

FOSTER CARE

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NOTE

In this publication, "Ministry" and "Minister" refer to the Ministry and Minister responsible for child protection, and "Guide" means this *Guide to the Child Care and Protection Act* (which is published in separate chapters).

EDITION
2019

The Child Care and Protection Act introduces a new distinction between foster care and kinship care. Foster care now refers only to situations where children are placed by court order with someone who is unrelated to them, while kinship care is the term for situations where children are placed with extended family members or close family friends. Persons who wish to become foster parents must be approved and listed on a register of prospective foster parents in advance of the placement of a child with them.

1. What is foster care?

The Child Care and Protection Act defines foster care as the “care of a child by a person who is **not** the parent, guardian or family member or extended family member of the child.” Children are placed in foster care by an order of the children’s court after a child protection hearing in situations where the child cannot be adequately cared for by the parents for some reason.

Foster parents play a similar function as children’s homes, but in a family environment. Children may be placed with foster parents for short temporary periods, or on a longer-term basis – depending on their situation.

◆ Child Care and Protection Act, sections 1 (definition of “foster care”), 154(1)

A “**family member**” of a child includes a grandparent, step-parent, brother, sister, uncle, aunt or cousin of the child, as well as any other person with whom the child has developed a significant relationship, based on psychological or emotional attachment, which resembles a family relationship.

◆ Child Care and Protection Act, section 1 (definition of “family member”)

UN Guidelines for the Alternative Care of Children (2010)

“ Foster care: situations where children are placed by a competent authority for the purpose of alternative care in the domestic environment of a family other than the children’s own family that has been selected, qualified, approved and supervised for providing such care. ”

◆ UN Guidelines, paragraph 29(c)(ii)

Rachel was abandoned as an infant. The social worker has not been able to identify any family members. Rachel will be placed in foster care for now, with a view to possible adoption.



Foster care versus kinship care

Before the Child Care and Protection Act came into force, there was no legal distinction between foster care and kinship care. The result was that relatives who were caring for children related to them had to go to court to be named as foster parents in order to be eligible for grants. This process included a social worker investigation and a social worker report which had to be reviewed by the court.

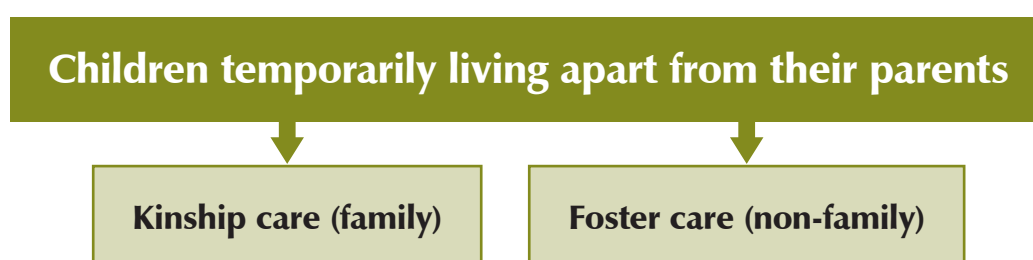
Approval as a foster parent was time-consuming for the family, the social worker and the court. And yet it did not really add to the protection of the child since the courts usually ended up rubber-stamping arrangements already made by the child's family. It was also illogical, since relatives who were caring for children but not seeking grants did not need court approval.

In addition, there were many cases where needy households were unable to access State grants because they had not gone through the process of being approved as foster parents by the court, or because the lengthy process was not yet complete.

The new distinction between foster care and kinship care removes an unnecessary burden from families, social workers and courts because registering a kinship care agreement is a simpler process than obtaining a court order for foster care.

Formal recognition of kinship care also acknowledges approaches to child care which are typical in Africa instead of applying foreign concepts to African contexts.

What is the difference between foster care and kinship care?	
Foster care	Kinship care
<ul style="list-style-type: none">④ Placement only by court order (for child in need of protective services)④ Foster parent is not a family member④ Social worker supervision④ Eligible for foster parent grant	<ul style="list-style-type: none">④ Placement usually by voluntary private agreement④ Kinship care-giver is a family member or close family friend④ No supervision (unless it is by court order)④ Eligible for same grant as a parent if kinship care agreement is registered with court (one or the other can apply for the grant, not both)



UN Guidelines for the Alternative Care of Children (2010)

Foster care

“ The competent authority or agency should devise a system, and should train concerned staff accordingly, to assess and match the needs of the child with the abilities and resources of potential foster carers and to prepare all concerned for the placement.

A pool of accredited foster carers should be identified in each locality who can provide children with care and protection while maintaining ties to family, community and cultural group.

Special preparation, support and counselling services for foster carers should be developed and made available to carers at regular intervals, before, during and after the placement.

Carers should have, within fostering agencies and other systems involved with children without parental care, the opportunity to make their voice heard and to influence policy.

Encouragement should be given to the establishment of associations of foster carers that can provide important mutual support and contribute to practice and policy development. ”

◇ UN Guidelines, paragraphs 118-122

2. Foster parents

2.1 Who can become a foster parent?

A married couple can apply to be joint foster parents, or an individual can apply to be a single foster parent.

It seems to be possible for a couple who are living together without being formally married to apply to be joint foster parents, or for only one of them to apply to be a single foster parent. (See the technical note on the next page.)

There are three basic requirements for becoming a foster parent:

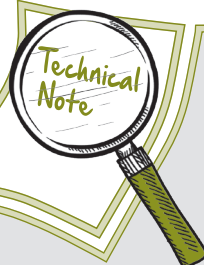
- (1) A foster parent must be a **fit and proper person** to be entrusted with the care of the child concerned.
- (2) A foster parent must also be **willing and able to undertake the parental rights and responsibilities** associated with foster care.
- (3) A foster parent must be able to show that he or she has **not been convicted of certain serious crimes** listed in the Child Care and Protection Act.

◇ Child Care and Protection Act, sections 154(3), 156, 238
◇ Child Care and Protection Regulations, regulation 52(2)

Relevant crimes

- ▷ murder
- ▷ rape
- ▷ indecent assault
- ▷ incest
- ▷ kidnapping
- ▷ any statutory sexual offence
- ▷ any offence relating to the manufacture, distribution or possession of pornography
- ▷ any offence relating to human trafficking
- ▷ abduction, excluding the wrongful removal or retention of a child by a parent with parental responsibilities
- ▷ assault with intent to cause grievous bodily harm

◇ Child Care and Protection Act, section 238(8)



The application procedure for an unmarried couple who are living together is not clear.

Section 154(3) of the Act says:

This Chapter applies to both parents, if married or living together, in whose foster care a child has been or is to be placed, unless foster care of such child is awarded to one foster parent only.

Section 155(1) says that “a person or persons” who want to be approved as prospective foster parents must make an application to a designated social worker.

Regulation 52(2) says:

A married couple may apply jointly to be approved as prospective foster parents.

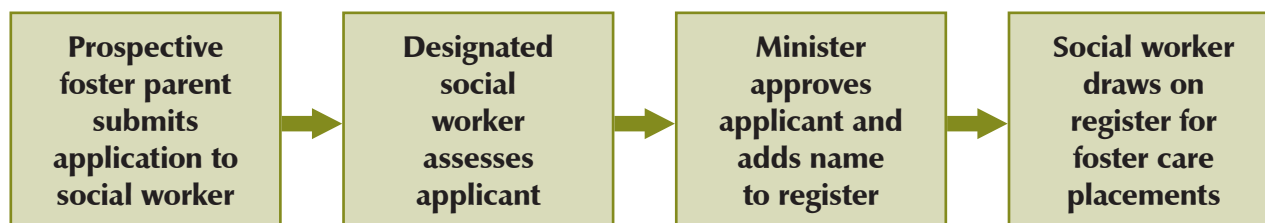
Regulation 54(4) says:

Where a married couple apply jointly to be registered as prospective foster parents, the couple must be assessed together and the application may only be approved if both of them are approved as prospective foster parents.

The regulations do not mention any possibility for joint application or approval for persons other than a married couple.

◇ Child Care and Protection Act, sections 154(3), 155(1)

◇ Child Care and Protection Regulations, regulations 52(2), 54(4)



2.2 Application process

People who would like to become foster parents must apply to a designated social worker to be placed on a list of potential foster parents.

The application must be made on **Form 17**, which is appended to the Child Care and Protection Regulations.

A “**designated social worker**” is a State or private social worker authorised by the Minister to carry out specific tasks.

◇ Child Care and Protection Act, section 33

The information required for the application is intended to make sure that the environment will be safe for children who may be placed with the foster parent, and to allow for appropriate matching of foster children with foster parents.

The application form requires **basic information about the applicant**, including citizenship, religious affiliation, marital status, main languages spoken in the household and information about other adults and children in the household.

A married couple who want to be joint foster parents must apply together. They can act as joint foster parents only if *both* of them are approved.

Applicants must also provide information about their **financial position** and a medical report on their **health**, to show that they are in a practical position to take good care of foster children.

The applicants must also explain **why they would like to be approved as prospective foster parents**. They may indicate their **preferences regarding sex, age or other attributes of potential foster children**.

Applicants must also indicate whether they might have an **interest in adopting a child whom they foster**.

A foster parent who wants to adopt must submit a separate application for approval as a prospective adoptive parent. This process is explained in Chapter 17 of this *Guide* on adoption.

Applicants must submit **police clearance certificates** to show that they have not committed any serious crimes.

This police clearance certificate will show that they have not been convicted of certain serious crimes, which are listed in the box on page 5. Police clearance certificates are explained in Chapter 27 of this *Guide*.

- ◆ Child Care and Protection Act, sections 155(1), 156(1)-(2)
- ◆ Child Care and Protection Regulations, regulation 52, Form 17

We want to be foster parents because there are many children in our community who have lost their parents. We have two children of our own, but we are willing and able to care for foster children as well.



2.3 Assessment by social worker

After an application is received, a social worker will assess the application to see if the applicant is suitable to be a foster parent.

A married couple who apply jointly to be foster parents will be assessed together.

The social worker may conduct any reasonable investigation to determine if the criteria for prospective foster parents are satisfied. This can include referral of the applicant for medical or psychological assessment if necessary.

The social worker's written assessment must include

- ⑨ background information on the applicant
- ⑨ information on the applicant's interpersonal relationships
- ⑨ a discussion of relevant physical and psychological issues
- ⑨ a discussion of relevant socio-cultural issues, including the applicant's religion
- ⑨ a discussion of relevant housing and environmental issues
- ⑨ the applicant's motive for want to be a foster parent
- ⑨ the basis for concluding that the legal requirements for a foster parent are, or are not, met.

The assessment of a prospective foster parent is similar to the assessment of a prospective adoptive parent. This is because, where family reunification is not possible, foster care can become a long-term arrangement with similarities to adoption, or in some case lead to formal adoption.

- ◆ Child Care and Protection Act, sections 155(2), 156(1)-(2)
- ◆ Child Care and Protection Regulations, regulation 54

Criteria for assessment of prospective foster parents

A social worker assessing an application from prospective foster parents must consider these criteria.

- ⑨ Does the applicant have the capacity to provide a child with a **suitable place to live**?
- ⑨ Does the applicant have the capacity to provide **living conditions that are appropriate to a child's health and well-being**?
- ⑨ Does the applicant have **adequate financial support** for foster care (keeping in mind the supplement of a foster care grant)? **Wealth is not a requirement, but the foster parent must be able to provide a reasonable home environment for a child, with sufficient food, clothing and shelter.**
- ⑨ Does the applicant have the capacity to accommodate various **special needs** that a child in foster care may have? **For example, if the child has a disability, the foster parents must have the time and resources needed to properly care for the child. However, some foster parents may indicate that they do not feel that they have the capacity to take in children with certain special needs.**

I am applying to be a foster parent. I know sign language since one of my own children is deaf. I believe that I could really help a deaf child in need of care, and there may not be many other foster parents who are equipped for that. But I will request not to be assigned children with other physical disabilities, as I do not think my house is well-equipped for children with some physical problems.



- ⑨ Can the applicant be trusted to **use any State grant or financial contribution from the child's parents towards the upbringing of the child and in the child's best interests**? For example, the grant may be used for the child's food, clothing and education.
- ⑨ Will the applicant be willing to allow **contact between the child and the child's family members and other persons in the child's life**, if such contact is in the best interests of the child? For example, if the child has a close relationship with his or her grandparents, they should be allowed to visit the child.
- ⑨ Will the applicant ensure that any child of school-going age **attends school regularly**?
- ⑨ Will the applicant **respect the foster child's religious and cultural upbringing**, and guide the child on these issues in a manner appropriate to the background, age, maturity and development of the child?
- ⑨ Will the applicant **assist a foster child from a different cultural, linguistic or religious background to maintain links with that heritage**? For example, if the child was raised in a particular religion, he or she should be encouraged to continue with that religion.
- ⑨ Is the applicant willing to co-operate with a designated child protection organisation or social worker towards the **eventual re-unification of the child with his or her parents or family members** (if appropriate)? For example, the foster parent might be expected to facilitate visits by a parent which increase in duration over time.
- ⑨ Is the applicant willing to co-operate with a designated child protection organisation or social worker in any **review of possible extension of a foster care order**?
- ⑨ Will the applicant allow a designated child protection organisation or social worker to have **access to the home and the foster child**, for the purposes of monitoring the placement, providing reunification services, reviewing the foster care order or addressing any other matter concerning the foster care?
- ⑨ Will the applicant **respect the views of a foster child**?
- ⑨ Will the applicant generally **promote the child's well-being, best interests and physical, emotional and social development**?
- ⑨ If applicable, will the applicant arrange for the foster child to **participate in early childhood development programmes**?
- ⑨ Will the applicant guide the behaviour of a foster child through **positive discipline**, and not use corporal punishment or any other degrading forms of discipline?
- ⑨ Will the applicant ensure that a child in foster care is **treated in a manner similar to other children in the household** (taking into account any special needs of the foster child or the other children)? For example, the foster child should not be required do chores that are not expected of other children of similar ages in the household.
- ⑨ Has the applicant provides a **police clearance certificate** showing that he or she has not been convicted of any of the specified crimes? See the box on page 5 for a list of these crimes.

◇ Child Care and Protection Act, section 156(1)-(2)

◇ Child Care and Protection Regulations, regulation 54(1)

George and Martha have applied to be foster parents. They have been happily married for 20 years. Their own two children are adults now and have moved out of the home. They are both in good health, and they feel that they have time and energy to care for other children. They have two spare bedrooms in their house. They are both active in community work, and well-respected by their neighbours. They are not interested in potential adoption, but they are willing to take short-term foster placements...



Ruth has applied to be a foster parent. She hopes to adopt children someday, but she accepts that the primary goal of foster care is family reunification in cases where this is possible.

Ruth lives with her aunt in a small municipal house they have rented for the last eight years. Ruth works in the mornings as a school nurse. She prefers to take in school-age children who would be in class during her working hours, but her aunt can assist with child care if necessary.

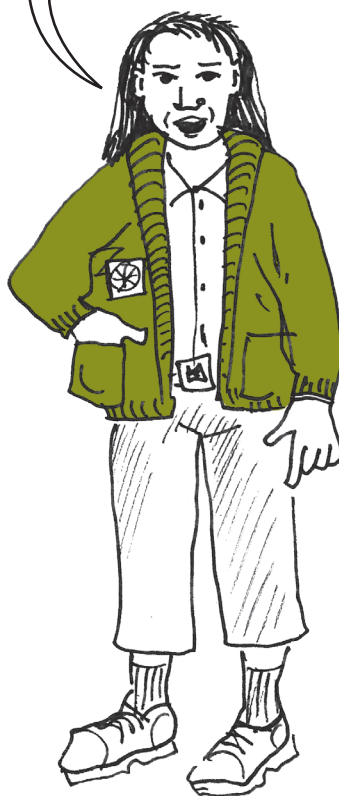
Ruth has five siblings who are all much younger than she is. She helped to care for them when they were children, and I interviewed two of them, who both spoke warmly of Ruth's capacity for nurture...

“ Even though children are probably more exposed to violence or neglect in institutions, the vulnerability of children in foster care should not be underestimated ... Foster placement can also be used to disguise one of the more hidden aspects of child abuse — children being kept as domestic workers in conditions of near slavery ... where children are routinely sent to live with wealthier families as servants ... Those training foster caregivers and supervising foster placements should ensure that foster children are not treated as inferior to other children within the family or exploited as domestic workers. ”

◆ *Implementation Handbook for the Convention on the Rights of the Child, UNICEF, 3rd edition, 2007, page 281*

I hope you can send me five or six strong boys. There is a lot of work to be done on the farm since my husband died.

Mrs Smit, I do not think you understand the purpose of foster care! I will not be able to approve you as a foster parent.



2.4 Registration of prospective foster parent

If an application is approved by the Minister, a prospective foster parent is immediately listed in the **Register of Prospective Foster Parents**. A children's court may order the placement of a child in foster care **only** with foster parents listed in this register.

The Minister can impose conditions on the approval. For example, a foster parent might be approved for foster of children in a particular age group, or for children with only certain kinds of special needs.

Registration as a prospective foster parent is valid for three years and may be renewed for two-year periods after a re-assessment.

A foster parent who wants to renew his or her registration must make a written request for renewal to a social worker at least three months before the current registration expires.

Registration can come to an end in several ways:

- ⑨ The prospective foster parent **withdraws the registration** in writing.
- ⑨ The prospective foster parent **dies**.
- ⑨ The **Minister cancels** the registration because the prospective foster parent is no longer a fit and proper person to be entrusted with parental responsibilities and rights in respect of a child, or no longer willing and able to undertake these responsibilities.
- ⑨ A child is **removed from the care of the foster parent** in a child protection proceeding.
- ⑨ The foster parent is **convicted of one of the specified offences**.

- ◆ Child Care and Protection Act, sections 155(3)-(5), 156(3)
- ◆ Child Care and Protection Regulations, regulations 54(5)-(6), 55



Festus has been registered as a foster parent for the last five years. One of our social workers saw in the newspaper that he was recently convicted of a serious assault, and she confirmed with the court that this information is true.

Festus's name must be removed from the register. He no longer meets the requirements for being a foster parent. Foster parents must be suitable people to teach children about non-violent ways to solve problems.

Information to be included in the Register of Prospective Foster Parents

- ⑨ full names
- ⑨ sex
- ⑨ date of birth
- ⑨ ID number
- ⑨ postal & physical address
- ⑨ contact details
- ⑨ marital status / informal cohabitation
- ⑨ date of marriage (if applicable)
- ⑨ main languages spoken in household
- ⑨ religious affiliation (if any)
- ⑨ number of children in household (and their dates of birth)
- ⑨ number of persons age 18 or older in household (and their ages)
- ⑨ special needs of any household members
- ⑨ citizenship / information on permanent residence or domicile of non-citizens
- ⑨ any preferences regarding sex, age or other attributes of potential foster children
- ⑨ any other information Minister or social worker wants to include.

◆ Child Care and Protection Act, regulation 53

“ Within the child care and protection field, foster care has long been regarded as the preferred form of care for children who are unable to live with their own parent [or family members], and for whom adoption is not desirable or not legally possible.

The central advantage of a well-functioning foster care arrangement over placement in a [children’s home or child detention centre] — unless the child has special needs that require such an environment for a certain period of time — is that it enables the child to live as part of a family. This is the context in which it is widely believed that developmental needs of children can best be met. For many, it is also the context in which the effects on a child of abuse, neglect and deprivation can best be healed. ”

◆ Jacqueline Gallinetti and Jackie Loffell, “Foster care” in CJ Davel and AM Skelton (eds), *Commentary on the Children’s Act*, Juta, 2007, updated in 2010, page 12-2 (discussing foster care in terms of the South African Children’s Act 38 of 2005; footnote omitted)

3. Court orders for foster care

3.1 Placement in foster care

Placement in foster care is one type of **alternative placement** which a children’s court can order after a child protection hearing. If a child cannot remain with a parent or family member, foster care is usually the next best option because it places the child in a family-like environment.

A child may not be placed in foster care if this would result in the foster parent caring for more than six children in total – counting both their own children and the foster children placed with them. However, the court can make an exception to this rule if exceeding the maximum number would be in the best interests of all the children concerned.

Foster care normally ends when the child reaches age 18 and becomes a major. However there are **two possibilities for extension**:

- ⑨ A child is entitled to remain in foster care until **the end of the year when the child turns 18** IF the child wishes to do so.
- ⑨ A child may remain in foster care until **the end of the year when the child turns 21** IF the child requests permission from the Minister to remain in order to complete education or training AND the foster parent is willing and able to continue the care.

◆ Child Care and Protection Act, sections 145(3)(f), 147(1), 151(5)-(6), 158

We need a placement for Evelyn. The rest of her family was killed in a terrible car crash. The best fit for her would be to live with the family of her best friend from school. She knows them well and has often visited them. They have four children of their own and two other foster children in the household, but they are willing to take in Evelyn. All of the children know her and want to do something to help. I am going to ask the court to make an exception to the rule on maximum numbers in this case.



Note that the residence of a person approved as a foster parent can also be used as a **place of safety** for the temporary care of a child. The Act does not provide a particular procedure for this. If a foster parent has been approved to care for foster children, it stands to reason that the foster parent is also suitable to provide a temporary place of safety for a child. It appears that any person listed on the Register of Prospective Foster Parents can be asked to provide a place of safety for a child in need of temporary care if the foster parent is willing to provide this service.

◇ Child Care and Protection Act, section 64(3)

3.2 Transfer of certain parental rights and responsibilities to foster parents

Basic rights and responsibilities

Certain transfers of parental rights and responsibilities take place with any alternative placement, including placement in foster care.

When a child is placed by the court with a foster parent, any existing **right of custody or control over that child** is transferred to the foster parent for the duration of the placement. This includes the power to make decisions about the child's day-to-day care.

Certain duties are also transferred to the foster parent:

- ⑨ The foster parent has a duty to **promote the child's well-being and development**, particularly in respect of education and health. For example, if the child is of school-going age, the foster parent must ensure he or she attends school regularly.
- ⑨ The foster parent has a duty to **encourage the child to have contact with parents, extended family members and friends**, unless such contact is prohibited by an order of the children's court or would not be in the child's best interests. For example, the foster parent should help to facilitate family visits with relatives with whom the child has a close relationship. The foster parent can work with the social worker to determine the best way to do this. The level of contact will depend on the situation. The foster parent can work with the social worker to determine the appropriate level of contact and how this contact should take place.

- ⑨ The foster parent has a duty to **inform the child's parents, guardian or other previous care-giver of the child's progress**. For example, the foster parent could share the child's school reports with the child's parent. In some circumstances, it may be best for this information to be channelled through the social worker.
- ⑨ The foster parent has a duty to assist the relevant social worker to **arrange for the child to be returned home for a specified trial period**, where this is consistent with the child's best interests. For example, the child may return home for weekends or holidays until the parents are ready for longer stays. This is part of the process of family unification.
- ⑨ Where a child is unable to return to his or her parents, the foster parent has a duty to **encourage and assist the child to become independent and self-reliant**. For example, the foster parent should teach the child age-appropriate life skills such as how to budget for expenses and how to look for employment.

Some powers and duties relating to **medical care** are transferred to the foster parent:

- ⑨ The foster parent must obtain **basic medical intervention** for the child if necessary.
- ⑨ The foster parent must ensure that the child obtains a **surgical operation** if the child urgently requires the operation and deferring it to permit consultation with the parent or other previous care-giver would prejudice the child's health or welfare.

◇ Child Care and Protection Act, sections 149(1)-(2) and (4), 157

Powers which are **NOT** transferred to the foster parent:

- ⑨ the power to grant permission for the child to **leave the country**
- ⑨ the power to deal with the **property** of the child
- ⑨ the power to consent to the **marriage** of the child
- ⑨ the power to consent to the **adoption** of the child.

◇ Child Care and Protection Act, sections 88, 149(3)

Decision-making powers of foster parent

What foster parents can decide

- ⑨ Permission for medical treatment if the child is not old enough to consent
- ⑨ Where the child goes to school
- ⑨ How to use the foster care grant in the best interests of the child
- ⑨ Other day-to-day decisions about care

What foster parents can NOT decide

- ⑨ Permission for surgery (unless urgent)
- ⑨ If the child can leave the country
- ⑨ If the child can get married
- ⑨ How to deal with the child's property
- ⑨ If the child can be adopted

◇ Child Care and Protection Act, sections 88, 149, 157

Additional rights and responsibilities of foster parents

- ⑨ The foster parent has any **additional parental rights and responsibilities contained in the children's court order** which places the child in foster care.
- ⑨ A foster parent **must not delegate the day-to-day care of a foster child to any other person for more than one week** without the agreement of the social worker or child protection organisation.
- ⑨ A foster parent must notify the designated social worker or child protection organisation which is supervising the foster care of certain changes:
 - The foster parent must give notice within 14 days of any **significant change of circumstances of the foster parent** or the foster parent's family. For example, the foster parent should notify the social worker if the foster parent has lost his or her job, or if another person is going to be living in the household.
 - The foster parent must give notice within 14 days of any **significant change of circumstances of the foster child** which could have an impact on the foster placement. For example, the foster parent should notify the social worker if the child suddenly seems upset after interactions with the child's family, as this could indicate that efforts towards family reunification are not going well.
 - The foster parent give notice of any **serious illness or injury to the foster child**. For example, the foster parent should notify the social worker if the child breaks a bone or gets malaria.
 - The foster parent must give notice of any **change of address**. The social worker or the child protection organisation must notify the Minister of any such changes as soon as possible.

- ◇ Child Care and Protection Act, section 157
- ◇ Child Care and Protection Regulations, regulation 56

CORPORAL PUNISHMENT PROHIBITED

A foster parent may **NOT** use corporal punishment on a foster child.

- ◇ Child Care and Protection Act, section 228(3)

3.3 Duty not to abuse, neglect or abandon child

It is a crime for any care-giver who voluntarily cares for a child (either temporarily or indefinitely) to abuse or deliberately neglect the child, or to abandon the child. This includes a foster parent. The punishment can be a fine of up to N\$50 000 or imprisonment for up to 10 years, or both.

- ◇ Child Care and Protection Act, section 254

3.4 Termination of foster care

Foster care may be terminated by a children's court if it is in the best interests of the child. But before the court will terminate foster care, it will take into account all relevant factors, including:

- ⑨ the **bond that exists between child and parent** (if the child's parent wants to reclaim care of the child)
- ⑨ the **bond that has developed between the child and the foster parent**, and between the child and the foster parent's family
- ⑨ the **prospects for achieving permanence** in the child's life through the various potential forms of care (return to the parent, permanent foster care, adoption or some other alternative care).

- ◇ Child Care and Protection Act, section 159

3.5 Death of a child in foster care

If a child dies while in foster care, the foster parent must immediately report the death to a member of the police *and* to the relevant social worker. The police or the social worker must immediately notify the child's parent, guardian or family and carry out an investigation into the cause of the child's death.

◆ Child Care and Protection Act, section 86
TECHNICAL NOTE: The wording of the Act is ambiguous on whether it is the duty of the social worker or the police to notify and investigate. The social worker and the police could liaise on their respective roles.

The **placement of individual children in foster care** is discussed in more detail in Chapter 14 of the *Guide* on child protection. That chapter covers **leaves of absence, transfers and discharges**.

4. Foster parent grants

4.1 Eligibility for grants

Grants are discussed in more detail in Chapter 27 of this *Guide*.

Foster parents are eligible for a foster parent grant to assist with the costs of caring for the children placed with them by court order. Foster parent grants are generally payable as long as the child is in foster care. **An application for a grant for a child in foster care must be accompanied by a certified copy of the relevant court order.**

In addition, a foster parent can apply for a child disability grant for a child who is eligible for such a grant.

- ◆ Child Care and Protection Act, sections 241 (child disability grant), 242-243 (foster parent grant)
- ◆ Child Care and Protection Regulations, regulations 107 (foster parent grant), 109 (child disability grant), 114(1)(c) (duration of grants)

4.2 Misuse of grants

It is a crime for someone to receive a foster parent grant if that person is not actually the foster parent of the child in question. It is also a crime NOT to use a foster parent grant or a child disability grant for the benefit of the child. The penalty for either offence is a fine of up to N\$4 000 or imprisonment for up to 12 months, or both. The person who wrongfully received the grant money or used it for an improper purpose might also have to repay the money to the government.

- ◆ Child Care and Protection Act, sections 249-250

4.3 Automatic fee exemptions

A child who has been placed in foster care is entitled to –

- ⑨ free basic education in State schools, including automatic exemption from contributions to any School Development Fund
- ⑨ subsidised school uniforms, shoes and stationary
- ⑨ free basic health care
- ⑨ exemption from payment of any fees when applying for official documents from any organ of state.

- ◆ Child Care and Protection Act, section 246

4.4 Transitional provisions

A kinship care-giver who was receiving a foster parent grant before the Child Care and Protection Act came into force will continue to receive the foster parent grant until the expiry of the court order placing the child in foster care. After the court order expires, the kinship care-giver may apply for a State maintenance grant on the basis of the kinship care.

◇ Child Care and Protection Act, regulation 114(6)

5. Cluster foster care

Cluster foster care refers to services offered by a non-profit organisation for support, mentoring, supervision and advice to foster parents. **Cluster foster care services are intended to assist foster parents in caring for the children placed in their care, especially children with special needs or disabilities.**

Cluster foster care is not joint foster care. Foster parents who are receiving support from a cluster foster care service must apply independently for approval to serve as foster parents. The support from the cluster foster care service does not affect the rights and responsibilities foster parents have for the children in their care.

However, persons employed at or involved in an organisation managing a cluster foster care service must meet similar requirements as foster parents:

- ⑨ must be **fit and proper persons** to be entrusted with foster care
- ⑨ must be able to support foster parents' ability to undertake **the parental rights and responsibilities** associated with foster care
- ⑨ must be able to show that they have **not been convicted of specified crimes**.

◇ Child Care and Protection Act, sections 1 (definition of "cluster foster care"), 154(2), 156(4)

We are all foster parents. We decided to come together and form a cluster foster care organisation to provide support to each other and to the children in our care. Our organisation offers support groups, counselling and mentoring to foster parents in our community.



FUTURE DIRECTIONS

The Child Care and Protection Act recognises the concept of cluster foster care, but provides no detail on how cluster foster care will be operationalised and regulated. The Act authorises the Minister to enact regulations to govern the registration of cluster foster care services, but no such regulations have yet been enacted. If cluster foster services become more common, it is likely that the Ministry will issue regulations to provide more guidance on how cluster foster care will be implemented in Namibia.

◇ Child Care and Protection Act, section 154(2)