough money to reopen (BRIDGE et al. 2020). Significantly, with ECD programmes closed, children were also unable to access essential ECD services, including nutrition. The adverse impact of COVID-19 on early life nutrition has been highlighted by Headey et al. (2020:520), who noted that 'the profound impact of the COVID-19 pandemic on early life nutrition could have intergenerational consequences'.

Civil society organisations and stakeholders wrote to DSD, raising these urgent concerns. However, when pleas to pay full ECD subsidies to simplify COVID-19 protocols and to support compliance went unanswered, the SACA (also the *amicus curiae* in the SOS matter) and five other applicants (together the 'SACA Applicants') launched proceedings in the Gauteng Division of the High Court on 12 August 2020. The applicants sought an order against the Minister of Social Development and eight MECs ('SACA Respondents') for, among others, a declaration of unlawfulness in respect of certain provisions of the DSD Directions and a structural interdict for the immediate payment of unpaid subsidies allocated to the ECD sector prior to COVID-19.

The dispute over the constitutionality of the DSD Directions was ultimately rendered moot as the country had moved from Level 3 to Level 2 of lockdown during the course of the litigation. As a result, the parties agreed that the impugned DSD Directions would be replaced by new directions issued on 11 September 2020, which removed most of the obstacles put in place by the first set of DSD Directions (SACA paras 9–11) (although the onerous SOPs remained unchanged and continued to apply at the time of writing). Relief continued to be sought in relation to the payment of the ECD subsidies.

The SACA Applicants argued that the Minister and the eight MECs were under both a constitutional and a statutory duty to ensure that the full subsidies were paid to qualifying ECD programmes to allow them to function, whether or not they had resumed provision of ECD services (Founding Affidavit [SACA Applicants] 2020:para 190.1.6). The applicants emphasised various fundamental constitutional rights implicated by the failure to pay the full portion of the subsidies, including, among others, the right of every child to 'basic nutrition, shelter, basic health care and social services' (section 28(1)(c) of the Constitution). They also argued that various statutory duties were infringed, in particular, those contained in the *Division of Revenue Act*, 4 of 2020 ('DORA'), which outlines the framework according to which the subsidy must be used and its spending monitored, and against which the Minister has a duty to take action in cases of non-compliance (Founding Affidavit [SACA Applicants] 2020:paras 190.1.1–190.1.3).

Extensive evidence was adduced to illustrate the devastating effect of non-payment or withholding of subsidies on the ECD sector (Founding Affidavit (SACA Applicants) 2020:paras 95–141). An ECD practitioner and representative of an ECD Forum in Soshanguve in Gauteng told the Court:

> 'Without being able to get our subsidies again, we will close. The collective impact will be that approximately 15 000 children will not be able to access ECDs in Soshanguve and thousands of practitioners will be out of work.' (*SACA* para 27)

A principal of a day care centre in Soshanguve also noted the impact that non-payment of subsidies had on the nutrition of children:

> 'During lockdown I see children roaming around and I ask what they are going to eat … We used to provide two balanced meals with snacks in between. If we do not open how will we feed the children? Without the subsidies, I don't know what we are going to do.' (*SACA* para 28)

In opposing the relief claimed, the MECs – shockingly – dismissed the testimony of ECD experts and practitioners as 'sensational and ill-informed' (*SACA* para 61). They offered various administrative reasons for why subsidies or portions thereof were withheld during Levels 3, 4 and 5 of lockdown and further argued that the payment of only the administrative portion of the subsidy would be justified as ECD programmes did not need nutrition and stimulation funds if they were non-operational. With the move to Level 2 of the lockdown during the course of the litigation, the MECs undertook to reinstate the full allocation of the grant (Answering Affidavit (SACA Respondents) 2020:para 29). However, this undertaking was subsequently qualified by the claim that, once again, subsidies were only payable to 'operational' ECD programmes (SACA paras 35–36).

On 20 October 2020, Judge Nieuwenhuizen handed down a condemnatory judgement noting with concern the MECs' 'hurtful and demeaning' (*SACA* para 62) response to the plight of the people they were constitutionally obliged to serve, and the position taken by the MECs to only pay subsidies to operational ECD programmes, which placed 'ECDs in the poor communities in the invidious position that they cannot open without receiving the subsidy, but without opening they cannot receive the subsidy!' (*SACA* para 36).

Judge Nieuwenhuizen was equally critical of the Minister, who in her opposing papers, denied having a duty to take action in the event that the DORA framework is not complied with. A position, which the Judge stated was 'manifestly wrong' (*SACA* para 30), and in fact, that the Minister had a clear statutory duty with which she had failed to comply.

Relying on the judgement in *Equal Education and Others v Minister of Basic Education and Others*, which dealt with the resumption of school feeding schemes during the pandemic, Judge Nieuwenhuizen also held that the failure of the Minister and MECs to ensure that subsidies were paid infringed children's rights under section 28(1)(c) of the Constitution, which includes the right to basic nutrition and social services (*SACA* paras 43; 46–47).

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION
PIETERMARITZBURG

The Minister and MECs were accordingly ordered to pay the full amount of subsidies owed to ECD providers for the full duration of the lockdown, irrespective of whether or not they had been able to resume ECD services. The state's 'hurtful and demeaning' response to the plight of ECD providers and children, and their 'persistent denial of their statutory and constitutional obligations' (*SACA* para 58) were strongly reprimanded by the Court through a punitive costs order, similar to the one issued by Judge Fabricius in the SOS matter.

On 10 November 2020, an application to the court *a quo* was filed by the Minister and the MECs for leave to appeal the entire judgement. Whilst the High Court only granted leave to appeal in respect of a narrow question (pertaining to the Minister's constitutional duties), the Supreme Court of Appeal (SCA) ultimately granted the Minister and the MECs leave to appeal the entire judgement. Whilst the pending appeal limits the ability to enforce the High Court order if subsidies continue to go unpaid, there is perhaps an opportunity for the SCA to provide useful precedent pertaining to the obligations of the Minister and the MECs, which would have application beyond just the payment of ECD subsidies. Moreover, notwithstanding the appeal processes, the fact that the state was required to publicly engage on issues impacting the ECD sector through the litigation was, in our view, itself an important outcome of the process. And, as we discuss in the following section, both the *SOS* and the *SACA* cases offer a starting point for reflection on the development of ECD jurisprudence in South Africa.

Legal mobilisation to advance the realisation of early childhood development – Beyond COVID-19

We have suggested that the *SOS* and the *SACA* cases played an important role in responding to the impact of COVID-19 on the ECD sector in South Africa. In particular, the cases

007-537
11/12/2025-11:30:12 AM

represent a willingness by litigants and courts to hold government officials accountable for decision-making in respect of ECD. Indeed, South Africa's children's rights jurisprudence has been rich and extensive, and well-regarded as 'an exemplar of how constitutional law can be used to advance children's rights' (Kilkelly & Liefaard 2019:523; Skelton 2017a; Sloth-Nielsen 2019). Sloth-Nielsen (2019:511) has suggested that South Africa's children's rights jurisprudence is 'arguably the most far reaching currently in the world'. This may be owing, in part, to the generous protection of children's rights recognised in the Constitution, a receptive judiciary and the existence of an 'active community of legal advocates' working on issues relating to and impacting on children (Kilkelly & Liefaard 2019:523, 526–527).

Nonetheless, Proudlock (2017:401) noted that, with the exception of the right to basic education, 'the concrete substance' of children's socio-economic rights has not been well-developed in South African case law. Moreover, until now, there has been limited focused litigation in relation to the rights of children to ECD services, as such.[4] The *SOS* and the *SACA* judgements are thus significant as they signal the emergence of a nascent jurisprudence relating specifically to ECD services and programmes. However, as we discuss in the following section, the judgements demonstrate the need for a more coherent and robust rights-based framework to ground a *holistic* understanding of ECD. In addition, when considering the role of litigation as a strategy to advance the realisation of ECD post COVID-19, current developments in the ECD sector suggest opportunities for strategically combining litigation together with broad-based mobilisation for ECD reform.

The need for a holistic early childhood development rights-based framework

Whereas development in early childhood was 'once regarded primarily as the domain of educators' (Lake 2016:12 cited in Ally 2017:1), it has been increasingly acknowledged that ECD requires a multidimensional and holistic approach. It is significant that in the *SOS* judgement, Fabricius J recognised the importance of a holistic approach to ECD. As he stated:

> 'It is clear from expert evidence … that development of the pre-school child takes place holistically. Every aspect of their development influences other aspects of development being intellectual development and physical development. If a child's social development is neglected it will impair intellectual development for example'. (*SOS* para 17)

The *SOS* judgement's recognition of the interdependence of various dimensions of children's development and the need for a holistic approach is to be welcomed. However, despite this recognition, the judgement is regrettably thin on articulating the *rights*-based foundation to ground this holistic concept of ECD. Whilst the judge notes broad agreement with submissions by the Applicants and *amicus curiae*, the clearest explication of the rights impacted in the case is the Court's indication that the continued closure of the ECD sector would not be in the best interests of children, as required by section 28(2) of the Constitution (*SOS* para 17). Whilst the best interests of the child principle can be useful and relevant, sole reliance on section 28(2) may be overly diffuse and non-specific. As Skelton (2019:557) has argued, an over-reliance on section 28(2) 'risks spreading the right too thinly' and courts should, where possible, determine which specific and substantive rights of children are infringed in a particular case. More specially in relation to ECD, Sloth-Nielsen and Philpott (2015:316) have argued that it is 'axiomatic that "getting a good – or the best – start" can only be in the best interests of the child' and that '[*s*]tating this obvious link does not add weight to claims for recognising [ECD] as a right of the child'.



In the *SACA* case, the Court did recognise that the failure to pay ECD subsidies implicates the specific rights of children to basic nutrition in terms of section 28(1)(c) of the Constitution. However, the Court failed to ground this finding in an articulation of a *holistic* rights-based framing for ECD (which we explore below) and thereby failed to draw out the interconnectedness of each of the key components of the 'essential package' of ECD services.

The shortcomings we have identified in the judgements are regrettable but also understandable in light of the urgency underpinning the matters. Nonetheless, the cases highlight the need for considered reflection on the ways in which ECD rights-based jurisprudence can be developed in future. Significantly in this regard, it must be recognised that whilst the Constitution affords potent, specific protection to some components of the 'essential package' of ECD services (such as, for instance, the immediately realisable rights to 'basic nutrition, shelter, basic health care services and social services' under section 28[1][c]), there is less specificity around other components (such as, rest, leisure and play).[5] Notably, whilst the Constitutional Court has confirmed that the right to basic education includes primary and secondary schooling (until Grade 12), it has not yet engaged the question whether section 29(1)(a) includes the right of children to opportunities for early childhood education.[6] Moreover, the Constitution does not explicitly include an all-encompassing 'right to development' for children. This can possibly be attributed to the fact that, at the time the Constitution was enacted, the discourse around the recognition of children's right to ECD services was still developing globally.[7] Nevertheless, and notably, despite the Constitution not specifically providing for the right of children to ECD *as such*,

4.While the rights of children to healthcare services, shelter and nutrition have been engaged in some cases, these cases were not specifically framed as engaging children's rights to ECD services (See, for example, *Government of the Republic of South Africa and Others v Grootboom and Others* [2000] ZACC 19; 2001 (1) SA 46; 2000 (11) BCLR 1169; *Minister of Health and Others v Treatment Action Campaign and Others* (No 2) [2002] ZACC 15; and *Equal Education and Others v Minister of Basic Education and Others*).

5.Although this has been acknowledged implicitly by Sachs J in *S v M* [2007] ZACC 18 at para 19, where he states that '[i]ndividually and collectively all children have the right to express themselves as independent social beings, … to play, imagine and explore in their own way'.

6.Fredman et al. (2021) offered a comprehensive assessment of international law obligations in respect of early childhood education.

7.Ally (2017:4), for example noted: 'The last three decades has heralded a significant paradigm shift, indeed a "revolution", in the field of childhood education and development' (Citing Lombardi 2016:6).

007-537

007-538
11/12/2025-11:30:12 AM

government has itself acknowledged a rights-based approach to ECD in various policy statements. For example, the ECD Policy states in unequivocal terms:

> Government recognises early childhood development as a fundamental and universal human right. (Republic of South Africa 2015:22)

The ECD Policy further recognises that the 'essential components' of ECD services are immediately realisable and 'essential precondition[*s*] for the realisation of young children's rights' (Republic of South Africa 2015:54–55). Whilst government's policy commitments are undoubtedly significant, and have in other contexts been used by courts as the basis for determining the content of state obligations (Veriava 2016:336–339), some have suggested that an 'objective test' for determining constitutional obligations should be preferred. In the context of the right to basic education, Veriava (2016:337) argued that courts should not rely solely on the government's own discretionary policies to ground rights-based claims, but should interpret the Constitution, itself, objectively 'for determining the necessary entitlements that make up the content of the right' (Veriava 2016:336).

Establishing a coherent and constitutionally grounded rights-based approach to ECD in this way can, as Sloth-Nielsen (2019:520) has argued, play at least two important roles. Firstly, 'constitutionalising children's rights has the advantage of elevating their status to the highest point in a legal system' (2019:520). This, in turn, 'brings the twin advantages of entrenchment (making them harder to erode) and supremacy'. Secondly, 'rights hav[*e*] the capacity to shift the balance of power' (2019:520) as '[*r*]ights claims command the respect of others in our society and demand that one be taken seriously' (Federle 2017:280–282 cited in Sloth-Nielsen 2019:520).[8]

The question that arises then is whether and how a holistic rights-based approach to ECD can be recognised within our Constitutional framework. In our view, engagement with international law offers one avenue for jurisprudential development in this direction – and one that was not relied on in the *SOS* and the *SACA* cases.

The right to development, international law and the Constitution

In the children's rights field, international and regional instruments have been regularly and successfully used to bolster South African jurisprudence (Sloth-Nielsen 2019:519). It is significant that various articles of the United Nations Convention on the Rights of the Child (UNCRC),[9] which hold near universal ratification, protect the 'physical, mental, moral, social, cultural, spiritual, personality and talent' rights (Peleg 2019:201) of children. Moreover, Article 6 of the UNCRC, which is described as a 'cross-cutting right' (Sloth-Nielsen & Mezmur 2008:10), recognises that every child has the inherent right to life (Article 6[1]) and requires states to 'ensure to the maximum extent possible the survival and development of the child' (Article 6[2]) (for commentary on Article 6 of the CRC, see Tobin 2019:186–236; Vandenhole, Turkelli & Lembrechts 2019:88–99).

Some authors have compellingly argued that Article 6, in particular, establishes a rights-based foundation for a *holistic* approach to ECD services. Sloth-Nielsen and Philpott (2015:309), for example, argued that owing to the 'composite nature' of ECD services, 'it is under article 6 of the UNCRC that [ECD] most properly resorts.' Similarly, in his work on 'developing the right to development', and writing from a broad international perspective, Peleg (2019:203) has argued that the right to development can serve as a 'composite right' of which other substantive rights relating to various childhood developmental domains form part, *and* which also allows for recognition that the 'whole is greater than the sum of the parts' (Sengupta 2004:183 cited in Peleg 2019:204).

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Significantly, in its General Comment 7 on Implementing Child Rights in Early Childhood, the UNCRC has also emphasised the need for a holistic approach to rights in early childhood. The Committee noted that 'article 6 encompasses all aspects of development, and that a young child's health and psychosocial well-being are in many respects interdependent' (UN Committee on the Rights of the Child 2005:4).

Children's rights to life, survival and development are also reflected in African regional instruments. Article 5 of the African Charter on the Rights and Welfare of the Child requires State parties to ensure the 'survival, protection and development of the child' to the maximum extent possible. And the African Commission on Human and People's Rights has noted the obligation of states to introduce measures to promote children's 'healthy physical and psychological development without distinction or discrimination' (African Commission on Human and People's Rights 2011:58).

In addition to these binding obligations, there are also non-binding international frameworks affirming the importance of ECD. The Sustainable Development Goals (SDGs), for example, commit states to the goal that all children 'have access to quality ECD, care and pre-primary education so that they are ready for primary education' by 2030 (UN General Assembly 2015:Goal 4.2).

These international law frameworks, and particularly the 'right to life, survival and development', offer fertile ground for developing a holistic rights-based foundation to ECD in South Africa. Sloth-Nielsen and Philpott (2015) argued that one avenue by which international frameworks may be constitutionally recognised is through section 231(4) of the Constitution, which provides that international instruments

8. While a rights-based approach to advancing particular developmental gains has been recognised as an important milestone, there are notable critiques of rights-based struggles to advancing social justice. Critical legal study theorists, for example, have argued that rights rarely live up to their promises and that a rights-based approach can circumvent or usurp other political struggles to advance social justice gains (McCann 2014:246).

9. Articles of the UNCRC relevant to ECD include Articles 6, 18, 21, 24, 27, 28, 29, 31 and 32.

007-538

007-539
11/12/2025-11:30:12 AM

become binding domestically when enacted into law by national legislation.

According to Sloth-Nielsen and Philpott (2015:313), the Children's Act may serve as such national legislation because one of the stated objects of the Act is 'to give effect to the Republic's obligations concerning the well-being of children in terms of international instruments binding on the Republic' (section 2[c]). On this basis, they argue that Article 6 of the UNCRC has already been domesticated through national legislation and 'it can be concluded that there is indeed a constitutional foundation for ECD via section 231(4)'.

Whilst the argument that Article 6 of the UNCRC (or Article 5 of the African Charter on the Rights and Welfare of the Child [ACRWC]) has been domesticated by the *Children's Act* may be viable, it is not clear that, reliance on the Act's generalised objects unambiguously translates into the specific domestication of the right to life, survival and development as articulated under Article 6. The argument may, however, be bolstered when considering provisions of the Act that specifically recognise 'a child's need for development and to engage in play and other recreational activities appropriate to the child's age' (section 6[1][e]), and which make provision for the 'emotional, cognitive, sensory, spiritual, moral, physical, social and communication development of children' (section 91[1]; see also section 2[d]).

But, even where section 231(4) may serve as a mechanism for drawing recognition of the right to development into the domestic sphere through national legislation, this route does not ground a holistic rights-based approach to ECD *within* the Bill of Rights itself. Sloth-Nielsen and Philpott (2015:315–316) suggest that the rights to equality (section 9 of the Constitution) and dignity (section 10) offer constitutional hooks to ground such an approach. We further suggest that the *right to life* (section 11 of the Constitution), when interpreted in light of international law, can offer such an anchor.

The Constitution's requirement that courts 'must consider international law' when interpreting rights in the Bill of Rights (section 39[1][b]) is of relevance here. With regard to section 39(1)(b), it can be argued that the *right to life*, which children also enjoy, must be interpreted in light of international law as including the right to development. Indeed, the Constitutional Court has endorsed the concept of the right to life that is more than mere existence, and as being 'the right to live as a human being, to be part of a broader community, to share in the experience of humanity' (Soobramoney v Minister of Health [Kwazulu-Natal] ['Soobramoney'], para 31). The Court has also indicated that the right to life includes 'access to housing, food and water, employment opportunities, and social security' [Soobramoney, para 31]. However, the Court has made clear that where there are concretised and specific socio-economic rights provided for by the Constitution, *these* rights should be relied on as the source of the state's positive obligations and not the right to life [Soobromoney, paras 15–17]. But this should not, in our view, deter engagement with the right to life in the context of ECD.

Firstly, whilst some components of the right to development (as part of the right to life) may find specific protection in the Bill of Rights (e.g. the rights to 'basic nutrition, shelter, basic health care services and social services' under section 28(1)[c]), there are other components (such as leisure, rest and play) that are not expressly included. This suggests an independent and distinct role for the right to development (as part of the right to life) in addition to more specific rights. As Peleg (2019) has argued, 'the right to development should not be seen merely as a summary of other rights that support child development' (p. 207). Secondly, the right to life can also play 'an indirect role in decisions concerning urgent access to vital socio-economic goods and services' (Pieterse 2014:21). In the context of ECD, the 'cross-cutting' (Sloth-Nielsen & Mezmur 2008:10) nature of the right to life (interpreted in line with international law) can serve in this way to highlight the interdependence of various aspects of ECD. This also aligns with the view that children's right to life under the CRC should be interpreted expansively. As Tobin (2019) argued:

> [*R*]ather than interpreting the right to life as some kind of colonisation agenda, it could be understood as reflecting a growing awareness of the interdependence between civil and political rights and economic and social rights. (p. 196)

In addition to interpreting the right to life to include the right to development, it is also worth noting that in *Glenister v President of the Republic of South Africa and Others* ('Glenister'), the Constitutional Court, with reference to section 39(1)(b), held that international law is relevant to establishing whether the state is taking reasonable and effective steps towards respecting, protecting, promoting and fulfilling the rights in the Bill of Rights (as required under section 7[2] of the Constitution).[10] International law duties, said the majority of the Court, do not only exist in the international sphere (*Glenister*, para 189). Rather, the Constitution 'appropriates the obligation for itself, and draws it deeply into its heart, by requiring the state to fulfil it in the domestic sphere' (Glenister, para 189; see also, Cameron 2013:403). Following this approach, it is arguable that the state's measures to fulfil children's rights in the Bill of Rights (including section 28 and section 29[1][a]) must generally be assessed in line with the South Africa's obligation to ensure 'to the maximum extent possible the survival and development of the child' under international law.

These suggestions indicate possibilities, in broad terms, for how the litigants and the Court in the *SOS* and the *SACA* cases could have more holistically framed the blanket closure of ECD programmes and the non-payment of subsidies as a failure of the state to protect and fulfil the right of children to development. We have not, however, sought to provide an

10.This approach was also applied recently by the Constitutional Court in Sonke Gender Justice NPC v President of the Republic of South Africa and Others [2020] ZACC 26.

007-539

007-540
11/12/2025-11:30:12 AM

exhaustive account of the ways in which international law frameworks can be relied on to ground a holistic rights-based approach to ECD in South Africa. We have also not engaged the scope and content of the right to development, including, for example, questions around immediate or progressive realisation. Instead, we have only gestured towards areas for further engagement and consideration with a view to developing recognition of a holistic rights-based foundation for ECD that is not, as Sloth-Nielsen and Philpott put it, merely '"nice to have" or "add-ons" in the articulation of essential state obligations' (2015:310). For us, the development of such rights-based jurisprudence has particular significance as rights can, as we discuss in the below section, lend weight to broader 'legal leveraging' or 'legal mobilisation' strategies.

Litigation and mobilisation for early childhood development reform

There is significant scholarship on the role or value of litigation in advancing social change. It is beyond the scope of this article to traverse the spectrum of views animating debates in this field (for an overview of relevant literature, see: Madlingozi 2014:92–94; Veriava 2019:75–83). Suffice it to state that, in our view, litigation can be an important, although not always, adequate mechanism for securing social change. In this regard, some scholars have argued that 'legal mobilisation' or translating claims into rights-based demands may be particularly effective when combined with broader mobilisation strategies. McCann (2014:256), for example, suggested: 'rights, sometimes, can gain weight as a resource for egalitarian challenge and transformation *when they animate organized collective challenge* by exploited, excluded, needy, or righteous persons' (*Our emphasis*).

In South Africa, reports commissioned into the role of public interest litigation in South Africa by the Atlantic Philanthropies Foundation (Budlender, Marcus & Ferreira 2014; Marcus & Budlender 2008) have also suggested that the success of litigation can be enhanced when used in combination with other mobilisation strategies, such as 'conducting public information campaigns' and 'making use of social mobilisation and advocacy' (Marcus & Budlender 2008:5–6).[11] This approach – of using litigation in combination with a broader array of social mobilisation tools – was employed with substantial success by the Treatment Action Campaign ('TAC') in its efforts to expand access to antiretroviral treatments in South Africa (Madlingozi 2014; Marcus & Budlender 2008:69–92). And, inspired by the TAC model, social movements such as Equal Education have employed litigation as part and parcel of broad-based campaigns aimed at advancing the right to basic education in the country (Budlender et al. 2014:81–84; Veriava 2019:140–145).

In Brazil, this legal mobilisation model was utilised with some success by the *Movimento Creche para Todos* (Childcare for All Movement, referred to here as '*Movimento*') to advance ECD campaigns (Skelton 2017b). *Movimento*, emerging in 2008, initially used 'protests, petition drives, community organising, and other non-litigation methods of advocacy' (Skelton 2017b:36) in its campaign to increase ECD spaces in Sao Paulo. Eventually, *Movimento* began utilising litigation to realise campaign objectives, ultimately securing a court order requiring the Sao Paulo municipality to expand access to childcare institutions and pre-schools across the city. Skelton (2017b:36) described this case as 'the most outstanding example of strategic litigation for access to quality education in Brazil: coordinated, collective lawsuits to address structural problems in the field'.

Lessons on the use of litigation as part of coordinated and broad-based campaigns are significant for the ECD sector in South Africa. This is particularly so as there are promising signs of emergent broad-based mobilisation within the sector, with two significant campaigns having been launched in 2020 bringing together a range of ECD stakeholders.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION
PIETERMARITZBURG

The first initiative is the #SaveourECDworkforce Campaign, which was launched in July 2020. As King (2021:1) noted, in the midst of the COVID-19 crisis, the ECD sector 'pulled together valiantly' so as 'to raise public awareness of the plight of our ECD workforce and bring pressure to bear on government'. The campaign emerged in response to an announcement that R1.3 billion would be spent on 'compliance monitors' to enforce COVID-19 protocols by ECD providers (Chabalala 2020). The owner of a nursery school in Nyanga (Western Cape) described the allocation as 'add[*ing*] insult to injury' (Lutuli 2021:42) as many ECD programmes faced the prospect of closure owing to lack of income. The ECD sector, led by the C19 People's Coalition, mobilised in response, arguing that the funds should instead be spent on 'continuity grants' to ensure that ECD sites could reopen (C19 People's Coalition 2020). The Campaign gathered 12 719 signatories in support of the demands, held over 350 pickets across nine provinces, and was featured in over 50 media appearances with over 2000 social media posts reaching over half a million South Africans.[12]

In October 2020, the President announced that the ECD workforce would be part of the Presidential Stimulus initiative and R496 million had been allocated to make grants directly available to 108 833 ECD workers (Ramaphosa 2020). In short, the campaign had applied necessary pressure to ensure a commitment that the DSD provide grants directly to those that needed it most. Whilst the payment of relief funds was only partially implemented by the end of March 2021, the momentum built by the campaign has continued. At the time of writing, ECD stakeholders, including lawyers, have continued to raise the alarm over the lack of support to the ECD sector, and have persisted in seeking implementation and accountability.

The second initiative is the Real Reform for ECD Campaign ('Real Reform Campaign'). The campaign was borne out of a

11. It should be noted that the Atlantic Philanthropies report (Marcus & Budlender 2008) has been criticised for, amongst others, employing a narrow framework for assessing the impact of public interest litigation and idealising a 'Rolls Royce' model of litigation (Dugard & Langford 2011:64).

12. Information collated on behalf of the ECD working group of the C19 People's Coalition (unpublished, 2020).

007-540

response to the Children's Amendment Bill ('the Bill'), tabled before Parliament in August 2020. Identifying certain core concerns with the Bill, a number of ECD stakeholders saw the opportunity and the need to promote significant ECD legal reform and founded the campaign (Isaacs 2020). The Real Reform Campaign serves as a platform for ECD practitioners, activists and lawyers to work towards securing an enabling and empowering legislative framework (which can bring providers into the regulatory fold and unlock government subsidies for children in their care). The campaign launched a petition, brought attention to the issue in the media, ran workshops on the Bill with ECD practitioners and other stakeholders, and developed 'template' legal submissions which were made available to stakeholders as a resource for their submissions to Parliament. At the time of writing, the Real Reform Campaign had garnered the support of over 180 organisations and had facilitated approximately 1600 submissions to Parliament on the Bill (Parliament of South Africa 2021). Members of the campaign and other stakeholders also coordinated their oral submissions to Parliament in May 2021, so as to highlight the key issues impacting the sector (Parliamentary Monitoring Group 2021).

Whilst these initiatives largely emerged as a reactive response to government policies and actions, they serve as an indication of the willingness and capacity of ECD stakeholders to organise collectively and to utilise legal advocacy as part of campaigns. In addition, even reactive campaigns can develop forward-looking strategic objectives. The Real Reform Campaign, for example, has identified key short-, medium- and long-term goals for ECD legal reform. The challenge is to continue to build and sustain these and other forms of collective organising, which aim to advance the rights of children to quality ECD services and programmes. As we have suggested, legal mobilisation – including strategic litigation and the leveraging of a holistic rights-based claim to ECD – can play a valuable role in such efforts.

Conclusion

Whilst the COVID-19 pandemic has caused chaos and devastation within the ECD sector, the crisis has also resulted in ECD stakeholders utilising litigation and other forms of social mobilisation in efforts to ensure that ECD provisioning can continue. We have noted the role that litigation played in re-opening the ECD sector and in seeking to ensure that the sector could be supported to reopen. We have also suggested ways in which future litigation and legal mobilisation strategies can be developed to further a holistic rights-based approach to ECD in South African jurisprudence. Finally, we have argued that there are opportunities for leveraging litigation as part of a broader array of social mobilisation strategies to advance the realisation of quality ECD for all children in South Africa. As Budlender (2011) reminded us:

> The struggle for a better society is essentially a political struggle. A critical question is how we can use the courts and the law to open up the political process, and make the political process more responsive to ordinary people. In that way, the courts will play their part in ensuring that the people do govern. (p. 599)

Acknowledgements

The authors are grateful to Professor Julia Sloth-Nielsen for her generous input, particularly her engagement on the rights-based analysis. They also appreciate the input provided by Danwood Chirwa and Salona Lutchman on aspects of this article. They are indebted to Daniël Eloff and Elisabeth van Wyk who provided the authors with court records relevant to the article. Any mistakes are the authors' own.

Competing interests

Rubeena Parker and Tess N. Peacock are on the steering committee of the Real Reform for ECD Campaign, serving as representatives of the organisations in which they are respectively employed. Nurina Ally has provided voluntary legal support and advice to the Real Reform for ECD Campaign. The work of the Real Reform for ECD Campaign is related to the research described in this publication.



Rubeena Parker has, in her capacity as an employee of the Equal Education Law Centre, provided legal support to stakeholders regarding issues relating to the #SaveOurECDWorkforce campaign, which is related to the research described in this publication. Tess Peacock and Nurina Ally have provided voluntary advice and support to the campaign.

The authors do not stand to gain any monetary benefits from this research as a result of the abovementioned affiliations or otherwise.

Authors' contributions

The authors collectively contributed to the conceptualisation of the core themes, structure, research and writing of the manuscript. Nurina Ally led the process of coordinating author inputs, editing and finalising the manuscript for submission.

Ethical considerations

The study did not obtain or use any material from human participants and has been exempted from requiring ethics approval by the Faculty of Law's Research Ethics Committee (LAW REC) at the University of Cape Town. L0182-2021.

Funding information

The authors received no financial support for the research and authorship of the article. The authors intend to apply to their respective organisations for contributions toward author processing charges for the publication of this article.

Data availability

The data that support the findings of this study are available from the corresponding author upon reasonable request.

007-542
11/12/2025-11:30:12 AM

Disclaimer

The views and opinions expressed in this article are those of the authors and not an official position of their respective employers or organisations with which they are affiliated.

References

African Charter on the Rights and Welfare of the Child [adopted 11 July 1990, entered into force 19 November 1999] OAU Doc. CAB/LEG/24.9/49 [ACRWC].

African Commission on Human and People's Rights, *Principles and guidelines on the implementation economic, social and cultural rights in the African Charter on Human and Peoples' Rights*' [adopted 24 October 2011], viewed 14 June 2021, from https://www.achpr.org/public/Document/file/English/achpr_instr_guide_draft_esc_rights_eng.pdf.

Ally, N., 2017, 'Failing from the start: Realisation of the right to early childhood care and education in South Africa', Dissertation, University of Oxford.

Answering Affidavit (SACA Respondents), 2020, *SA Childcare (Pty) Ltd & Others v Minister of Social Development & Others Case Number: 36962/20.*

Atmore, E., 2021, 'Things we must stop saying and doing in ECD', in E. Atmore, M. Ashley-Cooper & L. Van Niekerk (eds.), *Thought leaders on Early Childhood Development in South Africa: A collection of thought-provoking essays*, pp. 13–17, Centre for Early Childhood Development, Cape Town.

BRIDGE, Ilifa Labantwana, National ECD Alliance, SmartStart & SA Congress for ECD, 2020, *Second Survey assessing the impact of COVID on ECD*', viewed 13 June 2021, from https://ilifalabantwana.co.za/wp-content/uploads/2020/10/157-Ilifa-COVID-Survey-Infographic_v03.pdf.

Budlender, G., 2011, 'People's power and the courts', *South African Journal on Human Rights* 27(3), 582–599. https://doi.org/10.1080/19962126.2011.11865031

Budlender, S., Marcus, G. & Ferreira, N., 2014, *Public interest litigation and social change in South Africa: Strategies, tactics and lessons*, viewed 11 April 2021, from https://www.atlanticphilanthropies.org/wp-content/uploads/2015/12/Public-interest-litigation-and-social-change-in-South-Africa.pdf.

C19 People's Coalition, 2020, *National week of protest to save ECD workforce*, viewed 13 June 2021, from https://c19peoplescoalition.org.za/media-statement-national-week-of-protest-to-save-ecd-workforce/.

Cameron, E., 2013, 'Constitutionalism, rights and international law: The *Glenister* decision', *Duke Journal of Comparative & International Law* 23, 389–409.

Chabalala, J., 2000, 'Early childhood development centre jobs at risk of being lost forever – C19 People's Coalition', *News24*, viewed 13 June 2021, from https://www.news24.com/news24/SouthAfrica/News/early-childhood-development-centre-jobs-at-risk-of-being-lost-forever-c19-peoples-coalition-20200817.

Department of Social Development, 2005, *Children's Act No 38 of 2005.*

Convention on the Rights of the Child [adopted 20 November 1989, entered into force 2 September 1990] 1577 UNTS 3 [UNCRC].

Daelmans, B., Darmstadt, G., Lombardi, J., Black, M., Britto, P., Lye, S. et al., 2017, 'Early childhood development: the foundation of sustainable development', *The Lancet* 389(10064), 9–11. https://doi.org/10.1016/S0140-6736(16)31659-2

Department of Basic Education, 2020, *Directions issued in terms of Regulation 4(3) of the Regulations made under the Disaster Management Act, 2002: Regarding the re-opening of schools and measures to address, prevent and combat the spread of Covid-19 in the National Department of Basic Education, all provincial education departments, all education district offices and all schools in the Republic of South Africa*, 29 May, Notice 302 *Government Gazette* 43372 ('the DBE Directions'), Department of Basic Education, Pretoria.

Department of Co-operative Governance and Traditional Affairs, 2020, *Disaster Management Act, 2002: Determination of alert levels and hotspots*, 28 May, Notice 608 *Government Gazette* 43364 ('COGTA Regulations'), Department of Co-operative Governance, Pretoria.

Department of Social Development, 2020a, *Directions issued in terms of Regulation 4(5) and (10) of the Regulations made under section 27(2) of the Disaster Management Act, 2002 regarding measures to prevent and combat the spread of COVID-19 and the phased return of children to early childhood programmes and partial care facilities*, 10 July, Notice 706 Government Gazette 43372 ('the DSD Directions'), Department of Social Development, Pretoria.

Department of Social Development, 2020b, *Standard operating procedures and guidelines for an early childhood development programme and/or partial care facility that provides an after-school service on measures to address, prevent and combat the spread of COVID-19,* 23 June ('the SOPs 2020'), Department of Social Development, Pretoria.

Department of Social Development Media Statement, 2020, *Social Development sets up workstreams to conduct risk assessment and state of readiness for the early childhood development centres*, 04 June 2020, viewed 10 April 2021, from https://www.dsd.gov.za/index.php/21-latest-news/183-social-development-sets-up-workstreams-to-conduct-risk-assessment-and-state-of-readiness-for-the-early-childhood-development-ecd-centres?highlight=WyJlY2QiXQ==.

Dugard, J. & Langford, M., 2011, 'Art or science? Synthesising lessons from public interest litigations and the dangers of legal determinism', *South African Journal on Human Rights* 27, 39. https://doi.org/10.1080/19962126.2011.11865004

Equal Education and Others v Minister of Basic Education and Others [2020] ZAGPPHC 306; [2020] 4 All SA 102 (GP); 2021 (1) SA 198 (GP).

Founding Affidavit *(amicus curiae)*, 2020, *Skole-Onsersteuningsentrum NPC and Others v Minister of Social Development and Others Case number 24258/2020.*

Founding Affidavit [Applicants], 2020, *Skole-Onsersteuningsentrum NPC and Others v Minister of Social Development and Others Case number 24258/2020.*

Founding Affidavit [SACA Applicants], 2020, *SA Childcare [Pty] Ltd & Others v Minister of Social Development & Others Case Number: 36962/20.*

Glenister v President of the Republic of South Africa and Others [2011] ZACC 6 ['*Glenister*'].

Fredman, S., Donati, G., Richter, L.M., Naicker, S.N., Behrman, J.R., Lu, C., et al. 2021, 'The right to early childhood education in international law to protect equitable development', viewed n.d., from https://ssrn.com/abstract=3964160.

Headey, D., Heidkamp, R., Osendarp, S., Ruel, M., Scott, N., Black, R. et al., 2020, 'Impacts of COVID-19 on childhood malnutrition and nutrition-related mortality', *The Lancet* (British edition) 396(10250), 519–521. https://doi.org/10.1016/S0140-6736(20)31647-0

Ilifa Labantwana, 2014, *The essential package: Early childhood services and support to young children in South Africa 2nd edition*, viewed 15 June 2021, from https://ilifalabantwana.co.za/wp-content/uploads/2017/06/The-Essential-Package-2ed.pdf.

Ilifa Labantwana, n.d., *Data: SA children 0–5 accessing early learning*, viewed 22 June 2021, from https://ilifalabantwana.co.za/.

Isaacs, L., 2020, 'Campaign to reform early childhood development following "unhelpful" bill', *Cape Times*, viewed 14 June 2021, from https://www.iol.co.za/capetimes/news/campaign-to-reform-early-childhood-development-following-unhelpful-bill-ae0a68f1-9e43-4dfe-b1a6-1ffbdddc20ca.

Joint Media Statement, 2020, *Joint media statement by teacher unions and civil society briefing by the Minister of Basic Education on the reopening of schools and the state of readiness against results of the unions national baseline survey of principals on school readiness*, viewed 10 April 2021, from https://www.sadtu.org.za/content/joint-media-statement-teacher-unions-civil-society-briefing-minister-basic-education-re-opening.

Kilkelly, U., & Liefaard, T., 2019, 'Legal implementation of the UNCRC: Lessons to be learned from the constitutional experience of South Africa', *International Journal of Children's Rights*, 27(Spe), 521–539. https://doi.org/10.17159/2225-7160/2019/v52a30

King, R., 2021, 'Diminished but not defeated', in E. Atmore, M. Ashley-Cooper & L. Van Niekerk (eds.), *Thought leaders on early childhood development in South Africa: A collection of thought-provoking essays*, pp. 10–12, Centre for Early Childhood Development, Cape Town.

Lutuli, T., 2021, 'The impact of Covid-19 on the ECD sector', in E. Atmore, M. Ashley-Cooper & L. Van Niekerk (eds.), *Thought leaders on early childhood development in South Africa: A collection of thought-provoking essays*, pp. 40–43, Centre for Early Childhood Development, Cape Town.

Madlingozi, T., 2014, 'Post-apartheid social movements and legal mobilisation', in M. Langford, B. Cousins, J. Dugard & T. Madlingozi (eds.), *Socio-economic rights in South Africa: Symbols or substance*, pp. 92–130, Cambridge University Press, New York, NY.

Marcus, G. & Budlender, S., 2008, 'An evaluation of strategic public interest litigation in South Africa', *The Atlantic Philanthropies*, viewed 11 April 2021, from https://www.atlanticphilanthropies.org/wp-content/uploads/2015/09/public_interest_litigation_sa.pdf.

McCann, M., 2014, 'The unbearable lightness of rights: On sociolegal inquiry in the global era', *Law & Society Review* 48(2), 245–273. https://doi.org/10.1111/lasr.12075

Mchunu, L. (South African Department of Social Development Acting Director General), 2020, *Measures related to the operation of early childhood development programmes under Covid-19 Alert Levels*, 29 May, Department of Social Development Circular, Pretoria.

National Planning Commission, 2012, *National Development Plan 2030: Our Future – Make it Work*, viewed 14 June 2021, from http://www.dac.gov.za/sites/default/files/NDP%202030%20-%20Our%20future%20-%20make%20it%20work_0.pdf.

Parliament of South Africa, 2021, *Presentation to the PC on Social Development: Key themes emerging from summaries on CAB*, 07 May 2021, viewed 19 June 2021, from https://pmg.org.za/committee-meeting/32815/.

Parliamentary Monitoring Group, 2021, *Children's Amendment Bill: Public hearings day 1*, viewed 13 June 2021, from https://pmg.org.za/committee-meeting/32842/.

Peleg, N., 2019, *The child's right to development*, Cambridge University Press, Cambridge.

Pieterse, M., 2014, 'Chapter 39: Life', in S. Woolman & M. Bishop (eds.), *Constitutional Law of South Africa*, 2nd edn., pp. 1–21, Jutastat e-Publications.

Proudlock, P., 2017, 'Chapter 12: Children's Socio-economic rights', in T. Boezaart (ed.), *Child law in South Africa*, 2nd edn., pp. 359–402, Juta and Company Pty Ltd, Cape Town.

Ramaphosa, C. (President of the Republic of South Africa), 2019, *State of the nation address*, 07 February 2021, viewed 13 June, from https://www.gov.za/speeches/president-cyril-ramaphosa-2019-state-nation-address-7-feb-2019-0000.

Ramaphosa, C. (President of the Republic of South Africa), 2020, *Address by President Cyril Ramaphosa to the Joint Sitting of Parliament on South Africa's Economic Reconstruction and Recovery Plan*, 15 October 2020, viewed 13 June 2021, from https://www.sapeople.com/2020/10/15/full-transcript-address-by-president-cyril-ramaphosa-to-the-joint-sitting-of-parliament-on-south-africas-economic-reconstruction-and-recovery-plan/.

Republic of South Africa, 2015, *National Integrated Early Childhood Development Policy*, Government Printers, Pretoria.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION PIETERMARITZBURG

007-542

SABC, 2020, 'Minister Lindiwe Zulu speaks on reopening of Early Childhood Development centres', *SABC News*, viewed 11 April 2021, from https://www.youtube.com/watch?v=vSjqKa2xLxo.

SA Childcare (Pty) Ltd & Others v Minister of Social Development & Others [2020] Case Number: 36962/20 (GP) (unreported judgment) ('*SACA*')

Shumba, C., Maina, R., Mbuthia, G., Kimani, R., Mbugua, S., Shah, S. et al., 2020, 'Reorienting nurturing care for early childhood development during the COVID-19 pandemic in Kenya: A review', *International Journal of Environmental Research and Public Health* 17(19), 1–19. https://doi.org/10.3390/ijerph17197028

Skelton, A., 2017a, 'Chapter 11: Constitutional protection of children's rights', in T. Boezaart (ed.), *Child law in South Africa*, 2nd edn., pp. 327–358, Juta and Company Pty Ltd, Cape Town.

Skelton, A., 2017b, *Strategic litigation impacts: Equal access to quality education*, Open Society Justice Initiative, viewed 11 April 2021, from https://www.justiceinitiative.org/publications/strategic-litigation-impacts-equal-access-quality-education.

Skelton, A., 2019, 'Too much of a good thing: Best interests of the child in South African jurisprudence' *De Jure* 52, 557–579. https://doi.org/10.17159/2225-7160/2019/v52a32

Skole-Onsersteuningsentrum NPC and Others v Minister of Social Development and Others [2020] ZAGPPHC 267; [2020] 4 All SA 285 (GP) ['*SOS*'].

Sloth-Nielsen, J., 2019, 'Children's rights jurisprudence in South Africa—A 20 year retrospective', *De Jure* 52(spe), 501–520. https://doi.org/10.17159/2225-7160/2019/v52a29

Sloth-Neilsen, J. & Philpott, S., 2015, 'The intersection between Article 6 of the UN Convention on the Rights of the Child and early childhood development', *Stellenbosch Law Review* 2, 295–317.

Sloth-Nielsen, J. & Mezmur, B., 2008, '2 + 2 = 5? Exploring the domestication of the CRC in South African Jurisprudence (2002-2006)', *The International Journal of Children's Rights* 16(1), 1–28.

Sonke Gender Justice NPC v President of the Republic of South Africa and Others [2020] ZACC 26.

Soobramoney v Minister of Health [*Kwazulu-Natal*] [1997] ZACC 17 ['*Soobramoney*']

South African Paediatric Association, 2020, 'Position statement: Return of South African children to school', viewed 10 April 2021, from https://wcedonline.westerncape.gov.za/documents/BackToSchool/SAPA%20School%20Return%20Position%20Statement.pdf.

Spaull, N., Daniels, C., Ardington, C., Bassier, I., Benhura, M., Bridgman, G. et al., 2021, *NIDS-CRAM Wave 3 Synthesis Report*, viewed 13 June 2021, from https://cramsurvey.org/wp-content/uploads/2021/02/1.-Spaull-N.-Daniels-R.-C-et-al.-2021-NIDS-CRAM-Wave-3-Synthesis-Report.pdf.

Spaull, N. & Van der Berg, S., 2020, 'Counting the cost: COVID-19 school closures in South Africa and its impact on children', *South African Journal of Childhood Education* 10(1), a924. https://doi.org/10.4102/sajce.v10i1.924

Statistics South Africa, 2020, *Child poverty in South Africa: A multiple overlapping deprivation analysis*, viewed 11 June 2021, from http://www.statssa.gov.za/publications/03-10-22/03-10-22June2020.pdf.

Supporting Affidavit [Bronkieland], 2020, *Skole-Onsersteuningsentrum NPC and Others v Minister of Social Development and Others* Case number 24258/2020.

Tobin, J., 2019, 'Article 6: The rights to life, survival and development', in J. Tobin (ed.), *The UN convention on the rights of the child: A commentary*, pp. 186–236, Oxford University Press, New York, NY.

UN Committee on the Rights of the Child, *General comment No. 7 (2005): Implementing Child Rights in Early Childhood* [20 September 2006] CRC/C/GC/7/Rev.1 [General Comment 7].

UN General Assembly, 2015, *Transforming our world: The 2030 Agenda for Sustainable Development* [21 October 2015] A/RES/70/1.

Vandenhole, W., Turkelli, G.E. & Lembrechts, S., 2019, 'Article 6: The right to life, survival and development', in W. Vandenhole, G.E. Turkelli & S. Lembrechts (eds.), *Children's rights: A commentary on the Convention on the Rights of the Child and its Protocols*, pp. 88–99, Edward Elgar Publishing, Cheltenham.

Veriava, F., 2016, 'The Limpopo textbook litigation: A case study in the possibilities of a transformative constitutionalism', *South African Journal on Human Rights* 32(2), 321–343.

Veriava, F., 2019, *Realising the right to basic education: The role of the courts and civil society*, Juta & Company, Cape Town.

Wills, G., Kotze, J. & Kika-Maistry, J., 2020, *A sector hanging in the balance: ECD and lockdown in South Africa*, NIDS_CRAM survey report, viewed [illegible] from https://cramsurvey.org/wp-content/uploads/2020/09/15.-Wills-G.-Kotze-J.-Kika-Mistry-J.-2020-A-Sector-Hanging-in-the-Balance-ECD-and-Lockdown-in-South-Africa.pdf.

Yoshikawa, H., Wuermli, A.J., Britto, P.R., Dreyer, B., Leckman, J.F., Lye, S.J. et al., 2020, 'Effects of the global Coronavirus Disease-2019 pandemic on early childhood development: Short- and long-term risks and mitigating program and policy actions', *The Journal of Pediatrics* 223, 188–193. https://doi.org/10.1016/j.jpeds.2020.05.020

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DURBAN PIETERMARITZBURG

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

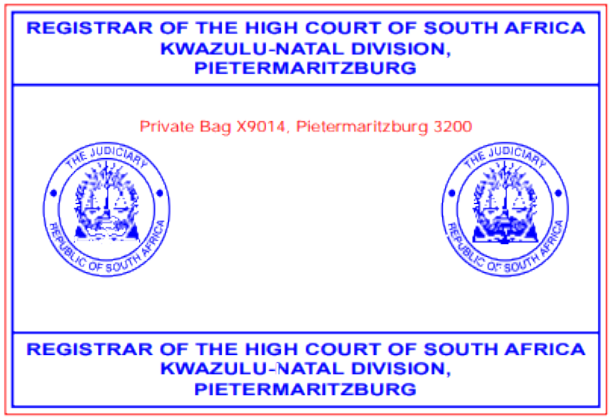
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 08

NOTE: **This document was filed electronically by the Registrar on 11/12/2025 at 11:31:02 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
11/12/2025
"EC 09"

Constitutionalising the right to early childhood development in South Africa

Nurina Ally (Director of the Centre for Law and Society, UCT) and
Tatiana Kazim (Research Associate at the Centre for Law and Society, UCT)







It is now well-accepted that early childhood is a vitally important time in a person's life. In this critical phase, young children develop more rapidly than at any other time, they are more susceptible to external influences, and the foundation is laid for their future well-being and life outcomes. In order to survive, develop, and thrive, research suggests that young children need early learning opportunities, responsive caregiving, adequate nutrition, good health, safety and security, opportunities to play and opportunities to participate in cultural life.

The South African Constitution provides explicit recognition and protection for a range of children's rights. This includes, amongst others, a child's right to family or parental care; shelter; basic nutrition; basic health care services; social services; and basic education. In addition, the best interests of the child must also be considered paramount in every matter concerning them. Despite this array of child-specific rights, the Constitution does not explicitly recognise a right to early childhood development ("ECD") – or, indeed, a child's right to development more generally.

This diagram demonstrates how a right to ECD – holistically understood – can and should be recognised under South Africa's constitutional framework. In establishing a right to ECD in South Africa, section 39(1)(b) of the Constitution is significant. Section 39(1)(b) provides that courts must consider international law when interpreting rights in the Bill of Rights. We propose that the right to life under section 11 of the Constitution – closely intertwined with the right to dignity under section 10 of the Constitution – should be interpreted consistently with Article 6 of the United Nations Convention of the Rights of the Child ("UNCRC") and Article 5 of the African Charter on the Rights and Welfare of the Child ("ACRWC") to encompass an overarching right to life, survival and development, including development in early childhood. Especially in light of General Comment No.7, this means that, under section 11 of Constitution, young children in South Africa have a right to physical, mental, spiritual, moral, emotional, psychological, social and cultural development and development of their personality and talents. For convenience, we call this "the umbrella right to early childhood development" or "the umbrella right".

Under the umbrella right to ECD are interconnected rights to essential components: early learning; responsive caregiving; adequate nutrition; good health; safety and security and a healthy environment; play; and participation in cultural life. For convenience, we call these "the component rights".

Also relevant is the right to equality under section 9 of the Constitution. The current spread of quality ECD programmes across geographical areas and population groups is perpetuating intergenerational cycles of disadvantage and the flawed state response to this situation may amount to a breach of its equality duties.

007-547

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL, DIVISION,
PIETERMARITZBURG
11/12/2025-11:31:02 AM

UMBRELLA RIGHT TO EARLY CHILDHOOD DEVELOPMENT



Young children have an overarching right to physical, mental, spiritual, moral, emotional, psychological, social and cultural development and development of their personality and talents.

This right can be located in section 11 of the Constitution (right to life) and section 10 of the Constitution (right to dignity), interpreted in light of international law, especially the right to life, survival and development under Article 6 of the UNCRC and Article 5 of the ACRWC.

RIGHTS TO EACH SPECIFIC COMPONENT OF EARLY CHILDHOOD DEVELOPMENT

Under the umbrella right to early childhood development are interconnected rights to essential components: early learning; responsive caregiving; adequate nutrition; good health; safety and security and a healthy environment; play; and participation in cultural life.

RIGHT TO RESPONSIVE CAREGIVING

Section 28(1)(b) of the Constitution

Interpreted in light of Articles 5, 18, 20 and 27 of the UNCRC and GC 7 (2005)

RIGHT TO SECURITY, SAFETY AND A HEALTHY ENVIRONMENT

Sections 28(1)(c) and (d) and 24 of the Constitution

Interreted in light of Articles 19, 24 and 27 of the UN CRC and GC 7 (2005)

RIGHT TO EARLY LEARNING OPPORTUNITIES

Sections 11 and/ or 29(1)(a) of the Constitution

Interpreted in light of Articles 6 and 29 of the UNCRC and GC 7 (2005) and Article 11(2)(a) of the ACRW

RIGHT TO GOOD HEALTH

Section 28(1)(c) of the Constitution

Interpreted in light of Articles 6 and 24 of the UNCRC and GC 15 (2013)

RIGHT TO ADEQUATE NUTRITION

Section 28(1)(c) of the Constitution

Interpreted in light of Articles 6 and 24 of the UNCRC and GC 15 (2013)

RIGHT TO CULTURAL LIFE

Section 31(1) of the Constitution

Interpreted in light of Article 31 of the UNCRC and GC 17 (2013)

RIGHT TO REST, LEISURE AND PLAY

Sections 10, 11, 16 and 29(1)(a) of the Constitution

Interpreted in light of Articles 6, 29 and 31 of the UNCRC and GC 7 (2005) and GC 17 (2013)

007-547

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

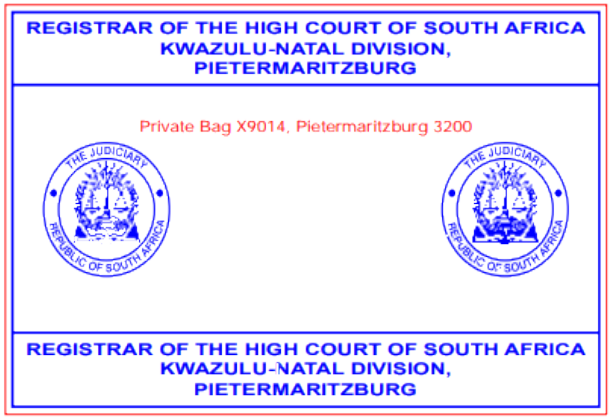
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 10

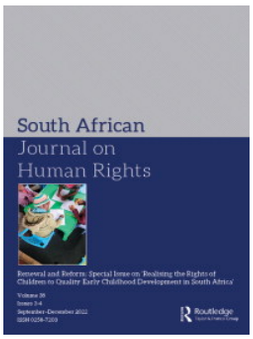
NOTE: **This document was filed electronically by the Registrar on 11/12/2025 at 11:31:37 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

007-550
11/12/2025-11:31:37 AM



South African Journal on Human Rights

"EC 10"

ISSN: (Print) (Online) Journal homepage: www.tandfonline.com/journals/rjhr20

New beginnings: The right to equality and early childhood care and education

Sandra Fredman, Georgina Donati & Sara Naicker

To cite this article: Sandra Fredman, Georgina Donati & Sara Naicker (2022) New beginnings: The right to equality and early childhood care and education, South African Journal on Human Rights, 38:3-4, 167-191, DOI: 10.1080/02587203.2023.2214372

To link to this article: https://doi.org/10.1080/02587203.2023.2214372



© 2023 The Author(s). Published by Informa UK Limited, trading as Taylor & Francis Group

Published online: 05 Jun 2023.

Submit your article to this journal

Article views: 2155

View related articles

View Crossmark data

Full Terms & Conditions of access and use can be found at
https://www.tandfonline.com/action/journalInformation?journalCode=rjhr20

007-550

007-551
11/12/2025-11:31

SOUTH AFRICAN JOURNAL ON HUMAN RIGHTS
2022, VOL. 38, NOS. 3–4, 167–191
https://doi.org/10.1080/02587203.2023.2214372

SOUTH AFRICAN JOURNAL ON HUMAN RIGHTS

Taylor & Francis
Taylor & Francis Group

ORIGINAL ARTICLE

OPEN ACCESS Check for updates

New beginnings: The right to equality and early childhood care and education

Sandra Fredman[a], Georgina Donati[b] & Sara Naicker[c]

[a]Faculty of Law, Pembroke College, Oxford University, Oxford, United Kingdom; [b]Department of Psychiatry, Warneford Hospital Oxford University, Oxford, UK; [c]DSI-NRF Centre of Excellence in Human Development, University of the Witwatersrand, Johannesburg, South Africa

ABSTRACT

While South Africa has seen important advances in the provision of early childhood care and education (ECCE), about 3.2 million children still lack access to any programme. Problems of access and quality are most pronounced in the poorest communities. Even before Covid-19 forced many providers to close, these programmes were overcrowded, with poor infrastructure, and an under-paid and under-qualified workforce. ECCE is crucial for a child's development, meaning that these inequalities are amplified in school and later life. This has knock-on effects for caregivers, particularly women, and their ability to access quality work. This article argues that the right to equality can be mobilised both in relation to the Constitution of the Republic of South Africa, 1996 and international law to address these disparities. By using a framework of substantive equality, we conclude that poverty, gender and race are potential grounds for discrimination both directly and indirectly. We further propose that resource-based justifications for limiting this right are unacceptable when budgets permit unequal resource distribution and contravene a government's positive duty to fulfil the right to equality.

ARTICLE HISTORY
Received 25 March 2022
Accepted 25 November 2022

KEYWORDS
Early childhood care and education; sustainable development goals; Convention on the Rights of the Child; International Convention on Economic Social and Cultural Rights; Convention on the Rights of Persons with Disabilities; equality

1. Introduction

While recent years have seen important steps forward in the provision of early childhood care and education (ECCE) in South Africa, nearly 3.2 million children under five still have no access to any programme.[1] Services are frequently seriously under-resourced.[2] It is in the poorest communities that problems in both access and quality are most pronounced. Even before Covid-19 forced many providers to close, there

CONTACT Sandra Fredman sandra.fredman@law.ox.ac.uk Pembroke College, Oxford OX1 1DW, UK

[1] N Ally, R Parker & TN Peacock, 'Litigation and social mobilisation for early childhood development during COVID-19 and beyond' (2022) 12 *South African Journal of Childhood Education* 1054.
[2] G Wills, J Kotzé and J Kika-Mistry *A Sector Hanging in the Balance: Early Childhood Development and Lockdown in South Africa* (2021) RISE Working Paper Series.

© 2023 The Author(s). Published by Informa UK Limited, trading as Taylor & Francis Group
This is an Open Access article distributed under the terms of the Creative Commons Attribution License (http://creativecommons.org/licenses/by/4.0/), which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited. The terms on which this article has been published allow the posting of the Accepted Manuscript in a repository by the author(s) or with their consent.

007-551

007-552
11/12/2025-11:31

were glaring inequalities between wealthier and poorer communities, with ECCE programmes serving the latter frequently characterised by overcrowding, poor infrastructure and an informal, poorly paid and under-qualified workforce.[3] This was exacerbated with the various lockdowns.[4] Yet it is well established that ECCE is crucial to a child development[5] and that inequalities in the period before children begin school will be amplified in school and later in life.[6] The lack of facilities also has knock-on effects for caregivers, particularly women, and their ability to access quality work. Most vulnerable are pregnant learners, who face school exclusion, affecting their own future, and rendering them less able to fill the gap in relation to ECCE for their own children. The cycle of poverty and inequality therefore continues and magnifies. The central role of private providers complicates this picture.

This raises the question of what role the right to equality in the Constitution of the Republic of South Africa, 1996 can play in addressing these deep disparities. Until Covid-19, the rich jurisprudence on the right to education in South Africa had not expressly concerned ECCE. During the pandemic, there were several successful cases protecting ECCE[7] providers from closure and cuts to subsidies during the lockdown. However, as Nurina Ally, Rubeena Parker and Tess Peacock show, these judgments did not fully develop a rights-based approach.[8] In 2020, the Gauteng High Court held that all qualifying learners were entitled to receive a daily meal under the National School Nutrition Programme, whether or not they had resumed classes at school.[9] This made important connections between nutrition and the right to basic education,[10] but not expressly in the context of ECCE. Ally et al powerfully argue for an approach based on the right to life in the Constitution.[11] Beth Goldblatt has further argued that the right to citizenship in the Constitution should entail the provision of childcare, as part of a broader duty of the state to provide assistance for parents.[12] She also argued, in a paper in 2001, that child care should be regarded as an aspect of women's right to equality.[13] But there has been little attention paid, either in the jurisprudence or in the secondary literature over the last two decades, to the potential of the right to equality as a basis for a wider right to ECCE. Given that there are such striking disparities in children's access to quality ECCE services depending on their social location, and given the extent to which the Constitution is permeated

[3] J Kotzé 'Can pre-grade R be the stepping stone to social equality in South Africa' (2015) 5 *South African Journal of Childhood Education* 1.
[4] Wills et al (note 2 above).
[5] PR Britto, SJ Lye, K Proulx et al 'Nurturing care: promoting early childhood development' (2017) 389 *Lancet* 91.
[6] LM Richter, JR Behrman, P Britto et al 'Measuring and forecasting progress in education: What about early childhood?' (2021) 6 *npj Science of Learning* 27.
[7] We use ECCE rather than ECD (early child development) to emphasise the importance of a continuum between care and education, all of which contributes to child development. Many South African policy documents, however, use ECD. We will therefore use ECD where relevant.
[8] Ally et al (note 1 above).
[9] *Equal Education v Minister of Basic Education (22588/2020)* [2020] 4 All SA 102 (GP); [2020] ZAGPPHC 306; 2021 (1) SA 198 (GP) (High Court of South Africa (Gauteng Division).
[10] F Veriava & N Ally, 'Legal mobilisation for education in the time of Covid-19' (2021) 37 *South African Journal on Human Rights* 230.
[11] Ally et al (note 1 above).
[12] B Goldblatt 'Citizenship and the right to child care' in A Gouws (ed) *(Un)thinking Citizenship* (2005) 117.
[13] B Goldblatt 'Litigating equality: The example of child care' 2001 *Acta Juridica* 8.

007-552

007-553
11/12/2025-11:31

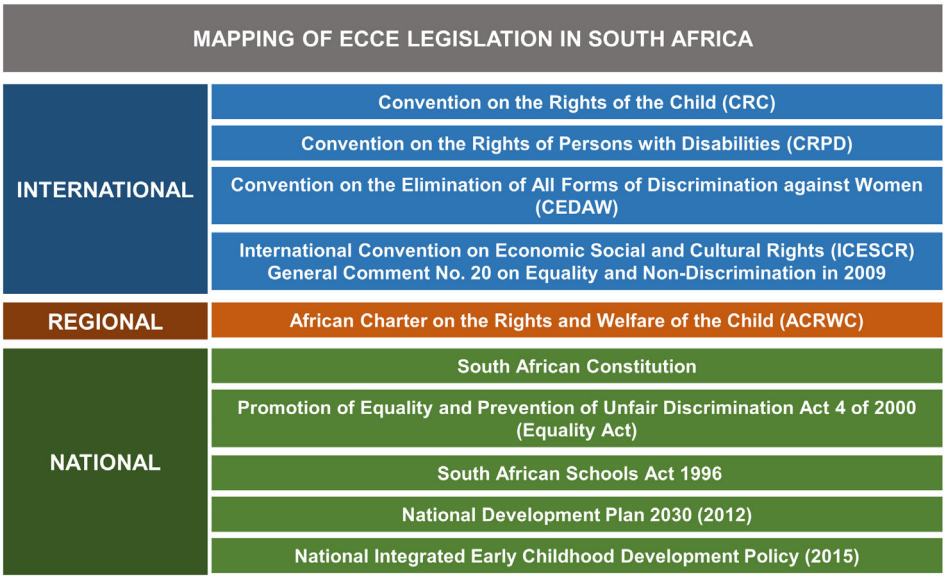


Figure 1. ECCE legislation in South Africa

with a commitment to equality, both as a value and as a right, it is worth exploring how the right to equality can be developed and applied to ECCE.

Part 2 of this article sets out the challenges in South Africa in relation to ECCE, and provides data on the deep inequalities in access. Part 3 asks how the right to equality can be mobilised both in relation to the Constitution and international law, with a particular focus on the International Covenant on Economic Social and Cultural Rights (ICESCR), the Convention on the Rights of Persons with Disabilities (CRPD) and the Convention on the Rights of the Child (CRC). Figure 1 summarises the relevant pieces of legislation covered in this article. We begin in Section 1 of Part 3 by setting a framework of substantive equality against which to assess what the right to equality should mean in this context. Sections 3.2 and 3.3 consider poverty, gender and race as potential grounds for discrimination in relation to ECCE. The fourth section explores how the concept of indirect discrimination might be developed, followed by an analysis of resource-based justifications for limiting the right to equality. In the final section of this Part, we explore positive duties to fulfil the right to equality. Here we talk about the care and education aspects of ECCE together, in the recognition that education and development have a reciprocal relationship.

2. Context and challenges

2.1 Institutional and legal framework

South Africa has made powerful commitments to ECCE. The 2012 *National Development Plan 2030* and the 2015 *National Integrated Early Childhood Development Policy* commit to ensuring that every child in South Africa has access to the full range

007-553

007-554
11/12/2025-11:31

of comprehensive, universally available and equitable ECCE services by 2030.[14] The ultimate goal is universal access to quality ECCE services for all children from conception until they enter formal school or turn seven. One year of pre-primary (Grade R) for five-year-olds is in the process of becoming compulsory and already has close to universal enrolment, although the goal is for two years of compulsory pre-primary.[15] There is still, however, a long way to go before these goals are achieved.

A major obstacle has been that to receive public funding, ECCE centres must be registered through the Department of Social Development (DSD). To be registered, they must fulfil certain standards with regard to safety, bathroom facilities, kitchens or areas used to prepare food, indoor and outdoor space and isolation rooms for sick children, among others.[16] Requirements include at least one meal per day, meeting nutritional and sanitary standards; a staff-child ratio ranging from 1:6 for the youngest children (aged one to eighteen months) to 1:30 for older children (five to six); and staff trained in skills such as first aid.[17] Funding takes the form of subsidies: for example, R17 per child per day (as of 2020) for each child from a family with income below the means test. Additionally, centres have their early learning programmes assessed and certified by the Department of Basic Education (DBE), and with this certification come subsidies for teacher stipends and training, as well as requirements for curricula and quality. However, most community-based ECCE centres struggle to meet these requirements and have consequently not been assimilated into the system and failed to access government funding.[18]

The responsibility for early childhood development (ECD) formally shifted from the DSD to the DBE in 2022. This transfer is promising, but policy and practice guidelines that improve on the current provision have yet to be finalised. It is also not clear how the DBE will work with the Department of Health and the DSD to ensure an integrated approach to early childhood development.

2.2 Pervasive inequalities

Varying in terms of formality, quality, subsidy and staff training, ECCE services range from playgroups with little focus on learning, day mothers who care for small groups in their homes, to informal and formal ECCE centres. Pre-Covid-19 data shows only half of three- to four-year-olds participate in any early learning programme, and only half of these children attend programmes of sufficient quality to improve learning, with wide disparities in enrolment and attendance across provinces.[19] The ECD Census 2021 estimates that only a third of children aged three to five are enrolled in an ECD programme.[20] ECCE programmes tend to exclude children living in poverty

[14] Department of Social Development (DSD) *National Integrated Early Childhood Development Policy* (2015); P Martin, L Berry, L Biersteker et al *National Integrated Early Childhood Development Policy* (2014).
[15] L Richter & ML Samuels 'The South African universal preschool year: A case study of policy development and implementation' (2018) 44 *Child Care Health Development* 12.
[16] Children's Act 38 of 2005.
[17] Regulations under Children's Act.
[18] DSD & Economic Policy Research Institute *National Audit of Early Childhood Development (ECD) Centres in South Africa: National Report* (2014).
[19] Statistics South Africa *Education Series Volume IV: Early Childhood Development in South Africa, 2016* (2018).
[20] Department of Basic Education (DBE) *ECD Census 2021: Report* (2022).

007-554

as well as those living in rural areas or informal settlements. For example, the latest data estimates that 62 per cent of children in urban areas are enrolled in an ECD programme, compared to 38 per cent in rural areas.[21] This is partly because services are either provided by the private sector with unaffordable fees or inadequately funded not-for-profit organisations that struggle to deliver quality services.[22] In addition, access to documentation such as birth certificates is a challenge for both families and centres. The majority of formal ECD centres require a birth certificate for registration since centres are not able to claim government subsidies for children without birth certificates. In more informal centres, particularly those close to country borders, where migrant children may be attending, up to 93 per cent of children aged zero to two have been found to have no birth certificates.[23] Although this is not strictly adhered to in some of these informal centres, the need for a birth certificate can nevertheless constitute a significant barrier to attendance and centre quality, since subsidies are a key resource.

Children living in poorer households are less likely to be exposed to high-quality early learning programmes, if any. In 2016, almost half of the children in lower household-income quintiles did not attend any educational centre.[24] These children are also potentially less likely to receive stimulation at home. The 2016 General Household Survey found that population group and household income are both limiting factors for stimulation received in the home.[25] A large percentage of children get no stimulation at home or in formal learning activities.[26] A greater proportion of girls than boys are likely to be enrolled in home-based playgroups. However, boys are more likely than girls to attend Grade R in a primary school setting, suggesting that girls may be kept home while boys are sent to school at this early age.[27]

The quality of informal ECCE programmes and centres is relatively poor. ECCE facilities face scarcity of learning materials and resources, especially within the classroom setting, minimal funding, lack of qualified teachers, inadequate security for children and poor toilet amenities.[28] Many ECCE facilities function without basic infrastructure, such as running water, access to electricity or suitable sanitation.[29] The 2013 national audit of ECCE centres found that just over half of centres could not be fully registered due to infrastructure issues.[30] Although registered centres tend to fair better in all aspects compared to unregistered centres, registered centres can experience similar quality and resource challenges, and the socioeconomic location of a centre seems to be a driving factor. Centres in the lowest quintile areas are less likely to have a broad range of learning material, opportunities for play or to

[21] Ibid.
[22] Statistics South Africa (note 19 above).
[23] Ibid.
[24] Ibid.
[25] Ibid.
[26] Ibid.
[27] Ibid.
[28] E Atmore, LJ van Niekerk & M Ashley-Cooper 'Challenges facing the early childhood development sector in South Africa' (2012) 2 *South African Journal of Childhood Education* 120.
[29] T Williams & ML Samuels *The Nationwide Audit of ECD Provisioning in South Africa* (2001).
[30] DSD & Economic Policy Research Institute (note 18 above).

007-556
11/12/2025-11:31

encourage child-driven learning.[31] Practitioners and playgroup facilitators are in short supply and under-skilled. Half (48 per cent) of current ECCE practitioners are unqualified and need training.[32] One 2009 study shows that in a single province, only 35 per cent of practitioners responsible for infant and toddler classes, and only 47 per cent of practitioners responsible for older children, have any form of ECCE qualification.[33] One consequence of this low exposure to quality ECCE services is that by Grade 4 (age nine to ten), only 23 per cent of children can read for meaning.[34] South Africa spends only 1 to 2 per cent of its total education budget on early learning programmes – not enough to power better educational outcomes.[35]

3. Mobilising the right to equality: South African and international human rights law

SA has a rich constitutional jurisprudence on children's rights, but, until Covid-19, it had not fully engaged with ECCE. The two Covid-19-related cases[36] that came before the High Court did engage directly with ECCE, but not fully in a rights-based way. This raises the question of how to ground ECCE in the Constitution. Ally et al argue that it should be based on the right to life, opening the door to a holistic approach to ECD.[37] This article examines the further and complementary possibility of using s 9, or the right to equality, a possibility briefly raised by Julia Sloth-Nielsen but not explored in detail.[38]

The right to equality in s 9 of the Constitution has not been prominent in the right to education litigation, despite the depth of inequalities remaining unaddressed after apartheid. Nevertheless, the particular need to extend and improve ECCE for the poorest and most marginalised communities was emphasised in both Covid-19 cases, especially the second,[39] which ordered subsidies to be paid to all registered centres throughout lockdown whether operational or not. Moreover, in 2018, the United Nations (UN) Committee on Economic, Social and Cultural Rights (CESCR) expressed its concern that, in spite of the South African government's efforts, participation among children in low-income families in early education remains low. It therefore recommended that South Africa guarantee high-quality early education for all children, especially for disadvantaged families.[40] This clearly sets the scene for a potentially important role for s 9. A particularly powerful endorsement of such an

[31] DBE (note 20 above).
[32] Ibid.
[33] Human Sciences Research Council *Western Cape Department of Social Development 2009 Audit of Early Childhood Development Facility Quality* (2009).
[34] IVS Mullis, MO Martin, P Foy & M Hooper *PIRLS 2016: International Results in Reading* (2017).
[35] National Treasury, Republic of South Africa *Estimates of National Expenditure* (2018).
[36] *Skole-Ondersteuningsentrum NPC v Minister of Social Development* (24258/2020) [2020] 4 All SA 285 (High Court of South Africa (Gauteng Division)); *SA Childcare v Minister of Social Development* (36962/2020) Unreported (High Court of South Africa (Gauteng)).
[37] Ally et al (note 1 above).
[38] J Sloth-Nielsen 'The intersection between article 6 of the UN Convention on the Rights of the Child and early childhood development' (2015) 26 *Stellenbosch Law Review* 295.
[39] *Skole-Ondersteuningsentrum* (note 36 above) para 21; *SA Childcare* (note 36 above) paras 4, 25.
[40] Committee on Economic, Social and Cultural Rights (CESCR) *Concluding Observations (COs) Regarding South Africa* (November 2018) E/C12/ZAF/CO/1 para 71.

007-556

approach came from the Constitutional Court in *Juma Musjid*, in which Nkabinde J stated: 'Today, the lasting effects of the educational segregation of apartheid are discernible in the systemic problems of inadequate facilities and the discrepancy in the level of basic education for the majority of learners'.[41] This statement was made in the context of basic education, rather than ECCE. It is therefore worth exploring more concretely how s 9 might be applied to address these disparities in South Africa.

The achievement of equality is a core value of the Constitution, permeating all the provisions of the Bill of Rights.[42] The right to equality itself is set out in s 9 of the Constitution. Under s 9(1), everyone is equal before the law and has the right to equal protection and benefit of the law; while ss 9(3) and 9(4) prohibit the state and all persons from unfairly discriminating, directly or indirectly, against anyone on one or more of a range of grounds, including, race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth. Section 9(2) permits measures to be taken to protect or advance persons disadvantaged by unfair discrimination. This comes together with the duty of the state to 'respect, protect, promote and fulfil the rights in the Bill of Rights'.[43]

This is complemented by the important role played by international human rights law in the development of the South African jurisprudence. Under s 39(1)(b) of the Constitution, courts must consider international law when interpreting the Bill of Rights. The Constitutional Court has frequently referred to international human rights conventions in pursuance of this duty. Most recently in *Thubakgale*, Majiedt J referred to the *General Comment* of the CESCR to elaborate the meaning of the right to housing in the SA Constitution. Similarly, in the *School Nutrition* case, the High Court referred to *General Comment 15* of the Committee on the Rights of the Child (CRC), which sets out the crucial role of school feeding in the state's duty in relation to the rights to health and education in the CRC.[44] It also referred to CRC *General Comment 19* on non-retrogression to underline the duty not to take deliberate retrogressive measures in relation to economic, social and cultural rights unless all other options have been considered.

There are several ways in which international human rights law is relevant. One is through the right to education, which is found in the ICESCR, CRC and CRPD, as well as the regional African Charter on the Rights and Welfare of the Child (ACRWC). While none of them expressly refer to ECCE, they all formulate the purpose of the right to education in terms that include the full development of the child's personality. There is now powerful evidence of the key role played by ECCE in the child's development,[45] strongly suggesting that ECCE is an implicit part of the right to education in all these conventions.[46] A second route is through the right to development. Both art 6(2) of the CRC and art 5 of ACRWC provide that States

[41] *Governing Body of the Juma Musjid Primary School v Essay* (2011) ZACC 13 para 42.
[42] Constitution s 1(a) and (b), s 7(1).
[43] Ibid s 7(2).
[44] *Equal Education* (note 9 above) para 39.2.
[45] Britto et al (note 5 above).
[46] S Fredman, G Donati, LM Richter et al 'Recognizing early childhood education as a human right in international law' (2022) 22 *Human Rights Law Review* 1.

007-558
11/12/2025-11:31

Parties must ensure the survival and development of the child to the maximum extent possible.[47] The CRC has stated that the right to survival and development can only be implemented in a holistic manner pulling together the rights to health and security, education and play.[48] Under the CRC, therefore, ECCE can be seen as one of the specific and potentially more directly implementable rights furthering the object of the duty to ensure the right to survival and development of the child.[49]

This article focuses on the third route: the right to equality and non-discrimination in the CRC, ICESCR, CRPD and ACRWC.[50] It is further supported by the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which is the only convention to expressly mention pre-school education. In this convention, States are required to ensure equality between men and women in, inter alia, pre-school education.[51] In the practice of the UN committees monitoring these conventions, as reflected in their Concluding Observations (CO), the right to equality is central to formulating the right to ECCE. This is because, as in South Africa, ECCE, where available, is limited to more privileged young children.

The following section sets out a framework of substantive equality, based on four dimensions, to assess the possibilities in domestic and international law in relation to ECCE. The article uses this framework to consider five questions. Firstly, given that poverty is the main factor driving inequality, can poverty be considered a ground of discrimination? Secondly, even if poverty is not a ground in itself, can race and gender – and their intersection with poverty – be utilised? Thirdly, what is the role of indirect discrimination? Fourthly, how should courts address resource-based justifications for limiting equality? And, fifthly, what role do and should positive duties play in promoting equality?

3.1 Substantive equality

The Constitutional Court has, from the start of the democratic era, expressed its commitment to substantive equality.[52] Substantive equality moves away from formal equality, which merely aims to treat likes alike. Instead, it accounts for the implications of historical, legal and social contexts on individuals and groups with certain protected characteristics, for example, by aiming for equality of opportunity (such as eliminating barriers to some groups) or equality of outcomes (such as requiring social benefits to be distributed fairly). Substantive equality has been elaborated in several ways.[53] This article uses a conception based on four mutually supportive dimensions in relation to outgroups: (i) redressing disadvantage; (ii) addressing stigma,

[47] Sloth-Nielsen (note 38 above); Ally et al (note 1 above).
[48] CRC *General Comment 7 (2005): Implementing Child Rights in Early Childhood*.
[49] See further, N Peleg *The Child's Right to Development* (2019).
[50] CRC art 2(1); ICESCR art 2(2); CRPD art 3(2), 5 – 7; ACRWC art 3.
[51] Convention on the Elimination of All Forms of Discrimination against Women art 10(a).
[52] *Mahlangu v Minister of Labour* [2020] ZACC 24 para 55; C Albertyn 'Substantive equality and transformation in South Africa' (2007) 23 *South African Journal on Human Rights* 253; C Albertyn 'Contested substantive equality in the South African Constitution: Beyond social inclusion towards systemic justice' (2018) 34 *South African Journal on Human Rights* 441.
[53] Albertyn 2007 and 2018 (ibid).

007-558

stereotyping, prejudice and violence; (iii) facilitating voice and participation; and (iv) accommodating difference and achieving structural change. These need to be achieved simultaneously, as far as possible.[54] This framework has now substantially been accepted by the Committee on the Rights of Persons with Disabilities (CRPD)[55] in its interpretation of equality in the CRPD, as well as by the Supreme Court of India,[56] and the UK Equality Act 2010.[57] Below, we briefly elaborate on these four dimensions and their interaction.

Redressing disadvantage, the first dimension, is based on a recognition that the problem does not lie so much with the classification but the attached disadvantage. The right to substantive equality is not an egalitarian ideal that is fulfilled even if everyone is treated equally badly. Instead, it focuses on levelling up or extending benefits accorded to advantaged groups to outgroups. But disadvantage is not sufficient. It needs to be recognised that it is often stigma and stereotyping that fuel disadvantage. This is the second dimension, which reflects the close attention paid to dignity in the Constitution. To avoid the vagueness that potentially attaches to dignity, however, this dimension specifies the harms of stereotyping, prejudice, stigma and violence of all kinds. This extends disadvantage beyond acts against other individuals, which are in any case prohibited by the criminal law, such violence is fuelled and perpetuated by deep-seated stereotypes and stigmatic 'othering'.[58]

The third dimension requires participation by those who are excluded and marginalised.[59] This is endorsed by Nancy Fraser, who sees parity of participation as the normative core of her conception of justice.[60] When past discrimination has blocked the avenues for political and social participation, equality laws compensate for this absence of political voice and open up channels for greater participation in the future.[61] This is particularly true for children. The first dimension (redressing disadvantage) combined with the participative dimension requires close attention to be paid to intersectionality. Kimberlé Crenshaw introduced intersectionality in 1989 to address the marginalisation of Black women in anti-discrimination law, as well as in feminist and antiracist politics and theory. Crenshaw showed how within these discourses, the prototypical representatives were white women and African American men. Since then, intersectionality has been applied across disciplines and globally. It is used here in its structural sense, referring to the synergistic disadvantage experienced by those at the intersection of multiple axes of power disadvantage.[62] It is not

[54] This section is based on S Fredman 'Beyond the dichotomy of formal and substantive equality: Towards a new definition of equal rights' in I Boerefijn, F Coomans & J Goldschmidt (eds) *Temporary Special Measures* (2003) 111; S Fredman 'Substantive equality revisited' (2016) 14 *International Journal of Constitutional Law* 712; S Fredman *Discrimination Law* 3 ed (2022) Chapter 1.

[55] Committee on the Rights of Persons with Disabilities *General Comment 6 (2018): The Right to Equality and Non-Discrimination*.

[56] *Nitisha v Union of India* AIR 2021 SC 1797.

[57] Equality Act 2010 ss 149, 158.

[58] Fredman 2022 (note 54 above) Chapter 1.

[59] IM Young *Justice and the Politics of Difference* (1990) 31 – 32.

[60] N Fraser & A Honneth *Redistribution or Recognition* (2003) 36 – 37.

[61] *United States v Carolene Products Company* 304 US 144 (1938) 152 n 4 (per Stone J).

[62] K Crenshaw 'Demarginalizing the intersection of race and sex: A black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics' (1989) 1*University of Chicago Legal Forum* 139; K Crenshaw 'Race, gender and sexual harassment' (1992) 65 *Southern California Law Review* 1467; S Cho, K Crenshaw & L McCall

007-560
11/12/2025-11:31

sufficient simply to amplify the voice of elite members of a group. Those who are particularly disadvantaged and marginalised – particularly at multiple intersections – and who are able to speak to the needs of others in their position must be emphasised.

The fourth dimension recognises that inequality is more than the sum of many individual acts of prejudice but inheres in the structures of society, fuelled by imbalances of power.[63] To achieve the right to substantive equality therefore requires accommodation of difference and structural change. Behind all of these dimensions is the overriding need to redress inequalities in power. The focus should be on domination, or structures excluding or preventing people from determining their actions.[64] It is for this reason that the need to redress disadvantage both materially and of power, must interact closely with the need to enhance voice and participation and to bring about structural change.

In the light of this understanding of substantive equality, how could s 9 be utilised to reduce inequalities in relation to ECCE in South Africa, and how can this be buttressed by international human rights law? Given the absence of jurisprudence directly on this point, the following sections sketch potential pathways, rather than setting out an authoritative view.

3.2 Poverty as a ground of discrimination

It is clear that the strongest factor indicating lack of access to quality ECCE is poverty, which is not an express ground listed in s 9(3). Nevertheless, poverty exhibits many of the elements captured by the four-dimensional understanding of equality. Poverty in this context is more than income poverty. As Amartya Sen puts it: 'Human lives are battered and diminished in all kinds of different ways'.[65] Therefore a poverty index has been developed that includes poor health, lack of education, inadequate living standards, disempowerment, poor quality of work, the threat of violence, and living in areas that are environmentally hazardous.[66] All these elements are readily visible through the four-dimensional framework. As well as socio-economic disadvantage (the first dimension), the stigma often associated with poverty is in itself a harm. Starvation and deprivation, as well as creating material injury, can lead to deeply felt harms to dignity, both for those directly affected and for the society. As the judge put it in the *School Nutrition* case, 'A more undignified scenario than starvation of a child is unimaginable'.[67] Ruth Lister demonstrates that the ways in which the non-poor construct the poor as 'other' has a profound impact on how poverty is

'Toward a field of intersectionality studies: Theory, applications and praxis' (2013) 38 *Signs: Journal of Women in Culture and Society* 785; S Fredman *Intersectional Discrimination in EU Gender Equality and Non-Discrimination Law* (2016); S Atrey, *Intersectional Discrimination* (2019). See also Committee on the Elimination of Discrimination Against Women CEDAW/C/49/D/17/2008; *Mahlangu* (note 52 above).

[63] Young (note 59 above) 31 – 32.

[64] Ibid 16.

[65] A Sen, 'A Decade of Human Development ' (2000) 1 *Journal of Human Development* 17.

[66] <https://ophi.org.uk/policy/multidimensional-poverty-index/>

[67] *Equal Education* (note 9 above) para 53.

007-560

experienced.[68] The line between 'us' and 'them' is 'imbued with negative value judgments that construct "the poor" variously as a source of moral contamination, a threat, an 'undeserving' economic burden, or an object of pity'.[69] This was highlighted in *Khosa v Minister of Social Development; Mahlaule v Minister of Social Development*,[70] which held that permanent residents should be eligible for child benefits and pensions available to South African citizens. Mokgoro J emphasised that the consequences of exclusion were not only socio-economic but had a strong stigmatising effect, creating the impression that they were inferior to citizens and less worthy of social assistance.[71] The threat of violence is similarly recognised as an element of living in poverty.

The third dimension, lack of voice, is also apposite. People living in poverty are more likely to be excluded from participation in decisions that affect them, contrary to the third dimension. Most saliently, the voices of children, whose future participation in society might otherwise be blighted, must be amplified along with those of their families. Importantly too, poverty is systemic and only partially attributable to specific decisions by the state or private persons. For example, as discussed above, structural issues are central contributors to inequalities in ECCE. This is the fourth, transformative dimension.

Section 9(3) does not expressly include poverty as an enumerated ground. The grounds set out are, however, not exhaustive, and can be expanded by a court, although unenumerated ones do not benefit from the presumption of unfairness.[72] The Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (the Equality Act or Pepuda) also does not refer to poverty within its long and inclusive list of protected grounds. Instead, the Act states that 'socio-economic status' is a 'directive principle' to which the Minister should give special consideration for inclusion.[73] Notably 'socio-economic status' is defined as 'a social or economic condition or perceived condition of a person who is disadvantaged by poverty, low employment status or lack of or low-level educational qualifications'.[74] However, thus far, socio-economic status has not been given legislative force.

This leaves open the possibility of judicial extension. Under the Equality Act, prohibited grounds include the listed grounds, as well as any other ground where discrimination '(i) causes or perpetuates systemic discrimination, (ii) undermines human dignity; or (iii) adversely affects the equal enjoyment of a person's rights and freedoms in a serious manner that is comparable to discrimination on a ground in [the list]'.[75] In *Social Justice Coalition v Minister of Police*, a ground-breaking case in 2018, the Equality Court held that poverty was indeed a ground of discrimination under the Equality Act, finding that the state had discriminated on grounds of both race

[68] R Lister *Poverty* (2004) 100.
[69] Ibid 101.
[70] *Khosa v Minister of Social Development; Mahlaule v Minister of Social Development* 2004 6 SA 505 (CC).
[71] Ibid para 77.
[72] Constitution s 9(5).
[73] Equality Act s 34.
[74] Ibid s 1(1)(xxvi).
[75] Ibid s 1(1) (xii)(b).

007-562
11/12/2025-11:31

and poverty in the allocation of police human resources in the Western Cape.[76] In a statement with strong resonances for the provision of ECCE, Dolamo MJ stated:

> The dawn of democracy has not changed the lot of the people of Khayelitsha. They continue to live in informal settlements where the provisions of services are non-existent or at a minimum. This is more glaring where a comparison is made with the more affluent areas, mainly occupied by the privileged minority.[77]

It may be arguable that the case rested on the intersection of race and poverty, and it remains to be seen how a case based purely on grounds of poverty would fare. However, the persistence of spatial apartheid flagged in that case, and by the Constitutional Court in *Thubakgale v Ekurhuleni Metropolitan Municipality*,[78] affects the provision of ECCE services in similar ways. Poverty and race are, unfortunately, highly likely to go together.

The move towards recognising poverty as a ground for discrimination is reinforced in international human rights law. As in South Africa, poverty is not included expressly in the long list of grounds found in the CRC and ICESCR. Nevertheless, in its 2009 *General Comment 20* on equality and non-discrimination, the CESCR recognises that living in poverty may result in 'pervasive discrimination, stigmatisation and negative stereotyping which can lead to the refusal of or unequal access to the same quality of education and health care as others'.[79] It therefore states that economic and social situation should be regarded as included in the ground of 'other status' for vulnerable and marginalised social groups.

This is carried through to the practice of the CESCR, the CRC and the CRPD, as revealed by our detailed examination of all the references to ECCE in the concluding observations (COs) these bodies issued between 2015 and 2020.[80] The committees express their concern regarding the cyclical relationship between education and poverty and point to the need to break this cycle by ensuring ECCE for poorer families.[81] Both the CRC and CESCR frequently note that poor child development is exacerbated by poverty, yet it is these children who are least likely to access ECCE. For example, the COs for the Dominican Republic (2015) and Suriname (2016) emphasise the importance of access to ECCE for children living in poverty, as well as single-headed households headed by adolescent girls.[82] This is true for both the Global North and the Global South.[83] A key issue is the intersectional relationship between poverty and

[76] *Social Justice Coalition v Minister of Police* [2018] ZAWCHC 181.
[77] Ibid para 90. See further DC van der Linde 'Poverty as a ground of indirect discrimination in the allocation of police resources' (2020) 23 *Potchefstroom Electronic Law Journal* 1.
[78] *Thubakgale v Ekurhuleni Metropolitan Municipality* (CCT 157/20) [2021] ZACC 45.
[79] CESCR *General Comment 20 (2009): Equality and Non-Discrimination* para 35.
[80] We systematically analysed all the COs of the UN monitoring bodies responsible for the three Conventions from January 2015 to March 2020, a total of 264 reports from 152 countries: 120 reports issued by the Committee on the Rights of the Child (CRC), 71 by CESCR and 73 by the Committee on the Rights of Persons with Disabilities. We chose this five-year period because states are required to report on their compliance within two years of their initial ratification and every five years thereafter; we were interested in the committees' assessment of compliance in the most recent round of reporting.
[81] CRC *COs Regarding Suriname* (October 2016) CRC/C/SUR/CO/3-4 paras 12 &13.
[82] CRC *COs Regarding Dominican Republic* (March 2015) CRC/C/DOM/CO/3-5 paras 40, 57 & 58; Ibid para 23.
[83] CRC *COs Regarding United Kingdom* (July 2016) CRC/C/GBR/CO/5 para 72; CRC *COs Regarding Gabon* (June 2016) CRC/C/GAB/CO/2 paras 55 & 56.

007-562

those living in rural areas. Drawing on the importance of using the right to equality to extend existing provision to marginalised groups, the committees regularly express their concern that those in poorer settings are likely to have less access to ECCE. This can be seen in relation to Gambia, Lesotho, Ethiopia,[84] Ghana,[85] Angola and Guatemala. The committees also point out that good childcare can alleviate poverty[86] both in the short term by freeing up parental time for work and in the long term via better developmental and educational outcomes.[87]

3.3 Gender, race and other grounds of discrimination

Even if poverty is not itself a ground of discrimination, the inequalities in relation to ECCE could be regarded as discrimination on grounds of race or gender. In the recent housing case of *Thubakgale*,[88] Majiedt J (dissenting) underlined the effect of continued spatial apartheid: 'Apartheid's spatial structures persist, and today continue to maintain race- and class-based inequities in access to resources and services across Johannesburg and surrounding areas'.[89] For him, the primary purpose of socio-economic rights is to 'promote substantive equality and human dignity, and also to undo the racialised system of poverty inherited from apartheid'.[90] There is no doubt that the lack of provision of quality ECCE in poorer areas maps onto ongoing racial segregation in South Africa.[91]

There is also a significant gender component. Women and girls are discriminated against at a variety of levels that influence ECD,[92] demonstrating the need for a response along all four dimensions of the right to substantive equality. The interaction between stigma, stereotyping, prejudice and violence (the second dimension) and disadvantage (the first dimension), leading to ongoing structural inequality and intergenerational transmission of poverty (the fourth dimension), is particularly striking. There are multiple complex gender-related factors that impact ECCE. Although data does not suggest that fewer girls than boys attend ECCE in South Africa, we have seen above that boys are more likely to attend Grade R in a primary school setting than girls, suggesting that girls may be kept home while boys are sent to school at this early age.[93] These disadvantages are magnified by gender-based violence. In its 2016 *CO* on South Africa, the CRC expresses its deep concern at the high prevalence of gender-based violence against children, at home and in schools, especially in rural areas and informal settlements.[94]

[84] CRC *COs Regarding Ethiopia* (June 2015) CRC/C/ETH/CO/4-5 para 62.
[85] For example, CRC *COs Regarding Ghana* (June 2015) CRC/C/GHA/CO/3-5 para 58.
[86] CRC *COs Regarding Peru* March 2016 CRC/C/PER/CO/4 – 5 paras 45 & 46.
[87] CRC *COs Regarding Cote d'Ivoire* (July 2019) CRC/C/CIV/CO/2 para 38.
[88] Note 78 above para 104.
[89] Ibid para 107.
[90] *Thubakgale* (note 78 above) para 107.
[91] See also CRC *COs Regarding Gabon* (note 83 above) para 55 & 56.
[92] MJ Grant & JR Behrman 'Gender gaps in educational attainment in less developed countries' (2010) 36 *Population and Development Review* 71.
[93] Statistics South Africa (note 19 above).
[94] CRC *COs Regarding South Africa* (October 2016) CRC/C/ZAF/CO/2 para 37(a).

007-564
11/12/2025-11:31

These factors catalyse and magnify for pregnant learners, who are frequently expelled or suspended from school. In the 2013 *Welkom* case,[95] the Constitutional Court declared that school policies requiring pregnant learners to leave school would in principle amount to a breach of the right to gender equality. However, it refused to strike down the policies at issue in the case itself. Instead, the Court simply ordered the school governing body to review its pregnancy policies in light of the judgment. It also did not make any findings as to what provision the school should make for the pregnant learner, or for after the birth for the learner and her newborn. This has clearly not been sufficient. Despite the *Welkom* decision, both the CRC in 2016 and the CESCR in 2018 express concern in this regard. Notably, recommendations by both committees did not simply require adoption of policies. Recognising the structural nature of these inequalities, they also stated that positive measures should be put in place to ensure that pregnant teenagers and adolescent mothers receive support to continue their education. Thus, the CRC in 2016 recommended that South Africa 'ensure that pregnant teenagers and adolescent mothers are supported and assisted in continuing their education'; while the CESCR in its 2018 *CO* on South Africa states that the state should 'provide the necessary support services for pregnant adolescent girls, including measures to enable them to continue their education'.

Nevertheless, research suggests that despite *Welkom* and the CRC and CESCR recommendations, teachers perceive learner pregnancy negatively and do not believe they have the skills to effectively deal with pregnant learners.[96] Meanwhile, pregnancy of learners continues to rise. Recent DBE figures show that nearly 136,400 babies were delivered to women aged ten to nineteen in 2020, an increase of nearly 6,400 compared to the previous year.[97] The DBE's 2021 policy on the prevention and management of learner pregnancy in schools[98] provides helpful guidance on reducing learner pregnancy in the basic education sector, reducing stigma and discrimination and providing support for retention and re-enrolment. Strikingly absent, however, is holistic thinking on the simultaneous educational needs of both the learner and her child. This missed opportunity points to the need for robust research on the developmental outcomes of children born to very young mothers in South Africa.

Protection of pregnant learners is a consistent theme of the CRC, CESCR and CEDAW, which repeatedly couple the recommendation that pregnant learners be permitted to stay in school with the requirement that they be reintegrated after becoming mothers.[99] For example, in relation to Tanzania (2015) the CRC states:

[95] *Head of Department, Department of Education, Free State Province v Welkom High School* [2013] ZACC 25 SACC.
[96] L Segalo 'Learner pregnancy in secondary schools in South Africa: Have attitudes and perceptions of teachers changed?' (2020) 85 *Koers*. 1 – 9.
[97] V O'Regan 'Schoolgirl births 'unacceptably high' in South Africa' (2021) *Daily Maverick*, 7 September 2021.
[98] DBE *Draft National Policy on the Prevention and Management of Learner Pregnancy in Schools*.
[99] CRC *COs Regarding Eritrea* (June 2015) CRC/C/ERI/CO/4 paras 59 & 60; CESCR *COs Regarding Kenya* (April 2016) E/C.12/KEN/CO/2-5 para 60; CRC *COs Regarding Guinea* (February 2019) CRC/C/GIN/CO/3-6 para 39; CRC *COs Regarding Lesotho* (June 2018) CRC/C/LSO/CO/2 paras 53 & 54; CRC *COs Regarding Sierra Leone* (October 2016) CRC/C/SLE/CO/3-5 para 35; CRC *COs Regarding Malawi* (March 2017) CRC/C/MWI/CO/3-5 para 37; CRC *COs Regarding Senegal* (March 2016) CRC/C/SEN/CO/3-5 para 60; CRC *COs Regarding Zimbabwe* (March 2016) CRC/C/ZWE/CO/2 para 69; CRC *COs Regarding Suriname* (November 2016) CRC/C/SUR/CO/3-4 paras 34 &35; CRC *COs Regarding Cabo Verde* (June 2019) CRC/C/CPV/CO/2 paras 76 & 77; CESCR *COs Regarding Cabo Verde* (November 2018) E/C12/CPV/CO/1 para 64.

007-564

> The Committee recommends that the State party take immediate measures to ensure the continued enrolment of adolescent mothers and girls who become pregnant during their school years and cease mandatory pregnancy testing. It also recommends that those girls who leave school because of pregnancy be supported and assisted in their re-enrolment and in the continuation of their education in mainstream schools.[100]

Both the CESCR and CRC call on states to provide the services necessary to enable pregnant adolescents to continue their education.[101] They recognise that this is at least partly dependent on the support they are given to look after their children. The committees urge that adolescent mothers be given parenting support and childcare facilities.[102] For example in the 2020 Rwanda *CO*, the CRC urges the state to 'Ensure that pregnant girls remain in schools and reintegrate [them] into the schools […] by providing counselling in parenting skills and childcare facilities'.[103] In an important further development, the West African Economic Community (ECOWAS) Court of Justice held that Sierra Leone's exclusion of pregnant learners from mainstream schools constitutes a violation of the right to education under the African Charter and the CRC.[104]

There are further, complex interactions between the lack of ECCE opportunities and gender inequalities. Women disproportionately bear the responsibility for childcare during the closure of schools, ECCE programmes and childcare facilities due to Covid-19.[105] This is bound to affect their undertaking paid work and the hours they are able to work. Moreover, the overwhelming majority of ECCE workers in the poorest areas are Black women.[106] Much of the ECCE sector in these areas grew out of subsistence efforts of Black women who were restricted under apartheid from owning businesses:

> The highly informal nature of ECD sector provision provided an in-road for women into the labour market. But it is the most informal of businesses, and the poorest that have been hardest hit by the lockdown while the gender gap in earnings in the labour market has been further exacerbated.[107]

Even before the pandemic, as the 2014 ECCE sector audit shows, average salaries were below the minimum wage, ranging from R1400 to R2000.[108] A 2020 report on the ECD sector during the pandemic found that 83 per cent of centres were not able to pay the full salaries of their staff,[109] 91 per cent of which are women.[110]

This is not just about the disadvantage of women or girls. Gender discrimination experienced by women deeply affects the children for whom they care. Women's lack

[100] CRC *COs Regarding Tanzania* (March 2015) CRC/C/TZA/CO/3-5 para 63. Also see CRC *COs Regarding Lesotho* (June 2018) CRC/C/LSO/CO/2 paras 53 & 54; CRC *COs Regarding Sierra Leone* (October 2016) CRC/C/SLE/CO/3-5 paras 32, 34 & 35.
[101] For example, CESCR *COs Regarding Uganda* (July 2015) E/C12/UGA/CO/1 para 36.
[102] CRC *COs Regarding Botswana* (June 2019) CRC/C/BWA/CO/2-3 para 53.
[103] CRC *Concluding Observations Regarding Rwanda* (February 2020) CRC/C/RWA/CO/5-6 para 38.
[104] <https://ihrda.uwazi.io/ar/entity/1i7yfu3qr0cj?page=1> See further M Daka 'ECOWAS court affirms that pregnant girls in Sierra Leone have a right to equal education' (2020) Oxford Human Rights Hub, 1 June 2020.
[105] D Casale & D Posel 'Gender and the early effects of the Covid-19 crisis in the paid and unpaid economies in South Africa' (15 July 2020) WAVE 1 National Income Dynamics Study.
[106] DSD & Economic Policy Research Institute (note 18 above).
[107] Ibid.
[108] Wills et al. (note 2 above).
[109] Casale & Posel (note 105 above).
[110] DBE (note 20 above).

007-566
11/12/2025-11:31

of education, economic independence and childcare support either from fathers[111] or society[112] have a negative impact on parenting ability and child development, a problem the CESCR regularly emphasises.[113]

If a mother has completed secondary education, her children are nearly five times more likely on average to attend an ECCE programme than children whose mothers have primary education or lower.[114] Moreover, maternal education is a key factor in providing informal early childhood education and preventing the intergenerational transmission of poverty.[115] Indeed, maternal education is one of the most reliable predictors of child development outcomes globally.[116]

There are several other grounds of discrimination, where a similar line of reasoning could be used to that set out above. One is disability.[117] It is beyond the scope of this article to follow through this reasoning in detail, but it is clear that unequal access to ECCE for children with disabilities breaches all four dimensions of substantive equality. The Committee on the Rights of Persons with Disabilities has repeatedly recommended that African states should establish an inclusive education system at all levels, including pre-school, without discrimination.[118] It has also recommended that states should build and upgrade education facilities that are disability-sensitive and safe.[119] Similarly, the CRC has specified that states should ensure that children with disabilities have access to inclusive ECCE.[120]

3.4 Indirect discrimination

As well as direct discrimination claims, there are some clear patterns of inequality that could be the basis of an indirect discrimination claim on grounds of poverty, and its intersection with race and gender. Although both the Constitution and the Equality Act prohibit indirect discrimination,[121] the term is not specifically defined.[122] However, it is well established in South Africa that 'a seemingly benign or neutral

[111] CRC *COs Regarding* Cote *d'Ivoire* (June 2019) CRC/C/CIV/CO/2 paras 37 & 38; CESCR *COs Regarding Guyana* (October 2015) E/C12/GUY/CO/2-4 para 40; CRC *COs Regarding Zimbabwe* (note 99 above) para 49.
[112] CRC *COs Regarding Montenegro* (June 2018) CRC/C/MNE/CO/2-3 para 48; CRC *COs Regarding Gabon* (note 83 above) para 41.
[113] CESCR *COs Regarding Slovakia* (November 2019) E/C12/SVK/CO/3 para 49.
[114] UNICEF *A World Ready to Learn: Prioritizing Quality Early Childhood Education* (2019).
[115] JR Behrman, W Schott, S Mani et al 'Intergenerational transmission of poverty and inequality: Parental resources and schooling attainment and children's human capital in Ethiopia, India, Peru, and Vietnam' (2017) 65 *Economic Development and Cultural Change* 657.
[116] JM Augustine, SE Cavanagh & R Crosnoe 'Maternal education, early child care and the reproduction of advantage' (2009) 88 *Social Forces* 1; A Kalil, R Ryan & M Corey 'Diverging destinies: Maternal education and the developmental gradient in time with children' (2012) 49 *Demography* 1361; J Jeong, DC McCoy & G Fink 'Pathways between paternal and maternal education, caregivers' support for learning, and early child development in 44 low-and middle-income countries' (2017) 41 *Early Childhood Research Quarterly* 136.
[117] Another is potentially migrant status.
[118] Committee on the Rights of Persons with Disabilities *COs Regarding Sudan* (April 2018) CRPD/C/SDN/CO/1 para 48.
[119] Committee on the Rights of Persons with Disabilities *COs Regarding Senegal* (May 2019) CRPD/C/SEN/CO/1 para 42; *COs Regarding Niger* (May 2019) CRPD/C/NER/CO/1 para 40; *COs Regarding Morocco* (September 2017) CRPD/C/MAR/CO/1 para 47.
[120] CRC *COs Regarding Malawi* (March 2017) CRC/C/MWI/CO/3-5 para 32; *COs Regarding Sierra Leone* (November 2016) CRC/C/SLE/CO/3-5 para 8; *COs Regarding Zambia* (January 2016) CRC/C/ZMB/CO/2-4 para 11.
[121] Constitution s 9(3); Equality Act s 1(1).
[122] See, for example, the UK Equality Act 2010 s 19; EU Race Directive 2000/43/EC, art 2(2)(b).

007-566

distinction that nevertheless has a disproportionate impact on certain groups amounts to indirect discrimination'.[123] There is no need for intention. How then could an indirect discrimination claim potentially be constructed? It is worth setting out how such a claim might be framed.

One source of indirect discrimination concerns lack of infrastructure. Even before the pandemic, the ECCE sector was characterised by infrastructural backlogs. As many as 45 per cent of centres do not have access to water inside the building, 40 per cent are not connected to a sewage system, and 33 per cent still make use of pit latrines.[124] It is difficult to pinpoint a particular law or policy that intentionally discriminates on grounds of poverty or race. Nevertheless, it might be possible to establish that ECCE policies that are apparently neutral in relation to these grounds have a disproportionate effect on those living in poverty, thereby potentially constituting indirect discrimination. One possible example might be the policy that in order to receive subsidies, an ECCE provider must be registered with the relevant department. In 2021, an estimated 60 per cent of all centres – serving more than a million children – were not registered with the DSD.[125] It is highly likely that these children are poor and Black.[126] It is challenging for ECCE operators to become registered and therefore access subsidies.[127] An indirect discrimination claim would require government to look closely at the criteria for registration and ask whether there are other alternatives that can maintain appropriate standards but do not exclude centres in the poorest areas and serving the poorest children. As a 2020 report states: 'the question we need to ask ourselves is how government can design a registration system of which the majority are unable to form part'.[128]

Similarly, centres are only able to claim subsidies for children with birth certificates, incentivising them to require a birth certificate for enrolment in the centre. While South Africa has made impressive progress in increasing rates of birth registration,[129] the poorest and most marginalised children still face obstacles in acquiring relevant documentation. Birth certificates are free in principle, but a family might need to make several trips to the relevant government office to ensure they have the right documentation. Given the cost of travel, the poorest families might be unable to make this journey.[130] This was of particular concern to the CRC in its *CO* for South

[123] *Mahlangu* (note 52 above) para 92; *City Council of Pretoria v Walker* (CCT8/97) [1998] ZACC 1; 1998 (2) SA 363 paras 31 – 32.
[124] DBE (note 20 above).
[125] Ibid.
[126] M Ashley-Cooper, LJ van Niekerk & E Atmore 'Early childhood development in South Africa: Inequality and opportunity' in N Spaull & J Jansen (eds) *South African Schooling: The Enigma of Inequality Policy Implications of Research in Education* (2019) 87.
[127] Bridge, Ilifa Labantwana, National ECD Alliance et al 'The plight of the ECD workforce: An urgent call for relief in the wake of Covid-19' (April 2020) 1-21. https://ilifalabantwana.co.za/wp-content/uploads/2020/04/Final-report-The-plight-of-the-ECD-workforce.pdf
[128] Ibid 6.
[129] N Nannan, R Dorrington & D Bradshaw 'Estimating completeness of birth registration in South Africa, 1996 – 2011' (2019 97 *Bulletin of the World Health Organization* 468; UNICEF *Every Child's Birth Right: Inequities and Trends in Birth Registration* (2013); J Hundenborn, M Leibbrandt & I Woolard *Drivers of Inequality in South Africa* (2016) SALDRU Working Paper Number 194; L Berry, A Dawes & L Biersteker *Getting the Basics Right: An Essential Package of Services and Support for Early Childhood Development* (2013).
[130] J Wong, K Sklead, A Marchese et al *Reaching the Hard to Reach: A Case Study of Birth Registration in South Africa* (23 November 2016) 29; P Proudlock & P Martin (2014) 'Children's rights to birth registration: A review of South Africa's law' in P Proudlock (ed) *South Africa's Progress in Realising Children's Rights: A Law Review* (2014) 7.

007-568
11/12/2025-11:31

Africa, where it points out that 'administrative and practical obstacles in obtaining birth registration, including punitive measures for late registration under the Births and Deaths Registration Act (Act No. 51 of 1992), may have negative and discriminatory impacts'.[131] This is especially problematic as 'possession of one's birth certificate is a rigid requirement for accessing social and child protection services'.[132] This falls especially heavily on children of migrant parents: because of the disproportionately strict conditions' for granting nationality, there are many children who are undocumented or whose births have not yet been registered.[133] Children of undocumented migrants are effectively unable to apply for a birth certificate given that parents are required to present their passports.[134] This means that ECCE providers serving migrant children are unlikely to be registered and therefore attract subsidies.[135]

In the ground-breaking 2019 *Phakamisa* judgment, the Makhanda High Court held that the DBE's Admission Policy for Ordinary Public Schools not only breached the right to basic education but also the right to equality under s 9(3).[136] Notably, the Court found discrimination on the ground of 'documentary status', which, it held, was analogous to the enumerated grounds in s 9(3) because of the adverse effect on the learners' dignity. Although the Court relied on direct discrimination on the grounds of documentary status, which is arguably difficult to define,[137] it also emphasised the 'undeniable fact that the children affected […] emanate from the vulnerable, poor black community'.[138] This means that the claim could also be framed in terms of indirect discrimination, allowing the principle to extend beyond the specific category of undocumented children. Such a framework would recognise the disproportionate effect on poor, migrant and rural children and other marginalised groups of requiring a birth certificate as a condition for access to education, and ask the government to establish an alternative, less discriminatory, means of managing admissions and resource distribution within the education system.

This legal victory is significant in supporting undocumented learners to assert their right to basic education in South Africa. However, civil society organisations have submitted a report to CESCR in response to South Africa's country report on the Committee's COs, in which they demonstrate that the application of the judgment has been inadequate to enable undocumented migrant, refugee and asylum-seeking children to access basic education.[139] They point out that merely purporting to

[131] CRC *COs Regarding South Africa* (note 94 above) para 31(a).
[132] Ibid.
[133] Ibid.
[134] *Centre for Child Law v Director General: Department of Home Affairs* [2021] ZACC 31 made it possible for unmarried fathers to register their children, but this only slightly alleviates the burden; L Meda, R Sookrajh & B Maharaj 'Refugee children in South Africa: Access and challenges to achieving universal primary education' (2012) 9 *Africa Education Review* S152.
[135] See also CRC *COs Regarding Angola* (June 2018) CRC/C/AGO/CO/5-7 para 18.
[136] *Centre for Child Law v Minister of Basic Education* (2840/2017) 2020 (3) SA 141 (ECG).
[137] See A Buttle 'High Court victory upholding the right to education for undocumented learners in South Africa' (2029) Oxford Human Rights Hub, 4 January 2020.
[138] *Centre for Child Law* (note 134 above) para 86.
[139] Section 27, Centre for Child Law, Children's Institute et al 'Joint submission to the United Nations Committee on Economic, Social and Cultural Rights on the occasion of the review of the information received from South Africa on follow-up to the concluding observations on its initial report, 14 May 2021' (2021). https://eelawcentre.org.za/wp-content/uploads/final-submission-s27-ccli-lrc-eelc-lhr.pdf

007-568

remove formal barriers is inadequate given the scale of the problem and the continued practices of excluding learners owing to lack of documentation.[140] Moreover, the *Phakamisa* judgment covers the right to basic education as provided by DBE, which has yet to explicitly include ECCE. With the recent move of function of ECD to DBE, further policy changes and alignments are expected. An extension of the *Phakamisa* judgment to cover undocumented learners in ECCE settings may not be automatic if ECCE is not recognised as part of a child's right to basic education.

A second potential source of indirect discrimination concerns the payment of fees. Fees are charged for more than 80 per cent of children aged zero to six years who are attending ECCE programmes not based at schools.[141] This contrasts with children in schools, where three-quarters do not pay any fees due to subsidies. The *National Integrated Early Childhood Development Policy*, published in 2015, developed a grant based on two components, an infrastructure component aimed at the development of low cost ECCE centres, and a subsidy component aimed at the nutritional and stimulation needs of children.[142] Only 33 per cent of centres currently receive the subsidy, with between 40 per cent and 44 per cent of centres receiving the subsidy in the three provinces with the highest child poverty rates.[143] These subsidies are crucial to the continued existence of many ECCE facilities in poorer areas, especially since so many families cannot afford the fees. This was starkly demonstrated when most of the subsidy was withdrawn during the Covid-19 lockdown.[144] The *SA Childcare* case itself helpfully held that the statutory duty to pay the subsidies had been breached and ordered the respondents to pay them immediately.[145] However, what it could not address was the low level of subsidies themselves, and their indirect discriminatory effect since the judgment was reserved for centres already registered. For 2022 to 2023, R1.1 billion was set aside for ECCE subsidies, of which R97 million was allocated for maintenance improvements and the construction of new low-cost centres. This represents an average growth of 1.7 percent, well below inflation.[146] Importantly, too, it is one of the lowest growth rates in the budget for basic education. From the R3.7 billion set aside for ECCE grants over the next three-year period, the government will be able to subsidise 600,000 more children. However, with an estimated 3.2 million children between zero and four years old still lacking access to ECCE,[147] this shortfall will only continue to increase. Challenging this lopsided allocation as indirectly discriminatory would be a bold strategy, but with the right facts, might be successful. For example, it might be argued that the decision to fund ECCE on a lesser scale than basic education, while apparently neutral on its face, has a disproportionate effect on poorer (predominantly Black) children who are

[140] Ibid para 36.
[141] Wills et al (note 2 above) 5.
[142] Note 14 above.
[143] DBE (note 20 above).
[144] Ibid 28.
[145] *SA Childcare* (note 36 above)
[146] Acting CEO at SmartStart Sane Mdlalose quoted in H Thwala 'NGO calls on government to increase budget allocations for early childhood development to ensure universal access for all children' (11 March 2022) *IOL Education*.
[147] L Brooks & S Hendricks 'The ECD sector must benefit from state support' (2020) iLifa Labantwana. https://ilifalabantwana.co.za/wp-content/uploads/2020/04/THE-ECD-SECTOR-MUST-BENEFIT-FROM-STATE-SUPPORT.docx.

007-570
11/12/2025-11:31

deprived of the important developmental benefits of ECCE, while children of wealthier families can avoid the detriment by attending fee-paying ECCE services.[148]

Such an approach is further supported by international human rights law. COs of the monitoring committees consistently identify direct and indirect costs of ECCE as barriers deterring poorer and marginalised communities from accessing ECCE. Indirect costs include transport costs, especially in poorer and rural communities, teaching materials[149] and birth registration.[150] This is further borne out by the data. A UNESCO study shows that, across countries, the burden on household spending is much greater in relation to pre-primary education than other levels of education. The report cites studies from various parts of Africa and South Asia that show that while poor families face a very high financial burden in the provision of pre-school education, they are also at risk of low-quality service from private schools.[151]

3.5 Justification: Adjudication of resources

Even if a prima facie case of indirect discrimination can be established, there is still an opportunity for the respondent to demonstrate that it is justifiable, in that the government is using proportionate means to achieve a legitimate end. In principle, this should be an exacting standard, given the very high cost both to young children and society as a whole of continuing inequality in ECCE provision. Florencia Lopez Boo, Jere Behrman and Claudia Vazquez simulated the present discounted value of losses in future income of pre-primary closures due to Covid-19 lockdowns in over 140 countries with the combined populations of 6.4 billion people and 323 million pre-school-age children. They found that millions of children of pre-primary school age are likely to suffer considerable earnings losses over their lifetimes due to pre-school-programme closures. This is before considering other effects, including a long-term decline in quality and availability of pre-school programmes, and the effects on primary caregivers.[152]

Courts have traditionally been cautious about adjudicating on issues with resource implications, on the assumption that such decisions should be made by legislators, who are accountable to the electorate, and the executive, who are more competent in dealing with polycentric decisions. Indeed, whereas courts in many jurisdictions have felt comfortable with adjudicating equality claims based on status or protected characteristics, they have generally eschewed a role in relation to economic inequalities.[153] However, as we have seen, status-based inequalities, such as gender or race, are inextricably linked with economic inequalities, and attempts to confine judicial intervention to the former have inevitably been ineffective. This is particularly glaring for

[148] I am indebted to Nurina Ally for spelling out the stages in this argument.
[149] CRC *COs Regarding Suriname* (note 99 above) paras 34 & 35; CRC *COs Regarding South Africa* (note 94 above) paras 59 & 60.
[150] CRC *COs Regarding Angola* (note 135 above) para 18.
[151] UNESCO *Education for All 2000 – 2015: Achievements and Challenges* (2015) 111.
[152] F Lopez Boo, JR Behrman & C Vazquez 'Economic costs of preprimary program reductions due to Covid-19 Pandemic' (2020) Technical Note No. IDB-TN-2000 Inter-American Development Bank.
[153] S Fredman 'Redistribution and recognition: Reconciling inequalities' (2007) 23 *South African Journal on Human Rights* 214.

007-570

inequalities in ECCE provision, when low quality or no ECCE services cement and exacerbate inequalities in basic education and then in later life.

Catherine Albertyn argues that s 9(3) could be used to expand the scope of existing opportunities, or alter their distribution but, arguably, not authorise new social benefits.[154] Even if courts are deferent on the budgetary allocation, there is scope to examine existing budgets to determine whether they are being used as effectively as they should and with the right priorities. In a series of cases brought by the Legal Resources Centre to establish that failure to provide proper schools to replace the mud structures erected by local communities was a breach of the right to education, one of the key issues was to achieve accountability for budgets already allocated for this purpose.[155] There may also be scope to require detailed justification for a budget that indirectly discriminates on grounds of poverty, race and, potentially, social origin. In the context of ECCE, there is already a well-developed policy: courts in this context would not need to develop a policy but rather require that the indirectly discriminatory effect of insufficient resource allocation be justified on a stringent proportionality test. The need for courts to insist on full accountability for their budgeting preferences was endorsed by the Constitutional Court in *Blue Moonlight*, when it held that it was not 'good enough for the City to state that it has not budgeted for something, if it should indeed have planned and budgeted for it in the fulfilment of its obligations'.[156] Given that the right to equality under s 9 is not subject to available resources, as is the case for the right to housing which was at issue in *Blue Moonlight*, there should be an even stronger requirement for accountability in this context.[157]

This was further endorsed by the CRC in its *CO for South Africa*, when it noted, with concern, continued wide disparities according to economic status, race and geography in access to quality education alongside 'the persistence of the uneven distribution of public resources, resources being allocated to address less critical issues rather than the most urgent ones, and the lack of transparency in the management of funding in the education system'.[158] This prompted the Committee to recommend that South Africa improve the transparency, efficiency and accountability of the management of the education budget. Importantly, too, consistent with the third dimension of substantive equality (voice and participation), it recommended 'the active and meaningful participation by children and civil society organisations in the development of the budget and through monitoring and evaluation of its implementation'.[159] This is echoed for other countries, where the Committees consistently require resource allocation to achieve greater equality. For example, in relation to Ghana, the

[154] C Albertyn 'Section 9 in a time of Covid: Substantive equality, economic inclusion and positive duties' (2021) 37 *South African Journal on Human Rights* 205, 212.
[155] <https://lrc.org.za/tag/mud-schools/>
[156] *City of Johannesburg v Blue Moonlight Properties* [2011] ZACC 33 para 74.
[157] See further M Heywood 'Economic policy and the socio-economic rights in the South African Constitution, 1996 – 2021: Why don't they talk to each other?' (2021) 11 *Constitutional Court Review* 1; S Liebenberg 'Austerity in the midst of a pandemic: Pursuing accountability through the socio-economic rights doctrine of non-retrogression' (2021) 37 *South African Journal on Human Rights* 181.
[158] CRC *COs Regarding South Africa* (note 94 above) para 59(b).
[159] Ibid para 60(a).

007-572
11/12/2025-11:31

CRC emphasised the need to allocate 'sufficient financial resources for the development and expansion of early childhood education in rural areas, and continue strengthening the efforts to efficiently implement the Early Childhood Care and Development Policy (2004)'.[160] In relation to the UK (2016), the CRC recommended that the UK should 'allocate sufficient human, technical and financial resources for the development and expansion of [ECCE] […] with special attention to the children in the most vulnerable situations'.[161]

3.6 Positive duties to promote equality

A further route towards using the right to equality to reduce the inequalities so evident in the provision of ECCE is through positive duties to promote equality. Such duties are proactive, requiring the state take the initiative in promoting equality, rather than waiting for individuals to bring claims of discrimination. Proactive duties require the structural causes of inequality to be addressed, recognising that that inequality extends well beyond individual acts.[162] In this way, proactive duties are a core part of achieving all four dimensions of substantive equality, moving beyond the individualistic focus of anti-discrimination law, to require structural changes that redress disadvantage and address stigma, stereotyping, prejudice and violence. It is crucial, too, that proactive duties ensure those affected participate in decisions, and that their voices are heard. It should be stressed that proactive measures need not entail 'affirmative action' or express preference policies. Rather, they require the state to 'mainstream' the right to equality, for example, through equality impact assessments to check all legislation and policies for their impact on inequality and actively devise measures which promote equality.[163]

Under s 7(2) of the Constitution, the state must respect, protect, promote and fulfil the rights in the Bill of Rights, entailing that there is a positive duty to fulfil the right to equality in s 9. This is augmented by s 9. Section 9(1) provides not only that everyone should have 'equal protection' of the law, but also 'equal benefit' of the law. This suggests that the negative duty of protection against infringements of the right should be augmented by the positive duty to ensure equal benefit of the law. Furthermore, s 9(2) states that, to promote the achievement of equality, the state may take measures designed to 'protect or advance' persons disadvantaged by unfair discrimination. This provision has generally been regarded as permitting the state to implement affirmative action provisions, such as those under the Employment Equity Act 55 of 1998, which require designated employers to ensure that suitably qualified Black people, women and disabled people are equitably represented in the workforce. Although this creates preferences on grounds of race, gender and disability, it does not breach the prohibition of unfair discrimination on these grounds, as long as it is

[160] CRC *COs Regarding Ghana* (note 85 above) para 16. See also CRC *COs Regarding Mexico* (June 2015) CRC/C/MEX/CO/4-5 para 51.
[161] CRC *COs Regarding the United Kingdom* (July 2016) CRC/C/GBR/CO/5 para 73.
[162] S Fredman 'Breaking the mold: Equality as a proactive duty' (2012) 60 *American Journal of Comparative Law* 265.
[163] For an analysis of proactive measures in the EU, see S Fredman 'Making equality effective: The role of proactive measures' 2009 European Network of Experts in the Field of Gender Equality, European Commission.

007-572

designed to protect or advance these groups. Section 9(2) on its face is permissive rather than mandatory. Nevertheless, Albertyn has persuasively argued that recent case law suggests that 's9(2) might be more than a defence for the state's positive measures, and can foster mandatory positive action'.[164] In particular, 'a failure to develop and implement equality-related constitutional and legislative objectives might lead courts to impose positive duties on government to act in a manner to achieve them'.[165] As mentioned above, such positive duties need not constitute a putative breach of the prohibition on unfair discrimination in s 9(3), and this is particularly true in relation to ECCE. This means that the mandatory nature of the duty can be found as much in s 9(1) and s 7(2) as in s 9(2).

The importance of proactive duties was recognised in the Equality Act, which gives the promotion of equality as one of its explicit objectives.[166] It is, however, unfortunate that Chapter 5 of the Act, which elaborates on the duty of the state and of all persons to 'promote and achieve equality',[167] has not been brought into force. Chapter 5 has much potential. The positive duty in this section includes a duty on Ministers and public contractors to prepare and implement equality plans.[168] The Act defines equality as including de facto equality and equality of outcomes.[169] Given the commitment in the Constitution to substantive equality, the promotion of equality in this context should include redressing disadvantage, addressing stigma, stereotyping and violence, facilitating participation, and achieving structural change.[170] The promotion and achievement of equality under the Act should therefore include proper budgetary allocations to redress the disadvantage of young children, with positive spin-offs for furthering race and gender equality, and reduce the stigma and prejudice accompanying such disadvantage. It should make sure to consult with and listen to those who are already involved in providing ECCE to ensure effective change. The ultimate aim is to break the cycle of poverty into which ECCE absence locks children.

The Equality Act is currently going through a process of amendment, and it is hoped that Chapter 5, possibly in a strengthened form, would finally become law. Under the subsidiarity principle developed by the SACC, 'where legislation has been enacted to give effect to a right, a litigant should rely on that legislation in order to give effect to the right, or, alternatively challenge the legislation as being inconsistent with the Constitution'.[171] It may be worth waiting for the process of amendment to be completed. In any event, any challenge to the Equality Act in this respect would need to be a full facial challenge. [172]

[164] Albertyn (note 154 above) 229.
[165] Ibid.
[166] Pepuda s 2(b)(ii).
[167] Ibid s 24.
[168] Ibid s 25 – 27.
[169] Ibid s 1(ix).
[170] See s 149 of the UK Equality Act, which includes these dimensions in the aims of the positive duty and s 158 and s 159, which set out these as criteria for legitimate positive action.
[171] *Mazibuko v City of Johannesburg* [2009] ZACC 28 para 73.
[172] *My Vote Counts NPC v Speaker of the National Assembly* (CCT121/14) [2015] ZACC 31; *South African Human Rights Commission obo South African Jewish Board of Deputies v Masuku* (CCT 14/19) [2022] ZACC 5.

007-574
11/12/2025-11:31

Positive measures are an integral part of the work of the monitoring committees, which regularly make recommendations as to the actions States Parties should take to achieve equality in relation to ECCE. For example, in its *CO for Estonia*, the CRC recommended that the State Party 'Strengthen the system of quality pre-school education and increase availability and affordability of pre-school education, including for children from marginalised families'.[173] In relation to Guatemala, the CRC recommended that the State Party '(a) Adopt a strategy aimed at increasing the enrolment of children in primary, secondary school and pre-school, in particular those living in areas with high levels of multidimensional poverty'.[174] Inclusion of those affected and listening to their voices is also stressed. For example, in its *COs for Slovakia*, the CESCR recommended that the State should:

> Consider, in consultation with the relevant stakeholders, including families from across different geographical areas and ethnic and socioeconomic groups, how to effectively balance provisions for parental leave, investment in preschool education and support for families to balance family and working responsibilities.[175]

The CRC was even more specific in relation to Botswana, recommending that the State 'reintegrate pregnant girls and adolescent mothers into the mainstream school system by providing counselling in parenting skills and childcare facilities'.[176] In Kenya the CRC stated 'there is still a large unmet need among parents, including teenage parents, for parenting skills and education' and that the state should provide 'further support to families, including teenage parents, in the form of family counselling, parenting education and the provision of financial allowances'.[177]

4. Conclusion

Covid-19 has exacerbated vulnerabilities in ECCE provision in South Africa with nearly 3.2 million children under five without any access to a programme and many more with access to only poorly resourced, low-quality, improvised services.[178] As is often the case, it is the most vulnerable who face the greatest challenges to access and quality perpetuating their vulnerability. This article has explored how the right to equality in the Constitution can be used to address these gaps in provision in ECCE. We have argued in the context of the Constitution and international law that within a framework of substantive equality, poverty, gender and racial inequalities are potential grounds for discrimination both directly and indirectly in relation to ECCE. We further propose that resource-based justifications for limiting the right to equality are

[173] CRC *COs Regarding Estonia* (March 2017) CRC/C/EST/CO/2-4 para 10.
[174] CRC *COs Regarding Guatemala* (February 2018) CRC/C/GTM/CO/5-6 para 12.
[175] CESCR *COs Regarding Slovakia* (note 113 above) para 49.
[176] CRC *COs Regarding* Botswana, June 2019, CRC/C/BWA/CO/2-3, para 54.
[177] CRC *COs Regarding* Kenya, March 2016, CRC/C/KEN/CO/3-5, para 40.
[178] Ally et al (note 1 above); Wills et al (note 2 above).

007-574

inadequate when budgets allow for resources to be unequally distributed contravening a government's positive duty to fulfil the right to equality.

Acknowledgements

We are very grateful to Nurina Ally and Cathi Albertyn who provided invaluable comments on previous drafts as well as the wider Harnessing Global Data for Young Children project and especially to the Early Childhood Development Action Network and the ECD regional networks: the Arab Network for Early Childhood Development, Africa Early Childhood Network, Asia-Pacific Regional Network for Early Childhood and the International Step by Step Association. UKRI ESRC Collective Fund Award Ref: ES/T003936/1).



Disclosure statement

No conflict of interest was declared by the author(s).

Notes on contributors

Sandra Fredman, Professor of Law, Faculty of Law, University of Oxford, UK

Georgina Donati, post-doctoral fellow, child and adolescent psychiatry, University of Oxford, UK

Sara Naicker, research manager, DSI-NRF Centre of Excellence in Human Development, University of Witwatersrand, Johannesburg, South Africa

ORCID

Sandra Fredman http://orcid.org/0000-0002-4132-1164
Georgina Donati http://orcid.org/0000-0001-8423-7774
Sara Naicker http://orcid.org/0000-0003-2000-9742

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

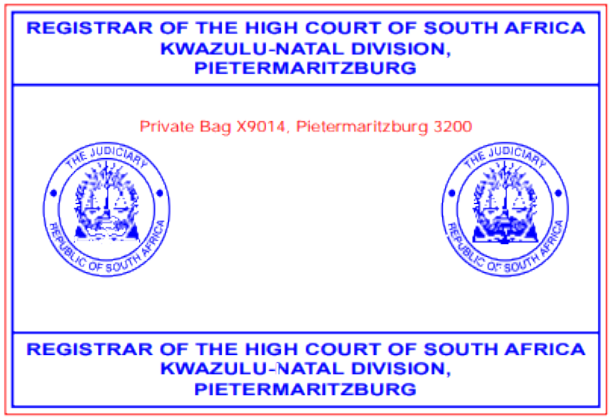
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 11

NOTE: **This document was filed electronically by the Registrar on 11/12/2025 at 11:32:42 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

25 1998 - 2023
CENTRE FOR CHILD LAW
FACULTY OF LAW, UNIVERSITY OF PRETORIA
Tel +27 12 420 4502
Address Law Building (Room 4-31) University of Pretoria, Pretoria, 0002
Email centreforchildlaw@up.ac.za Web www.centreforchildlaw.co.za

LEGAL RESOURCES CENTRE **31 July 2025**

1st Floor

CBI Building

635 Peter Mokaba road

Durban

4001

Att: Sheniece Linderboom

sheniece@lrc.org.za



C/O M BHYAT ATTOREYS

401 Prince Albert Street

Pietermartizburg, 3201

Tel: 083 578 6059

E-mail: mohammed@mbhyat.co.za

THE FIRST TO NINTH RESPONDENTS

State Attorney (KwaZulu-Natal)

6th Floor MetLife Building

391 Anton Lembede Street

Durban

Per e-mail: HSmal@justice.gov.za

c/o State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

1

25 1998 - 2023
CENTRE FOR CHILD LAW
FACULTY OF LAW, UNIVERSITY OF PRETORIA
Tel +27 12 420 4502
Address Law Building (Room 4-31) University of Pretoria, Pretoria, 0002
Email centreforchildlaw@up.ac.za Web www.centreforchildlaw.co.za

Dear Sir/Madam

RE: REQUEST FOR COSENT TO BE ADMITTED AS AMICUS CURIAE: FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM AND OTHERS // MEC FOR EDUCATION: KWAZULU-NATAL AND OTHERS (CASE NO: 2025-067855)



1. We refer to the above matter.
2. We act for the Equality Collective, a non-profit organisation registered under number 245-024 NPO.
3. We write to request your written consent to the Equality Collective's admission as an *amicus curiae* under Rule 16A.
4. We have considered the papers filed by the Applicants and are of the view that the submissions that the Equality Collective intends to make will assist the Court by centring children's constitutional rights in resolving this matter, without duplicating existing arguments.

Equality Collective's Interest in the proceedings

5. The Equality Collective is an activist, community-embedded organisation based in the rural Eastern Cape. The Equality Collective's work centres communities and their lived struggles and prioritises the needs of marginalised communities, especially women and children.
6. The strategic focus of the Equality Collective's work is on achieving improved access to socio-economic rights, enhanced responsive governance and accountability, and a strong, more active citizenry. To this end, the Equality Collective deploys an innovative way of working, defined by co-creation, cooperation, and constructive advocacy.

25 1998 - 2023
CENTRE FOR CHILD LAW
FACULTY OF LAW, UNIVERSITY OF PRETORIA
Tel +27 12 420 4502
Address Law Building (Room 4-31) University of Pretoria, Pretoria, 0002
Email centreforchildlaw@up.ac.za Web www.centreforchildlaw.co.za

7. One of the Equality Collective's three streams of work is the Right to Early Childhood Development (ECD). Under the Right to ECD workstream, the Equality Collective helped to found the Real Reform for ECD Movement (RR4ECD) in 2020 and continues to serve as its secretariat, as well as providing research and monitoring support for RR4ECD's campaigns. Operating across five provinces, RR4ECD collaborates with over 1,000 ECD practitioners and is supported by more than 300 organisations, with the collective aim of achieving progressive change in South Africa's ECD laws and policies.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

8. As the RR4ECD secretariat, the Equality Collective has developed a unique depth of expertise on the concrete challenges faced by ECD practitioners, young children, and parents and caregivers on the ground, and the ways these are created and/or exacerbated by the flawed regulation and funding of the sector.

9. In the medium-term, the intended activities of RR4ECD and the Equality Collective include the development of a campaign on a holistic right to ECD and advocacy and technical input on a possible new ECD Act. At present, the jurisprudence relating to ECD remains relatively underdeveloped and a judgment from the High Court could have significant implications for the aforementioned activities.

10. The Equality Collective will be assisted in preparing its submissions by its attorneys, CCL. CCL is a children's rights organisation registered as a Law Clinic with the Legal Practice Council. CCL contributes to the promotion and protection of children's rights through litigation, legislative and policy advocacy, and academic research and teaching. CCL's mission is to set legal precedent to improve and strengthen laws pertaining to children and ensure that children's constitutional rights are realised.

11. CCL has participated in litigation in South Africa to promote the rights of children in all levels of court as amicus curiae and as a party. Anchored by section 28 of the Constitution, which enshrines children's rights to basic nutrition, shelter, healthcare, and social services. CCL's experience in children's rights is very much linked to the provision of ECD services, thus providing insights into the

25 1998 - 2023
CENTRE FOR CHILD LAW
FACULTY OF LAW, UNIVERSITY OF PRETORIA
Tel +27 12 420 4502
Address Law Building (Room 4-31) University of Pretoria, Pretoria, 0002
Email centreforchildlaw@up.ac.za Web www.centreforchildlaw.co.za

developmental implications of legal and policy frameworks affecting young children.

Submissions to be advanced if admitted as *amici curiae*

12. The proceedings raise important constitutional issues about the role of ECD programmes in enabling the realisation of young children's rights to ECD, and the nature and extent of the state's duties to support ECD programmes.

13. The Equality Collective, with the assistance of its attorneys, intends to present expert evidence and legal submissions contextualising the ECD sector in South Africa and addressing the nature and content of the right to ECD.



14. In summary, the Equality Collective, if admitted, intends to advance the following submissions:

    14.1. First, the nature and significance of the phase of early childhood, the different types of ECD programmes, the impact of ECD programmes on children's development, current learning and development outcomes for young children both nationally and in KwaZulu-Natal specifically, and how disparities in access to quality ECD programmes map onto race, class, gender, and geographic location. These submissions will highlight how unequal access to quality ECD programmes perpetuates and entrenches systemic inequality from the earliest age, with consequences across the lifespan. The submissions will be supported by evidence in the form of an expert affidavit from the Children's Institute.

    14.2. Second, the background, purpose and nature of the ECD subsidy system, supported by an expert affidavit by Cornerstone Economic Research. These submissions will explain how the ECD subsidies are currently allocated and paid and will outline the roles of National Treasury and provincial education departments. The submissions will also highlight anticipated shifts in the funding framework, such as changes to eligibility criteria, payment modalities and accountability mechanisms and outline proposals for strengthening the funding framework.

25 1998 - 2023
CENTRE FOR CHILD LAW
FACULTY OF LAW, UNIVERSITY OF PRETORIA
Tel +27 12 420 4502
Address Law Building (Room 4-31) University of Pretoria, Pretoria, 0002
Email centreforchildlaw@up.ac.za Web www.centreforchildlaw.co.za

14.3. Third, the international law relating to a holistic right to ECD and how this should inform the interpretation of the rights of young children under the South African Constitution and the corresponding duties on the part of the state to support ECD programmes through adequate, consistent, and transparent funding arrangements.

15. We have taken into account the submissions of the Applicants and confirm that our clients' intended submissions will not repeat any arguments to be made by any of the parties. We submit that our client's submissions will be novel, relevant and useful to the Court for the reasons set out above.



Request for consent and terms

16. We request your written consent to the admission of the Equality Collective on the following terms:

16.1. The Equality Collective is to be admitted as amici curiae in this matter;

16.2. Subject to the directions of the court, the Equality Collective is granted leave to:

16.2.1. introduce evidence, as outlined above;

16.2.2. file heads of argument; and

16.2.3. present oral submissions at the hearing of this matter.

17. We note that the Applicants have filed a notice of intention to amend their notice of motion. After making inquiries with the Applicants' attorneys, we also understand that the Applicants intend to file a supplementary affidavit.

18. In that light, we believe it prudent to wait until the Applicants have amended their relief and have filed their supplementary affidavit before the Equality Collective files its application. This would avoid any potential duplication of submissions and evidence.

25
1998 - 2023
CENTRE FOR CHILD LAW
FACULTY OF LAW, UNIVERSITY OF PRETORIA
Tel +27 12 420 4502
Address Law Building (Room 4-31)
University of Pretoria,
Pretoria, 0002
Email centreforchildlaw@up.ac.za Web www.centreforchildlaw.co.za

19. We accordingly request your agreement to an extension of the time periods provided in Rule 16A, allowing the Equality Collective a period of 20 days to file its application, calculated from the date on which the Applicants file their supplemented and amended papers.

20. Should your clients consent to the Equality Collective's admission as an *amicus*, on these terms, please confirm your consent in writing to Ms Karabo Ozah at karabo.ozah@up.ac.za by 6 August 2025.



Yours faithfully

_____

Karabo Ozah (Ms)

Director

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

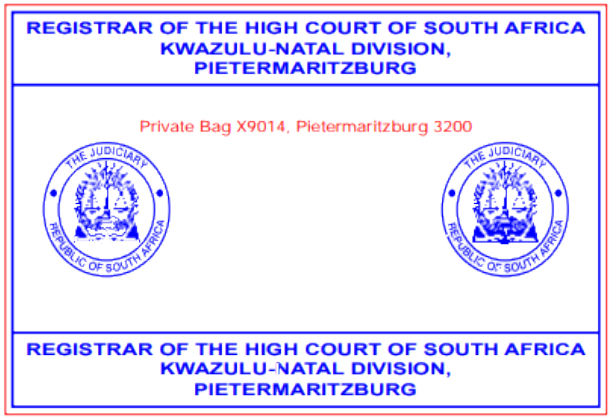
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Annexure 12

NOTE: **This document was filed electronically by the Registrar on 11/12/2025 at 11:33:17 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

LEGAL RESOURCES CENTRE

DURBAN OFFICE
1st Floor, CBI Building,
635 Peter Mokaba Road,
Overport, Durban, 4001

Tel: +27 31 301 7572
Fax: +27 31 304 2823

Info@lrc.org.za

4 August 2025

CENTRE FOR CHILD LAW

Law building (Room 4-31)

University of Pretoria,

Pretoria,

0002

Per email: karabo.ozah@up.ac.za



THE FIRST TO NINTH RESPONDENTS

State Attorney (KwaZulu-Natal)

6th Floor MetLife Building

391 Anton Lembede Street

Durban

Per e-mail: HSmal@justice.gov.za

c/o State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

Dear Sir/ Madam

RE: REQUEST FOR CONSENT TO BE ADMITTED AS AMICUS CURIAE: FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM AND OTHERS

// MEC FOR EDUCATION: KWAZULU-NATAL AND OTHERS (CASE NO: 2025-067855)

1. We refer to your letter dated 31 July 2025 and have considered its contents.

2. We have liaised with our clients and consent to the Equality Collective's admission as an *amicus curiae*.

3. In addition, we are in agreement with your request to an extension of the time periods provided in Rule 16A.



Yours Faithfully,



SHENIECE LINDERBOOM

ATTORNEY

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

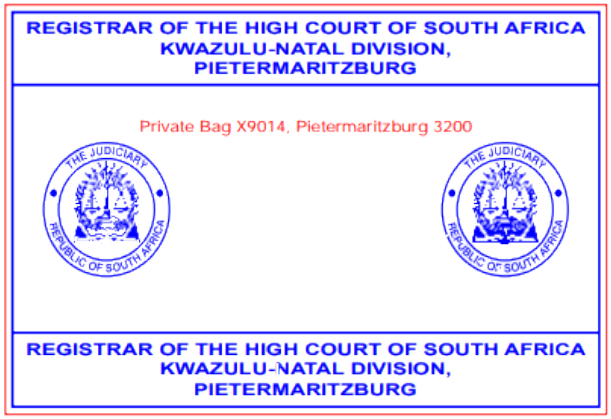
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Proof of Service

NOTE: **This document was filed electronically by the Registrar on 11/12/2025 at 11:43:34 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

11/12/2025-11:43:34 AM

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Tshegofatso Mothapo <tshegofatso.mothapo@up.ac.za>

Application to be admitted as Amicus Curiae in Friends of ECD v MEC for Education Case No 2025-06755

Karabo Ozah <karabo.ozah@up.ac.za> 24 October 2025 at 16:37
To: Sheniece Linderboom <sheniece@lrc.org.za>, HSmal@justice.gov.za, Tshegofatso Mothapo <u12277917@up.ac.za>

Dear All

We trust you are well.

Please find attached hereto our client's application to be admitted as amicus curiae in the aforementioned matter.

Service on the correspondents and filing on Court Online will be effected early next week.

Kindly confirm receipt of this email.

Kind regards

Karabo

https://drive.google.com/file/d/1Kbiq8ISBX8IUyCKfVW_Ou0eVzAGzVAED/view?usp=sharing

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

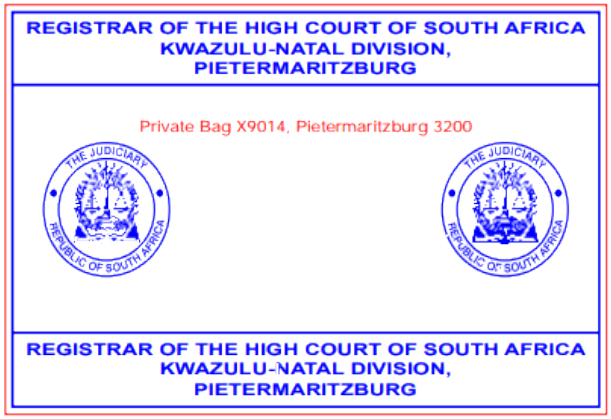
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Expert Reports

NOTE: **This document was filed electronically by the Registrar on 11/12/2025 at 11:38:24 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

EQUALITY COLLECTIVE NPC	Applicant *Amicus Curiae*

In the matter between:

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

and

MEC FOR EDUCTION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent

1

MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent
MINISTER OF SOCIAL DEVELOPMENT	Seventh Respondent
MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS	Eighth Respondent

EXPERT AFFIDAVIT OF CONRAD BARBERTON



I, the undersigned,

CONRAD BARBERTON

State under oath:

1. I am an adult male practitioner employed as Senior Economist at Cornerstone Economic Research, with offices situated at 56 Buffels Road Rietondale Pretoria 0084.

2. The facts deposed to in this affidavit are true and correct, and save where the context indicates otherwise, are within my personal knowledge.

1 INTRODUCTION

3. I hold a Masters degree in Economics, and I have over 26 years' experience in the design, analysis and evaluation of early childhood development (ECD) policy and public finance frameworks. A copy of my CV is annexed marked "**CB1**".

2

4. Given my qualifications and experience, I submit that I am duly qualified to express an expert opinion on the matters addressed in this affidavit.

5. Where I have based my opinions on journal articles, book chapters, reports, studies and other documents referenced in this affidavit, I confirm the reliability of these materials based on my own experience and training and further confirm that they are written by persons of established repute, proven experience in the field, or evident knowledge of the matters they address. A bundle of the relevant extracts from these materials will be filed together with this affidavit.



6. I have been requested by the Equality Collective NPC (Equality Collective) to provide an expert affidavit pertaining to the subsidisation of ECD programmes in South Africa and in particular KwaZulu-Natal. This affidavit is prepared for the purpose of the Equality Collective's intended application for admission as amicus curiae in these proceedings.

7. In this affidavit, I will address the following in turn:

Section 2 - Details of who in Government is responsible for the ECD function and its funding

Section 3 - Outlines the purpose and policy objectives of the ECD subsidy

Section 4 - Gives an overview of the ECD Conditional Grant;

Section 5 - Summarise provincial spending on ECD and assesses its equity

3

Section 6 - Presents key findings regarding the funding and management of ECD programmes in KwaZulu-Natal.

8. In preparing this affidavit, I have relied upon official policy documents, the Division of Revenue Acts from 2017 onwards, the National Integrated Early Childhood Development Policy of 2015 (NIECDP), the ECD Conditional Grant Frameworks, and related guidance issued by National Treasury, the Department of Basic Education and provincial education departments.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

9. In summary, this affidavit highlights that provinces are primarily responsible for funding ECD programmes, and that the level of funding they allocate from own funds does not meet the demand. Therefore, national government introduced an ECD Conditional Grant in 2017 to channel funds towards ECD. Substantial additional funds were added to the grant in the 2025 Budget. Nevertheless, the ECD subsidies remain underfunded and not distributed across provinces according to need. In addition, there are significant challenges with the administration of the ECD subsidies by certain provincial education departments.

10. KwaZulu-Natal in particular continues to fund ECD at levels significantly below the national average per poor child for ECD, while provinces like Free State and the Western Cape prioritise spending on ECD. The failure of KwaZulu-Natal to prioritise funding for ECD further entrenches inequality and frustrates the realisation of children's rights. Further, the KwaZulu-Natal provincial education department does not follow the national guidance regarding the value, allocation and administration

of ECD subsidies, but continues to implement a number of bad practices in the management of ECD subsidies.

11. The persistent challenges highlight the need for national funding norms, structured around post- and programme-based support. Implementing proper national funding norms, as is found in the education sector for public schools, is a major systemic reform that is necessary to move us towards the NIECDP's envisioned funding model and the realisation of young children's rights.



2 RESPONSIBILITY FOR THE ECD FUNCTION AND ITS FUNDING

12. The Constitution of the Republic of South Africa, 1996 (the Constitution) lists "education at all levels, excluding tertiary education" in Part A of Schedule 4. This Schedule identifies "functional areas of concurrent national and provincial legislative competence."

13. In the case of Schedule 4 concurrent functions, the practice is that national government is responsible for setting policy and exercising broad oversight of service delivery, while the provinces are primarily responsible for funding and delivering the services. This is recognised in the annual Division of Revenue Act which, among other things, seeks to ensure that the provinces are allocated an equitable share of nationally collected revenue to enable them *"to provide basic services and perform the functions allocated to them*".[1]

---

1 Section 214(2)(d) of the Constitution.

14. Provinces are therefore required to budget for the delivery of pre-school, primary and secondary education services, including centre-based and non-centre based ECD programmes. They are also responsible for ensuring the effective management and delivery of these programmes.

15. In addition to setting policy, national government has an obligation in terms of section 100 of the Constitution to monitor and oversee the provinces, and it may intervene when a province cannot or does not fulfil an executive obligation in terms of the Constitution or legislation. So, if provinces fail to budget adequately or fail to manage the delivery of ECD programmes properly, the national government may intervene by issuing directives or assuming responsibility to, among other things, maintain essential national standards or meet established minimum standards for the rendering of the service.[2]



2.1 Part of the social development sector until the function shift in 2022

16. In the mid-1990's, certain provincial departments of health/welfare (as they were then known) started paying subsidies to community-based ECD sites. The intent behind these per child per day grants was to subsidise child care for children of working parents to enable them to leave their children in care while at work.

17. Between 1997 and 1999, the Department of Education ran the National Early Childhood Development Pilot Project to explore different modes of delivering ECD programmes, and specifically Grade R. The findings of this Pilot fed into the

---

2 Section 100(1) of the Constitution.

Education White Paper 5 on Early Childhood Education (2001), which committed the Department of Education (with the provincial education departments) to providing a "combination of poverty-targeted subsidies to places in the Reception Year in public schools, managed by school governing bodies [and] the continued subsidisation of some community-based sites."[3]

18. The Children's Act, 2005 then legislated the government's policy relating to partial care[4] and ECD programmes[5] for children up to school going age. Section 92 required the Minister of Social Development[6] to develop "a comprehensive national

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

3 Paragraph 6.1.8 in the *Education White Paper 5 on Early Childhood Education (2001)*.

4 Section 76 of the Children's Act, 2005 (Act No. 38 of 2005) provides that "Partial care is provided when a person, whether for or without reward, takes care of more than six children on behalf of their parents or care-givers during specific hours of the day or night, or for a temporary period, by agreement between the parents or care-givers and the provider of the service, but excludes the care of a child— (a) by a school as part of tuition, training and other activities provided by the school; (b) as a boarder in a school hostel or other residential facility managed as part of a school; or (c) by a hospital or other medical facility as part of medical treatment provided to the child." However, in 2024 the Minister of Basic Education published in Government Gazette No. 50648 a draft Children's Act Amendment Bill, which proposes adding a fourth category to the exclusions, namely "(d) at an early childhood development programme as contemplated in section 91."

5 Section 91(3) of the Children's Act, 2005 (Act No. 38 of 2005) An early childhood development programme means a programme structured within an early childhood development service to provide learning and support appropriate to the child's developmental age and stage. However, in 2024 the Minister of Basic Education published in Government Gazette No. 50648 a draft Children's Act Amendment Bill, which proposes amending this definition to read "An early childhood development programme is any type of programme, as prescribed, that provides one or more forms of care, development, early learning opportunities and support to children from birth to school going age.

6 In May 2024, the Minister of Basic Education published in Government Gazette No. 50648 a draft Children's Act Amendment Bill allocates this responsibility to the Minister of Basic Education in line with the shift of the ECD function from the social development sector to the education sector.

7

strategy aimed at securing a properly resourced, coordinated and managed early childhood development system, giving due consideration ... to children with disabilities or chronic illnesses".[7]

19. Similarly, the MEC for social development[8] in each province is required to develop "a provincial strategy aimed at a properly resourced, co-ordinated and managed early childhood development system."[9] There are also similar provisions relating to the planning of partial care facilities and services.[10] Furthermore, the Children's Act 2005 provides that the MECs for social development[11] may use budgeted funds to provide and fund partial care facilities and services,[12] as well as ECD programmes.[13]



20. In 2010, the *National Development Plan 2030: Our Future-make it work* (NDP) highlighted the importance of ECD for harnessing the inherent potential of each child, improving the effectiveness of education and building a productive workforce, and committed the Government to delivering universal access to ECD programmes

---

7 Section 92(1) of the Children's Act, 2005 (Act No. 38 of 2005).

8 In May 2024, the Minister of Basic Education published in Government Gazette No. 50648 a draft Children's Act Amendment Bill allocates this responsibility to the MECs for education in line with the shift of the ECD function from the social development sector to the education sector.

8 Section 92(1) of the Children's Act, 2005 (Act No. 38 of 2005).

9 Section 92(2) of the Children's Act, 2005 (Act No. 38 of 2005).

10 Section 77 of the Children's Act, 2005 (Act No. 38 of 2005).

11 In May 2024, the Minister of Basic Education published in Government Gazette No. 50648 a draft Children's Act Amendment Bill allocates this responsibility to the MECs for education in line with the shift of the ECD function from the social development sector to the education sector.

12 Section 78 of the Children's Act, 2005 (Act No. 38 of 2005).

13 Section 93 of the Children's Act, 2005 (Act No. 38 of 2005).

8

by 2030.[14] In addition, the NDP recommended that the responsibility for leading ECD should be shifted from the social development sector to education:

> There should be a policy and programme shift to ensure that the Department of Basic Education takes the core responsibility for the provision and monitoring of ECD.[15]

21. Initially this recommendation was not acted on. In 2015, Cabinet approved the NIECDP which simply restated the prevailing allocation of responsibilities across departments, namely that:



> The Department of Basic Education is primarily responsible for implementation of curriculum development, support and training, and the roll out of the Reception Year (Grade R), while the Department of Social Development is largely responsible for financing, monitoring and overall oversight of early childhood development programmes for infants and young children from birth until the year before they enter school.

22. Then in 2017, the ANC resolved at its 54th National Conference that there should be a "systematic relocation of the responsibility for Early Childhood Development (ECD) from the Department of Social Development to the Department of Basic Education."[16] In February 2019, the President announced in his *State of the Nation Address* that the function shift would proceed. Government formed an Inter-Ministerial Committee and a project management team supported by various workstreams to plan and implement the function shift. A significant concern was to

---

14 National Development Plan 2030, 2010:300

15 National Development Plan 2030, 2010:302

16 Report of the 54th National Conference of the ANC, 2017:37

ensure continuity in the registration and funding of ECD programmes when the transfer took place. The shift involved transferring budgets, staff, infrastructure, databases and processes. Across provinces 613 Department of Social Development posts, 79 conditional grant posts and R3.3 billion in the provincial budgets were transferred from the provincial departments of social development to the provincial education departments.[17] The official shift of the ECD function took place on 1 April 2022.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

23. Just before the April 2022 shift, the DBE stated the move would systematize ECD by:

23.1 Integrating ECD into education systems: Using the EMIS[18] for better planning, support, and communication.

23.2 Leveraging existing expertise: Applying knowledge from school nutrition and health programmes.

23.3 Improving resource provisioning: Supplying teacher guides, toys, learning materials, and playground equipment.

[17] Update on the Early Childhood Development Function Shift, presentation to the Joint Portfolio Committee for Basic Education and Social Development on 25 August 2021.

[18] EMIS stands for Educational Management Information System – an integrated information system administered by the DBE.

10

23.4 Strengthening programme quality: Enhancing nutrition support and practitioners' implementation of Learning Through Play/Nurturing Care. [19]

2.2 Current allocation of roles and responsibilities in relation to ECD

24. Following the function shift in 2022, the division of roles and responsibilities with regards to planning, funding and managing ECD is as follows:

24.1 ***National government***, acting through the Minister of Basic Education and the Department of Basic Education, is responsible for:



24.1.1 providing leadership to the education sector, which includes developing strategies for the ECD system to address access to and the quality of partial care facilities and services and ECD programmes;

24.1.2 developing national norms and standards, frameworks and national policies related to ECD partial care facilities and services and ECD programmes;

24.1.3 representing the education sector in the division of revenue and national budget processes and making credible bids for additional allocations to fund ECD partial care facilities and services and ECD

[19] Update on the Early Childhood Development Function Shift, presentation to the Joint Portfolio Committee for Basic Education and Social Development on 25 August 2021.

programmes through the provincial equitable share or through conditional grants;

24.1.4 building the capacity of the provincial education departments to fulfil their responsibilities with regard to the planning, provision of ECD infrastructure and maintenance support;

24.1.5 managing and exercising oversight of the use of any conditional grants for funding ECD in accordance with the requirements of the annual Division of Revenue Act;



24.1.6 monitoring provincial education departments' compliance with the norms and standards, frameworks and national policies; and

24.1.7 if necessary, intervening in provinces when they fail to fulfil an executive obligation, such as failure to implement a national policy or national norms and standards related to ECD.

24.2 Provincial governments, acting through their respective MECs for Education and provincial education departments, are responsible for:

24.2.1 analysing the demand for and planning the provision and funding of partial care facilities and services and ECD programmes;



24.2.2 representing the education sector in the provincial budget processes and making credible bids for budgets to fund partial care facilities and services and ECD programmes;

24.2.3 managing the registration of partial care facilities (ECD centres) and ECD programmes (which includes non-centre based ECD programmes), and exercising oversight of the quality of service delivery;



24.2.4 providing training, mentoring and support to ECD practitioners and ECD programmes to improve the quality of services;

24.2.5 funding the provision of partial care facilities and services and ECD programmes, including the disbursement of ECD subsidies;

24.2.6 managing the spending of conditional grants from national government for funding the provision of ECD in accordance with the requirements of the annual Division of Revenue Act; and

24.2.7 reporting to the Department of Basic Education on specified matters related to ECD.

2.3 The role of municipalities with regards to ECD

25. The Children's Act, 2005 provides for the possibility of provinces assigning their responsibilities in relation to partial care and ECD programmes to municipalities.

However, no provinces have done so, and it is unlikely to happen in the medium term given the recent transfer of the ECD function to the education sector.

26. I understand that the role of municipalities is not the focus of these proceedings and I therefore do not deal with it further in this affidavit.

3 PURPOSE AND DESIGN OF PUBLIC FUNDING OF ECD SUBSIDIES

27. The 2010 Public Expenditure Tracking Survey found that government subsidies cover about 43% of an ECD centre's costs, parent fees cover 41% and external funding, from funders, corporate social responsibility and community initiatives, covers the remaining 16%.[20] At the time, the value of ECD subsidies varied across provinces from R9 to R12 per child per day.[21] Since then, the value of ECD subsidies has increased (more detail is provided below), consequently public funds are becoming a very significant source of income for non-government entities offering ECD programmes.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

28. According to the NIECDP, the objective of Government funding ECD services is to "ensure universal availability of, and equitable access to, the comprehensive quality early childhood development programmes and services, with prioritisation of the identified essential components thereof, especially for low-income families that

20 A 2009 Public Expenditure Tracking Survey (PETS) held in three provinces in more than 300 public schools offering Grade R, more than 300 community-based ECD facilities registered with the DSD, and 90 unregistered community-based ECD facilities.

21 Various provincial budget statements.

cannot afford user fees."[22] The NIECD goes on to note that the proposed funding model aims to:

28.1 Expand coverage of services;

28.2 Ensure that poorer children and children with developmental difficulties and/or disabilities are not excluded because of the cost of services; and

28.3 Improve the quality of service provision.[23]



3.1 The two sources of public funding for ECD subsidies

29. Until 2017, ECD subsidies were exclusively funded from provinces' own funds through provincial budgets; there being no dedicated national conditional grant in place. Most provincial revenue comes from the provincial equitable share (PES), which is an unconditional transfer in terms of the annual Division of Revenue Act. Officials often described ECD subsidies as "PES-funded". This is misleading: the PES is not earmarked for ECD, provinces also raise some of their own revenues (though small), and each province has complete discretion in determining their own budgets for ECD. The result was that ECD funding varied widely across provinces.

22 NIECDP, 2015:95.

23 NIECDP, 2015:95.

30. Prior to 2017, national government, on several occasions,[24] allocated additional funds to the PES for ECD, but because provinces draft their own budgets some chose not to allocate the full amount to ECD, but rather diverted some of it to other uses. This is despite the "soft earmarking" of these funds and "gentleman's agreements" in the division of revenue discussions to allocate the funds to ECD.

31. Then in 2017, the national government introduced the ECD Conditional Grant, a ringfenced grant, to fund ECD infrastructure and ECD subsidies. A key rationale for the grant was to ensure that provinces could not divert new funds allocated to ECD to other uses and to introduce improvements in the targeting and administration of ECD subsidies. Importantly, a key condition of the ECD Conditional Grant is that provinces may not reduce their budget allocations to ECD funded from provincial own funds. In other words, provinces could not "offset" the new grant by reducing their own budgets for ECD.



32. Accordingly, ECD subsidies are funded from provincial own funds *and* the ECD Conditional Grant. Both amounts are reflected on Programme 5: Early Childhood Development of the budget Votes of provincial education departments.

---

24 In the 2012 Budget Review, National Treasury indicated that R1.4 billion had been allocated over the 2012/13 MTEF to fund ECD. However, subsequent analysis of provincial budgets indicated that certain provinces did not allocate these funds to fund ECD.

33. I pause to emphasise that provinces remain responsible for paying subsidies to qualifying ECD programmes. The ECD Conditional Grant increases the pool of funds available for provinces.

3.2 ECD subsidy amounts

34. When ECD subsidies were first introduced in the mid-1990's their value ranged from 50c to R2 per child per day, typically for 200 days per year, depending on the province. Since then, the value of ECD subsidies has increased periodically. In 2012, the Minister of Social Development announced a target of equalising the subsidy at R15 per child per day across all provinces and extending coverage to 264 days per year.[25] However, in the absence of national ECD funding norms provinces continued to structure the ECD subsidies as they chose. In 2016, provinces allocated between R15-R17 per child per day and the number of days covered varied across provinces from 200 to 264 days.[26]

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

35. When the ECD Conditional Grant was first introduced in the 2017 Division of Revenue Bill, it carried forward the existing recommended subsidy rate of R15 per child per day set in 2012 and left it to provinces to decide on the number of days. In 2018, the ECD Conditional Grant fixed the number of days at 264. In 2020, the grant

25 https://www.gov.za/news/speeches/budget-vote-speech-minister-social-development-ms-bathabile-dlamini-national-0

26 Various provincial budget statements.

value for centre-based ECD increased to R17 per day, and a subsidy of R6 per day was introduced for registered non-centre based ECD programmes.

36. The 2025/26 ECD Conditional Grant: Subsidy Component describes the ECD subsidy value as follows:

36.1 The value of the subsidy paid to each centre-based ECD programme is R17 multiplied by the number of days (264), multiplied by the number of qualifying children attending the centre-based ECD programme as agreed to in the SLA;



36.2 The value of the subsidy paid to each registered non-centre-based ECD programme is R6 multiplied by the number of sessions, multiplied by the number of qualifying children attending as agreed to in the SLA.

36.3 The full value of the subsidy will be paid in equal parts in line with the SLA and any changes to the payment schedule must be aligned to a determination of non-compliance as defined in the SLA.

37. However, the Minister of Finance announced an increase to R24 in his 2025 Budget Speech,[27] and subsequent communication from the Department of Basic Education confirms that the subsidy amounts have increased to R24 and R9 for centre-based and non-centre based ECD respectively.

27 https://www.treasury.gov.za/documents/National%20Budget/2025Mar/speech/speech.pdf

38. Since the introduction of the ECD Conditional Grant, provinces have been urged to align their ECD subsidies funded from provincial own funds to the funding norms set out in the ECD Conditional Grant – some did, others did not. Consequently, the ECD subsidy amounts continue to vary across provinces, and could even vary within a province, depending on whether an ECD centre is allocated a subsidy funded from the conditional grant or from provincial own funds.

39. In addition to the varying subsidies, the following issues remain present:

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

39.1 children attending ECD centres only qualify for the subsidy if they meet a means test. The means tests are applied differently across provinces.

39.2 In certain provinces the subsidy is only paid in respect of children aged 0-4 years attending a registered ECD centre. In such instances, five-year old children fall through the funding gap as they are still too young to attend Grade R.

39.3 There continues to be no special subsidies for children with disabilities and no provision is made for children who might need to remain in ECD centres for longer for a range of reasons.

4 OVERVIEW OF THE ECD CONDITIONAL GRANT

40. As explained above, the national Government introduced an ECD Conditional Grant in 2017. These conditional allocations to provinces are specified in Part A of Schedule 4 of the annual Division of Revenue Act, and the ECD Conditional Grant

Frameworks that set out the conditions governing the use of the funds are first published with the annual Division of Revenue Bill, before being published in the Government Gazette when the annual Division of Revenue Act is passed.

41. The ECD Conditional Grant comprises two distinct components:

41.1 **Subsidy Component:** This component funds an operational subsidy paid to registered centre and non-centre-based ECD programmes. For ECD centres the rate is R24 per capita per day over a standard 264-day year, paid in quarterly instalments once Service Level Agreements (SLA)[28] are in place. R9 per capita per session is paid to non-centre-based models (such as mobile or outreach programmes) under similar SLA conditions. This subsidy is intended primarily to ensure that programmes can cover the cost of food, ECD practitioner stipends, learning materials and basic overheads. The subsidy provides a financial incentive to encourage providers to maintain minimum registration, health and safety standards and to prioritise children from low-income households.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

41.2 **Infrastructure Component:** This component is a capital-oriented allocation designed to strengthen the physical environment in which ECD programmes are delivered. It supports maintenance, repair, upgrading and, where necessary, new low-cost centre construction in line with provincial business plans.

---

28 In some provinces these are referred to as Transfer Payment Agreements (TPAs)

42. By separating operational funding from infrastructure financing, the Government aims to sustain day-to-day delivery of early learning and to address medium-term capital deficits, thereby improving quality, expanding capacity and reducing health and safety risks in ECD settings.

4.1 Roles and payment mechanics

43. The 2025 ECD Conditional Grant Framework sharpened the timing and reporting obligations for all spheres of government involved in administering the ECD Conditional Grant by prescribing more precise submission dates and shorter turnaround times. It aims to strengthen financial discipline, improve transparency and ensure that grant performance can be monitored in near-real time.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

4.1.1 The role of the Treasury

44. National Treasury acts as the gatekeeper for both the design and the integrity of the ECD Conditional Grant. It must approve each year's draft grant framework, including allocation criteria, business-plan templates and payment schedules before it is published. Should a transferring officer (i.e. the Director-General of the Department of Basic Education) fail to submit a draft or final framework on time, National Treasury may determine appropriate allocations, subject to consultation and written notice to the relevant department. Throughout the financial year, National Treasury consolidates quarterly financial and non-financial reports from receiving officers (i.e. the HODs of provincial education departments), and has the authority to withhold,

amend or reallocate funds if provinces fail to comply with the approved conditions of the grant.

4.1.2 The role of the Department of Basic Education

45. In terms of section 9 of the Division of Revenue Act[29] the accounting officer of the Department of Basic Education is the transferring officer for ECD Conditional Grant. Therefore, in terms of the ECD Conditional Grant Framework, the Department of Basic Education must:

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

45.1 issue a single, standardised business-plan template and accompanying guidelines for both the subsidy and infrastructure components, and it must assess and approve each province's submission;

45.2 once allocations are confirmed, it must review the provincial SLA-templates that set the per-capita rates, payment modalities and compliance conditions for every registered ECD programme;

45.3 to ensure that funding achieves its intended outcomes, the Department also monitors spending and service-delivery performance, consolidates quarterly reports from provincial education departments, and conducts site visits as part of its grant performance oversight.

29 Act No. 24 of 2024

4.1.3 The role of provincial education departments

46. In terms of section 11 of the Division of Revenue Act,[30] the accounting officer of each provincial education is the "receiving officer" in relation to the ECD Conditional Grant, and is therefore responsible for "complying with the applicable conditional grant framework" and "the manner in which the allocation received from the transferring officer is allocated and spent"[31] The provincial education department is therefore responsible for managing how ECD subsidies are paid to qualifying ECD programmes. I will explain below how these disbursements take place.



4.1.4 Criteria for allocating the grant funds across provinces

47. The allocation criteria for the ECD Conditional Grant: Infrastructure Component is stated as follows:

47.1 The provincial infrastructure allocations are determined based on:

47.1.1 a base allocation for the construction of at least one low cost ECD;

47.1.2 the allocation of the balance is based on the ECD census data.

48. The Framework does not specify what the cost of a "low cost ECD" is. In addition, the second criterion favours provinces that have registered more ECD centres that are providing services to poor children.

30 Act No. 24 of 2024

31 See section 11(1) of the Division of Revenue Act, Act No. 24 of 2024.

49. The allocation criteria for the ECD Conditional Grant: Subsidy Component is stated as follows:

49.1 The provincial subsidy allocations are determined based on the gap between:

49.1.1 the number of poor children that should be accessing ECD subsidy;

49.1.2 the number of poor children currently accessing the ECD subsidy.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

50. So, the allocation of the funds is based on the proportional distribution of the "gap" across provinces, where the "gap" refers to the number of "poor children" that are not benefiting from ECD subsidies. This approach seeks to channel funds to those provinces where the gap is greatest, thus ensuring that funding follows unmet need.

50.1 The term "poor children" is not defined in the Framework. It ought to be the same definition used for the targeting of the ECD subsidy, namely, "*the income of parents or caregivers may not exceed the means test values applied for the receipt of the child support grant for a single parent and married parents*." According to SASSA, the means tests for 2025 for the child support grant[32] is:

50.1.1 Single parent / caregiver: annual income less R 67 200 (or R5 600 per month).

32 SASSA, You and Your Grants 2025/26:6

50.1.2 Married couple: combined annual income less than R134 400 (or R11 200 per month).

50.2 The method for determining the number of "*children that should be accessing [the] ECD subsidy*" is also not defined.

50.3 The source of the information on "*the number of poor children currently accessing the ECD subsidy*" is also not provided.



4.2 Conditions governing the use of ECD Conditional Grant funds

4.2.1 General grant conditions

51. According to the 2025 ECD Conditional Grant Framework, provinces must observe the following general conditions before any funds may be released, over and above the specific subsidy and infrastructure-component rules:

51.1 Conditional grant funding must be strictly additional to, and may not replace, any provincial own-revenue or equitable-share allocations for ECD subsidies. Provinces remain obliged to maintain their existing funding levels for ECD from their own budgets.

51.2 Of the total ECD Conditional Grant allocation (subsidy plus infrastructure), each province may allocate up to R 6 million for grant administration, including staffing, systems development and centre assessments. Any

administration expenditure above this cap requires prior written approval from the Department of Basic Education.

51.3 All staff employed using funds from the ECD Conditional Grant must be employed on contracts of no less than three years' duration or on a permanent basis. This ensures continuity in planning, implementation and financial management.

51.4 Provinces that fail to comply with any of the grant conditions risk having their transfers withheld or suspended in-year, until corrective action plans are in place.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

4.2.2 Specific conditions for the Subsidy Component

52. When using the funds allocated through the Subsidy Component, provinces and provincial education departments specifically must adhere to the following conditions:

52.1 Only fully and conditionally registered ECD programmes (centre and non-centre-based) are eligible for the subsidy.

52.2 The subsidy is targeted at children from birth until the year before children enter formal school or in the case of children with developmental difficulties and disabilities, until the year before the calendar year they turn six, which marks the age of compulsory schooling or special education.

26

52.3 The provincial education departments and ECD programmes will enter into SLAs which stipulate the purpose of the subsidy, the amount of the subsidy, conditions of the subsidy and obligations of both provincial education departments and ECD programmes with regard to the payment of the subsidy, compliance to funding and the reporting requirements.

52.4 The value of the subsidy paid to each centre-based ECD programme is R24 multiplied by the number of days (264), multiplied by the number of qualifying children attending the centre-based ECD programme as agreed to in the SLA.



52.5 The value of the subsidy paid to each registered non-centre-based ECD programme is R9 multiplied by the number of sessions, multiplied by the number of qualifying children attending as agreed to in the SLA.

52.6 The full value of the subsidy will be paid in equal parts in line with the SLA and any changes to the payment schedule must be aligned to a determination of non-compliance as defined in the SLA.

52.7 Once funds are transferred to an ECD programme, the department may not pre-approve how the funds are to be utilised other than what is stipulated in the SLA.

52.8 All allocations must be aligned to the number of children as per the SLA and can only be reduced as per the process outlined in the SLA. Allocations must not be changed in-year, based on how many children attend.

52.9 The subsidy must target qualifying children in centre and non-centre-based programmes in line with the process set out below:

52.9.1 eligible programmes in designated priority municipal wards are to be targeted for full subsidy funding up to the total confirmed enrolment of the programme. These programmes will not be subject to any individual income-based means test.

52.9.2 eligible programmes which provide proof that 80 per cent or more enrolled children meet the income-based means test described below, are to be prioritised for full subsidy funding up to the total confirmed enrolment.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

52.9.3 eligible programmes not in designated wards, where less than 80 per cent of enrolled children meet the income-based means test, will be funded on a per child basis.

52.9.4 a child is eligible to be subsidised if his/her parents' income falls below the following prescribed test:

52.10 Income-based means test:

52.10.1 Income of parents or caregivers may not exceed the means test values applied for the receipt of the child support grant for a single parent and married parents as gazetted by the national

Department of Social Development in 2023. This is updated each year with an increase in the grant value.

52.10.2 In the case of children receiving a child related social assistance grant; original, reprinted or certified copies of proof of receipt of the child related grant (child support grant or the foster care grant) as issued by the South African Social Security Agency must be submitted.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

52.10.3 In the case of children who are not beneficiaries of a child related grant, proof of income of parents (or caregivers), three months bank statements of parents or guardians and an affidavit declaring status of income must all be submitted.

4.2.3 Specific conditions for the Infrastructure Component

53. When using the funds allocated through the Infrastructure Component, provinces and provincial education departments specifically must adhere to the following conditions:

53.1 Submit approved business plans, signed off by the Head of Department, by the date specified in the annual timetable issued by the Department of Basic Education.

29

53.2 Implement infrastructure projects strictly in line with the guidelines issued by the Department of Basic Education, selecting only eligible sites, conducting requisite assessments and signing SLAs with implementing units.

53.3 Record all maintenance, upgrade and construction projects in the national infrastructure reporting model and update it monthly.

53.4 Observe the per-centre spending caps:



53.4.1 R500,000 maximum for maintenance/improvement at conditionally registered centres;

53.4.2 R3 million maximum for the construction of new ECD centres, inclusive of all costs.

4.3 Grant conditions on service providers

54. According to the 2025 ECD Conditional Grant Framework, every service provider wishing to access subsidy funds must first be formally registered with the provincial education department, either as a "fully registered" or "conditionally registered" ECD programme. To be eligible for the ECD subsidy the service provider must be serving children from birth until the year before they enter Grade R (or, in the case of children with developmental difficulties, until the calendar year before they turn six).

55. Once a subsidy allocation is confirmed, the provider and the provincial education department enter into a legally binding SLA which defines the exact subsidy quantum, the payment schedule, and clear compliance and reporting obligations.

56. In terms of these SLAs, providers must maintain accurate attendance records, report quarterly on both the children subsidised and the total attendance in their programme and apply the funds solely to the purposes stipulated in the SLA. Any reduction in subsidy, or alteration of the payment timetable, may occur only in the event of non-compliance as explicitly defined in the SLA. Once the SLA is signed and funds are transferred to an ECD programme, the department may not [illegible] approve how the funds are to be utilised other than what is stipulated in the SLA.



57. Accountability for subsidy funds remains anchored in the SLA framework. Once quarterly instalments are transferred into a provider's designated bank account, the provider retains discretion over how to allocate funds within the agreed budget lines[33] so long as they comply with the health, safety and registration conditions. Provincial education departments monitor compliance primarily through quarterly financial and performance reports, periodic site visits and random audits. In cases of non-compliance, such as under-reporting attendance, failure to meet registration

---

33 In 2023 the Department of Basic Education issued ***A guideline to support the administration of the Early Childhood Development Subsidy*** where it is noted that "The ECD subsidy is typically divided into a 40:40:20 expenditure ratio, which means that ECD programmes must spend 40% of the subsidy on food, 40% on salaries, and 20% on learning materials and other operating costs, such as rent, utilities, office supplies, maintenance, and repairs, etc." However, this is a guidance document so provincial education departments can specify different percentages. For instance, some require a 50:30:20 ratio for food, salaries and learning materials.

requirements or misuse of funds, the SLA allows for proportional withholding or suspension of future instalments until corrective measures are taken.

5 PROVINCIAL SPENDING ON ECD

58. As noted above, provinces are responsible for budgeting for the provision of ECD programmes. Since 2022 these budgets are in the Education Vote - Programme 5: Early Childhood Development. The following table sets out the typical subprogrammes.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Table 1 Programme 5: Early Childhood Development

Subprogramme	Description
Grade R in Public Schools	to provide specific public funding to support the provisioning of Grade R classes within public schools, covering educator salaries, learning materials, and related resources.
Grade R in Early Childhood Development Centres	to support Grade R education in registered ECD centres outside the formal public school system, including subsidies for enrolment and operational costs.
Pre-Grade R in Early Childhood Development Centres	to support pre-Grade R education in registered ECD centres outside the formal public school system, including subsidies for enrolment and operational costs. This is funded from the provinces own funds (PES).
Pre-Grade R Training	to fund the training and development of practitioners who teach children younger than Grade R, supporting foundational education at an early age.
Human Resource Development	to provide training, development, and capacity-building initiatives aimed at improving the competencies and qualifications of ECD educators and staff.
Conditional Grants	reflects allocations for ECD Conditional Grant.

59. Provinces are using different subprogramme names and not using a uniform approach to capturing budget and expenditure data; which makes consolidating provincial information for ECD difficult. This is something that the Department of Basic Education, working with National Treasury, should standardise, and oversee compliance. The remainder of the analysis uses the data published by the National

Treasury relating to the 2025 Budget and MTEF. It includes the R10 billion that national Government allocated to ECD over the 2025 MTEF.

60. The following table shows total provincial expenditures and budgets for ECD subprogrammes for the period 2022/23 to 2027/28. The focus of the analysis is on the highlighted pre-grade R spending.

Table 2: ECD subprogrammes - all provinces (2025 MTEF)

R'thousand	2022/23 Audited outcome	2023/24 Audited outcome	2024/25 Main appropriatio	2024/25 Adjusted appropriatio	2024/25 Revised estimate	2025/26 Revised baseline	2026/27 Revised baseline	2027/28 Planning baseline	2022 - 2027 Trendline
Grade R in Public Schools	5 320 831	5 831 210	6 262 014	6 364 376	6 381 950	6 729 845	6 968 863	7 276 675	
Grade R in Early Childhood Development Centre:	228 165	247 010	276 088	274 332	272 463	279 120	296 268	308 211	
Pre-grade R in ECD Centres	1 670 789	1 866 267	2 059 479	1 970 170	1 966 207	2 167 718	2 289 147	2 374 440	
Pre-Grade R training	285 020	350 279	366 144	366 144	365 996	390 300	408 885	427 284	
Human Resource Development	119 375	120 320	157 112	153 191	141 726	179 055	193 041	199 909	
Conditional Grant: Early Childhood Development	1 130 786	1 184 400	1 496 932	1 505 506	1 505 506	1 846 558	1 960 234	2 050 800	
Grand Total	8 754 966	9 599 486	10 617 769	10 633 719	10 633 848	11 592 596	12 116 438	12 637 319	

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

5.1 Total provincial spending on pre-grade R ECD

61. Across all provinces, the provincial allocations (conditional grant plus provincial own funds) to ECD show consistent growth from 2022/23 to 2027/28. The total rises from just over R3.2 billion in 2022/23 to over R5 billion by 2027/28.

Table 3: Total provincial spending on pre-grade R (including conditional grants) (2025 MTEF)

R'thousand	2022/23 Audited outcome	2023/24 Audited outcome	2024/25 Main appropriatio	2024/25 Adjusted appropriatio	2024/25 Revised estimate	2025/26 Revised baseline	2026/27 Revised baseline	2027/28 Planning baseline	2022 - 2027 Trendline
EASTERN CAPE	403 467	448 120	517 294	520 201	514 993	622 884	673 043	704 150	
FREE STATE	287 555	309 991	330 045	325 833	325 843	354 762	368 905	384 945	
GAUTENG	567 327	613 179	772 875	696 078	696 078	881 920	921 921	943 837	
KWAZULU-NATAL	542 099	610 337	698 309	698 309	688 364	779 635	835 349	874 162	
LIMPOPO	476 037	533 812	597 052	596 152	596 152	674 591	706 199	738 037	
MPUMALANGA	283 934	293 347	313 865	313 865	313 865	345 429	380 325	397 473	
NORTH WEST	135 222	188 289	267 313	260 943	260 943	286 294	300 007	314 239	
NORTHERN CAPE	74 012	64 250	79 204	79 204	78 771	88 737	95 388	99 731	
WESTERN CAPE	436 317	459 941	503 710	504 426	504 426	549 379	570 170	595 859	
Grand Total	3 205 970	3 521 266	4 079 667	3 995 011	3 979 435	4 583 631	4 851 307	5 052 433	

62. Gauteng and KwaZulu-Natal allocate the largest amounts to ECD, reflecting the fact that they have the largest number of eligible poor children. Gauteng's allocation rises from R567 million in 2022/23 to R944 million in 2027/28. KwaZulu-Natal grows from R542 million to R874 million over the same period.

5.2 ECD Conditional Grant allocations

63. The budget for the ECD Conditional Grant has been increasing steadily across all provinces over the period 2022/23 to 2026/27. The national total grows from R1.13 billion in 2022/23 to R2.05 billion by 2027/28.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Table 3: ECD Conditional Grant allocation to pre-grade R (2025 MTEF)

R'thousand	2022/23 Audited outcome	2023/24 Audited outcome	2024/25 Main appropriatio	2024/25 Adjusted appropriatio	2024/25 Revised estimate	2025/26 Revised baseline	2026/27 Revised baseline	2027/28 Planning baseline	2022 - 2027 Trendline
EASTERN CAPE	188 818	205 857	268 988	271 895	271 895	330 004	358 245	375 186	
FREE STATE	56 404	60 527	72 758	72 758	72 758	84 890	88 781	92 795	
GAUTENG	230 062	236 772	297 355	297 355	297 355	370 541	387 517	405 037	
KWAZULU-NATAL	187 203	188 526	248 650	248 650	248 650	308 627	342 033	358 648	
LIMPOPO	181 554	173 857	219 902	219 002	219 002	272 782	285 275	298 173	
MPUMALANGA	91 684	99 525	113 864	113 864	113 864	141 329	145 983	152 584	
NORTH WEST	86 496	103 846	136 130	140 260	140 260	164 331	171 858	179 628	
NORTHERN CAPE	19 066	24 799	28 797	28 797	28 797	35 593	39 783	41 625	
WESTERN CAPE	89 499	90 691	110 488	112 925	112 925	138 461	140 759	147 124	
Grand Total	**1 130 786**	**1 184 400**	**1 496 932**	**1 505 506**	**1 505 506**	**1 846 558**	**1 960 234**	**2 050 800**	

R'thousand	2022/23 Audited outcome	2023/24 Audited outcome	2024/25 Main appropriatio	2024/25 Adjusted appropriatio	2024/25 Revised estimate	2025/26 Revised baseline	2026/27 Revised baseline	2027/28 Planning baseline	2022 - 2027 Trendline
EASTERN CAPE	47%	46%	52%	52%	53%	53%	53%	53%	
FREE STATE	20%	20%	22%	22%	22%	24%	24%	24%	
GAUTENG	41%	39%	38%	43%	43%	42%	42%	43%	
KWAZULU-NATAL	35%	31%	36%	36%	36%	40%	41%	41%	
LIMPOPO	38%	33%	37%	37%	37%	40%	40%	40%	
MPUMALANGA	32%	34%	36%	36%	36%	41%	38%	38%	
NORTH WEST	64%	55%	51%	54%	54%	57%	57%	57%	
NORTHERN CAPE	26%	39%	36%	36%	37%	40%	42%	42%	
WESTERN CAPE	21%	20%	22%	22%	22%	25%	25%	25%	
Grand Total	**35%**	**34%**	**37%**	**38%**	**38%**	**40%**	**40%**	**41%**	

64. The share of the ECD Conditional Grant as a percentage of total ECD spending is relatively stable, with a slight upward trend, over time for most provinces. The Western Cape and Free State have the lowest reliance on the Grant, signalling a strong provincial commitment to ECD, because a greater proportion of their ECD budget is funded from provincial own funds. Provinces like Eastern Cape and North West are much more dependent on the national transfer.

65. This entrenched pattern – where certain provinces consistently use more of their own resources while others remain reliant on the Grant – has deep implications for equity, quality, and the ability to scale up ECD programmes across South Africa. It also appears to run counter to the desired outcome of ECD Conditional Grant – that provinces should gradually become less dependent on grant funding as their own budget contributions expand.



5.3 Provincial own funding allocated to ECD

66. As shown in the tables below, provinces vary significantly on the level of provincial own funding allocated to ECD.

Table 5: Provincial own funds spending on pre-grade R (2025 MTEF)

R'thousand	2022/23 Audited outcome	2023/24 Audited outcome	2024/25 Main appropriatio	2024/25 Adjusted appropriatio	2024/25 Revised estimate	2025/26 Revised baseline	2026/27 Revised baseline	2027/28 Planning baseline	2022 - 2027 Trendline
EASTERN CAPE	214 649	242 263	248 306	248 306	243 098	292 880	314 798	328 964	
FREE STATE	231 151	249 464	257 287	253 075	253 085	269 872	280 124	292 150	
GAUTENG	337 265	376 407	475 520	398 723	398 723	511 379	534 404	538 800	
KWAZULU-NATAL	354 896	421 811	449 659	449 659	439 714	471 008	493 316	515 514	
LIMPOPO	294 483	359 955	377 150	377 150	377 150	401 809	420 924	439 864	
MPUMALANGA	192 250	193 822	200 001	200 001	200 001	204 100	234 342	244 889	
NORTH WEST	48 726	84 443	131 183	120 683	120 683	121 963	128 149	134 611	
NORTHERN CAPE	54 946	39 451	50 407	50 407	49 974	53 144	55 605	58 106	
WESTERN CAPE	346 818	369 250	393 222	391 501	391 501	410 918	429 411	448 735	
Grand Total	2 075 184	2 336 866	2 582 735	2 489 505	2 473 929	2 737 073	2 891 073	3 001 633	

R'thousand	2022/23 Audited outcome	2023/24 Audited outcome	2024/25 Main appropriatio	2024/25 Adjusted appropriatio	2024/25 Revised estimate	2025/26 Revised baseline	2026/27 Revised baseline	2027/28 Planning baseline	2022 - 2027 Trendline
EASTERN CAPE	53%	54%	48%	48%	47%	47%	47%	47%	
FREE STATE	80%	80%	78%	78%	78%	76%	76%	76%	
GAUTENG	59%	61%	62%	57%	57%	58%	58%	57%	
KWAZULU-NATAL	65%	69%	64%	64%	64%	60%	59%	59%	
LIMPOPO	62%	67%	63%	63%	63%	60%	60%	60%	
MPUMALANGA	68%	66%	64%	64%	64%	59%	62%	62%	
NORTH WEST	36%	45%	49%	46%	46%	43%	43%	43%	
NORTHERN CAPE	74%	61%	64%	64%	63%	60%	58%	58%	
WESTERN CAPE	79%	80%	78%	78%	78%	75%	75%	75%	
Grand Total	65%	66%	63%	62%	62%	60%	60%	59%	

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

67. The overall trend seen across most provinces from 2022/23 to 2027/28 shows that even though the absolute allocation to ECD from own funds has increased steadily over time, there is a general reduction in the proportion of own funds being used, reflecting a shift toward greater dependence on the ECD Conditional Grant. For instance, KwaZulu-Natal's own fund allocations to pre-grade R has declined from 65% in 2022/23 to a planned 59% in 2027/28.

5.4 Analysis of provinces' per capita allocations to ECD

68. To evaluate the adequacy and equity of province's allocations to ECD, this section analyses the provinces' ECD budgets against the number of children they are intended to serve.

69. The starting point for this analysis is that in terms of the conditions for 2024/25 ECD Conditional Grant: Subsidy Component an ECD centre is entitled to receive an annual ECD subsidy of R4 488 for each eligible child.

70. Table 4 shows the estimated number of children living in poverty in each province, where the poor child population is defined as children living in households with the lowest 40% of household incomes in the 2010/11 Income and Expenditure Survey – which is the definition used by National Treasury when calculating the poverty component of the PES in 2025. Similarly, in terms of the conditions for the ECD Conditional Grant all these children are eligible for the ECD subsidy – although it is unlikely that parents will choose to enrol all of them in ECD programmes, especially children aged 0-2 years.

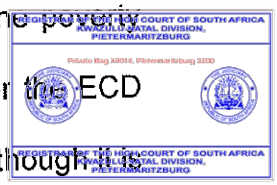


Table 4 Number of children receiving SASSA grants and living in poverty (2025)

	Children living in poverty		
	Total population 0 - 5	% population that is poor	Number of poor 0 - 5
EASTERN CAPE	1 020 292	52,0%	530 552
FREE STATE	369 853	41,4%	153 119
GAUTENG	1 637 433	28,9%	473 218
KWAZULU-NATAL	1 670 793	45,3%	756 869
LIMPOPO	959 882	52,9%	507 778
MPUMALANGA	630 839	47,3%	298 387
NORTH WEST	527 164	40,8%	215 083
NORTHERN CAPE	178 009	47,9%	85 266
WESTERN CAPE	755 206	21,9%	165 390
TOTAL	**7 749 472**	**53,4%**	**3 185 662**

71. Table 5 shows the total provincial spending on pre-grade R ECD (see **Error! Reference source not found.**) divided by the estimated number of poor children 0-

5 years in the province. The lower half of the table shows the percentage each province is above or below the national average.

Table 5 Total per capita ECD budgets for poor children 0-5 years (2025 MTEF)

Rands	2022/23 Audited outcome	2023/24 Audited outcome	2024/25 Main appropriatio	2024/25 Adjusted appropriatio	2024/25 Revised estimate	2025/26 Revised baseline	2026/27 Revised baseline	2027/28 Planning baseline
EASTERN CAPE	760	845	975	980	971	1 174	1 269	1 327
FREE STATE	1 878	2 025	2 155	2 128	2 128	2 317	2 409	2 514
GAUTENG	1 199	1 296	1 633	1 471	1 471	1 864	1 948	1 995
KWAZULU-NATAL	716	806	923	923	909	1 030	1 104	1 155
LIMPOPO	937	1 051	1 176	1 174	1 174	1 329	1 391	1 456
MPUMALANGA	952	983	1 052	1 052	1 052	1 158	1 275	1 332
NORTH WEST	629	875	1 243	1 213	1 213	1 331	1 395	1 461
NORTHERN CAPE	868	754	929	929	924	1 041	1 119	1 170
WESTERN CAPE	2 638	2 781	3 046	3 050	3 050	3 322	3 447	3 606
Average	**1 006**	**1 105**	**1 281**	**1 254**	**1 249**	**1 439**	**1 523**	**1 586**

% deviation from the national	2022/23 Audited outcome	2023/24 Audited outcome	2024/25 Main appropriatio	2024/25 Adjusted appropriatio	2024/25 Revised estimate	2025/26 Revised baseline	2026/27 Revised baseline	2027/28 Planning baseline
EASTERN CAPE	-24%	-24%	-24%	-22%	-22%	-18%	-17%	-16%
FREE STATE	87%	83%	68%	70%	70%	61%	58%	59%
GAUTENG	19%	17%	28%	17%	18%	30%	28%	26%
KWAZULU-NATAL	-29%	-27%	-28%	-26%	-27%	-28%	-28%	-27%
LIMPOPO	-7%	-5%	-8%	-6%	-6%	-8%	-9%	-8%
MPUMALANGA	-5%	-11%	-18%	-16%	-16%	-20%	-16%	-16%
NORTH WEST	-38%	-21%	-3%	-3%	-3%	-7%	-8%	-8%
NORTHERN CAPE	-14%	-32%	-27%	-26%	-26%	-28%	-27%	-26%
WESTERN CAPE	162%	152%	138%	143%	144%	131%	126%	127%
Average	**1 006**	**1 105**	**1 281**	**1 254**	**1 249**	**1 439**	**1 523**	**1 586**

72. Table 5 shows that in 2025/26 the average per capita budget for pre-grade R ECD is R1 439. Western Cape's budget provided for per capita allocations is 131% above this average, while KwaZulu-Natal's budget provided for per capita allocations 28% below the national average. In other words, in 2025/26 Western Cape allocated R3 322 per poor child, while KwaZulu-Natal allocated around R1030 per poor child which is the lowest amount of all nine provinces. This means that ECD programmes for poor children are not being given similar priority across the provinces, worsening

inequality and ultimately results in a lower levels of access to programmes for children in KwaZulu-Natal, and other provinces spending below the national average.

73. Table 6 shows the ECD Conditional Grant per capita for poor children 0-5 years. The lower half of the table shows the percentage each province is above or below the national average. To be equitable, the percentage deviation from the national average should be modest, and favour the poorer provinces.



Table 6 ECD Conditional grant per capita for poor children 0-5 years (2025 MTEF)

Rands	2022/23 Audited outcome	2023/24 Audited outcome	2024/25 Main appropriatio	2024/25 Adjusted appropriatio	2024/25 Revised estimate	2025/26 Revised baseline	2026/27 Revised baseline	2027/28 Planning baseline
EASTERN CAPE	356	388	507	512	512	622	675	707
FREE STATE	368	395	475	475	475	554	580	606
GAUTENG	486	500	628	628	628	783	819	856
KWAZULU-NATAL	247	249	329	329	329	408	452	474
LIMPOPO	358	342	433	431	431	537	562	587
MPUMALANGA	307	334	382	382	382	474	489	511
NORTH WEST	402	483	633	652	652	764	799	835
NORTHERN CAPE	224	291	338	338	338	417	467	488
WESTERN CAPE	541	548	668	683	683	837	851	890
Average	**355**	**372**	**470**	**473**	**473**	**580**	**615**	**644**

% deviation from the national	2022/23 Audited outcome	2023/24 Audited outcome	2024/25 Main appropriatio	2024/25 Adjusted appropriatio	2024/25 Revised estimate	2025/26 Revised baseline	2026/27 Revised baseline	2027/28 Planning baseline
EASTERN CAPE	0%	4%	8%	8%	8%	7%	10%	10%
FREE STATE	4%	6%	1%	1%	1%	-4%	-6%	-6%
GAUTENG	37%	35%	34%	33%	33%	35%	33%	33%
KWAZULU-NATAL	-30%	-33%	-30%	-30%	-30%	-30%	-27%	-26%
LIMPOPO	1%	-8%	-8%	-9%	-9%	-7%	-9%	-9%
MPUMALANGA	-13%	-10%	-19%	-19%	-19%	-18%	-20%	-21%
NORTH WEST	13%	30%	35%	38%	38%	32%	30%	30%
NORTHERN CAPE	-37%	-22%	-28%	-29%	-29%	-28%	-24%	-24%
WESTERN CAPE	52%	47%	42%	44%	44%	44%	38%	38%
Average	**355**	**372**	**470**	**473**	**473**	**580**	**615**	**644**

74. Table 8 shows that Western Cape, North West and Gauteng's per capita allocations of the ECD Conditional Grant per poor child 0-5 years have been consistently above

the national average. By contrast KwaZulu-Natal and Northern Cape's allocations are consistently well-below the national average (30% below). This year-on-year entrenched disparity raises serious questions about the equity of the approach the Department of Basic Education uses to allocate the ECD Conditional grant across provinces.

75. In 2025/26 KwaZulu-Natal was allocated R408 per poor child 0-5 years, which is 30% less than national average allocation of R580 per poor child. By contrast the Western Cape gets R837 per poor child from the ECD Conditional Grant, which is 74% more per capita than KwaZulu-Natal.



76. The current allocation pattern runs counter to the stated logic of the criteria for allocating the Subsidy Component, which is intended to address unmet need. The current information available in the ECD Conditional Grant Framework does not provide sufficient transparency to evaluate this issue fully, but the above analysis strongly suggests that there is a need for further investigation to ascertain how effective the Grant is at meeting its objectives.

77. Table 7 shows the provincial own fund budgets for ECD per capita for poor children 0-5 years. The lower half of the table shows the percentage each province is above or below the national average. If provinces are demonstrating an equal level of commitment to funding ECD from provincial own funds then the percentage deviation from the national average should be modest.

Table 7 Provincial own funds ECD budgets per capita for poor children 0-5 years (2025 MTEF)

Rands	2022/23 Audited outcome	2023/24 Audited outcome	2024/25 Main appropriatio	2024/25 Adjusted appropriatio	2024/25 Revised estimate	2025/26 Revised baseline	2026/27 Revised baseline	2027/28 Planning baseline
EASTERN CAPE	405	457	468	468	458	552	593	620
FREE STATE	1 510	1 629	1 680	1 653	1 653	1 762	1 829	1 908
GAUTENG	713	795	1 005	843	843	1 081	1 129	1 139
KWAZULU-NATAL	469	557	594	594	581	622	652	681
LIMPOPO	580	709	743	743	743	791	829	866
MPUMALANGA	644	650	670	670	670	684	785	821
NORTH WEST	227	393	610	561	561	567	596	626
NORTHERN CAPE	644	463	591	591	586	623	652	681
WESTERN CAPE	2 097	2 233	2 378	2 367	2 367	2 485	2 596	2 713
Average	**651**	**734**	**811**	**781**	**777**	**859**	**908**	**942**

% deviation from the national	2022/23 Audited outcome	2023/24 Audited outcome	2024/25 Main appropriatio	2024/25 Adjusted appropriatio	2024/25 Revised estimate	2025/26 Revised baseline	2026/27 Revised baseline	2027/28 Planning baseline
EASTERN CAPE	-38%	-38%	-42%	-40%	-41%	-36%	-35%	-34%
FREE STATE	132%	122%	107%	111%	113%	105%	102%	102%
GAUTENG	9%	8%	24%	8%	8%	26%	24%	21%
KWAZULU-NATAL	-28%	-24%	-27%	-24%	-25%	-28%	-28%	-28%
LIMPOPO	-11%	-3%	-8%	-5%	-4%	-8%	-9%	-8%
MPUMALANGA	-1%	-11%	-17%	-14%	-14%	-20%	-13%	-13%
NORTH WEST	-65%	-46%	-25%	-28%	-28%	-34%	-34%	-34%
NORTHERN CAPE	-1%	-37%	-27%	-24%	-25%	-27%	-28%	-28%
WESTERN CAPE	222%	204%	193%	203%	205%	189%	186%	188%
Average	**651**	**734**	**811**	**781**	**777**	**859**	**908**	**942**

78. Table 7 shows that the Western Cape and Free State are prioritising ECD in the allocation of provincial own funds. By contrast, the Eastern Cape, KwaZulu-Natal and North West spend well below the national average, signalling weak prioritisation of ECD.

79. KwaZulu-Natal has consistently not prioritised spending on ECD programmes to the same extent as other provinces. The result is it that in 2025/26, the province's budget from own funds only provided R622 per poor child 0-5 years for ECD programmes, compared to a national average of R859 per poor child. This places

KwaZulu-Natal 28% below the national average, and 161% behind the Western Cape's allocation from own funds per poor child.

6 FINDINGS REGARDING ECD SUBSIDIES IN KWAZULU-NATAL

80. Based on the preceding analysis the following summary findings regarding the funding and management of ECD subsidies in KwaZulu-Natal can be made:

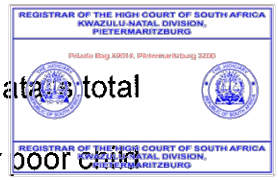
80.1 Like all provinces, KwaZulu-Natal carries the legal responsibility to budget for the provision of ECD programmes.



80.2 KwaZulu-Natal has consistently not prioritised spending on ECD programmes to the same extent as other provinces. The result is that in 2025/26, the province's budget from own funds only provided R622 per poor child 0-5 years for ECD programmes, compared to a national average of R859 per poor child. This places KwaZulu-Natal 28% below the national average, and 161% behind the Western Cape's allocation from own funds per poor child.

80.3 The allocation of the ECD Conditional Grant across provinces does not appear to be aligned to the objective of meeting unmet need for ECD programmes. In 2025/26 KwaZulu-Natal was allocated R408 per poor child 0-5 years, which is 30% less than the national average allocation of R580 per poor child. By contrast, the Western Cape gets R837 per poor child from the ECD Conditional Grant, which is 74% more per capita than KwaZulu-Natal.

80.4 The reasons for these disparities in the allocation of the ECD Conditional Grant are unknown because the Department of Basic Education has not provided sufficient information to explain how the grant funding is allocated. Part of the reason may relate to the capacity of the respective provincial education departments to spend the grant funds. If this is the case, it indicates that KwaZulu-Natal's provincial education department has very poor capacity to spend the available ECD Conditional Grant.



80.5 The combined impact of the above two factors, is that KwaZulu-Natal's total budget for ECD programmes in 2025/26 only provided R1 030 per poor child aged 0-5 years, which is the lowest level of funding in the country at 28% below the national average of R1 439 per poor child. It is 159% below Western Cape's allocation of R3 322 per poor child.

80.6 Efforts to improve national and provincial budgeting for ECD subsidies must be matched with reliable, transparent, and consistent payment mechanisms at provincial level.

80.7 I do not have first-hand knowledge of the precise mechanisms and systems that KwaZulu-Natal currently uses to manage the payment of ECD subsidies to ECD programmes, as this information is not currently publicly available. I previously reviewed these provincial mechanisms in 2013/2014, before the ECD function was transferred to the education sector.

80.8 Nevertheless, the evidence presented by the applicants in this case suggests that there has been a pattern of erratic and delayed payments of ECD subsidies to ECD programmes in KwaZulu-Natal.

80.9 I am informed that the relief sought by the applicants in the main application is intended, in part, to obtain information about the extent of this problem of delayed and erratic payment.

80.10 In my view, the structural relief proposed by the applicants would help to ensure greater transparency and accountability on this issue and would allow for proper diagnosis of the bad management practices that have contributed to these delayed and erratic payments.



WHEREFORE I pray for an order in terms of the notice of motion to which this affidavit is annexed.

CONRAD BARBERTON

I hereby certify that the Deponent has declared that he knows and understands the contents of this affidavit and that to the best of his knowledge and belief, it is the truth, and that he has no objection to taking the prescribed oath and considers same to be

binding to his conscience, which affidavit has been signed and sworn before me at Pretoria on the 21 day of October 2025, and that the provisions of the Regulations contained in the Government Notice R1258 of 21 July 1972, as amended, have been complied with.

COMMISSIONER OF OATH

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Full Names: Natasha Dercksen

Capacity: Attorney

Business address: 13 Catherine Str, Shere

Area: Gauteng.

NATASHA DERCKSEN
Kommissaris van Ede / Commissioner of Oaths
Ex Officio / GAUTENG
13 Catherine Str. Shere, Pretoria

CURRICULUM VITAE (CV)

Conrad Barberton

Date of Birth 26 May 1968
Nationality South African
Identify number: 680526 5109 088
Contacts Tell - (012) 329 5562
Cell - 083 236 4012
Email - *conrad@cornerstonesa.net*

In Brief

Conrad Barberton is a development economist, policy researcher and trainer, with a particular interest in the funding of children's services and other social services, and in systems to monitor the impact of public spending. He has extensive experience with the costing and advocating for the funding of policies relating to children across a range of sectors including child protection, ECD, child justice, social protection and education. His work around developing investment cases for strengthening social services has received international recognition. In addition, he is experienced in the design of intergovernmental fiscal processes, public sector finance management, budget presentation, design and analysis, strategic planning, monitoring and evaluation, and the design of governance accountability systems. He is also widely involved in training officials and public office bearers in local and national governments.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Qualifications

1988 – 1990	BA (law and economics) - Stellenbosch University
1991	BA Honours in Economics *cum laude* - Rhodes University
1993/4	M Phil. in Economics - Wolfson College, Cambridge University
1992/3 and 1995	MA in Economics *cum laude* - Stellenbosch University

Work Experience:

August 2012 – to present Cornerstone Economic Research
Senior Economist

Responsibilities:
When I left National Treasury in August 2012, I re-established Cornerstone along with Jonathan Carter and Carmen Abdoll. I am responsible for the overall management of the company and the team. Most of our time is spent on project work. We mostly work collaboratively as a team.

Cornerstone has been at the forefront of developing the methodology used by the National Treasury in South Africa for conducting Spending Reviews. We have conducted eight of these reviews, which involve analysing current modes of delivery, expenditures and developing a detailed costing model for the relevant policy. I have worked on Spending Reviews in health, education, agriculture, student finance and social welfare. I am also part of the team that runs training courses on the Spending Review methodology for government staff.

Cornerstone has developed special expertise in the costing of social policy and legislation. We strive to build costing tools that are sophisticated enough to estimate the cost of a wide range of policy options but are also kept simple enough for the client to be able to use them. All our tools can be used for forecasting budget requirements, planning medium term expenditure frameworks, assessing financial implications of policy decisions, as well as trade-offs between policy choices

and in calculations such as cost benefit analyses and cost of inaction analyses. Our clients for costing work include a range of South African government departments; UNICEF in Mongolia, Egypt, India, Vietnam, Nigeria, Tajikistan, Indonesia, eSwatini; Kenya, Zambia, Mozambique, the Global Fund and UNICEF in Lesotho; Socha in Uganda; the Ministry of Finance in Rwanda.

More recently, Cornerstone has been at the forefront of developing and testing an approach to developing investment cases for social services. We have applied it within the context of child protection in Nigeria, and strengthening the social service workforce in Kenya and Zambia. On the back of this work the United Nations Special Representative of the Secretary General for Violence Against Children commissioned us to write *Building the investment case for ending violence against children – Toolkit*. This was launched on 6 May 2025.

Significant projects:

- Costing the Public Libraries and Information Services Bill with a view to mapping a sustainable path for implementation for the Department of Arts and Culture, South Africa (2013).
- Performance and Expenditure Review of the policy relating to the In-service Training of Teachers (INSET) for the National Treasury, South Africa (2013).
- Costing of the phased implementation of the Children's Protection and Welfare Act, 2011 of Lesotho, for the Government of Lesotho, UNICEF and Global Fund (2014)
- Technical Expert on Public Finance for the drafting of Yemen's Constitution, working for UNOPS (2014).
- Developing an MS Excel-based template for costing ECD & nutrition programmes across countries for the World Bank and the Brookings Institution. The costing model was recognized as a "global good" by the World Bank (2016)
- Writing an ECD Financing Strategy for South Africa, for the Department of Social Development, South Africa (2016)
- Performance and Expenditure Review of the cost implications of the NAWONGO court judgments for provincial departments of social development, for National Treasury with the Department of Social Development (2018).
- Costing of the transition to a 12-year education system in Tajikistan, for the Ministry of Education and Science, Tajikistan and UNICEF (2019).
- Wrote "Analysing Child Protection Finances - Note on the types of public finance analyses that can support child protection initiatives" for UNICEF (2019).
- Budget analysis and costing of the child protection services at Federal and Focus States, Nigeria for UNICEF (2020).
- Developing Budget Analyse and Budget Briefs for the children's social sectors in Ghana, and providing training on budget credibility to the Ministry of Finance, Ghana, for UNICEF (2020).
- Wrote "The contribution Public Finance for Children can make to realizing child protection objectives" a Technical Paper for UNICEF (2020)
- Analysis of Social Expenditure, Budget Processes and Fiscal Space in Nigeria for UNICEF Nigeria (2020)
- Led an extensive project to explore how to "Leveraging infrastructure investments to create child-friendly communities" for UNICEF Tajikistan working in partnership with various International Finance Institutions. (2020-2022)
- Costing the VAC Prevention and Response Plan of Kenya, for UNICEF Kenya (2022)

007-639

- Led a project to analyse the child-focused budgets and expenditures on the social sectors in Mongolia, for UNICEF Mongolia (2021)
- Wrote a paper on "A Costed Implementation Plan for the Children: Future Hope of Addis Ababa Early Childhood Development Initiative" for Big Win Philanthropy (2021-2022)
- Wrote paper on "The Cost of extending the Child Support Grant to pregnant women and children from birth" for the South African Law Reform Commission
- Wrote paper on "Costing of Transition to a 12- years Education System in Tajikistan" for UNICEF Tajikistan (2023)
- Led a project to "Review the planning and reporting burden in government" for National Treasury (2023)
- Led a project to explore the economic cost of violence against children for the United National Special Representative of the Secretary General on Violence Against Children. This project coined the phrase "violence prevention dividend."
- Led a project to develop "An investment case for the strengthening of the social service workforce in Kenya and Zambia" (2023 -2025)



August 2006 – July 2012 ***National Treasury, Republic of South Africa***
Director: Provincial Budget Analysis (August 2006 – March 2008)
Director: Spatial Planning and Local Government Budget Reform (April 2008 – July 2012)

Responsibilities:

I was invited to join the National Treasury, initially on a three-year contract, to assist the Intergovernmental Relations Division with the development of various policies, and to build the capacity of the Provincial Budget Analysis unit by developing new methods to analyse provincial budgets and providing training to the budget analysts. I was also widely involved in various training initiatives, including training members of provincial legislatures on budget oversight.

In April 2008, I was asked to move to the newly established Local Government Budget Analysis unit to help drive the local government budget reform agenda and assist with developing the analytical capacity of the unit. I managed the drafting and promulgation of the Municipal Budget and Reporting Regulations and the roll-out of the associated budget formats. I was also responsible for drafting the annual MFMA Budget Circulars and developing various analytical tools for evaluating municipal budgets and the state of municipal finances. I also provided extensive training to municipal councillors and officials on the MFMA, municipal budgets and related oversight matters.

Projects worked on:

- Working with the Office of the State President, and within the context of the Government Wide Monitoring and Evaluation System, I was responsible for the technical work/writing that resulted in National Treasury issuing:
  - *The Framework for Managing Programme Performance Information* (2009), which lays the foundation for monitoring and evaluation terminology and processes in all spheres of government;
  - *The Framework for Strategic Plans and Annual Performance Plans* (2010), which sets out the principles and formats to guide national and provincial departments in presenting their strategic plans and annual performance plans; and

- Revised chapters 5 and 30 of the *Treasury Regulations* to facilitate the implementation of the above frameworks

- I was responsible for the final drafting and public consultation process leading to the issuing of the *MFMA Municipal Budget and Reporting Regulations* (17 April 2009), which prescribe the format and contents of municipal and municipal entity budgets. This area of work also involved:
  - Finalising and issuing the excel Budget Format Schedules;
  - Revising and extending the *Municipal Budget Formats Guide;*
  - Revising and extending the *MFMA Funding Compliance Guide*;
  - Developing the *Dummy Budget Guide*; and
  - Developing all related training materials and presentations for the roll-out of the regulations, as well as being extensively involved in presenting the training, and providing implementation support to municipalities.

- From 2009, I wrote the annual *MFMA Budget Circulars* (No's 48, 51, 54, 55, 58 and 59) which provide guidance on the preparation of municipal budgets, various accounting and financial management issues, and on the monitoring and management of national conditional grants to municipalities.



- I edited the following intergovernmental fiscal reviews published by National Treasury, and also contributed the chapters noted below:
  - *2006 Provincial Budgets and Expenditure Review*
    - Chapter 4 - Social Development (also for the 2007 Review)
    - Chapter 8 - Trends in Provincial Budgets
  - *2008 Local Government Budget and Expenditure Review*
    - Chapter 10 - Managing the built environment
    - Chapter 12 - Managing Municipal Personnel
  - *2011 Local Government Budget and Expenditure Review*
    - Chapter 2 - Socio-economic and fiscal context of local government
    - Chapter 3 - Intergovernmental relations and the local government fiscal framework
    - Chapter 4 - Revenue and expenditure trends in local government
    - Chapter 5 - Financial management and MFMA implementation

- I was extensively involved with various policy analysis and development processes, which resulted in my writing the following National Treasury discussion documents:
  - The Governance of Provincial Banking Arrangements, 10 October 2007
  - Draft Framework for Strategic Plans and Annual Performance Plans, December 2008
  - Strategy to address municipal performance failures, 24 June 2009
  - Budget Reform Road-map for Local Government, 7 July 2009
  - National Treasury's roles and responsibilities relating to matters affecting local government, 19 January 2010
  - Is local government underfunded? 23 June 2010
  - The challenge of so-called non-viable municipalities, 26 July 2012

- I participated in the project to redraft the Public Finance Management Act. I was directly responsible for drafting Chapter 6, which deals with planning and performance monitoring processes. The project was completed, but a strategic decision was taken not to proceed to the legislative phase.

- I participated in the revision of the national/provincial government Standard Chart of Accounts, and developed the 'Regional Segment' of the Chart. I was also a member of the

technical committee for guiding the development of the local government Standard Chart of Accounts.

- While with the Provincial Budget Analysis unit I developed various tools and templates to assist analysts with the assessment of provincial budgets, including.
  - Guide for the assessment of provinces' draft budgets (December 2006) which laid the foundation for the annual provincial budget benchmarking process;
  - Templates for analysing and presenting information on inequalities in education, health and social development. I also drafted the initial reports for each sector in 2007; and
  - What does Provincial Budget Analysis do? (And what can it do better?) (March 2008), a process manual for the unit setting out the sequence and methodology for all the activities and processes of the unit, which lay the foundation for the development of an Induction Manual for Provincial Budget Analysis in 2009.
- While with the Local Government Budget Analysis Unit I developed or contributed to the development of various tools, templates and analytical documents for analysing municipal budgets, including:
  - formats for the individual and consolidated budget benchmarking reports
  - The over- and under-spending of municipalities at the end of the financial year (2009), which has since become an annual publication for the unit which is submitted to Parliament.
  - The 'State of Local Government Finances Report' (2009), which also has become an annual publication for the unit. In January 2012, the 2011 version of this report was submitted to Parliament and published on National Treasury's website.
- Prior to the 2011 local government elections I initiated a process that resulted in National Treasury and SALGA joining forces to produce and present a Councillor Induction Course. Marli van Rensburg and I developed the training materials for the MFMA component of the training. There were 118 training sessions, and over 9800 councillors were trained. As a follow-up to this course, Marli van Rensburg and I developed a two-day course for Mayors and MMC's Finance on the key issues in budgeting and financial management. We presented the course in each of the nine provinces and a special workshop for the Metros.

August 2001 – July 2006 ***Cornerstone Economic Research***
Economist, Owner/manager

Projects worked on:

- Costing the Children's Bill for the Department of Social Development
- Drafting the Financial Management of Parliament Bill for the Standing Committee on Finance, Parliament
- Developing a cash-flow model for the public transport (bus) system of the Cape Town Metropolitan area for the Western Cape Department of Transport.
- Costing model of the Child Witness Support Project for RAPCAN
- Analysing cuts in Gauteng's budget for social welfare services in 2005, for the Welfare Crisis Forum.
- Framework for the oversight of Annual Reports by Parliament and Legislatures for the National Treasury
- Review present corporate forms of public entities, and propose new model based on international good practice for the National Treasury.
- Evaluating the fiscal and financial implications of the establishment of the South African Social Grant Agency for the National Treasury.

007-642

- Developing a management framework and costing of the Thuthuzela System for assisting rape survivors.
- Evaluating the fiscal and budgetary implications of the Children's Bill and the Older Persons' Bill for the Department of Social Development
- Developing quarterly performance reporting formats for the National Treasury.
- An analysis of the budget process with an emphasis of how Parliament can become more effective in its oversight role.
- Developing a format for the presentation of strategic plans and annual reports by provincial departments, including testing the proposals with the CFO's forums for the National Treasury.
- An investigation into the cost of maintenance investigators for the Department of Justice.
- An evaluation of the options for financing the 'electricity poverty tariff' for the Energy for Development Research Centre at UCT.
- Evaluating 'The impact of the proposed State Property Agency on the Provincial Public Works Departments' for the national Department of Public Works.
- Lecturer for the Association of Public Accounts Committees (APAC) on Parliamentary oversight
- Teaching on the MEETI courses on the energy sector.



January 2000 – August 2001 **AFReC (Pty) Ltd,** *an economic research company affiliated to the University of Cape Town*
Senior Economist - manager of the Fiscal Engineering Division

Projects worked on:

- An evaluation of the 'costing of legislation' by departments in South Africa for GTZ.
- An evaluation of the Provincial Revenue Sharing Formula for the National Treasury
- Study of the Electricity Generation Industry for Billiton plc.
- Study of investment decision-making processes of various public entities for the State Presidents Office.
- An evaluation of a report on the transformation of the mining industry for the Chamber of Mines.
- Re-costing of the Child Justice Bill for the UNDP;
- An evaluation of 'Earmarked Taxes' for the National Treasury;
- The development of computer based 'Budgeting Tool for Social Pensions' for the National Treasury.
- The marketing of the Performance Budgeting System (PBS) - a budgeting and financial management system that links financial inputs to the non-financial outputs.
- Teaching on numerous courses organised by AFReC (Pty) Ltd. These have included courses on 'Financial Management and Oversight' for Parliament, the Gauteng Legislature and the Executive of the Northern Cape Province.

November 1997 - December 2000

Self-Employed: Worked as an independent economist and as a *Research Associate* with the Applied Fiscal Research Centre (AFReC) at the School of Economics, University of Cape Town.

Projects worked on:

My publication list gives the clearest indication of the range of projects I worked on during this time. They include:

- Research for the Presidential Review Commission on Public Sector Reform;
- Northern Metropolitan Local Council Strategic Planning Project;
- The Electricity Pricing Project with AFReC;
- Research for the national Department of Finance on the Intergovernmental Fiscal Relations Framework; and
- Research for the Department of Minerals and Energy on the restructuring electricity distribution sector.
- Costing of the Child Justice Bill for the South African Law Commission

August 1997 - October 1997

Voluntary work with Operation Mobilization in Zambesia Province, northern Mozambique. I was responsible for organising the work programme of a group of British students that had volunteered to spend their summer holiday assisting Operation Mobilisation to set up a training centre near the town of Mocuba.



April 1995 - June 1997 ***IDASA (Institute for Democracy in South Africa)***
Co-manager of the Poverty Reduction Monitoring Service at the newly established Public Information Centre

Responsibilities:

The position involved planning, setting-up and managing a nation-wide project aimed at researching the impact of government policies on poverty, with particular reference to the Reconstruction and Development Programme, and communicating our findings to the relevant people in parliament, in government and civil society. My responsibilities have covered research, writing, planning project activities, budgeting and managing the project staff, including a number of research interns.

January 1995 - April 1995

Employer:	University of Stellenbosch Stellenbosch, 7600
Position:	Lecturer in Economics
Responsibilities:	Teaching first year economics
Reason for leaving:	Resigned to take up position at IDASA.

1989 -1994

- I worked for the Stellenbosch Economic Project (1992/93) where I was responsible for planning and organising a conference bringing businesspeople, politicians, conservationists and academics together to discuss the relationship between the "Economy and Environment" - funded by the Friedrich Ebert Stiftung.
- I was a member of a team based in the Centre for Contextual Hermeneutics at the University of Stellenbosch, (1992/3) which was asked by the South African Catholic Bishops' Conference to the research and write radio programmes on "Education for Democracy"
- As a committee member of the Stellenbosch branch of Students for Human Rights, I was involved in planning and co-ordinating voter education in the Stellenbosch/Paarl area (1992/93).

- I was an economics tutor for Economics I at Rhodes University (1991) and Economics II at Stellenbosch University (1992).
- I taught "Street Law" courses in conjunction with the Rural Foundation (1989/90)
- I worked on the editorials of a number of university publications.
- I did fund raising for the Stellenbosch Rag Committee (1988-1989) and for the Cambridge Development Project (1994).

Notable skills and qualities:

- I am fluent in both English and Afrikaans.
- I have good communication skills, being experienced in debating and public presentations, as well as negotiating.
- I have good writing skills.
- I am familiar with the usual MS Office programmes.
- I specialise in thinking about systems, incentives and how to design institutions to create frameworks that encourage behaviour that promotes social welfare.
- I have an ability to understand and solve practical/technical problems even though my formal training is in economics.



Publications and writings:

This section sets out my publications and writings since 1994 to the present. The following table provides a breakdown of my published and unpublished writings by type of document:

Published writings	**87**	**Unpublished writings**	**114**
Books	3		
Chapters in books and publications	6		
Journal articles	2		
Conference papers	7	Parliamentary submissions	7
National Treasury publications	27	National Treasury discussion documents	11
Published research papers and reports	42	Research papers and reports	96

The following table provides a breakdown of my writings by field:

		Published writings			**Unpublished writings**	
Field	**Total**	Books, chapters, articles, conference papers	National Treasury documents	Papers and Reports	National Treasury documents	Papers and Reports
Public finance management	98					
• PFM Policy	18	1		3		14
• Intergovernmental fiscal relations	13	1	1	3	1	7
• Budget and expenditure analysis	9	1	4		1	3
• Spending Reviews	11			8		3
• Performance management	11	1	2	1	1	6
• Local government finances	30	2	20		8	
• Oversight	6	3				3
Public Finance for Children – PF4C	77					
• Social welfare & child protection	44	2		12		30

007-645

• Early childhood development	12			2		10
• Social protection	10	1		5		4
• Education	7	1		3		3
• Health	4					4
Community development	**9**	**4**				**5**
Local economic development	**2**					**2**
Energy policy	**14**	**1**		**5**		**8**

Books

Barberton, C., M. Blake and H. Kotze (eds.), 1998. *Creating Action Space: the challenge of poverty and democracy in South Africa*, Cape Town: David Philip.

Abdoll, C. and Barberton, C. 2024. *Mud to bricks: A review of school infrastructure spending and delivery*. Centre for Child Law. Pretoria University Press, Pretoria, South Africa.

United Nations Office SRSG-VAC. 2025. Building the investment case for ending violence against children – Toolkit. UN OSRSG VAC, New York, United States of America.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Chapters in books and publications

Barberton, C. and I. Woolard, 1998. "Poverty and Inequality in South Africa" Chapter 2 in Barberton, C., M. Blake and H. Kotze (eds.), *Creating Action Space: the challenge of poverty and democracy in South Africa*, Cape Town: David Philip.

Barberton, C., 1998. "Obstacles to community participation" Conclusion in Barberton, C., M. Blake and H. Kotze (eds.), *Creating Action Space: the challenge of poverty and democracy in South Africa*, Cape Town: David Philip.

Barberton, C., 1998. "The institutional placing of social security: an option analysis" Chapter 12 in Abedian, I. & Biggs, M. (eds.) *Economic Globalization and Fiscal Policy,* Oxford University Press: Cape Town.

Abedian, I., T. Ajam and C. Barberton, 1999 "Fighting Corruption: Balancing Morality with Systemic Governance", In Mavuso, V and Ballia, D. (eds) *Fighting Corruption: Invitation to Ethics Management*, Public Service Commission, University of South Africa, Pretoria

Barberton, C., with Mukotsanjera- Kowayi, V., 2015. "Locating Cities in Government " Chapter 2 in South African Cities Network, *State of City Finances 2015.* South African Cities Network: Johannesburg.

Barberton, C., with Mukotsanjera- Kowayi, V., 2015. "Affordability of Domestic Rates and Service Charges " Chapter 5 in South African Cities Network, *State of City Finances 2015.* South African Cities Network: Johannesburg.

Journal articles

Barberton, C., 1998. 'Restructuring the electricity distribution industry: an analysis of the proposed ownership and governance structures of Regional Electricity Distributors' *Development Southern Africa,* Vol. 15, No. 3.

Barberton, C. and Carter, J. 2023. 'Using models to cost government policies and programmes in South Africa, Development Southern Africa. Published online: 01 Aug 2023.

Conference papers

Barberton, C., 1994. "Special employment programmes - a means of extending the welfare net in South Africa", paper presented to the EBM Research Conference held under the auspices of the National Productivity Institute at the Rand Afrikaans University, Johannesburg. November.

Barberton, C., 1995. "Measuring inputs and outputs of government (a proposal to locate the function in the Auditor General's Office)", paper submitted to a workshop on 'Monitoring Poverty in South Africa' held under the auspices of the National RDP Office and the World Bank at the ESKOM Conference Centre, Midrand, on 3-4 May.

Barberton, C., 1996. "Key problems in the Eastern Cape Province", paper presented to the Eastern Cape NGO Coalition and COSATU Strategic Thinking Session held At the Blue Lagoon Hotel, East London, on 24-5 January

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Barberton, C., 1996. "The role of Parliament's Public Education Department", paper presented to the Eastern Cape Workshop Discussion of the Public Education Department. Bisho on 19 September 1996.

Barberton, C., 1997. "Crumbs of the cake: the new child support benefits", paper presented to the Church and Welfare Conference held at the Water Front, Cape Town on 3-5 May 1997.

Barberton, C., (with J. Stuart), 2000. "The Impact of the draft Child Justice Bill on Government Expenditure", paper for the 14th International Conference of the International Society for the Reform of Criminal Law held in Sandton, South Africa on 3 – 7 December 2000.

Barberton, C., and Maphiri, D., 2001. 'Identifying and Managing the Government's Unfunded Liabilities', paper for the East and Southern African Association of Accountants-General (ESAAG) Eighth Annual Conference 2001 held at Club Makokola, Malawi from 26 to 30 March 2001.

National Treasury publications I wrote (*) or edited (e) or contributed to

[e]National Treasury, 2006. *Provincial Budgets and Expenditure Review 2002/03 – 2008/09*

*National Treasury, 2006. 'Chapter 4 - Social Development' in *Provincial Budgets and Expenditure Review 2002/03 – 2008/09*

*National Treasury, 2006. 'Chapter 8 - Trends in Provincial Budgets' in *Provincial Budgets and Expenditure Review 2002/03 – 2008/09*

*National Treasury, 2007. *Framework for Managing Programme Performance Information.*

*National Treasury, 2007. 'Chapter 4 - Social Development' in *Provincial Budgets and Expenditure Review 2003/04 – 2009/10*

[e]National Treasury, 2008. *MFMA Funding Compliance Guide*- issued 10 March 2008.

*National Treasury, 2008. 'Section 6: Introduction of a new Regional Segment' in *Standard Chart of Accounts (SCOA) Toning Project Summary Report* – issued March 2008.

[e]National Treasury, 2008. *Local Government Budgets and Expenditure Review 2003/04 – 2009/10*

National Treasury, 2008. 'Chapter 10 - Managing the built environment' in *Local Government Budgets and Expenditure Review 2003/04 – 2009/10*

*National Treasury, 2008. 'Chapter 12 - Managing Municipal Personnel' in *Local Government Budgets and Expenditure Review 2003/04 – 2009/10*

*National Treasury, 2009. *MFMA Circular No. 48 – Municipal Budget Circular for the 2009/10 MTREF* – issued 02 March 2009.

RSA, 2009. Local Government: Municipal Finance Management Act Municipal Budget and Reporting Regulations, Government Gazette 32141 dated 17 April 2009, Government Printers, Pretoria

National Treasury, 2009. *MFMA – Budget Formats Guide* – revised annually.

*National Treasury, 2010. *The Framework for Strategic Plans and Annual Performance Plans.*

National Treasury, 2010. *MFMA Dummy Budget Guide – Guideline on the format and content of Schedule A of the Municipal Budget and Reporting Regulations* – issued March 2011.

*National Treasury, 2010. *MFMA Circular No. 51 – Municipal Budget Circular for the 2010/11 MTREF* – issued 19 February 2010.

*National Treasury, 2010. *MFMA Circular No. 54 – Municipal Budget Circular for the 2011/12 MTREF* – issued 10 December 2010.

*National Treasury, 2011. *MFMA Circular No. 55 – Municipal Budget Circular for the 2011/12 MTREF* – issued 08 March 2011.

[e]National Treasury, 2011. *Local Government Budgets and Expenditure Review 2006/07 – 2012/13*

*National Treasury, 2011. 'Chapter 2 - Socio-economic and fiscal context of local government' in *Local Government Budgets and Expenditure Review 2006/07 – 2012/13*

*National Treasury, 2011. 'Chapter 3 - Intergovernmental relations and the local government fiscal framework' in *Local Government Budgets and Expenditure Review 2006/07 – 2012/13*

*National Treasury, 2011. 'Chapter 4 - Revenue and expenditure trends in local government' in *Local Government Budgets and Expenditure Review 2006/07 – 2012/13*

*National Treasury, 2011. 'Chapter 5 - Financial management and MFMA implementation' in *Local Government Budgets and Expenditure Review 2006/07 – 2012/13*

*National Treasury, 2011. *MFMA Circular No. 58 – Municipal Budget Circular for the 2012/13 MTREF* – issued 14 December 2011.

*National Treasury, 2012. *The state of local government finances and financial management as at 30 June 2011* – issued 11 January 2012.

*National Treasury, 2012. *MFMA Circular No. 59 – Municipal Budget Circular for the 2012/13 MTREF* – issued 19 March 2012.

*National Treasury, 2013. *MFMA Circular No. 68 – Unauthorised, Irregular, Fruitless and Wasteful Expenditure* – issued 10 May 2013.

National Treasury discussion documents (unpublished)

Barberton, C., 2007. 'The Governance of Provincial Banking Arrangements', National Treasury discussion document, 10 October 2007.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Barberton, C., 2008. 'What does Provincial Budget Analysis do? (And what can it do better?)', National Treasury discussion document, 12 March 2008.

Barberton, C., 2008. 'Draft Framework for Strategic Plans and Annual Performance Plans', National Treasury discussion document, December 2008.

Barberton, C., 2009. 'Strategy to address municipal performance failures', National Treasury discussion document, 24 June 2009.

Barberton, C. and Mohloli, S., 2009. 'The state of local government finances and financial management as at 31 March 2009', National Treasury discussion document, June 2009.

Barberton, C., 2009. 'Budget Reform Road-map for Local Government', discussion document presented to the Technical Committee on Finance, 7 July 2009.

Barberton, C., 2010. 'National Treasury's roles and responsibilities relating to matters affecting local government', National Treasury discussion document, 19 January 2010.

Barberton, C., 2010. 'Is local government underfunded?' National Treasury discussion document, 23 June 2010.

Barberton, C., Baron, I. and Mohloli, S., 2010. 'The state of local government finances and financial management as at 30 June 2010', National Treasury discussion document, October 2010.

Barberton, C., Baron, I. and Mohloli, S., 2011. 'The state of local government finances and financial management as at 30 June 2011', National Treasury discussion document, November 2011

Barberton, C., 2012. 'The challenge of so-called non-viable municipalities', National Treasury discussion document, 26 July 2012.

HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Published research papers and reports

Barberton, C., 1995. "Prioritising Prioritisation in Government", *Public Information Series* No.2, IDASA's Public Information Centre.

Abedian, I., T. Ajam and C. Barberton, 1997. "Budgeting and financial management", Specialist study prepared for the Presidential Review Commission on Public Sector Reform, Pretoria

Barberton, C., 1998. "Financial Transfers with particular reference to financial transfers in the Department of Housing Department of Land Affairs Department of Welfare", Specialist Study for the *Presidential Review Commission on Public Sector Reform*, Government Printers, Pretoria

Barberton, C., 1998. "Locating Responsibility for Social Security Budgeting in South Africa: Assessing the Options", Research Monograph Series No. 1 of the Applied Fiscal Research Centre, UCT, Cape Town.

Barberton, C., 1998. "The Taxation of Electricity: Some Current Issues", *Research Monograph Series* No. 2 of the Applied Fiscal Research Centre, UCT, Cape Town.

Barberton, C. and J. Keswell, 1998. "Regional Electricity Distributors (REDs) in South Africa: an analysis of Governance and Financial Issues", Research Monograph Series No. 5 of the Applied Fiscal Research Centre, UCT, Cape Town.

Clark, A., and Barberton, C., 1999. "Barriers Inhibiting Investment in DSM in South Africa", Energy and Development Research Centre Report (EDRC/99/R8), University of Cape Town.

Barberton, C. and Ajam, T., 1999. "Developing a Systemic Approach to Combat Corruption in the Public Sector", Research Monograph Series No. 8 of the Applied Fiscal Research Centre, UCT, Cape Town.

Barberton, C. with Stuart, J., 1999. "Costing the Implementation of the Child Justice Bill and Developing a Strategy for Implementation" Research Monograph Series No. 14 of the Applied Fiscal Research Centre, UCT, Cape Town.

Barberton, C., 2000. "Exploring the possible impact of electricity supply industry restructuring on demand-side management", Energy and Development Research Centre Report (EDRC/00/R1), University of Cape Town.

Clark, A., and Barberton, C., 2000. "Barriers inhibiting investment in DSM in South Africa", Energy and Development Research Centre Report (EDRC/00/R3), University of Cape Town.

Shall, A., Barberton, C., and Ajam, T., 2000. "Costing Legislation: a review of international and local practices with a view to developing recommendations for a systemic approach within the department of Justice", research paper commissioned by German Technical Cooperation. Research Monograph Series No. 15 of the Applied Fiscal Research Centre, UCT, Cape Town.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Barberton, C., 2003. "Comments on Chapter 14 of the Draft Consolidated Report of the Committee of Inquiry into a Comprehensive System of Social Security for South Africa", Occasional Paper, IDASA – Budget Information Service, Cape Town.

Grieve, A, Moses, N., and Barberton, C., 2005. "Approaches to the Determination of Maintenance" Issue 11, Centre for Socio-Legal Research, UCT, Cape Town.

Barberton, C. 2006 'The Cost of the Children's Bill – Estimates of the cost to Government of the services envisaged by the Comprehensive Children's Bill for the period 2005 to 2010'. Report for the national Department of Social Development.

Between 2006 and 2012 I was employed by the National Treasury. Consequently, all documents I wrote during this period were either internal discussion documents or published by the National Treasury (see lists above).

Barberton, C., Carter, J., and Abdoll, C., 2013. "Project Report for the Costing the South African Public Library and Information Services Bill". Department of Arts and Culture, Pretoria, South Africa.

Abdoll, C., Carter, J., and Barberton, C., 2013. "Expenditure and Performance Review – In-Service Training of Teachers (INSET)" Report for the National Treasury, Pretoria, South Africa.

Barberton, C., Carter, J., Abdoll, C. and Giese. S., 2013. Expenditure and Performance Review – NPO and Social Welfare Registration Processes." Report for the National Treasury, Pretoria, South Africa.

Barberton, C. and Carter, J., 2013. "Costing the establishment and running of the National School of Government." Report for the National Treasury, Pretoria, South Africa.

Carter, J., Mitchell, D., Barberton, C., and Abdoll, C. 2014. "Expenditure and Performance Review – Micro Agriculture Finance Institutions of South Africa" Report for the National Treasury, Pretoria, South Africa.

Meny-Gibert, S., Ledger, T., Tshimomola, G., Barberton, C. and Abdoll, C. 2014. "Expenditure and Performance Review – National Language Services" Report for the National Treasury, Pretoria, South Africa.

Barberton, C., Carter, J. and Abdoll, C. 2014. "Costing the Children's Protection and Welfare Act, 2011 of Lesotho", Report for the Ministry of Justice and Correctional Service, Maseru, Lesotho.

Barberton, C. and Carter, J. 2014. "Saving Mothers Giving Life: Costing the rollout of the program." Report for Socha llc, Nairobi, Kenya.

Barberton, C. 2014. "Government Funding of ECD Services: What are the Deciding Factors?" Ilifa Labantwana, Cape Town.

Carter, J. and Barberton, C. 2014. "Developing appropriate financing models to enable the scale-up of ECD services" Technical Report 3. Ilifa Labantwana, Cape Town.

Carter, J., Barberton, C., Abdoll, C., Drimie, S., and Berhane, E., 2015. "Performance and Expenditure Review – Nutrition and food security for children under five years old" Report for the National Treasury, Pretoria, South Africa.

Carter, J., Barberton, C., Abdoll, C., Lewis. F., and Sheppard. C., 2016. "Performance and Expenditure Review – National Student Financial Aid Scheme (NSFAS)" Report for the National Treasury, Pretoria, South Africa.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Barberton, C., Carter, J. and Biden, A. 2017. "Processes for Financing Public Education in South Africa." Report for the International Budget Partnership, Cape Town, South Africa.

Barberton, C., Abdoll, C., Ragwala, L., Budlender, D. and Mohamed, Z., 2018. "Cost implications of funding NPOs following the NAWONGO court judgements" NAWONGO Report 1 of 3 for the National Treasury, Pretoria, South Africa.

Carter, J., Barberton, C. and Parikh, N., 2018. "Analysing Child Protection Finances – Note on the types of public finance analyses that can support child protection initiatives" Report for UNICEF India, New Delhi, India.

Barberton, C. 2019. "Costing the Transition to a 12-year Education System in Tajikistan." Report for UNICEF Tajikistan, Dushanbe, Tajikistan.

Barberton, C., Carter, J., Halvey. S., Townshend, M. and Abdoll, C. 2021. "Analysis of child-focused budgets and expenditures in the social sectors in Mongolia." Report for UNICEF Mongolia, Ulaanbaatar, Mongolia.

Barberton, C. and Abdoll, C. 2021. "Funding area-based violence prevention interventions: an examination of the conditional grant system." SPRINT Initiative of the Isandla Institute, Cape Town, South Africa.

UNICEF, Office of the Special Representative on Violence against Children, World Vision International, ChildFund Alliance, Plan International, Save the Children International, 2022. "The violence prevention dividend – Why preventing violence against children makes economic sense". UNICEF Headquarters, New York. United States of America.

UNICEF Ghana, 2021. "A Roadmap for PF4C – Ghana 2021/2022." Report for UNICEF Ghana, Accra, Ghana.

Barberton, C., Carter, J., Townshend, M., Halvey, S., Abdoll, C. and Jamiyan, S. 2021. "Analysis of Child-Focused Budgets and Expenditure in the Social Sectors in Mongolia." Report for UNICEF Mongolia, Ulaanbaatar, Mongolia.

Barberton, C., Carter, J., Townshend, M., Halvey, S., Ragwala, L., and Ganiev, O., 2022. "The Investment Case for Reforming the Child Benefits System in Uzbekistan." Report for UNICEF Uzbekistan. Tashkent, Uzbekistan.

Department of Social Development, 2022. "Department of Social Development Sector Funding Policy." Policy developed for the Department of Social Development, Pretoria, South Africa

Barberton, C. 2023. "Cost of introducing a Maternity Support Grant for Pregnant Women." Report for South African Law Reform Commission, Pretoria, South Africa.

Halvey, S. and Barberton, C. 2024. The socio-economic costs of underfunding the social service workforce for child protection – Zambia. Report 5 of 6 in the Zambia SSW investment case series. UNICEF ESARO, Nairobi, Kenya.

Barberton, C. 2024. An investment case for strengthening the social service workforce for child protection – Zambia, Report 6 of 6 in the Zambia SSW Investment Case Series, UNICEF ESARO, Nairobi, Kenya.

Barberton, C. 2024. Investing in Zambia 's children – the economic case for a well-planned -supported and -resourced Social Service Workforce, Policy Brief in the Zambia SSW Investment Case Series, UNICEF ESARO, Nairobi, Kenya.

United Nations Office SRSG-VAC. 2025. Building the investment case for ending violence against children – Advocacy Brief. UN OSRSG VAC, New York, United States of America

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Commissioned research papers and reports (unpublished)

Ajam, T. and C. Barberton. 1998 'South Africa's Intergovernmental Relations System', Discussion paper for the Department of Finance, Pretoria

Ajam, T. and C. Barberton. 1999 'Intergovernmental Fiscal Review of Provincial Budgets and Expenditures', commissioned by the Department of Finance, Pretoria

Ajam, T. and C. Barberton. 1999. 'Framework Document on a Medium-Term Vision for the Intergovernmental Fiscal Relations System in South Africa', commissioned by the Department of Finance, Pretoria

Abedian, I., C. Barberton, T. Ajam and J Stuart, 1999 Corruption: Project Report and a Proposed Research Programme, Report commissioned by the Institute of Criminology at the University of Cape Town to form a component of the University Corruption Project '99, February

Barberton, C., 1999. 'Assessing Transitional Models for Restructuring the Electricity Distribution Industry (EDI)', Report for the Department of Minerals and Energy, Pretoria.

Barberton, C., 1999. 'Ideas regarding the economic development of ZONE 5 of the Northern Metropolitan Local Council: An input for the Formation of the Northern Sector Strategic Planning Framework', prepared for BCG-BEES Consulting, Johannesburg.

Barberton, C., 1999. 'Restructuring the electricity generation industry: factors likely to impact on environmental performance', Supplementary Paper to Report no: 5 of the Macro

Economic Reforms and Sustainable Development in Southern Africa Project of the World Wildlife Fund.

Barberton, C., 1999. 'DSM and barriers to DSM at the municipal level', Report for the Demand Side Management & ESI Restructuring Project of the Energy for Development Research Centre, UCT

Barberton, C., 1999. 'Exploring the possible impacts of restructuring the electricity supply industry on DSM', Report for the Demand Side Management & ESI Restructuring Project of the Energy for Development Research Centre, UCT

Barberton, C., Stuart, J. and Ajam T., 1999. "Costing the Implementation of the Child Justice Bill and Developing a Strategy for Implementation" Report for Juvenile Justice Committee of the South African Law Commission, Pretoria.

Abedian, I., and Barberton, C., 2000. 'Review of the Study: "The South African mining Industry in the 21st Century"', Review Commissioned by the Chamber of Mines, South Africa.

Barberton, C., and Maphiri, D., 2001. 'Report on players views of the EDI Restructuring and an evaluation of the likely outcome of the process', Project for Billiton plc.

Barberton, C. with Stuart, J., 2001. 'Re-Costing the Child Justice Bill: Updating the original costing taking into consideration changes made to the bill.' Project for the Child Justice Project, UNDP.

Barberton, C. and Maphiri, D., 2001. 'The Use of Earmarked Taxes and Dedicated Funds in Financing Social Security: Review of International Experience and Implications for South Africa'. Report for the National Treasury.

Barberton, C. and Stuart. J., 2001. 'Social Grants Budgeting Tool'. Project for the National Treasury.

Barberton, C. 2001. 'The impact of the proposed State Property Agency on the Provincial Public Works Departments'. Project for the national Department of Public Works.

Barberton, C. 2001. 'Proposed Generic Format for Strategic Plans of Provincial Departments'. Project for the National Treasury.

Barberton, C. 2002. 'Scoping study to inform the development of a policy framework for the costing of policy and legislation'. Project for the National Treasury.

Barberton, C. and Grieve, A. 2002. 'A baseline cost study on the appointment of maintenance investigators in terms of the Maintenance Act, 1998 (act no. 99 of 1998)'. Project for the Department of Justice and Constitutional Development.

Barberton, C. and Du Toit, A. with Murray, C. 2003. 'Parliament's role in the budget process'. Project for National Treasury.

Barberton, C. 2003. 'Options for funding the expansion of the Child Support Grant'. Project for the National Treasury.

Barberton, C. 2003. 'Proposed Generic Format for the 'Programme Performance' section of the Annual Reports of Provincial Departments'. Project for the National Treasury.

Barberton, C. 2003. 'Proposed structure and content of Quarterly Performance Reports'. Project for the National Treasury.

Barberton, C. 2003. 'A research plan detailing the fiscal and financial issues involved in the setting up of a public entity 3A – Social Security Agency'. Project for the National Treasury.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Barberton, C. 2003. 'Scoping the fiscal and budgetary implications of the Children's Bill'. Project for the national Department of Social Development.

Barberton, C. and Grieve, A. 2004. 'An investigation into the cost, management and ways of improving the Thuthuzela System'. Project for the Department of Justice and Constitutional Development.

Sloth-Nielsen, J. with Barberton, C and Skelton, A. 2004. 'Evaluation of Government Institutional Care for Children at Risk (Western Cape)'. Project for the Western Cape Department of Social Welfare.

Barberton, C. with Grieve, A. 2004. 'Enhancing the effectiveness of Performance Agreements of Accounting Officers'. Project for the National Treasury.

Barberton, C. 2004. 'Guideline for Legislative Oversight of Annual Reports'. Project for the National Treasury.

Den Dekker, W. and Barberton, C. 2004. 'Corporate Status Review: South African Review of Corporate Forms'. Project for the Financial Management Improvement Program, National Treasury.

Den Dekker, W. and Barberton, C. 2004. 'Corporate Status Review: International Review: Approaches to Public Entities'. Project for the Financial Management Improvement Program, National Treasury.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Den Dekker, W. and Barberton, C. 2004. 'Corporate Status Review: Corporate Forms Classification Framework Report. Project for the Financial Management Improvement Program, National Treasury.

Den Dekker, W. and Barberton, C. 2005. 'Framework for Delegated and Devolved Entities'. Project for the National Treasury.

Barberton, C. and Carter, J. 2005. Trends in the Gauteng provincial government's budget allocations for funding NPOs'. Project for the Gauteng Welfare Forum.

Barberton, C. 2005. 'Costing the Child Witness Project'. Project for RAPCAN.

Between 2006 and 2012 I was employed by the National Treasury. Consequently, all documents I wrote during this period were either internal discussion documents or published by the National Treasury (see lists above).

Barberton, C. 2012 'Budget Programmes and Implementation Programmes with reference to study of four implementation programmes in the Education Sector'. Report for the Department of Performance Monitoring and Evaluation, The Presidency, South Africa.

Barberton, C. and Carter, J. 2012 'Budget Programmes and Implementation Programmes with reference to a study of the ARV programme in the Health Sector'. Report for the Department of Performance Monitoring and Evaluation, The Presidency, South Africa.

Barberton, C. and Carter, J. 2013. 'Project to cost key components of ECD policy: detailed methodology and outline of key variables for costing.' Report for the Department of Performance Monitoring and Evaluation, The Presidency, South Africa.

Barberton, C. and Abdoll, C. 2014. 'Review of the Funding Regulations for Independent Schools" Report for the Alliance of Black Independent Schools and the Centre for Child Law, University of Pretoria, South Africa.

Carter, J. and Barberton, C. 2014. 'Ideas for correcting the MTEF baselines of the provincial DSDs.' Report for the "Financing Framework and Policy for Social Welfare Services in South Africa" research project of the National Treasury, South Africa.

Barberton, C. 2014. 'Managing transfers to NPOs – legislation, policy and auditing.' Report for the "Financing Framework and Policy for Social Welfare Services in South Africa" research project of the National Treasury, South Africa.

Kriegler, L, and Barberton, C. 2014. 'Literature Review on Financing Social Welfare Services.' Report for the "Financing Framework and Policy for Social Welfare Services in South Africa" research project of the National Treasury, South Africa.

Carter, J. and Barberton, C. 2014. 'Improving the tracking of spending on Social Welfare Services.' Report for the "Financing Framework and Policy for Social Welfare Services in South Africa" research project of the National Treasury, South Africa.

Barberton, C. 2015. 'Proposed Framework for Managing Transfers to NPOs.' Report for the "Financing Framework and Policy for Social Welfare Services in South Africa" research project of the National Treasury, South Africa.

Barberton, C. 2015. 'Ideas for streamlining ECD registration and funding processes.' Report for the "Financing Framework and Policy for Social Welfare Services in South Africa" research project of the National Treasury, South Africa.

Barberton, C. 2016. 'Financing Strategy for centre-based and non-centre based early childhood development services in South Africa.' Report for the Department of Social Development, South Africa.

Barberton, C. and Grieve, A. 2017. 'Guide for implementing the ECD subsidy component of the ECD Conditional Grant.' Report for the National Treasury, South Africa.

Gunchinsuren, E., and Barberton, C. 2017. 'Budget analysis and costing of the child protection services in Mongolia.' Report for UNICEF Mongolia

Barberton, C., Amin, K., Adel El Hussein, I., and Gamal El-Dim, A. 2017. 'Budget analysis and costing of child protection services in Egypt – Analysis of the Social Protection Sector's Budgets, with a focus on entities relevant to child protection'. Report for UNICEF Egypt.

Barberton, C., Amin, K., Adel El Hussein, I., and Gamal El-Dim, A. 2017. 'Budget analysis and costing of child protection services in Egypt – Institutional mapping of a child protection mechanism'. Report for UNICEF Egypt.

Carter, J. and Barberton, C. 2017. 'Results of costing the Social Protection Strategy of the Republic of Tajikistan.' Report for UNICEF Tajikistan.

Barberton, C. and Grieve, A., 2018. 'Review of Government-NPO Relationships.' Report for the National Treasury, South Africa.

Grieve, A., and Barberton, C. 2018. 'The state investing in private ECD infrastructure.' Report for Ilifa Labantwana, South Africa.

Barberton, C., Abdoll, C., Ragwala, L., Budlender, D. and Mohamed, Z., 2018. "Analysis of expenditure on social welfare services" NAWONGO Report 2 of 3 for the National Treasury, Pretoria, South Africa.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Barberton, C., Abdoll, C., Ragwala, L., Budlender, D. and Mohamed, Z., 2018. "Proposals for the naming and prioritisation of social welfare services" NAWONGO Report 3 of 3 for the National Treasury, Pretoria, South Africa.

Barberton, C., Abdoll, C., Ragwala, L., Budlender, D. and Mohamed, Z., 2018. "Proposals for an NPO Funding Policy aligned to the NAWONGO court judgements" NAWONGO PER Annexure for the National Treasury, Pretoria, South Africa.

Hayes, N., and Barberton, C. 2018. "Analysis of the Regulatory Frameworks Applicable to Front of Pack Labelling and Food at Schools" Report for Global Health Advocacy Incubator, Washington. United States of America.

Abdoll, C. and Barberton, C. 2018. "Process for implementing and amending the SSB Tax" Report for Global Health Advocacy Incubator, Washington. United States of America.

Barberton, C. 2018. "Proposals to ensure that child protection budgets and expenditures are captured transparently in government budgets and accounts." Report for UNICEF Nigeria.

Barberton, C. 2019. "Action Plan or improving the availability and quality of education finance information." Report for UNICEF Eritrea.

Barberton, C. and Townshend, M., 2020. "Fiscal Space in Nigeria to increase Federal Expenditure on Child-focused Social Sectors." Report for UNICEF Nigeria.

Carter, J. and Barberton, C. 2020. 'Nutrition Expenditure Review.' Report for UNICEF Uganda.

Barberton, C., Carter. J. and Tamiru, Y. 2020 "A Costed Implementation Plan for the Children: Future Hope of Addis Ababa Early Childhood Development Initiative." Report for the Benard van Leer Foundation and Big Win Philanthropy

Barberton, C. 2020. "Analysis of Disbursement Options for the Presidential ECD Employment Stimulus." Report for Ilifa Labantwana, South Africa.

Barberton, C., Carter. J., Townshend. M., and Halvey, S. 2021. "Budget process and social expenditure analysis in Nigeria to increase federal expenditure on child-focused social sectors." Report for UNICEF Nigeria.

Barberton, C., Halvey, S., Davidson, K. and Carter. J. 2021. "Preventing Violence Against Children Makes Economic Sense" Report for UNICEF Headquarters, New York, and the United National Special Representative of the Secretary General on Violence Against Children.

Barberton, C. 2021. "Report on the Costing of the National Prevention and Response Plan on Violence Against Children in Kenya 2019 – 2023." Report for UNICEF Kenya.

Barberton, C., and Abdoll, C. 2022. "The transformation scorecard self-assessment: user guide and remedial interventions." Tool developed for the Department of Social Development, South Africa.

Barberton, C. and Ragwala, L. 2022. "The Feasibility of Appointing ECD Subsidy Facilitators/Agents to Manage ECD Subsidy Payments – the Legal Context." Report for Ilifa Labantwana, South Africa.

Barberton, C. and Ragwala, L. 2022. "The Feasibility of Appointing ECD Subsidy Facilitators/Agents to Manage ECD Subsidy Payments – Cost of appointing intermediaries." Report for Ilifa Labantwana, South Africa.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Barberton, C. 2022. "Expanding access to ECD subsidies." Report for Ilifa Labantwana, South Africa.

Barberton, C. and Townshend, M. 2022. "Child-friendliness of the design and implementation of the Roghun Bypass – Leveraging Infrastructure Investments to Create Child-friendly Communities." Report for UNICEF Tajikistan

Barberton, C. 2022. "Child-friendly Infrastructure Methodology and Tools – Leveraging Infrastructure Investments to Create Child-friendly Communities." Report for UNICEF Tajikistan

Barberton, C. 2022. "Child-friendly Infrastructure Manual – Leveraging Infrastructure Investments to Create Child-friendly Communities." Report for UNICEF Tajikistan

Barberton, C. 2022. "Child-friendly Infrastructure Handbook – Leveraging Infrastructure Investments to Create Child-friendly Communities." Report for UNICEF Tajikistan

Barberton, C. 2022. "Children's interests in Environmental and Social Impact Assessments – Leveraging Infrastructure Investments to Create Child-friendly Communities." Report for UNICEF Tajikistan

Barberton, C. and Carter, J., 2023. 'Exploring the Social Return on Investment of the Moshal Program in South Africa.' Report for the Moshal Program, Johannesberg, South Africa.

Barberton, C. and Halvey, S. 2023 'A landscape analysis of the social service workforce context – Kenya', Report 1 of 6 in the Kenya SSW Investment Case Series, UNICEF ESARO, Nairobi, Kenya.

Barberton, C. and Halvey, S. 2023. 'A landscape analysis of the social service workforce context – Zambia', Report 1 of 6 in the Zambia SSW Investment Case Series, UNICEF ESARO, Nairobi, Kenya.

Odenyo, A., Barberton, C. and Maonde, Q. 2023. A mapping of the social service workforce for child protection – Zambia, Report 2 of 6 in the Zambia SSW Investment Case Series, UNICEF ESARO, Nairobi, Kenya.

Carter, J. and Barberton, C., 2023. An analysis of budgets and expenditures on the social service workforce – Zambia, Report 3 of 6 in the Zambia SSW Investment Case Series, UNICEF ESARO, Nairobi, Kenya.

Barberton, C. and Smit, C. 2023. "Framework for Assessing the Usefulness of Government Reports." Report for the National Treasury, South Africa.

Barberton, C., 2024. 'Action Plan for the Introduction of Sinfi "O" – Introducing Grade "O" for 6-year-old Children to expand access to Pre-Primary Education in Tajikistan.' Report for UNICEF Tajikistan

Barberton, C., 2024, Costing scenarios to strengthen the social services workforce – Zambia, Report 4 of 6 in the Zambia SSW Investment Case Series, UNICEF ESARO, Nairobi, Kenya.

Odenyo, A., Barberton, C., Maonde, Q. and Ater, E. 2024. A mapping of the social service workforce for child protection – Kenya, Report 2 of 6 in the Kenya SSW Investment Case Series, UNICEF ESARO, Nairobi, Kenya.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Carter, J. and Barberton, C., 2024. An analysis of budgets and expenditures on the social service workforce – Kenya, Report 3 of 6 in the Kenya SSW Investment Case Series, UNICEF ESARO, Nairobi, Kenya.

Barberton, C. and Gitau, J., 2024, Costing scenarios to strengthen the social services workforce – Kenya, Report 4 of 6 in the Kenya SSW Investment Case Series, UNICEF ESARO, Nairobi, Kenya.

Barberton, C. 2024. "Managing Conditional Grants within the Intergovernmental Fiscal System." Report for the National Treasury, South Africa.

Halvey, S. and Barberton, C. 2025. The socio-economic costs of underfunding the social service workforce for child protection – Kenya. Report 5 of 6 in the Kenay SSW investment case series. UNICEF ESARO, Nairobi, Kenya.

Barberton, C. 2025. An investment case for strengthening the social service workforce for child protection – Kenya, Report 6 of 6 in the Kenya SSW Investment Case Series, UNICEF ESARO, Nairobi, Kenya.

Barberton, C. 2025. Investing in Kenya's children – the economic case for a well-planned, -supported and -resourced Social Service Workforce, Policy Brief in the Kenya SSW Investment Case Series, UNICEF ESARO, Nairobi, Kenya.

Barberton, C. 2025. Synthesis Report: Guide to developing an investment case for a stronger social service workforce for child protection, UNICEF ESARO, Nairobi, Kenya.

Barberton, C. 2025. Policy Brief – developing an investment case for a stronger social service workforce for child protection, UNICEF ESARO, Nairobi, Kenya.

Barberton, C. and Carter, J. 2025. "Comprehensive Review of the Budget Process – Workstream 3: Processes, Structures and Timelines." Report for the National Treasury, South Africa.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Parliamentary submissions

Barberton, C., 1997. 'A critique of the new child support benefits', submission to the Parliamentary Committee on Welfare presented at public hearings on the new child support benefits. Cape Town, 21-22 April.

Abedian, I., C Barberton, J. Duperrut and D. Maphiri, 1998. 'The Eskom Amendment Bill: Preparing for the Future', submission to the Parliamentary Committee on Public Enterprises presented at public hearings on the Eskom Amendment Bill, Parliament, Cape Town, 19 October.

Barberton, C., J. Duperrut, D. Maphiri and N. Wilkins, 1998. 'Comments on the Draft Energy White Paper', submission to the Parliamentary Committee on Minerals and Energy, Parliament, Cape Town, 19 May.

Barberton, C., 1999. 'Budget 1999: Comments on the Division of Revenue Bill and the Explanatory Memorandum', submission to the Parliamentary Committee on Finance, Parliament, Cape Town, 22 February.

Barberton, C., 1999. 'Current issues relating to the pricing and taxation of electricity', submission to the Portfolio Committee on Minerals and Energy, Parliament, Cape Town, 14 September.

Barberton, C., 2000. 'Division of Revenue Bill 2000' Submission to the Select Committee on Finance, Parliament, Cape Town, 10 May.

Barberton, C., Maphiri, D. and Ajam, T., 2000. 'MTEF Figures for 2001/2002' Submission to the Select Committee on Finance, Parliament, Cape Town, 23 August.

Articles in newspapers and other publications.

Barberton, C., 1995. 'Powerful limits', *Democracy in Action,* September, IDASA.

Barberton, C., 1998. 'PSC's vision of social security short-sighted', Budget Watch, No.4(2), AFReC/IDASA, June.

Barberton, C., 1999. 'Budget is no longer economic D-Day', *Reconstruct* supplement to *The Sunday Independent*, 14 February 1999.

Barberton, C., 1999. 'Paper Tigers? Resources for Socio-Economic Rights', *ESR Review, Vol. 2 No.1, July 1999,* Community Law Centre UWC.

Barberton, C., 1999. "Progressive realisation' of socio-economic rights - shifting the focus to outcomes ', *ESR Review, Vol. 2 No.2, November 1999,* Community Law Centre UWC.

Barberton, C., 2000. 'Exploring the costs of the draft Child Justice Bill', *Article 40*, Vol.2, No.1, Community Law Centre, March.

Barberton, C., 2000. 'Reallocating expenditure to implement the draft Child Justice Bill', *Article 40*, Vol.2, No.2, Community Law Centre, May.

Barberton, C., 2006. 'Transparency is meaningless without critical engagement', SA Reconciliation Barometer, Vol.4, No.2, July 2006. Institute for Justice and Reconciliation.

Barberton, C., 2008. 'Why MFMA requires monthly budget statements', IMFO Journal, Vol. 9, No.1, Spring, Institute for Municipal Finance Officers

I edited and wrote articles for *Poverty Profile* from its inception in September 1996 to May 1997. I have also written a range of articles for the *Mail and Guardian* and the *Sowetan.*

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

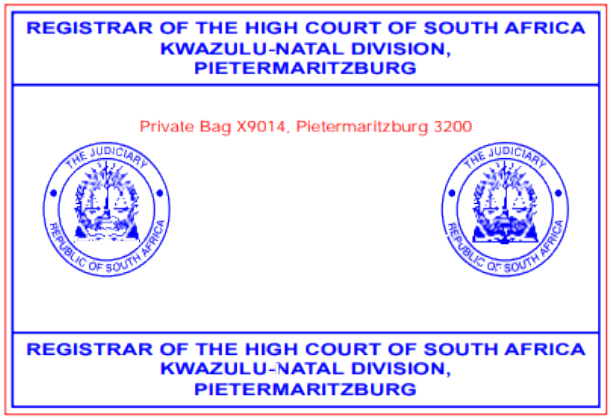
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Expert Reports

NOTE: **This document was filed electronically by the Registrar on 11/12/2025 at 11:39:02 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

Wiedaad Slemming

Email:wiedaad.slemming@uct.ac.za

Personal profile

I am an Associate Professor in the Department of Paediatrics and Child Health at the University of Cape Town (UCT) and the Director of the Children's Institute, an interdisciplinary research unit, at UCT.

I am an experienced health professional, researcher, and health sciences educator with more than 20 years' experience working in a variety of settings in South Africa and internationally. My areas of research and expertise include maternal and child health and nutrition, early childhood development, early childhood intervention and disability, and health systems strengthening. I am also involved in postgraduate health sciences education and curriculum development and serve on several technical and advisory committees at national and international level.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

I was part of the team that led the development of South Africa's National Integrated Early Child Development Policy and Programme. I continue to support the implementation of the ECD Policy, which includes the redesign and implementation of the SA child health record (Road to Health Book) and the accompanying Side-by-Side campaign, as well as how to provide indicated and targeted support and intervention to children and families in South Africa. Through this work, I have become more active in conducting research to inform national efforts to promote ECD through the health system. More recently, the focus has shifted to how opportunities during pregnancy (and preconception) can be maximized to promote ECD, building a continuum of care for mothers, young children and their families. I was lead editor for the 2024 South African Child Gauge focusing on early childhood development, am an Editor for BMC Pediatrics and an Associate Editor for the South African Journal of Child Health.

Higher Education and Qualifications

- **PhD (Paediatrics and Child Health)**; University of the Witwatersrand
- **Master of Public Health**; University of Warwick
- **BSc (Physiotherapy)** ***Cum Laude***; University of Western Cape

Current Professional Memberships

Health Professions Council SA (PT0067636)

Technical advisory group membership

Current

- The African Center for Early Childhood Development – International Advisory Committee
- UNICEF ESARO Expert Reference Group - Systematic Analysis on Early Identification, Intervention, and Referral Pathways for Children with Developmental Delays and Disabilities in Eastern and Southern Africa
- UNICEF (SA) and SA National Department of Health (NDOH) – Restructuring child health and nutrition training materials for health workers in South Africa
- World Health Organization (WHO) – SA National Immunization Technical Advisory Group (NITAG) representative for SAGE meetings
- Africa Early Childhood Network/African Union Thematic Lead with special focus on children with disabilities and their families
- SA NDOH – member of the South African National Advisory Group on Immunisation

(NAGI)

- Statistics South Africa (Stats SA)- Member of Disability Advisory Group (2nd term)
- SA NDOH – Technical working group on promotion, protection and support of breastfeeding and infant and young child feeding
- SA NDOH – ECD Health and Nutrition Steering Committee

Previous

- Conrad N. Hilton Foundation – Health systems ECD Advisor for programmes in East and Southern Africa – ECD-ESA Supporting children with developmental delays and disabilities (2024)
- Scientific Advisory Group for the Healthy Active Kids South Africa 2021/2022 Report Card
- Conrad N. Hilton Foundation – Health systems ECD Advisor for programmes in East and Southern Africa (2020-2021)
- WHO – Development of evidence-based guidance for monitoring children's development by frontline workers (2020-2021)
- WHO – SA NITAG representative for IA2030: Country Consultations on Designing an Ownership & Accountability Component (2020)
- SA Department of Basic Education - ECD Think Tank (2020)
- SA Department of Planning, Monitoring and Evaluation, Office of the Presidency - Advisory group for the integration and coordination of ECD implementation (Peru study tour) (2019)
- SA NDOH - member of technical working group on the Road to Health Booklet (SA child health record) (2016-2018)
- WHO - Advisory Group to inform the development of a parenting programme for caregivers of children aged 0-3y with or at risk for developmental delays and disabilities (2017)
- Gauteng DOH – Provincial early childhood intervention (ECI) task team (2011-2022)



Current research activities

- Lifestart: Innovating for improved child support grant (CSG) access for infants
- Improving early child development in South Africa
- Promoting early childhood development during pregnancy
- *Bukhali* study: a preconception randomised controlled trial part of the Healthy Life Trajectories Initiative (HeLTI)
- Group Care for the First 1000 days (GC_1000): An implementation research project
- Determinants of psychosocial disorders in young people along the urban transition: the case of Senegal, South Africa and France
- Testing the added benefits of pregnancy ultrasound for child development: The Healthy Pregnancy, Healthy Baby Study (co-PI)
- Child Growth and Development During a Global Pandemic: Assessing the Indirect Effects of SARS-CoV-2 on Young Children and their Mothers Living in Soweto, South Africa
- Effects of COVID-19 on access to childhood immunisation services

Publications

Journal articles

- Slemming, Wiedaad, Cohen, Emmanuel, Prioreschi, Alessandra, Wrottesley, Stephanie, Norris, Shane A., "Love, You Need to Give Your Child Love": Mothers' Perceptions of

Nurturing Care for Young Children in South Africa, New Dir Child Adolesc Dev. 2025;1870996.

- Horn A, Orgill M, Billings DL, Slemming W, Van Damme A, Crone M, Gwele M, Leister N, Hindori-Mohangoo AD, Beeckman K, Bradley S, Hindori MP, Abanga J, Ryan J, Bucinca H and McCourt C (2025) Belonging: a meta-theme analysis of women's community-making in group antenatal and postnatal care. Front Public Health. 2025;13:1506956.
- Whyte M, Ibisomi L, Chirwa T, Levin J, Slemming W. Fidelity of implementation of national guidelines on malaria diagnosis for children under-five years in Rivers State, Nigeria. Malaria J. 2024;23(1):123.
- Bakuwa TC, Saloojee G, Slemming W. "This can certainly work…": stakeholder perspectives of the feasibility of a caregiver-led training program for caregivers of children with cerebral palsy in a rural setting in Malawi. Front Public Health. 2024;12:1390645.
- Nyawose ZZ, Naidoo R, Christie C, Bassett S, Coetzee D, van Gent M, Monyeki A, Gradidge P, van Rensburg CJ, Cozett C, Young M et al. Results From South Africa's 2022 Healthy Active Kids' Report Card on Physical Activity, Body Composition Proxies, and Nutritional Status in Children and Adolescents. J Phys Act Health. 2024;1(aop):1-11.
- Van Damme A, Talrich F, Crone M, Rijnders M, Patil CL, Rising SS, Abanga J, Billings DL, Hindori-Mohangoo AD, Hindori MP, Martens N, Mathews S, Molliqaj V, Orgill M, Slemming W, Beeckman K. Identifying anticipated challenges when implementing group care: Context-analyses across seven countries to develop an anticipated challenges framework. Midwifery. 2024;139:104166.
- Drysdale RE, Slemming W, Momberg D, Said-Mohamad R, Richter LM. Impact of COVID-19 lockdown on low birthweight in Soweto, South Africa. S Afr Med J. 2023;113(10):1432-6.
- De Laat J, Radner J, Holding P, Van Der Haar L, Slemming W, Krapels J, Van Der Harst M, Raikes A, Sanou AS, Dusabe C. Measurement for Change: Reflections from innovators' experiences with monitoring, evaluation, and learning systems for Early Childhood Development. Front Public Health. 2023;11:1021790.
- Draper, C.E., Thwala, N., Slemming, W. *et al.* Development, Implementation, and Process Evaluation of *Bukhali*: An Intervention from Preconception to Early Childhood. *Glob* Implement Res Appl. 2023;3:31–43.
- Cohen E, Slemming W, Wrottesley S, Prioreschi A & Norris S A. Maternal perceptions of infant's body weight and childhood obesity in South Africa: A qualitative study in Soweto. Child Soc. 2023;38(2):277-293.
- Slemming, W, S A Norris, J Kagura, H Saloojee, & L Richter. Child development at age 5 years: The effects of maternal education, socioeconomic status and early-life growth examined prospectively in a low-resource setting. S Afr J Child Health. 2022;16(2):111-116.
- Drysdale R, Slemming W, Makusha T, Richter L. Male partners' experiences of early pregnancy ultrasound scans in Soweto, South Africa: The Healthy Pregnancy, Healthy Baby randomised trial. S Afr J Child Health. 2022;16(2):72-79.
- Norris SA, Draper CE, Prioreschi A, Smuts CM, Ware LJ, Dennis C, Awadalla P, Bassani D, Bhutta Z, Briollais L, Cameron DW. Building knowledge, optimising physical and mental health and setting up healthier life trajectories in South African women (Bukhali): a preconception randomised control trial part of the Healthy Life Trajectories Initiative (HeLTI). BMJ Open. 2022;12(4):e059914.
- Drysdale, RE, Slemming, W, Makusha, T, Richter, LM. Father involvement, maternal depression and child nutritional outcomes in Soweto, South Africa. Matern Child Nutr. 2021;17:e13177.
- Tomlinson M, Richter L, Slemming W. What the science of child and adolescent development contributes to understanding the impacts of COVID-19. S Afr J Sci. 2021;117(1/2).
- Slemming W, Drysdale R, Richter LM. An opportunity during antenatal services to strengthen nurturing care: Global and national recommendations for routine

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

ultrasound before 24 weeks gestation. Front Public Health. 2021;8:589870.

- Slemming W, Cele R, Richter L M. Quality of early childcare in the home and cognitive development at age 5: results from the South African Birth to Twenty Plus cohort study. Early Child Dev Care. 2021.
- Trude ACB, Richter L, Behrman J R, et al. Effects of responsive caregiving and learning opportunities during pre-school ages on the association of early adversities and adolescent human capital: an analysis of birth cohorts in two middle-income countries. Lancet Child Adolesc Health. 2021;5:37-46
- Van der Haar L, Holding PA, Krapels J, de Laat J, Slemming W. Measurement for Change: From Idea to Approach. Front Public Health. 2020;8:835.
- Krapels J, Van Der Haar LM, Slemming W, De Laat J, Radner J, Sanou AS, Holding P. The Aspirations of Measurement for Change. Front Public Health. 2020;8:836.
- Mirira L, Slemming W, Tagutanazvo OB. Factors Associated with Mother-to-child Transmission of HIV in Eswatini. Wits J Clin Med. 2020;2:241-6.
- Prioreschi A, Wrottesley S, Slemming W, Cohen E, Norris SA. A qualitative study reporting maternal perceptions of the importance of play for healthy growth and development in the first two years of life. BMC Pediatr. 2020;20:428.
- Wrottesley S, Prioreschi A, Slemming W, Cohen E, Dennis C, Norris, S. Maternal perspectives on infant feeding practices in Soweto, South Africa. Public Health Nutr. 2020;1-13.
- Richter L, Slemming W, Norris SA, Stein A, Poston L, Pasupathy D. Health Pregnancy, Healthy Baby: testing the added benefits of pregnancy ultrasound scan for child development in a randomised control trial. Trials. 2020;21:25.
- Bamford L, Martin P, Slemming W, Richter L. Improving the early development of children through quality health care. S Afr Health Rev. 2019; 145-153.
- Mahery P, Slemming W. Mandatory childhood immunisation in South Africa: What are the legal options? S Afr J Bioeth Law. 2019;12:76-86.
- Dunlop J, Slemming W, Schnippel K, Makura C, Levin L, Rayne S, Vujovic M, Firnhaber C. Breast abnormalities in adolescents receiving antiretroviral therapy. South Afr J HIV Med. 2019;20:a1027.
- Slemming W, Bamford L. The new Road to Health Booklet demands a paradigm shift. S Afr J Child Health. 2018;12: 86-87.
- Pandya H, Slemming W, Saloojee H. Health system factors affecting implementation of Integrated Management of Childhood Illness (IMCI): qualitative insights from a South African province. Health Policy Plan. 2018;33:171-182.
- Pandya H, Slemming W, Saloojee H. Reflective portfolios support learning, personal growth and competency achievement in postgraduate public health education. Afr J Health Prof Educ. 2017; 9:78-82.
- Slemming W, Saloojee H and Richter L. Early life risk exposure and stunting in urban South African 2-year old children. J Dev Orig Health Dis. 2017;1:1–10.
- Slemming W, Bello B, Saloojee H, Richter L. Maternal risk exposure during pregnancy and infant birth weight. Early Hum Dev. 2016;99:31-6.
- McInerney P, Slemming W, Basu J and Stewart A. "Choosing to have an illegal abortion in Southern Africa: a comprehensive systematic review of the qualitative and text and opinion-based evidence." JBI Database Syst Rev Implement. 2014; 216-255.
- Shung-King M, Orgill M, & Slemming W. School health in South Africa: reflections on the past and prospects for the future. S Afr Health Rev. 2014;59-72.
- Samuels A, Slemming W, Balton S. Early Childhood Intervention in South Africa in Relation to the Developmental Systems Model. Infants Young Child. 2012;25:334–345.
- Slemming W, Saloojee H. Meeting 21st century school health needs in South Africa. S

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Afr Paediatr Rev. 2011;8:22-33.

Conference proceedings

- Bawab N, Moullin JC, Bugnon O. *et al.* Proceedings of the Virtual 3rd UK Implementation Science Research Conference. Implementation Sci. 2020;15 (S4):105.
- Slemming W, Bello B, Saloojee H and Richter L. Maternal risk exposure during pregnancy and infant birth weight. J Dev Orig Health Dis. 2015;6(S2):1 – 20.

Books

- Slemming W, Biersteker L, Lake L. *South African Child Gauge 2024*. Cape Town: Children's Institute, University of Cape Town; 2024.

Book chapters

- Slemming W, Berry L, Lake L. Invest early to build a strong foundation for national development. In: Slemming W, Biersteker L, Lake L (eds). *South African Child Gauge 2024*. Cape Town: Children's Institute, University of Cape Town; 2024.
- Berry L, Slemming W. Mind the policy gap: An overview of progress toward providing universal services for young children in South Africa. In: Slemming W, Biersteker L, Lake L (eds). *South African Child Gauge 2024*. Cape Town: Children's Institute, University of Cape Town; 2024.
- Bamford L, Slemming W. Ensuring that mothers and young children survive and thrive: The role of the health sector. In: Slemming W, Biersteker L, Lake L (eds). *South African Child Gauge 2024*. Cape Town: Children's Institute, University of Cape Town; 2024.
- Naicker S, Gwele M, Samuels A, Delany A, Lake L, Slemming W. All families need some support, but some families need all the support they can get: Achieving equity by providing extra care. In: Slemming W, Biersteker L, Lake L (eds). *South African Child Gauge 2024*. Cape Town: Children's Institute, University of Cape Town; 2024.
- Slemming W, Saloojee H. How to use the Road to Health Booklet. *South African Family Practice Manual*: 4th edition. *(in press)*
- Tomlinson M, Richter L, Slemming W. Covid-19 and secondary education. In: Bucher M (ed), Mall AS (eds). *Essential facts about Covid-19: the disease, the responses, and an uncertain future. For South African learners, teachers, and the general public*. 2021. [Online]
- Slemming W, Richter L. Psychosocial factors in child health. In: Westwood A, Saloojee H, Shung-King MA (eds). *Child Health for All* (6th ed). South Africa: Oxford University Press; 2021.
- Slemming W. Early childhood development. In: Westwood A, Saloojee H, Shung- King MA (eds). *Child Health for All* (6th ed). South Africa: Oxford University Press; 2021.
- Westwood A, Slemming W. Long term health conditions in children: Towards comprehensive care. In: Shung-King M, Lake L, Sanders D & Hendricks M (eds). *South African Child Gauge*. Cape Town: Children's Institute, University of Cape Town; 2019.
- Slemming W, Balton S. Child disability and the family. In: Makiwane M, Nduna M,Mophosho M and Khalema E. *Lives and Times: Children in South African Families.* London: Cambridge Scholars; 2016
- Slemming W, Saloojee H. Beyond survival: The role of health care in promoting ECD. In: Berry L, Biersteker L, Dawes H, Lake L & Smith C (eds). *South African Child Gauge*. Cape Town: Children's Institute, University of Cape Town; 2013.

Reports and Policy/Strategy documents

- Slemming W, Samuels A, Smith K, McGrath R, Bakuwa T, Ratemo G, Camden- Smith,

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

- Journal of Remote and Rural Health
- South African Child Gauge
- South African Health Review

Journal and grant review

- Academy of Science of South Africa (ASSAf) - African Journal of Disability
- National Research Foundation (ongoing review of grant applications, including researcher rating applications)
- South African Medical Research Council (SAMRC) (ongoing review of grant applications, including researcher rating applications)



IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

EQUALITY COLLECTIVE NPC	Applicant *Amicus Curiae*

In the matter between:

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

and

MEC FOR EDUCTION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

EXPERT AFFIDAVIT OF WIEDAAD SLEMMING

I, the undersigned,



WIEDAAD SLEMMING

state under oath:

1 I am an adult female Associate Professor and the Director of the Children's Institute, a research unit at the University of Cape Town ("the Children's Institute").

2 I depose to this affidavit in my capacity as a health professional and an Associate Professor with a PhD in Paediatrics and Child Health focussed on Early Childhood Development (ECD).

3 I have 25 years of experience as a health professional, academic and researcher specialising in maternal and child health and early childhood development policy and services. I served on the task team that conducted the Diagnostic Review on ECD and on the drafting team for the National Integrated ECD Policy where I contributed to issues related to maternal and child health and led on issues related

2

to child developmental delays and disability. Most recently, I was lead editor for the South African Child Gauge 2024 which focused on ECD. I attached my CV hereto as annexure "**WS1**".

4 Given my qualifications and experience, I submit that I am duly qualified to express an expert opinion on the matters addressed in this affidavit.

5 Where I have based my opinions on journal articles, book chapters, reports, studies and other documents referenced in this affidavit, I confirm the reliability of these materials based on my own experience and training and further confirm that they are written by persons of established repute, proven experience in the field, or evident knowledge of the matters they address. A bundle of these materials will be filed with this affidavit.



INTRODUCTION

6 The Children's Institute is based in the Department of Paediatrics and Child Health, in the Faculty of Health Sciences, at the University of Cape Town. The Institute, established in 2001, is an applied research unit that is proactively engaged in addressing the challenges facing children in South Africa through interdisciplinary and child-centred research, advocacy and education. Our work explores the tensions between policy, practice and children's lived realities, with the objective of promoting the design and implementation of laws and services that enable all children to thrive. In this affidavit I have drawn on evidence from a number of the Children's Institute's research projects and publications, including our annually

produced South African Child Gauge; our child indicator project, Children Count; and other relevant local and international research.

7 This is a case about the withholding of and delays in payment of subsidies to Non-Profit Organisations (NPOs) in KwaZulu-Natal that provide a range of ECD services to young children.

8 This affidavit is written to set out several concepts and findings based on scientific knowledge and evidence on early childhood development (ECD). The affidavit addresses key content on the rationale and importance of ECD and its holistic nature. It comments on the relationship between ECD and poverty and inequality which is highly relevant for the South African context, and particularly KwaZulu-Natal. Furthermore, it contextualises the provision of ECD programmes in South Africa, including describing the nature of such programmes. It also examines statistical information to provide a picture of the status of early childhood outcomes in South Africa, also reflecting on the situation for young children in KwaZulu-Natal. The affidavit additionally provides information on the impact of quality ECD programmes on children's wellbeing and future prospects and describes the negative repercussions of withholding state financial support in the form of subsidies, from ECD programmes.

THE IMPORTANCE OF EARLY CHILDHOOD DEVELOPMENT

9 The early years of a child's life are a critically sensitive period of rapid growth and development. The rate and shape of early development is determined by an

4

individual child's nature and genetic blueprint, and external factors such as living conditions, family and care arrangements, and health and education systems.

10 A child's early environments, experiences and relationships fundamentally shape brain architecture and developmental pathways and influences health, wellbeing, capacities and achievements throughout their life course, and that of the next generation. Across key domains of functioning such as physical growth, movement, and learning and communication, foundations are built during the early childhood phase to set children on optimal pathways into middle childhood, adolescence, and into adulthood.[1]

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

11 The timing of these developmental processes is critical; the early years present a crucial window of opportunity for human development that can either be maximised or neglected.

12 Adverse conditions such as poverty (frequently embedded in structural inequities), food insecurity, poor health, unresponsive caregiving and limited early learning opportunities can result in compromised development with compounding effects that may be irreversible, leaving affected children at risk of not reaching their lifetime potential.[2]

---

[1] Draper CE, Yousafzai AK, McCoy DC, Cuartas J, Obradović J, Bhopal S, Fisher J, Jeong J, Klingberg S, Milner K, Pisani L, Roy A, Seiden J, Sudfeld CR, Wrottesley SV, Fink G, Nores M, Tremblay MS, Okely AD. The next 1000 days: building on early investments for the health and development of young children. *Lancet*. 2024 Nov 23;404(10467):2094-2116. doi: 10.1016/S0140-6736(24)01389-8. At pg 2095.

[2] Trude AC, Richter LM, Behrman JR, Stein AD, Menezes AM, Black MM. Effects of responsive caregiving and learning opportunities during pre-school ages on the association of early adversities and adolescent human capital: an analysis of birth cohorts in two middle-income countries. *Lancet Child Adolesc Health*. 2021; 5:37-46. At pg 37; National Scientific Council on the Developing Child. (2020). Connecting the Brain

5

13 However, supportive inputs that promote health and development in nurturing, stable environments can have the greatest impact during the early years. Research shows that quality interventions during the early years has positive effects in adulthood in several areas including wage earning, educational attainment and competence, physical and mental health, and reduced violence.[3]

14 Historically, women and young children have been neglected and subjected to rights violations and are therefore regarded as particularly vulnerable groups in post-apartheid South Africa. The South African government has given limited attention to enabling the delivery of services and programmes that promote the development of young children. Early childhood development (ECD) programmes are primarily provided by non-government actors, that is, non-profit organisations and micro-social enterprises. The ECD sector is largely informal and operates from a fragile funding base, with limited but essential government support.



15 In recent years, South Africa has recognised the value of ECD in policy. The National Development Plan places ECD at the centre of the realisation of the country's national development goals to reduce poverty and inequality. It aims to achieve universal access to quality ECD, including two years of preschool, by 2030. Aligning to the NDP sentiments, South Africa's first National Integrated Early

---

to the Rest of the Body: Early Childhood Development and Lifelong Health Are Deeply Intertwined: Working Paper No. 15. Retrieved from www.developingchild.harvard.edu. At pg 5.

[3] Black MM, Walker SP, Fernald LCH, Andersen CT, DiGirolamo AM, Lu C, McCoy DC, Fink G, Shawar YR, Shiffman J, Devercelli AE, Wodon QT, Vargas-Barón E, Grantham-McGregor S; Lancet Early Childhood Development Series Steering Committee. Early childhood development coming of age: science through the life course. *Lancet*. 2017 Jan 7;389(10064):77-90. doi: 10.1016/S0140-6736(16)31389-7. At pg 77.

Childhood Development Policy (NIECD Policy) was adopted in 2015. It provides a focus on integrated ECD services and positions ECD as a right to which every young child is entitled, and as a public good. More recently, ECD has received increased prominence as reflected in Presidential commitments, increased budgetary allocations, and the transfer in responsibilities to education departments to sharpen the focus on the relevance of ECD for improving educational outcomes.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

THE HOLISTIC NATURE OF EARLY CHILDHOOD DEVELOPMENT

16 Understanding the rationale for ECD, as well as how development occurs, is crucial for enabling supportive interventions, such as policies and programmes, to foster optimal development. Child development is multi-dimensional and interrelated. Progress in one domain of development catalyses progress in others. Young children should be regarded holistically; this requires integrated approaches to service delivery and the use of regular points of contact to respond to children's multiple needs more effectively.

17 Young children need healthy conditions and enabling environments that support their overall development and enable them to thrive. As promoted in the Nurturing Care Framework of 2018 - a global framework developed by the World Health Organization, United Nations Children's Fund and the World Bank Group to support governments to prioritise ECD - young children need good health, adequate nutrition, protection from threats, opportunities for early learning, and interactions with caregivers that are responsive, supportive and stimulating. These are the

7

fundamentals of holistic care and support that constitutes a strong and healthy start to life. Opportunities for rest, play and leisure, and enabling participation in society and cultural life is a further component promoted in the 2015 NIECD Policy.

POVERTY AND INEQUALITY

18 Supporting the development of young children is a key strategy for reducing inequality. Ensuring equitable access to quality ECD services for all children, regardless of income status, disability, background or circumstance, is crucial for realising the right to equality and promoting equal opportunities for development. Disparities in funding support and access to ECD services, including early learning programmes, perpetuates inequalities, hindering young children's potential and maintaining a persistent cycle of disadvantage.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

19 Quality ECD programmes, particularly those focused on early learning, can help mitigate the effects of socio-economic disparities on a child's development. By providing a strong foundation for all children, regardless of their socio-economic background, quality ECD programmes that are responsive to individual needs can help level the playing field and ensure that all young children can reach their full potential.

20 Young children experiencing disadvantage (due to socio-economic, geographic or disability status, among others), are likely to start primary school behind their more advantaged peers. This scenario potentially negatively impacts their future educational achievement and opportunities. Quality ECD programmes can help

8

close these achievement gaps by providing early learning experiences that build foundational skills and prepare children adequately for formal schooling.

WHAT ARE ECD PROGRAMMES?

21 ECD programmes of good quality contribute substantially to reducing the effects of poverty on young children and to promoting equality and inclusion. Such programmes perform an invaluable service to South African society, providing safe childcare, enabling parents to participate in the labour market, and ensuring that young children receive early learning opportunities, social interaction and nutrition. The provision of nutritious meals at ECD programmes demonstrates the crucial role of these programmes as a location for integrated services and holistic care, particularly in contexts of poverty and deprivation.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

22 ECD programmes are provided in different modalities, including those that operate in facilities or centres (centre-based), and those that operate in home or community settings such as play groups, toy libraries and day mothers (non-centre-based). These varying modalities are necessary in response to the diverse childcare and support needs of parents, for example, mothers who work in the informal economy may have different work hours from those in the formal labour market.

23 ECD centres may function in dedicated purpose-built buildings or could be using community facilities such as church buildings or operate from private homes where owners may have modified their premises to accommodate a centre.

9

THE NATURE OF THE ECD SECTOR IN SOUTH AFRICA

24 The ECD sector primarily consists of private, subsistence entrepreneurs, microsocial enterprises or non-profit organisations who offer ECD programmes and services. Those serving the poorest communities in South Africa are often small and informal. The informality of the sector results in precarious and low-paying jobs (with 90% of ECD practitioners earning below minimum wage[4]), impeding the provision of quality early learning environments. According to the NIECD Policy, the role of government is to regulate and fund ECD programmes provided by the non-government sector, whether these are for-profit or non-profit service providers.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

25 ECD programmes delivered by the non-government sector that are dependent on state subsidies provide a daily point of contact that responds to a number of young children's developmental needs: basic nutrition, early learning, play, social and emotional development, safety and security. After the Child Support Grant, the ECD subsidy paid to ECD programmes is the state's second biggest programme aimed at improving young children's basic nutrition.[5]

26 Government currently provides a partial per child per day subsidy (despite the promotion of a programme-based funding approach in the NIECD Policy) to service providers who meet the registration requirements of the Children's Act. The subsidy is insufficient to cover the costs of running an ECD programme, and most

[4] Department of Basic Education (DBE). Baseline Assessment. Technical Report. Pretoria: DBE, 2022. At pg 21.
[5] Hall K, Proudlock P and Budlender D. *Reducing Child Poverty: A review of child poverty and the value of the Child Support Grant*. Pretoria: Department of Social Development, 2023. At pg 156 – 157.

programmes rely on the combined income of subsidies, fees and other income sources. Only one-third of early learning programmes included in the 2021 ECD Census report receiving the government subsidy.[6] Provinces also report having insufficient funds to reach all eligible children. In 2019/2020, only about 40% of children aged 4 and 5 years who were eligible for the subsidy, received it.[7]

27 In contexts of high rates of poverty, ECD programme income is primarily raised through parent fees, further increasing the burden on parents, and deepening the potential exclusion of the poorest children. However, parent fees are an unreliable source of income and non-payment exacerbates programmes' financial instability, for example, only 8% of programmes included in a Department of Basic Education's baseline assessment in 2022 indicated that all parents paid their fees in the previous month.[8] Thus, for programmes that do receive subsidies, especially those in the designated poverty wards, the state subsidy is one of their main sources of income and helps to lower user fees for families in poverty.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

THE STATUS OF EARLY CHILDHOOD OUTCOMES IN SOUTH AFRICA AND KWAZULU-NATAL

28 ECD programmes support young children's development within the broader context of multiple social ills that plague children and families in South Africa such as illness

[6] Department of Basic Education. ECD Census 2021: Report. Pretoria: Department of Basic Education, 2022. At pg 7.
[7] Dulvy E and Devercelli A. *South Africa Public Expenditure and Institutional Review for Early Childhood Development*. World Bank Group and Department of Basic Education, 2022. At pg 3.
[8] Fn4 above (DBE; 2022) At pg 29.

and disease, poverty and unemployment, hunger and food insecurity, crime and violence. Despite gains in child mortality reduction and incidence of infectious diseases, four in ten young children in South Africa remain at risk of poor developmental outcomes based on their exposure to extreme poverty and/or stunting, which are both established risks to child development.[9]

29 The Human Science Research Council conducted a National Survey of Food and Nutrition Security between 2021 and 2023. The study included the collection of anthropometric data for young children, who were weighed and measured to determine their nutritional status. Over a quarter of children (29%) under 6 years in South Africa were found to be stunted (too short for their age) – a sign of chronic under-nutrition.[10] Similarly, a stunting prevalence of 27% was found in the 2016 national Demographic and Health Survey,[11] suggesting that there has not been an improvement in the prevalence of malnutrition in young children in close to ten years.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

30 In KwaZulu-Natal, 28% of children under 6 years were stunted according to the HSRC survey,[12] with particularly high prevalence in the Uthukela District, where 56% of children under 6 years were stunted, and 49% severely stunted.[13] Other

---

[9] Nurturing Care for Early Childhood Development. Country profiles for early childhood development, South Africa. 2023 updates. Developed by UNICEF in collaboration with Countdown to 2030 Women's, Children's and Adolescent's Health. https://nurturing-care.org/south-africa-2023. At pg 171.
[10] Simelane T, Mutanga SS, Hongoro C, Parker W, Mjimba V, Zuma K, Kajombo R, Ngidi M, Masamha B, Mokhele T, Managa R, Ngungu M, Sinyolo S, Tshililo F, Ubisi N, Skhosana NC, Ndinda C, Sithole M, Muthige M, Lunga W, Tshitangano F, Dukhi NF, Sewpaul R, Mkhongi A, Marinda E. National Food and Nutrition Security Survey: National Report: HSRC: Pretoria, 2023. At pg 113.
[11] National Department of Health (NDoH), Statistics South Africa (Stats SA), South African Medical Research Council (SAMRC), and ICF. *South Africa Demographic and Health Survey 2016*. 2019. At pg 179.
[12] Fn7 above (National Report: HSRC; 2023) At pg 113.
[13] Simelane T, Mutanga SS, Hongoro C, Parker W, Mjimba V, Zuma K, Kajombo R, Ngidi M, Masamha B, Mokhele T, Managa R, Ngungu M, Sinyolo S, Tshililo F, Ubisi N, Skhosana NC, Sithole M, Muthige M,

districts with a high prevalence of stunting include King Cetshawo at 42%, Harry Gwala and Ugu at 39%, iLembe at 36% and Amajuba at 35%.[14] Stunting is hard to reverse and is also associated with poorer developmental outcomes including poorer learning outcomes, as malnutrition restricts cognitive development.

31 Child poverty rates, already persistently high, spiked during 2020, and although there has been some recovery subsequently, poverty rates have remained at their pre-COVID-19 levels.[15]

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

32 KwaZulu-Natal has the highest child poverty headcount in terms of numbers of all the provinces followed by the Eastern Cape and Limpopo. Collectively these three provinces account for half (51%) of the poor children in the country,[16] i.e., those below the upper bound poverty line of R1,634 per person per month in 2024 (the minimum sum of money needed to cover basic food and non-food essentials). Similarly, these three provinces collectively comprise 58% of ultra-poor children, i.e., those below the food poverty line of R796 per person per month in 2024[17] (the estimated cost of buying the minimum daily food to meet energy needs as determined by the World Health Organization). This is regarded as a minimal line: the monetary value is based on the cost of foods typically consumed by poor

---

Lunga W, Tshitangano F, Dukhi NF, Sewpaul R, Mkhongi A, Marinda E. *National Food and Nutrition Security Survey: Provincial Report: KwaZulu-Natal*. HSRC: Pretoria, 2023. At pg 133.

[14] Simelane T , et al. (above) at pg 133.

[15] Hall K, Proudlock P and Budlender D. *Reducing Child Poverty: A review of child poverty and the value of the Child Support Grant*. Pretoria: Department of Social Development, 2023. At pg 46.

[16] Hall K & Hendricks S analysis of the General Household Survey (GHS) 2024. Forthcoming in Children Count and South African Child Gauge 2025. Children's Institute, University of Cape Town. The General Household Survey is conducted annually by Stats SA and is designed to be representative of the population at national and provincial levels.

[17] Statistics South Africa. National Poverty Lines 2024. Statistical Release P0310.1. Pretoria: Stats SA, 2024. At pg 3.

households – a food basket that tends to prioritise starchy and non-perishable foods, but not necessarily adequate nutritional content.

33 In 2024, 39% of children in South Africa under six years of age lived in food poverty.[18] Food poverty is particularly severe among young children in KwaZulu-Natal: of the 1.4 million children under 6 years in the province, half were living in households with incomes below the minimum food poverty line, even after accounting for social grants.[19]



34 Nationally, in 2024, 14% of children under 6 years were in households that reported children going hungry, with a higher rate of 19% in KwaZulu-Natal. In households experiencing food poverty, foods that are filling may be prioritised rather than nutritious foods. Other food insecurity indicators have higher prevalence rates: 34% of young children in KwaZulu-Natal – nearly half a million – were in households that reported reducing the range of foods they consumed, or running out of food altogether, due to lack of money. These forms of food insecurity were over 40% for children living in the poorest households (quintile 1).[20]

35 In KwaZulu-Natal, in 2024, access to early learning programmes (ECD programmes that specifically promote early learning such as Grade R classes, nursery schools, educare centres or playgroups) was lower than the national average: 58% of children in KwaZulu-Natal aged 3-5 years attended some kind of early learning

[18] Hall K & Hendricks S analysis of GHS 2024. Forthcoming in Children Count and South African Child Gauge 2025. Children's Institute, University of Cape Town.
[19] Hall K, analysis of GHS 2024 (conducted specifically for affidavit).
[20] Hall K, analysis of GHS 2024 (conducted specifically for affidavit).

programme, compared with 70% nationally.[21] Children in poorer households (quintiles 1 and 2) are less likely to attend early learning programmes than their peers in wealthier households.

36 The Thrive by Five study, conducted in 2021, found that in KwaZulu-Natal only 30% of the sampled 4-5 year-olds attending early learning programmes were "on track", that is, achieving the expected developmental standard, using a composite early learning outcome measure (this includes an age-appropriate assessment of gross motor, fine motor, and visual motor development, emergent numeracy and mathematics, cognition and executive functioning, and emergent literacy and language). Only 26% of children were on track for cognition and executive functioning. Nationally, the picture is slightly improved: just less than half (42%) of the 4–5-year-olds included in the study could perform the learning tasks expected of a child their age.[22] Outcomes for children not attending ECD centres are not known.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

IMPACT OF QUALITY ECD ON CHILDREN'S FUTURES

37 Quality ECD is one of the greatest opportunities to attain a high rate of return on investment. This is particularly true when investments target disadvantaged families and are made during the early stages of life.

[21] Hall K, analysis of GHS 2024 (conducted specifically for affidavit).
[22] Giese, S., Pettersson Gelander, G., Cook, C., Carnegie, T., Tredoux, C., Dawes, A., Biersteker, L., Beukes, S., Pahla, Z., and Kika-Mistry, J. (2025). Thrive by Five Index 2024: National Findings. DataDrive2030, Cape Town.www.thrivebyfive.co.za.

programme, compared with 70% nationally.[21] Children in poorer households (quintiles 1 and 2) are less likely to attend early learning programmes than their peers in wealthier households.

36 The Thrive by Five study, conducted in 2021, found that in KwaZulu-Natal only 30% of the sampled 4-5 year-olds attending early learning programmes were "on track", that is, achieving the expected developmental standard, using a composite early learning outcome measure (this includes an age-appropriate assessment of gross motor, fine motor, and visual motor development, emergent numeracy and mathematics, cognition and executive functioning, and emergent literacy and language). Only 26% of children were on track for cognition and executive functioning. Nationally, the picture is slightly improved: just less than half (42%) of the 4–5-year-olds included in the study could perform the learning tasks expected of a child their age.[22] Outcomes for children not attending ECD centres are not known.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

IMPACT OF QUALITY ECD ON CHILDREN'S FUTURES

37 Quality ECD is one of the greatest opportunities to attain a high rate of return on investment. This is particularly true when investments target disadvantaged families and are made during the early stages of life.

---

[21] Hall K, analysis of GHS 2024 (conducted specifically for affidavit).
[22] Giese, S., Pettersson Gelander, G., Cook, C., Carnegie, T., Tredoux, C., Dawes, A., Biersteker, L., Beukes, S., Pahla, Z., and Kika-Mistry, J. (2025). Thrive by Five Index 2024: National Findings. DataDrive2030, Cape Town.www.thrivebyfive.co.za.

38 Adverse conditions and risks, if interventions are not provided, can build over time and create cumulative disadvantage, most likely resulting in sub-optimal child development. Risk factors relevant to the South African context include malnutrition, poverty and severe psychosocial deprivation. However, diverse risks may be present and could exist at the level of the individual child, caregiver, family, or broader context.

39 Quality interventions provided during the early stages of life are therefore a powerful tool to promote and nurture development, particularly for disadvantaged children. Studies have shown that quality ECD programmes for disadvantaged children yield substantial returns on investment including better education, health, economic and social outcomes in adulthood.[23]



40 This suggests that the impacts of policies and interventions in early childhood will be greatest when they are multi-sectoral, integrated and make provision for holistic programming for young children and their families, to meet a range of needs and to target specific risks.

41 Investing in quality developmental opportunities, including early learning opportunities, for children experiencing multiple risks can address social ills such as poor health, poverty and crime and reduce their related costs to society.[24]

---

[23] See for example, Campbell F, Conti G, Heckman JJ, Moon SH, Pinto R, Pungello E, Pan Y. Early childhood investments substantially boost adult health. *Science.* 2014 Mar 28;343(6178):1478-85. doi: 10.1126/science.1248429. At pg 1478.

[24] Heckman, J. Invest in Early Childhood Development: Reduce Deficits, Strengthen the Economy. The economics of human potential. Heckman Equation, 2025. https://heckmanequation.org/resource/invest-in-early-childhood-development-reduce-deficits-strengthen-the-economy. At pg 1.

42 Investments in early development therefore have significant knock-on effects for human capital development, societal upliftment, and can accelerate progress toward achieving national goals.

HARM CAUSED BY SUBSIDY FAILURES (IN KZN)

43 Heeding the striking evidence for investment in the early years and its long-term impacts at an individual and societal level - particularly for disadvantaged children - it is alarming to note that the provincial government is not meeting its commitments in terms of its funding obligations toward ECD programmes in KwaZulu-Natal. Using the impacts of the Covid-19 disaster on the ECD sector as an illustration, I observe that a real threat of ECD programme closures exist should government subsidies cease or when they are irregular or severely delayed.



44 The effects of the state's response to the Covid-19 disaster on the ECD sector in South Africa epitomises the severe consequences for ECD programmes and the young children they serve, when state financial support is withheld, even temporarily. The consequences for the ECD sector included the widespread loss of jobs and livelihoods and the permanent closure of ECD centres and programmes across the country. For service providers who could continue to operate, many had inadequate resources to safely re-open their services in compliance with the Covid-19 regulations and therefore could not legitimately continue their services. Thousands of jobs in the ECD sector were lost, and many more were under severe threat, contributing to the significant crisis in the sector.

45 The paramount driver for the devastating impact was the loss of funds to operate ECD programmes, primarily the state's ECD subsidy which had been the main source of dependable income for many of the ECD programmes in the most disadvantaged areas.

46 Families with young children experienced a severe loss of support due to the state's closure of ECD programmes. A review of studies in low-and-middle-income countries on the care of young children during the Covid-19 crisis found that families were at heightened risk for stress and poor mental health, which was associated with reduced closeness between caregivers and their children, harsher parenting attitudes, and increased parent-child conflict. The review also notes a decline in reporting on possible child maltreatment.[25]



47 The primary impact for children was that they were unable to attend ECD programmes due to temporary or permanent closure of ECD programmes. Regular attendance of ECD programmes is an important protective factor for young children, as programmes provide safe spaces for socialisation, play, learning and supportive interactions with adults, while safeguarding them from exposure to risks in their homes and community environments.

[25] Proulx K, Lenzi-Weisbecker R, Hatch RKH, Omoeva C. *Responsive caregiving, early learning and play, and children's safety and security during COVID-19*. Research brief: The Lego Foundation and FHI360, 2021. At pg 3.

48 Local studies of early learning programmes have demonstrated improvements in early learning outcomes for children enrolled in quality programmes.[26] It is therefore likely that non-attendance and programme closures will negatively affect the developmental gains children have made and hinder their progress.

49 While great strides have been made to support parents to engage in responsive caregiving and stimulating interactions with their young children, studies indicate that when children are at home, a significant proportion of caregivers do not engage in activities that promote early literacy or numeracy, have limited time to spend with their children, and permit young children to regularly and inappropriately engage with screens[27] which is not supportive of their learning and development. In conditions of poverty in particular, children's attendance of quality ECD programmes is therefore critical to enable their access to opportunities that foster cognitive skills and preparation for schooling, safe childcare, daily nutritious meals, health monitoring, and supportive interactions with adults.



CONCLUSION

50 Neglect in the early years has a lifelong negative impact for young children and society. Persistently high child poverty, under-nutrition and other risk factors and adversities accumulate to result in poor child outcomes, as evident for example, in

---

[26] For example, Dawes A, Biersteker L, Girdwood L, Snelling M, Horler J. *Early Learning Programme Outcomes Study Technical Report*. Claremont, Cape Town: Innovation Edge and Ilifa Labantwana, 2020. At pg ii.

[27] Rangasami J, Biersteker L, Naeser G. *A Study on Knowledge, Attitudes and Practices of Parents/Primary Caregivers with Children Birth-Six years old regarding the Importance of Play in Early Learning*. Executive Summary. Pretoria: DBE & UNICEF. 2023. At pg 5.

the low proportions of children who are developmentally on track for their age. The situation for young children is particularly bleak in KwaZulu-Natal.

51 Quality ECD programmes are a crucial point of contact for the delivery of multiple services and support that promote early development including nutrition, early learning and play opportunities, and a safe environment.

52 The state has committed to prioritising and funding ECD programmes in various policy documents, including the Children's Act which expressly obliges the provinces to prioritise funding of ECD programmes in areas with high child poverty rates.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

53 ECD programmes are primarily delivered by non-government actors who are paid through the state's ECD subsidy once they meet eligibility requirements, via the provincial Departments of Basic Education. The subsidies are ECD programme's primary source of regular income, especially those providing services in areas with high child poverty levels.

54 The income is required to enable the smooth operation of ECD programmes including the delivery of quality learning opportunities, provision of nutritious meals, and enabling of a safe and secure childcare environment for young children.

55 Any withholding or delays in payment of subsidies to ECD programmes will impact negatively on the ability of these programmes to provide consistent, quality services. No or irregular payment of subsidies will cause some ECD programmes to close,

20

resulting in a total loss of these essential services for the children attending the centre, most likely causing a disruption in their growth, learning and development which will have lifelong consequences for the affected children.

WIEDAAD SLEMMING

Signed and sworn before me on this 20th day of October 2025 at Cape Town the Deponent having acknowledged that he knows and understands the contents of this affidavit, has no objection to taking the prescribed oath and considers the oath to be binding on his conscience and uttered the words: "I swear that the contents of this declaration are true so help me God".

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

13/10/25

COMMISSIONER OF OATHS

COMMISSIONER OF OATHS / KOMMISSARIS VAN EDE
Ex Officio: Staff / Personeel
RED CROSS WAR MEMORIAL CHILDREN'S HOSPITAL
ROOIKRUIS OORLOGSGEDENKHOSPITAAL VIR KINDERS

Full names: Shivene Sharpelin
Designation and area: Acting Operational Manager.
Street address: 46 Sawkins Road
Rondebosch
7700

21

SS

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

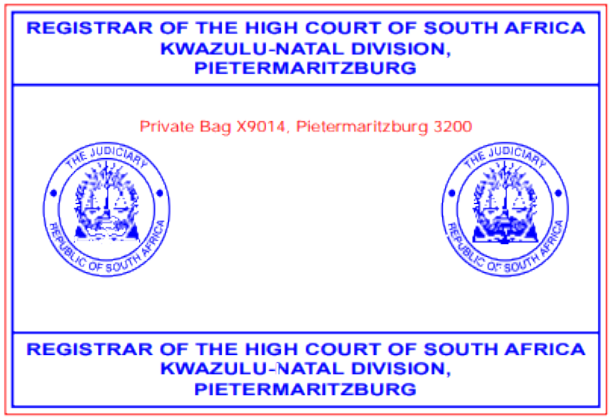
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Notice of Set-Down (Excluding Urgent Applications)

NOTE: **This document was filed electronically by the Registrar on 7/5/2026 at 2:56:28 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

EQUALITY COLLECTIVE NPC	Applicant *Amicus Curiae*

In the matter between:

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

And

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent

MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent
MINISTER OF SOCIAL DEVELOPMENT	Seventh Respondent
MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS	Eighth Respondent

---

NOTICE OF SET DOWN

APPLICATION TO BE ADMITTED AS *AMICUS CURIAE*



KINDLY TAKE NOTICE that the **Equality Collective NPO**'s amicus application will be set down to be heard on 18 May **2026** or so soon thereafter as Counsel for the Applicant may be heard.

KINDLY ENROLL THE MATTER FOR HEARING ACCORDINGLY.

SIGNED AT Pretoria **on this** 4TH **day of MARCH 2026.**

CENTRE FOR CHILD LAW
Attorneys for the applicant for admission as *amicus curiae*
Room 4-31 Law Building
University of Pretoria
Pretoria

Tel: 012 420 4501
Fax: 012 420 4499
Per email: **karabo.ozah@up.ac.za/**
Tshegofatso.mothapo@up.ac.za
Ref: C0644
C/O SHEPSTONE AND WYLIE ATTORNEYS
First Floor ABSA House
15 Chatterton Road
Pietermaritzburg
3200
Tel: 033 355
Email: **jmanuel@wylie.co.za/**
mmthembu@wylie.co.za

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

TO: **THE REGISTRAR OF THE ABOVE HONOURABLE COURT PIETERMARITZBURG**

AND TO: **LEGAL RESOURCES CENTRE**
Attorneys for the Applicants
1st Floor, CBI Building
635 Peter Mokaba Road
Durban
4001
Tel: 031 301 7572
Ref: ED11-25
Email: **sheniece@lrc.org.za**
kiara@lrc.org.za

C/O BHYAT ATTORNEYS
401 Prince Albert Street
Pietermaritzburg
3201
Tel: 083 578 6059
Email: **mohammed@mbhyat.co.za**

RECEIVED WITHOUT PREJUDICE BY
M BHYAT ATTORNEYS
ON 11TH MARCH 2026
AT 15H48 PM

AND TO THE MEMBER OF THE EXECUTIVE COUNCIL, DEPARTMENT OF EDUCATION, KWAZULU-NATAL

First Respondent
Anton Lembede Building
247 Burger Street
Pietermaritzburg

AND TO: HEAD OF DEPARTMENT FOR THE KWAZULU-NATAL DEPARTMENT OF EDUCATION

Second Respondent
Anton Lembede Building 247 Burger Street
Pietermaritzburg



AND TO: DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU- NATAL DEPARTMENT OF EDUCATION

Third Respondent
Anton Lembede Building 247 Burger Street
Pietermaritzburg

AND TO: MINISTER OF BASIC EDUCATION

Fourth Respondent
Sol Plaatje House
222 Struben Street
Pretoria

AND TO: MINISTER OF FINANCE

Fifth Respondent
40 Church Square
Old Reserve Bank Building 2nd Floor
Pretoria

Received by: Ms NI Gumamela

AND TO: **MEMBER OF THE EXECUTIVE COUNCIL FOR FINANCE, KWAZULU-NATAL**

Sixth Respondent
330 Langalibalele Street Natalia Building
2nd Floor
Pietermaritzburg



AND TO: **MINISTER OF SOCIAL DEVELOPMENT**

Seventh Respondent
134 Pretorius Street
HSRC Building
North Wing
Pretoria

AND TO: **MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**

Eighth Respondent
87 Hamilton Street
Arcadia
Pretoria



IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO. 2025-067855

On the 18TH day of MAY 2026

Before the Honourable Acting Judge MARION

EQUALITY COLLECTIVE NPC Applicant *Amicus Curiae*

In the matter between:

FRIENDS OF SOUTH AFRICA EARLY

CHILDHOOD DEVELOPMENET FORUM First Applicant

KWAZULU-NATAL EARLY CHILDHOOD

DEVELOPMENT ALLIANCE Second Applicant

SAKHOKWETHU CRECHE Third Applicant

PHUMELELA CRECHE Fourth Applicant

Private Bag X9014, Pietermaritzburg 3200
2026 -06- 10
KZND-PMB-006

ZENZELENI CRECHE Fifth Applicant

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent
MINISTER OF SOCIAL DEVELOPMENT	Seventh Respondent
MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS	Eighth Respondent

---

HAVING read the documents filed of record; and

HAVING heard Counsel for the Plaintiff;

IT IS ORDERED THAT:

REGISTRAR
Private Bag X9014, Pietermaritzburg 3200
2026 -06- 10
KZND-PMB-006
REGISTRAR

1. The late filing of Equality Collective's application for admission as an *amicus curiae* and any non-compliance with the requirements relating to service and time periods is condoned, to the extent necessary.

2. Equality Collective is admitted as an *amicus curiae* in the above matter under the above case number;

3. Equality Collective is granted leave:

   3.1. introduce evidence as contained in the accompanying affidavit of Conrad Baberton and Wiedaad Slemming, together with its cupporting affidavits and annexures;

   3.2. file a replying affidavit, if necessary;

   3.3. file heads of argument; and

   3.4. present oral submissions at the hearing of this matter.

BY ORDER OF THE COURT

N P FENTE
SNR REGISTRAR
snurse
corrected 10/06/26

M Bhyat Att

Private Bag X9014, Pietermaritzburg 3200
2026 -06- 10
KZND-PMB-006

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

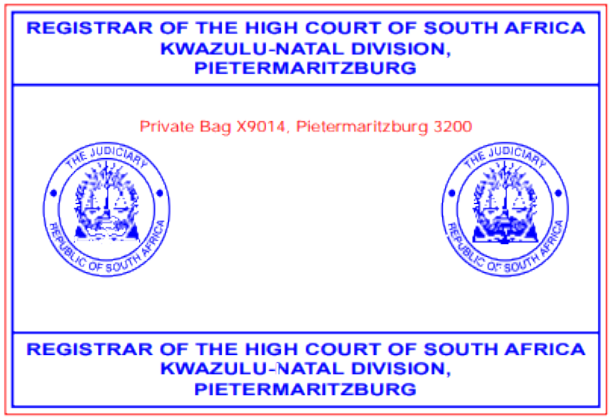
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Other - Urgent Court Order

NOTE: **This document was filed electronically by the Registrar on 17/6/2026 at 2:25:59 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

ON THE 26TH DAY OF MAY 2025

BEFORE THE HONOURABLE JUDGE JIKELA

In the matter between:

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
2025 -05- 26
KZND-PMB-006

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

HAVING read the Notice of Motion, and the other documents filed of record; and

HAVING heard Counsel for the Applicant;

IT IS ORDERED THAT:

1. The Applicants' non-compliance with the Uniform Rules of Court is condoned and the matter is heard on an urgent basis in terms of Rule 6(12)(a).

2. The First to Third Respondents are directed to pay the third to fifth applicants forthwith and no later than 10 (ten) calender days of this Order, all outstanding Early Childhood Development Grant subsidies owed to them.

3. Those Respondents who oppose are directed to jointly and severally pay the costs of the application, including the costs of two counsel, each on scale C.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

BY ORDER OF THE COURT

N P FENTE
SNR REGISTRAR

IAGOBA
26/05/2025

Mohammed Bhyat Attorneys

Private Bag X9014, Pietermaritzburg 3200

2025 -05- 26

KZND-PMB-006

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

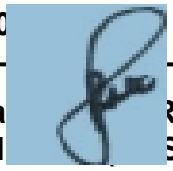
CASE NO: **2025-067855**

In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Court Order issued by R J Jooste on 6 August 20



NOTE: **This document was filed electronica Registrar on 6/8/2025 at 3:31:51 PM South African Standard ST). The time and date the document was filed by the party is presented on the header of each page of this document.**

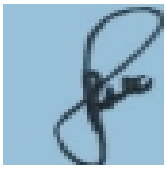
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Private Bag X9014, Pietermaritzburg 3200

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.



IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

On the 6th day of August 2025

BEFORE THE HONOURABLE JUDGE OLSEN

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CREȞCHE	Third Applicant
PHUMELELA CREȞCHE	Fourth Applicant
ZENZELENI CREȞCHE	Fifth Applicant
MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200

2025 -08- 06

KZND-PMB-001

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

pue

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent
MINISTER OF SOCIAL DEVELOPMENT	Seventh Respondent
MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS	Eighth Respondent

---

Having read the documents filed on record, having heard counsel for the applicants;

IT IS ORDERED, by consent of respondents 1 to 4 and 7 THAT:

1. The matter is adjourned *sine die*.

2. The applicants are granted leave to supplement their papers insofar as is necessary.

3. The applicants are granted leave to amend their notice of motion.

4. Costs are reserved.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
2025 -08- 06
KZND-PMB-001
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

BY ORDER OF THE COURT

R J JOOSTE

REGISTRAR

6.08.25

M BHYAT ATTORNEYS

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Private Bag X9014, Pietermaritzburg 3200

2025 -08- 06

KZND-PMB-001

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG



COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

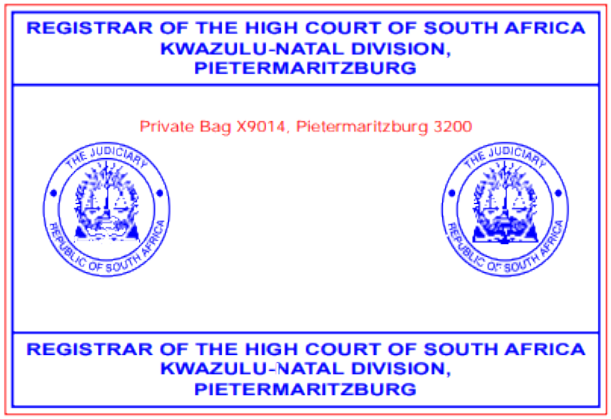
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Court Order Granted By Acting Judge Marion

NOTE: **This document was filed electronically by the Registrar on 10/6/2026 at 11:26:35 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO. 2025-067855

On the 18TH day of MAY 2026

Before the Honourable Acting Judge MARION

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200

EQUALITY COLLECTIVE NPC Applicant *Amicus Curiae*

In the matter between:

FRIENDS OF SOUTH AFRICA EARLY

CHILDHOOD DEVELOPMENET FORUM First Applicant

KWAZULU-NATAL EARLY CHILDHOOD

DEVELOPMENT ALLIANCE Second Applicant

SAKHOKWETHU CRECHE Third Applicant

PHUMELELA CRECHE Fourth Applicant

ZENZELENI CRECHE Fifth Applicant

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
2026 -06- 10
KZND-PMB-006

and

10/6/2026-11:26:35 AM

MEC FOR EDUCATION: KWAZULU-NATAL First Respondent

HEAD OF DEPARTMENT, KWAZULU-NATAL
DEPARTMENT OF EDUCATION Second Respondent

DIRECTOR OF EARLY CHILDHOOD
DEVELOPMENT, KWAZULU-NATAL
DEPARTMENT OF EDUCATION Third Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

MINISTER OF BASIC EDUCATION Fourth Respondent

MINISTER OF FINANCE Fifth Respondent

MEC FOR FINANCE: KWAZULU-NATAL Sixth Respondent

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS Eighth Respondent

HAVING read the documents filed of record; and

HAVING heard Counsel for the Plaintiff;

IT IS ORDERED THAT:

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
2026 -06- 10
KZND-PMB-006

008-14
10/6/2026-11:26:35 AM

1. The late filing of Equality Collective's application for admission as an *amicus curiae* and any non-compliance with the requirements relating to service and time periods is condoned, to the extent necessary.

2. Equality Collective is admitted as an *amicus curiae* in the above matter under the above case number;

3. Equality Collective is granted leave:



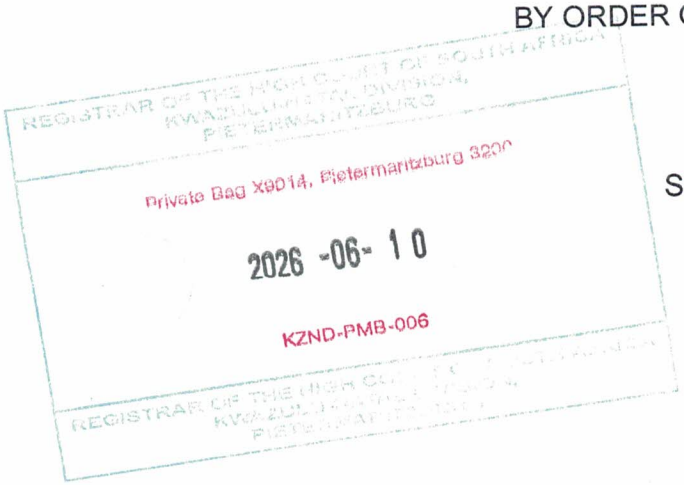
3.1. introduce evidence as contained in the accompanying affidavit of Conrad Baberton and Wiedaad Slemming, together with its cupporting affidavits and annexures;

3.2. file a replying affidavit, if necessary;

3.3. file heads of argument; and

3.4. present oral submissions at the hearing of this matter.

BY ORDER OF THE COURT



N P FENTE
SNR REGISTRAR
snurse
corrected 10/06/26

M Bhyat Att

008-14

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

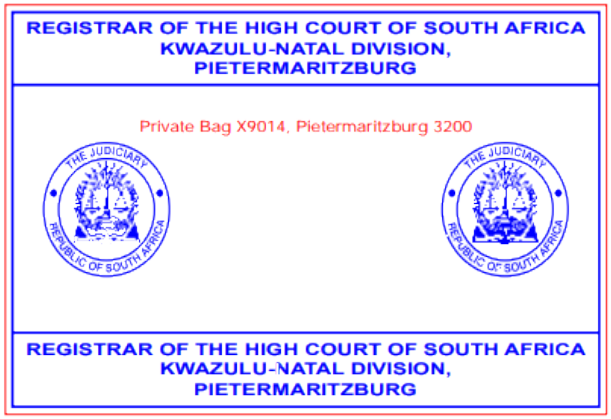
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Draft Order

NOTE: **This document was filed electronically by the Registrar on 25/5/2025 at 10:39:44 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

DRAFT ORDER

Having read the documents filed on record, having heard counsel and having considered the matter —



IT IS ORDERED THAT:

1. The applicants' non-compliance with the Uniform Rules of Court is condoned and the matter is heard on an urgent basis in terms of Rule 6(12)(a).

2. The first to third respondents are directed to pay the third to fifth applicants forthwith and no later than 5 (five) days of this Order, all outstanding Early Childhood Development Grant subsidies owed to them.

3. Those respondents who oppose are directed to jointly and severally pay the costs of the application, including the costs of two counsel, each on scale C.

BY ORDER OF THE COURT

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

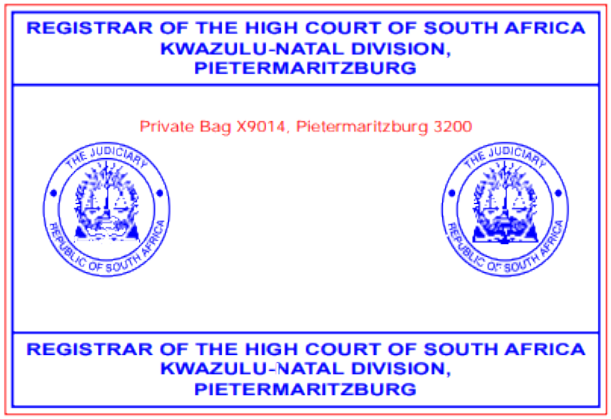
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Draft Order

NOTE: **This document was filed electronically by the Registrar on 5/8/2025 at 3:24:31 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

DRAFT ORDER



Having read the documents filed on record, having heard counsel and having considered the matter —

IT IS ORDERED THAT:

1. The matter is adjourned *sine die*.

2. The applicants are granted leave to supplement their papers insofar as is necessary.

3. The applicants are granted leave to amend their notice of motion.

4. Costs are reserved.

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

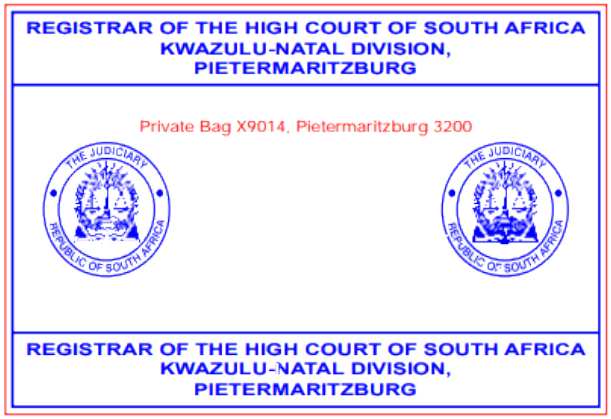
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Notice in terms of Rule 16A

NOTE: **This document was filed electronically by the Registrar on 26/5/2025 at 11:33:41 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

NOTICE IN TERMS OF RULE 16A

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

KINDLY TAKE NOTICE that the applicants have instituted urgent proceedings in the abovementioned Court seeking an order to direct the first to third respondents to pay the third to fifth applicants all Early Childhood Development Grant subsidies owed to them.

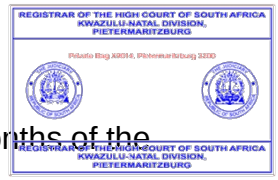
In Part B of the application, which will be heard in the normal course, the applicants seek an order as follows:

1. Declaring and recognising that all children have a right to early childhood development.

2. Directing the first to third respondents to file a searchable report, within one month of the date of the court order, under oath, of the names and addresses of all ECD centres in KwaZulu-Natal that are recipients of the conditional grant or equitable share subsidies, setting out the total subsidy amounts that are outstanding in respect of each centre, and in that report to detail how they will remediate such non-payment.

3. Directing the first to third respondents to file an updated version of the searchable report, before the last day of every subsequent month until all payments are up to date and the order is fully complied with.

4. That the applicants be granted leave thereafter, within 30 days, and before the last day of every subsequent month, to deliver an affidavit in answer to the reports and may thereafter set the matter down for further, other or alternative relief, as supported by their affidavits and this application.



5. Directing the first to third respondents to ensure that within three months of the date of the court order, a signed transfer payment agreement is concluded with each of the ECD centres that are recipients of the conditional grant or equitable share subsidies, and that each agreement clearly sets out the terms and timeframes for the payment of the subsidy in respect of each ECD centre.

KINDLY TAKE NOTICE FURTHER THAT the constitutional issues raised by Part B of this application are:

1. Whether children have a right to early childhood development that is implicit in various constitutional rights that vest in children, such as:
    1.1. Children's rights are set out in section 28 of the Constitution. Section 28(1) guarantees, amongst others, the rights to family care or parental care, or to appropriate alternative care when removed from the family environment, to basic nutrition, shelter, basic health care services and social services, and to be protected from maltreatment, neglect, abuse

or degradation. Section 28(2) provides that in all matters concerning a child, a child's best interests are of paramount importance.

1.2. Section 11 of the Constitution guarantees everyone the right to life. The Constitutional Court has ruled that the right to life includes the right to have food, water and social security.

1.3. Section 10 of the Constitution guarantees everyone the right to inherent dignity, and for it to be respected and protected. The Constitutional Court has ruled that the right to dignity is inherent in the right to life.

1.4. Section 9(1) of the Constitution provides that everyone is equal before the law and has the right to equal protection and benefit of the law. Section 9(2) of the Constitution stipulates that equality encompasses full and equal enjoyment of rights and freedoms, and may require legislative and other measures designed to protect or advance disadvantaged persons, to be taken in pursuit of equality.



1.5. Sections 27(1)(a) and (b) provides the right to access healthcare services, sufficient food, and water.

1.6. Section 29(1)(a) of the Constitution guarantees the right to a basic education.

2. Section 39(1) of the Constitution requires these rights to be interpreted consistently with international law.

3. Whether the state's failure to consistently subsidise ECD programmes constitutes a breach of a child's right to early childhood development, as it is conceived under South Africa's constitutional framework.

TAKE NOTICE FURTHER that any interested party may, with the written consent of all parties to the proceedings, given not later than 20 days after this notice has been filed, be admitted herein as *amicus curiae* upon such terms and conditions as may be agreed upon in writing by the parties.

TAKE NOTICE FURTHER that the written consent referred to above shall, within 5 days of it having been obtained, be lodged with the registrar and the *amicus curiae* shall, in addition to any other provision, comply with the times, agreed upon for the lodging of written argument.



TAKE NOTICE FURTHER that the terms and conditions agreed upon may be amended by the Court.

TAKE NOTICE FURTHER that if the interested party is unable to obtain the written consent as contemplated herein, he or she may, within 5 days of the expiry of the 20 day period prescribed above, apply to the Court to be admitted as an *amicus curiae* in the proceedings. Such application shall –

(a) Briefly describe the interest of the *amicus curiae* in the proceedings;

(b) Clearly and succinctly set out the submissions which will be advanced by the *amicus curiae*, the relevance thereof to the proceedings and his or her reasons for believing that the submissions will assist the Court and are different from those of the other parties; and

(c) Be served upon all parties to the proceedings.

TAKE NOTICE FURTHER that any party to the proceedings who wishes to oppose an application to be admitted as an *amicus curiae*, shall file an answering affidavit within 5 days of the service of such application upon such party. The answering affidavit shall clearly and succinctly set out the grounds of such opposition.

TO THE REGISTRAR: KINDLY place this notice on a board designated for the purpose recorded in Rule 16A(1)(c) and place your date and stamp upon the notice to indicate the date upon which it is placed on the notice board in accordance with Rule 16A(1)(d).



DATED at DURBAN on this **26th** day of **May** 2025.



LEGAL RESOURCES CENTRE
Attorneys for the Applicants
1st Floor, CBI Building
635 Peter Mokaba Road
DURBAN,
4001
Tel: 031 301 7572
Ref: ED11-25
Email: sheniece@lrc.org.za / kiara@lrc.org.za

C/O M BHYAT ATTORNEYS
401 Prince Albert Street
Pietermaritzburg, 3201
Tel: 083 578 6059
Email: mohammed@mbhyat.co.za

AND TO: **THE REGISTRAR OF THE ABOVE COURT**

AND TO: **THE MEMBER OF THE EXECUTIVE COUNCIL, DEPARTMENT OF EDUCATION, KWAZULU-NATAL**

First Respondent

Anton Lembede Building

247 Burger Street

Pietermaritzburg



AND TO: **HEAD OF DEPARTMENT FOR THE KWAZULU-NATAL DEPARTMENT OF EDUCATION**

Second Respondent

Anton Lembede Building

247 Burger Street

Pietermaritzburg

AND TO: **DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION**

Third Respondent

Anton Lembede Building

247 Burger Street

Pietermaritzburg

AND TO: **MINISTER OF BASIC EDUCATION**

Fourth Respondent

Sol Plaatje House

222 Struben Street

Pretoria

AND TO: **MINISTER OF FINANCE**

Fifth Respondent

40 Church Square

Old Reserve Bank Building

2nd Floor

Pretoria



AND TO: **MEMBER OF THE EXECUTIVE COUNCIL FOR FINANCE,**

KWAZULU-NATAL

Sixth Respondent

330 Langalibalele Street

Natalia Building

2nd Floor

Pietermaritzburg

AND TO: **MINISTER OF SOCIAL DEVELOPMENT**

Seventh Respondent

134 Pretorius Street

HSRC Building

North Wing

Pretoria

AND TO: **MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**

Eighth Respondent

87 Hamilton Street

Arcadia

Pretoria



COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

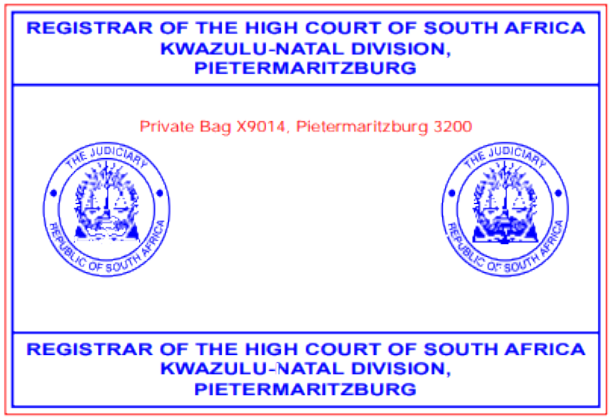
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Notice to Abide

NOTE: **This document was filed electronically by the Registrar on 30/5/2025 at 12:10:17 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

30/5/2025-12:10:17 PM

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

In the matter between:

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOL DEVELOPMENT FORUM	**FIRST APPLICANT**
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	**SECOND APPLICANT**
SAKHOKWETHU CRÈCHE	**THIRD APPLICANT**
PHUMELELA CRÈCHE	**FOURTH APPLICANT**
ZENZELENI CRÈCHE	**FIFTH APPLICANT**
and	
MEC FOR EDUCATION: KWAZULU-NATAL	**FIRST RESPONDENT**
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	**SECOND RESPONDENT**
DIRECTOR OF EARLY CHILDHOOL DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	**THIRD RESPONDENT**
MINISTER OF BASIC EDUCATION	**FOURTH RESPONDENT**
MINISTER OF FINANCE	**FIFTH RESPONDENT**
MEC FOR FINANCE: KWAZULU-NATAL	**SIXTH RESPONDENT**
MINISTER OF SOCIAL DEVELOPMENT	**SEVENTH RESPONDENT**
MINISTER OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS	**EIGHTH RESPONDENT**

NOTICE TO ABIDE

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9044, Pietermaritzburg 3200
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

TO: REGISTRAR
HIGH COURT
PIETERMARITZBURG

.../2

30/5/2025-12:10:17 PM

AND
TO: LEGAL RESOURCES CENTRE
APPLICANTS' ATTORNEY
C/O M BHYAT ATTORNEYS
401 PRINCE ALFRED STREET
PIETERMARITZBURG
REF: ED11-25
E-MAIL: sheniece@lrc.org.za / kiara@lrc.org.za / mohammed@mbhyat.co.za

S I R S

KINDLY TAKE NOTICE that the Seventh Respondent gives notice that it is its intention not to oppose the relief sought by the Applicant but to abide by the decision of the above Honourable Court.

DATED at PIETERMARITZBURG this 23rd day of MAY 2025

MR H SMAL (Senior Assistant State Attorney)
SEVENTH RESPONDENT'S ATTORNEY
In terms of Section 4(2) and Section 4(3) of Act 62 of 1995)
STATE ATTORNEY (KWAZULU-NATAL)
6TH FLOOR, METLIFE BUILDING
391 ANTON LEMBEDE (formerly Smith) STREET
DURBAN
TEL: (033) 3555210
E-MAIL: HSmal@justice.gov.za

REF: 35/002095/25/F/P44
/hvl

C/O STATE ATTORNEY (KWAZULU-NATAL)
(SATELLITE OFFICE)
2ND FLOOR, MAGISTRATE'S COURT BUILDING
302 CHURCH STREET
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9044, Pietermaritzburg 3200
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

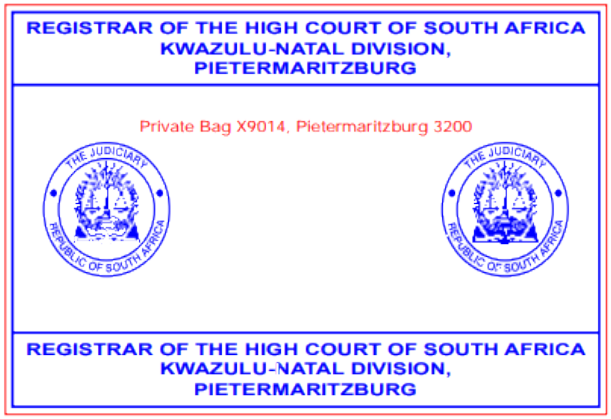
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Notice of Set-Down (Excluding Urgent Applications)

NOTE: **This document was filed electronically by the Registrar on 4/6/2025 at 1:55:59 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant
and	
MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

1

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

NOTICE OF SET DOWN ON THE UNOPPOSED MOTION ROLL



BE PLEASED TO TAKE NOTICE that the above matter has been set down for hearing in terms of **PART B** of the Notice of Motion. The matter is set down on the **Unopposed Motion Roll** on the 06th day of AUGUST 2025 at 09:30 or so soon thereafter as the matter may be heard.

KINDLY ENROL THE MATTER ACCORDINGLY

2

Signed at **DURBAN** on this **3rd** day of **JUNE** 2025.

LEGAL RESOURCES CENTRE
Attorneys for the Applicant
1st Floor, CBI Building
635 Peter Mokaba Road
DURBAN
Tel: 031 301 7572
Email: sheniece@lrc.org.za / kiara@lrc.org.za
C/O M BHYAT ATTORNEYS
401 Prince Albert Street
Pietermaritzburg, 3201
Tel: 083 578 6059
Email: mohammed@mbhyat.co.za

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

TO: **THE REGISTRAR OF THE ABOVE COURT**

AND TO: **THE MEMBER OF THE EXECUTIVE COUNCIL, DEPARTMENT OF EDUCATION, KWAZULU-NATAL**

First Respondent

State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

STATE ATTORNEY (KZN)
REGISTRY
2025 -05- 04
S. Mkhize DURBAN PMB
STAATSPROKUREUR (KZN)

AND TO: **HEAD OF DEPARTMENT FOR THE KWAZULU-NATAL DEPARTMENT OF EDUCATION**

Second Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

AND TO: **DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION**

Third Respondent

State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

AND TO: **MINISTER OF BASIC EDUCATION**

Fourth Respondent



State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

AND TO: **MINISTER OF FINANCE**

Fifth Respondent

State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

5

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

AND TO: **MEMBER OF THE EXECUTIVE COUNCIL FOR FINANCE, KWAZULU-NATAL**

Sixth Respondent



State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

AND TO: **MINISTER OF SOCIAL DEVELOPMENT**

Seventh Respondent

State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

6

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

AND TO: **MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**

Eighth Respondent



State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

7

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

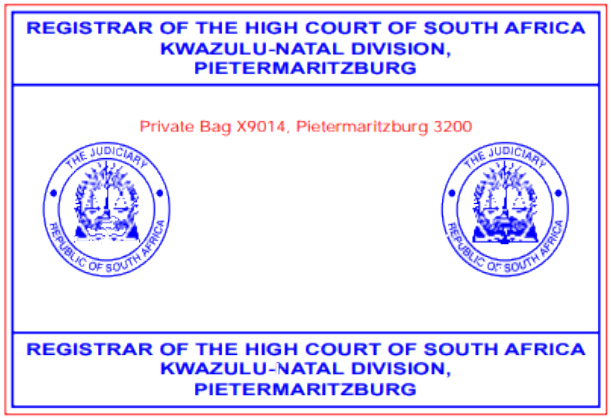
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Notice of Set-Down (Excluding Urgent Applications)

NOTE: **This document was filed electronically by the Registrar on 12/8/2025 at 7:57:23 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant
and	
MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

1

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

NOTICE OF SET DOWN ON THE UNOPPOSED MOTION ROLL



BE PLEASED TO TAKE NOTICE that the above matter has been set down for hearing in terms of **PART B** of the Notice of Motion. The matter is set down on the **Unopposed Motion Roll** on the 03rd day of NOVEMBER 2025 at 09:30 or so soon thereafter as the matter may be heard.

KINDLY ENROL THE MATTER ACCORDINGLY

2

Signed at **DURBAN** on this **8th** day of **AUGUST** 2025.



LEGAL RESOURCES CENTRE
Attorneys for the Applicant
1st Floor, CBI Building
635 Peter Mokaba Road
DURBAN
Tel: 031 301 7572
Email: sheniece@lrc.org.za / kiara@lrc.org.za
C/O M BHYAT ATTORNEYS
401 Prince Albert Street
Pietermaritzburg, 3201
Tel: 083 578 6059
Email: mohammed@mbhyat.co.za



TO: **THE REGISTRAR OF THE ABOVE COURT**

AND TO: **THE MEMBER OF THE EXECUTIVE COUNCIL, DEPARTMENT OF EDUCATION, KWAZULU-NATAL**

First Respondent

State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

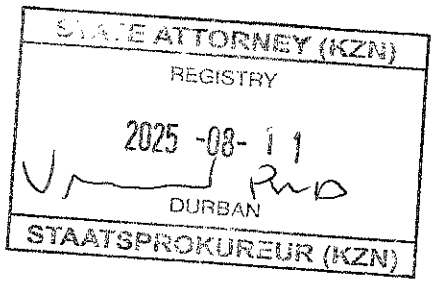
3

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl



AND TO: **HEAD OF DEPARTMENT FOR THE KWAZULU-NATAL DEPARTMENT OF EDUCATION**

Second Respondent



State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

AND TO: **DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION**

Third Respondent

State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

AND TO: **MINISTER OF BASIC EDUCATION**

Fourth Respondent



State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

AND TO: **MINISTER OF FINANCE**

Fifth Respondent

State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

5

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

AND TO: **MEMBER OF THE EXECUTIVE COUNCIL FOR FINANCE, KWAZULU-NATAL**

Sixth Respondent



State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

AND TO: **MINISTER OF SOCIAL DEVELOPMENT**

Seventh Respondent

State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

AND TO: **MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**

Eighth Respondent



State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

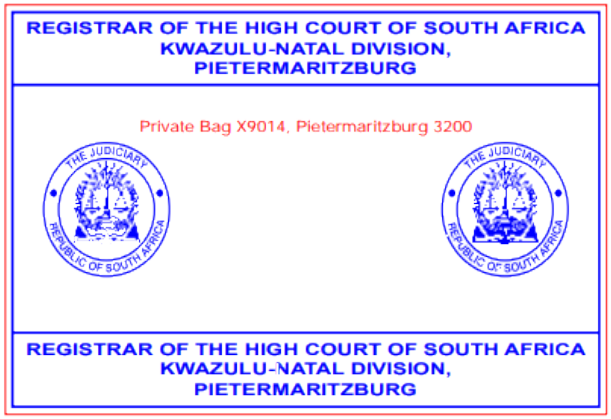
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Notice of Removal

NOTE: **This document was filed electronically by the Registrar on 28/10/2025 at 3:49:15 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

NOTICE OF REMOVAL FROM UNOPPOSED MOTION ROLL: MATTER SET DOWN FOR HEARING ON MONDAY 3 NOVEMBER 2025



SIRS/MESDAMES,

WHEREAS this matter is enrolled for hearing on Monday, 3 November 2025, on the unopposed motion roll.

AND WHEREAS the applicants seek the removal of the matter from the roll on the basis that the application to be admitted as *amicus curiae* by Equality Collective must first be adjudicated.

KINDLY THEREFORE remove this matter from the unopposed motion roll accordingly.

SIGNED AND DATED AT DURBAN ON THIS **28TH** DAY OF **OCTOBER** 2025.

LEGAL RESOURCES CENTRE

Attorneys for the Applicants

1st Floor, CBI Building

635 Peter Mokaba Road

Durban

Tel: 031 301 7572

Email: sheniece@lrc.org.za / kiara@lrc.org.za

TO: **THE REGISTRAR OF THE ABOVE COURT**

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

AND TO: **THE FIRST TO NINTH RESPONDENTS**

State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

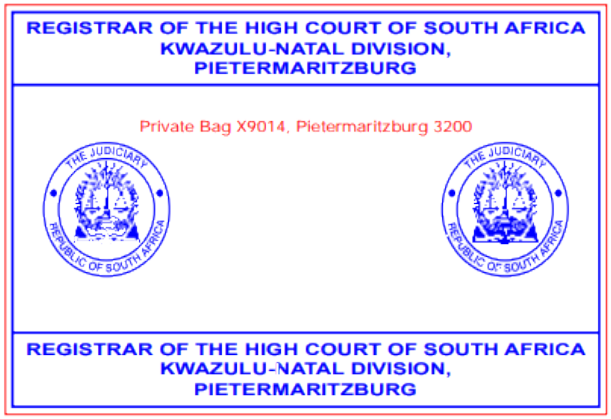
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Proof of Service

NOTE: **This document was filed electronically by the Registrar on 31/10/2025 at 9:28:52 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant

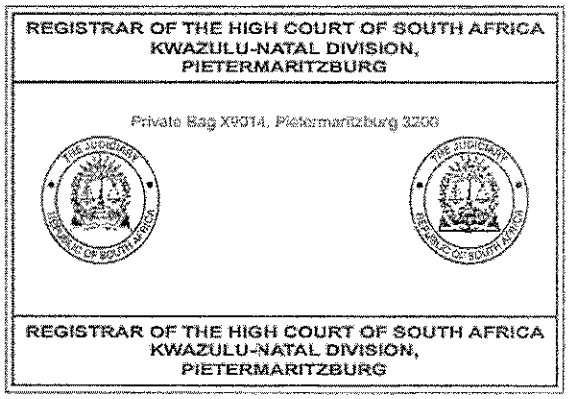
and

MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent



Notice of Removal

NOTE: **This document was filed electronically by the Registrar on 28/10/2025 at 3:49:15 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.



IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

and

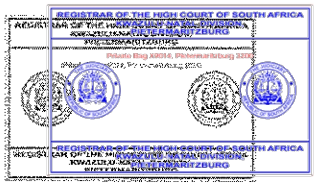
MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

NOTICE OF REMOVAL FROM UNOPPOSED MOTION ROLL: MATTER SET DOWN FOR HEARING ON MONDAY 3 NOVEMBER 2025



SIRS/MESDAMES,

WHEREAS this matter is enrolled for hearing on Monday, 3 November 2025, on the unopposed motion roll.

AND WHEREAS the applicants seek the removal of the matter from the roll on the basis that the application to be admitted as *amicus curiae* by Equality Collective must first be adjudicated.

KINDLY THEREFORE remove this matter from the unopposed motion roll accordingly.

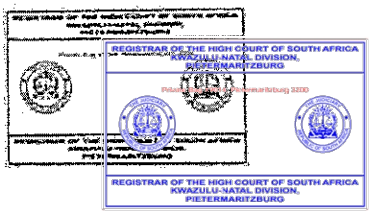
SIGNED AND DATED AT DURBAN ON THIS **28TH** DAY OF **OCTOBER** 2025.

31/10/2025-9:28:52 AM

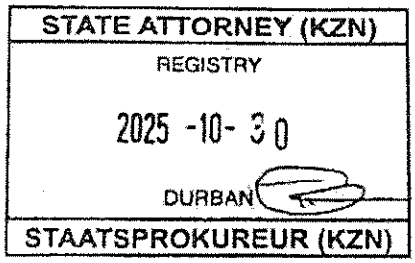
28/10/2025-3:49:15 PM

LEGAL RESOURCES CENTRE
Attorneys for the Applicants
1st Floor, CBI Building
635 Peter Mokaba Road
Durban
Tel: 031 301 7572
Email: shenieceᵃlrc.org.za / kiaraᵃlrc.org.za

TO: **THE REGISTRAR OF THE ABOVE COURT**



AND TO: **THE FIRST TO NINTH RESPONDENTS**
State Attorney (KwaZulu-Natal)
6th Floor, MetLife Building
391 Anton Lembede Street
Durban
C/O State Attorney (KwaZulu-Natal Satellite Office)
2nd Floor, Magistrate's Court Building
302 Church Street
Pietermaritzburg
REF: 35/002095/25/F/P44/hvl



3

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

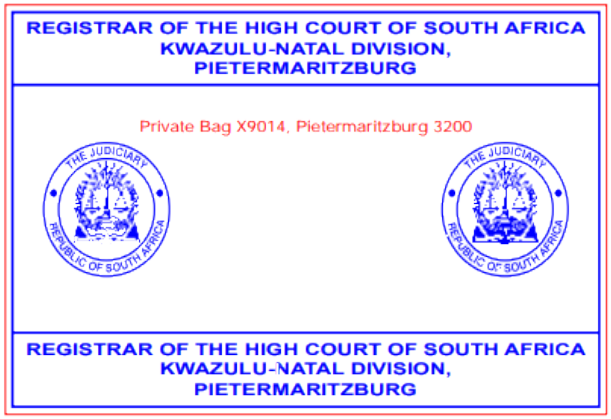
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Notice of Set-Down (Excluding Urgent Applications)

NOTE: **This document was filed electronically by the Registrar on 6/5/2026 at 1:29:27 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

1

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

NOTICE OF SET DOWN ON THE UNOPPOSED MOTION ROLL

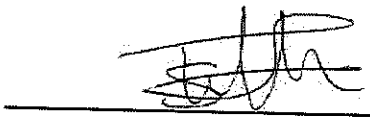
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

BE PLEASED TO TAKE NOTICE that the above matter has been set down for hearing in terms of **PART B** of the Amended Notice of Motion. The matter is set down on the **Unopposed Motion Roll** on the 23RD day of JUNE 2026 at 09:30 or so soon thereafter as the matter may be heard.

KINDLY ENROL THE MATTER ACCORDINGLY

2

Signed at **DURBAN** on this **12TH** day of **MARCH** 2026.



LEGAL RESOURCES CENTRE
Attorneys for the Applicant
1st Floor, CBI Building
635 Peter Mokaba Road
DURBAN
Tel: 031 301 7572
Email: sheniece@lrc.org.za / kiara@lrc.org.za



C/O M BHYAT ATTORNEYS
401 Prince Albert Street
Pietermaritzburg, 3201
Tel: 083 578 6059
Email: mohammed@mbhyat.co.za

TO: **THE REGISTRAR OF THE ABOVE COURT**

AND TO: **THE FIRST TO NINTH RESPONDENTS**
State Attorney (KwaZulu-Natal)
6th Floor, MetLife Building
391 Anton Lembede Street
Durban
C/O State Attorney (KwaZulu-Natal Satellite Office)
2nd Floor, Magistrate's Court Building
302 Church Street
Pietermaritzburg

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

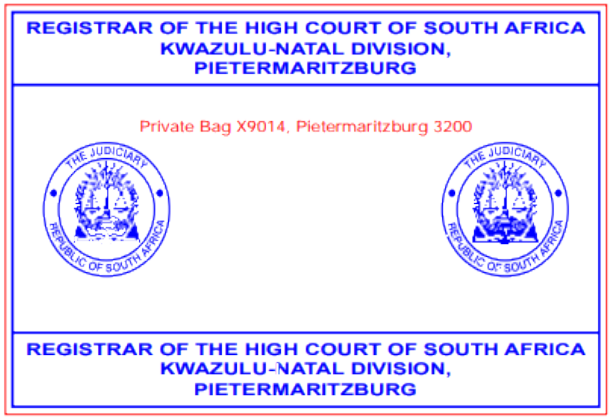
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Notice of Set-Down (Excluding Urgent Applications)

NOTE: **This document was filed electronically by the Registrar on 12/8/2025 at 7:57:23 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant
and	
MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

1

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

NOTICE OF SET DOWN ON THE UNOPPOSED MOTION ROLL



BE PLEASED TO TAKE NOTICE that the above matter has been set down for hearing in terms of **PART B** of the Notice of Motion. The matter is set down on the **Unopposed Motion Roll** on the 03rd day of NOVEMBER 2025 at 09:30 or so soon thereafter as the matter may be heard.

KINDLY ENROL THE MATTER ACCORDINGLY

2

Signed at **DURBAN** on this **8th** day of **AUGUST** 2025.

LEGAL RESOURCES CENTRE
Attorneys for the Applicant
1st Floor, CBI Building
635 Peter Mokaba Road
DURBAN
Tel: 031 301 7572
Email: sheniece@lrc.org.za / kiara@lrc.org.za
C/O M BHYAT ATTORNEYS
401 Prince Albert Street
Pietermaritzburg, 3201
Tel: 083 578 6059
Email: mohammed@mbhyat.co.za

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

TO: **THE REGISTRAR OF THE ABOVE COURT**

AND TO: **THE MEMBER OF THE EXECUTIVE COUNCIL, DEPARTMENT OF EDUCATION, KWAZULU-NATAL**

First Respondent

State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

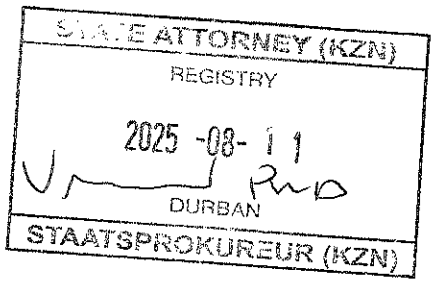
3

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl



AND TO: **HEAD OF DEPARTMENT FOR THE KWAZULU-NATAL DEPARTMENT OF EDUCATION**

Second Respondent



State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

AND TO: **DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION**

Third Respondent

State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

AND TO: **MINISTER OF BASIC EDUCATION**

Fourth Respondent



State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

AND TO: **MINISTER OF FINANCE**

Fifth Respondent

State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

5

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

AND TO: **MEMBER OF THE EXECUTIVE COUNCIL FOR FINANCE, KWAZULU-NATAL**

Sixth Respondent



State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

AND TO: **MINISTER OF SOCIAL DEVELOPMENT**

Seventh Respondent

State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

AND TO: **MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**

Eighth Respondent



State Attorney (KwaZulu-Natal)

6th Floor, MetLife Building

391 Anton Lembede Street

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl

7

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

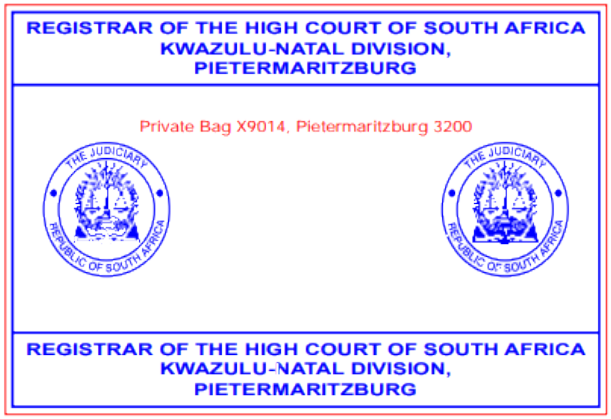
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Notice of Amendment

NOTE: **This document was filed electronically by the Registrar on 23/7/2025 at 3:07:02 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant
and	
MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

NOTICE OF INTENTION TO AMEND IN TERMS OF RULE 28(1)

KINDLY TAKE NOTICE that the applicants intend to amend **Part B** of their notice of motion in the following respects:



1. By inserting the following paragraph after paragraph 1

   "1A Declaring that the first to third respondents' irregular and inconsistent payment of ECD subsidies to qualifying ECD centres is unlawful, unconstitutional and invalid insofar as this conduct infringes the right to early childhood development of children."

2. By inserting the following paragraph after paragraph 2

   "2A The first to third respondents are directed to pay the full outstanding amounts owed to each ECD centre listed in the report within one week of filing the report."

3. By replacing the word "subsequent" with "third" in paragraph 3.

2

TAKE NOTICE FURTHER that unless written objection to the proposed amendment is delivered within ten (10) days of delivery of the notice, the amendment will be effected.

DATED at **DURBAN** this **23RD** day of **JULY** 2025.

LEGAL RESOURCES CENTRE
Attorneys for the Applicants
1st Floor, CBI Building
635 Peter Mokaba Road
DURBAN,
4001
Tel: 031 301 7572
Ref: ED11-25
Email: shenieceo@lrc.org.za / kiara@lrc.org.za
C/O M BHYAT ATTORNEYS
401 Prince Albert Street
Pietermaritzburg, 3201
Tel: 083 578 6059
Email: mohammed@bhyat.co.za

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

TO: **THE REGISTRAR OF THE ABOVE COURT**

AND TO: **THE FIRST TO NINTH RESPONDENTS**
State Attorney (KwaZulu-Natal)
6th Floor, MetLife Building
391 Anton Lembede Street
Durban
C/O State Attorney (KwaZulu-Natal Satellite Office)

3

2nd Floor, Magistrate's Court Building
302 Church Street
Pietermaritzburg
REF: 35/002095/25/F/P44/hvl

STATE ATTORNEY (KZN)
REGISTRY
2025 -07- 23
DURBAN
STAATSPROKUREUR (KZN)

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
Private Bag X9014, Pietermaritzburg 3200
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

4

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

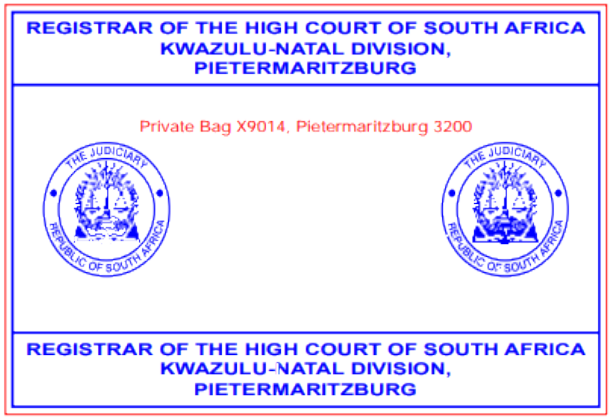
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Amended Notice

NOTE: **This document was filed electronically by the Registrar on 5/8/2025 at 11:50:57 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

1

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

AMENDED NOTICE OF MOTION IN TERMS OF RULE 28(7)

PART A

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

TAKE NOTICE that the applicants will make application to this Court on the 26th day of May 2025, at 09h30, for an Order in terms of **PART A**, as follows.

1. The applicant's non-compliance with the Uniform Rules of Court is condoned and the matter is heard on an urgent basis in terms of Rule 6(12) (a).

2. Directing the first to third respondents to pay the third to fifth applicants, forthwith and no later than 5 (five) days from the date of this Order, all outstanding Early Childhood Development Grant subsidies owed to them.

3. Directing that the costs of the application, are to be paid by those respondents who oppose this application, such costs to include the costs of two counsel, each on scale C, to be paid jointly and severally amongst those who oppose.

TAKE NOTICE FURTHER THAT that the accompanying affidavits of **NKOSINATHI SIBISI and SHENIECE LINDERBOOM** will be used in support thereof.

TAKE NOTICE FURTHER that the applicants have appointed **LEGAL RESOURCES CENTRE** at which they will accept notice and service of all process in these proceedings.

TAKE NOTICE FURTHER that if you intend opposing PART A of this application you are required:

(a) to notify applicant's attorney in writing by 16 May 2025;

(b) and on or before 21 May 2025 to file your answering affidvaits if any; and

(c) further that you are required to appoint in such notification an address referred to in rule 6(5)(b) at which you will accept notice and service of all documents in these proceedings.



If no such notice of intention to oppose be given, the application will be made on the 26th of May 2025 at 09h30 or so soon thereafter as counsel may be heard.

PART B

TAKE NOTICE that the above applicants intend to make further application to this Court, on a date to be arranged with the Registrar, for the following orders:

1. Declaring and recognising that all children have a right to early childhood development.

1A. Declaring that the first to third respondents' irregular and inconsistent payment of ECD subsidies to qualifying ECD centres is unlawful, unconstitutional and

invalid insofar as this conduct infringes the right to early childhood development of children.

2. The first to third respondents are directed to file a searchable report, within one month of the date of the court order, under oath, of the names and addresses of all ECD centres in KZN that are recipients of the conditional grant or equitable share subsidies, setting out the total subsidy amounts that are outstanding in respect of each centre and in that report to detail how they will remediate such non-payment.



2A. The first to third respondents are directed to pay the full outstanding amounts owed to each ECD centre listed in the report within one week of filing the report.

3. The first to third respondents are directed to file an updated version of the reports referred to in prayer 2 above, before the last day of every third month until all payments are up to date and the order is fully complied with.

4. The applicants be granted leave thereafter, within 30 days, and before the last day of every subsequent month, to deliver an affidavit in answer to the reports and may thereafter set the matter down for further, other or alternative relief, as supported by their affidavits and this application.

5. The first to third respondents are directed to ensure that, within three months of the date of the court order, a signed TPA agreement is concluded with each of the ECD centres that are recipients of the conditional grant or equitable share

subsidies, and that each agreement clearly sets out the terms and timeframes for the payment of the subsidy in respect of each ECD centre.

6. Directing those respondents who oppose this affidavit to pay the costs of this application, including the costs of two counsel, each on scale C, such costs to be paid jointly and severally amongst them.

TAKE NOTICE FURTHER THAT the accompanying affidavits of **NKOSINATHI SIBISI** and **SHENIECE LINDERBOOM** will be used in support thereof.



TAKE NOTICE FURTHER that the applicants have appointed the **LEGAL RESOURCES CENTRE** at which address they will accept notice and service of all process in these proceedings.

TAKE NOTICE FURTHER that if you intend opposing PART B this application you are required:

(a) to notify applicant's attorney within ten days of receiving this application

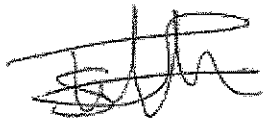
(b) and within fifteen days after you have so given notice of your intention to oppose the application, to file your answering affidavits, if any; and

(c) further that you are required to appoint in such notification an address referred to in rule 6(5)(b) at which you will accept notice and service of all documents in these proceedings.

If no such notice of intention to oppose be given, the application will be made on the 6th day of August 2025 at 09H30 or so soon thereafter as counsel may be heard.

5

DATED at **DURBAN** this **5TH** day of **AUGUST** 2025.



LEGAL RESOURCES CENTRE
Attorneys for the Applicants
1st Floor, CBI Building
635 Peter Mokaba Road
DURBAN,
4001
Tel: 031 301 7572
Ref: ED11-25
Email: sheniece@lrc.org.za / kiara@lrc.org.za
C/O M BHYAT ATTORNEYS
401 Prince Albert Street
Pietermaritzburg, 3201
Tel: 083 578 6059
Email: mohammed@mbhyat.co.za

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

TO: **THE REGISTRAR OF THE ABOVE COURT**

AND TO: **THE FIRST TO NINTH RESPONDENTS**
State Attorney (KwaZulu-Natal)
6th Floor, MetLife Building
391 Anton Lembede Street
Durban
C/O State Attorney (KwaZulu-Natal Satellite Office)

6

2nd Floor, Magistrate's Court Building
302 Church Street
Pietermaritzburg
REF: 35/002095/25/F/P44/hvl

STATE ATTORNEY (KZN)
REGISTRY
2025 -08- 05
DURBAN
STAATSPROKUREUR (KZN)

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

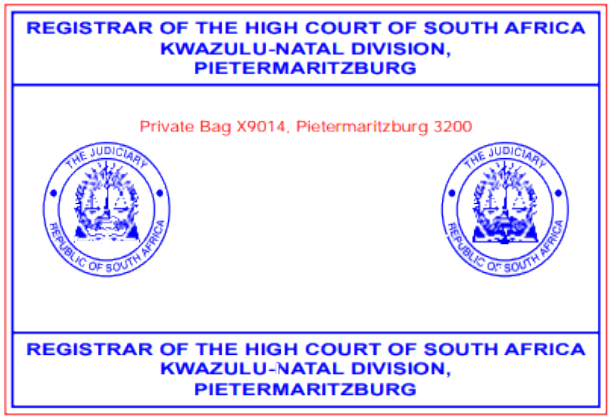
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Amended Notice

NOTE: **This document was filed electronically by the Registrar on 7/10/2025 at 3:35:59 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2025-067855

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM	First Applicant
KWAZULU-NATAL EARLY CHILDHOOD DEVELOPMENT ALLIANCE	Second Applicant
SAKHOKWETHU CRÈCHE	Third Applicant
PHUMELELA CRÈCHE	Fourth Applicant
ZENZELENI CRÈCHE	Fifth Applicant

and

MEC FOR EDUCATION: KWAZULU-NATAL	First Respondent
HEAD OF DEPARTMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Second Respondent
DIRECTOR OF EARLY CHILDHOOD DEVELOPMENT, KWAZULU-NATAL DEPARTMENT OF EDUCATION	Third Respondent
MINISTER OF BASIC EDUCATION	Fourth Respondent
MINISTER OF FINANCE	Fifth Respondent
MEC FOR FINANCE: KWAZULU-NATAL	Sixth Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

MINISTER OF SOCIAL DEVELOPMENT Seventh Respondent

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Eighth Respondent

---

AMENDED NOTICE OF MOTION IN TERMS OF RULE 28(7)

PART A

TAKE NOTICE that the applicants will make application to this Court on the ~~26th~~ day of May 2025, at 09h30, for an Order in terms of **PART A**, as follows.



1. The applicant's non-compliance with the Uniform Rules of Court is condoned and the matter is heard on an urgent basis in terms of Rule 6(12) (a).

2. Directing the first to third respondents to pay the third to fifth applicants, forthwith and no later than 5 (five) days from the date of this Order, all outstanding Early Childhood Development Grant subsidies owed to them.

3. Directing that the costs of the application, are to be paid by those respondents who oppose this application, such costs to include the costs of two counsel, each on scale C, to be paid jointly and severally amongst those who oppose.

TAKE NOTICE FURTHER THAT that the accompanying affidavits of **NKOSINATHI SIBISI and SHENIECE LINDERBOOM** will be used in support thereof.

TAKE NOTICE FURTHER that the applicants have appointed **LEGAL RESOURCES CENTRE** at which they will accept notice and service of all process in these proceedings.

TAKE NOTICE FURTHER that if you intend opposing PART A of this application you are required:

(a) to notify applicant's attorney in writing by 16 May 2025;

(b) and on or before 21 May 2025 to file your answering affidvaits if any; and

(c) further that you are required to appoint in such notification an address referred to in rule 6(5)(b) at which you will accept notice and service of all documents in these proceedings.



If no such notice of intention to oppose be given, the application will be made on the 26th of May 2025 at 09h30 or so soon thereafter as counsel may be heard.

PART B

TAKE NOTICE that the above applicants intend to make further application to this Court, on a date to be arranged with the Registrar, for the following orders:

1. Declaring and recognising that all children have a right to early childhood development.

1A. Declaring that the first to third respondents' irregular and inconsistent payment of ECD subsidies to qualifying ECD centres is unlawful, unconstitutional and

invalid insofar as this conduct infringes the right to early childhood development of children.

2. The first to third respondents are directed to file a searchable report, within one month of the date of the court order, under oath, of the names and addresses of all ECD centres in KZN that are recipients of the conditional grant or equitable share subsidies, setting out the total subsidy amounts that are outstanding in respect of each centre and in that report to detail how they will remediate such non-payment.



2A. The first to third respondents are directed to pay the full outstanding amounts owed to each ECD centre listed in the report within one week of filing the report.

3. The first to third respondents are directed to file an updated version of the reports referred to in prayer 2 above, before the last day of every third month until all payments are up to date and the order is fully complied with, or alternatively, for a time period prescribed by this court.

4. The applicants be granted leave thereafter, within 30 days, and before the last day of every subsequent month, to deliver an affidavit in answer to the reports and may thereafter set the matter down for further, other or alternative relief, as supported by their affidavits and this application.

5. The first to third respondents are directed to ensure that, within three months of the date of the court order, a signed TPA agreement is concluded with each

of the ECD centres that are recipients of the conditional grant or equitable share subsidies, and that each agreement clearly sets out the terms and timeframes for the payment of the subsidy in respect of each ECD centre.

6. Directing those respondents who oppose this affidavit to pay the costs of this application, including the costs of two counsel, each on scale C, such costs to be paid jointly and severally amongst them.

TAKE NOTICE FURTHER THAT the accompanying affidavits of **NKOSINATHI SIBISI** and **SHENIECE LINDERBOOM** will be used in support thereof.



TAKE NOTICE FURTHER that the applicants have appointed the **LEGAL RESOURCES CENTRE** at which address they will accept notice and service of all process in these proceedings.

TAKE NOTICE FURTHER that if you intend opposing PART B this application you are required:

(a) to notify applicant's attorney within ten days of receiving this application

(b) and within fifteen days after you have so given notice of your intention to oppose the application, to file your answering affidavits, if any; and

(c) further that you are required to appoint in such notification an address referred to in rule 6(5)(b) at which you will accept notice and service of all documents in these proceedings.

If no such notice of intention to oppose be given, the application will be made on the 6th day of August 2025 at 09H30 or so soon thereafter as counsel may be heard.

DATED at **DURBAN** this **6th** day of **OCTOBER** 2025.



LEGAL RESOURCES CENTRE
Attorneys for the Applicants
1st Floor, CBI Building
635 Peter Mokaba Road
DURBAN,
4001
Tel: 031 301 7572
Ref: ED11-25
Email: sheniece@lrc.org.za / kiara@lrc.org.za
C/O M BHYAT ATTORNEYS
401 Prince Albert Street
Pietermaritzburg, 3201
Tel: 083 578 6059
Email: mohammed@mbhyat.co.za

TO: **THE REGISTRAR OF THE ABOVE COURT**

AND TO: **THE FIRST TO NINTH RESPONDENTS**
State Attorney (KwaZulu-Natal)
6th Floor, MetLife Building
391 Anton Lembede Street

6

Durban

C/O State Attorney (KwaZulu-Natal Satellite Office)

2nd Floor, Magistrate's Court Building

302 Church Street

Pietermaritzburg

REF: 35/002095/25/F/P44/hvl



COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

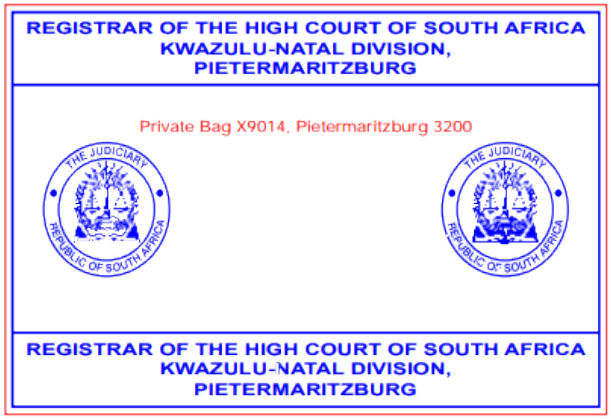
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Return of Service

NOTE: **This document was filed electronically by the Registrar on 21/5/2025 at 8:12:46 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
Republic of South Africa

Case No – Saak No 067855/2025

In the matter between:
FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM & 4 OTHERS APPLICANT/S
and:
MEC FOR EDUCATION: KWAZULU-NATAL & 7 OTHERS RESPONDENT/S

Return in accordance with the provisions of the Supreme Court Act 59 of 1959, as amended

On the 15th day of May 2025 at 08:34 I duly served a copy of the attached CERTIFICATE OF URGENCY, NOTICE OF MOTION, APPLICANT'S FOUNDING AFFIDAVIT BY : N. SIBISI, ANNEXURES "NS1-NS20", CONFIRMATORY AFFIDAVITS BY : B. MTHEMBU, N. MADLALA, T. NDLOVUL. MNGOMEZULU, M.M. KHUZWAYO, Z. HLONGWA, SUPPORTING AFFIDAVIT ON THE LEGAL FRAMEWORK BY : S. LINDERBOOM & ANNEXURES "SL1-SL3" upon SBUSI GUMEDE, a person apparently over the age of 16 years and apparently incharge of the premises for withinnamed 1ST RESPONDENT, MEC FOR EDUCATION: KWAZULU-NATAL at his LEGAL SERVICES DIRECTORATE, ANTON LEMBEDE BUILDING, 4TH FLOOR, 247 BURGER STREET, PIETERMARITZBURG at the sametime explaining to her the nature and contents thereof.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Appearance Date : 26 MAY 2025.

The original return together with a copy of the abovementioned process is despatched to the mandator.

NB. PLEASE USE OUR INVOICE NUMBER AS A REFERENCE ON ALL PAYMENTS. ALL PAYMENTS ARE TO BE MADE UPON RECEIPT OF THIS INVOICE/RETURN.

Sheriff Fees / Baljugelde	Date / Datum	Tax Invoice Number / Belastingfaktuur Nr.
	16.05.2025	I 181966

Tax Invoice
Belastingfaktuur

Description	Qty	Vat	Amount
Registration	1	2.40	16.00
Return	1	9.15	61.00
Service	1	14.85	99.00
TAX INVOICE	1	0.75	5.00
FILE COPY	1	0.75	5.00
VAT BTW 15%			27.90

S S Mzimela
Deputy Sheriff

A M MZIMELA
Sheriff
Pietermaritzburg
High Court
Tel: 033 394 5207 / 08
Fax: 033 394 5206
PO Box 548
Pietermaritzburg
3200
Docex 86 Pietermaritzburg
Bank Detail:
Bank: FNB Beach Branch
BrCd: 220126
Name: A M MZIMELA
AccNo: 62463338684
Email:
sheriffmzimela@sai.co.za

Form Design © Sheriff Office System (Pty) Ltd 1996 – 2016

VAT Reg No. / BTW Reg Nr.		Total / Totaal
	4260281060	213.90

You may require this account to be taxed and vouched before payment. U kan vereis dat hierdie rekening getakseer en gestaaf word voor betaling

M BHYAT ATTORNEYS
P O BOX 573
LUXMI
3207

Account No. ♦ Rekening Nr. 13526 VatReg
Your Reference ♦ U Verwysing MBA/0187
My Reference ♦ My Verwysing
Ret: 284135/Jaraida/1

Registrar: Republic of South Africa

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

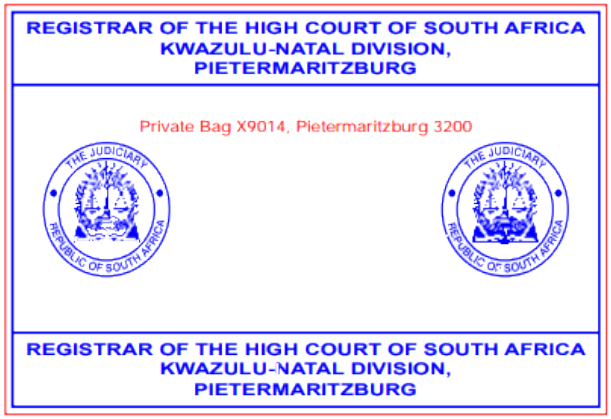
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Return of Service

NOTE: **This document was filed electronically by the Registrar on 21/5/2025 at 8:14:26 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
Republic of South Africa

Case No – Saak No 067855/2025

In the matter between:
FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM & 4 OTHERS APPLICANT/S
and:
MEC FOR EDUCATION: KWAZULU-NATAL & 7 OTHERS RESPONDENT/S

Return in accordance with the provisions of the Supreme Court Act 59 of 1959, as amended

On the 15th day of May 2025 at 08:35 I duly served a copy of the attached CERTIFICATE OF URGENCY, NOTICE OF MOTION, APPLICANT'S FOUNDING AFFIDAVIT BY : N. SIBISI, ANNEXURES "NS1-NS20", CONFIRMATORY AFFIDAVITS BY : B. MTHEMBU, N. MADLALA, T. NDLOVUL. MNGOMEZULU, M.M. KHUZWAYO, Z. HLONGWA, SUPPORTING AFFIDAVIT ON THE LEGAL FRAMEWORK BY : S. LINDERBOOM & ANNEXURES "SL1-SL3" upon SBUSI GUMEDE, a person apparently over the age of 16 years and apparently incharge of the premises for withinnamed 2ND RESPONDENT, HEAD OF DEPARTMENT FOR KWAZULU-NATAL DEPARTMENT OF EDUCATION, at his LEGAL SERVICES DIRECTORATE, ANTON LEMBEDE BUILDING, 4TH FLOOR, 247 BURGER STREET, PIETERMARITZBURG at the sametime explaining to her the nature and contents thereof.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Appearance Date : 26 MAY 2025.

The original return together with a copy of the abovementioned process is despatched to the mandator.

NB. PLEASE USE OUR INVOICE NUMBER AS A REFERENCE ON ALL PAYMENTS. ALL PAYMENTS ARE TO BE MADE UPON RECEIPT OF THIS INVOICE/RETURN.

Sheriff Fees / Baljugelde	Date / Datum	Tax Invoice Number / Belastingfaktuur Nr.
	16.05.2025	I 181967

Tax Invoice
Belastingfaktuur

Description	Qty	Vat	Amount
Registration	1	2.40	16.00
Return	1	9.15	61.00
Service	1	14.85	99.00
TAX INVOICE	1	0.75	5.00
FILE COPY	1	0.75	5.00
VAT BTW 15%			27.90

S S Mzimela
Deputy Sheriff

A M MZIMELA
Sheriff
Pietermaritzburg
High Court
Tel: 033 394 5207 / 08
Fax: 033 394 5206
PO Box 548
Pietermaritzburg
3200
Docex 86 Pietermaritzburg
Bank Detail:
Bank: FNB Beach Branch
BrCd: 220126
Name: A M MZIMELA
AccNo: 62463338684
Email:
sheriffmzimela@sai.co.za

Form Design © Sheriff Office System (Pty) Ltd 1998 – 2016

VAT Reg No. / BTW Reg Nr. 4260281060

You may require this account to be taxed and vouched before payment. U kan vereis dat hierdie rekening getakseer en gestaaf word voor betaling

Total / Totaal 213.90

M BHYAT ATTORNEYS
P O BOX 573
LUXMI
3207

Account No. ♦ Rekening Nr.
Your Reference ♦ U Verwysing
My Reference ♦ My Verwysing

13526 VatReg
MBA/0187

Ret: 284136/Jaraida/1

Registrar: Republic of South Africa

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

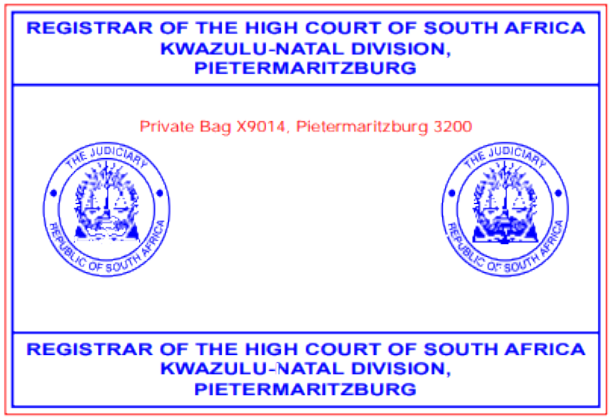
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Return of Service

NOTE: **This document was filed electronically by the Registrar on 21/5/2025 at 8:22:52 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
Republic of South Africa

Case No – Saak No 067855/2025

In the matter between:

FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM & 4 OTHERS — APPLICANT/S

and:

MEC FOR EDUCATION: KWAZULU-NATAL & 7 OTHERS — RESPONDENT/S

Return in accordance with the provisions of the Supreme Court Act 59 of 1959, as amended

On the 15th day of May 2025 at 08:36 I duly served a copy of the attached CERTIFICATE OF URGENCY, NOTICE OF MOTION, APPLICANT'S FOUNDING AFFIDAVIT BY : N. SIBISI, ANNEXURES "NS1-NS20", CONFIRMATORY AFFIDAVITS BY : B. MTHEMBU, N. MADLALA, T. NDLOVUL. MNGOMEZULU, M.M. KHUZWAYO, Z. HLONGWA; SUPPORTING AFFIDAVIT ON THE LEGAL FRAMEWORK BY : S. LINDERBOOM & ANNEXURES "SL1-SL3" upon SBUSI GUMEDE, a person apparently over the age of 16 years and apparently incharge of the premises for withinnamed 3RD RESPONDENT, DIRECTOR FOR EARLY CHILDHOOD DEVELOPMENT KWAZULU-NATAL, at his LEGAL SERVICES DIRECTORATE, ANTON LEMBEDE BUILDING, 4TH FLOOR, 247 BURGER STREET, PIETERMARITZBURG at the sametime explaining to her the nature and contents thereof.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Appearance Date: 26 MAY 2025.

The original return together with a copy of the abovementioned process is despatched to the mandator.

NB. PLEASE USE OUR INVOICE NUMBER AS A REFERENCE ON ALL PAYMENTS. ALL PAYMENTS ARE TO BE MADE UPON RECEIPT OF THIS INVOICE/RETURN.

Sheriff Fees Baljugelde	Date Datum	Tax Invoice Number Belastingfaktuur Nr.
	19.05.2025	I 181997

Tax Invoice
Belastingfaktuur

Description	Qty	Vat	Amount
Registration	1	2.40	16.00
Return	1	9.15	61.00
Service	1	14.85	99.00
TAX INVOICE	1	0.75	5.00
FILE COPY	1	0.75	5.00
VAT / BTW 15%			27.90

S S Mzimela
Deputy Sheriff

A M MZIMELA
Sheriff
Pietermaritzburg
High Court
Tel: 033 394 5207 / 08
Fax: 033 394 5206
PO Box 548
Pietermaritzburg
3200
Docex 86 Pietermaritzburg
Bank Detail:
Bank: FNB Beach Branch
BrCd: 220126
Name: A M MZIMELA
AccNo: 62463338684
Email:
sheriffmzimela@sai.co.za

Form Design © Sovereign Office Systems (Pty) Ltd 1998 - 2016

VAT Reg No. BTW Reg Nr.		Total Totaal
4260281060	You may require this account to be taxed and vouched before payment. U kan vereis dat hierdie rekening getakseer en gestaaf word voor betaling	213.90

M BHYAT ATTORNEYS
P O BOX 573
LUXMI
3207

Account No. ♦ Rekening Nr.
Your Reference ♦ U Verwysing
My Reference ♦ My Verwysing

Ret: 284137/Jaraida/1

13526 VatReg
MBA/0187

Registrar: Republic of South Africa

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

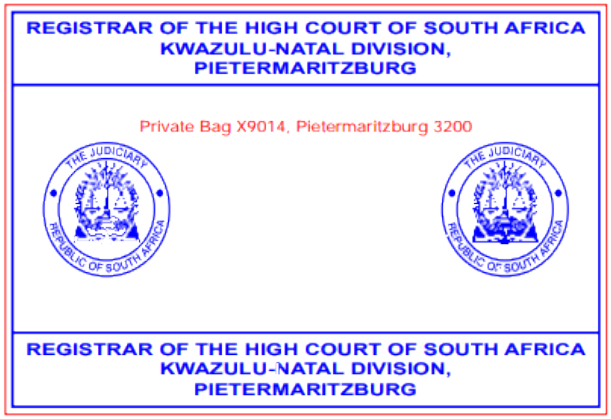
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Return of Service

NOTE: **This document was filed electronically by the Registrar on 21/5/2025 at 8:25:32 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA
(Kwa-Zulu Natal Division, Pietermaritzburg)

Case No. 67855/2025

In the matter between:

FRIENDS OF SOUTH AFRICAN EARLY CHILDHOOD DEVELOPMENT FORUM & FOUR OTHERS — **Applicant**

and

MINISTER OF BASIC EDUCATION — **4th Respondent**

and

RETURN: SERVICE OF NOTICE OF MOTION

IT IS HEREBY CERTIFIED:

That on 16 May 2025 at 14h00 at SOL PLAATJIES BUILDING, 222 STRUBEN STREET, PRETORIA, 0001 being the principal place of business of MINISTER OF BASIC EDUCATION, a copy of the NOTICE OF MOTION, CERTIFICATE OF URGENCY, FOUNDING AFFIDAVIT - NKOSINATHI SIBISI, CONFIRMATORY AFFIDAVITS, SUPPORTING AFFIDAVIT AND ANNEXURES was served to PRUDENCE KHUMALO (LEGAL DEPT) a responsible employee of MINISTER OF BASIC EDUCATION after the original document was displayed and the nature and contents thereof explained to her. PRUDENCE KHUMALO a person apparently not less than sixteen years of age and in the employ of MINISTER OF BASIC EDUCATION accepted service. Rule 4[1][a][v].

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

SHERIFF CHARGES/EXPENSES: (You may require that this account be taxed and vouched before payment)

Description	Tariff	QTY	Amount	Description	Tariff	QTY	Amount
Cellular call	24.00	1	24.00				
Cellular costs/charges	5.50	4	22.00				
Office Pigeon Hole	12.00	1	12.00				
Service	99.00	1	99.00				
Registration & Return	77.00	1	77.00				
Travelling.	7.50	6	45.00				
Urgent Service	950.00	1	950.00				

TO: THE REGISTRAR OF THE HIGH COURT,

Zero rated items	1 229.00
Sub-total	0.00
VAT	0.00
Total	**1 229.00**

Account No.: MLEGALRE050

TO: LRC - LEGAL RESOURCE CENTRE
1ST FLOOR, CBI BUILDING
635 PETER MOKABA ROAD
OVERPORT, DURBAN
4001

Your Reference: ED11-25

Mr C Jacobus - Deputy Sheriff
(Properly appointed in terms of Section 6(1) of the Sheriff's Act No. 90/1986)
Signed at Pretoria on 19/05/25
My Reference: **2025/04/08160.00** / JJV

Acting Sheriff Pretoria North East
Mr T J Mphahlele
PO Box 8894 Pretoria 0001
Tel: Tel: 012 883 4380/1 FNB Acc No 6304 3004 710
VAT No./BTW Nr.

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

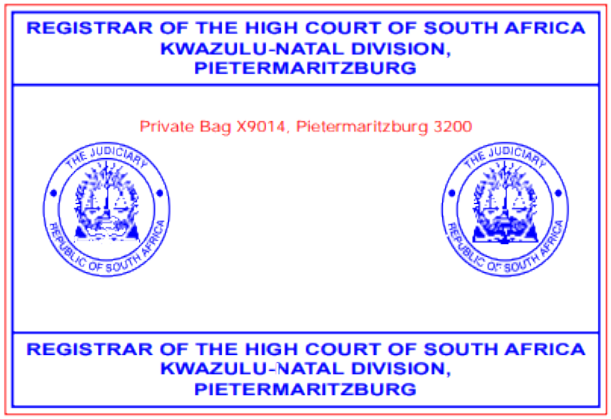
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Return of Service

NOTE: **This document was filed electronically by the Registrar on 21/5/2025 at 5:35:52 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA
(Kwa-Zulu Natal Division, Pietermaritzburg)

Case No. 67855/2025

In the matter between:

FRIENDS OF SOUTH AFRICAN EARLY CHILDHOOD DEVELOPMENT FORUM & FOUR OTHERS — **Applicant**

and

MINISTER OF FINANCE — **5th Respondent**

and

RETURN: SERVICE OF NOTICE OF MOTION

IT IS HEREBY CERTIFIED:

That on 16 May 2025 at 14h30 at 2ND FLOOR, OLD RESERVE BANK BUILDING, 40 CHURCH SQUARE, PRETORIA, 0001 being the principal place of business of MINISTER OF FINANCE, a copy of the NOTICE OF MOTION was served to THANDEKA NDHLOVU (LEGAL DEPT) a responsible employee of MINISTER OF FINANCE, after the original document was displayed and the nature and contents thereof explained to her. THANDEKA NDHLOVU a person apparently not less than sixteen years of age and in the employ of MINISTER OF FINANCE accepted service. Rule 4[1][a][v].

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

SHERIFF CHARGES/EXPENSES: (You may require that this account be taxed and vouched before payment)

Description	Tariff	QTY	Amount	Description	Tariff	QTY	Amount
Service	99.00	1	99.00				
Return	61.00	1	61.00				
Travelling.	7.50	6	45.00				

TO: THE REGISTRAR OF THE HIGH COURT,

Zero rated items	205.00
Sub-total	0.00
VAT	0.00
Total	**205.00**

Account No.: MLEGALRE050

TO: LRC - LEGAL RESOURCE CENTRE
1ST FLOOR, CBI BUILDING
635 PETER MOKABA ROAD
OVERPORT, DURBAN
4001

Your Reference: ED11-25

Mr C Jacobus - Deputy Sheriff
(Properly appointed in terms of Section 6(1) of the Sheriff's Act No. 90/1986)
Signed at Pretoria on 19/05/25
My Reference: **2025/05/08160.00** / JJV

Acting Sheriff Pretoria North East
Mr T J Mphahlele
PO Box 8894 Pretoria 0001
Tel: Tel: 012 883 4380/1 FNB Acc No 6304 3004 710
VAT No./BTW Nr.

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

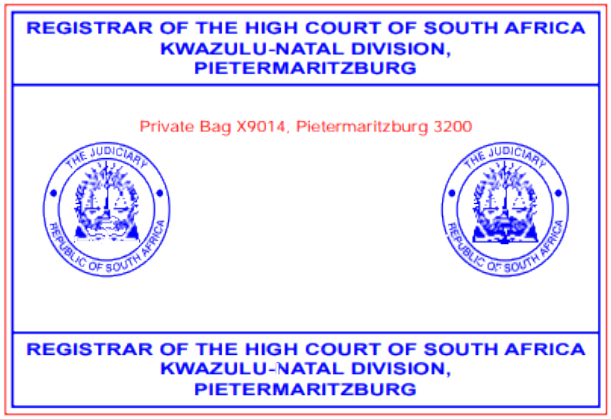
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Return of Service

NOTE: **This document was filed electronically by the Registrar on 21/5/2025 at 5:37:06 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG
Republic of South Africa

Case No – Saak No 067855/2025

In the matter between:
FRIENDS OF SOUTH AFRICA EARLY CHILDHOOD DEVELOPMENT FORUM & 4 OTHERS APPLICANT/S
and:
MEC FOR EDUCATION: KWAZULU-NATAL & 7 OTHERS RESPONDENT/S

Return in accordance with the provisions of the Supreme Court Act 59 of 1959, as amended

On the 15th day of May 2025 at 08:51 I duly served a copy of the attached CERTIFICATE OF URGENCY, NOTICE OF MOTION, APPLICANT'S FOUNDING AFFIDAVIT BY : N. SIBISI, ANNEXURES "NS1-NS20", CONFIRMATORY AFFIDAVITS BY : B. MTHEMBU, N. MADLALA, T. NDLOVUL. MNGOMEZULU, M.M. KHUZWAYO, Z. HLONGWA, SUPPORTING AFFIDAVIT ON THE LEGAL FRAMEWORK BY : S. LINDERBOOM & ANNEXURES "SL1-SL3" upon MR MLUNGISI ZONDI, a person apparently over the age of 16 years and apparently incharge of the premises for the withinnamed 6TH RESPONDENT, MEC FOR FINANCE, at its offices, 2ND FLOOR, NATALIA BUILDING, 330 LANGALIBALELE STREET, PIETERMARITZBURG, at the sametime explaining to him the nature and contents thereof.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Appearance Date: 26 MAY 2025.

The original return together with a copy of the abovementioned process is despatched to the mandator.

NB. PLEASE USE OUR INVOICE NUMBER AS A REFERENCE ON ALL PAYMENTS. ALL PAYMENTS ARE TO BE MADE UPON RECEIPT OF THIS INVOICE/RETURN.

Sheriff Fees Baljugelde	Date Datum		Tax Invoice Number Belastingfaktuur Nr.	I 181968
		16.05.2025		

Description	Qty	Vat	Amount
Registration	1	2.40	16.00
Return	1	9.15	61.00
Service	1	14.85	99.00
Traveling per km	12	13.50	90.00
PIGEONHOLE (OFFICE)	1	0.00	14.50
URGENT FEE	1	75.00	500.00
HANDLING OF DOCUMENTS	1	2.18	14.50
TAX INVOICE	1	0.75	5.00
FILE COPY	1	0.75	5.00
Email page 1	1	3.60	24.00
Email attachment	3	4.50	30.00

Description	Qty	Vat	Amount
VAT / BTW 15%			126.68

Tax Invoice
Belastingfaktuur

S S Mzimela
Deputy Sheriff

A M MZIMELA
Sheriff
Pietermaritzburg
High Court
Tel: 033 394 5207 / 08
Fax: 033 394 5206
PO Box 548
Pietermaritzburg
3200
Docex 86 Pietermaritzburg
Bank Detail:
Bank: FNB Beach Branch
BrCd: 220126
Name: A M MZIMELA
AccNo: 62463338684
Email:
sheriffmzimela@sai.co.za

Form Design © Sheriff Office System (Pty) Ltd 1998 – 2016

VAT Reg No. BTW Reg Nr.	4260281060	You may require this account to be taxed and vouched before payment. U kan verels dat hierdie rekening getakseer en gestaaf word voor betaling	Total Totaal	985.68

M BHYAT ATTORNEYS
P O BOX 573
LUXMI
3207

Account No. ♦ Rekening Nr.
Your Reference ♦ U Verwysing
My Reference ♦ My Verwysing

13526 VatReg
MBA/0187

Ret: 284138/Jaraida/1

Registrar: Republic of South Africa

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

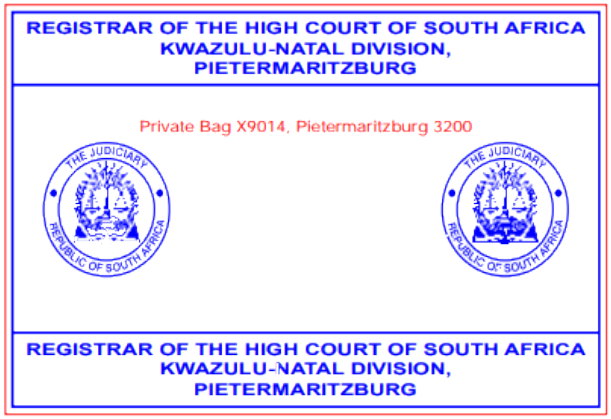
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Return of Service

NOTE: **This document was filed electronically by the Registrar on 21/5/2025 at 5:38:43 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Case No – Saak No 067855/25

In the matter between:
FRIENDS OF SOUTH AFRICA ECD ALLIANCE — Applicant

and:
MINISTER OF SOCIAL DEVELOPMENT — SEVENTH RESPONDENT

Return in accordance with the provisions of the High Court Rules

On this 15th day of May 2025 at 09:53 I served the CERTIFICATE OF URGENCY, APPLICANTS FOUNDING AFFIDAVIT, CONFIRMATORY AFFIDAVITS AND THE SUPPORTING AFFIDAVIT in this matter upon JERRY MASHILWANE, ADMINISTRATOR apparently a responsible employee and apparently not less than 16 years of age, of and in control of and at the principal place of business within the court's jurisdiction of MINISTER OF SOCIAL DEVELOPMENT at 134 PRETORIUS STREET, HSRC BUILDING, NORTH WING by handing to the PARTY SERVED a copy thereof after explaining the nature and exigency of the said process. RULE 4(1)(a)(v)

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

Origineel Oorepronkelijk

Sheriff Fees / Baljugelde | Date / Datum: 20.05.2025 | Tax Invoice Number / Belastingfaktuur Nr.: I 58180

Description	Qty	Vat	Amount
REGISTRATION	1	2.40	16.00
RETURN	1	9.15	61.00
SERVICE	1	14.85	99.00
COPIES	4	4.80	32.00
TRAVELLING	6	6.75	45.00
ADMIN FEE	1	3.98	26.50
LETTER PERUSED	1	3.45	23.00
EMAIL CORRESPONDENCE	2	8.10	54.00
SHERIFFNET FEE	2	8.10	54.00
WILL COLLECT DOCUMENTS	1	1.88	12.50
SAMEDAY SERVICE	1	187.50	1250.00
VAT / BTW 15%			250.95

THOMAS MALULEKE
Deputy Sheriff

A C Greyling
Sheriff – Balju (Acting)
Pretoria Central
Docex 213
P.O. Box 478,
Pretoria,0001
OfficeManager@sheriffpretoriacentral.co.za
012 054 6373/4
Payments:
Bank: Standard Bank
Name: AC Greyling Sheriff for Pretoria Central High/Lower Courts
BrCode: 052650
AccNo: 032 980 728

Form Design © Sheriff Office System (Pty) Ltd 1998 - 2013

VAT Reg No. / BTW Reg Nr.: 4490315555

You may require this account to be taxed and vouched before payment. U kan vereis dat hierdie rekening getakseer en gestaaf word voor betaling

Total / Totaal: 1923.95

LEGAL RESOURCE CENTRE (LRC) JOH
P.O.BOX 9495
JOHANNESBURG
2000

Account No. ◆ Rekening Nr.
Your Reference ◆ U Verwysing
My Reference ◆ My Verwysing
Ref: 162361/ELLENOR/1

2149 VatReg
ED11-25

Registrar: KWAZULU-NATAL DIVISION,

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

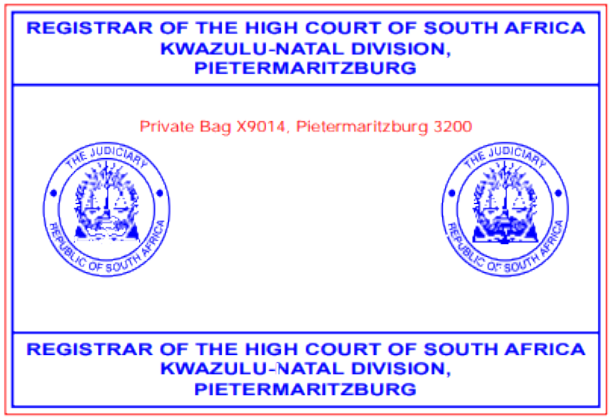
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Return of Service

NOTE: **This document was filed electronically by the Registrar on 21/5/2025 at 5:39:33 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

IN THE HIGH COURT OF SOUTH AFRICA
(Kwa-Zulu Natal Division, Pietermaritzburg)

Case No. 67855/2025

In the matter between:

FRIENDS OF SOUTH AFRICAN EARLY CHILDHOOD DEVELOPMENT FORUM & FOUR OTHERS — **Applicant**

and

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS — **8th Respondent**

and

RETURN: SERVICE OF NOTICE OF MOTION

IT IS HEREBY CERTIFIED:

That on 16 May 2025 at 15h00 at 87 HAMILTON STREET, ARCADIA, PRETORIA, 0001 being the principal place of business of MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS, a copy of the NOTICE OF MOTION, CERTIFICATE OF URGENCY, FOUNDING AFFIDAVIT NKOSINATHI SIBISI, CONFIRMATORY AFFIDAVITS, SUPPORTING AFFIDAVIT AND ANNEXURES was served to HERMAN MOKGOATJANE (LEGAL DEPT) a responsible employee of MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS, after the original document was displayed and the nature and contents thereof explained to her. HERMAN MOKGOATJANE a person apparently not less than sixteen years of age and in the employ of MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS accepted service. Rule 4[1][a][v].

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL DIVISION, PIETERMARITZBURG

SHERIFF CHARGES/EXPENSES: (You may require that this account be taxed and vouched before payment)

Description	Tariff	QTY	Amount	Description	Tariff	QTY	Amount
Service	99.00	1	99.00				
Return	61.00	1	61.00				
Travelling.	7.50	12	90.00				

TO: THE REGISTRAR OF THE HIGH COURT,

Zero rated items	250.00
Sub-total	0.00
VAT	0.00
Total	**250.00**

Account No.: MLEGALRE050

TO: LRC - LEGAL RESOURCE CENTRE
1ST FLOOR, CBI BUILDING
635 PETER MOKABA ROAD
OVERPORT, DURBAN
4001

Your Reference: ED11-25

Mr C Jacobus - Deputy Sheriff
(Properly appointed in terms of Section 6(1) of the Sheriff's Act No. 90/1986)
Signed at Pretoria on 19/05/25
My Reference: **2025/08/08160.00** / JJV

Acting Sheriff Pretoria North East
Mr T J Mphahlele
PO Box 8894 Pretoria 0001
Tel: Tel: 012 883 4380/1 FNB Acc No 6304 3004 710
VAT No./BTW Nr.

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

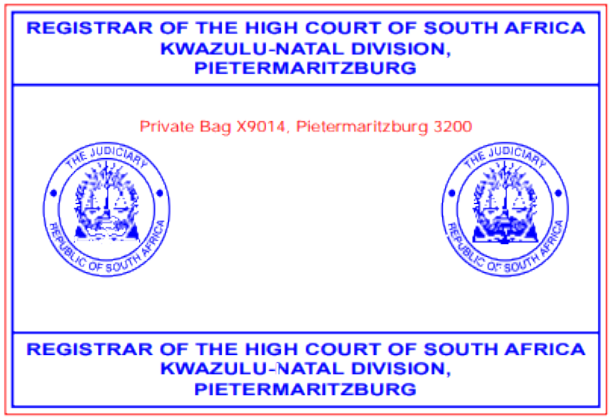
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Proof of Service

NOTE: **This document was filed electronically by the Registrar on 13/5/2026 at 8:13:17 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

Outlook

RE: FRIENDS OF SOUTH AFRICA ECD FORUM AND OTHERS // MEC FOR EDUCATION AND OTHERS 2025-067855

From Zuma Sifundo <SiZuma@justice.gov.za>
Date Thu 07 May 2026 13:33
To Kiara Govender <Kiara@lrc.org.za>

Good afternoon,

Your trailing email is noted with thanks.

Please in future send all communication including notices to me and please cc my secretary.

Her email address is ZinSibiya@justice.gov.za

Thank you.

Regards,

Mr Zuma

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION,
PIETERMARITZBURG

From: Kiara Govender <Kiara@lrc.org.za>
Sent: Thursday, 07 May 2026 10:36
To: Zuma Sifundo <SiZuma@justice.gov.za>
Cc: Sheniece Linderboom <sheniece@lrc.org.za>; Cameron McConnachie <cameron@lrc.org.za>; Fanelesibonge Ndebele <Fanelesibonge@lrc.org.za>
Subject: Re: FRIENDS OF SOUTH AFRICA ECD FORUM AND OTHERS // MEC FOR EDUCATION AND OTHERS 2025-067855
Importance: High

Dear Mr Zuma,

The above matter refers.

Enclosed herewith kindly find the notice of set down for service on the respondents. The matter will be heard on the unopposed motion roll on 23 June 2026.

Kindly acknowledge receipt hereof.

Kind Regards,

Kiara Govender
Attorney

+27 31 301 7572
+27 31 301 7572
kiara@lrc.org.za
www.lrc.org.za
1st Floor, CBI Building, 635 Peter Mokaba Road,
Overport, Durban, 4001

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

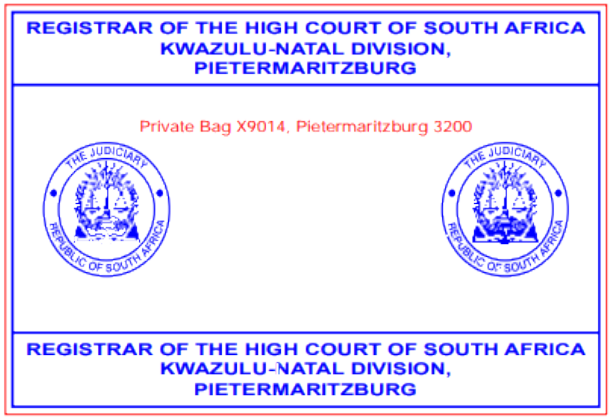
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Proof of Service

NOTE: **This document was filed electronically by the Registrar on 1/6/2026 at 8:42:26 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

Outlook

FRIENDS OF SOUTH AFRICA ECD FORUM AND OTHERS // MEC FOR EDUCATION AND OTHERS 2025-067855

From Kiara Govender <Kiara@lrc.org.za>
Date Mon 01 Jun 2026 08:29
To Zuma Sifundo <sizuma@justice.gov.za>
Cc ZinSibiya@justice.gov.za <ZinSibiya@justice.gov.za>; Sheniece Linderboom <sheniece@lrc.org.za>; Cameron McConnachie <cameron@lrc.org.za>; Fanelesibonge Ndebele <Fanelesibonge@lrc.org.za>

6 attachments (2 MB)

L Mngomezulu Confirmatory Affidavit 20260529.pdf; M Khuzwayo Confirmatory Affidavit 20260529.pdf; N Sibisi Supplementary Affidavit 20260529.pdf; N Madlala Confirmatory Affidavit 20260529.pdf; B Mthembu Confirmatory Affidavit 20260529.pdf; T Ndlovu Confirmatory Affidavit 20260529.pdf;



Dear Mr Zuma,

The above matter, set down on the unopposed motion roll for **23 June 2026**, refers.

Enclosed herewith, kindly find the following documents for service on your office:

1. Supplementary affidavit of N Sibisi;
2. Confirmatory affidavit of L Mngomezulu;
3. Confirmatory affidavit of M Khuzwayo;
4. Confirmatory affidavit of N Madlala;
5. Confirmatory affidavit of B Mthembu; and
6. Confirmatory affidavit of T Ndlovu.

Same will be filed on CourtOnline shortly.

Kind Regards,

Kiara Govender
Attorney

+27 31 301 7572
+27 31 301 7572
kiara@lrc.org.za
www.lrc.org.za
1st Floor, CBI Building, 635 Peter Mokaba Road, Overport, Durban, 4001

LRC LEGAL RESOURCES CENTRE

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL **DIVISION, PIETERMARITZBURG**

CASE NO: **2025-067855**

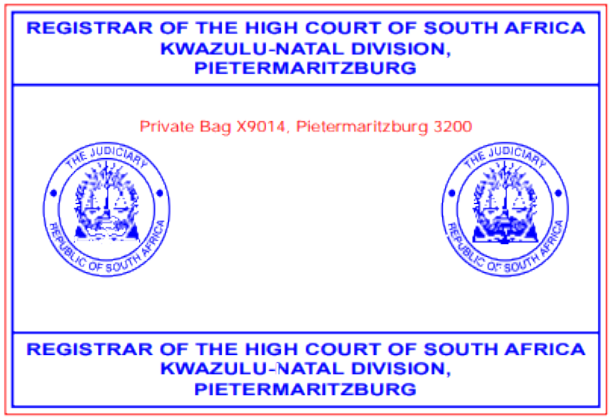
In the matter between:

Friends of South Africa ECD Forum,KZN ECD Alliance,Sakhokwethu Creche,Phumelela Creche,Zenzeleni Creche	Plaintiff / Applicant / Appellant
and	
MEC for Education: KwaZulu-Natal,HOD: KwaZulu-Natal Department of Education,ECD Director: KwaZulu-Natal Department of Education,Minister of Basic Education,Minister of Finance,MEC for Fianace: KwaZulu-Natal,Minister of Social Development,Department of Cooperative Governance and Traditional Affairs	Defendant / Respondent

---

Proof of Service

NOTE: **This document was filed electronically by the Registrar on 17/6/2026 at 12:25:14 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of The High Court, KwaZulu-Natal, Pietermaritzburg.

Outlook

FRIENDS OF SOUTH AFRICA ECD FORUM AND OTHERS // MEC FOR EDUCATION AND OTHERS 2025-067855

From Kiara Govender <Kiara@lrc.org.za>
Date Wed 17 Jun 2026 12:09
To Zuma Sifundo <sizuma@justice.gov.za>
Cc ZinSibiya@justice.gov.za <zinsibiya@justice.gov.za>; Sheniece Linderboom <sheniece@lrc.org.za>; Fanelesibonge Ndebele <Fanelesibonge@lrc.org.za>; Cameron McConnachie <cameron@lrc.org.za>

2 attachments (645 KB)
23 June 2026 Heads of Argument.pdf; Practice Note and Draft Order 23 June 2026.pdf;



Dear Mr Zuma,

The above matter refers.

Enclosed herewith, kindly find the following documents for service on your office:

1. Applicants' heads of argument; and
2. Practice note and draft order sought.

Same will be filed on CourtOnline.

Kind Regards,

Kiara Govender
Attorney

+27 31 301 7572
+27 31 301 7572
kiara@lrc.org.za
www.lrc.org.za
1st Floor, CBI Building, 635 Peter Mokaba Road, Overport, Durban, 4001

LRC LEGAL RESOURCES CENTRE