



DEPARTMENT OF POLICE RESPONSE TO PUBLIC INPUTS ON THE OLDER PERSONS AMENDMENT BILL [B11 – 2022]

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platform

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INTRODUCTION

The South African Police Service has issued various directives relating to victim empowerment in general, as well as the treatment of specific victims, such as in the case of older persons, victims of domestic violence and victims of sexual offences.

In addition, Guidelines for the policing of crimes against older persons have also been implemented in support of the National Instruction on the Protection of Older Persons 1 of 2014.



DIRECTIVES OF THE SAPS

VICTIM EMPOWERMENT

- National Instruction 2 of 2014 on Victim Empowerment gives effect to the Service Charter for Victims of Crime and Minimum Standards for Services to Victims of Crime.
- It aims to protect and promote the rights of all victims, in compliance with legislative provisions and South Africa's international obligations.
- Provision is made for special arrangements to be made for victims with special needs, including the elderly (for example, a sign language interpreter to assist a deaf victim).
- Victim-friendly rooms where a victim is interviewed in private are available in most police stations and VFRs are accessible to victims with disability.
- Emphasis is placed on the need to treat victims with sensitivity, dignity, care and respect.
- Provides for partnership agreements to ensure effective victim support services and volunteers to enhance community-based victim support programmes.

TREATMENT OF OLDER PERSONS

- National Instruction 1 of 2014 on the Protection of Older Persons, regulates the powers and responsibilities of police officials in accordance with the Older Persons Act, 2006 (Act No. 13 of 2006).
- Specific emphasis is placed on the treatment of older persons. The following principles must be followed in respect of the treatment of older persons:
 - Respect, protect, promote and fulfil the older person's rights, the best interests of the older person and the rights and principles set out in the Older Persons Act, subject to any lawful limitation;
 - Respect the older person's inherent dignity;
 - Treat the older person fairly and equitably; and
 - Protect the older person from unfair discrimination on any grounds, including on the grounds of the health status or disability of the older person.

TREATMENT OF OLDER PERSONS (CONT.)

In addition, police officials are required to —

- be mindful that older persons are different from other persons and may not be able to engage with SAPS like other adult victims;
- always treat an older person in a manner which is in the best interest of the older person;
- treat an older person in a manner that does not humiliate or intimidate an older person and must at all times treat and communicate with the older person in a manner which is appropriate to the age and health of the older person. The older the older person, the more patient and understanding the member must be while communicating with the older person;
- take steps to protect the privacy and dignity of the older person and must ensure that discussions with an older person who lays a complaint, (whether at the police station or at the crime scene) take place in private, out of sight and hearing of other persons.

TREATMENT OF VICTIMS OF DOMESTIC VIOLENCE

- Amendments to the Domestic Violence Act, 1998 (Act No. 116 of 1998) came into operation in April 2023.
- The amendments include an expansion of matters that are regarded as domestic violence (eg spiritual abuse, elder abuse, coercive – and controlling behaviour).
- Official directives of the SAPS were amended in accordance with the additional responsibilities placed on police officials. National Instruction 7 of 1999 was amended in line with changes introduced by the legislative amendments.
- Station Commanders are required to issue station orders, taking into account the unique circumstances prevailing in that station area and available resources to assist victims of domestic violence.
- Station orders require liaison with local representatives of the Department of Social Development, the local Community Police Forum and any other relevant local institution, to identify local organisations which are willing and able to provide support services (including trauma counselling, medical services and suitable shelter) to complainants.

TREATMENT OF VICTIMS OF DOMESTIC VIOLENCE (CONT.)

Police officials are *inter alia* required to —

- inform a complainant of the services available and how a victim may gain access thereto;
- assist the complainant to obtain medical treatment or make arrangements for the complainant to obtain medical treatment;
- assist the complainant to find suitable shelter or make arrangements for the complainant to find suitable shelter, including the names, contact numbers and addresses of any organisation in the area which may be able to provide suitable shelter and relevant support and counselling services.

TREATMENT OF VICTIMS OF SEXUAL OFFENCES

The South African Police Service has implemented various measures to support victims of sexual offences, irrespective of their age, to minimise the risk of secondary victimisation. These include the following:

- To understand that the victim has suffered severe trauma and that a member must continuously be mindful of this during his or her interaction with the victim;
- Victims must be treated in a sensitive manner to prevent secondary trauma. This includes that the victim may have a person of his or her choice present to support and re-assure him or her during the interview. The interview must also be conducted in a space where the victim feels comfortable and safe and there he or she will feel that that what he or she says cannot be heard by others and is treated in confidence.

TREATMENT OF VICTIMS OF SEXUAL OFFENCES (CONT.)

- Members are required to —
- immediately request the victim to accompany him or her to an appropriate area which is away from the main duty desk in the community service centre and which is out of sight and hearing of persons in the community service centre;
- reassure the victim that he or she is now safe and will be protected;
- determines whether the victim requires medical assistance and if so, make arrangements for the victim to obtain medical assistance as soon as possible;
- reassures the victim that he or she did the right thing to report the matter to the police and that the matter will be dealt with sensitively and that he or she will not unnecessarily be exposed to further traumatisation;
- listen to what the victim says, without interrupting him or her and put him or her at ease.

CRIME INVESTIGATIONS

- National Instruction 13 of 2017 (Case Docket Management) regulates activities of Crime Investigations. The National Instruction outlines the role of all entities within Crime Investigations, giving a clear and concise accountability and responsibility of functionaries within the Crime Investigations environment and is aligned to National Policy of the Detective Services.
- The Detective Service investigates all reported/registered cases.
- Cases of abused older persons, where the perpetrator is a family member of an older person, are dealt with under the Domestic Violence Act and investigated as such.
- The Detective Service investigates all cases reported/registered at any entity, centre, institution, etc.



COMMENTS ON THE OLDER PERSONS AMENDMENT BILL

AD CLAUSE 3 (IMPLEMENTATION OF ACT)

- The South African Police Service welcomes the formalisation of an inter-departmental structure to integrate, co-ordinate and monitor the effective implementation of the Act.
- Co-ordination between different departments and stakeholders are critical to ensure the effective implementation of the Act and to provide adequate care and protection to older persons.
- The care and protection of vulnerable groups, in particular older persons, require a consorted effort by all departments. The co-ordinated initiatives furthermore support and strengthen the services available to assist older persons with effective and efficient support.

AD CLAUSE 15 (REMOVAL OF OLDER PERSON TO TEMPORARY SAFE CARE)

- A new section (section 25A) to be inserted in the Act.
- Section 25A(1) provides that, *inter alia*, a police official must remove an older person with his or her consent or the consent of an **authorised person** if the older person is incapable of consenting.
- No definition is provided on who will be an “authorised person”.
- Section 25A(3) provides that a police official who has removed an older person as contemplated in subsection (1), must inform the family of the older person in writing of such removal.
- It is unclear how information may be obtained if the person is incapable of consenting and the authorised person does not have the information.
- The SAPS is concerned about the practical implications of the proposed amendment.
- The Department of Social Development is primary responsible for the welfare of older persons and should therefore be leading this process.
- The Bill is silent on where the police official should take the older person once removed. A police station is not a safe place. The Department of Social Development must play a critical role to provide for the social welfare of persons once removed and to mitigate the risk of secondary trauma.
- The administrative matters relating to the location of the family and the placement of the older person (once removed) should be the responsibility of the Department of Social Development.

AD CLAUSE 15 (REMOVAL OF OLDER PERSON TO TEMPORARY SAFE CARE) (CONT.)

- Section 25A(7) provides that the misuse of a power contemplated in subsection (1) by a police official constitutes grounds for disciplinary proceedings against such a member.
- It is unclear what is envisaged by “misuse”.
- Regulation 5(3)(a) of the SAPS Discipline Regulations, 2016 provides that misconduct is committed if an employee fails to comply with, or contravenes an Act, regulation or legal obligation.
- It is therefore recommended that the proposed section 25A(7) be removed from the Bill, as the legislative framework of the SAPS already provides for disciplinary steps to be taken against police officials.

AD CLAUSE 18 (PROHIBITION OF ABUSE OF OLDER PERSONS AND SPECIAL MEASURES TO COMBAT ABUSE OF OLDER PERSONS)

- Provision is made for amendments to section 30 of the Act.
- The proposed amendment of subsection (3)(a) expands the definition of “physical abuse” to include “neglect or exploitation of an older person *in any manner*”.
- This implies that physical violence is not a requirement for physical abuse.
- It is proposed that the wording rather be inserted in the introduction of subsection (3) to read as follows:
“For the purposes of subsection (2), “abuse” includes physical, sexual, psychological and economical abuse or the neglect or exploitation of an older person in any manner and —”

ISSUES AND RECOMMENDATIONS RAISED BY THE PUBLIC

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Issue	Concern	Recommendation
Lack of Seriousness in Handling Cases of Older Persons Abuse	Police officers fail to prioritize or adequately investigate cases, particularly when the perpetrator is a family member.	Advocate for police officers to uphold the rights of older persons and treat such cases with urgency and sensitivity.

Response
SAPS National Instruction 1/2014 on Protection of Older Persons provides for Ethical principles ensuring dignity, rights, non-discrimination, and assistance to older persons. Other relevant directives include the National Instructions on victim empowerment, domestic violence, and sexual offences. Compliance with National Instructions can be enforced.

SAPS Guidelines for Policing of Crime Against Older Persons (2017): Developed in consultation with stakeholders to sensitize members to effective prevention and response to older person abuse.

Preventative Options include Community policing and establishment of Forums for Older Persons. Sector managers should also address the safety of older persons by profiling and compilation of database on Older Persons, involvement in community policing activities and sector forums. Preventative measure may also include Regular Visits to Older Persons Institutions conducted by police officers raise awareness and ensure access to policing.

ISSUES AND RECOMMENDATIONS RAISED BY THE PUBLIC

Issue	Concern	Recommendation
Lack of Respect for Older Persons at Police Stations	Older persons report feeling disrespected and marginalized when interacting with police personnel.	Propose the establishment of dedicated queues and services to cater specifically to older persons' needs.

Response

SAPS Guidelines for Policing of Crime Against Older Persons (2017): Provide guidance on respectful treatment of older persons during interactions with law enforcement. Applicable National Instructions provides for ethical , professional conduct to ensure respect and preservation of dignity for older persons.

Implementation of Queue Management Instruction ensures that any victim with special needs, like the elderly, may be assisted out of the queue. Police stations can also make specific arrangements for the elderly depending on the space and facilities available. In addition police stations are encourage to regularly visit facilities for the elderly

Establishment of Forums for Older Persons: Facilitate dialogue and feedback mechanisms to address concerns about treatment at police stations.

ISSUES AND RECOMMENDATIONS RAISED BY THE PUBLIC

Issue	Concern	Recommendation
Absence of Private Rooms for Opening Cases, Especially for Sexual Assault	Older persons lack privacy and confidentiality when reporting cases of sexual assault or abuse.	Advocate for the provision of private rooms in police stations to ensure dignity and comfort for older persons.

Response

SAPS National Instruction 1/2014 on Protection of Older Persons: Highlights the importance of providing a safe and confidential environment for older persons to open cases, including victim friendly rooms. Victim friendly rooms at police stations provide for a safe and accessible space at police stations where victims may be assisted in private and where if required victim support volunteers may provide assistance.

1 021 police stations currently have designated victim friendly rooms. Police stations without dedicated victim friendly rooms make alternative arrangements , like the use of an office, to ensure privacy and confidentiality for older persons when making statements or reporting cases.

Gender Based Violence Desks have been established at **1 160** police stations to facilitate private consultations and statement-taking for victims of gender-based violence, including older persons.

ISSUES AND RECOMMENDATIONS RAISED BY THE PUBLIC

Issue	Concern	Recommendation
Insufficient Training for Police Officers in Dealing with Older Persons	Police officers lack the necessary skills and knowledge to effectively engage with older persons.	Call for comprehensive training programs to educate police officers on the unique needs and challenges faced by older persons.

Response

SAPS National Instruction 1/2014 on Protection of Older Persons requires training for officers on providing assistance to older persons in line with ethical principles and legal obligations.

The Vulnerable Groups Learning Programme includes training modules specifically focused on the protection and provision of services to older persons, ensuring officers are adequately prepared.

Other complementary training programmes include the Victim Empowerment Learning Programme; Domestic Violence Learning Programme and First Responders to Sexual Offences Learning Programme

A commitment to continuous professional development in the SAPS ensure ongoing training opportunities for officers to enhance their knowledge and skills in dealing with older persons. In addition collaboration with stakeholders such as the South African Older Person's Forum (SAOPF) assist the SAPS develop and deliver tailored training programs for officers.

ISSUES AND RECOMMENDATIONS RAISED BY THE PUBLIC CONT.

Issue	Concern	Recommendation
Lack of Sign Language Interpreters at Police Stations	Older persons with hearing impairments face communication barriers when seeking assistance at police stations.	Suggest the availability of sign language interpreters to ensure accessibility and inclusivity for all older persons.

Response:

The SAPS Memorandum of Understanding (MOU) with DeafSA facilitates the provision of sign language interpretation services by accredited interpreters, ensuring accessibility for older persons with hearing impairments.

Continuous Training conducted by the Human Resource Division of SAPS to ensure members are equipped with the skills to effectively communicate with and assist older persons who require sign language interpretation (SAPS provide Basic Sign Language training that is Education Training Development Practices SETA accredited).

The SAPS is also exploration technological solutions such as Video Relay Communication and Microsoft Teams, to enhance the availability and accessibility of sign language interpretation services at police stations.

ISSUES AND RECOMMENDATIONS RAISED BY THE PUBLIC CONT.

Issue	Concern	Recommendation
Shortage of Temporary Safe Care Facilities for Abused Older Persons	There is a limited number of safe care facilities to accommodate older persons who have been victims of abuse.	Advocate for the expansion and improvement of temporary safe care facilities to provide adequate support and protection for abused older persons.

Response

SAPS works closely with the Department of Social Development as the lead Department in the provision of safe care facilities. Collaboration between the SAPS and Social Development at local level is essential to ensure appropriate placement for abused older persons in safe care facilities.

The following are also important:

- **Implementation of Section 25A:** Provision of temporary safe care for older persons in instances of abuse or emergency protection, in accordance with the proposed amendments in the Bill.
- **Continued implementation of the removal of offenders** from the older person's residence.
- Regular assessment of the availability and suitability of safe care facilities, with efforts made to find safe permanent placements for older persons removed from unsafe environments.

ISSUES AND RECOMMENDATIONS RAISED BY THE PUBLIC CONT.

Issue	Concern	Recommendation
Lack of Legal Protection and Support for Older Persons Removed to Social Clubs	Older persons removed to social clubs after abuse do not receive adequate legal protection or support from the police.	Call for enhanced legal protections and support services for older persons removed from abusive environments.

Response

SAPS National Instruction 1/2014 on Protection of Older Persons: Sets out the duties of members to protect and promote the rights of older persons, including those who are victims of crime.

Collaboration with Department of Social Development: Referral of abused older persons to social services within the precinct for psycho-social support and legal assistance.

Implementation of Proposed Amendments: Such as the insertion of new sections 25A and 25B, which aim to provide legal mechanisms for the protection of older persons, including those with disabilities and chronic illnesses.



CONCLUSION

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- The Department of Police (SAPS) acknowledges the concerns raised during the provincial hearings on the Older Persons Amendment Bill [B11 – 2022] and has taken steps to ensure that concerns raised are addressed in the SAPS directives and programmes that to seek to respond to the safety concerns of older persons.
- The SAPS is committed to ensuring the protection, promotion, and maintenance of the rights and well-being of older persons and look forward to working closely with Department of Social Development at national and provincial level and with civil society stakeholders in this regard.



THANK YOU