

ASSESSMENT OF CAPACITY TO MANAGE ALTERNATIVE CARE IN MALAWI.

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1. Visits and Meetings Held

Mr Eric Kilembe, Director Department of Child Development in MoWCD
Mr Harry Satumba, Desk Officer for OVC (he was my main contact in MoWCD and accompanied me on a number of visits)
Mr Moyo, M&E, MoWCD
Ms Norris Mangulama, Principal Child Rights Officer & Mr Crispin Sibande, MHRC
Mr Mbang'ombe, Acting Chief Law Commission and Mr Msiska and Mr Chiniko, Lawyers, Law Commission
Mr Richard Chakhame, Chief Economist, MoLG & RD
Ms Florence Kagambo, Head of Policy, Support & Development & Miriam Kaluwa, National AIDS Commission
Mr Martin Nkuna, Rights of the Child Adviser, Plan
Mr Brussels Mughogho, Programmes Manager, Every Child
Mr Elton Mtwana, Child Protection, Gender & Advocacy Manager, World Vision Malawi
Mr Ernest Chukumi, DSWO, Mchinji
Members of the District Executive Committee (6 present), Mchinji
Executive Committee of Community-Based Childcare Centre (26 present), Chinteka, Mchinji
Ms Mardine Chirwa, Principal, Chilwa Reformatory Centre (15-18 years), Zomba District
Justice Nyakwawa Usiwa-Usiwa, CJ Magistrate & ex-National Coordinator National Juvenile Justice Forum (NJJF)
Mr Steve Solomon, Administrator NJJF
Mr Moses Chione, Chisomo Children's Home for Street Children, Blantyre
Ms Florence Avsigye, VSO OVC Adviser, Blantyre
Mr George Phiri, Community-Based Child Protection Worker, Blantyre
Mr Komwa, Mpembwa Reformatory Centre (7-14 years), Blantyre
Child Headed Household, Blantyre
Mr Mwanyula & Mr Matt Colin, Ministry of Finance
Cash Transfer meeting chaired by District Commissioner (c.30 present), Mchinji
Dr Candace Miller, (evaluator of the pilot cash transfer system in Mchinji), Asst. Professor, Centre for International Health & Development, Boston University
Payments of cash transfers in Nduwa VDC, Mduwa TA, Mchinji & interviewed 2 recipients
Dep. Commissioner Mrs Ngauma & Asst. Superintendent Noel Kayira, Victim Support and Child Protection Unit, Police
Kasungu District Child Protection Committee (6 present), Kasungu
Ms Malla Mabona, OVC Expert, seconded to MoWCD
Santhe TA, Child Protection Committee (5 present)
Met mother and child in a defilement case
Mother Teresa's Babies Home, Lilongwe
Unicef – the Representative
Karen Manda, Head OVC & Child Protection
Jaqueline Kabambe, OVC Manager

Mayke Huijbregts, Social Cash Transfers
Seamus Mac Roibin, Child Protection Specialist, CICL
Miriam Chipimo, Health & HIV/AIDS
Chalizamudzi Matola, ECD
Linda Lisa Kabwila-Kalenga, Child Protection Officer
Department of Child Development & Unicef (9 present) for consultant's presentation

2. SOURCES

Cash Transfer papers, Dept. of Poverty & Disaster Management Affairs, MoWCD, District Assemblies Likoma, Machinga and Mchinji, Unicef, :

- Designing a Pilot Social Cash Transfer Scheme for Malawi
- Evaluation of Mchinji Social Cash Transfer Pilot, 2007
- Guidelines for Establishing Linkages
- Logical Framework, etc
- Manual of Operations for the Malawi Social Cash Transfer Scheme
- Mchinji District Assembly Monitoring Report for the month of May, 2007
- Piloting the Scale-up of the Malawi Social Cash Transfer Scheme, 5th report, Jan.- June 2007
- Project Profile and Q&A paper on the Social Cash Transfer Pilot
- Child Protection Sector Group Minutes, July, 2007
- Committee on the Rights of the Child, Concluding Observations: Malawi, 2002
- Community Policing, information paper, undated
- Guidelines for Education Support to OVCs, MoGWCS, 2006
- Malawi Demographic Health Survey, 2004
- Malawi HIV & AIDS National Action Framework (NAF), 2005-9
- Government of Malawi, Malawi Growth and Development Strategy, 2006/7 – 2010/11
- Guidelines for the Establishment & Management of CBOs in Malawi, MoGCW&C, undated
- Laws of Malawi:
 - Children & Young Person's Act, Cap 26:03, 1969 revised up to 1992
 - Adoption Act, Cap 26:01 1949 revised up to 1981
 - Affiliation Act, Cap 26:02, 1946 revised up to 1997
- Malawi Human Rights Commission, Cultural Practices and Human Rights, 2006
- Malawi Human Rights Commission, Report on the Inspection of Orphanages/Children's Homes in the Southern and Northern Regions of Malawi, 2006
- Malawi Law Commission, Report of the Law Commission on the Review of the C&YP Act and draft legislation for proposed Child (Care, Protection and Justice) Bill
- Ministry of Women and Child Development, Job Description for Community Child Protection Workers/Volunteers, undated
- Ministry of Women and Child Development, Report on OVC & Child Protection Activities in Mchinji District 2005-6
- Ministry of Women and Child Development, Guidelines for the Care, Protection and Support of OVCs, 2006
- Ministry of Women and Child Development, Position Paper on Children's Issues, undated

National Inventory of Community-Based Child Care Centres in Malawi, A. Munthali, P.Mvula and L.Silo, 2007
 National Statistical Office & Unicef, Malawi Multiple Indicator Cluster Survey, Preliminary Report, 2006
 Republic of Malawi, Constitution, 2004
 Republic of Malawi, National Plan of Action for OVCs, 2005-9
 Republic of Malawi, National Policy on Orphans and Other Vulnerable Children, MoG&CS, 2003
 Republic of Malawi, Children's Homes and Orphanages Rules and Regulation, 2005
 Unicef Annual Report, 2006
 Unicef, Draft Country Programme Document to Executive Board, Feb., 2006
 Unicef, Malawi Fact Sheet, Justice for Children, undated
 Victim Support Unit data centrally and from Kasungu district, 2005 and 2006

3. SOCIO-ECONOMIC CONTEXT

Over 50% of Malawi's 12.6 million population are children. According to the Integrated Household Survey 2004/5 52% of the population were below the poverty line earning less than 33 US cents per day and 22% are the extreme poor who earn less than 20 US cents a day. Malawi comes 166th of 177 countries on the 2006 Human Development Index. Life expectancy has fallen from 46 to 37 years between 1987 and 2005. Maternal mortality per 100,000 births has increased from 620 in 1992 to 960 in 2004. Protein-energy malnutrition is very high in Malawi with 50% of children under 5 being stunted and this figure has remained unchanged since 1992. Its underlying cause is seen as being household food insecurity (MGDS).¹ Childhood immunizations have returned to their 1992 level of mid 80%. There has recently been a decline in the infant but especially in the under-5 mortality rates from 84 and 166 per 1000 live births respectively in the period 1992-96 to 69 and 118 for the period 2002 to 2006 (MICS, 2006).

Despite the abolition of school fees in 1994, over 10% of eligible children are not in school. 60% of those who enroll in standard 1 have dropped out by standard 4; this is particularly the case with girls.² With regard to orphaned children aged 10-14 years there is only a slightly higher percent of non-orphaned children attending in comparison to orphaned children (91% to 88.6%), which indicates a responsible attitude by the majority of orphan caregivers.

There are estimated to be over 1 million orphans in Malawi, which is about 14% of all children. Of these it is thought that 240,000 are double orphans (3.5%). It is estimated that an additional 70,000 children are orphaned each year. Half of Malawi's orphans are as a result of one or both of their parents dying from AIDS. 20% of all households in Malawi take care of one or more orphans and 49% of these are female headed (MGDS). The Vital Registration System found that of the 409,227 households included in the study of 9 districts there were 373 child headed households, ie about 1 per 1000 HHs.

¹ Malawi Growth and Development Survey, 2006/7-2010/11

² Unicef, draft Country Programme document, Malawi, 2006

One fifth (20%) of all children are not living with either of their parents although only 3.5 % are double orphans. 11% of children are not living with their parents although both parents are alive. The household living arrangements of children in Malawi is given below.

The household living arrangements of children

Number Children Data < 18	Malawi ³
Number of Children	6 m
Living with father only	3%
Living with mother only	20%
Living with both parents	58%
Both parents alive but living elsewhere	11%
Double Orphans	3.5%

4. HIV and AIDS

The HIV prevalence rate among adults aged 15-49 years was 14% in 2005.⁴ The Malawi Demographic Health Survey, 2004 estimates 86,000-100,000 die from AIDS annually, the majority belonging to the most productive age group (15-49 years). The number of PLWA is estimated at 1 million, of these it was estimated in 2005 that 83,000 were children. Mother-to-child transmissions is said to account for close to 30,000 infections annually⁵. Of all the children infected about 10,000 are receiving ART but recent research indicates that they all could benefit from it.⁶

Information on Orphans (estimates)

	Malawi ⁷
Number of Children	6.4 million
Paternal Orphans	12.0%
Maternal Orphans	6.0%
Double Orphans	256,000 4%
All Orphans	1,000,000+ 21%

³ Malawi: DHS, 2004 - Final Report (English)

⁴ Sentinel Surveillance Report , National AIDS Commission

⁵ Unicef, draft Country Programme document, Malawi, 2006

⁶ M.Chipimo, HIV/AIDS Manager, Unicef

⁷ Malawi: DHS, 2004 - Final Report (English); all Malawi figures are for children under 18 in households

5. CHILD PROTECTION ABUSES

5.1 Child Labour.

About 29% of children aged 5-14 years are involved in paid or unpaid work in or outside the home of more than 4 hours per day. The percentage is almost the same for both boys and girls. (MICS, 2006).

5.2 Sexual Abuse

The Victim Support Services and Child Protection Unit of the Community Policing Services Branch have just started collecting data on sexual offences per district but with the exception of defilement of girls under 13 years they are not disaggregated by age and sex. In the years 2005 and 2006 there was an increase nationally in the reporting of defilement from 151 to 273 cases. However, this is likely to be a gross under-estimate as in Kasungu district the VSS&CP Unit visited had recorded for the first 9 months of both 2005 and 2006 a total of 39 and 40 cases of defilement, while the national data gave their figures as 8 and 4. The feeling is that there are many more cases of sexual abuse than are surfacing and that the national free child-line to be set up in 2008 may give a more realistic idea of the incidence.

5.3 Early Marriage.

Over 10% of girls are married before they are 15 years and 50% by the time they are 18 years. According to MICS girls who marry are more likely to drop out of school, experience domestic violence and maternal mortality.

5.4 Harmful Cultural Practices

The Malawi Human Rights Commission has reported on harmful cultural practices in Malawi⁸. They record many abuses but they are most often connected with a localized custom rather than being widespread. Examples include girls being given in marriage to wealthy men as a payment for their parents' debts and the encouraging of a man to have sexual intercourse with a girl as part of her being initiated into womanhood on puberty or even before then.

5.5 Child Trafficking

There have been incidents of children being trafficked being stopped at the border to Mozambique (53 children) and to Zambia (42 children). Some girls have reported being taken to UK for sexual purposes. It is thought that some children are taken to work on tobacco and cotton plantations and in domestic work. However, there is a lack of specific data.

5.6 Birth Certificates

Almost no children in Malawi have birth certificates so it is not clear as to their exact age and whether they are an adult or not. This leaves it up to people like the police and judges to decide what age a child is and how she/he should be treated. This may lead to a child being sent to an adult prison.

⁸ Malawi Human Rights Commission, Cultural practices and Human Rights, 2006.

6. PREVENTING FAMILY BREAKDOWN.

The first priority for families with children at risk should be family support. 82% of all children in Malawi live with one or both parents. 58% of children live with both parents, 20% live only with their mother and 3% with their father. However, 11% of children who have both parents alive are not living with them. There is currently no national safety net for families who are vulnerable. Currently support is targeted towards particular groups, for example:

- According to Unicef in January, 2007, 85,000 people were on free ARV from the national AIDS treatment programme, reaching 50% of all people who were in need of treatment;
- There are currently about 5,000 Health Surveillance Assistants with a responsibility for the care of 1,000 households each nationally. It is planned to increase the number of HSAs to 11,000 which would mean 1 HSA : 250 households;
- About 6,000 Community-Based Childcare Centres have been set up offering care to 522,000 children, largely by way of food;
- Bursaries are given to some OVCs who qualify for secondary schooling;
- NGOs support vulnerable families through child school sponsorship (WVI alone sponsors 110,00 children), crèches and pre-schools, IGAs, vocational training and voluntary testing centres and home-based care;
- In 3 districts of the 32 there has been some piloting of cash transfers benefiting about 10,894 OVCs;
- Support also comes from the MoWCD with its 84 staff in the district supplemented by Community Child Protection Workers of which there are presently 359 with another 240 about to be trained and a planned total target figure of 800 by the end of 2008;
- 552 Children's Corners have been set up in 13 districts which have an enrollment of about 44,000 children aged 2-18 years but these are only open on weekends.

7. INFORMAL FAMILY CARE.

20% of all children (c.1.3 million) do not live with their biological parents. This must include a considerable number of children who are not orphaned. It is unclear what percentage of the 49% female headed households looking after orphans (DHS) are made up of mothers, aunts, grandmothers, informal non-kinship female carers or formal foster mothers. As to how many children are living outside their extended families there is no data available.

It seems that most informal care decisions are made by families. There are currently no controls as to who parents give their childrens' care to. A comment made was that nowadays informal extended family fostering is no longer out of choice but out of necessity as otherwise the child would not be kept in the family.

Issues:

- There is a need for an analysis concerning the carers of children who are not the biological parents. This would particularly make known those grandmothers or destitute carers looking after children and enable some assessment of their needs. Is

- there any study that could be a source for this information? Is this a task that should be the VDCs responsibility and required of them?
- Can districts ensure that child protection is an integral part of each VDC's and zonal villages mandate? That each Headman is informed of each child placement outside the biological family and registers whether they are with an extended family member or a non-relative carer? However, this would become more difficult if such an arrangement is made outside the Traditional Area or district.
 - If a child is placed with a non-relative carer someone preferably from the MoWCD or HSA should be alerted by the Headman or authorized person to ensure that the placement is in the best interests of the child, to register that placement at the district and to ensure future supervision both by the department but also by the VDC or area is appropriate to the child's needs.
 - Coordination to uphold the protection of children at the village level led by the headman should be promoted and include where available the CCP worker, HSA, teacher, VSS&CP unit, a child of both sexes, elected parents and extension workers.
 - What will happen when the elderly carers die? Will there be other family members willing to take over the care? This highlights the importance of supporting elderly carers.

8. FORMAL FORMS OF CARE

8.1 FAMILY FOSTERING

Fostering appears to have no legal status and little priority currently in Malawi. It is not mentioned in the C&YP Act but it is in the Adoption Act which states that prior to adoption an interim 2 year period of fostering may be ordered. The NPA on OVC obj. 2.1.2 states that fostering and adoption require action. It is extensively referred to in the Child Bill.

No data is available nationally on the number of formal family foster placements. Mchinji district during 2005-7 had one foster placement. Yet between 2003-5 it received 100 applications from prospective foster parents and 20 foster parents received training.

Guidelines on fostering exist but appear not to have been disseminated to Children's Homes; they also appear to need technical attention. There are 7 Babies Homes with 204 babies. Babies particularly need maternal care. It is unclear whether there are any special guidelines about their where possible being placed with foster parents until such time that it is appropriate to return them to their parents/relatives. Temporary fostering should also be considered in child abuse cases where a child has to be removed from their home until a more permanent solution is found.

Issues:

- Within the Department of Child Development there seems to be no current activity to promote family fostering. A person appointed with responsibility for taking the lead with others with technical expertise in refining the fostering guidelines, in promoting the concept of fostering, clarifying the training staff and

prospective foster parents should receive and assisting DSWOs operate a fostering programme with relevant district registers which can also feed into a national data bank would help to put fostering on a sound footing.

- With the department's limited staffing fostering with its quite intensive use of staff time, eg follow-ups may best be kept for babies and abused children so that it is manageable and effective.
- Formal foster- parents usually receive some form of payment; how possible is this in the Malawi context?
- Formal fostering should not be seen as an alternative to supporting the family care of a child, this is the priority and is almost always in the best interests of the child.
- Only where after extensive investigations there is no extended family support available should fostering be seen as an alternative to sending a child to a Children's Home and for children in Homes who have no extended family members to return to. To ensure the best interests of the child and to counter fears of fostering being abused regular visits by departmental staff will be required.

8.2 ADOPTION.

Adoption is not a form of alternative care but a permanent solution for a child who has no available or willing extended family carer.⁹

No national data on adoption was available although the Registrar General of Births and Deaths is meant to keep an Adopted Child Register according to the Adoption Act. As there is nothing in the Adoption Act about inter-country adoption there is no separate register for such adoptions. Only the department of Child Development can provide the guardian ad litem to the court as there is no other officially registered independent adoption body. However, no guidelines appear to exist on how adoption should be conducted by the department.

One area where adoption seems relevant is for the 7 Babies Homes that exist as it is well researched that babies do not thrive in an institution – research indicates that the longer they stay the more their emotional, cognitive and physical development suffers. The Mother Teresa's Babies Home in Lilongwe has 20 babies and 40 infants under 5 years. It tries to restore the baby to full health and then return the baby to his/her family. Where this does not happen they have tried adoption. One baby has been adopted and they are trying in respect of two others all through DSWO. It appears from the Malawi Human Rights Commission report that at least 4 other Babies Homes have had children adopted through the DSWO and the courts. A closer liaison by the department with those 7 Babies Homes might enable more babies whose families are unwilling to care for them to be placed for adoption.

Issues:

- As with fostering there appears to be no specialised unit in DCD with a person responsible for providing guidance on the operation of adoption.

⁹ Draft UN Guidelines for the appropriate use and conditions of Alternative Care for Children, 18 June 2007 – presented by the government of Brazil

- Adoption as yet does not appear to be seen by the department as an important alternative care method of giving a child a permanent family home where the extended family is not willing to do so?
- Ratification of the Hague Convention on Inter-country Adoption has yet to take place.

8.3 RESIDENTIAL CARE

Estimated number of Children's Homes 40 with 2,507 children resident.

The Malawi Human Rights Commission has carried out a study of children's homes in Malawi as a result of complaints from the public.¹⁰ They first visited the Central region in 2005 when 8 Homes were recorded; this is thought to be an underestimate and there may be up to 10 more. Then in 2006 they visited Homes in the Northern and Southern regions where 32 Homes were located.

The report states that Homes taking children under 2 years were registered with the MoWCD and CONGOMA. This would include the 7 Babies Homes and those taking children under 2 years as well as older (there were 11 Homes taking children from 0-18 years). It did not say who registered the remaining 22 Homes. It is questionable whether a Home is likely to be adequately staffed and equipped to take a range of children from 0-18 years. A few are not registered and others are in the process of registration but have been operational for some time, eg the Agape Home in Blantyre had been in existence since 2001 but was in the process of registration in 2006 when visited by MHRC.

Of the 40 Homes:

- 7 were Babies Homes looking after children under 2 years with a total of 204 babies
- 3 were for Street Children with a total of 100 children
- 11 Homes took children from 0-18 years
- 22 Homes took children from 2-18 years
- Occupancy ranges in the Homes were from 3 to 330 children (11 Homes have over 100 children)
- There is a concentration of Homes in the South, especially in Blantyre, where there are 15 homes

None of the Children's Homes were owned or managed by government and as far as I am aware there was no government subvention to any of the Homes. According to the report 29 of the 40 Homes were owned by foreigners who were seen by the community as having money and hence the community showed little interest in them. This lack of community involvement is a general conclusion of the report. Children brought to the Homes are not necessarily screened by the DSWO before admission often a letter from the chief is seen as sufficient. It notes there has been little monitoring of the Children's homes by the DSWOs and so the report points out there is a risk of children being trafficked. Recently inspections have been started but it is unclear what the time frame is for these and whether someone has been deputed to have overall management.

¹⁰ Malawi Human Rights Commission, A Report on the Inspection of Orphanages/Children's Homes in the Southern and Northern Regions of Malawi, 2006

The report indicates that school aged children are receiving education but that most had no special measures for children with disabilities. It raised its concern that ‘the placement of children (in) children orphanages/homes that have mushroomed throughout the country has ceased to be the last resort in matters of childcare. Instead it has become an income generating venture for some guardians’ (parents/family carers). It goes on to state that ‘these institutions are run in a very haphazard manner with no idea as to the minimum standards that must be met’. Although most Homes had a Management Committee the report notes various abuses such as the names of children being changed to that of the owner. The report lists its recommendations.

Issues:

- A set of Rules and Regulations for Children’s Homes exist but have not apparently been circulated to the Homes. These Rules clear up many of the issues raised in the MHRC report. However, it does not emphasis the role of a Children’s Home as being the placement of last resort and for the shortest possible time. It further does not ensure the former by having a clear system for the gate-keeping of admissions by the DSWOs or the court.
- The Regulations stand as a set of Minimum Standards for Children’s Homes. I am unaware as to whether they were drawn with the Homes. In order to think further about standards and the best interests of the child it might be helpful if collectively the Homes and the Department looked at developing Quality Standards that the Homes can agree to and aspire to. These would not be legally binding but would involve Homes in working to achieve quality targets for children and raise important issues as to how this is to be done.
- Many children return home for their holidays which seems to indicate that in many cases they could return home if the family is given the right counselling and assistance.
- A study as to why all the children resident in the homes are there and to gather data about them has not been done as yet and would provide very useful base-line data. Among other things it would be useful to assess whether a child’s placement in a Home was necessary, what their feelings are about being there and what work is being done to place them back into a family setting.
- The practice of ‘Chikamwini’ needs to be tackled as it seems to prevent a father from looking after his child if his wife dies as culturally the child belongs to the wife’s family. There are cases where the family prefers to send the child to a Children’s Home rather than to a father willing to care for his child.¹¹
- If the government gives no support to the Homes it will need to tread carefully in obtaining their compliance. Capacity building of residential care staff, through possibly an NGO, might not only show they are valued but could explain the DCD’s thinking on child rights and good child care practice.

8.4 REFORMATORY CENTRES

The draft UN Guidelines place sentences of detention for children who have committed offences outside the definition of alternative care. However, a few of those held at the

¹¹ MHRC report, ibid

two reformatory centres are there for care and protection and also many more for survival offences which may not have been addressed in the probation officer's SIR.

Two reformatory centres exist for boys at Chilwa (for 15-18 years) and Mpemba (for 7-14 years). Chilwa has 82 boys of whom apparently most do not have SIRs. Mpemba has 34 boys and of the 26 files looked at 9 had SIRs, 17 did not. Both places have a mix of sentenced, remands and C&P. The Principal at Chilwa thinks that most of the offences are survival ones. Of the 129 children held so far in 2007 103 were held for property offences. 84 of the 129 children had been transferred from adult prisons. In the Principal's opinion all 6 of the defilement offences were consensual sex.

The Board of Visitors is currently meeting almost monthly and have granted a considerable number of early releases, eg 12 in January and 16 in February, 2007. Although previously quite a number of children were held in adult prisons those who had been sentenced have I am informed been transferred primarily to Chilwa as mentioned above.

In the 2 years the Principal has been at Chilwa no probation officer has visited a boy there. Although the papers are sent to the DSWO she suspects that little is done by way of follow-up.

Issues:

- No child should be sent to the reformatory centre for care and protection.
- It is questionable as to whether much by way of community sentencing is being used. For survival offences this should be the priority.
- A regular review of those who have been sent to the reformatory schools would show up whether they are there for care and protection or survival offending and for the latter whether alternative community sentencing was proposed.

9. POLICY

The National Policy on Orphans and Other Vulnerable Children, 2003 sets out 10 Principles to guide practice when working to assist OVCs. The NPA on OVCs 2005-9 adds to these certain other principles and sets out 6 strategic objectives with 26 sub-objectives and very many activities.

The Overall Goal of the NPA is :

‘To build and strengthen family, community and government capacities to scale up response for the survival, growth, protection and development of orphans and other vulnerable children(OVC) by 2009.’

Strategic Objective 1: To enhance access for OVC to essential quality services such as education, health, nutrition, water and sanitation and birth registration with increased support from social safety nets.

Strategic Objective 2: To strengthen the capacity of families and communities to care for OVC by providing support to enhance their economic security, social and emotional well-being and to protect OVC from abuse, exploitation, property dispossession, stigma and discrimination in respect of gender equality.

Strategic Objective 3: To protect the most vulnerable children through improved policy and legislation, provision of leadership, efficient coordination at all levels and through equal and meaningful child participation by both boys and girls.

Strategic Objective 4: To strengthen and build the technical, institutional and human resource capacity of key OVC service providers.

Strategic Objective 5: To raise awareness at all levels (Community, District, National) through advocacy and social mobilisation to create a supportive environment for children and families affected by poverty and HIV/AIDS.

Strategic Objective 6: To continuously monitor and assess the situation of OVC and measure the gaps between what is being done and what must be done to adequately fulfill the rights and needs of OVC.

The NPA is a very comprehensive approach to improve the situation of OVCs. It requires major planning, commitment, coordination and reorganisation within the MoWCD to achieve those objectives for which it is responsible. Many of the issues raised in this report are addressed in the NPA the question is whether the department has the resources and will to do them and that requires some shared decision-making as to what activities should be prioritised. The time frame for action set in the NPA has in many cases past so it would seem necessary to revisit the planning and to realistically decide what can and will be done, to set times and to monitor progress.

Rules & Guidelines.

As already mentioned some Rules and guidelines exist, such as the Children's Homes Rules and fostering guidelines but have not been disseminated. The MoWCD in 2006 produced 'Guidelines for the Care, Protection and Support of Orphans and Other Vulnerable Children'. This is an important document as it gives guidelines to officers arising out of the National Policy on OVCs and the NPA. With regard to alternative care it sets out briefly the process for placing a child in foster care, for national and inter-country adoption and institutional care. These guidelines are very important to departmental staff but they need elaboration with regard to alternative care. There is nothing about the gate-keeping of admissions, of staff regularly visiting each Home to check on the children and the plans being made for their reintegration nor anything about follow-up when returned to the community. If fostering and adoption are to be more used then leadership to promote them is required from the department.

10. LEGISLATION.

Malawi has drafted a raft of new Bills concerning children, these are the:

- Child (Care, Protection, and Justice) Bill
- Birth Registration Bill
- Wills and Inheritance Bill

- **Family Bill**

No new Adoption Bill has been drawn up but there is a proposal that inter-country adoption be placed within the Act as an amendment, see the Ninth Schedule of the Child Bill.

The Child Bill is currently undergoing further review. It has many good aspects such as its emphasis on diversion for child offenders. There are a number of issues concerning alternative care which those reviewing the Bill might like to consider.

Issues:

Fosterage could be made clearer as it does not differentiate clearly between Children's Homes which it refers to as foster homes and those individuals who as foster-parents foster individual children in their own home,

- The role of the Review Board whose responsibility includes not only the Reformatory Schools and Safety Homes but also Children's Homes seems with the inclusion of Children's Homes to be too demanding. Section 70 refers to it supervising the recruitment of staff to Children's Homes and monitoring the Homes compliance with the Bill. It would seem more manageable for their role to oversee the places where offenders are detained and for Children's Homes to be monitored at the district level and by the MoWCD.
- It would be helpful to the MoWCD if the Bill emphasised that the use of Children's Homes is a last resort and that all other alternative care options should have been considered first.
- Does the Bill want to promote the use of the Child Panels and Secretary for Children's Affairs at VDC level thus providing the possibility of localising some administration of justice and C&P resolutions, if so this should be emphasised.

11. SOCIAL PROTECTION

As already mentioned there is no national safety net for the most vulnerable in Malawi. What is provided by NGOs is on a localized basis.

11.1 Cash Transfers

Cash transfers are operational in Malawi on a pilot basis in 3 districts, in all of Likoma island, in 4 traditional authorities in Mchinji and in certain traditional authorities in Machinga. The information below is taken from the Social Cash Transfer Pilot Scheme Malawi powerpoint presentation.¹²

The aim of the cash transfers is to assist financially those who are both:

- **Ultra poor:** living below the lowest expenditure quintile and below the national ultra poverty line (only one meal per day, no valuable assets).
- **Labour constrained:** a household is labour-constrained when it has no able bodied household (HH) member in the age group 19-64 who is fit for work (chronically sick,

¹² GoM, NAC, Unicef, Social Cash Transfer Pilot Scheme Malawi, www.socialcashtransfers-malawi.org

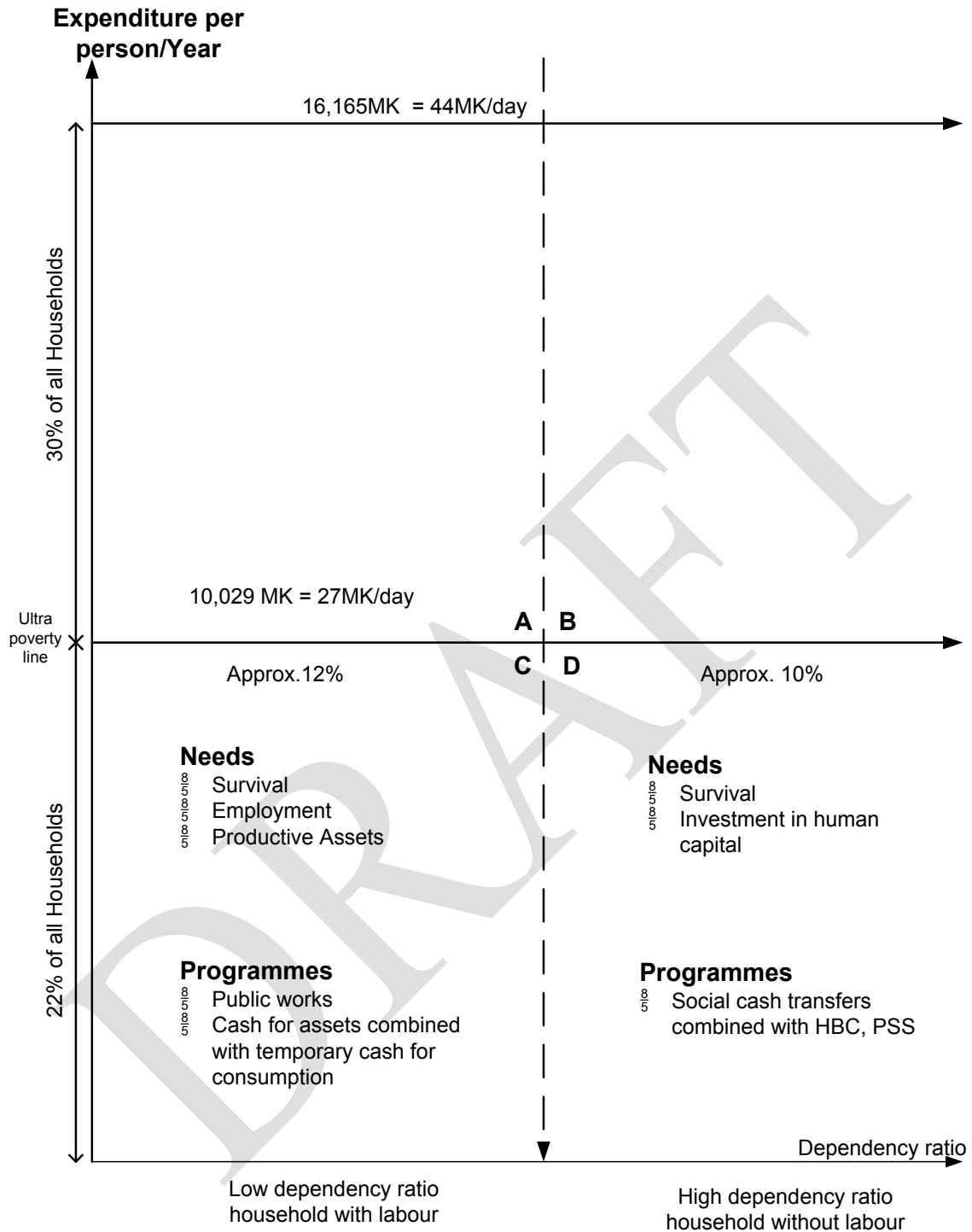
disabled, elderly, child-headed) or when a HH member who is fit but has a dependency ratio of more than 3 dependents.
NB See diagram below.

The levels of cash transfers per month are as follows:

- 1 person household (HH): MK 600 / app. 4 USD
- 2 person HH: MK 1,000 / approx. USD 7
- 3 person HH: MK 1,400 / approx. USD 10
- 4 person HH: MK 1,800 / approx. USD 13

There is a bonus for primary school going children of MK 200 and for secondary school going children of MK 400.

The average cost per HH per month is USD 13 and annually USD 156 plus 20 USD for operational costs.



14,332 732 1109 **16,773**

9,734 483 677 **10,894**
(68%) (68%) (61%)

7,868
(81%)

370
(77%)

524
(77%)

8,762

37
(1.2%)

1
(0.5%)

2
(0.6%)

40

2,018
(65%)

137
(71%)

243
(73%)

2,398

nd, the aim is to reach **6,000 HHs** in the four pilot districts of Mchinji, Likoma, Machinga
na.

Some of the results after one year

- More than 60% of the beneficiaries are children;
- A social cash transfer programme focusing on ultra poor labour constrained households is at the same time a child welfare programme. By adding a child education bonus, the programme can benefit children and be seen as an investment in human capital.
- High effectiveness of targeting (94% correct), payments being made reliably and cost-effectively;
- Reduced operational costs: 1.2% in May for the cash payments;
- Preliminary results show clear impact on meeting the basic needs, such as food, clothing, access to education (18% increase to primary

school) and (12% improvement in school performance) and increased access to health services;

- Many HHs have invested in their shelter; 75% of HHs report to have enough blankets for all HH members; livestock (61% HH's chickens, 46% goats), HH's harvested on average 12 bags of maize (50kg's each) as well as groundnuts and soya beans as they used improved seeds and fertilizer;
- Nutrition of persons living with HIV has improved.
- As opposed to a year ago where only 2% of HHs had 3 meals a day now 75% have 3 meals a day.

Government has requested a rapid scale up to 7 additional districts by the end of 2008. Malawi is in the process of designing a Social Protection Policy and Programme. An external evaluation of the pilot project is in progress.

12. SERVICE DELIVERY

Malawi has gone a considerable way in decentralizing authority and financing to the 32 districts, made up of 28 district and 4 municipal districts based on the 4 largest towns (Lilongwe, Blantyre, Zomba and Mzuzu). The districts are run by District Assemblies assisted by the Executive Committee of the District Assembly made up of the District Commissioner and the Heads of Departments (about 11). The other major district committee is the District AIDS Coordinating Committee (DACC). The District Assembly can make bye-laws.

The District Development Plan is made up of a consolidation of the Village Action Plans from each VDC which goes via the Area Level or Traditional Authority to the District Assembly and then is brought together with the district departments sectoral plans. The DSWO is the prime mover in compiling a District Action Plan for OVCs in conjunction with DACC. 27 of the 28 districts produced one of these in 2007. The District Development Plan and the District Action Plan for OVCs (DAP) are put together in the District Annual Investment Plans and consolidated by the MoLG for Ministry of Finance funding. The chief economist in MoLG said that in his reviewing DPPs and reading the DAPs, which he described as focused, he had come to appreciate the problems of OVCs.

12.1 Department of Child Development

The department is meant to have 395 'Professional Staff' but only 128 posts are currently filled (21 of these at Headquarters) so two-thirds of the department's staff allocation, namely 267 posts are vacant. This averages out as just over 3 staff per district. The great majority of staff in post 83% only have a secondary school certificate; some after 2 years with a JCE (11%) others after 4 years with a MSCE (72%); 6% have a diploma and 11% have a degree. There are in addition 359 Community Child Protection Workers distributed through the districts with a wide range of duties according to their job description. Arguing the department's case for resources, promoting networking and advocating on policy is made

harder when you have a limited educational background and capacity and as a consequence may lack the authority needed to be convincing at the district level. There is therefore a major role for the upgrading of the qualifications of the majority of the department's staff so that they may be more confident in their role.

District staff who are few have a wide range of duties requiring specific skills and they face many competing demands. Their duties include: care and protection issues, care of OVCs, probation and court duties, supervision of staff, NGO coordination, training Home-Based Carers and Community Child Protection Workers, monitoring the Children's Homes and the children in them, assessing the functioning of Community-Based Childcare Centres, attending district meetings, deputised regional duties, compiling the District Action Plan for OVC, ensuring budget allocation, organise bursaries, operate public assistance and when cash transfers comes the DSWO and his staff have a major role in its implementation. In this situation there is little time for child risk assessments, counselling and home visits. Although there is some specialisation at HQ there is little in respect to alternative care.

The pay for staff is low with a DSWO having a net salary per month of K12,000/\$80; and a DSWA of K6,000/\$40. Community Child Protection Workers earn only \$10 per month plus a few perks. When a DSWO receives only US\$ 2.50 per day it requires a very committed person to fulfill all the tasks expected of them. This is made harder with the transport constraints that exist.

Issues:

- Apart from the Catholic University which has just started a 4 year social work degree course there are no other institutions teaching a social work degree in Malawi. Magermero where most staff go only offers a course giving a certificate in social work. It is important for assisting the upgrading that it is encouraged to develop a social work diploma course.
- Staff should receive a living wage.
- If staff are to fulfill all their functions then the department should receive its full staff complement.
- If DCD is to continue involvement in cash transfers consideration be given to a separating of roles between those involved in social protection/cash transfers from child protection.

12.2 NGOs

None of the NGOs met with namely, Plan, WVI and Every Child undertake fostering or advocate adoption. However, they all work either directly or indirectly to prevent family breakdown. WVI operates its sponsorship programme nationally the others specialise in particular districts and take an integrated development approach. They are often involved in District Executive Committees in the areas they work.

13. GENERAL ISSUES ON CAPACITY AND RESOURCES TO MANAGE ALTERNATIVE CARE.

Given below are some specific recommendations to assist in the improvement in alternative care.

13.1 Knowledge Management, Information, Research and M&E

13.1.1 Informal Care

A method is required to determine and register how many of the 20% of children who are not living with their biological parents are in non-relative care. MoWCD could gain a clearer impression by linking up with Unicef on a further analysis of the MICS, DHS and HIS data. Another approach could be questions in the next census or through the VDCs as suggested in the MoWCD guidelines for OVC but would need sensitisation of local communities, committees and Headmen. This information would be both of practical value in identifying those who should be visited to check their circumstances are satisfactory but also in advocacy for more resources.

13.1.2 Formal Alternative Care outside Children's homes

There is a lack of data on fostering and adoption and it would be helpful if district and national registers were kept by DCD staff. In relation to adoption figures the Adopted Children Register held by the Registrar General of Births and Deaths should provide some information.

13.1.3 Children's Homes

The research that has been done by the MHRC is a preliminary assessment of the Homes. If a follow-up study were done on the children in each home to include an assessment of why they are there, what contacts they have with their families (such as are they visited and do they go home for holidays), how long they have been there, the children and the Homes' plans for each child's reintegration and other matters as set out in an assessment form this would provide a base-line study for the DCD and others, particularly as to whether it is really necessary for these children to stay there.

In addition, regular inspections of Homes if coordinated will assist in building up a picture of what the situation of children is in the Homes and what is being done to assist them in their reintegration. It would build on the proposed research above and would be useful both for national and district DCD staff in deciding what approach to take to the Homes visited.

13.2 Data Management

Compile national/district data on fostering, adoption, supervision, probation, all children in Children's Homes (why there and relatives alive etc), exact number of Homes and review cases of care and protection in Reformatory Centres. It would be helpful if these were published in an annual report. This will require an emphasis on data collection and analysis at both the district and national level and cooperation between them.

13.3 Determination of Roles

There is ambiguity over some roles and responsibilities with regard to assessments, planning and review for the care and protection of children; this is affecting "best interests" decision

making with regard to placement of children. The current law is silent on these matters and no guidelines have been produced. Clarity is needed with regard to:

- The process for admission of a child to a Children's Home
- Responsibility for case management and planning for the reintegration of a child and follow up visits;
- Foster care the law only uses the term "fit persons" and gives no guidance as to selection of parents, assessment and supervision and which children should benefit;
- Inter-country adoption processes.

13.4 Standards in Alternative Care Practice

13.4.1 Children's Homes

Unregistered Homes need to be investigated, registered or closed. The Children's Homes Regulations should be circulated and explained to each Home as they have laid down a set of minimum standards. However, there is nothing in it on the gate-keeping of admissions. Inspections are a way to ensure that these regulations are either met or that serious efforts are being made to do so; where that is not the case an agreement as to the changes to be made within an agreed timeframe needs to be negotiated otherwise the Home needs to understand it will be liable to closure. It has been helpful elsewhere for there to be a designated inspector who is supported by a small committee of respected persons to back up the inspection team's judgement.

The DCD to work with all the Homes to deliberate and agree on the quality standards they should aspire to, which are about working for the best interests of each child in their Home rather than just the minimum standards, and what they need to do in order to achieve them.

13.4.2 Social Work Practice

The promotion of foster care and adoption as respective alternative care and permanent care strategies have not been a priority of DCD. Formal foster care is a temporary solution, particularly helpful for babies and keeping children in a family atmosphere as opposed to a Home. Formal foster parents should be paid a monthly fee, both for the costs they incur and so as to require that certain standards are kept. Adoption provides a permanent solution for those abandoned where there is no one from the extended family available. The promotion of domestic adoption should be considered and when no such placement is available inter-country adoption as an alternative but this would be best done under a ratified Hague Convention.

There appears to be little use of probation and supervision as ways of keeping children in the community rather than in institutions.

DCD staff have little involvement in detention institutions or Children's Homes. There appears to be little by way of after-care and reintegration follow-up when a child returns to the community.

13.5 Law, Policy & Guidelines

The current laws are silent in some important areas of alternative care so until the new laws are passed it will be the policies and guidelines that direct much of the department's work in

this area. The one exception to this is the Children's Home Rules, if it were also possible to include admission rules that would ensure Homes conform to a set procedure in gate-keeping. The draft Child Bill is a great improvement but could benefit from further review. The policy for OVCs outlines important principles. The NPA for OVC needs to be a working tool and priorities decided on.

In the current situation guidelines become vital and if they have not been circulated they should be reviewed and then disseminated through workshops and monitored.

13.6 Service Delivery

The department is overburdened with tasks while at the same time being grossly understaffed and lacking in proven technical skills. The shortage of professional staff needs to be corrected and salaries increased so they receive a living wage. MoWCD could involve donors, UN bodies, influential Malawi agencies, eg MHRC, INGOs and others in pressing for those improvements so as to better address the million plus OVCs. If the MoWCD wants to push forward an alternative care strategy based on prevention through family support then it should consider the establishing of a Care & Protection unit at HQ to promote best practice in family support, fostering, adoption and in Children's Homes. For this there would need to be some well qualified staff as resource persons who would also advocate best practice in the use of these interventions. The districts would benefit if there were staff trained in these areas in the districts.

A problem is that family support, fostering, adoption and Homes are if well monitored and organised intensive users of staff time. If such a strategy is to work there will need to be greater defining of staff roles in some form of rationalisation at district level. Alternatively the off-loading of some work could be investigated but that too would require monitoring. The constraints on the department's human resources are likely to grow with the scaling up of the cash transfer scheme so some protection of family support and alternative care strategies seems essential.

The Director of DCD suggested that the department draw up a 5 Year Work Plan to establish a C & P Unit at HQ and District C & P specialists with guidelines and set targets.

The upgrading of the qualifications of staff who have had very little formal social work training would improve service delivery. If Magermero were to offer a diploma in social work this would be of immense assistance to the department.

Once the mechanisms for a Care & Protection Unit are in place the DCD would be in a better position to work to reduce the number of children in the Children's Homes; to monitor admissions to the Homes; to promote temporary foster care placements for babies prior to adoption and to promote the permanent solution of adoption.

To enable district staff to undertake their work quicker the provision of motorcycles after appropriate training and understanding of maintenance would make a difference as to what they can do.

13.7 Social Protection

Government has requested the scaling up of the cash transfers project from the original 3 districts to 7 more. The implications for the DCD are enormous. If currently the project is taking up a good deal of staff time while covering 4 of the Traditional Areas (TA) in Mchinji it will take up more when all 9 of the TAs in the district are included. How DCD staff will be able to do their statutory and other work is an issue that the department will have to review. The use of staff if the MoWCD wish to stay involved in cash transfers may have to be rationalised so that not everyone takes part. The MoWCD could benefit from learning how much staff time has been involved in cash transfers in Mchinji. It would be useful in this respect to link up with the researcher Dr Miller of Boston University, who is evaluating the project so that she could specify where the department's staff has shown itself to be critical to the success of the project and where its personnel might not be needed but where others could undertake that work.

13/12/2007