

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

CHILD FRIENDLY COMPLAINTS HANDLING PROCEDURE

WHY A SPECIAL FOCUS ON CHILDREN?

As an organisation established by the Constitution to monitor human rights, including the rights of children, the South African Human Rights Commission (SAHRC) is concerned about the wellbeing of all children in South Africa. The SAHRC has created child friendly spaces in all its nine Provincial Offices and has made a commitment to put children's rights and well-being first. The Commission firmly believes that complaints that are either lodged by children or affect children's rights must be treated with the sensitivity.

THE CONSTITUTION

The Constitution is the highest law in the country and recognises that children are entitled to all the rights contained in the Constitution. Section 28 of the Constitution contains all the rights identified for children.

WHAT CAN CHILDREN EXPECT FROM THE SAHRC?

All children can approach the SAHRC with complaints and have the right to access justice, to be heard, consulted, and kept informed about the progress of their complaints.

BEST INTERESTS

All decisions made by the Commission (and all other authorities) should always have the best interests of the child in mind.

CHILDREN AS A SECTOR

There are approximately 18.5 million children under the age of 18 years¹ in South Africa. So, children make up an important sector of our society and require special care and protection from all responsible adults and institutions.

¹ StatsSA, General Household Survey, 2014



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PRINCIPLES of a CHILD-FRIENDLY SOUTH AFRICAN HUMAN RIGHTS COMMISSION

1

LODGING COMPLAINTS

Children can lodge complaints at any of the SAHRC's 9 Provincial Offices. Children can lodge complaints in person, in writing or over the telephone. Children can lodge complaints by themselves or they can be assisted by their parents or guardian.

2

BEST INTERESTS OF THE CHILD

The SAHRC places the best interests of the child first in all complaints lodged by children. The Commission in determining what is in the best interest of the child takes the nature and context of the complaint and the real-life situation of the particular child into consideration.

3

CHILD FRIENDLY SPACES

All 9 Provincial Offices of the SAHRC have child-friendly, accessible, informal, spaces where children are encouraged to feel safe, secure and protected, while lodging complaints or participating in any SAHRC proceedings.

4

PRIORITY ATTENTION

The SAHRC gives priority attention to complaints involving children and an investigator gets appointed within 48 hours.

5

CHILD RIGHTS COMMISSIONER

The SAHRC has a Commissioner responsible for Child Rights, who is informed of all complaints involving children.

6

AGE APPROPRIATE COMMUNICATIONS

All communication with children (where possible and practical) is conducted as a first priority, in the mother tongue of the child, using simple language and terminology that is appropriate for the child's age, ability, and context.

7

RESPECT AND RAPPORT

In all communication with children, the Commission endeavours to be honest and respectful.

8

CALLING IN THE LAW

The Commission is obliged to refer all complaints alleging abuse or sexual abuse of children or people with disabilities, to the SAPS and other relevant authorities.

9

PROTECTION OF THE CHILD

In complaints involving abuse, the Commission can request a response from the SAPS and other authorities within 48 hours and further request information on any action taken by the SAPS and other authorities within 30 days.

10

INFORMATION

If the child is unable to provide all the required information, due to their capacity, age, experience, education level, or for any other reason, the Commission may not reject, dismiss or refuse to take the complaint. The Commission shall follow up with the child within 48 hours to obtain all the necessary information, which the child may be unable to provide at first.

11

PRIORITY FOLLOW UP

The Commission's investigators shall, within 48 hours of being appointed to a case, contact the child who has lodged the complaint and explain the procedures to the child in the manner that is understandable to the child.

12

WEEKLY UPDATES

The Commission's investigator shall inform the child, at least weekly, on the progress of the investigation, via telephone, sms, Mxit, WhatsApp and in child friendly language.

13

CONFIDENTIALITY

The Commission shall deal with all child complaints confidentially and not disclose any information externally on the complaint.

14

TIME AND PROTECTION

The Commission will explain all time lines to children, while remaining aware that child complainants may be at imminent risk due to the nature of their complaint.

15

SAFETY AND EMPOWERMENT

Ensuring that children feel safe and empowered is of paramount importance when dealing with children.

Children's rights

In terms of Section 28 of the Constitution, every child is entitled to:



RELATED Facts

<p>A NAME AND A NATIONALITY FROM BIRTH</p>	<ul style="list-style-type: none"> » 95% of South African children under 5 have birth certificates. » About one in 10 children have migrated from another country or province.
<p>FAMILY CARE OR PARENTAL CARE, OR TO APPROPRIATE ALTERNATIVE CARE WHEN REMOVED FROM THE FAMILY ENVIRONMENT</p>	<ul style="list-style-type: none"> » 40% of children live with mothers only, 34% live with both parents, 20% live with relatives, and 4% live with fathers. » The vast majority of children not living with a parent reside with their grandparents or other relatives² » Children in the poorest household are most likely to be deprived of parental care³
<p>BASIC NUTRITION</p>	<ul style="list-style-type: none"> » Nationwide, more than one in three children under the age of 5 have some form of malnutrition. » Eight out of 10 pupils are receiving regular meals at school⁴
<p>SHELTER</p>	<ul style="list-style-type: none"> » Children from the poorest households are more likely to live in informal housing. » 1.7 million children (9% of all children) live in informal housing such as shacks in backyards or squatter settlements⁵ » 2.8 million children (15% of all children) benefited from an RDP house or state subsidised dwelling⁶ » 12 million children benefit from the Child Support Grant, the largest cash transfer programme on the African Continent » Children living with their mothers only, in female-headed households and those who have lost their fathers, are more likely to live in poverty.
<p>BASIC HEALTH CARE SERVICES AND SOCIAL SERVICES</p>	<ul style="list-style-type: none"> » Only 10 out of the country's 52 districts have achieved the national target of 95% full immunisation coverage⁷ » An estimated 18% of all eligible children are not accessing the Child Support Grant. Levels of exclusion are especially high among young children under the age of one⁸ » Seven out of 10 children are still living below the national poverty line⁹
<p>TO BE PROTECTED FROM MALTREATMENT, NEGLECT, ABUSE OR DEGRADATION."</p>	<ul style="list-style-type: none"> » In terms of the South African Schools Act 84/ 1996, corporal punishment is unlawful in South Africa. » The use of corporal punishment by teachers is declining but remains high, especially in KwaZulu-Natal and Eastern Cape¹⁰ » Many children have experienced violence or threats of violence in their lifetimes¹¹ » A large share of families do not allow their children to walk to school or to play outside the home because of fear of crime¹² » One in three adolescents report having experienced some form of sexual abuse in their lifetime.¹³

² StatSA, General Household Survey 2014

³ Ibid

⁴ Ibid

⁵ Ibid

⁶ Ibid

⁷ District Health Barometer 2014/15. Durban: Health Systems Trust.

⁸ DSD, SASSA and UNICEF (2016) *Removing the Barriers to Accessing Child Grants: Progress in Reducing Exclusion from South Africa's Child Support Grant*. Pretoria: UNICEF

⁹ Ibid

¹⁰ StatSA, General Household Survey 2009 and 2014

¹¹ Institute for Health Metrics and Evaluation (Global Burden of Disease Compare report of 2015)

¹² Statistics South Africa's Victims of Crime Survey 2014/2015

¹³ Artz, L. et al. (2016) *Sexual Victimization of Children in South Africa*

CHILD FRIENDLY SOUTH AFRICAN HUMAN RIGHTS COMMISSION

The SAHRC has nine provincial offices where people can lodge any human rights violation complaints!

The SAHRC has child friendly spaces in all its provincial offices, which are meant to accommodate children complainants.

PROVINCIAL OFFICES

EASTERN CAPE

Address: 3-33 Phillip Frame Road, Waverly Park, Phase 4B, Chiselhurst, East London, 5200

Tel: 043 722 7828/21/25 | Fax: 043 722 7830

FREE STATE

18 Keller Street, Bloemfontein

Tel: 051 447 1130 | Fax: 051 447 1128

GAUTENG OFFICE

2nd Floor, Braampark Forum 3, 33 Hoofd Street, Braamfontein

Tel: 011 877 3750 | Fax 011 403 0668

KWAZULU-NATAL

First Floor, 136 Margaret Mncadi, Durban

Tel: 031 304 7323/4/5 | Fax: 031 304 7323

LIMPOPO

First Floor, Office 102, Library Garden Square, Corner of Schoeman and Grobler Streets, Polokwane

Tel: 015 291 3500 | Fax: 015 291 3505

MPUMALANGA

4th Floor Carltex Building, 32 Bell Street, Nelspruit

Tel: 013 752 8292 | Fax: 013 752 6890

NORTHERN CAPE

45 Mark and Scott Road, Ancorley Building, Upington

Tel: 054 332 3993/4 | Fax: 054 332 7750

NORTH WEST

25 Heystek Street, Rustenburg

Tel: 014 592 0694 | Fax: 014 594 1069

WESTERN CAPE

7th Floor ABSA building, 132 Adderley Street, Cape Town

Tel: 021 426 2277 | Fax: 021 426 2875

SOURCES

1. *Global Goals For Every Child: Progress and Disparities Among Children in South Africa (2016)* SAHRC and UNICEF Report
2. South African Child Gauge (2016)
3. District Health Barometer 2014/15. Durban: Health Systems Trust.
4. *Removing the Barriers to Accessing Child Grants: Progress in Reducing Exclusion from South Africa's Child Support Grant. (2016)* UNICEF, Department of Social Development, SASSA
5. StatSA, *General Household Survey 2009 and 2014*
6. Institute for Health Metrics and Evaluation (Global Burden of Disease Compare report of 2015)
7. Statistics South Africa's Victims of Crime Survey 2014/2015
8. *Sexual Victimization of Children in South Africa* Artz, L. et al. (2016)

ACKNOWLEDGMENTS

The SAHRC wishes to acknowledge the following organisations for the information contained herein:

- » The United Nations Children's Fund (UNICEF)
- » Children's Institute, University of Cape Town
- » ChildLine
- » A Chance to Play Southern Africa
- » Department of Justice and Correctional Services
- » Department of Housing
- » Department of Social Development
- » University of Pretoria
- » StatSA