



# NATIONAL CHILD PROTECTION REGISTER

**T**he draft Child Care and Protection Act proposes the initiation of a National Child Protection Register. This register would list all known perpetrators of child abuse. The aim of the list would be to ensure that offenders do not work with children in the future. The register would be maintained by the Ministry of Gender Equality and Child Welfare and would be similar to sex offender registers which are used in some countries.

A person whose name is on the list would be prohibited from working in an institution which provides welfare services to children. Working in these institutions in any capacity would be forbidden, regardless of whether or not the person in question would come into direct contact with children. Institutions would have a duty to check the register before accepting staff or volunteers. A person listed in the register would also be prohibited from becoming a foster parent, adoptive parent or “family care-giver”.

No one would be allowed to disclose names or other information in the register except as part of an official legal duty (such as to confirm whether a prospective employee is on the register).

The Register would contain the following information:

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- ④ Full name, last known physical address and identification number
- ④ Fingerprints
- ④ A photograph of the person
- ④ A summary of the reasons why the person has been found unsuitable to work with children
- ④ If the person in question was convicted of a criminal offence against a child, the following details will be recorded:
  - (a) the details of the offence
  - (b) the date of conviction
  - (c) the sentence imposed and
  - (d) the case number
- ④ Any other relevant information

## Finding a person to be unsuitable to work with children

A person may be found unsuitable to work with children by any court or any forum which conducts disciplinary hearings (such as an employer or an educational institution). It is not necessary for a person to be convicted of a crime before being placed on the list. However, anyone convicted of certain crimes against a child would be automatically placed on the list: murder/ attempted murder, rape, sexual abuse or assault with an intention to cause serious physical harm. A person who is found to be unsuitable to work with children would have a right to appeal this finding in court.

## Removal of name from the register

A person’s name may be removed from the register if at least five years have passed since the entry was made and the person has been rehabilitated. A person’s name cannot be removed if he or she has been convicted of more than one criminal offence against a child.

## What do other countries do?

In Sierra Leone, the Child Rights Act 2007 requires police “to maintain a register of child abusers and to take special measures to protect children from such persons”. The South African government keeps two different Child Protection Registers: a) a record of abused or neglected children which is used to monitor specific children who may be at risk of further harm, and to provide a general picture of child abuse in South Africa which can guide future interventions; and b) a register of persons deemed unsuitable to work with children similar to the one proposed for Namibia. Hong Kong uses a much simpler system; there is no special record of offenders, but people who wish to work with children must provide a police clearance certificate.

## The debate

There is intense debate about the value of Child Protection Registers which focus on offenders. Here are some of the key points of debate:

- ⦿ Such registers can be expensive. Funds will be required to create and maintain the database, and to familiarise groups which work with children about their new responsibility to check the register. Some people say that the money used to create such registers would be better spent on providing services to children who are at risk. On the other hand, the costs of establishing and maintaining a Child Protection Register might be outweighed by its benefits if it is effective in preventing future child abuse.
- ⦿ Registers place the focus on a small number of known offenders, while many child abusers go unreported and unnoticed. Children may be more at risk from persons living in their communities than from persons who are employed to work with children.
- ⦿ A Child Protection Register might be found unconstitutional on the grounds that it violates the right to privacy or the right to be free from discrimination.
- ⦿ Some people say that registers of offenders are not as useful as registers of children who are at special risk of harm because of past abuse or other circumstances, which can be used to make sure that these children are monitored closely.
- ⦿ Child Protection Registers may have more value in countries that have different courts and police systems in different states or regions, such as the United States of America. Namibia has a single justice system and a single police force. Namibia is also composed primarily of small communities where it is quite likely that a person's conviction for a child-related offence would be known in the community. Instead of establishing a Child Protection Register, it might make more sense for Namibia to focus its resources on creating a good system of computerised police and court records and requiring police clearance certificates for persons who work with children.

## ISSUES FOR DISCUSSION

- ⦿ Has child abuse been committed by people who work with children in Namibia?
- ⦿ Are there other ways to identify persons who should not work with children, such as by checking their criminal records before they are hired? Please tell us which method of background checking you think would be most effective, and why.
- ⦿ Is it unfair to place an individual's name on a National Child Protection Register if the abuse has not been proved in court?
- ⦿ Should children who have abused other children also be placed on the list, or only adult abusers?
- ⦿ Is the information required for each person who would be listed in the proposed Child Protection Register too much? too little? correct?
- ⦿ How could someone who wants to have their name removed from the Child Protection Register show that they have been rehabilitated?
- ⦿ The draft law states that an abuser's name should be on the register for at least five years before it can be removed. Is this too long? too short? correct?

### Send your comments to:

SMS: 0814241591

Email: [CCPA@lac.org.na](mailto:CCPA@lac.org.na)

Fax: 088613715

Post: PO Box 604, Windhoek



For more information on the draft Child Care and Protection Act, contact Monalisa Zatzirua (061-2833116) or Celeste Feris (061-2833179) at the Ministry of Gender Equality and Child Welfare, or Rachel Coomer at the Legal Assistance Centre (061-223356).