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THE LAW OF THE CHILD ACT, 2009

ACT No. 21

(SUBSIDIARY LEGISLATION)

REGULATIONS

CHILD PROTECTION REGULATIONS

(Section 157 (a))

Regulation

Title

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PART I

PRELIMINARY PROVISIONS

- Citation **1.** These Regulations may be cited as the Child Protection Regulations 2014.
- Interpretation **2.** In these Regulations, unless the context otherwise requires, the following terms shall be defined as follows -
- “accommodation”** means accommodation that is provided for a continuous period of more than 24 hours;
- “accommodation provider”** means a foster parent or an approved residential home in accordance with the Law of the Child Act 2009;
- “Act”** means the Law of the Child Act 2009;
- “applicant”** means a person or body applying to the court in civil proceedings before the Juvenile Court;

“approved residential home” means a home licensed under the Law of the Child Act;

“assigned social welfare officer” means a social welfare officer assigned to a child’s case by the head of the social welfare department;

‘care Order’ means an order granted under s.18 of the Law of the Child Act;

“care proceedings” means proceedings for a care order or a supervision order under sections 18 and 19 of the Law of the Child Act;

“carer” means a person with whom the child has lived and who has provided care to the child for a period of at least three months in the last six months;

“court” means a Juvenile Court established under s.97 of the Law of the Child Act;

“Commissioner” means the Commissioner for Social Welfare;

“Department of Social Welfare” means a Department within a Government Ministry responsible for Social Welfare;

“excluded from home” means a child who is without parental care as a result of the parent forcing him out of the home or behaving in such a way that the child feels he has no option but to leave;

“fit person” means a person of age of majority, who is of high moral character and integrity and of sound mind who is not a relative of the child, and may be a foster parent or foster family capable of looking after a child who has been approved by a social welfare officer as being able to provide a caring home for the child;

“fit institution” shall include an approved residential home or other institution approved by the Commissioner for Social Welfare to accommodate a child but shall not include a retention home, approved school or prison;

“foster parent” or **“foster family”** means a person or family provided under the Foster Care Placement Regulations;

“guardian” means a person who has a charge or control over a child by deed, will or order of the court vested with the duty of taking care and managing the property and rights of the child;

“guardian ad litem” means a person who takes on the responsibility or is appointed to protect the interests of a child in a juvenile court proceeding;

“in need of immediate care and protection” means that there is reasonable cause to believe that the child is likely to suffer significant harm unless removed from the place where he or she is found;

“intake social welfare officer” means a social welfare officer who is responsible for receiving referrals and for taking emergency action with respect to a child who is in need of protection;

“local government authority” means a local government as defined in the Local Government (District Authorities) Act and the Local Government (Urban Authorities) Act, as the case may be;

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

“most vulnerable children committee” means a subcommittee to the public and social welfare committees/social services committees at the City, Municipal, Town and District Councils, and at the ward, mtaa or village levels.

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

“next friend” means a person who intervenes to assist a child to bring a legal action and includes a guardian ad litem;

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

“parental duty and responsibility” means all the rights, duties and responsibilities, which under both statutory and customary law a parent has for his child, including those set out in section 9(3) of the Act;

“parental rights” in relation to a child means responsibilities and rights referred to in sections 6 – 10 and section 57 of the Act;

“place of safety” means care of a child with a relative, fit person, foster home, a fit institution or any other place where a child can be safely accommodated pending a decision by the head of social welfare department or the juvenile court as to future care, but excludes any place of detention including a police cell, a retention home, approved school or prison.

“police” means a police officer above the rank of a constable.

“proceedings” includes any application, reference, cause, hearing, matter, suit, trial, appeal or revision, whether final or interlocutory, between parties in relation to a child;

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

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

“relative” means a grandparent, grandmother, brother, sister, cousin, uncle, aunt or any other member of the extended family;

“representative” means a parent, guardian, advocate or guardian ad litem who represents a child during court proceedings;

“social enquiry report” means a report prepared by the social welfare department at the request of the juvenile court;

“social investigation” means an investigation undertaken by the Social Welfare Department;

“social investigation report” means the written report prepared at the end of a social investigation;

“social welfare department” means the section, unit or department or other administrative body in the local government authority that is responsible for delivering child protection services on behalf of the local government authority;

“social welfare officer” means a social welfare officer in the service of the Government and includes a social welfare assistant;

“supervision Order” means an order made under s.19 of the Act;

“voluntary care” means an admission of a child into the care of the local government authority with the consent of the parent.

PART II – GENERAL PRINCIPLES AND STANDARDS

General
Principles

3. (1) In reaching any decision relating to a child, all public or private social welfare institutions, courts and administrative bodies, including but not limited to departments of the local government authority, the police and members of the most vulnerable children committee shall be guided by the following principles –

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

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

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

(2) Where a child is lost, abandoned or seeking refuge, or the child is placed in the voluntary care of a local government authority or where the child is suffering or likely to suffer significant harm and cannot live with his or her parents, any decision on the child’s care shall be subject to the following general principles -

- (a) a placement should be family based rather than institutional;
- (b) a placement for a child should be permanent rather than temporary;
- (c) siblings should not be separated unless this is in the best interests of a child;
- (d) due regard shall be paid to the desirability of continuity in a child's upbringing, and to the child's ethnic, religious, cultural and linguistic background; and
- (e) delay in reaching a decision on the child's future should be avoided as it is likely to prejudice the welfare of the child.

A child in
need of
protection

4. (1) A child shall be regarded as being in need of care and protection if he is suffering significant harm or is at risk of suffering significant harm and one or more of the circumstances contained in section 16 or section 144 of the Act applies.

(2) In this Regulation -

- (a) harm means ill-treatment or the impairment of health or development, including impairment suffered from seeing or hearing the ill-treatment of another;
- (b) development means physical, intellectual, emotional, social or behavioural development;
- (c) health means physical or mental health; and

(d) ill-treatment includes physical abuse and sexual abuse and forms of ill-treatment and abuse that are not physical.

(3) Harm may be caused by physical, emotional and sexual abuse and neglect.

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

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

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

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

(a) failure to provide adequate food, clothing and shelter;

(b) abandonment and excluding the child from the home;

(c) failure to protect a child from physical, sexual and emotional harm or danger;

(d) failure to ensure appropriate access to health or medical care; and

(e) failure to ensure adequate supervision and placing the child with an inadequate carer.

(8) In determining whether a child has suffered significant harm, the following factors shall be taken into account -

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

Standards for
child protection

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

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

PART III

GENERAL DUTIES OF THE SOCIAL WELFARE DEPARTMENT

Establishment
of the social
welfare
department

6. (1) Each local government authority shall -

- (a) establish a district social welfare department to safeguard and promote the welfare of children in need of care and protection;
- (b) appoint a head of the social welfare department to ensure the effective provision of child protection in the district;
- (c) ensure that adequate numbers of social welfare officers, and no less than 4 at district level are appointed to ensure the effective delivery of services to children in need of protection; and
- (d) ensure that at least one social welfare assistant responsible for services to children in need of protection is appointed in each ward of the district.

(2) The local government authority shall delegate its functions in relation to the welfare of children to the social welfare department.

Duties of the head of the social welfare department

7. (1) The head of the social welfare department in each district shall ensure that all necessary measures are taken to protect children within the district from all forms of harm as defined in Regulation 4 above.

(2) In order to fulfil the obligation set out in sub-regulation (1) above, the head of the social welfare department shall -

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

- (f) establish and maintain the delivery of fostering services and organise the recruitment, training and monitoring of foster parent or families in accordance with the Foster Care Placement Regulations;
- (g) establish and maintain adoption services and organise the recruitment and training of adoptive parents in accordance with the Adoption of Children Regulations;
- (h) ensure adequate alternative family care, including foster care and approved children's homes and institutions to meet the needs of children temporarily or permanently deprived of their families in accordance with the Children Home Regulations and the Foster Care Placement Regulations ;
- (i) establish and keep a register of the most vulnerable children within its area;
- (j) establish and keep a register of people unsuitable to work with children;
- (k) reduce criminal offending by children through the progressive development of:-
 - (i) preventive services and programmes for children;
 - (ii) services to advise and assist parents in managing the behaviour of their children;
 - (iii) services and accommodation for children who would otherwise be placed in pre- and post-trial detention; and
 - (iv) services to assist children to reintegrate into their family and community after committing an offence, and to reduce the likelihood of re-offending;
- (l) be accountable to and report to the District Executive Director;
- (m) produce an annual child protection plan which may form part of the Medium Term Expenditure Framework (MTEF);
- (n) report each year on the implementation of the annual child protection plan to the council director: and
- (o) comply with all regulations and such quality standards issued by the Commissioner.

(3) The head of a social welfare department may reach agreement with a registered non-governmental organisation licensed by the Commissioner for the provision of children's services referred to in sub-regulation (2)(e) – (h) and (k) above.

(4) Any non-governmental organisation operating under an agreement, contract or grant to provide services for children under sub-regulation (2)(e) – (h) and (k) shall be required to comply with all applicable quality standards issued by the Commissioner.

Raising public awareness

8. (1) The head of the community development department in collaboration with the head of the social welfare department shall be responsible for raising awareness of child protection in the community, including information on how to refer a child protection concern.

(2) In raising awareness, the head of the department of community development, in collaboration with the head of the social welfare department, shall ensure that age-appropriate information is provided directly to children through printed and other means.

Information for professionals

9. (1) The head of the social welfare department shall be responsible for informing professionals, staff and services working with children and families how a child protection referral is to be communicated, including the name of the person or officer to whom the referral is to be communicated, the phone number and any other mode of communication that may be used.

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

Intake social welfare officers

10. The head of the social welfare department shall ensure that an intake social welfare officer is available to receive child protection referrals at all times.

PART IV

CHILD PROTECTION REFERRALS

Referral of a child by a member of the community

11. (1) Any member of the community who has reasonable cause to believe that -

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

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

(c) a child is engaged in exploitative child labour; or

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

shall refer the matter to the local government authority of the area.

(2) A child protection referral may be made either orally or in writing by a member of the community or by telephoning the child helpline.

(3) For the purposes of this regulation, the local government authority shall include -

(a) the intake social welfare officer for the district

(b) a social welfare officer in the ward;

(c) a district social welfare officer;

(d) a ward executive officer;

(e) a village executive officer or a MTAA executive officer

(f) a member of the most vulnerable children committee;

(g) a police officer stationed within the area.

(4) Where a referral has been made to one of the persons listed in 3(c) –(g) above, that person shall inform the social welfare officer in the ward or the intake district social welfare officer within 24 hours.

(5) Where a ward social welfare officer or a district social welfare officer is informed of the referral, he shall inform the intake social welfare officer no later than 24 hours after receiving the information.

(6) Within 24 hours of receiving the referral, the intake social welfare officer shall consider the referral and decide whether there is cause for concern and whether the matter should be investigated further.

(7) The identity of any person making a referral shall be treated as confidential by all persons listed in sub-regulation 3 above, and shall not be disclosed to anyone other than the persons mentioned in sub-regulation (4) without the leave of the Juvenile Court.

(8) Within 72 hours of receiving the communication from a member of the public or a person listed in sub-regulation 3 above, the intake social welfare officer shall, where practicable, inform the referrer that the communication has been received and will be acted upon.

Professional
referral of a
child

12. (1) Any professional, staff member or volunteer working with or providing services to children and families who has reasonable cause to believe that -

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

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

(c) a child is engaged in exploitative child labour; or

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

shall refer the matter to the intake social welfare officer or the social welfare officer in the ward responsible for child protection.

(2) A referral should be confirmed in writing and the referrer should retain a copy for his or her records.

(3) Where the referral is made to the social welfare officer in the ward, he shall inform the intake social welfare officer within 24 hours of receiving the referral.

(4) Any person making a referral under this regulation shall keep the information about the child confidential and shall not disclose information except to -

- (a) the intake or social welfare officer in the ward or the head of the social welfare department, unless expressly requested to do so by the intake or ward social welfare officer, or the head of the social welfare department;
- (b) the police where there is cause to suspect a crime has been committed against the child;
- (c) a child protection conference; or
- (d) a court when providing evidence in relation to a crime committed against the child or in civil proceedings concerning the care and protection of a child.

Procedure upon receiving a child protection referral

13. (1) Upon receiving a referral under regulation 11 or 12, the intake social welfare officer shall -

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

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

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

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

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

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

- (6)
- (a) If on referral, the intake social welfare officer reasonably believes that the child is not at immediate risk of significant harm, the intake social welfare officer may request the ward social welfare officer to clarify with the referrer, including in cases of self-referral by a family, the nature of the concerns, how and why they have arisen;
 - (b) Where such a request is made, the referrer shall be contacted within 48 hours;
 - (c) The social welfare officer in the ward may obtain this information in a meeting with the referrer or through other means of communication, including phone and email;

(d) The social welfare officer shall provide any information obtained to the intake social welfare officer within 24 hours of receipt.

(7) On receipt of this information the intake social welfare officer shall determine whether there is a cause for concern and whether an investigation is warranted within 24 hours.

(8) If a decision is made not to proceed with an initial investigation, the intake social welfare officer shall -

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

PART V

THE INITIAL INVESTIGATION

Undertaking
an initial
investigation

14. (1) Where the intake social welfare officer -

- (a) receives a child protection referral in accordance with Regulations 11 and 12, has cause for concern and concludes an investigation is warranted;
- (b) receives relevant information or a referral from the police;
- (c) receives a child protection referral from the juvenile court;
- (d) is informed by a parent, guardian or any other person responsible for the care of a child that they can no longer care for that child; or
- (e) has reason to believe that a child living or present within the district for which it is responsible is a child in need of protection within the meaning of Regulation 4 above and section 16 of the Act,

the head of the social welfare department shall direct that an initial investigation be undertaken to determine whether intervention is required to

ensure that the child does not suffer or does not continue to be at risk of suffering significant harm.

(2) The intake social welfare officer shall undertake the initial investigation or the head of the social welfare department shall appoint -

- (a) a member of the social welfare department; or
- (b) a social welfare officer in the ward; or
- (c) in the absence of a social welfare officer in the ward and a lack of capacity in the social welfare department, a trained member of the ward MVC Committee

to undertake the initial investigation.

(3) A request shall only be made in accordance with sub-regulation 2(c) to a member of the most vulnerable children committee who has received training on conducting a child protection investigation.

(4) An initial investigation shall be undertaken in accordance with such guidance as may be issued by the Commissioner.

(5) The intake social welfare officer or the person appointed under sub-regulation (2) shall ensure that -

- (a) in the case of a referral under sub-regulation 1 (a)-(e) above, the information provided is acknowledged within 72 hours;
- (b) where there is evidence that the child is at immediate risk of harm, or emergency powers have been invoked under section 96(2) of the Act, the initial investigation by the intake social welfare officer is completed within 24 hours; and
- (c) in all other cases, the initial investigation commences within 72 hours and is completed within seven days.

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

- (7) No initial investigation shall be regarded as complete unless –
- (a) the social welfare officer conducting the investigation has seen the child who is alleged to have suffered significant harm or to be at risk of suffering significant harm and,
 - (b) any other child in the family or living or present in the household ;
 - and
 - (c) when the child is capable of verbal expression, has interviewed the child alone and in the absence of any parent, guardian, carer or any other person living in the household.

Joint initial
investigation
with the
Police

15. (1) When the information received by the social welfare-department constitutes or may constitute a criminal offence against a child, the intake social welfare officer shall meet and discuss the case with the police at the earliest possible opportunity and no later than 24 hours after the referral.

- (2) The intake social welfare officer shall, together with the police agree -
- (a) how the investigation is to be conducted;
 - (b) where the family and any person against whom an allegation is made shall be interviewed;
 - (c) who will conduct the interviews of any child suspects or child witnesses;
 - (d) whether a medical examination of the child will be required;
 - (e) who will interview the child in relation to whom the referral has been made;
 - (f) who will interview any other child in the family or any other child found on the premises, who the intake social welfare officer or the police officer has cause to believe may also be suffering or at risk of suffering significant harm;
 - (g) the issues to be covered in the interview; and
 - (h) the manner in which the interview is to be recorded.

Interviewing
the child during
an investigation

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

(2) A child shall only be interviewed by a social welfare officer or police officer who has received professional training on how to interview children who have suffered, or are at risk of suffering significant harm or who are victims or witnesses of a crime.

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

(4) Where the social welfare officer deems it necessary, a medical examination of the child shall be undertaken

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

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

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

Admission of
audio and video
taped evidence

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

may be used as part of or as the whole of a child's evidence in chief in a criminal trial.

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

(3) Audio and video tapes shall be made and stored in accordance with guidance issued by the Commissioner.

Failure to make the child available during the investigation

18. Where -

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

(b) the head of the social welfare department has directed that an initial investigation be undertaken in accordance with Regulation 14; and

(c) the parents, guardian or carer are unwilling to participate or make the child available to the investigating social welfare officer and police officer,

a social welfare officer accompanied by a police officer may, in accordance with s.96(1) of the Act, enter and search any premises where the child normally resides or where it is believed the child is being kept in order to investigate and, where the social welfare officer believes that the child has suffered significant harm or is at risk of suffering significant harm and is in need of immediate care and protection, he may remove the child or any other child on the premises to a place of safety in accordance with Regulation 22.

Search and production order

19. (1) Where the circumstances in regulation 18(1)(a) - (c) apply, and where the social welfare officer and the police officer are unable to locate the child, the local government authority may make an emergency application to the

court for an interim care or supervision order and, within that application, for a search and production order in accordance with Part XI of the Juvenile Court Rules.

(2) Where the head of the social welfare department has reasonable cause to believe that if the parent, guardian or carer is notified of the application for a search and production order that person may remove the child from the premises where it is believed the child is present, the local government authority may apply for an ex parte search and production order in accordance with the Juvenile Court Rules.

(3) The local government authority on being granted a search and production order may request the Court to stay the application for a care or supervision order while an initial investigation is taking place.

(4) If, after investigation, the local government authority does not believe that it is necessary to obtain a care or supervision order, it may withdraw the application for a care or supervision order.

Refusal of
parent to agree
to a medical
examination

20. (1) Where -

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

(b) a social welfare officer has decided that a medical examination of the child or any other child in the household should be undertaken; and

(c) the parents, guardian or carer refuse to consent to such an examination,

the social welfare officer shall seek alternative consent for the examination and any necessary treatment of the child.

(2) Where the circumstances in sub-regulation (1) apply, consent may be

provided by the child where he is of sufficient maturity to understand why a medical examination and any necessary treatment should be undertaken.

(3) The determination of whether the child is of sufficient age and maturity shall lie with the doctor undertaking the examination.

(4) In all other cases, where consent is not forthcoming, the local government authority may seek an order from the court under section 95(3)(a) of the Act permitting the medical examination to take place.

Refusal of child to consent to a medical examination

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

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

(b) his consent shall be sought.

(2) Where a child who is of sufficient age and maturity refuses to consent, and where a failure to examine and treat the child could lead to loss of life or permanent damage, the local government authority may seek an order from the court under section 95(3)(a) of the Act permitting the medical examination and treatment to take place.

(3) In any case where emergency treatment is required to prevent loss of the child's life or to prevent permanent damage to the child, the doctor may proceed without the consent of either the parent or the child.

PART VI

PLACE OF SAFETY

Removal of a child to a place of safety

22. (1) A social welfare officer, accompanied by a police officer, may enter and search any premises where a child is kept for the purposes of investigation if

he has reasonable grounds to suspect that a child resident in the premises has suffered or is likely to suffer significant harm.

(2) Where, having entered with a police officer and investigated, the social welfare officer decides that the child or any other child on the premises has suffered or is at risk of suffering significant harm and is in need of care and protection, he may remove any such child to a place of safety for a period not exceeding seven days.

(3) Where a social welfare officer determines that a child who is in hospital, or is accommodated by the social welfare department under regulation 37 or is staying with a temporary carer, will be at immediate risk of suffering harm if he is removed from that place by a parent, guardian or carer, the social welfare officer may declare the hospital or the place where the child is staying at that time a place of safety, so as to prevent any removal of the child.

(4) Where a child is removed from the parent, guardian or carer under sub-regulations (2) or (3) the social welfare officer shall inform the head of the social welfare department within 24 hours.

(5) The social welfare department shall ensure that a child removed to a place of safety is provided with accommodation, either with a relative, foster carer, fit person or, if appropriate, in a hospital or as a matter of last resort, in an approved residential home.

(6) The social welfare department shall undertake an initial investigation on any child removed to a place of safety within 72 hours.

(7) While a child is in a place of safety, parental rights and responsibility shall be shared with the local government authority and the parents' exercise of parental responsibility may be limited to the extent deemed necessary by the local government authority.

(8) Where a child is removed to a place of safety by the police in the absence of a social welfare officer, the police shall immediately notify the intake social welfare officer

(9) The parents, guardian or carer of a child removed to a place of safety shall -

- (a) be informed, as soon as is practicable with whom the child is living, unless there is reasonable cause to believe that this would place the child at risk of suffering significant harm; and
- (b) be granted contact with the child, unless this is not in the child's best interests.

PART VII

ACTION FOLLOWING INVESTIGATION

Action following investigation

23. (1) Following the investigation, the intake social welfare officer in consultation with the head of the social welfare department, and where there is reasonable cause to believe that a crime has been committed, in consultation with the police, shall decide -

- (a) that there is no reasonable cause to believe that the child or any other child in the household is suffering or is at risk of suffering harm and that no further action shall be taken; or
- (b) that there is no reasonable cause to believe that the child or any other child in the household is suffering or is at risk of suffering harm but that the family should be referred to the most vulnerable children committee within the area for support; or
- (c) that there is a reasonable cause for concern.

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

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

Informing the
referrer of the
action to be
taken

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

(2) Where a referral was made by a professional, a staff member, volunteer or a service working or in contact with children, and the intake social welfare officer has decided to take no further action or to refer the family to the most vulnerable children committee, the referrer should be informed in writing of the outcome of the investigation and the decision taken and a copy placed on the child's file.

(3) Where the social welfare department decides that the case falls within Regulation 23(1)(a) or (b) and the child's file is closed, the file shall be kept until the child is 21 years of age.

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

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

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

Procedure if there is cause for concern following an investigation

25. (1) If at the end of the investigation, the intake social welfare officer concludes in accordance with regulation 23(1)(c) that there is a reasonable cause for concern, a social investigation shall be undertaken and shall be completed within seven days.

(2) A social investigation report shall determine -

(a) whether the child is suffering or is at risk of suffering significant harm;

(b) whether a parent, guardian or carer is able to promote the child's health and development; and

(c) whether a parent, guardian or carer is able to respond appropriately to the child's needs.

(3) In undertaking the social investigation, the intake social welfare officer shall

-

(a) see and speak to the child on his own, according to his age and maturity,

(b) see and speak to the parents, guardian or carer and such relatives as are appropriate;

(c) obtain relevant information from professionals and others in contact with the child and family;

(d) arrange for the child to be medically examined if appropriate;

(e) take into account all relevant information, including historical

information; and

(f) draw together and analyse information obtained from all sources, including any existing records.

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

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

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

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

(d) the child is suffering harm or is at immediate risk of harm and emergency action is required to safeguard the child.

(5) When it is decided that emergency action is required, the social welfare officer may, after consultation with the head of the social welfare department, remove the child to a place of safety in accordance with Regulation 22.

PART VIII

THE CHILD PROTECTION CONFERENCE

The child
protection
conference

26. (1) Where following a social investigation, the intake social welfare officer has concluded in accordance with Regulation 25(4)(c), that the child is suffering or is at risk of suffering significant harm, but that this does not

require immediate action to safeguard the child, the intake social welfare officer shall hand over the case to a social welfare officer assigned by the head of the social welfare department to the child's case.

(2) The assigned social worker shall convene a child protection conference within 10 days of the completion of a social investigation.

(3) The purpose of the conference shall be to enable those professionals most involved with the child and family to review all relevant information and to plan how to safeguard the child and promote the child's welfare.

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

- (a) the parents of the child;
- (b) relatives and any guardian;
- (c) any social welfare officer who has conducted a social investigation of the child or family;
- (d) any foster parent/family or other carer who has looked after the child;
- (e) professionals involved with the child, including any doctor, nurse, teacher, child care worker or psychologist;
- (f) the police;
- (g) any other person deemed relevant by the social welfare officer.

(5) The child protection conference shall -

- (a) bring together and analyse the information about the child's health, development and wellbeing and the capacity of the parents, guardian or any carer to ensure the child's safety and promote the child's health and development;
- (b) reach a decision on the likelihood of the child suffering significant harm in the future; and

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

(6) The Commissioner may issue guidelines to assist child protection conferences with their procedures, process and decision making.

Involving the child and relatives in the child protection conference

27. (1) The parents or guardian, and a child of sufficient age and maturity shall be told the purpose of the conference, who will attend and how the conference will operate.

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

(3) A parent or guardian:

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

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

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

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

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

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

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

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

Information to be made available at the child protection conference

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

- (a) a chronology of significant events including the child's and family's contact with the police, health and education professionals, local government bodies and non governmental organisations;
- (b) information on the child's health and development;
- (c) information on the capacity of the parents, guardian, carer and other relatives to safeguard the child and to promote the child's health and development;
- (d) the expressed views and wishes of the child; and
- (e) an analysis of future risks to the child's safety, health and development.

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

Chairing the child protection conference

29. (1) The head of the social welfare department shall appoint the chair of the child protection conference.

(2) A chair of a child protection conference shall not be an employee of the social welfare department or an elected member of the local government authority, but may be a member of the MVC Committee, or any other person who is deemed by the head of the social welfare department to have relevant experience and knowledge.

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

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

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

Role of the chair
of the child
protection
conference

30. The role of the chair shall be to -

- (a) ensure that all persons attending the conference understand its purpose and what will happen at the conference;
- (b) set out the agenda;
- (c) remind all parties that the conference is confidential;
- (d) enable all those present to make a full contribution to discussion and decision making;
- (e) ensure that the child protection conference takes into account all the information before it and the views of all participants and the wishes of the child;
- (f) ensure that any guidance set by the Commissioner in accordance with Regulation 26(6) on the procedures and process of the child protection conference is adhered to.

Professional discussion at the child protection conference

31. (1) Prior to the start of the child protection conference, the chair shall remind all persons attending that there will be a professional discussion of the evidence presented, during which time the chair may require the child, his parents, guardian or carer and any person assisting them to withdraw.

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

Minutes of the child protection conference

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

(2) Once approval has been received by the head of the social welfare department under regulation 34(9), the minutes of the child protection conference shall -

- (a) be distributed to all the professional parties attending;
- (b) be signed by the chair of the child protection conference ;
- (c) contain any recommendations made;
- (d) be sent to the head of the social welfare department; and
- (e) be placed on the child's file.

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

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

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

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

Documents
before the
child
protection
conference

33. (1) Documents related to the child protection conference shall not be retained after the child protection conference or removed from the room in which the child protection conference takes place other than by professionals working with the child.

(2) All documents and the minutes of the child protection conference shall be confidential and shall not be released to persons other than those attending the child protection conference without the consent of the head of the social welfare department or an order of the court.

Decision of the
child protection
conference

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

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

(a) The child has suffered harm or impairment of health and development as defined by Regulation 4 and further harm or

impairment of health and development is likely as a result of the care the parent, guardian or carer has given or failed to give the child; or
(b) That the child is likely to suffer harm or impairment of health and development as defined in Regulation 4.

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

- (a) recommend that no further action be taken; or
- (b) recommend that the child be referred to the most vulnerable children committee for the provision of services.

(4) A failure by the parent, guardian or carer to accept any services offered by the most vulnerable children committee shall not be a cause for re-opening the child's case.

(5) Where the child protection conference concludes that the child falls within sub-regulation (2) of this regulation, and that the child's health and development can be safeguarded by a child protection plan, it shall draft an outline child protection plan in accordance with Regulation 35.

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

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

(8) The head of the social welfare department shall have the power to reject the recommendations of the child protection conference, but only where he

believes that the action recommended is unreasonable and cannot be justified on the facts, is disproportionate or places the child at risk of suffering significant harm.

(9) Once the head of the social welfare department has received the minutes and recommendations from the child protection conference and has approved them, the minutes of the child protection conference may be sent out in accordance with regulation 32(2).

The child
protection plan

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

- (a) safeguard the child from further harm; and
- (b) promote the child's health and development

while the child remains in the family home with his parent, guardian or carer.

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

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

- (a) identify the risks of significant harm faced by the child and detail the ways in which the child is to be protected;
- (b) establish short term and long term objectives that are clearly linked to reducing the risk of harm to the child and promoting the child's safety, health and welfare;
- (c) detail the actions to be taken and who is to take responsibility for those actions;
- (d) set dates by which actions set out in the child protection plan should be completed;
- (e) take into account the wishes and feelings of the child and the views of the parents, guardian and carer to the extent that these are in the best interests of the child.

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

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

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

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

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

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

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

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

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

(11) Where either the parent, guardian or carer or the child refuse to agree to the provisions contained in the child protection plan, the child's case shall be referred to the head of the social welfare department for further action.

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

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

Review of the
child
protection
plan

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

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

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

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

(5) The persons invited to the review conference shall be those who attended the child protection conference and any other person that the chair considers may be of assistance.

(6) The chair shall have the power to exclude a parent, guardian or carer if he or she falls within the provisions of Regulation 27(3).

(7) A review conference shall -

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

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

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

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

(11) Regulations 31 and 32 shall apply to the review conference as they do to the initial child protection conference.

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

- (a) the child protection plan should continue as originally drafted; or
- (b) the child protection plan should be varied; or
- (c) that a child protection plan is no longer necessary in order to safeguard the child; or
- (d) that further intervention is required to safeguard the child.

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

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

(c) Where the decision is to reject the recommendations, the head of social welfare department may -

- i) continue with the plan in force; or
- ii) vary the plan in order to meet the child's needs; or
- iii) send the plan back to the child protection conference, giving directions on the matters to be reconsidered.

(14) Where the recommendation is that a child protection plan is no longer needed, the head of the social welfare department shall consider the recommendation and decide whether -

- (a) to accept the recommendation; or
- (b) to reject the recommendation.

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

(16) Where the chair of the child protection conference has reasonable cause to believe at any time, including at the end of the twelve month period of the child protection plan that, notwithstanding the child protection plan, the child

is suffering or is at risk of suffering significant harm he shall refer the case back to the head of the social welfare department within 72 hours.

(17) Where the chair decides to refer the case back to the head of the social welfare department he shall inform all the parties to the review conference.

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

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

PART IX

CHILDREN IN NEED OF ASSISTANCE AND ACCOMMODATION

Duty to children who are lost, abandoned, seeking refuge or without parental care

37. (1) A child who presents as, or is referred to a local government authority as lost, abandoned, seeking refuge or without parental care for whatever reason shall be treated as a child in need of care and protection within the meaning of s.16 and s. 144 of the Act and Regulation 4.

- (2)
- (a) The local government authority responsible for the child shall be the local government authority for the area where the child ordinarily resides;
 - b) where the child is of no fixed abode the local government authority in whose area the child presents as being without parental care, lost, abandoned or seeking refuge shall take responsibility;

save where another local government authority has already taken responsibility for the child, in which case it shall continue to take responsibility for the child.

(3) While an initial investigation and social investigation are taking place the social welfare department shall provide the child with assistance and accommodation in accordance with s.94(5) of the Act in either its district or the district of another local government authority.

(4) Before providing accommodation the social welfare department shall, so far as is reasonably practicable, and consistent with the child's welfare -

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

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

(5) The head of the social welfare department shall until such time as the parent is found, treat any child who is provided with accommodation under this regulation as a child for whom they have assumed parental rights and responsibilities.

(6) A parent or guardian wanting to remove a child from accommodation provided under this regulation shall give seven days notice to the head of the social welfare department.

(7) A child may be placed back in the parents' care before the seven days notice expires if the head of the social welfare department considers that the child will not suffer harm or impairment of health and development as defined in Regulation 4 and it is the best interests of the child to do so.

(8) Where -

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

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

the social welfare officer shall refer the child's case to the head of the social welfare department who shall determine within 72 hours whether further action, including the taking of a place of safety in accordance with regulation 22, is necessary to safeguard the child.

(9) Where It has not been possible to reunite a child who has presented under s.94(5) of the Act with his parents, guardian or carer, or where the child's parents are dead, cannot be found, or lack capacity or the child falls within the provisions of regulation 38, the head of the social welfare department shall, after an initial investigation and social investigation has been undertaken in accordance with Regulations 14 and 25 above, determine what further intervention, if any, is necessary to safeguard the welfare of the child, including -

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

Referral of child in conflict with the law

38. (1) Where a child –

- (a) is apprehended or detained by the police; or
 - (b) is released from a retention home or prison due to the dismissal of criminal charges against him ; or
 - (c) is acquitted of an offence by the Court; or
 - (d) is convicted of an offence and given a non-custodial sentence;
- and
- (i) the child , for whatever reason, is without parental care; or

(ii) the parent cannot be found; or

(iii) the parents are unwilling to care for the child

the child shall be assumed to be at risk of suffering significant harm and a child protection referral shall be made by the police, DPP, court or approved school in accordance with Regulation 12.

(2) (a) The child protection referral under sub-regulation (1) shall be made to the head of the social welfare department in the district in which the child ordinarily resides; or,

(b) if the child is of no fixed abode to the head of the social welfare department of the district -

(i) in which the police station is located in the case of a child falling under sub-regulation (1)(a); or

(ii) in the district in which the child was arrested or the district in which the Court is located in the case of a child falling under sub-regulation 1(b), (c), or (d)

(c) save that where a local government authority has already assumed responsibility for the child, that authority, if practicable, shall continue to take responsibility.

(3) Where a child who falls under sub-regulation (1) is provided with assistance and accommodation under s.94(5) of the Act, he may be provided with accommodation in another district where -

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

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

(4) Regulation 37(4) – (9) shall apply to all children provided with assistance or accommodation under sub-regulation (3).

Committal of child in conflict with the law to the care of Commissioner

39. (1) Where a child is charged with the commission of a criminal offence and where bail would have been granted were it not for the fact that the child has nobody to care for him, or has no accommodation or has nobody to give a surety or recognisance, the court may order that the child be placed in the care of the Commissioner under s.104(2) of the Act and that the child be provided with assistance and accommodation under s.94(5) of the Act until either the charge is dismissed or a verdict is reached.

(2) Where such an order is made by the court, the Commissioner shall delegate the care of the child to the head of the social welfare department of the district in which the child ordinarily resides, or if the child is of no fixed abode, the district in which the child was arrested or such other social welfare department as the Commissioner deems appropriate, save where another local government authority has taken responsibility for that child, it shall, if practicable, continue to care for the child on behalf of the Commissioner.

(3) The child shall not be removed from the care of the responsible social welfare department without an order of the court.

responsibility
or a
transferred
child

40. (1) Where a child who is the responsibility of one social welfare department is assisted and accommodated under regulations 37 to 39 in the district of another social welfare department, the social welfare department in which that child is placed shall be responsible for that child.

(2) The Commissioner for Social Welfare shall have the power to issue Regulations or Guidelines on transfer of funding for children placed out of district.

Entry into
voluntary
care

41. (1) Where the head of the social welfare department has reasonable cause to believe following a social investigation report that a child will be at risk of suffering significant harm if he is not taken into the care of the local

government authority, or the child protection conference has referred a case back to the head of the social welfare department under Regulation 36(16) and

(a) the parents' consent to the child being taken into care; or

(b) the child falls within Regulation 37, in that it is:

i) not possible to reunite the child with his parents; or

ii) the parent cannot for whatever reason care for the child;

and

iii) placement with a relative is not possible or would not

adequately safeguard the welfare of the child,

the head of the social welfare department shall admit the child into the voluntary care of the local government authority.

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

(3) In preparing the care plan, the social welfare department shall take into account the factors set out in Regulation 47 and any relevant guidance issued by the Commissioner.

(4) The head of the social welfare department shall review the initial and social investigation reports and the care plan if prepared, and satisfy himself before agreeing to receive the child into the care of the local government authority, that -

(a) the child falls within sub-regulation (1) above; and

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

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

(d) that the child is likely to suffer significant harm if he is not admitted into the care of the local government authority.

(5) Where the child is to be admitted into the care of the local government authority under sub-regulation (1)(a) an assigned social welfare officer shall agree the care plan with the parent and shall explain to the parent -

- (a) the effect of the child being received into the care of the local government authority;
- (b) that 14 days notice will be required to remove the child from voluntary care and that an intended removal will be subject to a review, save where the admission into voluntary care is temporary and for an agreed period of time;
- (c) that the local government authority may choose to apply for a care order from the court if it reasonably believes that this is necessary to safeguard the welfare of the child;
- (d) that the local government authority will share parental rights and responsibilities with the parent and will determine where and with whom the child will live;
- (e) the arrangements for access between the child and the parents and other significant persons in the child's life; and
- (f) that the parent will be invited to reviews of the care plan.

(6) Parental consent to the child's admission into care under sub-regulation 1(a) above, shall be formally recorded in writing by the head of the social welfare department.

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

(8) Where the child is being received into care with parental consent and agreement cannot be reached with the parents on the care plan, the head of the social welfare department shall consider whether it is in the child's best

interests for the local government authority to make an application for a care order.

(9) Any child received into care under this regulation shall have the same legal status as a child who is the subject of a care order, and the local government authority shall owe the same duties to a child who is received into care as to a child under a care order or a child who is provided with assistance and accommodation under s.94(5) of the Act.

Termination
of voluntary
care

42 (1) A parent wishing to terminate the placement of their child in voluntary care, shall give the head of the social welfare department 14 days notice of intention to remove and shall explain to the social welfare department, either in writing or orally, how circumstances have changed and the arrangements for caring for the child, including where the child will live, with whom the child will live and any arrangements for education or necessary health care.

(2) The parent shall be permitted to remove the child 14 days after giving notice, save that where the head of the social welfare department has reasonable cause to believe that the child may suffer significant harm if removed from voluntary care by the parent, a social welfare officer may take a place of safety on the child in accordance with regulation 22(3), preventing the parent from removing him from his placement.

(3) Where a child has been made the subject of a place of safety, the child protection procedures as set out on Parts VI to VIII of the Regulations shall apply.

PART X

APPLICATION FOR A CARE OR SUPERVISION ORDER

Application for a care or supervision order

43. (1) Where the child is suffering or is likely to suffer significant harm as defined in regulation 4, and where that harm is due to -

- (a) the care given or likely to be given by the parent to the child; or
- (b) the child being out of control; and
- (c) the head of the social welfare department has decided that welfare of the child can only be safeguarded by a care or supervision order,

the local government authority shall make an application for a care or supervision order.

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

Power to apply for a care or supervision order

44. (1) An application for a care or supervision order shall be made by the local government authority for the district in which the child ordinarily resides or, in a case where the child is without the care of a parent, guardian or carer, the district in which the child is found or presents as being lost, abandoned or seeking refuge, save where another local government authority has assumed responsibility for the child.

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

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

45. (1) Before an application for a care order or supervision order is made, the social welfare department shall -

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

- (i) that the local government authority intends to make an application for a care or supervision order;
- (ii) the nature and extent of their concerns; and
- (iii) the right to be represented and possible sources of legal advice.

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

(2) Where the child is -

- (a) lost, abandoned or seeking refuge; and
- (b) the mother, father, guardian or carer are unknown or cannot be found after reasonable enquiry has been made; or
- (c) the mother, father, guardian or carer are incompetent,

the social welfare department may make an application and seek the consent of the court at the initial hearing to proceed without notification of that parent.

(3) An enquiry shall be deemed to be reasonable under sub-regulation (2)(b) above where -

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

(4) In cases where the head of the social welfare department decides following an initial or social investigation that it is not necessary to remove the child to a

place of safety, but that an immediate application for a care or supervision order is required to safeguard the child, the local government authority may make an application without the social welfare department first providing the information contained in sub-regulation (1)(a) above.

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

Documents
to be filed
on an
application
for a care or
supervision
order

46. Where an application is made for a care order or supervision order, the local government authority shall file the following documents with the Court -

- (a) an initial written statement -
 - (i) setting out the child's family background;
 - (ii) identifying the actual or likely significant harm to the child;and
 - (iii) the child's wishes and feelings;
- (b) a care plan or supervision plan for the future care of the child;
- (c) the initial investigation report, if this has been finalised at the time of the application;
- (d) the social investigation report, if this has been finalised at the time of the application; and
- (e) evidence that the parent, guardian or carer has been informed of the intention of the local government authority to apply for a care order and the right to be represented in accordance with regulation 45; and

(f) where a parent or guardian has consented to adoption in accordance with the Adoption of Children Regulations, the signed consent.

Preparation and content of a care plan

47. (1) A care plan shall be drafted in accordance with any guidance issued by the Commissioner and shall include, but shall not be limited to -

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

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

(ii) education and training;

(iii) emotional and behavioural development;

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

(v) family and social relationships;

(vi) placement, and

(vi) social and self-care skills;

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

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

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

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

(a) a parent, guardian or carer; and

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

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

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

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

(b) set the date for the first review.

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

Where the parent consents to adoption

48. (1) Where the local government authority intend to apply for a care order, and the care plan specifies that adoption would be in the best interests of the child, the assigned social welfare officer shall ask the parent or guardian if he is willing to consent to the child being placed for adoption.

(2) Where the persons in sub-regulation (1) are willing to consent, such consent shall be made in writing and signed in the presence of a magistrate in accordance with the Adoption of Children Regulations.

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

(a) the effect of an adoption; and

(b) the right to withdraw consent within 60 days in accordance with the procedure set down in the Adoption of Children Regulations.

(4) Where the local government authority have made an application to the court for a care order and the parents, guardian or persons with parental rights and responsibilities under an agreement or court order have consented to the adoption in accordance with sub-regulation (2) and the court has recorded that the child is free for adoption the local government authority may place the child for adoption.

Dispensing with consent to adoption

49. (1) Where the local government authority is applying for a care order and the care plan is for adoption and -

- (a) the parent or guardian cannot be found; or
- (b) one or both parents or the guardian are unknown; or
- (c) the parents or guardian lack capacity to consent;

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

(2) Where the local government authority has -

- (a) made an application for a care order; and
- (b) the care plan is for adoption; and
- (c) the parents or guardian do not consent to the adoption; and
- (d) the parents or guardian have abandoned, failed to care for, neglected or persistently ill-treated the child or have failed to protect the child against neglect or persistent ill-treatment by another person,

it may make an application to dispense with parental consent to adoption at the same time as the application for a care order or at any time during the proceedings on the ground that consent is being unreasonably withheld.

(3) When making an application to dispense with parental consent, the local government authority shall file a report, in addition to the evidence required under regulation 46, setting out -

- (a) the grounds and evidence relied upon for dispensing with consent;
- (b) the likelihood of the child being reunified with the birth family within a time frame that meets the child's needs;
- (c) the length of time the child has been cared for outside the family, if any;
- (d) the frequency of contact between the child and the parents, guardian or any other person who has parental rights and responsibilities under an agreement or court order; and
- (e) the reasons why it is alleged that consent is being unreasonably withheld.

(4) Where the Court dispenses with consent under this regulation, the local government authority may place the child for adoption.

Notifying
parents
that an
adoption
order has
been
granted

50. (1) Where a child is placed with adoptive parents as a result of the court ordering that the child is free for adoption this shall not remove the need to apply for an adoption order in accordance with the provisions of the Act and the Adoption of Children Regulations.

(2) When an adoption order is granted in relation to a child in its care, the local government authority shall inform the parent, guardian or person with parental rights and responsibilities under an agreement or court order that the child has been adopted.

Supervision
order

51. A local government authority may make an application for a supervision order to prevent significant harm occurring to the child while the child remains in the family home in the care of his parent, guardian or relative.

Supervision
plan

52. (1) When applying for a supervision order, the local government authority shall file a supervision plan for the child, which shall identify how the child's short term needs will be met, in accordance with any guidance issued by the Commissioner.

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

- (a) where the child will live for the duration of the supervision order;
- (b) the support that will be offered by the social welfare department or other bodies to the child and the family;
- (c) any education or training activities that the child or parents are expected to attend;
- (d) any particular places that the child is expected to attend at any particular times;
- (e) any duties that the parents are expected to perform; and
- (f) such other requirements as the social welfare department consider necessary to safeguard the child, including attendance at a hospital or medical or treatment programme.

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

Supervising
authority

53. (1) In accordance with the Juvenile Court Rules, a child who is the subject of a supervision order shall be placed under the supervision of the applicant local government authority, save that where the child will be living in another district, the child shall be placed under the supervision of that local government authority for the duration of the order.

(2) Where the supervision plan is for the child to live in a local government authority other than the authority that made the application, the second local

government authority must be informed at the time the supervision plan is filed with the Court.

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

(4) In assigning an appropriate person, the head of the social welfare department shall ensure that such person is experienced in working with children and has received such training as may be specified by the Commissioner.

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

Duties of the supervisor

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

- (a) to advise, assist and befriend the supervised child;
- (b) to take such steps as are reasonably necessary to give effect to the supervision plan; and
- (c) where—
 - (i) the plan is not wholly complied with; or
 - (ii) the parent or guardian with whom the child is living refuses the supervisor access to the child; or
 - (ii) the supervisor considers that a supervision order may no longer be necessary

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

Visits to a child under a supervision order

55. (1) The assigned social welfare officer shall visit the child once he is placed under supervision of the local government authority -
- (a) after the first week of a supervision order;
 - (b) no later than every 28 days after the first visit for the duration of the supervision order.

Application for an exclusion order

56. (1) Where-
- a) the local government authority has made an application for a care or supervision order; and
 - b) the head of the social welfare department has reasonable cause to believe that a child is suffering or is at risk of suffering significant harm, and that the significant harm would cease to exist if a named person was removed from the home or was prevented from having any contact with the child; and
 - c) there is a parent or some other person in the home who is able and willing to give the child a level of care that would safeguard the child's health and development

the local government authority may apply to the court for an exclusion order.

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

- (3) The local government authority may seek an order from the court -
- (a) requiring the named person to leave the home where he is living;
 - (b) prohibiting a named person from entering a home where a child is living;

- (c) prohibiting a named person from entering a defined area around the home in which the child is living; or
- (d) prohibiting a named person from contacting or speaking to the child concerned or to persons looking after the child.

(4) The application shall state the period of time for which an exclusion order is needed, such period not extending beyond the child's 18th birthday.

(5) The application may request that the court stay the care or supervision proceedings while the exclusion order is in force or until such time as the local government authority requests that the stay be removed or the application be discharged.

(6) At any time that an exclusion order is in force, an application may be made to vary it, to

- (a) include other named persons; or
- (b) to remove an order on a named person; or
- (c) to vary the period of time for which the order is in force.

PART XI

DUTIES OF THE LOCAL GOVERNMENT AUTHORITY TO CHILDREN IN CARE

Responsibility for a child under a care order

57. Where a care order is made with respect to a child, it shall be the duty of the local government authority named in the order to receive the child into its care.

General duty of the local government authority to secure sufficient accommodation

58. (1) It is the general duty of a local government authority to take steps to ensure, so far as is reasonably practicable, that there is sufficient accommodation to meet the needs of children in their care.

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

General duties of the social welfare department in relation to children in their care

59. (1) In these regulations, any reference to a child who is in the care of a local government authority is a reference to a child who is —

- (a) in their care under an interim or full care order;
- (b) has been taken into voluntary care in accordance with Regulation 41; or
- (c) provided with accommodation by the local government authority in the exercise of any of its powers under the Act and under Regulation 37.

(2) The local government authority is under a duty with respect to a child in its care -

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

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

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

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

- a) the principles contained in Regulation 3; and

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

Parental rights and responsibilities when a child is under a care order

60. (1) Where a care order is in force with respect to a child, the local government authority shall -

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

(2) The head of the social welfare department on behalf of the local government authority shall only limit the exercise of parental rights to the extent that it is necessary to do so to safeguard and promote the child's welfare

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

(a) the local government authority or any person caring for the child shall not -

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

without an order of the court;

(b) the local government authority shall not remove the child or permit anyone acting on its behalf to remove the child from the United Republic of Tanzania, except in accordance with sub-Regulation (c) below without the consent of the Court;

(c) sub-Regulation (b) above shall not prevent the removal of a child subject to a care order from the United Republic of Tanzania for a period of not more than 28 days provided that the person taking the child has obtained the written consent of the head of the social welfare department.

(4) Sub-Regulation (3)(b) shall not apply where the care order is for the child to live outside the United Republic of Tanzania

Duration of
a care order

61. (1). A care order may be made for a maximum period of three years or until the child reaches the age of eighteen years.

(2) The head of the social welfare department shall ensure that a review of the child is undertaken no later than six months before the date of the termination of the care order and shall decide no later than four months before the termination of the order whether to -

- (a) draw up a leaving care plan to assist the child once he has left the care of the local government authority; or
- (b) make an application to the court for a second or subsequent care order.

(3) Where the decision of the head of the social welfare department is to make an application for a second or subsequent care order, the local government authority shall file an application for a care order including -

- (a) a statement setting out the reasons for seeking a second or subsequent care order;
- (b) any social investigation of the family undertaken for the purposes of reintegration;
- (c) a care plan setting out the arrangements that are to be made for the child containing the information set out in Regulation 47;
- (d) the minutes of the pre-discharge case review conference and any subsequent reviews under the existing care order; and
- (e) a copy of the original care order and any further care orders made by the court.

(4) There shall be no limit on the number of care orders that may be sought by the local government authority in relation to a child, save that a care order

shall terminate on the child's eighteenth birthday if it has not been discharged before that date.

Placement
of a child

62. (1) When a child is in the care of a local government authority, that authority shall be under a duty to accommodate the child in an appropriate placement.

(2) In determining the appropriate placement for a child in the care of the local government authority, a social welfare officer shall have regard to Regulation 3 and consider the following options -

- (a) placement with a relative, friend or person connected with the family;
- (b) placement with a foster parent or fit person; or
- (c) placement in a residential home approved in accordance with the Act.

(3) A social welfare officer shall -

- (a) give preference to a placement falling within sub-regulation 2(a) of this regulation over placements falling within the other paragraphs of that sub-regulation; and
- (b) ensure that wherever practicable -
 - i) it allows the child to live near his former home;
 - ii) it does not disrupt the child's education or training;
 - iii) that the child is not separated from his siblings; and
 - iv) if the child is disabled, the accommodation provided is suitable to the child's particular needs.

Visits to a
child in care
once placed

63. (1) The assigned social welfare officer shall visit a child in the care of the local government authority once he has been placed -

- (a) no later than 7 days after the child has been placed;
- (b) no later than 28 days after the first visit;

- (c) Following the second visit, no less than once every three months for the duration of the care order; and
- (d) at any other time that the assigned social welfare officer or the head of the social welfare department deems necessary.

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

Conduct of visits

64. (1) On each visit, the assigned social welfare officer shall speak to the child in private unless-

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

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

Reporting concerns about a placement

65. (1) Where, as the result of a visit carried out in accordance with regulation 63 above -

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

(2) Where sub-Regulation (1) applies, and a child's placement is reviewed or

terminated, an initial investigation shall be undertaken on any other children living at the same placement.

PART XII

REVIEW OF CHILDREN UNDER THE CARE OR SUPERVISION OF THE LOCAL GOVERNMENT AUTHORITY

Review

66. (1) The local government authority shall undertake regular reviews of

- (a) every child in its care as defined by Regulation 59(1).;
- (b) every child who is the subject of an interim or full supervision order made by the court for whom the local government authority has responsibility.

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

(3) The head of the social welfare department shall take responsibility for ensuring that reviews are carried out on children falling within sub-regulation (1).

(4) The first review shall take place no later than 28 days after the child enters into the care or under the supervision of the local government authority.

(5) The second review shall take place no later than three months after the first review and reviews shall be conducted every six months thereafter until the child ceases to be under the care or supervision of the local government authority, save that

- (a) there shall be a review one month before the end of a supervision order; and
- (b) there shall be a review no later than six months before the date of termination of a care order to determine whether a further

application should be made under regulation 61(2) for a second or subsequent care order.

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

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

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

- (a) agreed decisions from the review are not carried out within the specified timescale;
- (b) in the case of a child in the care of the local government authority there are major changes to agreed arrangements for access to the parent, guardian or former carer or other important persons in the child's life;
- (c) there is a change of assigned social welfare officer;
- (d) there are child protection concerns with respect to the child;
- (e) there are complaints from or on behalf of the child, parent or carer;
- (f) there is an unexpected change in the child's placement, including the child being remanded or sentenced to a term in the approved school by the court;
- (g) there are changes in the family circumstances for example births, marriages or deaths which may have a particular impact on the child;
- (h) the child is charged with a criminal offence;
- (i) the child is excluded from school;
- (j) there are significant health, medical events, diagnoses, illnesses,

hospitalisations, or serious accidents; or
(k) the child has run away or is missing from his placement.

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

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

Pre-review
procedure

67. (1) The head of the social welfare department shall appoint a member of the social welfare department, other than the child's assigned social welfare officer to chair the review.

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

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

Members of
the review

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

- (a) the person caring for the child, where the child has been placed with a relative or family friend;
- (b) where the child is in a foster placement or placed with a fit person, the child's foster parent or fit person;
- (c) where the child has been placed in an approved residential home,

- a representative of the children's home;
- (d) the child's teacher, doctor, psychologist or other professional in contact with the child;
- (e) such officers of the local government authority as the head of social welfare department deems appropriate;
- (f) any other person that the chair believes to be relevant to the child's care; and
- (g) the child if he is of sufficient age and maturity.

(2) Where it is considered that written views or reports will be adequate, these should be sought and obtained in time to be considered as part of the review meeting.

(3) Where the assigned social welfare officer believes that the attendance of a named person, institution or body is necessary, he shall inform the chair who shall give notice to the person, institution or body no later than 7 days before the review that he should attend.

(4) Where a child is in the care of the local government authority, the parent, guardian or carer shall be informed of the review but shall only be invited to attend the interview where in the view of the assigned social welfare officer, this is in the best interests of the child.

(5) If it is found to be in the best interests of the child that the parent, guardian or carer attend, the parent shall have the right to be accompanied by an advocate, friend or supporter to assist them at the review.

(6) Where the child is under the supervision of the local government authority, the parent, guardian or carer should be invited to attend and shall have the right to be accompanied by an advocate, friend or supporter to assist them at the review.

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

Attendance
of the child
at a review

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

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

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

Information
for the
review

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

- (a) the child's progress,
- (b) the extent to which the care plan is being implemented and any changes needed to the care plan, and
- (c) any change required to the legal status of the child including any intention to make an application for a care order or a discharge of a care order.

(2) The assigned social welfare officer shall:

- (a) make available to the professional members any written reports from the child's carer and from professionals concerned with the child on the child's progress either before or at the meeting;
- (b) ensure that the views and wishes of the child are made known at the review if the child does not wish to attend the review, is not of sufficient age and maturity to attend the review or it is deemed not to be in the child's best interests to attend the review; and
- (c) give notice to any person, institution or body required to attend the review.

Role of the
chair of the
review

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

- (a) ensure that all persons attending the conference understand its purpose and what will happen;
- (b) set out the agenda;
- (c) remind all parties that the conference is confidential;
- (d) enable all those present to make a full contribution to discussion and decision making; and
- (e) ensure that the review takes into account all the information before it and the views of all participants and the wishes of the child.

(2) Regulation 31 shall apply to reviews.

Minutes
of the
review

72. (1) Documents made available to those attending the review, other than the SWO report provided under regulation 70(1), shall not be retained after the review or removed from the room in which the review takes place, other than by professionals working with the child;

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

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

- (a) be distributed to all the professionals attending the conference but shall be treated as confidential by those parties
- (b) be approved and signed by the chair of the review;
- (c) contain any recommendations made by the review;
- (d) be sent to the head of the social welfare department; and
- (e) placed on the child's file.

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

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

Second and subsequent reviews

73. The second and subsequent reviews shall consider:-

- (a) the effect of any change in the child's circumstances since the last review;
- (b) whether decisions taken at the last review have been successfully implemented, and if not the reasons for the non-implementation;
- (c) whether the social welfare department should seek any change in the child's legal status, including an application for a care or supervision order or a discharge of a care or supervision order;
- (d) whether there is a plan for permanence;
- (e) whether, in the case of a child in the care of the local government authority, there is a need to change the arrangements for access between the child and his family or other relevant persons;
- (f) whether the placement continues to be appropriate and is meeting the needs of the child;
- (g) the child's educational needs, and whether the arrangements that

are in place are meeting the child's educational needs or require a change;

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

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

Revising a care plan following a review

74. Following a review, the social welfare department shall give a copy of any revised, amended, care plan to:-

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

PART XIII

DISCHARGE OF A CARE ORDER

Discharge of a care order

75. (1) The local government authority may apply for discharge of a care order in accordance with the Juvenile Court Rules where it reasonably believes that such an order is no longer necessary to protect the child from suffering harm or impairment of health or development as defined by Regulation 4.

(2) When making an application for discharge of a care order, the local government authority shall prepare and file a statement setting out the reasons for the application and a care discharge plan.

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

- (a) where the child will live and with whom following discharge from care;
- (b) the support that will be available to the child from his parents and other persons following discharge from care;
- (c) the financial resources of the parent, guardian or carer and the child;
- (d) the child's state of health;
- (e) the child's continuing need for education, training and employment;
- (f) the wishes and feelings of the child, any parent or guardian and any person with whom it is intended that the child will live;
- (g) the services, if any, to be provided by the social welfare department .

(4) Where the Court discharges a care order, a social welfare officer shall:

- (a) visit the child no later than 7 days after the discharge
- (b) no later than 28 days after the first visit.

(4) Where the child is living in a local government district other than that named in the care order, and it is not practicable for the named social welfare department to undertake the visits under sub-Regulation (5), the head of the social welfare department shall, request that the social welfare department of the new local government authority make the visits in accordance with sub-regulation (4) and file a report in accordance with sub-regulation (7).

(5) Following the second visit, the social welfare officer shall review the care discharge plan to determine whether it is appropriate to meet the needs of the child and whether the child requires further support or intervention and shall submit a written report on his findings to the head of the social welfare department responsible for the child's care.

(6) Where the discharge report -

(a) contains a recommendation for further services not contained in the care discharge plan, the social welfare department shall refer the child to the most vulnerable children committee;

(b) recommends further intervention to safeguard the welfare of the child, the head of the social welfare department shall consider:-

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

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

PART XIV

CONSEQUENTIAL AMENDMENTS

(a) Sub Part 1

Construction
GN. No. 155

76. This Sub-Part shall be read as one with the Children's Homes Regulations, hereinafter referred to as the 'Regulations'.

Amendment of
Regulation 3

77. The Regulations are amended in Regulation 3 by:

(a) adding at the end of the sub-regulation (i) the phrase: 'save that where a child in the care of the local government authority is placed in an approved children's home by the social welfare department, this provision shall not apply and the responsibility for obtaining a birth

certificate as well as the cost shall fall on the local government authority responsible for the child.

Amendment of
Regulation 8

78. The Regulations are amended in Regulation 8 by:

(a) deleting in sub-regulation (8) the word 'ement' and substituting it for the word 'implement'

(b) adding in sub-regulation (9) at the end of the sub-regulation, the phrase "in accordance with regulation 12 of the Child Protection Regulations."

(c) In sub-regulation (10)(a) by:

(a) deleting "designed" and substituting "designated."

Amendment of
Regulation 10

79. The Regulations are amended in Regulation 10 by:

(a) deleting in sub-regulation (11) the words "who have in contact with children, excluding those staff members with HIV/AIDS" and substituting "who have infectious or communicable diseases do not come into contact with children, excluding those staff members with HIV/AIDS."

Amendment of
Regulation 16

80. The Regulations are amended in Regulation 16 by:

(a) Deleting regulation sub-regulation (1) and substituting with the words "No child shall be admitted to any children's home without the consent of the social welfare department acting on behalf of the local government authority save where sub-regulation (4) applies."

(b) Deleting sub-regulation (2) and substituting "a written consent to placement in the children's home shall be signed by the head of the social welfare department and the manager of the children's home."

(c) Deleting sub-regulation regulation (6) and substituting “Where the child is admitted in accordance with sub-rule 4, the social welfare department of the district in which the children’s home is located shall undertake a social investigation within 7 days of being informed of the admission and shall, following the social investigation decide whether to reunify the child with the parents or relatives, to provide assistance and accommodation under s.94(5) of the Act, to admit the child into voluntary care under regulation 42 of the Child Protection Regulations or to apply to the Juvenile Court for a care or supervision order.”

Amendment of
Regulation 18

81. The Regulations are amended in Regulation 18 by:
(a) deleting sub-regulation (7) up to regulation 19.

(b) Sub-Part II

Construction of
GN. No. 197

82. This sub-part shall be read as one with the Adoption of Children Regulations, hereinafter referred to as the “Regulations”.

Amendment of
Regulation 2

83. The Regulations are amended in Regulation 2 by:
(a) amending the definition of social welfare officer and deleting “in change of the city” and substituting the words “in charge of the city”.

Amendment of
Regulation 3

84. The Regulations are amended in Regulation 3 by -
(a) deleting the words “The Court or any public body shall, in making a decision for adoption of a child consider the best interest of a child and in particular it shall” and substituting the words “In making any decision regarding the adoption of a child, the best interests of the child shall be the primary consideration and in particular the Court or any public body shall –”

(b) In sub-regulation (a) by deleting the word “ascertained” and substituting with the word “ascertain”.

Amendment of
Regulation 4

85. The Regulations are amended in Regulation 4 by:

(a) deleting the word “group” in sub-regulation (2) and substituting with the words “jointly in accordance with s.56 of the Act”.

(b) delete the words “the applicant shall application” in sub-regulation (4) and substituting with the words “the applicant shall make an application”.

Amendment of
Regulation 5

86. The Regulations are amended in Regulation 5 by:

(a) deleting sub-regulation (1) and substituting with the words: “Where an applicant for adoption has the written consent of the parent to adoption, this consent shall be filed with the application”.

(b) deleting sub-regulation 5(2) and substituting with the words “where the parent has not provided consent to the adoption in writing the court may consider the application and dispense with consent in accordance with sub-section (2) of section 57 of the Act, save that in any case falling under Regulation 50 of the Child Protection Regulations, the Court shall not require parental consent.”

(c) deleting the words “and his sufficient maturity” sub-regulation 5(3) and substituting with the words “ and is of sufficient maturity”.

Amendment of
Regulation 7

87. The Regulations are amended in Regulation 7 by:

(a) deleting the words “persistently will treated” in sub-regulation (1)(a) and substituting with the words “persistently ill-treated”

(b) by deleting sub-regulation (1)(d)

(c) Deleting the words “the court shall” in sub-regulation (2) –” and substituting with the words “In determining whether the child has been neglected or persistently ill-treated, the Court shall take into account –”

(d) deleting sub-regulation 2(a)

(e) deleting sub-regulation 2(d)

(f) deleting sub-regulation (2)(f)

(g) deleting the word “under” in sub-regulation (4) and substitute with the words “unable”

(h) in sub-regulation (4)(b) deleting the words “bearing in mind the birth family and substituting with “bearing in mind the desirability of the child being brought up within the birth family”

(i) deleting the word “apointed” in sub-regulation(6) and substituting with the words “appointed”.

Amendment of
Regulation 10

88. The Regulations are amended in Regulation 10 by:

(a) deleting “nay” and substituting with the word “may”;

(b) In sub-regulation (2) deleting the words “and interpose no any otheer matter” and substituting with the words “shall not interpose any other matters”.

Amendment of
Regulation 11

89. The Regulations are amended in Regulation 11 by:

(a) deleting sub-regulation (4) and substituting with the words -

“(i) The social investigation report shall include information regarding the sibling or siblings of the child.

(ii) The Social Welfare Officer must assess whether an adoption is in the best interests of the child, giving due consideration to the likelihood of the child being reunified with the birth family within a timeframe that is in the child’s best interests”.

(b) In sub-regulation (7) by deleting “The social welfare officer shall meet with the child and explain to the child in order to ascertain the views of the child , the child’s the effect of the adoption” and substituting with the words “The Social Welfare Officer shall meet with the child and to ascertain his views and to explain the effect of adoption to the child in a manner...”

(c) in sub-regulation (9) by deleting the word “viewes” and substituting with the word “views”.

(d) deleting sub-regulation (10) and substituting with the words “ In order to ascertain the suitability of the Applicant and the views of any existing children of the Applicant, the Social Welfare Officer shall make home visits to the Applicant”.

(e) in sub-regulation (12)(a) deleting the words “such as to child abuse”.

(f) in sub-regulation (12)(b) by deleting the word “starting” and substituting with the word “stating”.

Amendment of Regulation 13 90. The Regulations are amended in Regulation 13 by –

(a) adding at the end of sub-regulation (3) “provided for in regulation 5 of these Regulations

Amendment of Regulation 15

91. The Regulations are amended in Regulation 15 by –

(a) adding the words “such application “has been” refused”

Amendment of
Regulation 18

92. The Regulations are amended in Regulation 18 by -

(a) deleting the word “documents” in sub-regulation (3) and substituting with the words “who was”.

Amendment of
Regulation 21

93. The Regulations are amended in Regulation 21 by -

(a) deleting “his relative shall follow the procedure for adoption and invaded under” and substituting with the word “his relative shall follow the procedure contained in”...

(b) in sub-regulation (2) by deleting “Any procedure for and conditions adopting” and substituting with the words “Any procedures and conditions for adopting”.