



OBJECTIVES AND GUIDING PRINCIPLES OF THE CHILD CARE AND PROTECTION ACT

OBJECTIVES

The objectives of the Child Care and Protection Act are:

- ④ to protect and promote the well-being of all children
- ④ to give effect to children's rights in the Namibian Constitution
- ④ to implement international agreements that are binding on Namibia
- ④ to promote the protection of families
- ④ to strengthen and develop community structures which provide care and protection for children
- ④ to establish, promote and co-ordinate services and facilities for the care and protection of children
- ④ to provide protective services to children who need them
- ④ to protect children from discrimination, exploitation and other forms of harm
- ④ to ensure that children are not discriminated against or disadvantaged because of the marital status of their parents
- ④ to recognise the special needs of children with disabilities or chronic illnesses.

Best interests standard

The paramount consideration in all matters concerning the care, protection and well-being of children is the best interests of the child, as provided for in the UN Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child. This standard applies in court cases and other actions or decisions by government bodies.

The Act includes a list of factors to guide decision-makers in determining what will be in the child's best interests:

- ④ the child's sex, age, background, maturity and level of development
- ④ the child's physical and emotional security, and intellectual, emotional, cultural and social development
- ④ the views of the child, in light of the child's age and maturity
- ④ the right of the child to know and be cared for by both parents, where this is in the child's best interests
- ④ the relationship between the child and significant persons in the child's life
- ④ the attitude of the parents or other care-givers, and their capacity to care for the child
- ④ the importance of keeping siblings together where possible
- ④ the impact change will have on family relationships and the ability to maintain contact with both parents
- ④ the need for children to maintain connections with their family, extended family, culture and tradition
- ④ the impact of disability or chronic illness
- ④ the importance of a stable family environment
- ④ the need to protect the child from harm
- ④ the need to minimise legal and administrative procedures
- ④ any other relevant factor.

Child participation

Children of sufficient age, maturity and stage of development must be given a chance to express an opinion about decisions which affect them. Children's views should be given an appropriate degree of consideration, keeping in mind the child's age and maturity. This is important because children have thoughts and feelings – they should not be treated like objects to be argued over. The United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child both say that children should participate in decisions that affect them.

GENERAL PRINCIPLES

- ☉ Respect, protect, promote and fulfil the **fundamental rights and freedoms** set out in the Constitution, the **best interests** of the child, and the **rights and principles set out in the Act**.
- ☉ Respect the child's **dignity**.
- ☉ **Treat all children fairly and equitably**.
- ☉ Protect children against **unfair discrimination**.
- ☉ Recognise the child's need for **development** and an opportunity to **play**. Respond to any **special needs** related to a child's disability or chronic illness.
- ☉ Give the **child's parents or care-givers** an opportunity to **express their views** in any matter concerning the child.
- ☉ Resolve matters concerning children in a **non-conflictual** way if possible.
- ☉ **Avoid delays** as far as possible.
- ☉ **Inform children and their parents and care-givers** of matters which could affect the child.

Rights and responsibilities go together. The Child Care and Protection Act discusses some of the key rights and responsibilities of parents and children.

Children's rights to basic conditions of living

All children have a right to basic living conditions in the form of adequate:

- (a) food
- (b) shelter
- (c) clothing
- (d) care and protection, including health care and immunisation
- (e) education
- (f) play and leisure.

A child's parent, guardian or care-giver has a duty to fulfil these basic needs according to their ability and financial capacity.

Parental duties and responsibilities

Any person who has parental responsibilities and rights towards a child has a duty to:

- (a) promote the best interests of the child
- (b) guide the child to exercise his or her rights in a way that suits the child's evolving capacities
- (c) protect the child from neglect, discrimination, violence, abuse and harm
- (d) ensure that the child is adequately cared for when the parent or care-giver is temporarily absent.

The Act does not attempt to define all aspects of parental rights and responsibilities. These include caring for the child, promoting the child's development and welfare, providing appropriate direction and discipline and making legal decisions on the child's behalf.

Children's duties and responsibilities

The Act says that children have a responsibility to:

- ☉ respect the rights of their family members and assist the family in times of need
- ☉ serve their communities, respect the rights of all community members and promote positive cultural values in the community
- ☉ serve the nation, respect the rights of all other persons in Namibia and preserve and strengthen national solidarity
- ☉ contribute to the general moral well-being of society.

Children's duties must be viewed in light of the age, maturity, stage of development and ability of each child. These responsibilities are based on the African Charter on the Rights and Welfare of the Child.

Children with disabilities

One of the general principles in the Act is that the dignity of all children should be respected. But the dignity of some groups of people is more easily ignored than others. So the Act emphasises the need to treat children with disabilities in a way that respects their dignity. The Act also states that children with disabilities should receive the care and protection they need to achieve the fullest possible social integration and individual development.