**POLICY FRAMEWORK ON ORPHANS AND OTHER CHILDREN
MADE VULNERABLE BY HIV AND AIDS
SOUTH AFRICA**

"Building a Caring Society Together"

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Bibliography/Documents consulted

Foreword

The HIV and AIDS epidemic has become one of the critical challenges that threatens to reverse the developmental gains made since 1994 and the realization of children's rights in South Africa. The problem is compounded by the increase in the number of orphans and vulnerable children, mainly due to the high rate of deaths among parents and caregivers. While HIV and AIDS dramatically increase the population of orphans and vulnerable children, it also reduces the pool of traditional caregivers and the number of breadwinners. We are now confronted with many households that are being headed by grandparents or by children without adult supervision. AIDS undermines the ability of the very people who are best equipped to raise these orphans, or to contribute to their upbringing.

The realisation of the rights of orphans and other children made vulnerable by HIV and AIDS and the vigorous advancement of the social development agenda to restore their dignity and well being requires collective effort from government, business sector, civil society and the strengthening of community responses. This is the cornerstone of the Policy Framework on orphans and other children made vulnerable by HIV and AIDS. To this end we will continue to foster inter-governmental cooperation and also enlist the support of donors and of both local and international development agencies. These partnerships will ensure that policies and plans are being translated into realities that will benefit orphans and vulnerable children in their communities.

The Policy Framework reflects the collective commitment of government, faith-based organizations, community-based organizations, civil society and the business sector and serves as a guiding tool to all people involved in HIV and AIDS and the children's sector. It seeks to reinforce the existing commitments and efforts to create a supportive and enabling environment for our children.

Dr ZST Skweyiya
Minster of Social Development

Definitions

Best Interests of the Child	A flexible standard that takes into account the relevant factors for the individual child as well as all the other rights of the child.
Child	Any person under the age of 18 years.
Child Care Forum	A forum consisting of a locally based organised group that is committed to caring for children within their community.
Child Headed Household	Is recognised when the parent or primary caregiver of the household is terminally ill or has died, no adult family member is available to provide care and support and where a child has assumed the role of primary caregiver in respect of a child or children in the household in terms of providing food, clothing, and psycho-social support.
Community Based Care	Enables the individual, family and community to have access to services, which are nearest to home, encourages participation by people, responds to the needs of people, encourages traditional community life, and strengthens mutual aid opportunities and social responsibilities - psychosocial in focus.
Home Based Care	The provision of comprehensive services by formal and informal caregivers in the home to promote, restore and maintain a person's maximum level of comfort, function and health, including care towards a dignified death.
Orphan	A child who has no surviving parent caring for him or her.
Primary Caregiver	A person who has the parental responsibility or right to care for the child and who exercises that responsibility and right.
Vulnerable Child	A child whose survival, care, protection or development may be compromised due to a particular condition, situation or circumstance and which prevents the fulfilment of his or her rights.

Acronyms

AIDS	Acquired immune deficiency syndrome
CBO	Community-Based Organisation
FBO	Faith Based Organisation
HCBCS	Home and Community Based Care and Support
HIV	Human Immunodeficiency Virus
IDP	Integrated Development Plan
NACCA	National Action Committee for Children Affected by HIV and AIDS
NPO	Not for Profit Organisation
NIP	National Integrated Plan for Children Infected and Affected by HIV and AIDS
OVC	Orphans and other children made vulnerable by HIV and AIDS
PLHA	Person Living with HIV and/or AIDS
SANAC	South African National AIDS Council
UNCRC	United Nations Convention on the Rights of the Child
UNGASS	United Nations General Assembly Special Session

Executive Summary

The socio-economic impact of the HIV and AIDS epidemic results in family, community and social disintegration. This is evidenced by the increase in the number of orphans and vulnerable children, child- headed households and the inability of the extended family system to provide such children with basic requirements such as shelter, food, medical care, education, love and support. It is estimated that at least one in eight children are already orphans while many more are living with and often caring for ill parents or primary caregivers, as well as for their siblings. Stigma, discrimination and poverty lead to these children being denied or discouraged from accessing basic services, such as health care, education and social services.

The extended family, which is already weakened by social upheaval, urbanization and poverty, is not able to provide care and protection for such large proportions of orphans and vulnerable children. The crisis has led to a situation where the protection of the rights of orphans and other children made vulnerable by HIV and AIDS can no longer be guaranteed without government, community, business and civil society interventions.

A Conference: " A Call for Coordinated Action" was held during 2002 to establish:

- A common understanding regarding the interpretation of legislative and policy issues and make recommendations for co-ordination between different sectors to ensure implementation of policy on: identification of children in need, accessing basic services such as social grants (including birth certificates), and alternative care (foster care, kinship care, adoption, cluster foster care, community care and institutional care).

- Co-ordination between all sectors of South African society to ensure that children that are affected by HIV and AIDS (including child headed households) have access to services that provide their basic rights for food, education, shelter, health care, family or alternative care and protection from abuse and maltreatment.

- Mechanisms of co-ordination at local, district, provincial and national levels.

The Policy Framework on orphans and other children made Vulnerable by HIV and AIDS has therefore been a stakeholder driven undertaking that promotes an enabling environment for more effective delivery on the existing obligations and commitments on orphans and other children made vulnerable by HIV and AIDS at legislative, policy and programme levels.

As a policy framework it serves to:
- confirm existing policy and refer to intended policy;
- reinforce existing, relevant legislation and the links between various pieces of legislation and policies
- provide a rationale for common action by different government departments and civil society for the implementation of various strategies in order to promote the rights of OVC
- clarify the approach, principles and intentions for coordination and effective partnerships

The objectives of the Policy Framework on Orphans and Other Children made Vulnerable by HIV/AIDS provides a framework to:

- To ensure coordinated action at national, provincial, district and local level to realise the rights of orphans and other children made vulnerable by HIV and AIDS, their caregivers, families and communities
- To ensure that legal, policy and institutional frameworks for the protection and promotion of the rights of affected children are implemented at all levels
- To provide an overarching framework to support stakeholders in the development of comprehensive, age appropriate, integrated and quality responses to orphans and other children made vulnerable by HIV and AIDS.

The six key strategies, which will assist in developing comprehensive, integrated and quality responses for orphans and other vulnerable children at programmatic level   are;

1. Strengthen and support *the capacity of families* to protect and care.
2. Mobilise and strengthen *community-based responses* for the care, support and protection of orphans and other children made vulnerable by HIV and AIDS.
3. Ensure that legislation, policy; strategies and programmes are in place to protect *the most vulnerable children.*
4. Assure access for orphans and children made vulnerable by HIV and AIDS to *essential services.*
5. *Raise awareness and advocate for the c*reation of a supportive environment for OVC.
6. *Engage the civil society sector and business community* in playing an active role to support the plight of orphans and children made vulnerable by HIV and AIDS

The last strategy could be seen as crosscutting in that it supports the implementation of the other strategies. The implementation of these strategies is key to ensuring South Africa's achievement of the Millennium Development Goals and the United Nations General Assembly Special Session (UNGASS) Declaration of Commitment on HIV and AIDS.

The National Action Plan which builds on the foundations of the Policy Framework, creates and promotes a supportive environment in which orphans and other children made vulnerable by HIV and AIDS are adequately cared for, supported and protected holistically to grow and develop to their full potential.

Section One   Introduction

1.1   Rationale

The Policy Framework on Orphans and other Children Affected by HIV and AIDS honours commitment to children in relation to two processes.

The National Conference, "A Call for Coordinated Action for Children Affected by HIV and AIDS" held in 2002, mandated the Department of Social Development to establish the National Action Committee for Children Affected by AIDS (NACCA) as a permanent coordinating structure of government departments, civil society, business and development agencies, lead by the Department of Social Development. The conference also mandated NACCA to:

> *Facilitate and coordinate mechanisms at national, provincial, district and community levels, to alleviate the impact of HIV and AIDS on the lives of children.*

South Africa is a signatory to the Declaration of Commitment of The United Nations General Assembly Special Session on Children held in 2002 (UNGASS). One of the articles of the Declaration is:

> *By 2003 develop, and by 2005 implement, national policies and strategies to:*
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> *Build and strengthen governmental, family and community capacities to provide supportive environments for orphans and girls and boys infected and affected by HIV/AIDS, including by providing appropriate counselling and psycho-social support; ensuring their enrolment in school and access to shelter, good nutrition, health and social services on an equal basis with other children; to protect orphans and vulnerable children from all forms of abuse, violence, exploitation, discrimination, trafficking and loss of inheritance. (Article 65)*

1.2   Purpose

The purpose of the Policy Framework is:

- To promote an enabling environment for more effective delivery on commitments to orphans and other children made vulnerable by HIV and AIDS at legislative, policy and programmatic levels.
- To encourage flexibility, and effective harmonisation and coordination between various legislation, policy and regulations within and between government departments and between stakeholders at all levels.

1.3   Approach

South Africa has a comprehensive and dynamic legislative and policy environment and one that has in recent years been adjusted to provide for the impacts of HIV and AIDS. The approach adopted in compiling the Policy Framework was to take into account:

- Policies, laws, regulations, programmes and activities related to the protection, empowerment, and care of children at risk for the violation of their rights due to HIV and AIDS.
- The considerable research that exists on the needs and rights of orphans and other vulnerable children in the context of HIV and AIDS, including - government documents, research reports by academic institutions, case experience of NGOs active in the field and most importantly, research with children themselves.
- The history of effort made to develop an effective response to address the rights of orphans and other vulnerable children.
- That many legislative and policy formulation processes drawn on in this Policy Framework included consultation with children.
- The Policy Framework should be consistent with other initiatives that address the rights and needs of children, including current and intended legislation and policy.
- That the Policy Framework would be cross cutting with existing and draft legislation, policies and regulations, though these would not necessarily be focussed on children or HIV and AIDS
- The recommendations of the earlier initiatives of NACCA and of others.

1.4   Children's Rights

Section 28 of the South African constitution provides for the rights of children in South Africa. The South African Government is also a signatory to the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child[1],

Children's Rights are underpinned by four major principles:

- The right of the child to survival, development and protection from abuse and neglect
- The right to have a voice and be listened to
- That the best interests of the child should be of primary consideration
- The right to freedom from discrimination.

1.5   The Impact of the HIV and AIDS Epidemic on Children's Rights

The HIV and AIDS epidemic is a major catastrophe which threatens South Africa's ability to meet its commitments to the realization of children's rights. The epidemic exacerbates the difficult circumstances of many children in South Africa[2] that result from poverty, lack of access to resources and services, minimal infrastructure, fragmented families, and violence and abuse against women and children. This is eroding precious and hard won development gains made since 1994.

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[1] See Section 4.1.1
[2] Annexure One South Africa's Children: Indicators.

The epidemic is causing a rapid increase in the number of orphans. It is estimated that by 2010 South Africa will have two million orphans. AIDS is reducing the pool of traditional caregivers and the numbers of breadwinners resulting in increased poverty and reduced care giving for children. There are already a considerable number of children who care for terminally ill parents or caregivers and this impact negatively on the psychosocial well being of children due to the difficult living circumstances and awareness of their impending loss. These circumstances compel many children to withdraw from school as they take on adult responsibilities at a very young age and this exacerbates their vulnerability as they lack protection and are at risk of abuse.

Children are also vulnerable to HIV infection through peri-natal exposure, sexual abuse, or unprotected sex and may also be exposed to HIV infection through nursing HIV positive and terminally ill parents or caregivers if they are not properly informed to exercise precautions or do not have the necessary equipments to avoid contact with body fluids.

The direct impacts of HIV and AIDS on children occur as material problems such as poverty, food security, education and health, and also non-material problems related to welfare, protection and emotional, social and spiritual well being.[3]

Some of the rights of children that are violated:

- Food and food security
- Health
- Shelter and protection of property and inheritance
- Parental love, care and nurturance or appropriate alternative care
- Education
- Play and recreation
- Identity
- Protection from abuse
- Protection from child labour
- Participation by children in the decisions that affect their lives.

1.6   Glossary

1.6.1   Child

A child is any person under the age of 18 years.[4]

Legal exceptions to the age of majority in South Africa include those related to the age at which a child may be married, make a will or consent to treatment, attain legal capacity to inherit, or conduct particular transactions such as enter into contracts or open a bank account. The age of majority, if attained prior to age 18, should not limit or constrain the other rights of the child as defined.

The "best interests of the child" qualifies this definition, as children are not a homogenous group, defined simply by a broad age range. It is important that, other

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[3] Annexure Two: The Impact of HIV/AIDS on Orphans and Vulnerable Children.
[4] The South African Constitution

factors are taken into account, when responding to their needs and striving to realise their rights. These factors include the specific age of the child, developmental stage, level of maturity reached, individual abilities and personality and current circumstances (such as a traumatic event or history).

The transition from childhood (under 18 years old) to young adulthood especially in child-headed households needs to be carefully addressed, as they will need continued support.

1.6.2. Orphan

A child who has no surviving parent caring for him or her.[5]

The definition takes into consideration childcare and child rearing practices prevalent in South Africa, where significant numbers of children are brought up in households headed by single and mainly female parents. It is important to note that the definition makes no reference to the causes of orphanhood.

1.6.3. Vulnerable Child

A child whose survival, care, protection or development may be compromised, due to a particular condition, situation or circumstance and which prevents the fulfilment of his or her rights.

Children who are vulnerable as a result of HIV and AIDS include children:

- Vulnerable to HIV infection, including those who are HIV exposed e.g. peri-natal exposure, sexual abuse, sexually active or engaged in transactional sex.
- In households where there are sick persons and where children due to ignorance do not practice universal precautions.
- Infected with HIV.
- Whose parent or primary caregiver is terminally ill and this affects children in a variety of ways before and after the death of their parent/s.
- With no surviving parent or alternate caregiver to care for him/her.
- Who are abandoned e.g. by parent/s, other primary caregivers, or by extended family.
- In households that care for orphans and/or abandoned children and which often experience increased poverty as a result.
- Who experience high levels of mobility between households
- Who experience multiple bereavements and the trauma of death
- In households where they face significant physical, mental, social and emotional harm or neglect.
- In need of legal protection and alternative family care

1.6.4. Child-headed household

Child-headed households are recognised as a family type when:

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[5] Draft Children's Bill, Republic of South Africa, 2003:30.

- *The parent or primary caregiver of the household is terminally ill or has died.*
- *No adult family member is available to provide care for the children in the household.*
- *A child has assumed the role of primary caregiver in respect of a child or children in the household in terms of providing food, clothing, and psychosocial support.*

1.6.5. Primary Caregiver

A person who has formal or informal parental responsibility or right in caring for the child and who exercises that responsibility and right

Section Two   Vision, Mission, Objectives and Principles

2.1   Vision

Orphans and other children made vulnerable by HIV and AIDS grow and develop to their full potential.

2.2   Mission

Create and promote an enabling environment in which orphans and other children made vulnerable by HIV and AIDS are adequately protected, cared for, and supported holistically to grow and develop to their full potential within their communities. [6]

2.3   Policy Framework Objectives

- To ensure coordinated action at national, provincial, district and local level to realise the rights of orphans and other children made vulnerable by HIV and AIDS, their caregivers, families and communities
- To ensure that legal, policy and institutional frameworks for the protection and promotion of the rights of affected children are implemented at all levels
- To provide an overarching framework to support stakeholders in the development of comprehensive, age appropriate, integrated and quality responses to orphans and other children made vulnerable by HIV and AIDS.

2.4   Guiding Principles

- Protect and promote human and children's rights
- Develop coordinating structures at all levels to ensure effective and appropriate service delivery to OVC, their families and communities
- Ensure that children, as far as possible, remain and are cared for in their homes or communities of origin.
- Ensure that services are accessible, community based and differentiated along a continuum of care including psychosocial support for OVC, their primary caregivers and families.
- Ensure that communities and stakeholders, including OVC and their primary caregivers and families, are involved in the planning, decision-making, implementation and monitoring of policies and programmes.
- Develop the capacity of individuals, families and communities to realise the material and non-material rights of children.
- Adopt an inclusive approach to enable OVC to be exposed to the same challenges, activities and opportunities that promote their social participation and development as all other children.

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[6] Holistic includes physical, psychological, material, social, moral, spiritual and legal

Section Three   Coordination

3.   Introduction

The realisation of the rights of OVC and the advancement of the social development agenda to restore the dignity of people requires collective and coordinated effort. The requirements of OVC are wide-ranging and no single ministry, department or sector can be solely responsible for addressing the consequences of the HIV and AIDS epidemic.   The Department of Social Development was mandated at the Conference of 2002 to take the leading role in overseeing the establishment of coordinating mechanisms at all levels.

Coordination of the effort and expertise of many government departments and development agencies and civil society is needed to reach OVC, avoid duplication and ensure the optimal use of resources. A dedicated coordinating structure for orphans and other children made vulnerable by HIV and AIDS on all levels (national, provincial, district and local) is central to the Policy Framework

3.1   Objectives of the Coordinating Structure

The objectives of the coordinating structure are:

- To promote coordination between all stakeholders at all levels - government, non-governmental, civil society, private sector and labour – to effect action to realize the rights of OVC.
- To share information with regard to issues and programmes for orphans and affected children.
- To promote collaboration between stakeholders to improve services and programmes for orphans and children made vulnerable by HIV and AIDS.
- To ensure ethical research is conducted into relevant issues and that the findings of research inform action to improve the circumstances of orphans and other children made vulnerable by HIV and AIDS.
- To advocate, together with relevant stakeholders, to ensure that action to secure the rights of OVC remains a priority.
- To mobilize and disburse resources for the implementation of the Policy Framework for Orphans and other children made vulnerable by HIV and AIDS.

3.2   Outcomes of Coordinated Action

Outcomes of co-ordination at the structural level include:

- Structures established at all levels, and in particular community level, to facilitate services to OVC.
- Cohesive plans of action to reach all OVC including those in farming areas and informal settlements that are resourced and whose implementation is monitored.
- Development of national guidelines, training material, standard procedures.
- Trained human resources at each level.
- Technical assistance to programmes for OVC.
- Documentation and distribution of lessons learned.

Coordinated Action: National, Provincial, District & Municipal

Objective	National	Provincial	District	Local
1. To promote coordination between all stakeholders -- government, non governmental, civil society, private sector and labour – and to effect action to realise the rights of orphans and other children made vulnerable by HIV and AIDS	• Ensure coordination at National level. • Support and strengthen the establishment of coordinating structures at provincial level • Create linkages with other coordinating structures for children and HIV and AIDS at national level e.g. National Plan of Action (NPA), Community-based care and support structures, South African National AIDS Council (SANAC)	• Ensure coordination at provincial level • Support and strengthen the establishment of coordinating structures at district level, • Provide regular feedback to NACCA. • Create linkages with other coordinating structures for children and HIV and AIDS e.g. Provincial Plan of Action (NPA), Community-based care and support structures, Provincial AIDS Council	• Ensure coordination at district level • Support and strengthen the establishment of coordinating structures at local levels • Provide regular feedback to the provincial coordinating mechanism • Create linkages with other coordinating structures for children and HIV and AIDS e.g. District Plan of Action (DPA), Community-based care and support structures, District AIDS Council (DAC)	• Coordinate community activities to meet the needs of OVC. • Promote coordination at community (or ward) level between all stakeholders that are working with and for OVC to develop a network of care for OVC • Provide regular feedback to the district coordination mechanism • Create linkages with other coordinating structures for children and HIV and AIDS e.g. Local Plan of Action (LPA), Community-based care and support structures, Local AIDS Council (LAC)
Objective	**National**	**Provincial**	**District**	**Local**
2. To share information with regard to issues and programmes for orphans and affected children	• Enhance and develop communication channels and mechanisms to disseminate information within and between all levels of coordination. • Promote the development of communication materials	• Share information about new/ongoing developments. • Promote dissemination and flow of information to all levels .	• Share information about new/ongoing developments between stakeholders and with provincial coordinating mechanism • Disseminate communication materials to all local coordinating mechanisms	• Raise issues highlighted by Wards with the District and disseminate information regarding programmes and issues to Ward level.
Objective	**National**	**Provincial**	**District**	**Local**
3. To promote active collaboration between stakeholders to improve services and programmes for orphans and children made vulnerable by HIV and AIDS.	• Develop and implement a national action plan for OVC. • Develop and implement an operational plan for national co-ordinating structure • Develop and coordinate mechanisms to provide support, guidance and technical	• Develop and implement an operational plan for provincial coordinating structure. • Develop and implement a provincial action plan for OVC that complements the national plan. • Ensure programmes are in	• Develop and implement an operational plan for district coordinating structure. • Develop and implement a district action plan for OVC that complements the provincial plan • Monitor and evaluate all programmes regularly to derive	• Develop and implement an operational plan for the local coordinating structure • Develop and implement a local action plan for OVC that complements the district/provincial plan • Establish, train and support

	assistance to programmes including production of training materials. • Develop standards to optimise service delivery • Monitor and evaluate all programmes regularly to derive lessons learned. • Promote change to improve impact and scaling up programmes. • Develop and disseminate guidelines of good practices.	place to build the capacity of all stakeholders to improve service delivery and to realise the rights of children. • Develop and coordinate mechanisms to provide support, guidance and technical assistance to programmes. • Monitor and evaluate all programmes regularly to derive lessons learned. • Promote change to improve impact and scaling up programmes. • Ensure standardisation of procedures to optimise service delivery.	lessons learned, • Promote change to improve impact and scaling up programmes to farms and informal settlements • Build the capacity of all stakeholders to improve service delivery and to realise the rights of children	Child Care Forums at community level to ensure that all OVC are identified and receive appropriate services. • Ensure that effective referral systems are in place. • Ensure that services are accessible • Identify training needs of stakeholders. • Monitor and evaluate all programmes regularly to derive lessons learned. • Promote change to improve impact and scaling up programmes to farms and informal settlements.
Objective	National	Provincial	District	Local
4. To ensure that ethical research is conducted into relevant issues, and that the findings of research inform action to improve the circumstances of orphans and other children made vulnerable by HIV and AIDS.	• Promote relevant national research. • Coordinate research activities to avoid duplication • Collect a database of all research into the situation of children affected by HIV/AIDS that is available for practitioners	• Promote relevant research. • Coordinate research in the province to avoid duplication • Ensure that Districts have access to the national database of research • Ensure that the results of any research conducted within the province are shared with the communities in which research was conducted and that the results inform the district and provincial action plans for OVC	• Ensure that the findings of any research that is conducted in the district are fed back to the communities in which the research was conducted and that the recommendations from the research are used to improve programmes for children within the district. • Ensure that the database of all research into the situation of children affected by HIV/AIDS that is available for practitioners within the district.	• Ensure that the findings of all research conducted in the local area are communicated to the community and that the recommendations from research are incorporated into programmes to benefit OVC • Ensure that the database of research into the situation of OVC available for practitioners in the local level
Objective	**National**	**Provincial**	**District**	**Local**
5. To advocate, together with relevant stakeholders, to ensure that action to secure the rights of orphans and other children made vulnerable by HIV and AIDS	• Create a platform for national level advocacy. • Lobby for all state departments to have a budget for children with a link between policy and budget	• Create a platform for advocacy within the province • Lobby that the all provincial departments have a budget for children with a link between policy and budget	• Create a platform for advocacy within the district. • Lobby that the all departments have a budget for OVC. • Ensure that the district IDP includes addressing issues of	• Create a platform for advocacy in the municipality • Lobby that all departments have a budget for OVC. • Ensure that the issues of OVC are addressed in the municipal

remains a priority.	• Raise issues with relevant authorities on the national level for action.	• Raise issues with relevant authorities within the province for action.	OVC.	IDP. • Raise issues with relevant stakeholders for action.
Objective	**National**	**Provincial**	**District**	**Local**
6. To mobilize and disburse resources for the implementation of the Policy Framework for Orphans and other children made vulnerable by HIV and AIDS.	• Mobilise resources from all stakeholders. • Ensure equitable distribution of resources to all provinces with particular attention to under-serviced areas.	• Mobilize resources within the province. • Ensure equitable distribution of resources within the province for the implementation of the Policy Framework for Orphans and other children made vulnerable by HIV and AIDS	• Mobilise resources within the district. • Ensure that resources are distributed equitably within the district • Monitor the use of resources to ensure that these are utilized efficiently.	• Mobilise resources within the municipality.

3.3   Co-ordination: The Role of State and Civil Society Structures

3.4   State Departments

3.4.1   The Presidency: Office of the Rights of the Child

- Develop national framework for the advancement and coordination of children's rights delivery.
- Mainstream a child-centred approach to policy, planning, programming, communication and funding process in government.
- Facilitate mainstreaming capacity building for children's rights focal points in government.
- Advocate for children's rights delivery in government.
- Monitoring and evaluation of children's rights delivery in government.
- Coordinate integrated children's rights policy implementation in government.

3.4.2   Department of Social Development

- Facilitate coordination of service delivery for fulfilment of the rights of orphans and other children made vulnerable by HIV and AIDS
- Provide psychosocial support and material assistance to vulnerable children and their families
- Mobilise communities to protect, care and support children
- Mobilise and distribute resource
- Establish of childcare forums at community level
- Provide alternative care options
- Establish and support poverty alleviation programmes
- Registration of Non-Profit Organisation (NPOs)
- Establish and maintain partnership with key stakeholders
- Establish and strengthen home community-based care and support programmes
- Capacity building for families, caregivers, community members, volunteers and other service providers
- Monitoring and evaluation
- Develop legislation, policies and programmes for the protection of orphans and other children made vulnerable by HIV and AIDS
- Establish and strengthen early childhood development programmes that cater for the needs of orphans and other children made vulnerable by HIV and AIDS
- Provide Social Assistance to vulnerable groups
- Implement policy framework for the prevention and management of child abuse, neglect and exploitation

3.4.3   Department of Education

- Educate learners about HIV and AIDS to reduce stigma and discrimination
- Develop mechanisms for school based support system

- Provide academic support for orphans and other children made vulnerable by HIV and AIDS
- Develop capacity-building programmes for educators to enable them to respond holistically to the needs of orphans and other children made vulnerable by HIV and AIDS
- Provide education for all as a priority and key coordinating mechanisms for protecting orphans and other children made vulnerable by HIV and AIDS while promoting opportunities for these children
- Develop and ensure that referral system to other relevant service-providers e.g. social workers, nurses are in place
- Develop and implement appropriate life skills programmes for orphans and other children made vulnerable by HIV and AIDS
- Provide Primary School Nutrition Programme and Food fortification
- Develop and implement early childhood development programmes

3.4.4   Department of Justice

- Ensure that the rights of orphans and other children made vulnerable by HIV and AIDS are protected through the judiciary system
- Ensure uniform interpretation and implementation of the Child Care Act based on the child's rights approach and the best interests of the child.
- Training commissioners on the integrated approach to effectively address the plight of orphans and other children made vulnerable by HIV and AIDS.
- Provide legal representation.
- Enforcing parental responsibility through Maintenance Laws.
- Protect the inheritance rights of orphans and other children made vulnerable by HIV and AIDS

3.4.5   Department of Health

- Provide a comprehensive treatment, care and support programme for the management of HIV and AIDS
- Provide a comprehensive Primary Health Care Service Package
- Implementation of the Integrated Management of Childhood Illnesses (IMCI) protocol
- Implementation of the Protein Energy Malnutrition Programme (PEM), which provides food supplement to children who are malnourished.
- Implementation of the Expanded Programme for Immunisation, which provides routine administration of vaccines against measles, TB, diphtheria, and influenza.
- Implementation of the Prevention of Mother to Child Transmission Programmes aimed at administration of anti-retroviral therapy to HIV infected mothers before, during and after labour and to the newborn baby.
- Monitoring and evaluation
- Coordinate and facilitate access of all communities to all health services

3.4.6 Department of Home Affairs

- Promote, facilitate and provide birth, death, marriage and identity documents
- Provide mobile units in communities for registration purposes to ensure that services are more accessible to the community members

3.4.7 Department of Agriculture

- Promote and facilitate food security
- Provide grants for farming to the poor communities
- Provide training to child headed households and community members on food production.
- Ensure sustainability through strengthening community co-operatives

3.4.8 Department of Housing

- Ensure that the housing needs of households affected by HIV and AIDS are addressed through low cost housing schemes
- Support initiatives of other government departments.

3.4.9 Department of Provincial and Local Government

- Provide infrastructure e.g. early childhood development centres, the provision of land, sport and recreation facilities etc.
- Support the initiatives of NGOs, CBOs, FBOs, civil society and traditional leaders
- Provide free basic services to the poorest households (means tested)

3.4.10 Department of Public Works

- To provide and maintain infrastructure

3.4.11 Department of Correctional Services

- Protect the rights of orphans and other children made vulnerable by HIV and AIDS awaiting trial
- Build the capacity of personnel regarding HIV and AIDS

3.4.12 Department of Trade and Industry

- Develop entrepreneurship skills of child headed households

3.4.13 Department of Labour

- Protect the rights of orphans and other children made vulnerable by HIV and AIDS through the enforcement of legislation related to children e.g. child labour
- Skills development of youth

3.4.14 South African Police Services

- Investigate crime against children;
- Prevent the commission of crime against children;
- Refer children "in need of care" to the Department of Social Development to places of safety or, where possible, to refer children "in conflict with the law" to secure care facilities;
- Ensure that a child who is detained by the police, is detained under conditions that are consistent with human dignity (adequate accommodation, nutrition, reading material and exercise- in accordance with section 35(2) of the Constitution of the Republic of South Africa, 1996(Act No. 108 of 1996));
- Ensure that injured or sick persons in the custody of the South African Police Service receive medical treatment, including hospitalization, where necessary.

3.4.15 Department of Sport and Recreation

- Provide safe recreational facilities for communities

3.4.16 Department of Transport

- Provide safe, affordable and adequate transport

3.4.17 Department of Water Affairs

- Provide safe water to households

3.4.18 Department of Foreign Affairs

- Ensure good relations with other countries regarding issues of children and HIV and AIDS

3.4.19 The House of Traditional Leaders

- Participate in nation-wide campaigns such as HIV and AIDS
- Work in partnership with the Department of Social Development and other government departments
- Support municipalities and local government structures in the identification of community needs
- Play an oversight role on rural development and the promotion of well-being and stability in rural communities.

3.5 Civil Society Stakeholders

3.5.1 National and Provincial Non Profit Organisations

- Mobilise and disburse resources
- Advocate and lobby for the rights of orphans and other children made vulnerable by HIV and AIDS.

- Capacity building of CBOs, FBOs and other organizations and development of training materials
- Develop and manage community based care and support programmes for OVC, including child-headed households
- Develop and implement prevention programmes and campaigns
- Facilitate coordination of service delivery to orphans and other children made vulnerable by HIV and AIDS.
- Ensure quality assurance.

3.5.2 Direct Service Delivery NPOs, FBOs and CBOs

- Identify orphans and other children made vulnerable by HIV and AIDS
- Strengthen family and community coping systems
- Empower families and communities economically
- Support communities to take collective action.
- Mobilise resources
- Provide psychosocial support, spiritual guidance and material assistance
- Develop and implement community based care and support programmes for OVC including child headed households.
- Provide alternate care options
- Capacity building for families, caregivers, community members, volunteers and other service providers.
- Implement prevention programmes and campaigns.
- Establish early childhood development programmes
- Assist with succession planning

3.5.3 Universities and Research Institutions

- Research pertinent issues linked to orphans and other children made vulnerable by HIV and AIDS.
- Advocate and lobby for the rights of orphans and other children made vulnerable by HIV and AIDS.
- Influence legislation and policy development

3.5.4 Donor Organisations

- Provide sustainable and responsible support
- Assist with Monitoring and Evaluation
- Promote research agenda

3.5.5 Media

- Raise awareness regarding issues of orphans and other children made vulnerable by HIV and AIDS
- Mobilise and distribute resources

3.5.6 Business Sector

- Mobilise and distribute resources

- Support structures for employees and their families
- Promote social entrepreneurship through corporate social responsibility programmes

Section Four   Legal and Policy framework

4.   Introduction

The Policy Framework for Orphans and other Children made Vulnerable by HIV and AIDS is set within the following legal and policy frameworks.

4.1   Legislation

4.1.1 The Constitution of the Republic of South Africa, 108 of 1996

The South African Constitution, Act 108 of 1996 is the basis of human rights in South Africa. All rights contained in the *South African Bill of Rights* apply equally to adults and children. Section 28 of the Constitution deals specifically with rights that children have in addition to all other rights contained in the Bill of Rights. These include:

- A name and nationality from birth.
- Family care, parental care, or to appropriate alternative care when removed from the family environment.
- A range of socio-economic rights including the right to basic nutrition, shelter, and basic health care services and social services.
- Protection from maltreatment, neglect, abuse or degradation.
- Not to be required or permitted to perform work or provide services that –
  o are inappropriate to the child's age, or
  o place at risk the child's well being, education, physical or mental health or spiritual, moral or social development.
- To be detained only as a measure of last resort and then only for the shortest and appropriate period of time. Detained children have the right to be kept separately from detained persons over the age of 18 years, treated in a manner, and kept in conditions, that take into account their age; to have a legal practitioner assigned to them in civil proceedings that affect the child, if substantial injustice would otherwise result; not to be used directly in armed conflict; and to be protected in times of armed conflict.
- The principle of the best interest of the child as the most important consideration in all matters that concern them.
- Children have the right to equal treatment and non-discrimination, education and to social security amongst others.

4.1.2 The Non-Profit Organisations Act No.71 of 1997

The Non Profit Organisations (NPO) Act provides for the voluntary registration of NPOs, and the NPO Directorate within the Department of Social Development is responsible for the registration of NPOs.

The primary purpose of the Act is to encourage and support organisations in their contribution to meeting the diverse needs of the population of South Africa by:

- Creating an environment in which non-profit organisations can flourish.
- Establishing an administrative and regulatory framework within which non-profit organisations can conduct their affairs.
- Encouraging non-profit organisations to maintain adequate standards of governance, transparency and accountability and to improve those standards.
- Creating an environment within which the public may have access to information concerning registered non-profit organisations.
- Promoting a spirit of co-operation and shared responsibility within and amongst all stakeholders.

4.1.3 The Social Assistance Act No. 59 of 1992

The Social Assistance Act provides for the rendering of social assistance to persons. The Act was amended in 1994 to further regulate the making of grants and financial awards to certain persons and bodies. In 1997 the Welfare Laws Amendment Act, 1997 amended the Social Assistance Act, 1992 in order to provide for uniformity of, equality of access to, and effective regulation, of social assistance throughout the Republic, to introduce the child-support grant, to do away with capitation grants, to abolish maintenance grants subject to the phasing out of existing maintenance grants over a period not exceeding three years, to provide for the delegation of certain powers, and to extend the application of the provisions of the Act to all areas in the Republic.

An amendment to the Social Assistance Amendment Act No 12 of 2004 was passed in June 2004 and makes provision for easier access to government services in respect of social assistance through the establishment of a national agency.

4.1.4 Guardianship Act No 192 of 1993

This deals with common law system that places *a child without a guardian* under the guardianship of the High Court. The Act is applicable to a child up to the age of 21 years.

- If the parents of the child are married then both have equal guardianship over the child and the right to make decisions about the well being of the child.
- In the case of divorce guardianship the Court may be awarded to only one parent In the case of the death of that parent guardianship normally reverts to the other parent.
- A parent may nominate a guardian for his or her minor child in a will.
- If someone contests the wishes of that parent, the High Court can overrule the intention.
- A woman is the guardian of her minor child born out of a marriage unless a High Court, as upper guardian, directs otherwise.

4.1.5 The Child Care Act No 74 of 1983

The Child Care Act No 74 of 1983, together with the Child Care Amendment Act No 96 of 1996, is legislation for the *protection* of children.

The Act allows for Children's Courts; the appointment of Commissioners of Child Welfare; procedures and processes for investigating abuse and neglect; and also, where appropriate, for a child to be determined "in need of care". Social work assessments and reports are a condition of the Act and the Court has the jurisdiction to order that a child is placed in the alternative care form of foster care, adoption or residential care. Foster care is the recommended response for the care of orphans where their circumstances determine this to be appropriate.

In the current system, foster care is viewed as a temporary placement for a child and requires comprehensive social work investigation, monitoring, and a report on the circumstances of the child every two years. Foster parents and Boards of Management of institutions are delegated partial parental responsibility for the daily care, school attendance and health and welfare of the child.

Adoption is the permanent placement of a child in the care of a person who is not the parent or guardian. An adoptive parent takes full parental responsibility, and is legally responsible, for the child and everything that the child might want or need just as if the child was born to them.

The Child Care Act provides that a child - abandoned, orphaned and/or without any physical means of support – may be determined "in need of care". The Children's Bill of 2003 takes into account the family, legal and customary requirements of children affected by HIV and AIDS and makes provision for the placement of children in kinship care.

4.1.6   The South African Schools Act No. 84 of 1996

The Act makes school attendance compulsory for learners between the ages of 7 and 15 years and provides for learners to be exempted from the payment of school fees under certain conditions.

4.1.7   The National Health Act No. 61 of 2003

The National Health Act recognises children as a group who require special attention and provides for free primary health care for children under the age of 6 years who are not members or beneficiaries of medical aid schemes.

4.1.8   Medical Schemes Act No. 131 of 1998

Protects children and/or their caregivers against unfair discrimination based on their HIV status.

4.1.9   The Births, Marriages and Deaths Registration Act No 51 of 1992

This Act provides for the registration of birth, death, marriage and the procedures and requirements to obtain the certificates, which includes identity document.

4.1.10 The Domestic Violence Act No   of 1998

The Act allows for:

- The removal of the alleged perpetrator of family violence rather than the victim.
- The issuing of protection orders against perpetrators.
- Allows the child to approach the court for a protection order without adult assistance.

4.1.11 The Sexual Offences Act No of   1957

This Act covers specific forms of child sexual abuse including the prohibiting of child prostitution. The Act also provides that children giving evidence in criminal cases must be declared vulnerable witnesses and afforded additional protection measures, including the use of the Intermediary System. Amendments to this Act were tabled in 2002 as the Sexual Offences Amendment Bill and are awaiting promulgation. A separate Bill known as the Compulsory Testing of Alleged Sexual Offenders Bill also awaits promulgation.

4.1.12 The Child Justice Bill

This Bill is based on the principles of restorative justice and aimed at children in conflict with the law. The Bill emphasises the individual assessment of each child; aims to keep children within their families and to protect children from the damaging effects of courts and prisons. The Bill will likely be passed during 2005.

4.1.13 The Housing Act No. 107 of 1997

This Act prioritises meeting special housing needs, as well as provisions of subsidies for low cost housing schemes.

4.1.14 Promotion of Equality and Prevention of Unfair Discrimination Act 2000.

- Gives effect to the letter and spirit of the Constitution, especially to the founding values of equality, human dignity and freedom of expression.
- Prevents, prohibits and provides redress for unfair discrimination, and gives effect to the South Africa's international treaty obligations relating to human rights.
- Provides for the progressive eradication of current systematic discrimination which is a legacy of previously legalised discrimination, thereby transforming South Africa into a country based on respect for the dignity and equal worth of all human beings.

4.1.15 Employment Equity Act of No 55 of 1998

Prohibits discrimination based on HIV status. Applicable to children between the ages of 15 and 18 years, as well as employed caregivers and household heads.

4.1.16 Wills Act No. 7 of 1953

This Act regulates the execution of wills. The Act provides for the formalities required in the execution of a will; the interpretation of wills; the validity of certain wills executed in accordance with the internal law of certain other states; and the competency of persons involved in the execution of wills.

4.1.17 Intestate Succession Act No 81 of 1987

The Act addresses inheritance where a person dies in the absence of a valid will.

4.1.18 Customary Law of Succession Recognition of Customary Marriages Act No 120 of 1998

The Act extends full legal recognition to marriages entered into in accordance with customary law or traditional rites and improves the position of women and children within these marriages by introducing measures.

The Act lays the foundation for a uniform code of marriage law that will be applicable to all South Africans. The principles laid down in the Act, e.g. consent and minimum ages for spouses, community of profit property and judicial regulation of divorce in a system of family courts are intended to provide a uniform national framework receptive to all marriages.

It also removes elements of discrimination against the customary legal tradition and thereby gives expression to 2 constitutional principles, namely: the right to systems of family law based on any tradition or religion and the right to cultural pluralism.

In the final instance the Act strives to reconcile the preservation of culture and traditions with the competing claims posed by the constitutional requirement to establish norms of equal treatment and non-discrimination.

4.2   Policy

4.2.1 White Paper for Social Welfare, 1997

The White Paper sets out the principles, guidelines, proposed policies and programmes for developmental social welfare for the era post 1994.

- Developmental social welfare policies and programmes are guided by – the securing of basic welfare rights, equity, non-discrimination, democracy, improved quality of life, human rights, people centred, sustainability, partnership, inter-sectoral collaboration, quality of services, accessibility, appropriateness and ubuntu. These principles are incorporated in the Policy Framework for Orphans and other Children made vulnerable by HIV and AIDS.

- Vulnerable groups and groups at risk include - young people, women, migrants, single parents, orphans, children of parents who are ill and dependants in a household who are particular vulnerable.
- Services to support PLHAs, and those affected such as children are prioritised.

4.2.2 The National HIV/AIDS/STD Strategic Plan for South Africa 2000/2005

The National HIV/AIDS/STD Strategic Plan was initiated by the Minister of Health and developed jointly with the Social Development and Education to guide South Africa's response to the HIV and AIDS epidemic. The plan is based primarily on the understanding that no single ministry, department or sector can be solely responsible for addressing the epidemic. The Plan envisages that each department and sector would develop strategic plans and that the different efforts should be harmonised.

The Strategy has four key programme areas:

- Prevention
- Treatment and care and support
- Research, monitoring and surveillance
- Human and legal rights

Within the Strategic Plan the Department of Social Development, as the lead Department for children, was allocated a number of functions:

- To develop alternate models of care and design marketing strategies to promote acceptance from communities around new forms of care.
- To de-stigmatise those suffering from HIV/AIDS
- To investigate legislation to ensure legal recognition or status for child headed households
- To encourage/subsidise private fostering of children.

4.2.3 The National Integrated Plan for Children and Youth Infected and Affected by HIV/AIDS 2000 (NIP)

The NIP was launched in 2000 to ensure that individuals, households and communities, especially the children affected by HIV/AIDS have access to an appropriate and effective integrated system of prevention, care and support services at community level.

The Plan identifies the focus of each Department – DOH: Prevention, voluntary testing and counseling and home based care; DOE: Life skills and HIV/AIDS education in primary and secondary schools; DSD: Community mobilization and community based care.

In implementing the NIP, programmes would include the development of coordinating structures, income generating activities, specific prevention activities targeting children and youth, community based care, capacity building, access to grants and placements, training of teachers, as well as

voluntary counseling and testing. More importantly, models of intervention by implementing agents must take into account the following:

- Immediate issues of poverty as this relates to basic needs
- Sustainable development and income generating activities
- The needs of *the most vulnerable* e.g. the disabled, older persons, and children
- The capacity development of community based organisations.

4.2.4 National Guidelines for Social Services to Children Infected and Affected by HIV/AIDS

Designed to assist all organisations and persons programming for services to children infected and affected by HIV/AIDS, and to assure that the provision of *community based care and support*, as the intervention approach adopted by the Department of Social Development, takes into account community needs, cultural practices and protects the rights of children.

The objectives of the Guidelines include:

- To provide information on establishing and implementing special programmes, including home/community based care and support.
- To provide clarity on the development of community-based structures to[7]:

   -Identify family, community and cultural strengths and resources
   -Help people through prevention programmes and counselling and support to those traumatised.
   -Assist children, families, communities and provinces to identify the most vulnerable, to help prioritise resources and to preserve family life.
   -Support families, communities and other stakeholders to identify and implement strategies that promote children's well-being.
   -Identify external support for communities and enable communities to build support networks.
- Establish and strengthen poverty alleviation programmes in affected areas.
- Develop training programmes for professionals, community workers, child and youth care workers, community leaders, families, NPOs and CBOs.
- Establish integrated institutional arrangements at local and community levels for the implementation and monitoring of programmes.
- Make information available on welfare services and grants.
- Provide a framework for the costing of the essential financial implications of implementing the strategy.

Elements that make community based care an effective intervention approach include:

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[7] These include structures such as Child Care Forums/Child Care Committees etc.

- The impact of HIV/AIDS on families and children is understood within the context of the community, taking into consideration specific socio-economic conditions, felt needs, constraints and possibilities.
- Activities are planned, implemented, monitored and evaluated with the community.
- The identification of the most vulnerable is facilitated by the fact that members of the community are in the best position to know which households are most affected and the sort of help appropriate.
- Family and community integration is encouraged to prevent children from being removed from their families or community environment.
- Volunteers from communities are more likely to visit many households regularly, they are trusted and known to the community and their help is likely to be more practical and culturally appropriate.
- Relevant indigenous practices are reclaimed and strengthened which empowers the community to take care of its vulnerable children

4.2.5 National Department of Social Development Strategic Plan 2002/2003 & 2005/2005-2009/10

The Strategic Plan is aimed at building a caring society and a better life for all and especially for children. The Plan:

- Ensuring the integrity of the social grants administration and payment system, while consolidating the work done on the establishment of a comprehensive social security system for the country
- Ensuring that the newly established Social Security Agency is fully capacitated to carry-out its mandate and the Department to adequately perform its oversight role of the Agency
- The development and implementation of a comprehensive and integrated service delivery model for developmental services. This includes a retention strategy for social services professionals
- The implementation of a new policy on financial awards to non-governmental organisations and other civil society organisations that provide welfare services to the needy and vulnerable
- The roll-out of the Expanded Public Works Programme, with a primary emphasis on Early Childhood Development and Home/community-based care and support
- A concerted response to mitigate the impact of HIV and AIDS on poor communities; and
- The development and implementation of a comprehensive policy on the social relief of distress

4.2.6 Five year HIV and AIDS Strategic Plan for Social Development 2003-2008

The 5-Year Plan HIV and AIDS Strategic Plan was developed in 2003 and contains broad and specific guidelines, short, medium and long-term goals, and recognises that even though the Department of Social Development is the lead department in the delivery of social services to vulnerable groups, and in particular those infected and affected by HIV

and AIDS, the Department cannot do it alone. The critical role of stakeholder groups such as international development agencies, other government departments at all levels, the private sector, government agencies and civil society organisations are recognised and acknowledged.

The Transformation of the Child and Youth Care System in South Africa: Interim Policy Recommendations

This draft discussion document recommends a new framework for services to children. The document emphasizes a multi-disciplinary and inter-sectoral approach and deals with children in conflict with the law. The service delivery model promotes that children should be assisted in their family environment. When removed for alternative care, children should be placed within the environment where the family resides or be placed with the extended family.

4.2.8 The Ten Point Plan of the Department of Social Development, 1999

The Ten Point Plan, developed by the Minister of Social Development, indicates that developmental social service programmes should include a range of services to support community-based care and assistance for people living with HIV and AIDS, and that particular attention should be given to orphans and children infected and affected by HIV and AIDS.

4.2.9 Draft National Policy for Families

The policy is premised on the principle that families are the core of society and primarily focuses on rebuilding families, communities and social relations in order to promote social integration. It states that:

- Families should be independent
- Have strengths that can be utilised when facing various challenges
- The preservation of families should enhance their inherent strengths and resourcefulness
- Families in transition need special protection and services
- The family is the basic unit of society
- Family members should be nurtured to ensure their survival, growth, development and protection.

4.2.10 Draft Guidelines for Early Childhood Development Services

Early childhood development services form an integral part of programming to maintain the well being of very young children caught up in the orphan epidemic.

The Guidelines:

- Developed to facilitate the Department of Social Development's mandate towards early childhood development in South Africa.

- Refers to core aspects important to the early childhood phase of life such as nutrition, health care, environmental safety and early education and learning.
- The Guidelines deal with a continuum of early child development services and contain interventions and programmes aimed at parents and/or primary caregivers; community based services and early childhood development centres.
- The most important facets of service delivery are explained in simple clear terms for easy understanding and referencing by all service providers.
- Elaborative explanations and resource materials are included in the Guidelines to use in training situations.
- Guidelines for family care pertaining to the young child are included as the family provides the context in which the majority children function.
- The Departments of Health and Education also contribute towards young children through their policies and guidelines.

4.2.11 National Policy on HIV and AIDS for Learners and Educators in Public Schools, and Students and Educators in Further Education and Training Institutions, 1999

The policy emphasises the vulnerability of young people to HIV infection and seeks to minimise the social, economic, and developmental consequences of HIV and AIDS for the education system. It provides guidelines for the management of HIV and AIDS in schools and provides support to learners and educators living with or affected by HIV and AIDS.

4.2.12 Department of Health: National Policy on Testing for HIV, 2000

The policy describes the circumstances under which HIV testing may be conducted, sets out requirements for pre- and post-test counseling procedures and defines 'informed consent'. The policy also identifies exceptional situations when informed consent can be dispensed with.

The Policy does not make specific provisions for consent by children, but allows for 'proxy consent' where the consent is given by a person who has a legal right to consent on behalf of another person, namely, a guardian or curator.

In terms of the Child Care Act, a child of 14 years and older may consent on their own to medical treatment, including an STD or HIV test.

4.2.13 Patient's Rights Charter

The Charter provides clear and key guidance to patient rights, responsibilities and complaints procedures. It is not legally binding, but it draws on rights set out in the Constitution. Specific reference is made to rights of access including special needs provision newborns, children and pregnant women as well as people living with HIV or AIDS and with disabilities.

4.2.14 The Integrated Food Security Strategy for South Africa, 2002

The vision of the Integrated Food Security Strategy is to attain universal physical, social and economic access to sufficient, safe and nutritious food by all South African at all times to meet their dietary and food preferences for an active and healthy life. This statement is also a definition of food security by the Food and Agricultural Organisation of the United Nation (FAO).

The strategic objectives are to:

- Increase household food production and trading.
- Improve income generation and job creation opportunities.
- Improve nutrition and food safety.
- Increase safety nets and food emergency management systems.
- Improve analysis and information management system.
- Provide capacity building.
- Hold stakeholder dialogue.

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Section Five   Strategies

5.   Introduction

The key strategies identified to assist in developing comprehensive, integrated and quality responses for orphans and other vulnerable children at programmatic level are to:

7. Strengthen and support *the capacity of families* to protect and care.
8. Mobilise and strengthen *community-based responses* for the care, support and protection of orphans and other children made vulnerable by HIV and AIDS.
9. Ensure that legislation, policy; strategies and programmes are in place to protect *the most vulnerable children.*
10. Assure access for orphans and children made vulnerable by HIV and AIDS to *essential services.*
11. *Raise awareness and advocate for the* creation of a supportive environment for OVC.
12. *Engage the civil society sector and business community* to play an active role to support the plight of orphans and children made vulnerable by HIV and AIDS

Within these strategies, programming for OVC is guided by:

- The rights based approach and which addresses prevention, care, treatment, protection, recovery and impact mitigation
- Coordinated action at all levels to ensure effective and appropriate responses.
- The inclusion of monitoring and evaluation mechanisms in programme design.
- The design of sustainable programmes that respond to the individual needs of children and caregivers.
- Priority interventions that focus on the most vulnerable.
- The need to strengthen the caring and economic capacities of families through community-based mechanisms, with particular attention to primary caregiver support.
- The value for children of strategies that improve or maintain a reasonable quality of life for primary caregivers living with AIDS.
- The need for individual and age appropriate development programmes for children.
- Skills transfer to older OVC and primary caregivers in relation to income-generation.
- Gender equality in programmes.
- The active participation of children and young people in responses to the epidemic.
- Community participation, empowerment and ownership of OVC programmes.

5.1 Strategies

5.1.1 Strengthen and support the capacity of families to protect and care.

The family is the primary source of nurturance and care for children, and it is accepted that where possible, it is in the best interests of orphans and other vulnerable children to remain within their family and known community. When HIV and AIDS begins to impact on households the capacity of families to care and survive should therefore be strengthened.

Programmatic interventions that augment the competencies of families and caregivers include:

- The early identification of families, orphans and other vulnerable children to ensure access to appropriate services
- Enhance the capacity of families and primary caregivers to provide protection, psychosocial support and counseling to OVC, including very young children and those with special needs.
- The early identification of child-headed households and interventions to address their needs.
- Support for family succession planning and security of inheritance for children.
- Access to treatment, care and support for caregivers who live with AIDS, for their sense of well being and to live their lives with dignity.
- Support the competence of young peoples' life and survival skills.
- Strengthen household economic capacity through social security safety nets and food security.

5.1.2 Mobilise and strengthen community-based responses for the care, support and protection of orphans and other children made vulnerable by HIV and AIDS

The community has been a safety net for families who were unable to meet the basic needs of their children. However, the impact and scale of the HIV and AIDS epidemic together with poverty, undermines the capacity of communities to provide for the care and support of affected children. Reinforcing the capacity of communities is therefore fundamental to the building of a response that matches the scale of the epidemic and its long-term impact on children.

Programmatic interventions to enhance the capacity of communities include:

- The support of local leadership in responding to the needs of community members who are vulnerable.
- The mobilisation of communities for the early identification of needy children and families.
- Expanding and improving community services for children and families, including those to child-headed households and households managed by older persons

- Facilities for children in communities that provide added support e.g. safe parks.

Child-care forums, together with relevant community leadership structures, are the key mechanism for community mobilisation. The forums are made up of community people and mobilise community groups to:

- Facilitate activities that enable community members to talk more openly about HIV and AIDS and the impact of the disease on children, families and communities, and to in this way work towards reducing stigma and discrimination.
- Recruit prospective foster care parents.
- Facilitate community income-generating projects to help vulnerable households
- Facilitate processes that build the capacity of primary caregivers, community members and volunteers to respond effectively to the different needs of children.
- Facilitate after-school care and holiday programmes.
- Promote and strengthen linkages between community-based responses to orphans and other children made vulnerable by HIV and AIDS with prevention, treatment and care programmes, including strengthening linkages with PMTCT interventions
- Establish and promote the use of community-based day care facilities for young children to provide respite for their care givers

5.1.3 Ensure that legislation, policy, strategies and programmes are in place to protect the most vulnerable children.

It is the constitutional obligation of the state to protect and ensure the well being of OVC through programmatic interventions such as:

- Reviewing and developing national policies and frameworks, strategies and action plans and enhancing the capacity of government to integrate and coordinate these to protect the rights of children.
- Enhancing state and civil society capacity to deliver quality services, and monitor implementation of policy and programmes.
- Mobilise and ensure equitable distribution of resources to communities
- Ensure implementation of a supportive legislative framework
- Provide protection and alternative care options for children in the absence of families to care
- Create linkages between programmes and poverty alleviation strategies in the context of broader development.
- Monitor and evaluate the impact of HIV and AIDS on children
- Ensure that orphans and other vulnerable children have access to basic services

5.1.4 Ensure access to essential services for orphans and other children made vulnerable by HIV and AIDS.

The circumstances and environments of many orphans and vulnerable children are a disadvantage to their securing essential services. Government and civil society structures therefore play a major role in extending services to under or under-serviced areas and helping OVC to access their rights. Interventions include:

- Birth registration for all children
- Strengthen and increase access to early childhood development services.
- Strengthen service delivery agencies and community structures that work with OVC to provide appropriate services
- Motivate and secure access to learning and education for OVC.
- Ensure access to health, nutrition services, palliative care, and comprehensive treatment for HIV and AIDS, TB and STDs.
- Ensure access to information and services on prevention, including voluntary counseling and testing
- Ensure access to safe water and sanitation
- Ensure adequate housing for primary caregivers and child headed households
- Empower children through life skills programmes
- Facilitate peer support at school

5.1.5 Raise awareness and advocate for the creation of a supportive environment for OVC.

HIV and AIDS are associated with fear, ignorance and denial and these lead to stigmatisation and discrimination. Interventions that help to reduce stigma and discrimination include:

- Facilitate and support activities to enable community members to talk more openly about HIV and AIDS.
- Raise awareness and encourage a community response for the care and support of orphans and other vulnerable children.
- Facilitate clear referral protocols, communication channels and other action links between service providers
- Facilitate campaigns and interventions that use the media, high profile and other influential role models who demonstrate positive practices and attitudes in addressing, and/or living with HIV and AIDS.

5.1.6 Engage the civil society sector and business community to play an active role in care and support of OVC

The escalating number of orphans due to the HIV and AIDS epidemic is a challenge that requires coordinated effort and expertise, including the skills and resources that exist in the business sector. South Africa requires balanced, healthy and educated human resources to sustain its economy and this can only be achieved by the active involvement of the business community in mitigating the impact of HIV and AIDS on children as this will contribute to human-centred development goals.

Programmatic interventions for the business community include:

- Provide business expertise and professional advice in the management of OVC projects
- Second skilled personnel as "volunteers" to mentor and act as a catalyst in achieving project objectives.
- Provide training to communities, NGO's and the government
- Mentor and coach community leaders in management skills.
- Provide project management skills on a part time basis.
- Assist in the development of systems and a data base
- Provide the use of company facilities for community meetings and training.
- Provide legal advice on matters that affect children.
- Provide career and educational advice for OVC entering the labour market.
- Assist OVC in gaining a better understanding of the business environment.
- Deploy funding and financial grants to ensure sustainability of projects

Section 6   Monitoring and Evaluation

6.   Introduction

Monitoring and reporting on the process of implementation and progress made with regard to the Policy Framework for Orphans and other Children made Vulnerable by HIV and AIDS takes place according to established procedures and a proposed strategy for monitoring and evaluation. The Monitoring and evaluation strategy will be used to track progress regarding the implementation of the strategies in the Policy Framework and provide an evaluation of what is working or what is not working and assist in planning for better and effective programmes that improve the lives of OVC

6.1 Monitoring Commitments

International

- The UNGASS Declaration of Commitment requires South Africa to submit an annual report to the UN Secretary-General on progress made towards implementation of the Declaration.
- South Africa, together with all other member states, submits a bi-annual country report on the progressive realisation of children's rights to the United Nations Children's Rights Committee.
- Millennium Development Goals (MDGs)

National

- At country level, government departments with responsibility for the implementation of policy are obligated to report to Parliament on progress towards implementation of policies adopted, programmes implemented and resources spent
- The monitoring of the rights of OVC also takes place within, and complements, the monitoring framework of government.

6.2. Proposed Monitoring and Evaluation Strategy

- The development by NACCA of a five year monitoring and evaluation plan to measure the impact of support to OVC's at national, provincial, district and local levels and which provides indicators for all three tiers of government.
- The submission of an annual report to Cabinet, through the Department of Social Development, on the performance and impact of activities and programmes for the care and support of OVC's at all levels.
- A report on co-ordination, implementation and monitoring of the Policy Framework to the South African National AIDS Council twice a year.

Components of the monitoring and evaluation strategy include:

- Indicators for programming for affected children that conform to international and national standards.
- Defined intervals for evaluation from time of agreement in principle to the Policy Framework.
- A plan of action to integrate OVC indicators into the strategic plans of government departments.
- Research into activities to strengthen the capacity of state and the civil society sector with respect to programme planning, monitoring and evaluation, and budget analysis.
- Guidelines for stakeholders on the preparation and submission of annual reports to relevant structures with regard to the implementation and impact of the Policy Framework.
- A plan of action to secure resources and capacity for the process of monitoring and evaluation at all levels.
- A strategy for the co-ordination of policy formulation, programme/strategy development and implementation at all levels.
- Investigation into an information system for reporting and tracking of OVC's from a local to a national level.

6.3. Institutional Arrangements

1. At the national level, each government department, organisation and institution will be a full member of NACCA and the Coordinator shall provide a progress report on activities in relation to the implementation of the strategies and future action regarding the Policy Framework twice a year.
2. At the provincial level, each Provincial Action Committee for Children Affected by HIV/AIDS (PACCA) will similarly furnish the Secretariat of NACCA with a consolidated progress report reflecting provincial activities related to OVC twice a year.
3. The national secretariat shall synchronise all reports into one national consolidated report twice a year and which will indicate performance, impact and the participation of all sectors.

Section 7   Resources

7   Introduction

The effective implementation of the strategies in the Policy Framework, and subsequent action plans, depends on adequate resources - financial and human - and effective utilisation of the same.

7.1.   Financial Resources

- Financial resources should be raised from the international and national donor communities and business sector by organisations rendering community based care and support services to OVC.
- Line departments should pro-actively engage with the National and Provincial Treasuries and co-ordinate activities toward the mobilisation of financial resources, the primary objective being to ensure that mechanisms, services and concrete support are in place at provincial and local levels for the benefit of orphans and other vulnerable children.
- NACCA and the National Treasury shall monitor spending across all sectors.

7.2.   Human Resources

Sufficient and appropriately skilled human resources are at the heart of programmes for orphans and vulnerable children and are drawn from sources that include - state departments, and social service and faith based organisations, and communities, that is, volunteers. Each category of worker has a significant role to play in providing care and support to children and their families.

7.3.   Training of Personnel

- Each department/organisation shall ensure that human resources employed and involved with orphans and other vulnerable children are sufficiently trained and appropriately skilled for their role/task.
- This requires a human resource development and support strategy within the context of national norms, legislation and procedures.
- The NACCA shall form an inter-sectoral sub-committee to assess and advise government departments on the specific, and sometimes unique, needs of personnel working on issues related to OVC's.
- This would include aspects such as in-service training, career paths, field support services, care of caregiver programmes.
- Each employer shall ensure that employees and volunteers are aware of these and commit to the same.

- Each employer shall have a protocol for the monitoring and enforcing of the Code of Conduct and which is compiled in a format that protects children and their families.
- Each employer and employee shall be held accountable to the Code of Conduct as well as the provisions of domestic and international law.
- Where no Code of Conduct exists, an employer has the obligation to develop the same.

7.3. Training of Community Volunteers

- A large component of human resources who render services to OVC's are drawn from community volunteers with a commitment to children and who require recognition and support.
- Volunteers who are members of Child Care Forums should be trained in accordance with the 12-day training curriculum developed by NACCA.
- The training and coordination of Child Care Forums is also essential as members of forums liaise closely with home/community based care groups and schools to identify orphans and vulnerable children, and with the local social worker; CBOs, NPOs, and local leadership.
- Government Departments and civil society organisations will need to ensure that sufficient guidance and guidelines are provided to community level volunteers to enable them to facilitate service delivery.
- All categories of workers in the field of OVC should be bound by internal or professional codes of conduct that have as their basis the best interest of children/ families being served.

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THE IMPACT OF HIV AND AIDS ON ORPHANS AND VULNERABLE CHILDREN

MATERIAL PROBLEMS

Livelihood

- Increased poverty
- Loss of property and inheritance
- Loss of food security, especially in rural areas
- Loss of shelter.

Health

- Lower nutritional status
- Less attention when sick
- Less likely to be immunised
- Increased vulnerability to disease
- Less access to health services
- Increased vulnerability to HIV and AIDS
- Higher child mortality
- Higher exposure to opportunistic infections.

Education

- Withdrawal from school to care for others & to save costs
- Increased skipping of school
- Lower educational performance
- Premature termination of education
- Fewer vocational opportunities
- Traditional knowledge not passed on.

NON-MATERIAL PROBLEMS

Protection, welfare, emotional health

- Loss of family and identity
- Decreased adult supervision
- Decreased affection and encouragement
- Increased labour demands
- Harsh treatment, discrimination, stigma and social isolation
- Forced early marriage
- Sexual abuse and exploitation
- Abandonment
- Grief and depression & reduced well-being
- Antisocial and difficult behaviours; homelessness, vagrancy, crime; increased street living
- Increased malnutrition, starvation
- Forced migration. [8]

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[8] Richter L, Manegold J, Pather R. (2004) Family and Community Interventions for Children Affected by AIDS Cape Town Human Sciences Research Council. (Adapted)

CHILDREN'S RIGHTS VIOLATED BY HIV AND AIDS

The Right to Food:

Food insecurity is a primary impact in most affected households.

The Right to Health:

Children in affected households have lower immunisation rates and poorer nutrition.
Uninfected children of infected mothers have a higher mortality rate than children of uninfected mothers.
Children who care for parents and siblings who are ill with AIDS are at risk of contracting HIV because they
often do not know how to protect themselves.
Children are also at risk of contracting HIV from sexual abuse and exploitation.

The Right to Shelter and Protection of Property & Inheritance:

Children face the threat of eviction from their homes by relatives and authorities when their caregivers die and struggle to
access inheritance such as pension benefits, savings and insurance.

The Right to Parental Love, Care, and Nurture:

Children caring for ill parents, and confronted with uncertainty about what will happen to them when the parent dies,
experience considerable emotional distress. This continues post the death of their caregiver and because of the multiple
losses that these children can experience.

The Right to Appropriate Alternative Care:

Where the extended family does not exist, or simply cannot care for large numbers of orphans, children take to living on
their own with no adult support or supervision.
These child headed households can go undetected and do not access entitlements such as social security.

The Right to Education:

Children unable to pay school fees, or buy uniforms and books can be denied access to school.
Children also drop out of school to care for sick parents or to fend for themselves and their siblings.
Some children attend school but because of personal trauma and the lack of material resources find it
 difficult to concentrate on their studies.

The Right to Play and Recreation:

Many affected children assume adult responsibilities and do not have the time to play with their peers. High rates of
stigma and discrimination create barriers between children.

The Right to Identity:

The numbers of children without birth certificates and identity documents to allow them to access government services
and support remains high.

The Right to Protection from Abuse:

Affected children suffer the loss of parental protection and are at risk for abuse and exploitation, physical, emotional and
sexual. They are less likely to report abuse due to fear, shame, embarrassment or guilt.

The Right to Protection from Child Labour:

*A*ffected children who fend for themselves and their siblings are often forced into menial work or transactional sex, as
they lack skills.

The Right to Participate in Decisions Affecting their Lives:

Decisions such as where they should live and with whom are often made without consulting children.

UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD (UNCRC)

RIGHTS THREATENED BY HIV AND AIDS

Article 2	Places emphasis on protection from any form of discrimination.
Article 3	Includes the provision that "the best interests of the child" shall be a primary consideration in matters concerning children.
Article 5	Recognises the responsibility of members of the extended family, community or legal guardians to provide for the child in a manner consistent with his or her evolving capacities.
Article 6	Recognises that every child has the inherent right to life.
Article 8	Concerns the right of the child to preserve his or her identity including name and family relations.
Article 9	Concerns a child's right not to be separated from parents.
Article 11	Compels government to combat the illicit transfer and non-return of children from abroad.
Article 12	Recognises a child's right to freedom of expression and to be heard in all proceedings that concern him or her.
Article 15	Speaks to freedom of association.
Article 13)	
Article 17)	Recognise the right of access to and sharing of appropriate information.
Article 16	Concern a child's right to be free of arbitrary attacks on honour or reputation – stigma.
Article 18	Recognises the responsibility of the State to support parents and legal guardians in their child-rearing responsibilities and to develop services for the care of children.
Article 19	Concerns the protection of children from abuse, neglect, maltreatment or exploitation.
Article 20	Concerns the responsibility of the State to provide special protection for a child deprived of his or her family environment.
Article 21	Addresses safeguards concerning adoption.
Article 24	Recognises the right of children to the highest standard of health and access to health services.
Article 25	Concerns the periodic review of the situation of a child placed in care.
Article 27	Recognises the right of children to an adequate standard of living.
Article 28/29	Are concerned with the right of every child to quality education.
Article 31	Recognises a child's right to rest, leisure, play and recreation.
Article 32	
Article 33/34	Address the protection of children from illicit drug use, economic or sexual exploitation or abuse.

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