



OBJECTIVES AND GUIDING PRINCIPLES OF THE CHILD CARE AND PROTECTION ACT

The **objectives** of a law explain what the law is trying to achieve. The **guiding principles** are the values which the law will uphold.

What objectives should the Child Care and Protection Act try to achieve? What values should the Child Care and Protection Act uphold? To answer these questions, we have to ask: what are the main problems and issues that children in Namibia are facing? We have to consider all these questions if we want to make sure that the new law will really be helpful to Namibian children.

Objectives

The objectives of the proposed Child Care and Protection Act are:

- to uphold the children's rights in the Namibian Constitution
- to implement international agreements that are binding in Namibia
- to promote the protection of families
- to promote the best interests of children
- to strengthen and develop community structures which provide care and protection for children
- to protect children from discrimination, exploitation and other forms of harm
- to assist children in need of care and protection
- to generally promote the protection, development and welfare of children.

Guiding principles

The proposed Child Care and Protection Act says that all decisions affecting children must:

- be consistent with the Namibian Constitution, the best interests of the child, and the Child Care and Protection Act
- respect the child's dignity
- treat the child fairly
- protect the child from unfair discrimination, including discrimination based on the health status or disability of the child or a family member of the child
- recognise the child's need for development, play and recreation
- respond to the child's special needs, if that child has a disability.

There are also some additional principles:

- Family participation:** Decisions must be made only after the child's family has been given a chance to express their views (if this is in the best interests of the child).
- Avoid conflict:** Matters concerning children should use negotiation to reach agreement and avoid conflict where possible.
- Avoid delay:** Move as quickly as possible on decisions involving children, because delays have more impact on developing children than on adults.
- Good communication:** Children of sufficient age and maturity must be informed of all actions and decisions which could affect them. Parents also have a right to be informed.

Are other objectives needed?

Are other principles needed?

CHILD PARTICIPATION

Child participation is a key principle. Children with the necessary 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. Namibia has signed both of these agreements, so Namibian laws must also make sure that children are able to participate in decisions that affect them. In practical terms, how can children participate in decisions about their lives?

Please turn the page to find out how to contribute your opinions to the public debate on these issues.

How can we decide what is in a particular child’s “best interests”?

One of the law’s objectives will be to promote the best interests of the child. This means the best interests of a particular child should guide any decision about that child. *For example, suppose the unmarried parents of a child cannot agree on whether the child should live with the father or the mother. The court should look at the best interests of the child to help decide the question. If the father works as a truck driver and travels most of the time, it would probably be in the best interests of the child to live with the mother.* This is a very simple example. In reality there are usually many factors to consider in deciding what is in the best interests of a child. The proposed law includes a long list of factors which decision-makers should consider. Here is a summary:

- the child’s sex, age, background, maturity and level of development
- the child’s cultural, ethnic and religious identity
- the impact of any disability or chronic illness
- the nature of the child’s relationship with the parents, siblings and other relatives, and with any other people who are significant in the child’s life
- the attitude and behaviour of the parents or other care-giver
- the capacity of the care-giver to provide for the child’s physical, emotional, intellectual, spiritual, developmental and educational needs
- the importance of maintaining contact with family members – would a specific change make it easier or harder to maintain such contact?
- the need to protect the child from harm
- any history of family violence against the child or any other family member
- the need for a stable family environment (if possible).

- Are other factors important in determining the best interests of a child?

MAKING THE PROPOSED LAW SUITABLE FOR NAMIBIA

- ⑨ What problems and issues do children in Namibia face?
- ⑨ What are good ways to involve children in decisions about their lives, while still teaching them to respect their elders?
- ⑨ What objectives and guiding principles would be most appropriate for the Namibian Child Care and Protection Act?
- ⑨ What factors will help identify a particular child’s best interests?

YOU CAN HELP SHAPE THE NEW LAW.

- (1) **TICK** the boxes beside the points you **AGREE** with.
- (2) **DRAW A LINE** to cross out any point you strongly **DISAGREE** with.
- (3) **WRITE IN** any other points you want to add. Use extra paper if necessary.
- (4) **FAX OR POST** this sheet using the details below.

If you have shorter inputs, send your suggestions by email or sms.

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For more information on the draft Child Care and Protection Act, contact
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