

CHILD ABUSE PROTOCOL

ANNEXURE A

OUR RESPONSIBILITY TO ACT

BACKGROUND

“Working together to protect Children”

“Child Abuse is of great concern to us all in the education department. We need to step up child protection because a learner who is abused cannot learn and one of the things that we need to do, is to address barriers to learning and this (Child Abuse) is a big barrier to learning” Melvyn Caroline (Child protection month - 2014)

Child Abuse and Neglect remain one of the greatest concerns for people working with children. Statistics show that over 25 000 children are exposed to sexual violence and abuse annually. Statistics also show that South Africa has one of the highest rates of child abuse and rape.

Schools are continuously reminded to create awareness around child abuse, neglect, child trafficking, child labour, corporal punishment and all forms of child abuse.

As the numbers of child abuse cases rise each year, of concern to School Social Workers, are the equally staggering numbers of child on child sexual activities especially sodomy. These activities are happening on the school grounds, sports fields, in classrooms and in ablution blocks. The perpetrators are younger and younger with each referral.

Child abuse still continues even after laws were passed to protect children.

What is Child Protection?

Simply put, Child Protection is keeping children safe from abuse and neglect.

1. **Physical Abuse:**

Includes hitting, slapping and kicking, either by hand, foot or instrument e.g. a ruler

2. **Emotional Abuse:**

Is identified as parental or caregiver acts of omissions e.g. rejection, terrorizing, belittling, ignoring or isolating a child that cause the child serious impairment of his/her physical, social, mental or emotional capacities. It also destroys the child's self-esteem, confidence and sense of worth.

3. **Neglect:**

Is the failure of parents or other caregiver for reasons not due to poverty, to provide the child with basic needs, protection from harm, supervision, education etc.

4. **Sexual Abuse:**

All sexual touching between an adult and/or a minor and a child is sexual abuse. Sexual abuse does not only have to be penetration, force, pain or even touching. Any sexual behaviour such as looking, showing, jokes of a sexual nature, stalking with a child to meet an adult's or minor's sexual needs is construed as sexual abuse.

The New Children's Act therefore provides for the reporting of the above-mentioned actions towards children as well as inclusion in a central register of all persons guilty of such actions and calls for such persons to be declared as "unsuitable to work with children".

A study done by the Department of Educational Psychology at the University of Johannesburg states that "the negative impact of childhood experiences of sexual abuse on school functioning make it imperative to consider the role of the teacher in helping learners to overcome these experiences". The study further states that a school (Management and staff) cannot ignore the reasons why some learners cannot learn"

PHYSICAL CHILD ABUSE

Some Signs of Physical Child Abuse to look out for

- Burns, bite marks, cuts, bruises, or welt in the shape of an object e.g. a belt.
- Resistance to going home.
- Fear of adults.

Sometimes people might hurt or scare a child by:

- Hitting
- Pushing
- Doing something else that hurts or scares
- Telling you they are going to hurt a loved one or even a pet.
- Blaming for things you didn't do.

It is not the child's fault! They do not deserve to be hurt.

People are not allowed to do these things even if:

- They are older or bigger than you.
- They are your mom or dad.
- You have done something wrong.

If a person is angry with a child, they must talk to about it. They must not hit the child, especially in anger.

If someone is hurting or scaring the child, or hurting someone else, THERE IS HELP.

- Tell someone who can help.
- Keep telling until someone helps.
- Call the Child Help Line - 08000 55555 or the Police - 10111.

Some Signs of Sexual Child Abuse to look out for:

- Inappropriate interest in or knowledge of sexual acts.
- Seductiveness.

- Avoidance of things related to sexuality, or rejection of own genitals or body.
- Either over-compliance or excessive aggression.
- Fear of a particular person or family member.
- The shame of sexual abuse makes it very difficult for children to come forward. They may worry that others won't believe them, will be angry with them, or that it will split their family apart. Because of these difficulties, false accusations of sexual abuse are not common, so if a child confides in you, take him or her seriously. Don't turn a blind eye!

A child's body belongs to them! However, sometimes people might want to

- Touch a child on their private parts.
- Ask a child to touch their private parts.
- Show a child pictures of people doing things like that, or with no clothes on.

This is called sexual abuse. If this has happened to you, you are not alone. It is not your fault!

People are not allowed to do these things to a child, even if:

- You know them.
- They are older than you.
- They are nice to you.
- It is your mom or dad, your uncle or your neighbour.

Actions to be taken to "Keep Safe"

There are some measures that a child can take to help keep him / herself safe from harm!

Every child should know:

- Their home address.
- Their telephone number.
- The address and telephone number where their mom and/or dad works.
- The name, address and telephone number of someone else who can help the child if their mom or dad is not at home or is unavailable.
- The telephone number of the Police and the Child Line.

If a child is scared or someone they know needs help, they should be encouraged to talk to someone who is safe, like a mom or dad, teacher, doctor, the police or someone at the family church.

Remember! Don't hold it inside - talk to someone!

EMOTIONAL CHILD ABUSE

Emotional abuse can severely damage a child's mental health or social development, leaving lifelong psychological scars. Examples of emotional child abuse include:

- Constant belittling, shaming, and humiliating a child.
- Calling names and making negative comparisons to others.
- Telling a child he or she is "no good," "worthless," "bad," or "a mistake."
- Frequent yelling, threatening, or bullying.
- Ignoring or rejecting a child as punishment, giving him or her "the silent treatment."
- Limited physical contact with the child—no **initiated** hugs, kisses, or other signs of affection.

- Exposing the child to violence or the abuse of others, whether it is the abuse of a parent, a sibling, or even a pet.

Signs of emotional abuse in children to look out for:

- Excessively withdrawn, fearful, or anxious about doing something wrong.
- Shows extremes in behaviour (extremely compliant or extremely demanding; extremely passive or extremely aggressive).
- Doesn't seem to be attached to the parent or caregiver.
- Acts either inappropriately adult (taking care of other children) or inappropriately infantile (rocking, thumb-sucking, throwing tantrums).

NEGLECT:

Signs to look out for in the classroom:

- Child comes to school dirty e.g. not washed, torn uniform and shoes, unkempt hair
- Malnutrition, hunger
- Parents not turning up when called to school
- Child never has stationery etc.

What can the staff of the school do to support Child Protection?

1. Learners presenting with the above symptoms should be referred for intervention immediately. Timing is crucial in abuse and rape cases so that evidence can be collected.
2. Wear a symbol (green ribbon) in support of Child Protection.
3. Management need to see to it that the policies and procedures adopted by the Steering Committee are fully implemented by all staff. (Abuse No More, Learner Pregnancy, Sexual offenses Act, Drug Policies etc.)
4. All staff must be encouraged to undergo training in the "*Abuse No More Policy*".
5. Speak about child protection in places of employment e.g. the classroom.
6. Adopt a "***Your Child is My Child***" approach.
7. Make the school a Safe Haven (that is free from barriers to learning) for all children to develop their full potential in an environment where they can learn.

POSSIBLE PHYSICAL INDICATORS OF CHILD ABUSE INCLUDE:

Forcing a child to touch you is not allowed.

- Unusual or excessive itching or pain in the genital or anal area
- Torn, stained or bloody underclothes
- Unexplained burns, fractures or dislocations and bruises, swelling, lacerations, redness or bleeding in the genital, vaginal or anal area
- Blood in urine or stools

- Sexually transmitted diseases
- Multiple fractures at different stages of healing
- Bald patches or bruises on the head
- Bruising around the mouth
- Malnutrition and eating disorders
- Difficulty in walking or sitting

POSSIBLE BEHAVIOURAL INDICATORS OF CHILD ABUSE INCLUDE:

Touching a child where he or she doesn't want to be touched is child abuse.

- Age inappropriate play with toys, e.g. replication of explicit sexual acts and age inappropriate sexually explicit drawings
- Sophisticated or unusual sexual knowledge
- Refusal to go home or to the home of a relative or friend for no apparent reason
- Bed wetting; withdrawal from peer group activities; deterioration of school work
- Drastic changes in the character of the child e.g. used to be even tempered and suddenly extremely aggressive

Please note:

Child abuse is hitting or hurting a child often or to relieve your own frustration!

These indicators do not necessarily prove that a child has been abused. They are merely clues to alert us. If these signs are observed, the child must be questioned in a calm and peaceful atmosphere and manner.

The person asking the questions must be calm, rational and be prepared to get possible horrifying answers.

Always stay calm and do not show signs of disgust, shock or extreme emotions as this might adversely affect the child's behaviour. The child victim needs protection, understanding, assurance and support. The child should be encouraged to discuss his or her experience.

Examples of crimes committed against children under the age of 18 are:

- Rape
- Incest
- Indecent assault
- Murder
- Neglect
- Common assault and assault with the physical intention to do grievous bodily harm
- Abduction, kidnapping and removal
- Crimes regarding the abuse or exploitation of children, under the Prevention of Family Violence Act, Domestic Violence Act, Sexual Offences Act, Child Care Act and the Films and Publication Act.

Child abuse is not taking proper care of a child, for example, not cleaning, clothing or feeding a child.

Child abuse is exposing a child to pornographic acts or literature

Procedure that must be followed if a case of child abuse is reported:

- The South African Police Service, and in particular the Family Violence, Child Protection and Sexual Offences Units (FCS) are responsible for the investigation of these crimes.
- Once any of these crimes are reported to the SAPS, the investigation will, depending on the nature of the specific crime, follow a certain pattern.
- The investigation will usually start with the taking of a statement from the person accompanying the child.
- The next step will be to interview the child. This will be done by a police member specifically trained for this purpose and can be done at the home of the child or at any other place that will be comfortable for the child. During the investigation, which will follow, circumstantial evidence and other evidence such as fingerprints will be gathered at the crime scene. Statements from possible witnesses will also be taken.
- If the child was a victim of a sexual offence, a medical examination should be conducted. This is also the case when the child was physically assaulted and signs of any injuries can be observed. In this case, the external injuries will also be photographed.
- The police will then send the completed docket with all the information to the prosecutor. The prosecutor presents the case to court as the lawyer for the victim. The prosecutor will consult the child complainant before the case is heard and refer the child for counseling and therapy.
- When cases of crime against children are reported to the SAPS, the reporter must request a case number, the charges that were laid and the name, rank and telephone number of the investigating officer. It is also your right to get feedback on the progress of the investigation.
- Depending on the circumstances of the case, the investigating officer can suggest to the prosecutor that bail be denied to the accused. However, the final decision will be made by the presiding officer in court. If bail is granted, specific conditions can be set. These can include that the perpetrator is not allowed to make contact with the victim. If the conditions are not complied with, the investigating officer must be notified immediately.
- Facilities are available for the child to testify by means of closed circuit television when necessary.
- Prosecutors encourage children to speak out against abuse. It is safe for children to do so.
- In 83,5% of all crimes against children reported to the SAPS the perpetrators are known to the child. These criminals are thus not always unknown strangers lurking in the dark but may even be parents, friends, neighbors' or other family members.
- The crimes are usually committed over weekends and during school holidays when children are usually alone at home. The perpetrators usually make contact with the victims in either the victim, or the perpetrator's home. In the majority of cases the crime is even committed at the child's home.

If you are a victim or suspect that a child is being abused, call the South African Police Service's

- a) Crime stop: - 0860010111**
- b) Childline: - 0800055555 (Toll-free)**
- c) SAPS Emergency no: - 10111**

CHILD ABUSE TREATMENT

The service aims to identify and treat children from birth to 14 years of age who have been physically, sexually or emotionally abused and neglected.

Children that are suspected of having been abused can be taken to a primary healthcare clinic where they will be diagnosed and counselled. The clinic sister or doctor will give the child a detailed physical examination and will also take a history.

It is essential that the abused child be taken to a health facility as soon as possible. The longer the delay, the more likely the child will suffer severe emotional and psychological trauma.

Remember that some children are abused over years and they might not need a physical examination with the first visit, or they might be emotionally and not sexually abused in which case they will be counselled and treated accordingly.

- Child Sexual Abuse
- Child Abuse and AZT
- Organisations Combating Child Abuse
- The Duty to Report Child Abuse
- Useful Contacts

CHILD SEXUAL ABUSE

With child sexual abuse, special investigations must be carried out, such as specimens taken for forensic evidence. Also, the child may have been exposed to Sexually Transmitted Infections (STIs) and HIV/AIDS. Treatment for STIs is usually given when test results show that the child has an infection.

Parents or caregivers should be counselled about the potential risk of the child having been infected with HIV. The caregiver will be asked for his/her consent for an HIV test to be done on the child.

ORGANISATIONS COMBATING CHILD ABUSE

To try and combat the unacceptably high levels of child abuse in the Western Cape, health services have joined forces with police, community safety, social services and NGOs.

Social workers have an essential role to play in helping the child to heal after the abuse. The social worker will offer education, information and counselling. If the social worker believes that the child is at risk of further abuse when discharged from a health facility and is in need of urgent protection, they can issue a Form 4 detention order to remove the child to a place of safety.

Also, if a child's mental state requires more specialist/ psychiatric interventions, the child can be referred to the appropriate health facility.

OUR / THE DUTY TO REPORT CHILD ABUSE

There are two laws which cover child physical/sexual abuse and neglect.

Section 15 of the Child Care Amendment Act says that any person who has anything to do with caring for children - for example teachers, social workers, and doctors - and who suspects that a child has been abused, must report this to the provincial Department of Social Development.

The Prevention of Family Violence Act No 133 of 1993 (Section 4) says that suspected child abuse must be reported to a police officer or a child welfare officer or social worker.

USEFUL CONTACTS

Various organisations can help in child abuse cases:

- Rapcan - child abuse prevention: Tel 021 712 2330 or Fax 021 712 2365
- Childline South Africa: 24-hour "Toll-free" helpline - 0800 055 555
- Childline Western Cape: Tel 021 762 8198 or 021 461 1114
- LifeLine/Childline Western Cape Lifeline Western Cape: Tel 021 461 1113
- Rape Crisis Cape Town: Tel 021 447 1467

Please note:

There are 52 healthcare facilities in the province that are dedicated to the management of children and adults who have been abused. If you cannot go to one of these facilities, go to your nearest healthcare facility.

If you suspect a child has been abused, you can take them directly to a primary healthcare clinic. Abused children can be referred to a clinic by the Child Protection Unit, a police officer or social workers.

CHILDREN SHOULD BE SAFE, NOT HURT

Children's Rights and the Constitution

Children's rights are protected by Section 28 of the Bill of Rights in the South African Constitution. These include the right to:

- A name and nationality from birth.
- Appropriate care by an adult.
- Access to basic nutrition, shelter, health care and social services.
- Protection from exploitive, inappropriate or dangerous work.
- Protection from maltreatment, neglect or abuse.

Child Abuse in South Africa

Children are some of the most vulnerable members of our society. Many children suffer sexual or physical abuse on a daily basis. Abuse can take many forms and harm a child's development.

Many children in South Africa don't know how or where to report abuse, or don't have access to help. Many children and adults also don't understand what abuse is and the different forms it can take. Because of this, they might not even know that they are the victims or abusers.

The World Health Organization (WHO) gives a good definition of child abuse, and this can help us all understand what it is.

According to the WHO, "Child abuse or maltreatment constitutes all forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power."

In other words, abuse is when someone in a position of responsibility, trust or power knowingly harms or exploits a child, either physically or emotionally.

Signs of Child Abuse

Child abuse can take many different forms, but here's some help to identify the signs:

Signs of Physical Abuse:

- Unexplained burns, cuts, bruises, or welts in the shape of an object.
- Bite marks.
- Anti-social behaviour.
- Problems in school.
- Fear of adults.

Signs of Emotional Abuse:

- Apathy.
- Depression.
- Hostility or stress.
- Lack of concentration.
- Eating disorders.

Signs of Sexual Abuse:

- Inappropriate interest or knowledge of sexual acts.
- Nightmares and bed wetting.
- Drastic changes in appetite.
- Over-compliance or excessive aggression.
- Fear of a particular person or family member.

Signs of Neglect

- Unsuitable clothing for weather.
- Dirty or unbathed.
- Extreme hunger.
- Apparent lack of supervision.

Important contact information!

- **Childline:** National

24-hour free helpline *0800 055 555*

- **Childline:** Western Cape:

Tel: *021 762 8198*

Address: 6 Roeland Street, Cape Town, 8001

E-mail: childlin@iafrica.com

Website: www.lifelinewc.org.za

- **South African Police Service (SAPS):**

Crime Stop number *08600 10111* or *SAPS 10111*

HOTLINE FOR EDUCATORS AND LEARNERS TO REPORT ABUSE AND SCHOOL CRIME

The Western Cape Education Department has various contact centres, which play important dedicated roles in addressing the needs of our schools, educators, parents and learners.

One such contact centre is the WCED's Safe-Schools hotline

The hotline is available for schools, educators, parents and learners to report all school crime and abuse and aims to contribute to a safe and crime-free school environment.

The Safe Schools Call Centre can be reached at toll-free number *0800454647*, and provides immediate, free, online communication to learners, parents and teachers needing help, guidance or information regarding education-related safety issues.

These issues include the reporting of traumatic incidents, such as gang violence within a community and fatal accidents. It can also include the reporting of school crime such as burglaries and vandalism, physical assault and abuse.

The call centre also takes calls concerning queries such as teenage pregnancy, HIV/Aids, truancy and behavioural problems.

The WCED takes child abuse very seriously and all abuse calls are handled sensitively and with care. Initial counselling or guidance, based on the Abuse No More Protocol, is given when necessary.

When members of the public call the call centre they immediately receive online debriefing during crisis calls and, during non-crisis calls, are directed, when necessary, to the counselling agencies of the Western Cape Education Department, non-governmental organisations and community organisations.

In some instances the call centre will require the support of the South African Police Services or the applicable emergency service. For instance, during an incident of gang violence and/or trespassing, the call centre will ensure that the relevant authorities are alerted to deal with gang intimidation and threats, gang shootings and gang killings in and around the school.

When an incident of crime, such as burglary, theft or physical assault is reported to the call centre, the WCED will offer the school advice on the procedures that need to be followed, and will inform the relevant authorities.

The call centre is open from Monday to Friday, 07:00 to 16:00, and is situated at the WCED's Head Office.

It provides a service in the three official languages of the Western Cape: Afrikaans, English and Xhosa; and serves as a coordinating centre from which referrals are made to appropriate agencies and from which vital information is disseminated to the relevant parties. This includes inter- and intra-dependent non-governmental organisations, community organisations and faith-based organisations.

These organisations contribute to the Safe Schools' efforts to create a safe learning environment at our schools, and are valued for their time, commitment and support.

The school community can also help us by reporting all incidents of school violence, vandalism, crime and any other form of abuse to the Safe Schools Call Centre at our toll-free number.

The WCED wants to make our school environment safe. We also want to be a caring and responsive department that is in touch with the safety and wellbeing of our educators and learners.

We therefore encourage all learners and their educators to make use of the service that we have on offer, so that we can contribute to making both their school environment and themselves safe.

THE CHILD PROTECTION REGISTER

In terms of section 111 of the Children's Act 38 of 2005, the Director General must keep and maintain a register to be called a National Child Protection Register. The National Child Protection Register consists of a Part A and a Part B.

PART A

Contains a record of all the reports of abuse or deliberate neglect of a child, all convictions of all persons on charges involving the abuse or deliberate neglect of a child and all findings by a children's court that a child is in need of care and protection because of the abuse and deliberate neglect of the child (Section 114 of the Children's Act 38 of 2005).

PART B

Contains a record of persons who are unsuitable to work with children and to use the information in the register (part B) in order to protect children in general against abuse from these persons (Section 118 of the Children's Act 38 of 2005)

All children who have been abused and form part of an investigation relating to any form of child abuse which is physical, emotional, sexual or deliberate neglect must be entered onto Part A of the National Child Protection Register.

The purpose of the National Child Protection Register and in particular Part A of the register is to:

- Have a record of abuse or deliberate neglect inflicted on specific children.
- Have a record of the circumstances surrounding the abuse or deliberate neglect inflicted on the children.
- To use the information in the register in order to protect these children from further abuse or neglect.
- To monitor cases and services to such children.
- To share information between professionals who are part of the child protection team.
- To determine patterns and trends of abuse or deliberate neglect of children.
- To use the information in the register for planning and budgetary purposes.

- To prevent deliberate neglect of children.
- To protect children on a national, provincial and municipal level (*Children's Act 38 of 2005*).
- To link the child/family to social work services focusing on preventative services, specialised counseling and family therapy.
- Guide the children's court when finding the child in need of care and protection.
- Conduct research that will be used to inform policies and strategies focusing on child abuse and neglect.

Through the National Child Protection Register, the provincial Department of Social Development will be able to determine trends, patterns and high prevalence rate of child abuse and neglect in certain communities and will be able to target these communities and other communities by focusing on awareness and prevention programmes, and promote the wellbeing of children, build resilient families and communities in order for them to take responsibility for the care and protection of their children.

NB! Furthermore, any correctional *official, dentist, homeopath, immigration official, labour inspector, legal practitioner, medical practitioner, midwife, minister of religion, nurse, occupational therapist, physiotherapist, psychologist, religious leader, social service professional, social worker, speech therapist, teacher, traditional leader, traditional health practitioner, member of staff or volunteer worker at a partial care facility, drop-in centre or child and youth care centre* who, on reasonable grounds, concludes that a child has been abused emotionally, physically, sexually or has been deliberately neglected must report that conclusion to the relevant authority, being the;

- Department of Social Development,
- Registered Child Protection Organisation or a police official using a form 22. *This form 22 can be obtained from any nearest Social Development Office.*

Once the abuse has been reported using a Form 22, the Department of Social Development or a registered Child Protection Organisation must report the abuse to the Director General using a Form 23 so that any child who has been abused in any form be entered onto Part A of the Child Protection Register.

The National Child Protection Register is at all times to be kept confidential and access, disclosure and inquires to the register can be provided in terms of Section 115, 116 and 117 of the Children's Act 38 of 2005

REPORTING A CRIME

Everyone can help stop crime. If you are aware of criminal activity taking place in any form, you can report it anonymously to the police on *0860010111*.

To report a crime that has already happened, you should call or visit your nearest police station. To report rape or child abuse there are special considerations that apply.

In an emergency you should call the emergency police telephone number *10111* or *112* from a cell phone.

Once you have reported the crime, you should receive a case number and you should be given the name of the detective who will be investigating your case.

If you are traumatised you can get help for that and if you need witness protection that is also available.

If you feel a firearm needs to be removed from a dangerous person you must ask for that. If you need a protection order for domestic violence you can also begin that process at the police station.

OBTAINING A PROTECTION ORDER

What is a Protection Order

A protection order is a legal document that specifies the conditions that an abuser must adhere to, as specified by the courts. For example, the abuser:

- Should not commit any act of domestic abuse.
- Should pay you rent, mortgage, or other monies, such as child support.
- Should hand over firearms or dangerous weapons to the police.

Before obtaining a protection order, you need to apply for an interim protection order. To do this, you need to apply to the court. The interim order specifies the date at which the final order will be considered. And once the final order is made, it is permanent and can only be changed by applying to the courts.

Requesting a protection order does not mean that you are laying a charge against your abuser. You also do not need to lay a criminal charge in order to obtain a protection order

However, if you are a victim of a type of domestic abuse that is also a crime, then you can apply for a protection order, lay a criminal charge, or both. Some examples of abuse that are also crimes include common assault, rape, incest, attempted murder and the abuse of animals.

If your abuser breaches, or breaks the conditions of, the protective order, then the abuser has committed a crime, and will be charged with the crime of contempt of court. This applies even if the breach is not an actual crime, such as controlling behaviour. If the breach itself involves a crime, such as assault, then the abuser can be charged with both contempt of court and assault.

The first step in getting a protection order is for you to complete a form known as *Form 2*:

Application procedure for obtaining a Protection Order.

1) Where to Go?

Form 2 is available at police stations and courts, and on this site, although police may send you to the courts for help with filling out the form.

The police should also give you Form 1, which is a document explaining your rights. If you are hurt or need a different place to stay because of the abuse, the police must help you to get medical treatment and help you with finding a place of safety. It is also within your rights to request a police escort when collecting personal property.

Any court that covers the area in which you live or work, or in which your abuser lives or works, or which covers the area in which any incidents of abuse took place can grant you a protection order. Ordinarily, you should go to the courts during ordinary court hours (weekdays 08:00 - 16:00). After-hours applications will normally be taken only if you can show you will suffer undue hardship if the matter is not dealt with immediately.

Some courts have a room set aside to deal with domestic violence cases. Volunteers are sometimes available to help you with filling out Form 2, and the clerk of the court may also be able to help. The clerk will also give you Form 3, which explains how the protection order works and warns you against lying when you complete Form 2, as this is a criminal offence.

2) **Do I Have To Apply For Myself? Can I Apply For Someone Else?**

Someone else can make the application for you. All they need is your written permission to do so. If you are a child (under 18 years of age), mentally retarded, unconscious, or unable to give permission for any other reason, someone else can apply for you without your permission.

If you are a child you can apply for a protection order without the assistance of your parents, guardian, or anyone else. If you are applying for a child, you can do so without the child's parents', guardian's, or anyone else's assistance or permission.

3) **What Information Do I Need?**

The composition of the **Form 2** is as follows.

Part 1: **The Applicant**

This is information about the applicant, also called the complainant. You are the applicant unless you are applying for someone else, in which case this is information about the person on whose behalf you are applying - the person who is the victim of abuse. You will need to give the applicant's identity number, home and work address, telephone numbers, job, and relationship of the victim (for example, wife, friend, or flat-mate) to the abuser (the respondent).

Part 2: **If You Are Not The Applicant**

You don't need to complete this section if you are applying for yourself. However, if you are applying on someone else's behalf, this is information about you. This includes your identity number, home and work address, job, relationship to that person (for example, friend, counsellor, or police), reason for making the application, and whether you have permission from the person for whom you are applying.

Part 3: **The Respondent**

Information about the abuser (the respondent) including his identity number, home and work address, telephone numbers and job. The addresses are very important. If you do not know the addresses then you should give any information about where he can be found, such as clubs or friends he might visit often. This is so the Sheriff or police can find him.

Part 4: **Others Affected**

Details of any anyone else also affected by the domestic violence, how they are affected and whether any of them are disabled.

Part 5: **Statement of Abuse/s**

An affidavit (statement) from you with information about the acts of domestic violence by the abuser, including whether weapons or firearms were used, what injuries you had and whether you needed medical treatment.

Part 6: **Information pertaining to the urgency of the Application**

For example, it may be urgent if you have reason to fear the abuser may act violently again soon, because he has obtained a weapon or recently threatened you or something has happened that you know will provoke

him.

Part 7: **Conditions prescribed in the Protection Order**

These conditions should match up with the types of abuse you have noted. For example, if you have described economic abuse, you should ask that a condition of the protection order be that your abuser, not abuse you economically. The form has a list of conditions and you need only tick the appropriate/correct boxes. Do not tick all of them as some contradict each other, so decide carefully what protection you need.

Part 8: **Any Additional Conditions**

You can also ask for conditions that are not on the first list. Some of these are listed and you need only tick the correct boxes and fill in details. There is also a block to fill in for any other conditions that may not be listed.

Part 9: **Personal Property**

A list of property that you consider to be personal. This is important if you have asked for assistance from the police in collecting your personal property.

What Will Happen After Completing The Application Form?

Once Form 2 has been completed, it has to be **certified**. This means that you have to make an oath in front of a **commissioner of oaths** saying that you know and understand everything you have written in Form 2, that you don't object to taking a sworn oath, and that you consider the oath to be binding on your conscience. This can be done at a police station, at the courts by a Justice of the Peace, or by a magistrate.

When Form 2 has been completed and certified, you need to take it to the **clerk of the court**, who will fill out another form (called **Form 4: Interim Protection Order**) and set a return date (the date on which your final protection order will be considered) for the case. The clerk will hand both **Form 2 and Form 4 to the magistrate**, who may sign the forms granting an interim protection order.

When Will The Interim Protection Order Be Granted?

In some courts, the magistrate might meet with you briefly before granting the order to ask any questions they might have about your request for immediate protection. At some courts, you may have to return a day or two later to find out whether the interim order has been granted, while in other courts the forms can be signed the same day; generally, this depends on how busy the court is, and how urgent your application is.

What Happens Once The Interim Order Is Granted?

Once it has been granted you will be given a copy of the interim order and it will also be "served on" (handed to) your abuser by the police, or if you can afford Sheriff's charges, by the Sheriff (in South Africa the Sheriff is an officer of the court responsible for serving documents that need to be served in civil cases). The interim protection order does not come into effect until it has been served. Serving of the interim order by the police is free.

If you can afford the service charges, it is better to ask for the Sheriff as the police have many cases and are likely to take longer than the Sheriff. The clerk of the court can also arrange for service by registered mail, but this involves a cost and will not work if your abuser does not go and collect and sign for the documents at the post office.

Whoever serves the order must give the clerk of the court a "return of service" document to confirm that they have served the interim order and state when they served it. Once the clerk has received the return of service,

they must ensure that a certified copy of the interim order, as well as a **warrant** for the arrest of the abuser (Form 8) is served on (given to) you.

This warrant only comes into effect if your abuser breaks the conditions of the interim protection order.

If you do not receive the warrant you should go to the court to collect it. Having the warrant means that should your abuser break the conditions of the interim order you can have him arrested or charged by going to the police and giving them the warrant and an affidavit (Form 10) describing how he has broken the conditions of the interim protection order. The police must then arrest him if it appears you might suffer harm.

The interim protection order will have a date called a "return date" listed on it. On this date you (the applicant) and your abuser (the respondent) will have the opportunity of giving the court further information about the abuse, and the conditions in the interim order will either be confirmed, changed or set aside by the magistrate, in a final protection order. The return date may not be sooner than ten days after serving of the order.

What Happens If The Interim Order Is Not Granted?

In some cases, the magistrate may decide not to grant an interim protection order. Instead, a notice (Form 5) will be served on your abuser, which will also have a return date, and which will warn your abuser to appear in court on that day and give reasons why a protection order should not be made against him. No warrant of arrest is issued.

What Happens On The Return Date?

On the return date, your final protection order can be granted. This is a permanent order and will remain in force until an application for setting it aside is granted by a magistrate. On the return day, your case will be considered in the magistrate's chambers (office), not in open court.

No one except officers of the court and people directly involved in the matter may be present. However, you may bring along up to three people to support you. You or the respondent can have lawyers representing you at any stage of these proceedings.

No one is allowed to publish or reveal the identity of any party in these proceedings. Your physical address may also not be revealed in any documents and proceedings related to the protection order if you ask for that on Form 2 (unless it is necessary for describing the conditions of the protection order).

Under What Conditions Will A Final Protection Order Be Granted?

If your abuser does not oppose the order, or if your abuser is not present but there is proof the interim order or notice was served on your abuser, or if neither of you is present but there is proof the interim order was served, then it is likely the final protection order will be granted.

Under What Conditions Will The Protection Order Be Set Aside (Not Granted)?

If neither of you appear and there is no proof of service, then it is likely the interim order will be set aside.

If only you appear but there is no proof of service, then it is likely the interim order will be extended to another return date. If you alone appear or both of you appear and request that the interim order be set aside, then it will be set aside

Under What Conditions Will The Case Go To Trial Instead?

If your abuser is present and contests the granting of a final protection order, the case will go to trial, which means the magistrate will hear all the evidence given by you or any other witness and make a decision.

At trial, the magistrate can direct that any cross-examination of you or any other witness by the abuser (where a lawyer is not doing the questioning for him) be done by putting the question to the court and then having it relayed to you by the magistrate, so that the abuser does not question you directly.

You should ask for that if you think you will feel intimidated under cross-examination.

If the court at trial finds on "a balance of probabilities" - that is, that it is more likely than unlikely - that your abuser (the respondent) has committed or is committing an act of domestic violence, then it will issue a final protection order.

What Happens Once A Final Protection Order Is Granted?

A warrant of arrest is issued immediately on the granting of the final protection order, but it is suspended as long as your abuser does not break the conditions of the protection order.

You must make sure you take the warrant of arrest with you. Having the warrant means that should your abuser break any of those conditions, all you need to do is complete a sworn affidavit (Form 10) stating how the conditions of the protection order have been broken, and hand your affidavit together with the warrant of arrest to the police, who must arrest your abuser immediately if it appears you might suffer harm.

If it does not appear you might suffer harm, then the police may instead give your abuser a notice to appear in court on a criminal charge of breaching the protection order.

If you use up the warrant (it can only be used once and becomes "executed and cancelled") and you need a second one, or the first warrant is lost or destroyed, you can apply for another one (Form 9).

If your abuser is found guilty of breaking the conditions of a protection order in a criminal case, he can be fined or sentenced to prison for not more than five years.