

THE CHILDREN'S ACT, 2011

(NO. 6 OF 2011)

CARE AND PROTECTION OF CHILDREN

(Regulations made Under Sections 34 and 138 (1(a))

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PART I

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1. These Regulations may be cited as the Care and Protection of Children Regulation.

Interpretation

2. In these Regulations, unless the context otherwise requires

“Act” means the Children’s Act, 2011;

“applicant” means a person or body applying to the court in civil proceedings before the Children’s Court;

“assigned welfare officer” means a welfare officer assigned to a child’s case by the district welfare officer;

“care order” means an order granted under s.24 of the Children’s Act;

“care-giver” means a person other than a parent or guardian who takes primary responsibility for the day to day care of the child or the person with whom the child has lived and who has provided day to day care to the child for a period of at least three months in the last six months;

“care proceedings” means proceedings for a care order or a supervision order under Part IV of the Children’s Act;

“Child Protection Conference” means an inter-agency and inter-professional meeting which is convened by the welfare officer assigned to the case;

“court” means a Children’s Court established under s.18 of the Children’s Act;

“Department of Social Welfare” is a department under the Ministry responsible for children affairs;

“emergency protection order” means an order granted under section 22 of the Children’s Act;

“excluded from home” means children who are without parental care as a result of their parents forcing them out of the home or behaving in such a way that the child feels he/she has no option but to leave;

“foster parent” means a person authorised to serve as a foster parent under the Foster Care Placement Regulations;

“foster family” means a family authorised to provide foster care under the Foster Care Placement Regulations;

“Lost or abandoned child” means a child who as a result of parental action or for some other reason finds himself left without a parent;

“medical treatment” means a medical intervention or a surgical operation;

“next friend” means a person who intervenes to assist a child to bring a legal action;

“official” means a person employed by a government body to carry out administrative functions for the State or district;

“Order” means a writ, warrant, summons or other process, and a decree revision or confirmatory order and any other formal expression of the decision of a court;

“parent” means a biological father or mother, the adoptive father or mother of the child;

“parental rights” in relation to a child means all the rights and responsibilities conferred by law upon a parent;

“police”: in any district in which the Police have been established, police shall be taken to refer to the Police and a police officer as an officer of the Police station;

“police officer” means any member of the police force of or above above the rank of a constable.

“proceedings” includes any application, reference, cause, hearing, matter, suit, trial, review, appeal or revision, whether final or interlocutory, between parties;

“professional” means a person such as, but not limited to, a teacher, doctor, psychologist, counsellor, social worker, nurse, child care staff member, NGO staff member of volunteer providing a service to a child or any other person who is working with or is providing a service to a child;

“reasonable cause to believe” means the degree of proof that would cause a person of average caution to believe the evidence is rational and reasonably trustworthy;

“referral” means a referral made pursuant to section 20 of the Act;

“relevant child”, in relation to any report, means the child in respect of whom a report referred to in section 20 of the Act has been made;

“representative” means a parent, guardian or legal representative who assists a child during court proceedings;

“supervision order” means an order granted under section 23 of the Children’s Act;

“voluntary care” means the admission of a child into the care of the Director of Social Welfare with the consent of the parent through an administrative decision;

“welfare officer” means a welfare officer in the service of the Government and includes a welfare assistant or such other person as may be appointed by the Director of Social Welfare to undertake child protection functions under the Children’s Act.

General Principles

(2) Except as otherwise provided by these Regulations or where the context otherwise requires, words and expressions in these Regulations shall have the meanings respectively assigned to them by the Children’s Act, 2011.

3. (1) In reaching any decision relating to a child, all public or private social welfare institutions, courts or administrative bodies shall be guided by the following principles :-

(a) the best interests of the child shall be the paramount consideration;

(b) a child who is capable of forming his or her own views shall have the right to express those views freely in all matters affecting him or her and to have those views given due weight in accordance with their age and maturity;

(c) A child shall be provided with the opportunity to be heard in any judicial and administrative proceedings affecting him or her, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of the Children’s Court or other relevant court;

(d) that there shall be no discrimination on the grounds of the child’s or of his parent’s or legal guardian’s gender, race, colour, language, political or other opinion, age, religion, marital status, disability, health status,

including HIV- status, custom, ethnic origin, rural or urban background, birth, socio-economic status, being a refugee or on the grounds of other status.

(2) Where a child is provided with assistance and accommodation under Regulations 36-39, or is placed in the voluntary care of the Director of Social Welfare under Regulation 40 or is the subject of a care order under section 24 of the Act, any decision on the child's care shall be subject to the following general principles: -

- (a) Children shall be supported in or returned to the care of the families or, where this is not possible or is not in their best interests another appropriate and permanent solution, including kafalah or adoption, shall be identified;
- (b) a placement should be family based rather than institutional;
- (c) siblings should not be separated unless this is in the best interests of a child;
- (d) due regard shall be paid to the desirability of continuity in a child's upbringing, and to the child's ethnic, religious, cultural and linguistic background and
- (e) delay in reaching a decision on the child's future should be avoided as it is likely to prejudice the welfare of the child.

PART II

CHILD IN NEED OF PROTECTION

Children in
need of
protection

4. (1) A child shall be regarded as being in need of care and protection if he is suffering significant harm or is at risk of suffering significant harm and one or more of the circumstances contained in Section 19 (1) or 19(2) of the Act apply.

(2) For the purposes of this Regulation harm means ill-treatment or the impairment of health or development, including impairment suffered from seeing or hearing the ill-treatment of another;

(a) Ill-treatment includes physical abuse and sexual abuse and forms of ill-treatment and abuse that are not physical such as emotional abuse and neglect of children;

(b) health means physical or mental health;

(c) development means physical, intellectual, emotional, social or behavioural development.

(3) For the purposes of this Regulation, harm may be caused by physical, sexual and emotional abuse and neglect.

(a) physical abuse shall include hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating, inducing illness in a child or otherwise deliberately causing physical harm to a child;

(b) sexual abuse means forcing or enticing a child to take part in sexual activities, whether or not the child is aware of what is happening. This may include physical contact or involving children in looking at or in the production of sexual images, watching sexual activities, encouraging children to behave in sexually inappropriate ways or grooming a child in preparation for sexual abuse;

(c) emotional abuse means the persistent emotional ill-treatment of a child such as to cause severe and persistent adverse effects on the child's emotional development, and includes seeing or hearing the ill treatment of another. It can include conveying to children that they are worthless or unloved, inadequate, or valued only insofar as they meet the needs of another person; age or developmentally inappropriate expectations; causing children frequently to feel frightened or in danger, or the exploitation or corruption of children;

(d) neglect means the persistent failure to meet a child's basic physical and psychological needs likely to result in the serious impairment of the child's health or development and includes:-

- (i) failure to provide adequate food, clothing and shelter,
- (ii) abandonment and excluding the child from the home;
- (iii) failure to protect a child from physical and emotional harm or danger;
- (iv) failure to ensure appropriate access to health or medical care;
- and
- (v) failure to ensure adequate supervision and placing the child with an inadequate care-giver.

5. In determining whether a child has suffered significant harm, the following factors

shall be taken into account:

- (a) the nature and extent of the harm suffered or likely to be suffered by the child as a result of ill-treatment, abuse or failure to provide adequate care;
- (b) the impact on the child's health and development;
- (c) the child's development within the context of their family and the wider environment;
- (d) any special needs, such as a medical condition, communication impairment or disability, that may affect the child's development and care within the family; and
- (e) the capacity of the parents, guardians or care-giver to protect the child and to meet the child's needs.

Determination
of significant
harm

PART III

GENERAL DUTIES OF THE DEPARTMENT OF SOCIAL WELFARE

Duties of the
Director of Social
Welfare

6. (1) The Director of Social Welfare shall ensure that all necessary measures are taken to protect children within Zanzibar from all forms of harm as defined in Regulation 4 above.

(2) In order to fulfil the obligation set out in sub-Regulation (1) of this Regulation, the Director of Social Welfare shall -

- (a) safeguard and promote the welfare of children in need of care and protection in Zanzibar;
- (b) promote the upbringing of children by their families;
- (c) investigate and assess the situation of children in need of protection;
- (d) take such action as is appropriate to protect children who are suffering or who are at risk of suffering significant harm;
- (e) progressively develop a range of appropriate services for children in need of protection, including community based family support services,

preventative services, rehabilitation and reintegration services, counselling and family support services and emergency services;

(f) establish and maintain the delivery of fostering services and organise the recruitment, training and monitoring of foster parent or families in accordance with the Fostering of Children Regulations;

(g) establish and maintain adoption and Kafalah services and organise the recruitment and training of parents in accordance with the Children (Permanent Placement) Regulations;

(h) ensure adequate alternative family care, including foster care and approved children's homes and institutions to meet the needs of children temporarily or permanently deprived of their families in accordance with the Children Home Regulations and the Fostering of Children Regulations ;

(i) establish and keep a register of people unsuitable to work with children;

(j) reduce criminal offending by children through the progressive development of:-

(i) preventive services and programmes for children;

(ii) services to advise and assist parents in managing the behaviour of their children;

(iii) services and accommodation for children who would otherwise be placed in pre- and post-trial detention;

(k) produce an annual child protection plan; and

(l) report to the Minister each year on the implementation of the annual child protection plan.

(3) The Director of Social Welfare shall have the power to establish district Child Protection Units or such other bodies as may be necessary to undertake social welfare functions.

(4) The Director of Social Welfare may reach agreement with a registered non-governmental organisation for the provision of children's services referred to in sub-Regulation (2)(e) –(j) of this Regulation.

(5) Any non-governmental organisation operating under an agreement, contract or grant to provide services for children under sub-Regulation (2)(e) – (j) of this

Child Care and Protection Regulations

Regulation shall be required to comply with all applicable quality standards issued by the Director of Social Welfare.

Duty of the head of the Community Development Department

7. (1) The Minister responsible for children shall raise awareness of child protection in the community, including information on how to make a child protection referral.

(2) In raising awareness, the Minister responsible for children, shall ensure that age-appropriate information is provided directly to children through printed and other means of communication.

Standards for child protection

8. (1) The Director of Social Welfare may develop standards for the appropriate conduct of agencies, departments, approved residential homes or institutions, non-governmental organisations or individuals working with children suffering or at risk of suffering significant harm;

(2) The Director of Social Welfare may issue a code of conduct on reporting on children and the representation of children to the press and other forms of written and broadcast media.

(3) The Director of Social Welfare may develop standards on the suitability of persons to work with children.

Information for professionals

9. (1) The Director of Social Welfare shall be responsible for informing professionals, staff and services working with children and families how to make a child protection referral, including the name of the person or officer to whom the referral is to be made, the phone number and the mode of communication that may be used.

(2) Information may be conveyed through printed material and other means

welfare officers

10. The Director of Social Welfare shall ensure that there are adequate personnel available to receive child protection referrals at all times.

Duty to refer

11. (1) A person who performs professional or official duties in relation to a child shall, and a member of the community may, refer a child whom he has reasonable cause to believe -

(a) is suffering or is at risk of suffering significant harm within the meaning of Regulation 4; or

(b) his rights are being significantly infringed; or

(b) is lost, abandoned or excluded from home; or

(c) is engaged in exploitative child labour; or

(d) has a parent, guardian, relative or care-giver with custody of a child who is refusing or neglecting to provide the child with food, shelter, the right to play or leisure, clothing, medical care or education.

(2) A referral shall be made to: –

(a) the Director of Social Welfare; or

(b) a welfare officer of the district child protection unit; or

(c) a police officer; or

(d) A member of the Sheha.

(3) A referral may be oral or in writing, save that where an oral referral is made by a professional or official, the referral should be confirmed in writing and the referrer should retain a copy for his or her records.

(4) Where a referral is made to any of the persons in sub-Regulation (2) of this Regulation that person shall inform the district welfare officer for the district in which the child is located within 24 hours.

(5) Within 24 hours of receiving the referral, the district welfare officer or such other welfare officer as the district welfare officer designates, shall consider the referral and decide whether there is cause for concern and whether the matter should be investigated further.

(6) The identity of any person making a referral shall be treated as confidential by all persons listed in sub-Regulation (2) of this Regulation, and shall not be disclosed to anyone other than the persons mentioned in sub-Regulation (2) of this Regulation without the leave of the court.

(7) Within 72 hours of receiving the referral the district welfare officer shall, where practicable, inform the referrer that the referral has been received and will be acted upon.

Confidentiality
duty of
professionals
and officials

12. (1) Any professional or official making a referral under this Regulation shall keep the information about the child confidential and shall not disclose information except to -

- (a) a person stipulated in Regulation 11(2);
- (b) a child protection conference; or
- (c) a court when providing evidence in relation to a crime committed against the child or in civil proceedings concerning the care and protection of a child.

PART IV

PROCEDURE ON RECEIVING A REFERRAL

Procedure
upon
receiving a
child
protection
referral

13. (1) Upon receiving a referral under Regulation 11, the district welfare officer or a welfare officer designated by the district welfare officer shall: -

- (a) ascertain whether there has been a previous referral of the child;
and
- (b) whether a file on the child already exists.

(2) If a file relating to the child is in existence, and has been closed, it shall be re-opened.

(3) Where the child has not been the subject of a previous referral, a hard copy file shall be opened in the child's name.

(4) The opening of a hard copy file on the child shall not prevent information being recorded in electronic form in accordance with any case management system in place.

(5) Each child's hard copy file shall include -

- (a) the date of the referral;

- (b) the name of the referrer, if known;
- (c) whether the referral was made by a member of the public or a professional or official referrer;
- (d) the concern that was expressed; and
- (e) basic information on the child, including the child's name, age, address, name of the parents, guardian or care-giver, school or service attended, whether the child has siblings and such other information as may be relevant.

(6) If a decision is made not to proceed with an initial risk assessment, the welfare officer shall -

- (a) inform a professional or official within 24 hours of the decision not to proceed with an initial risk assessment; and
- (b) shall record this decision on the child's hard copy file together with the reasons for reaching the decision; and
- (c) if there is to be no further action, close the child's file.

Undertaking
an initial risk
assessment

14. (1) Where the district welfare officer or other designated welfare officer: -

- (a) receives a child protection referral in accordance with Regulation 11, has cause for concern and concludes an initial risk assessment is warranted;
- (b) receives relevant information or a referral from a police officer; or
- (c) receives a child protection referral from the court; or
- (d) is informed by a parent, guardian or any other person responsible for the care of a child that they can no longer care for that child; or
- (e) has reason to believe that a child living or present within the district for which it is responsible is a child in need of protection within the meaning of Regulation 4 above and section 19 of the Act,

he shall undertake or cause to be undertaken a risk assessment to determine whether the child is suffering or is at risk of suffering significant harm.

(4) An initial risk assessment shall be undertaken in accordance with such guidance as may be issued by the Director of Social Welfare.

(5) The welfare officer shall ensure that –

(a) where there is evidence that the child is at immediate risk of suffering significant harm, or emergency powers have been invoked under section 22 of the Act, the initial risk assessment is completed within 24 hours; and

(b) in all other cases, the initial risk assessment commences within 72 hours and is completed no later than fourteen days after the referral.

(6) A written report of the initial risk assessment shall be placed on the child's file.

(7) No initial risk assessment shall be regarded as complete unless –

(a) the welfare officer conducting the investigation has seen the child who is alleged to be suffering significant harm or to be at risk of suffering significant harm and,

(b) any other child in the family or living or present in the household ; and

(c) has interviewed the child alone and in the absence of any parent, guardian, care-giver or any other person living in the household, save where the child is incapable of verbal expression.

15. (1) When the information received by the district welfare officer or a designated welfare officer constitutes or may constitute a criminal offence against a child, the welfare officer shall inform a police officer and meet with him or another police officer assigned to the case at the earliest possible opportunity and no later than 24 hours after the referral.

Joint initial
investigation
with the
Police

(2) The welfare officer shall, together with the police officer agree: -

(a) how the investigation is to be conducted;

(b) where the family and any person against whom an allegation is made shall be interviewed;

(c) who will conduct the interviews of any child suspects or child witnesses;

- (d) whether a medical examination of the child will be required;
- (e) who will interview the child in relation to whom the referral has been made;
- (f) who will interview any other child in the family or any other child found on the premises, who the welfare officer or the police officer have cause to believe may also be suffering or at risk of suffering significant harm;
- (g) the issues to be covered in the interview; and
- (h) the manner in which the interview is to be recorded.

Interviewing
the child
during an
investigation

16. (1) Where there is reasonable cause to believe that a criminal offence may have been committed against a child, and an investigative interview with the child is necessary to gather evidence, an officer from the police shall interview the child in the presence of a welfare officer.

(2) A child shall only be interviewed by a welfare officer or police officer who has received professional training on how to interview children.

(3) A child shall not be interviewed in the presence of any person suspected of abusing the child or who is suspected of colluding with such a person.

(4) An interview may be postponed to allow a medical examination of the child to take place, but should take place immediately following the examination, unless this is not in the best interests of the child.

(5) Interviews of children shall be kept to a minimum and for this purpose shall, wherever practicable, be recorded on audio or video tape.

(6) If the child cannot understand or speak the language of the interview he shall be provided with an interpreter free of charge

Admission
of audio
and video
taped
evidence

17. (1) Any tape, whether audio or video tape taken of a child victim or witness during an interview, shall be admissible in any criminal proceedings where a person is tried for an offence against a child in accordance with the Evidence Decree.

(2) Any audio or video taped interview with a child, may be admissible in any proceedings under Parts IV, VI, VIII and X of the Act, where the evidence of the child is relevant to the proceedings.

(3) Audio and video tapes shall be inadmissible if edited.

(4) Audio and video tapes shall be made and stored in accordance with the Technologies Act??

(5) The Director of Social Welfare may issue guidance on the making, storing and use of audio and video tapes in proceedings under Parts IV, VI, VIII and X of the Act.

Failure to make the child available during the initial risk assessment

18. (1) Where the criteria for an initial risk assessment under Regulation 14 are satisfied and an initial risk assessment is to be undertaken but a parent, guardian or care-giver is unwilling to participate or make the child available to the investigating welfare officer and police officer, the Director of Social Welfare may apply to the court for an order under section 26 of the Act instructing the child or other person involved in the matter to participate in the risk assessment.

(2) Such an application shall be made in accordance with the Children's Court Rules.

Refusal of parent to agree to a medical examination or treatment

19. (1) Where -

(a) there is reasonable cause to believe that a child is suffering or is at risk of suffering significant harm; and

(b) a welfare officer has decided that a medical examination of the child or any other child in the household is a necessary part of a risk assessment undertaken in accordance with Regulation 14; and

(c) the parents, guardian or care-giver refuse to consent to such an examination,

the welfare officer may seek an order from the Court under section 26(b) or (g) that the child participate in a risk assessment and receive any appropriate medical, psychological or other treatment.

(2) Such an application shall be made in accordance with the Children's Court Rules.

(3) Where the circumstances in sub-Regulation (1) of this Regulation apply, consent may be provided by the child where he is of sufficient maturity to understand why a medical examination should be undertaken.

(4) The determination of whether the child is of sufficient age and maturity shall

lie with the doctor undertaking the examination.

(5) In any case where a parent refuses to consent to medical treatment following an examination and the child is likely to suffer significant harm as a result, an application shall be made to the Children's Court under section 111(7) of the Act to dispense with the parent's consent.

Refusal of child to consent to a medical examination

20. (1) In any case where a child is of sufficient age and maturity to understand -

(a) he shall be informed that the doctor wishes to undertake a medical examination, and what this will involve; and

(b) his consent shall be sought.

(2) Where a child who is of sufficient age and maturity refuses to consent, and where a failure to examine the child could lead to the child suffering significant harm, the Director of Social Welfares may seek an order permitting the medical examination and treatment to take place from the court under section 26(b) or (g) of the Act in accordance with the Children's Court Rules

(3) In any case where emergency medical treatment is required to prevent loss of the child's life or to prevent permanent damage to the child, the hospital superintendent or medical officer in charge may provide consent.

(4) Where a child aged 16 or 17 unreasonably refuses to provide consent to medical treatment and is likely to suffer significant harm as a result, an application may be made to the Children's Court under section 111(7) of the Act to dispense with the child's consent.

Emergency protection order

21. (1) Where a welfare officer has reasonable cause to believe that:

(a) the child is in need of immediate emergency protection or is exposed to a substantial risk of imminent harm; and

(b) the child's parent, guardian or care-giver has refused or is likely to refuse to allow the welfare officer access to the child or to remove the child if necessary to protect the child from significant harm

the Director of Social Welfare may apply to the Court under section 22 of the Act for an emergency protection order.

(2) An application for an emergency protection order shall be made in accordance with the Children's Court Rules.

(3) Where an application is made out of hours, whether by phone or through personal appearance before a magistrate, the application form may be filed up to 24 hours after the order is granted.

(4) A welfare officer shall not be required to provide a social investigation report when making an application for an emergency protection order, but shall conduct a social investigation in accordance with section 27 of the Act and Regulation 24 following the granting of the order and shall file such report with the court no later than the close of business on the fourth day after removal of the child.

(5) Where the Director of Social Welfare is so advised he may apply to renew the emergency protection order in accordance with the Children's Court Rules for a further seven days up to a maximum of 30 days.

(6) Where a child is made the subject of an emergency protection order, the parents, guardian or care-giver of the child shall:

(a) be informed, as soon as is practicable with whom the child is living, unless there is reasonable cause to believe that this would place the child at risk of suffering significant harm; and

(b) be granted contact with the child, unless this is not in the child's best interests.

(7) The Director of Social Welfare shall assume parental rights over the child for the duration of the emergency protection order.

PART V

ACTION FOLLOWING A RISK ASSESSMENT

Action following
risk assessment

22. (1) Following the risk assessment, the welfare officer in consultation with the district welfare officer and, where there is reasonable cause to believe that a crime has been committed, in consultation with the police, shall decide -

(a) that there is no reasonable cause to believe that the child or any other child in the household is suffering or is at risk of suffering harm and that no further action shall be taken; or

(b) that there is no reasonable cause to believe that the child or any other child in the household is suffering or is at risk of suffering harm but that the family should be referred for support services; or

(c) that there are reasonable grounds for concern.

(2) Where it is decided that sub-Regulation 1(a) or (b) of this Regulation applies, the child's file shall be closed and the referrer notified.

(3) Where a parent or relative is charged with a criminal offence in relation to the child as a result of the initial investigation, the child's file shall not be closed until the conclusion of the criminal case against that person.

Informing the
referrer of the
action to be
taken

23. (1) Where the district welfare officer has decided to take no further action or to refer the family for services in accordance with Regulation 22(1)(b), and the referral was from a member of the community, the referrer shall be told that there has been an initial risk assessment and that it has been concluded that the child is not suffering and is not at risk of suffering significant harm, but shall not be given any details about the findings of the risk assessment nor any personal details relating to the family and the child.

(2) Where a referral was made by a professional or an official, and the intake welfare officer has decided to take no further action or to refer the family for support services, the referrer should be informed in writing of the outcome of the investigation and the decision taken and a copy placed on the child's file.

(3) Where the district welfare officer decides that the case falls within Regulation 22(1)(a) or (b) and the child's file is closed, the file shall be kept until the child is 21 years of age.

(4) Where a welfare officer decides that there is a cause for concern -

(a) a referrer who is a member of the community shall be informed that the case is still being considered and that he will be informed of the outcome when a decision has been made;

(b) a professional or official referrer shall be informed in writing that an initial risk assessment has taken place and will be followed by a social investigation, after which he will be informed of any decision made.

Preparing a
social
investigation
report

24. (1) If at the end of the investigation, the district welfare officer concludes in accordance with Regulation 22(1)(c) that there is a reasonable cause for concern,

a social investigation shall be undertaken and shall be completed within fourteen days.

(2) A social investigation report shall determine -

- (a) whether the child is suffering or is at risk of suffering significant harm;
- (b) whether a parent, guardian or care-giver is able to promote the child's health and development; and
- (c) whether a parent, guardian or care-giver is able to respond appropriately to the child's needs.

(3) In undertaking the social investigation, the district welfare officer or a welfare officer designated by him shall comply with section 27 of the Act and any guidance that may be issued by the Director of Social Welfare and in each case shall:

- (a) see and speak to the child on his own, according to his age and maturity,
- (b) see and speak to the parents, guardian or care-giver and such relatives as are appropriate;
- (c) obtain relevant information from professionals and others in contact with the child and family;
- (d) arrange for the child to be medically examined if appropriate;
- (e) take into account all relevant information, including historical information; and
- (f) draw together and analyse information obtained from all sources, including any existing records.

(4) The social investigation report should set out the recommended course of action to protect the child and safeguard his welfare.

(5) Following the social investigation, the intake welfare officer shall, in consultation with the district welfare officer and, where there is reasonable cause to believe that a crime has been committed, in consultation with the Police, decide that -

- (a) there is no reasonable cause to believe that the child or any other child in the household is suffering or is at risk of suffering significant harm and that no further action should be taken; or

(b) there is no reasonable cause to believe that the child or any other child in the household is suffering or is at risk of suffering harm but that the family should be referred within the district for support services; or

(c) there is a reasonable cause to believe that the child is suffering or is at risk of suffering significant harm and the child's case is to be referred to a child protection conference; or

(d) the child is suffering significant harm or is at immediate risk of suffering significant harm and that an application to the Court is required to safeguard the child.

(6) When it is decided that emergency action is required, an application may be made for an emergency protection order under section 22 of the Act.

PART IX

THE CHILD PROTECTION CONFERENCE

The child
protection
conference

25. (1) Where following a social investigation, it has been concluded in accordance with Regulation 24(2) that the child is suffering or is at risk of suffering significant harm, but that it is not necessary to apply immediately to the Court for an emergency protection order, a care order or a supervision order to safeguard the child, the district welfare officer shall assign a welfare officer to convene a child protection conference within 10 days of the completion of the social investigation report.

(2) The purpose of the conference shall be to enable professionals involved with the child and family to review all relevant information and to plan how to support the family to care for the child, to safeguard the child and to promote the child's welfare.

(3) The welfare officer shall invite those who have a relevant contribution, which may include, but shall not be limited to -

(a) the parents of the child;

(b) relatives and any guardian;

(c) any welfare officer who has conducted a social investigation of the child or family;

(d) any foster parent/family or other care-giver who has looked after the child;

(e) professionals involved with the child, including any doctor, nurse, teacher, child care worker or psychologist;

(f) the police;

(g) any other person deemed relevant by the welfare officer.

(4) The child protection conference shall -

(a) bring together and analyse the information about the child's health, development and wellbeing and the capacity of the parents, guardian or any care-giver to ensure the child's safety and promote the child's health and development;

(b) reach a decision on the likelihood of the child suffering significant harm in the future; and

(c) recommend what future action is needed to support the family and safeguard the child, how that action shall be taken forward and the intended outcomes of any action.

(5) The Director of Social Welfare may issue guidelines to assist child protection conferences with their procedures, process and decision making.

Involving the
child and
relatives

26. (1) The parent, guardian or care-giver, and a child of sufficient age and maturity shall be told the purpose of the conference, who will attend and how the conference will operate.

(2) A parent, guardian or care-giver may bring an advocate, friend or supporter to assist them at the conference.

(3) A parent, guardian or care-giver:

(a) Who is alleged to have abused the child; or

(b) who is facing criminal prosecution in relation to the child; or

(c) whose presence at the conference may result in violence or intimidation of the child or any other person,

may be excluded from the child protection conference by the chair.

(4) If a parent, guardian or care-giver is excluded or is unable or unwilling to attend the conference, he or she should be permitted to send in a statement in writing to be read by the members of the conference, or to present oral evidence through an advocate, a friend, supporter or a member of the conference other than the child.

(5) The child should be given the opportunity to attend the child protection conference, and the right to have an advocate, a friend or supporter where he so wishes.

(6) Where the child wishes to attend the child protection conference but is not able to find an advocate, friend or supporter to attend with him, the welfare officer shall use his best endeavours to identify a person to assist the child.

(7) Where the welfare officer responsible for the child's case deems it not to be in the best interests of the child to attend, the welfare officer should use his best endeavours to ascertain the wishes and feelings of the child and make these known at the conference.

Information to
be made
available

27. (1) The assigned welfare officer shall ensure that the conference has the following information -

(a) a chronology of significant events including the child's and family's contact with the police, health and education professionals, local government bodies and non governmental organisations;

(b) information on the child's health and development;

(c) information on the capacity of the parents, guardian, care-giver and other relatives to safeguard the child and to promote the child's health and development;

(d) the expressed views and wishes of the child; and

(e) an analysis of future risks to the child's safety, health and development.

(2) Professionals and officials who have been invited to attend the conference but who are unable to attend, should submit written reports at least two days before the child protection conference.

Child Care and Protection Regulations

Chairing the
child
protection
conference

28. (1) The district welfare officer shall appoint the chair of the child protection conference.

(2) A chair of a child protection conference shall not be an employee of the Department of Social Welfare, but may be a person who is deemed by the district welfare officer to have relevant experience and knowledge.

(3) A chair of the child protection conference must have -

(a) an understanding of children's welfare and development; and

(b) experience of working with children; and

(c) an understanding of the role of a chair.

(4) The Director of Social Welfare may designate the training to be undertaken before any person sits as a chair of the child protection conference and shall ensure that such persons are able to access available training materials.

Role of the chair

29. The role of the chair shall be to -

(a) ensure that all persons attending the conference understand its purpose and what will happen at the conference;

(b) set out the agenda;

(c) remind all parties that the conference is confidential;

(d) enable all those present to make a full contribution to discussion and decision making;

(e) ensure that the child protection conference takes into account all the information before it and the views of all participants and the wishes of the child;

(f) ensure that any guidance set by the Director of Social Welfare in accordance with Regulation 25(5) on the procedures and process of the child protection conference is adhered to.

Professional
discussion

30. (1) Prior to the start of the child protection conference, the chair shall remind all persons attending that there will be a professional discussion of the evidence

presented, during which time the chair may require the child, his parents, guardian or care-giver and any person assisting them to withdraw.

(2) The chair may ask the child to step out of the child protection conference where he deems that it is not the child's best interests to hear information being presented or discussed, and shall explain to the child the reasons why he is being asked to withdraw.

Minutes of the
child
protection
conference

31. (1) The chair shall ensure the attendance of a secretary to take written minutes of the conference.

(2) Once approval has been received from the district welfare officer under Regulation 33, a copy of the minutes of the child protection conference shall -

(a) be signed by the chair of the child protection conference ;

(b) contain any recommendations made;

(c) be distributed to all the professional parties attending;

and

(d) be placed on the child's file.

(3) A parent, guardian or care-giver whether or not he attended the child protection conference shall receive a written copy of the recommendations and any child protection plan and, on request, shall be sent a copy of the minutes other than those relating to the professional discussion.

(4) Where the assigned welfare officer believes it to be in the child's best interests or where the child so requests, a copy of the recommendations and the child protection plan shall be given to the child.

(5) The child or his representative may request a copy of the minutes other than those relating to professional discussion.

(6) Any person attending the conference may make representations to the chair of the child protection conference with respect to the accuracy of the minutes and if the chair decides not to amend the minutes, the representations shall be placed on the child's file and a copy sent to the district welfare officer.

32. (1) Documents related to the child protection conference shall not be retained after the child protection conference or removed from the room in

Documents
before the
child
protection
conference

which the child protection conference takes place other than by professionals working with the child.

(2) All documents and the minutes of the child protection conference shall be confidential and shall not be released to any person other than those specified in Regulation 31(2)(c) or sub-Regulation (1) of this Regulation without the consent of the district welfare officer or an order of the court.

Recommendations
of the child
protection
conference

33. (1) At the conclusion of the child protection conference, the professional members, together with the chair, shall decide if a child is at continuing risk of suffering significant harm.

(2) A child shall be regarded as being at risk of suffering harm where the evidence presented to the child protection conference shows that on the balance of probabilities -

(a) The child has suffered harm or impairment of health and development as defined by Regulation 4 and further harm or impairment of health and development is likely as a result of the care the parent, guardian or care-giver has given or failed to give the child;
or

(b) That the child is likely to suffer harm or impairment of health and development as defined in Regulation 4.

(3) Where the child protection conference decides that there is no evidence or insufficient evidence to satisfy sub-Regulation (2), it may -

(a) recommend that no further action be taken; or

(b) recommend that the child be referred for the provision of services.

(4) A failure by the parent, guardian or care-giver falling under sub-Regulation (3) to accept any services offered shall not be a cause for re-opening the child's case.

(5) Where the child protection conference concludes that the child falls within sub-Regulation (2) of this Regulation, and that the child's health and development can be safeguarded by a child protection plan, it shall draft an outline child protection plan in accordance with Regulation 34.

(6) A refusal by the parent, guardian or care-giver to consent to or comply with the child protection plan should result in an immediate referral for further action to safeguard the child under sub-Regulation (7) of this Regulation.

(7) Where the child protection conference concludes that the child falls within sub-Regulation (2) of this Regulation and that a child protection plan is inadequate to safeguard the child against harm and to prevent the impairment of the child's health and development, the case shall be referred back to the district welfare officer for immediate action.

(8) The district welfare officer shall have the power to reject the recommendations of the child protection conference, but only where he believes that the action recommended is unreasonable and cannot be justified on the facts, is disproportionate or places the child at risk of suffering significant harm.

(9) Where the district welfare officer rejects the recommendations in accordance with sub-Regulation (8) of this Regulation he shall provide written reasons for the rejection of the recommendations and shall reformulate the recommendations.

(10) Once the district welfare officer has received the minutes and recommendations from the child protection conference and has approved them, the minutes of the child protection conference may be sent out in accordance with Regulation 32(2)(c).

The child
protection plan

34. (1) The purpose of the child protection plan shall be to -

- (a) safeguard the child from further harm; and
- (b) protect the child's health and development; and
- (c) support the family to care for the child

while the child remains in the family home with his parent, guardian or care-giver.

(2) Where it is agreed by the parents that the child shall be cared for by another member of the family, the child may continue to be the subject of a child protection plan.

(3) An outline child protection plan shall be prepared by the child protection conference based on the findings of the social investigation report and shall -

(a) identify the risks of significant harm faced by the child and detail the ways in which the child is to be protected;

(b) establish short term and long term objectives that are clearly linked to reducing the risk of harm to the child and promoting the child's safety, health and welfare;

(c) detail the actions to be taken and who is to take responsibility for those actions;

(d) set dates by which actions set out in the child protection plan should be completed;

(e) take into account the wishes and feelings of the child and the views of the parents, guardian and care-giver to the extent that these are in the best interests of the child.

(4) The chair of the child protection conference shall submit the recommendations of the conference and the outline child protection plan to the district welfare officer who shall, in consultation with the assigned welfare officer responsible for the child, finalise the child protection plan within 7 days.

(5) The child protection plan shall in addition to the information required by sub-Regulation (3) -

(a) clearly identify the roles and responsibilities of professionals and relatives including the nature of and frequency of contact by professionals with the child;

(b) set the dates or points at which progress will be reviewed, and the means by which progress will be judged.

(6) The child protection plan shall be for a period of time not exceeding 12 months.

(7) The parents, guardian or care-giver of the child should be provided with a written copy of the child protection plan and provide written agreement to its provisions.

(8) Where a child who is of sufficient age or maturity or his representative ask for a copy of the child protection plan, this should be provided.

(9) A written copy of the final child protection plan shall be sent to all professionals or services working with the child whether or not they attended the child protection conference.

(10) Where the child is of sufficient age and maturity, the assigned social welfare officer should explain the child protection plan to him and ask for the child's agreement, which should be recorded in writing.

(11) Where the parent, guardian, care-giver or the child refuse to agree to the provisions contained in the child protection plan, the child's case shall be referred to the district welfare officer for further action.

(12) Any child who is the subject of a child protection plan shall have their name entered on the vulnerable children register kept by the district welfare officer.

(13) The name of any child who has been, but is no longer the subject of a child protection plan shall continue to be registered until the child reaches the age of 18 years.

Review of the
child
protection
plan

35. (1) The child protection plan shall set the dates for review of progress.

(2) A first review shall take place no later than 28 days from the start of the plan.

(3) Subsequent reviews shall take place no later than 3 months after the last review for as long as the child protection plan subsists.

(4) The review conference shall, wherever possible, be chaired by the same person that chaired the initial child protection conference.

(5) The persons invited to the review conference shall be those who attended the child protection conference, save where that person no longer has professional or personal contact with the child, and any other person that the chair considers may be of assistance.

(6) The chair shall have the power to exclude a parent, guardian or care-giver if he or she falls within the provisions of Regulation 26(3).

(7) A review conference shall -

(a) consider whether the child protection plan continues to be adequate to safeguard the child;

(b) ensure that the child protection plan has been followed and recommend whether the child protection plan should continue in the current form or should be changed to meet the child's needs;

(8) The child, depending upon his age and maturity shall be invited to speak at the review and present his views on the implementation of the child protection plan either orally or in writing and shall, if he so wishes, be assisted by the assigned welfare officer or by a friend or supporter of his choice.

(9) Where the child is not of sufficient age or maturity to attend the review conference, or attendance would be contrary to the best interests of the child, the welfare officer shall, where practicable, ascertain the wishes and feelings of the child and make them known to the conference.

(10) The chair shall ensure the attendance of a secretary to take written minutes of the review conference.

(11) Regulations 30 and 31 shall apply to the review conference as they do to the initial child protection conference.

(12) Following the review conference, the chair, taking into account the views of the professionals attending the review, shall make a recommendation to the district welfare officer that -

(a) the child protection plan should continue as originally drafted; or

(b) the child protection plan should be varied; or

(c) that a child protection plan is no longer necessary in order to safeguard the child; or

(d) that further intervention is required to safeguard the child.

(13) (a) Where the recommendation is to vary the child protection plan, the chair of the child protection review conference shall inform the district welfare officer and provide any recommendations on the changes to be made to the child protection plan and the reasons for those changes.

(b) The district welfare officer shall consider the recommendation with the assigned welfare officer and decide whether it is in the child's best interests to accept or reject the recommendation;

(c) Where the decision is to reject the recommendations, the district welfare officer may -

(i) continue with the plan in force; or

(ii) vary the plan in order to meet the child's needs; or

(iii) send the plan back to the child protection conference, giving directions on the matters to be reconsidered.

(14) Where the recommendation is that a child protection plan is no longer needed, the district welfare officer shall consider the recommendation and decide whether -

(a) to accept the recommendation; or

(b) to reject the recommendation.

(15) Where the recommendation to cease the child protection plan is rejected the plan shall continue in force save that the district welfare officer may make such changes to the plan as he deems necessary.

(16) Where the chair of the child protection conference has reasonable cause to believe at any time, including at the end of the twelve month period of the child protection plan, that notwithstanding the child protection plan, the child is suffering or is at risk of suffering significant harm, he shall refer the case back to the district welfare officer within 72 hours.

(17) Where the chair decides to refer the case back to the district welfare officer he shall inform all the parties to the review conference.

(18) The district welfare officer on receiving such a referral shall immediately arrange for a further social investigation to be undertaken and completed within 7 days and shall decide with the assigned welfare officer what, if any, further action needs to be taken to protect the child from harm and safeguard his health and development within 72 hours of receiving the social investigation report.

(19) The social welfare officer shall inform the parents of any changes to the child protection plan.

PART VII

A CHILD WITHOUT PARENTAL CARE

Accommodating children without parental care

36. (1) A child who appears to be, or is referred to a district welfare officer as lost, abandoned, seeking refuge or without parental care for whatever reason, including a child detained in a custodial institution, shall be treated as a child in need of care and protection within the meaning of section 19 of the Act and Regulation 4

(2) While an initial risk assessment and social investigation are taking place the district welfare officer of the district where the child has presented or has been found shall provide the child with assistance and accommodation.

(3) Before providing accommodation the district welfare officer shall, so far as is reasonably practicable, and consistent with the child's welfare -

(a) ascertain the child's wishes and feelings regarding the provision of accommodation; and

(b) give due consideration, in accordance with the child's age and maturity to such wishes and feelings as they have been able to ascertain.

(4) The district welfare officer shall, until such time as the parent is found, treat any child who is provided with accommodation under this Regulation as a child in care for whom the Director of Social Welfare has assumed parental rights.

(5) A parent or guardian wanting to remove a child from accommodation provided under this Regulation shall give seven days notice to the district welfare officer.

(6) A child may be placed back in the care of a parent, guardian or caregiver before the seven days notice expires if the district welfare officer considers that the child will not suffer harm or impairment of health and development as defined in Regulation 4 and it is the best interests of the child to do so.

(7) Where -

(a) a child who is provided with accommodation and assistance under this Regulation objects to being placed back into the care of the parent, guardian or care-giver, or

(b) a welfare officer believes that removal from the accommodation may cause the child to suffer significant harm,

the welfare officer shall refer the child's case to the district welfare officer who shall determine within 72 hours whether further action, including an application to the court for an emergency protection order in accordance with Regulation 21, is necessary to protect and safeguard the child.

(8) Where it has not been possible to reunite a child who is lost or abandoned, is seeking refuge or without parental care with his parents, guardian or care-giver, or where the child's parents are dead, cannot be found, or of unsound mind, the district welfare officer shall, after an initial risk assessment and social investigation has been undertaken in accordance with Regulations 14 and 24 above, determine what further intervention, if any, is necessary to safeguard the welfare of the child, including -

- (a) placement with relatives with the consent of the parents;
- (b) admission into voluntary care;
- (c) applying to the court for a care or supervision order in relation to the child.

Referral
of child in
conflict
with the
law

37. (1) Where a child –

- (a) is apprehended or detained by the police; or
 - (b) is released from detention due to the dismissal of criminal charges against him ; or
 - (c) is acquitted of an offence by the Court; or
 - (d) is convicted of an offence and given a non-custodial sentence; or
 - (e) is released from detention after serving a custodial sentence
- and
- (i) the child , for whatever reason, is without parental care; or
 - (ii) the parent cannot be found; or
 - (iii) the parents are unwilling to care for the child

the child shall be assumed to fall under section 19 of the Act and to be at risk of suffering significant harm and a child protection referral shall be made by the police, DPP, court, the Approved School or the Education Offenders Centre in accordance with Regulation 11.

(2) The child protection referral under sub-Regulation (1) of this Regulation shall be made to the district welfare officer in the district in which the child ordinarily resides; or if the child is of no fixed abode, to the Director of Social Welfare

(3) Where a child who falls under sub-Regulation (1) of this Regulation is provided with assistance and accommodation, he may be provided with accommodation in another district where -

(a) accommodation that meets his needs is available; or

(b) it will enable a child to participate in a diversion or rehabilitation programme.

(4) Regulation 36(4) shall apply to all children provided with assistance or accommodation under sub-Regulation (3) of this Regulation.

Committal of a
child to the
care of
Director of
Social Welfare

38. (1) Where a child is arrested for a criminal offence and where police bail would have been granted in accordance with section 39(2) of the Act were it not for the fact that the child has nobody to care for him, or has no accommodation or has nobody to give a surety or recognisance, the police shall refer the child to the district welfare officer of the district in which the child resides or if he is no fixed abode, the district in which the police station is located.

(2) Where the child is referred to the district welfare officer under sub-Regulation (1) of this Regulation, and the child cannot be placed back with the parents or family, or it is not in the child's best interests to be so placed, the child shall be accommodated by the Director of Social Welfare until a decision is made on whether to charge the child.

(3) While accommodated by the Director of Social Welfare under this Regulation, the Director of Social Welfare shall share parental rights for the child with the parent or guardian.

Bailing a
child to the
care of the
Director of
Social
Welfare

39. (1) Where a child is charged with the commission of an offence and would be granted bail by the court were it not for the fact that he has nobody to care for him, or has no accommodation or has nobody to give a surety or recognisance, the court may make an order for the child to be accommodated in a place of safety by the Director of Social Welfare and such order shall continue until either the charge is dismissed or a verdict is reached.

(2) Where an order for the child to be accommodated in a place of safety by the Director of Social Welfare is made, the Director of Social Welfare shall assume parental rights over the child.

(3) Where a charge is dismissed or a verdict is reached, the order for the child to be accommodated in a place of safety by the Director of Social Welfare shall cease to have effect and the child shall be returned to the parents, save that where the child cannot be reintegrated with his parents or family or it is not in his best interests to return to the parents or family, the Director of Social Welfare shall initiate child protection procedures in accordance with Part IV of the Regulations.

PART VIII

ENTRY INTO VOLUNTARY CARE

Entry into
voluntary
care

40. (1) (a) Where the district welfare officer has reasonable cause to believe following a social investigation report that a child will be at risk of suffering significant harm if he is not taken into the care of Director of Social Welfare, or the child protection conference has referred a case back to the district welfare officer under Regulation 33(7), and the parent or guardian consents to the child being taken into care; or
- (b) It not possible to reunite the child with his parents or the parent cannot for whatever reason care for the child; and
- (c) placement with a relative is not possible or would not adequately safeguard the welfare of the child,

the Director of Social Welfare may admit the child into voluntary care.

(2) A care plan shall be prepared for the child by an assigned welfare officer before he is admitted in to the care of the Director of Social Welfare, save that where the child is admitted to voluntary care as an emergency, the care plan shall be prepared within 21 days.

(3) In preparing the care plan, the assigned welfare officer shall take into account the factors set out in Regulation 45 and any relevant guidance issued by the Director of Social Welfare.

(4) The Director of Social Welfare shall review the initial and social investigation reports and the care plan, if prepared, and satisfy himself that -

- (a) the child falls within sub-Regulation (1) of this Regulation; and

(b) it is not possible to safeguard the welfare of the child by providing support to the parents to continue caring for the child; and

(c) that there are no relatives who could care for and safeguard the welfare of the child; and

(d) that the child is likely to suffer significant harm if he is not admitted into the care of the Director of Social Welfare

before admitting the child into voluntary care.

(5) Where the child is to be admitted into the care of the Director of Social Welfare under sub-Regulation (1)(a) of this Regulation, the district welfare officer or a welfare officer assigned by the district welfare officer shall agree the care plan with the parent and shall explain to the parent -

(a) the effect of the child being received into the care of the Director of Social Welfare;

(b) that 14 days notice will be required to remove the child from voluntary care and that an intended removal will be subject to a review, save where the admission into voluntary care is temporary and for an agreed period of time;

(c) that the Director of Social Welfare may choose to apply for a care order from the court if he reasonably believes that this is necessary to safeguard the welfare of the child;

(d) that the Director of Social Welfare will share parental rights with the parents, will have parental responsibility and will determine where and with whom the child will live;

(e) the arrangements for access between the child and the parents and other significant persons in the child's life; and

(f) that the parent will be invited to reviews of the care plan.

(6) Parental consent to the child's admission into care under sub-Regulation 1(a) of this Regulation, shall be formally recorded in writing by the district welfare officer of the district in which the parents reside.

(7) A child shall not be admitted into care where the likelihood of suffering significant harm is due solely or mainly to poverty but may be referred for support services.

(8) Where the child is being received into care with parental consent, and agreement cannot be reached with the parents on the care plan, the district welfare officer shall consider whether it is in the child's best interests for the Director of Social Welfare to make an application for a care order.

(9) Any child received into care under this Regulation shall have the same legal status as a child who is the subject of a care order from the court, and the Director of Social Welfare shall owe the same duties to a child who is received into voluntary care as to a child under a care order or a child who is received into care under Regulations 36-39.

Termination
of voluntary
care

41. (1) A parent wishing to terminate the placement of their child in voluntary care, shall give the Director of Social Welfare 14 days notice of intention to remove and shall explain to the district welfare officer in the district in which they reside, either in writing or orally, how circumstances have changed and the arrangements that they have made to care for the child, including where the child will live, with whom the child will live and any arrangements for education or necessary health care.

(2) The parent shall be permitted to remove the child 14 days after giving notice, save that where the district welfare officer of the district in which the parent resides has reasonable cause to believe that the child may suffer significant harm if removed from voluntary care by the parent, an application may be made by the Director of Social Welfare for an emergency protection order in accordance with Regulation 21, preventing removal of the child from his placement.

PART IX

APPLICATION FOR A CARE OR SUPERVISION ORDER

Application
for a care or
supervision
order

42 (1) Where the child is suffering or is likely to suffer significant harm as defined in section 19 of the Act and Regulation 4, and where that harm is due to -

(a) the care given or likely to be given by the parent to the child; or

(b) the child being out of control; and

(c) the welfare of the child can only be safeguarded by a care or supervision order,

the Director of Social Welfare shall make an application for a care or supervision order.

(2) Before applying for a care or supervision order, the Director of Social Welfare shall ensure that the capacity and willingness of relatives to safeguard and provide care for the child has been considered and found inadequate to protect the child from harm and to prevent the impairment of the child's health and development.

Power to apply for a care or supervision order

43. (1) An application for a care or supervision order shall be made by the Director of Social Welfare.

(2) An application for a care or supervision order shall be made to the court in accordance with the Children Court Rules.

Informing persons of intention to apply for a care or supervision order

44. (1) Before an application for a care order or supervision order is made, the district welfare officer shall -

(a) Inform both parents using language and methods of communication, both written and oral that will be understood by them -

(i) that the Director of Social Welfare intends to make an application for a care or supervision order;

(ii) the nature and extent of the concerns about the child; and

(iii) the right to be represented and possible sources of legal advice.

(b) Inform the child, if he is of sufficient age and maturity, of the intention to make an application for a care or supervision order unless to do so would not be in the best interests of the child.

(2) Where the child is -

(a) lost, abandoned, seeking refuge or without parental care; and

(b) the mother, father, guardian or care-giver are unknown or cannot be found after reasonable enquiry has been made; or

(c) the mother, father, guardian or care-giver are of unsound mind

the Director of Social Welfare may make an application for a care order and seek the consent of the Court at the initial hearing to proceed without notification of the parent.

(3) An enquiry shall be deemed to be reasonable under sub-Regulation (2)(b) of this Regulation where -

- a) enquiry about the parent's whereabouts has been made in the place where it is believed the parents reside;
- b) enquiry has been made of the last known employer; and
- b) enquiry has been made of any person who might reasonably be expected to know where the parent resides.

(4) In cases where the district welfare officer decides following an initial or social investigation that it is not necessary to apply for an emergency protection order, but that an immediate application for a care or supervision order is required to safeguard the child, the Director of Social Welfare may make an application without the district welfare officer first providing the information contained in sub-Regulation (1)(a) of this Regulation.

(5) Where sub-Regulation (4) of this Regulation applies, the parent, guardian or care-giver shall be provided with the information stipulated in sub-Regulation (3) of this Regulation no later than the date of the first hearing before the court.

Preparation
and
content of
a care plan

45. (1) A care plan shall be drafted in accordance with any guidance issued by the Director of Social Welfare and shall include, but shall not be limited to -

(a) the arrangements to meet the child's needs in relation to his -

(i) health, including both physical and mental health;

(ii) education and training;

(iii) emotional and behavioural development;

(iv) identity, with particular regard to the child's religious persuasion, racial origin and cultural and linguistic background;

(v) family and social relationships;

(vi) placement, and

(vi) social and self-care skills;

(b) the long term plan for the child's upbringing, including adoption or kafalah if this in the best interests of the child; and

(c) the access that the child is to have with the parents and other important persons in the child's life under an interim or full care order and the arrangements for such access; and

(d) if the care plan recommends that there should be no access to parents or any other important persons in the child's life, the reasons for denying access.

(2) A care plan should, so far as is reasonably practicable, be agreed by the assigned welfare officer with -

(a) a parent, guardian or care-giver; and

(b) the child, if he is of sufficient age and maturity.

(3) The care plan should be kept under review during the proceedings and should be amended to reflect any change in the circumstances and the child's needs.

(4) The final care plan, in addition to the information contained in sub-Regulation 1(a) – (c) of this Regulation, shall -

(a) clearly identify the roles and responsibilities of professionals and relatives including the nature and frequency of contact by professionals with the child; and

(b) set the date for the first review.

(5) The final care plan shall be filed no later than two weeks before the final hearing.

Consent to
placement for
adoption or
kafalah

46. (1) Where the Director of Social Welfare intends to apply for a care order, and the care plan specifies that adoption or kafalah would be in the best interests of the child, the assigned welfare officer shall ask the parent or guardian if he is willing to consent to the child being placed for adoption or kafalah.

(2) Where a person in sub-Regulation (1) of this Regulation is willing to consent to placement of the child for adoption or kafalah, such consent shall be made in writing and signed in the presence of a magistrate in accordance with Regulations.

(3) The person before whom consent is signed must inform the person giving consent of -

- (a) the effect of an adoption or kafalah; and
- (b) the right to withdraw consent within 60 days.

(4) Where the Director of Social Welfare has made an application to the court for a care order and the parents, guardian or persons with parental rights and responsibilities under an agreement or court order have consented to the adoption or to kafalah in accordance with sub-Regulation (2) of this Regulation, the district welfare officer may place the child for adoption or kafalah.

(5) Where a child is placed for the purposes of adoption an application for an adoption order must be made to the High Court in accordance with the Act.

(6) Where a placement is made for the purposes of kafalah, an application to be confirmed as the Kafalah guardian must be made to the Kadhi's Court in accordance with the Act.

Dispensing
with
consent to
adoption

47. (1) In accordance with the section 78 of the Act, where the Director of Social Welfare is applying for a care order and the care plan is for adoption and

- (a) the parent or guardian cannot be found; or
- (b) one or both parents or the guardian are unknown; or
- (c) the parents or guardian are of unsound mind and lack capacity to consent; or
- (d) the parent, guardian or relative has neglected or persistently ill treated the child; or
- (e) the person whose consent is required is unreasonably withholding consent

an application to dispense with parental consent to adoption may be made at the same time as the application for a care order or at any time during the proceedings.

(3) Where the magistrate finds that any of the conditions in sub-Regulation (2) of this Regulation apply and it is in the child's best interests, parental consent shall be dispensed with.

(3) Where parental consent is dispensed with, there shall be no requirement to inform a parent of any High Court application to adopt the child.

(4) Where parental consent has been dispensed with under this Regulation, the issue of consent shall not be raised again in any other court, save that a parent shall have the right to seek a review of the decision in accordance with the Civil Procedure Decree.

Supervision
plan

48. (1) When applying for a supervision order, the Director of Social Welfare shall file a supervision plan for the child, which shall identify how the child's short term needs will be met.

(2) The supervision plan shall include, but shall not be limited to -

(a) where the child will live for the duration of the supervision order;

(b) the support that will be offered by the district welfare officer or other bodies to the child and the family;

(c) any education or training activities that the child or parents are expected to attend;

(d) any particular places that the child is expected to attend at any particular times;

(e) any duties that the parents are expected to perform; and

(f) such other requirements as the district welfare officer considers necessary to safeguard the child, including attendance at a hospital or medical or treatment programme.

(3) A supervision plan shall not require that the child live anywhere other than with his family.

Supervising
authority

49. (1) In accordance with the Children's Court Rules, a child who is the subject of a supervision order shall be placed under the supervision of the district welfare officer of the district in which he lives, save that where the child will be living in another district, the child shall be placed under the supervision of that district welfare officer for the duration of the order.

(3) A welfare officer from the district in which the child will reside for the duration of the order shall be assigned to undertake supervision of the child save that where there is a lack of capacity, the district welfare officer may appoint an appropriate person or NGO to undertake the supervision

(4) In assigning an appropriate person or NGO, the district welfare officer shall ensure that such person is experienced in working with children and has received such training as may be specified by the Director of Social Welfare.

(5) An appropriate person or NGO who is assigned to supervise a child shall be supervised by a welfare officer and shall report to the welfare officer on the progress of supervision no less than once every month.

Duties of the supervisor

50. (1) While a supervision order is in force it shall be the duty of the supervisor -

(a) to advise, assist and befriend the supervised child;

(b) to take such steps as are reasonably necessary to give effect to the supervision plan; and

(c) where—

(i) the plan is not wholly complied with; or

(ii) the parent or guardian with whom the child is living refuses the supervisor access to the child; or

(ii) the supervisor considers that a supervision order may no longer be necessary

the supervisor shall report this to the district welfare officer who shall consider whether or not to apply to the court for a variation or discharge of the order.

Visits to a child under a supervision order

51. (1) The assigned welfare officer shall visit the child once he is placed under supervision of the Director of Social Welfare -

(a) after the first week of a supervision order;

(b) no later than every 28 days after the first visit for the duration of the supervision order.

PART X

DUTIES OF THE DIRECTOR OF SOCIAL WELFARE TO CHILDREN IN CARE

Child Care and Protection Regulations

Responsibility
for a child
under a care
order

52. Where a care order is made with respect to a child, it shall be the duty of the Director of Social Welfare to receive the child into care.

General duty of
the Minister

53. (1) it shall be the general duty of the Minister responsible for children to take steps to ensure, so far as is reasonably practicable, that there is sufficient accommodation to meet the needs of children in their care.

(2) The Minister shall have regard to the benefit of having a number of accommodation providers in their area to ensure a sufficient number and range of accommodation places.

General
duties of
the Director
of Social
Welfare in
relation to
children
incare

54. (1) In these Regulations, any reference to a child who is in the care of the Director of Social Welfare is a reference to a child who is —

- (a) the subject of an interim or full care order made by the Court;
- (b) has been taken into voluntary care in accordance with Regulation 40; or
- (c) provided with accommodation under Regulations 36 - 39.

(2) The Director of Social Welfare is under a duty with respect to a child in care -

- a) to safeguard and promote his welfare;
- b) to provide suitable accommodation for the child;
- c) to maintain the child; and
- d) to promote the child's educational achievement and health.

(3) Before making any major decision with respect to a child who is in the care of the Director of Social Welfare, a welfare officer shall, so far as is reasonably practicable, ascertain the wishes and feelings of —

- (a) the child;
- (b) his parents; and
- (c) any other person whose wishes and feelings the welfare officer considers to be relevant regarding the matter to be decided.

(4) In making any such decision a social welfare officer shall give due

consideration to -

- a) the principles contained in Regulation 3; and
- b) to such wishes and feelings of any person mentioned in sub-Regulation (3)(a) to (c) of this Regulation as they have been able to ascertain.

Parental rights
when a child is
under a care
order

55. (1) Where a care order is in force with respect to a child, the Director of Social Welfare shall -

- a) have parental rights and responsibilities over the child; and
- b) have the power to determine the extent to which the parent or guardian shall exercise parental rights over the child.

(2) The Director of Social Welfare shall only limit the exercise of parental rights to the extent that it is necessary to do so to safeguard and promote the child's welfare

(3) While a care order is in force--

(a) the Director of Social Welfare or any person caring for the child shall not -

- i) change the child's name; or
- ii) cause the child to change his religion; or
- iii) consent to the child's marriage

without an order of the court;

(b) the Director of Social Welfare shall not remove the child or permit anyone acting on his behalf to remove the child from Zanzibar, except in accordance with sub-Regulation 3(c) of this Regulation without the consent of the Court;

(c) sub-Regulation 3(b) of this Regulation shall not prevent the removal of a child subject to a care order from Zanzibar for a period of not more than 28 days provided that the person taking the child has obtained the written consent of Director of Social Welfare.

(4) Sub-Regulation (3)(b) of this Regulation shall not apply where the care order is for the child to live outside Zanzibar.

Child Care and Protection Regulations

- Duration of a care order
56. (1). A care order may be made for a maximum period of three years or until the child reaches the age of eighteen years.
- (2) The district welfare officer shall ensure that a review of the child is undertaken no later than six months before the date of the termination of the care order and shall decide no later than four months before the termination of the order whether to -
- (a) draw up a leaving care plan to assist the child once he has left care; or
 - (b) to recommend to the Director of Social Welfare that an application should be filed with the court for a second or subsequent care order.
- (3) Where the decision of the district welfare officer is that the best interests of the child would be served by making an application for a second or subsequent care order, he shall inform the Director of Social Welfare of his recommendation and shall provide the Director of Social Welfare with -
- (a) a statement setting out the reasons for seeking a second or subsequent care order;
 - (b) any social investigation of the family undertaken for the purposes of reintegration;
 - (c) a care plan setting out the arrangements that are to be made for the child containing the information set out in Regulation 45;
 - (d) the minutes of the pre-discharge case review conference and any subsequent reviews under the existing care order; and
 - (e) a copy of the original care order and any further care orders made by the court.
- (4) The Director of Social Welfare shall, if he decides to make an application for a second or subsequent care order file an application in accordance with the Children's Court Rules and include the documents set out in sub-Regulation 3(a) – (e) of this Regulation.
- (5) There shall be no limit on the number of times the Director of Social Welfare may extend a care order on a child, save that a care order shall terminate on the child's eighteenth birthday if it has not been discharged before that date.

Child Care and Protection Regulations

- Placement of a child
57. (1) When a child is in the care of the Director of Social Welfare, that authority shall be under a duty to accommodate the child in an appropriate placement.
- (2) In determining the appropriate placement for a child in the care of the Director of Social Welfare, a welfare officer shall have regard to Regulation 3 and consider the following options -
- (a) placement with a relative, friend or person connected with the family;
 - (b) placement with a foster parent or fit person; or
 - (c) placement in an approved residential establishment.
- (3) A welfare officer shall -
- (a) give preference to a placement falling within sub-Regulation 2(a) of this Regulation over placements falling within other paragraphs of sub-Regulation 2(b) and (c) of this Regulation; and
 - (b) ensure that wherever practicable -
 - i) it allows the child to live near his former home;
 - ii) it does not disrupt the child's education or training;
 - iii) that the child is not separated from his siblings; and
 - iv) if the child is disabled, the accommodation provided is suitable to the child's particular needs.
- Visits to a child in care once placed
58. (1) The District welfare officer or a welfare officer designated by the district welfare officer shall visit a child in the care of the Director of Social Welfare once he has been placed -
- (a) no later than 7 days after the child has been placed;
 - (b) no later than 28 days after the first visit;
 - (c) Following the second visit, no less than once every three months for the duration of the care order; and
 - (d) at any other time that the district welfare officer or assigned welfare officer deems necessary.

(2) In addition to visits in accordance with sub-Regulation (1) of this Regulation the district welfare officer or the assigned welfare officer shall visit the child whenever reasonably requested to do so by the child.

Conduct of visits

59. (1) On each visit, the district welfare officer or designated welfare officer shall speak to the child in private unless-

- (a) the child, being of sufficient age and maturity to do so, refuses; or
- (b) it is inappropriate to do so, having regard to the child's age and maturity.

(2) The district welfare officer or designated shall make a written record of the visit, including the appropriateness of the placement and the child's views and wishes, and shall place the written record on the child's file.

Reporting concerns about a placement

60. Where, as the result of a visit carried out in accordance with Regulation 58:-

- (a) the assigned welfare officer has reasonable cause to believe that the child's welfare is not adequately safeguarded and promoted by the placement, he shall report the matter to the district welfare officer within 48 hours and a review shall be undertaken of the child's placement;
- (b) the assigned welfare officer has reasonable cause to believe that the child is at immediate risk of significant harm, he may remove the child from the placement pending a review of the placement.

PART XI

REVIEW OF CHILDREN UNDER THE CARE OR SUPERVISION OF THE DIRECTOR OF SOCIAL WELFARE

Review

61. (1) In accordance with section 28(1)(c) of the Act, the district welfare officer of the district where the child resides shall undertake regular reviews of

- (a) every child in care as defined by Regulation 54(1).;

(b) every child who is the subject of an interim or full supervision order made by the court for whom the Director of Social Welfare has responsibility

or shall assign a welfare officer from the district child protection unit to undertake this task

(2) A review shall assess whether the care or supervision plan in force is addressing the child's needs and whether any changes are required.

(3) The first review shall take place no later than 28 days after the child enters into the care or under the supervision of the Director of Social Welfare.

(4) The second review shall take place no later than three months after the first review and reviews shall be conducted every six months thereafter until the child ceases to be under the care or supervision of the Director of Social Welfare, save that:-

(a) there shall be a review one month before the end of a supervision order to determine whether a further application should be made for a second or subsequent supervision order;

(b) there shall be a review no later than six months before the date of termination of a care order to determine whether a further application should be made under Regulation 56(2)(b) for a second or subsequent care order.

(5) The second and subsequent reviews shall monitor implementation of the child's care plan or supervision plan and amend the plan as necessary to reflect new information and any changed circumstances.

(6) The district welfare officer shall not make any significant change to the child's care or supervision plan unless the proposed change has first been considered at a review of the child's case save where this is not reasonably practicable or not in the child's best interests.

(7) A review may be carried out sooner than the dates required by this Regulation if -

(a) agreed decisions from the review are not carried out by the specified dates;

(b) in the case of a child in the care of the Director of Social Welfare there are major changes to agreed arrangements for access to the parent, guardian or former care-giver or other important persons in the child's life;

- (c) there are child protection concerns with respect to the child;
- (d) there are complaints from or on behalf of the child, parent, guardian or care-giver;
- (e) there is an unexpected change in the child's placement, including the child being remanded or sentenced to a term in the Approved School or the Education Offenders Centre by the Court;
- (f) there are changes in the family circumstances for example births, marriages or deaths which may have a particular impact on the child;
- (g) the child is charged with a criminal offence;
- (h) the child is excluded from school;
- (i) there are significant health, medical events, diagnoses, illnesses, hospitalisations, or serious accidents; or
- (j) the child has run away or is missing from his placement.

(8) Where a child has run away or is missing from his placement, he shall not be returned to the placement until he has been interviewed by a welfare officer as to the reasons why he ran away, and a review undertaken if the child makes allegations of abuse, neglect or exploitation relating to the placement.

(9) A review shall be held before a child is committed to custody for commission of a criminal offence.

Pre-review
procedure

62. (1) The district welfare officer shall appoint a welfare officer, other than the child's assigned social welfare officer, from the district child protection unit, another district child protection unit or a regional welfare officer, to chair the review.

(2) The chair of the review and the assigned welfare officer shall meet not later than 10 days before the review to determine -

- (a) who should be invited to the review;
- (b) the time and location of the review;
- (c) the arrangements for making information about the child available to professional attendees; and
- (d) whether notice should be served on any particular persons, institutions or bodies requiring their attendance.

(3) Where the district welfare officer is not able to find a welfare officer to chair the review, he may appoint a person who he believes to have the relevant experience and knowledge.

(4) A chair of a review must have

- (a) an understanding of children's welfare and development; and
- (b) experience of working with children; and
- (c) an understanding of the role of a chair.

(5) The Director of Social Welfare may designate the training to be undertaken before any person sits as a chair of a review and shall ensure that such persons are able to access available training materials.

Members of
the review

63. (1) Members of the review shall include the assigned welfare officer and may include -

- (a) the person caring for the child, where the child has been placed with a relative or family friend;
- (b) where the child is in a foster placement or placed with a fit person, the child's foster parent or fit person;
- (c) where the child has been placed in an approved residential home, a representative of the children's home;
- (d) the child's teacher, doctor, psychologist or other professional in contact with the child;
- (e) such officers of the local government authority as the district welfare officer deems appropriate;
- (f) any other person that the chair believes to be relevant to the child's care; and
- (g) the child if he is of sufficient age and maturity.

(2) Where it is considered that a written report will be adequate and that personal attendance is not necessary, reports should be sought and obtained in time to be considered as part of the review meeting.

(3) Where the assigned welfare officer believes that the attendance of a named

person, institution or body is necessary, he shall inform the chair who shall give notice to that person, institution or body no later than 7 days before the review that he is required to attend.

(4) The parent, guardian or care-giver shall be invited to the review, save where the child is the subject of a care order and the attendance of the parent would not be in the best interests of the child.

(5) The parent, guardian or care-giver shall have the right to be accompanied by an advocate, friend or supporter to assist them at the review.

(6) Where a parent, guardian or care-giver is not invited to attend, or is unable or unwilling to attend the review, he or she shall be permitted to present a statement in writing or orally through an advocate, a friend, supporter or a member of the review other than the child.

Attendance
of the child
at a review

64. (1) The assigned welfare officer should meet the child no later than 14 days before the review to find out whether there is any person that the child would like to attend the review and, if the child does not want to attend himself, the views and wishes that the child would like to be made known to the members of the review.

(2) The child should be given the opportunity to attend the review, and the right to have an advocate, friend or supporter where he or she so wishes, save that where it is deemed by the assigned welfare officer not to be in the best interests of the child to attend, in which event the child's views and wishes shall be made known to the review.

(3) Where the child wishes to attend the review but is not able to find an advocate, friend or supporter to attend with him, the assigned welfare officer shall use his best endeavours to identify a person to assist the child.

Information
for the
review

65. (1) Seven days before the review, the assigned welfare officer shall provide the professional members and the parent, guardian or care-giver, if invited, with a written report on-

(a) the child's progress,

(b) the extent to which the care plan is being implemented and any changes needed to the care plan, and

(c) any change required to the legal status of the child including any

intention to make an application for a care order or a discharge of a care order.

(2) The assigned welfare officer shall:

(a) make available to the professional members any written reports from the child's care-giver and from professionals concerned with the child on the child's progress either before or at the meeting;

(b) ensure that the views and wishes of the child are made known at the review if the child does not wish to attend the review, is not of sufficient age and maturity to attend the review or it is deemed not to be in the child's best interests to attend the review; and

Role of the chair of the review

66. (1) The role of the chair shall be to -

(a) ensure that all persons attending the review understand its purpose and what will happen;

(b) set out the agenda;

(c) remind all parties that the review is confidential;

(d) enable all those present to make a full contribution to discussion and decision making; and

(e) ensure that the review takes into account all the information before it and the views of all participants and the wishes of the child.

(2) Regulation 30 shall apply to reviews.

Minutes of the review

67. (1) Documents made available to those attending the review, other than the assigned welfare officer's report provided under Regulation 65, shall not be retained after the review or removed from the room in which the review takes place, other than by professionals working with the child;

(2) All documents and any minutes of the review shall be confidential and shall not be released to persons outside the review without the consent of the district welfare officer or an order of the court.

(3) The chair shall ensure the attendance of an appropriate person to take written minutes of the review, which shall -

(a) be approved and signed by the chair of the review;

(b) contain any recommendations made by the review;

(c) be distributed to all the professionals attending the review but shall be treated as confidential by those parties; and

(d) placed on the child's file.

(3) The parent, guardian or care-giver shall be provided with a written copy of the recommendations made by the review unless it is not in the child's best interests to do so.

(4) The child's care plan shall be amended in accordance with the decisions of the review.

Second and subsequent reviews

68. The second and subsequent reviews shall consider:-

(a) the effect of any change in the child's circumstances since the last review;

(b) whether decisions taken at the last review have been successfully implemented, and if not the reasons for the non-implementation;

(c) whether the Director of Social Welfare should seek any change in the child's legal status, including an application for a care or supervision order or a discharge of a care or supervision order;

(d) whether there is a plan for permanence;

(e) whether, in the case of a child in care, there is a need to change the arrangements for access between the child and his family or other relevant persons;

(f) whether the placement continues to be appropriate and is meeting the needs of the child;

(g) the child's educational needs, and whether the arrangements that are in place are meeting the child's educational needs or require a change;

(h) the child's health, including consideration of the child's physical and emotional health needs and whether the arrangements that are in place are meeting the child's health needs or require a change; and

(i) the child's wishes and feelings about the care plan including in relation to any changes or proposed changes to the care or supervision

plan having regard to the child's age and maturity.

Revising a care plan following a review

69. Following a review, the district welfare officer shall give a copy of any revised, amended, care plan to:-

- (a) the child;
- (b) the parent, unless it is not in the best interests of the child to do so;
- (c) any relative or family friend with whom the child is placed;
- (d) where the child is in a foster placement, the foster parent or family;
- (e) where the child is placed in an approved residential home, the head of that home; and
- (f) where the child has been placed in custody, to the head of the approved school or the Offenders Education Centre.

PART XII

DISCHARGE OF A CARE ORDER

Discharge of a care order

70. (1) Where a district welfare officer decides on the basis of a review that a care order is no longer necessary to protect the child from suffering harm or impairment of health or development as defined by Regulation 4, he shall send a recommendation for discharge to the Director of Social Welfare.

(2) Where the Director of Social Welfare agrees with the recommendation he may apply for discharge of a care order in accordance with the Children's Court Rules and shall file the statement setting out the reasons for the application and a care discharge plan.

(3) The care discharge plan shall include but shall not be limited to the provision of information on -

- (a) where the child will live and with whom following discharge from care;
- (b) the support that will be available to the child from his parents and other persons following discharge from care;

(c) the financial resources of the parent, guardian or care-giver and the child;

(d) the child's state of health;

(e) the child's continuing need for education, training and employment;

(f) the wishes and feelings of the child, any parent or guardian and any person with whom it is intended that the child will live;

(g) the services, if any, to be provided .

(4) Where the Court discharges a care order, a welfare officer in the area where the child is residing shall:

(a) visit the child no later than 7 days after the discharge

(b) no later than 28 days after the first visit.

(5) Following the second visit, the welfare officer shall review the care discharge plan to determine whether it is appropriate to meet the needs of the child and whether the child requires further support or intervention and shall submit a written report on his findings to the district welfare officer of the district in which the child resides.

(6) Where the discharge report recommends further intervention to safeguard the welfare of the child, the district welfare officer shall consider:-

(a) whether the case should be referred for a child protection conference; or

(b) whether an application for a further care or for a supervision order is required.

PART XIV

EXCLUSION ORDERS

Applying
for an
exclusion
order

71. (1) The Director of Social Welfare may make a free standing application for an exclusion order, or may make an application within existing proceedings for a care or supervision order where there is reasonable cause to believe

(a) that a child is suffering or is at risk of suffering significant harm, and

(b) that the child would be protected and significant harm would cease to exist

if a named person was removed from the home or was prevented from having any contact with the child;

(2) An application for an exclusion order may be made ex-parte or inter partes in accordance with the Children's Court Rules.

(3) The Director of Social Welfare may seek an order from the court -

(a) requiring the named person to leave the home where he is living;

(b) prohibiting a named person from entering a home where a child is living;

(c) prohibiting a named person from entering a defined area around the home in which the child is living; or

(d) prohibiting a named person from contacting or speaking to the child concerned or to persons looking after the child.

(4) The Director shall file a statement with the Court setting out who in the home is able and willing to give the child a level of care that would protect and safeguard the child together with any initial risk assessment or social investigation report.

