No.114 - 2022: Fourth Session, Sixth Legislature

**GAUTENG PROVINCIAL LEGISLATURE**

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**ANNOUNCEMENTS,**

**TABLINGS AND**

**COMMITTEE REPORTS**

**========================**

Wednesday, 23 March 2022

# ANNOUNCEMENTS

none

# TABLINGS

none

COMMITTEE REPORTS

**1. The Chairperson of the Social Development Portfolio Committee, Hon. R J Kekana, tabled the Committee’s Focused Intervention Study (FIS) Report arising from the Budget Vote for 2021/2022 FY “An investigation into the impact of Municipal By-laws on the operations of NPOs and how the Department performs Monitoring and Evaluation function”, as attached:**

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**PORTFOLIO COMMITTEE ON SOCIAL DEVELOPMENT**

**Focused Intervention Study (FIS) Report arising from the Budget Vote for 2021/22 FY**

**“An investigation into the impact of Municipal By-laws on the operations of NPOs and how the Department performs Monitoring and Evaluation function”**

**A case study of the Gauteng Province**

| **Committee Details** | | **Department Details** | | |
| --- | --- | --- | --- | --- |
| **Name of Committee** | **Portfolio Committee on Social Development** | **Name of Department** | **Social Development** | |
| **Which Financial Year** | **2021/22 FY** | **Dept. Budget Vote Nr.** | **6** | |
| **Which SOM Imperative** | FIS | **Hon. MEC** | **Morakane Mosupyoe** | |
| **Committee Approvals** | | | | |
|  | **Name** | **Signed** | | **Date** |
| **Hon. Acting Chairperson** | Thokozile Magagula |  | |  |
| **Adoption and Tabling** | | | | |
| **Date of Final Adoption by Committee** | | **Scheduled date of House Tabling** | | |
| **10 March 2022** | | **24 March 2022** | | |

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**PORTFOLIO COMMITTEE ON SOCIAL DEVELOPMENT**

**22 March 2022,**

The Hon. Acting Chairperson of the Portfolio Committee on Social Development, Ms Thokozile Magagula, hereby tables the Committee’s Focused Intervention Study Report on Budget Vote 6 of the Department of Social Development for 2021/22 FY as follows:

# Executive Summary

The Committee has observed a declining number of funded NPOs, which was mainly due to non-compliance to funding requirements. In most instances these were also affected by the Municipal By-laws which issue~~s~~ out Environmental Certificates to NPOs. Most of the NPOs are found to be non-compliant according to municipal By-Laws.

The Committee also noted issues such as rezoning fees, title deeds, Health Certificates, Approval of building plans, which were some of the areas where the affected NPOs were lacking as such, resulting in non-compliance.

The Department on the other hand, has reported to have been in consultation with Municipalities on these issues. However, resolving to proceed in signing of Service Level Agreements with affected NPOs in terms of Sections 7, 8 and 9 of Children’s Act read in conjunction with Constitution which notes the rights of children being regarded as paramount.

One of the concerns that the Committee has raised is that in as much as Municipalities have their role to play in ensuring that NPOs comply, there are certain elements such as tittle deeds, which Municipalities also have a role to play to ensure that those entitled must have them. Also, the rezoning fee if its more than what the NPOs can afford must be reviewed and come- up with amicable solutions.

Furthermore, the Committee noted with concern that, at this point the Department is mostly reliant of NPOs to provide services to communities, should such issues not be resolved, NPOs are likely to operate outside the boundaries of guiding legislation. The Committee observed that every financial year, majority of NPOs were funded on condonation and Municipal By-laws were reported to be one of the reasons for such.

Prior to the Auditor General’s findings in the period from 2018 to 2019/20 financial years, the Committee has been concerned about the lack of clarity around the Department’s role on the monitoring and evaluation of NPOs. The Department had outsourced the services of monitoring NPOs which was changed in the 2018/19 Financial Year (FY).

However, the Department was still not fully capacitated to conduct such processes as the internal staff component was not sufficient for the workload. The findings by the Auditor General between 2018 and 2019/20 FY were merely confirming the concerns already raised by the Committee.

During the deliberations of the 2018/19 FY Annual Report, the Department committed to resolving the capacity challenges, but also stated issues of budgetary constraints. It was obvious, for the fact that the Auditor General raised the same findings in the 2019/20 FY, it clearly showed that the Department of Social Development had still not resolved the matter.

**AUDITOR-GENERALS FINDINGS SINCE 2018 UNTIL 2019/20 FINANCIAL YEAR**

Lack of adequate processes and control over monitoring and evaluation of NPOs in relation to the use of funds for intended purposes and inadequate processes and controls being in place to verify whether money was spent in terms of the SLA. Continuous payments were made to NPOs without appropriate mechanisms being in place to confirm whether the NPOs were still in compliance with terms of the SLA.

**Non- compliance areas were as follows:**

* Effective internal controls were not in place for approval and processing of payments, as required by treasury regulation 8.1.1.
* Non- compliance is in relation to NPO’s. A poor control environment and vacancies in the monitoring and evaluation unit resulted in poor oversight of compliance with applicable legislation at the Department.

***It is against the above backdrop that the Committee decided to undertake the Webinar to investigate the impact of Municipal by-laws on the operations of the NPOs and whether or not, the Department has the capacity to carry out the monitoring and evaluation (M&E) on the NPOs and the manner in which the M&E function is done.***

There seems to be an increasing number of NPOs not meeting funding requirements due to Municipal By-laws, which also has a negative impact on service delivery, since the Department provides its services through NPOs. During the budget process for 2021/22 financial year, the Department presented its NPO monitoring unit structure/ posts, which covered all the Regions. However, this structure revealed that the Department would still experience the same challenges because of the ratio of personnel per number of NPOs, which seemed not to be representative. Although the Department substantiated its position on the structure, there was still no assurance that monitoring of NPOs would be done effectively. More so, there was no indication from the Department on whether the inadequate processes and controls to verify whether money was spent in terms of the SLA, as identified by Auditor General were also resolved and in place.

1. **AIMS AND OBJECTIVES OF THE FIS**

The main aim is to unearth the extent to which municipal by-laws affected the operations of the NPOs, whether or not the Department has the capacity to perform M&E on the work of NPOs and how is it being executed.

To achieve the objectives, the Committee planned to pursue the following:

* To study and understand the Municipal By-laws in relation to the NPOs providing services on behalf of the GDSD.
* To establish the extent to which the municipal By-Laws have a negative bearing on the effective operations of NPOs and service delivery thereof.
* To determine the number of funded NPOs affected.
* To explore the role of Municipalities in assisting the affected NPO.
* To investigate the role of government in resolving the identified problems.
* To explore the capacity of the NPO unit within the scope of monitoring and evaluation of funded NPOs and those affected by Municipal By-laws.
* To assess the internal processes and controls in place, to verify whether money is spent in terms of the SLA; and
* To examine the monitoring and evaluation indicators to ascertain their relevance and response to improved service delivery.

1. **OPPORTUNITIES**

* To get an indication from the Municipalities, also the role played by them to resolve these challenges.
* The Department also mentioned that the municipalities do not have By-laws which govern the provision of community- based care services for Olde Persons,
* Therefore, there needs to be a policy directive on how this should be resolved so that all spheres of government can come up with regulations accordingly, which would be linked to Older Persons Act.
* To strengthen intergovernmental relations in order to address challenges faced by NPOs supporting the Department of Social Development

# PROCESS FOLLOWED

4.1. On the 15 June 2021, the Committee deliberated and adopted the FIS topic arising from the Budget Vote for 2021/22 financial year.

4.2. On the 10 September 2021, the Committee conducted a Webinar

4.3 The Committee also received written submissions from Gauteng Welfare, Social Service and Development Forum, Non-complying ECD’s operating under Emfuleni Forum and Operation Companion which the incorporated in the report.

* 1. On the 10 March 2022, the Committee deliberated and adopted the FIS report.

1. **COMPLIANCE AND QUALITY**

**5.1 Timeframes**

The department provided the information that was required within the stipulated time frame.

**5.2 Format**

This department aligned its report to the format used by other executive departments, and it has also linked its performance to the outcome-based approach adopted by government.

**5.3 Controls**

The information submitted to the Legislature was signed off by the Accounting Officer and the Executive Authority. The approval by the most senior authority in the department demonstrates that an effort is made to ensure that the reports are accurate.

**5.4 Quality Parameters**

The report controls within the department have proven to be adequate to ensure compliance with the necessary requirements of the Focus Intervention Study.

**6. OVERSIGHT ON STRATEGIC PRIORITIES**

**6.1 NATIONAL PRIORITIES**

* Rebuilding of family, community, and social relations
* Integrated poverty eradication strategy
* Comprehensive social security system
* Violence against women and children, older persons and other vulnerable groups
* HIV/AIDS
* Youth Development
* Accessibility of social welfare services
* Service's to people with disabilities
* Commitment to co-operative governance
* Train, educate, re-deploy, and employ a new category of workers in social development

**6.2 PROVINCIAL PRIORITIES**

* Reforming the welfare sector through legislative and policy reform. The department seek to expand services by ensuring adequate numbers and training of social service professionals, review of the funding model and the role assigned to non-profit organizations
* Improve access to quality Early Childhood Development (ECD) through the provision of comprehensive ECD services as an instrument to make investments in health, development of capabilities and mitigate vulnerabilities and to serve as the building blocks for future resilience.
* Deepening social assistance and extending the scope for social security to address both issues of coverage and policy instruments including the defining of social protection floor that provides a minimum set of guarantees coupled with a framework of progressive realization of rights.
* Enhancing social protection systems and strengthening of monitoring and evaluation of services so as to ensure that interventions are responsive and yield sustainable outcomes.
* Enhancing the capabilities of the identified groups and communities to achieve sustainable livelihoods and household food and nutrition security through a combination of income, direct provision, and support to local economies through local procurement.

**6.3 MILLENIUM DEVELOPMENT GOALS**

MDG 1: Eradicate Extreme Poverty and Hunger

MDG 2: Promote Gender Equality and Empowerment of Women

MDG 6: Combat HIV/AIDS, Malaria, and other Diseases

**7. OVERSIGHT ON PUBLIC INVOLVEMENT**

**The Committee Stakeholders honoured the invitation by the Committee and attended the Webinar:**

* Tshwane Metropolitan Municipality
* Johannesburg Metropolitan Municipality
* Non -complying ECDs
* Greater Benoni Child Welfare
* Gauteng Welfare and Development Services
* Emfuleni ECD Forum
* ECD Practitioners
* Operation Companion

**The following Municipalities and Departments were invited and did not attend the Webinar or forward apology:**

* Department of Health
* Emfuleni Municipality
* Rand West Municipality
* Ekurhuleni Metropolitan Municipality
* Mogale City Municipality

# 8. COMMITTEE FINDINGS

**PRESENTATION BY THE DEPARTMENT OF SOCIAL DEVELOPMENT**

**METHOD AND APPROACH ON FINANCIAL MANAGEMENT**

The Department reported that it conducts scheduled and unscheduled monitoring visits regularly and the frequency is informed by the risk profile of each funded NPO. The frequency of the visits in most cases takes place at least once in six months given the internal capacity of the Department. The Department also reported that it conducts interviews with relevant representatives of the funded NPO with a view to gather and verify data/information/supporting documents as reported by the organization.

The Committee was also informed that the Monitoring activities are covering the overall financial aspects from budgeting, accounting to value for money, performance monitoring around the beneficiaries reached & quality of service provided and value adding monitoring that should governance, human resource management. Periodic feedback is also provided to organizations monitored in an endeavor to improve service delivery.

**PROGRAMME MONITORING**

According to the Department, objectives of programme monitoring are as follows:

* Ensure compliance to legislation, policy frameworks, norms, and standards
* Ensure that services are provided in an effective and efficient manner and that service recipients are satisfied with the quality of service they receive.
* Enable organisations to meet policy and minimum standards requirements.
* Identify service delivery challenges
* Identify capacity building and resources needed to develop the organisation.
* Provide support and mentoring to achieve developmental goals of the organisation.

**RISK ASSOCIATED WITH UNREGISTERED NPOs**

* Non-compliance to municipal by-laws and programme requirements puts the lives of service beneficiaries in danger.
* The unregistered facilities appoint unqualified staff who are not adequately trained resulting in violation of human rights.
* Care and protection of the most vulnerable groups (children, older person, Persons with disabilities, women) is compromised.
* Treatment offered at substance abuse centres is not safe and evidence based.
* Medication is not administered in an expert manner and not in accordance with professional and statutory requirements.

**PRESENTATION BY CITY OF TSHWANE METROPOLITAN MUNICIPALITY**

The City of Tshwane informed the Committee that Municipal by-laws are a vital policy-implementing tool that ensures that NPO’s render services within the required legal framework for the care and protection of beneficiaries of services and programmes. The Committee was further informed that the successful implementation and compliance with by laws creates a thriving environment for ECD’s to access existing resources and creates potential for the expansion and creation of new resources.

**Impact of By-Laws on Early Childhood Development Centres:**

During the engagement on impact of Municipal By-Laws, Tshwane Metropolitan Municipality informed the Committee that Conditional and full compliance is the prerequisite for NPO’s to attain funding and this has been the overarching challenge. This funding augments school fees payable by parents and it promotes the overall development of the centre. Moreover, exorbitant costs attached to compliance prerequisites and certificates disrupts programme implementation.

These costs include but not limited to rezoning certificates, health and partial care certificates, title deeds, building plans, unproclaimed lands, consent use etc. Some of these services are centralised and require travelling to the relevant office.

**Limited monitoring and evaluation of programmes.**

It was reported that unfunded and non-compliant centres receive very limited interventions or support. The City Officials focus on funded centres to ensure funding compliance. Moreover, the limited number of officials cannot cover the breath of centres.

**Infrastructural challenges:**

ECD services are provided in centre and non-centre-based facilities, this results in great disparities in compliance with infrastructural requirements. The spacing required for an ECD centre per child is often difficult to attain as some ECD’s function in areas with very limited capacity for development and expansion. Crowding often happens in centres where inspection isn’t regularly conducted.

**Unspecified conditions for conditional registration:**

The conditions under which a centre can be provisionally registered are not clear as per the Children’s Act (38 of 2005). This causes great variations in conditional registrations granted and no standardised agreement has been reached on the conditions under which a centre can be provisionally registered, it has been noted that what is regarded as a conditional registration of one centre could result in non-registration of another under the same conditions.

**High staff turnover.**

Practitioners from unfunded/non-compliant centres leave due to non-payment of salaries. This lack of stability impacts on the functioning of the centre, it affects child well-being and development, and it also affects the implementation of the curriculum. In most cases the departing staff would have received free training across the levels of qualifications, and this leaves a qualification vacuum in the centres. Some practitioners venture to start their own non-centre based ECDs like Smart Start programmes. These programmes receive immense support from government and their compliance regulations are minimal. They sometimes charge less and poach children from other centres.

**Unqualified staff**

Tshwane Metropolitan Municipality informed the Committee that the landscape of the sector is comprised of high numbers of unqualified staff and lack of assistant teachers as per requirements of the norms and standards. The direct implication is poor quality education. Research shows the importance of early learning for overall well-being of children through to adulthood. Children are stimulated and learn through play and therefore basic skills and competencies are required. Basic training further allows practitioners to detect disabilities, discomfort, or changes with the child. The age of the Fourth Industrial Revolution (4IR) is upon us and therefore professionalisation of the sector is imminent.

**The role of the City of Tshwane in assisting affected NPOs**

The implementation of by-laws is the function of the Department of Health (Municipal Health Services), and Social Development provides a supportive role and consultation platforms. There have been several engagements initiated by the Department of Social Development over the years including quarterly sector meetings, intra and interdepartmental consultations and internal reports initiated like the Circular 9. There must be persistent engagements and corporation between all spheres of government to ensure sustainable service delivery.

**Measures in place in making sure that the Municipal By-Laws are implemented**

This is a competency of municipal health services. The Department of Social development provides a supportive role. The Monitoring tools aid towards compliance however the none funding of centres translates to none- provision of a monitoring role.

**PRESENTATION BY CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY**

**City of Johannesburg by-laws and their effect to NPOs**

**Property Rates**

NGO’s should apply to be recognized as a public benefit organization and submit 3-year financial statements to qualify to be rated at the reduced rate which is the quarter of residential tariff. If a public benefit organization registered as an NPO and provides services on a property which meets requirements of welfare and humanitarian services. The following shall apply:

* The rate that will be charged shall be 40% of the current monthly rates, and
* NGOs with beneficiaries staying in the property, are registered on ESP for property-based benefits (water, sanitation, electricity, and refuse removal).

**Municipal Planning**

In terms of Rezoning, the majority of NPOs operate from/on business sites, and are charged business rates, however, they cannot afford to keep up;

**Land Use Scheme**

The Building Regulations (i.e. Title Deed/Land use consent; approved building plans; certificates of compliance with electricity). Most NPOs have no title deeds or land-use consent; no approved building plans; no certificates of compliance with electricity, plumbing, fire-safety. Thus, cannot receive certificates of occupation which negatively impacts on application for subsidies or funding from the Department of Social Development.

**Public Health**

ECD Centers or other NPOs providing food for their beneficiaries need to comply with public health by-laws. A large number of NPOs are noncompliant.

**Public Open Space**

This prohibits use of open spaces without consent and prohibits certain conducts, by individuals. NPOs like churches are adversely affected.

**9. STAKEHOLDERS INPUTS**

Municipalities require NPOs to pay for occupational health and other similar certificates and are also required to renew these certificates at regular intervals. It is suggested that such certificates should be issued free of charge bearing in mind that the NPO sector is in fact providing a service on behalf of the State. Alternatively, Department of Social Development needs to increase its subsidy to allow the subsidy to cover these costs.

ECDs that are operating in shacks and containers should be assisted if their structures are not suitable for the service they are rendering. There is a need for the audit of all Centres who are having health certificates since some of these centres might have obtained these certificates without following due processes.

The Committee was informed that the rezoning and consent use are too expensive as a result most of the NPOs are unable to comply with them due lack of funds.

**10. COMMITTEE CONCERNS**

**The Concerns of the Committee are as follows:**

* 1. Zoning and Re-Zoning are costly and unaffordable for NPOs including ECDs.
  2. Lack of alignmentbetween the municipal processes and requirements, and those of the Department of Social Development.
  3. Existing ECDs that are operating in RDP Houses and un-proclaimed land are not issued with health permits.
  4. Delays in issuing of Health Permits or Certificates for home based ECDs.

**11.** **PROPOSED COMMITTEE** **RECOMMENDATIONS**

**The Committee recommends as follows:**

11.1 The Department should engage the municipalities where there are affected ECDs with a view to possible review the rezoning fees in an event that the fees are more than what the affected NPOs or ECDs can afford. **The report should be submitted by 31 May 2022.**

11.2 The Department should engage with all relevant stakeholders and consider aligning processes and requirements that are discouraging the ECDs from registering. The Committee is of the view that the alignment of these processes would enable ECDs to move towards registration faster and this would be cost effective. **The report should be submitted by 31 May 2022.**

11.3 The Department should engage with other Stakeholders that are part of the Intergovernmental Relations Forum with a view to come up with amicable solutions about existing ECDs that are operating RDP Houses and unpraclaimed land. **The report should be submitted by 31 May 2022.**

**11.4** The Department should continue engaging with all relevant stakeholders in an endeavour to resolve issues that related to Health Certificates, occupancy certificates, emergency plans and other related matters.The Committee is cognisance of the fact that most of these matters are the competencies of the municipalities and believe that continuous engagements can yield positive outcomes. **The progress report should be submitted by 31 May 2022.**

**12. ACKNOWLEDGEMENTS**

The Portfolio Committee on Social Development wishes to thank the Gauteng Department of Social Development, City of Tshwane Metropolitan Municipality, City of Johannesburg Metropolitan Municipality, Non -complying ECDs, Greater Benoni Child Welfare, Gauteng Welfare and Development Services, Emfuleni ECD Forum, ECD Practitioners from different Regions, Operation Companion and all the Committee Stakeholder’s from all the Gauteng Regions for availing themselves and participating in the Webinar and providing valuable information.

I would also like to express my appreciation to Members of the Committee: R. Kekana, R. Ntse’khe, A. Ndlovana, B.Engelbrecht, B. Badenhorst, M. Mofama and D. Ledwaba for their commitment to the oversight process. I commend them for their diligence during deliberations on the Focus Intervention Study Report.

The Committee would also like to thank officials that supports the Committee Mr S. Nqwala, Ms Z. Pantshwa-Mbalo, Ms S. Nenweli, Ms N. Jikolo, Ms L. Manthata, Mr J. Moloi, Ms T. Nzuke, Ms D Ngwenya, Ms N Ntlebi, and Mr K. Xulu and H. Ngobeni for their dedication in assisting the Committee to achieve its mandate.

**13. ADOPTION OF THE REPORT**

The Portfolio Committee on Social Development unanimously adopted the FIS Report on Gauteng Department of Social Development emanating from the Budget Vote 6 for 2021/22 financial year. In accordance with Rule117(2)(c) read together with Rule 165, the Committee hereby recommends that this report be adopted by the House, taking into account concerns and proposed recommendations made in this report.