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Att: Chairperson

Portfolio Committee on Social Development

21 October 2019

Dear Mr Gungubele

The Children’s Institute and our partners have been following the foster care challenge very closely. We appreciate the oversight that your committee is providing on the issue.

We have observed that the Department continues to focus its briefings to your committee on the backlog of foster care orders that are likely to expire on 28 Nov 2019. While this does require attention, we are concerned that the need for a sustainable long-term solution is not receiving sufficient attention or priority. The backlog has been a challenge since 2010 when it first emerged and became the subject of a High Court order. That is now almost 10 years ago. We have continued to show the Department the basic ‘maths’ of the challenge which shows that they will never be able to eradicate the backlog due to a mismatch between their capacity and the number of children in the foster care system (400 000) or in the ‘queue’ due to being eligible ito the Children’s Act (a further 600 000). We have also repeatably shown how children who have been raped, abused, neglected and exploited are not receiving quality child protection services. This is partly due to social workers and children’s courts being overwhelmed by chasing the foster care backlog.

Tomorrow the Department is presenting on both the foster care challenge and the challenge of violence against children. It is the same workforce of social workers that is needed for both these challenges. The more the department pressurises its social workers to chase the backlog of expired foster care orders, the less time and tools of the trade they have to work on cases of violence against children. Our partner NGOs who have social workers working in the area of violence against children continually ask why child abuse cases are not tracked and monitored like foster care cases are. They have Department social workers stationed in their offices going through their foster care files and putting pressure on them to renew the court orders attached to these cases, but they are ignoring all the files of abused and neglected children who are in dire need of protection services. These cases are not on the priority pile. The Department is not seeing the link between these two challenges or acknowledging the need to make and prioritise the implementation of policy choices that ensures both groups of children receive support and services.

The solution needs to:

1. Ensure that orphans in the care of relatives can access an adequate social grant directly from SASSA without the need for a prior social work investigation or a children’s court order. (This is the proposed CSG Top-Up that is provided for in the Social Assistance Amendment Bill)
2. Make it clear in the Children’s Amendment Bill that social workers and children’s courts should refer relatives caring for orphans to SASSA for the CSG Top-Up, and assist them to obtain formal parenting rights (eg guardianship), not foster care.

While (a) above is provided for in the already tabled Social Assistance Bill, (b) is not provided for in the Children’s Amendment Bill. The Bill effectively leaves the choice between a foster care grant (R1000) or a CSG Top-Up (R650) to the individual social worker and/or magistrate. This is going to create inequality across the country for relatives and orphans.

Treasury agreed to the CSG Top-Up proposal in 2017 already and allocated budget to it for the 2017/18 budget year.  Unfortunately, the 2017/18 allocation for the CSG Top-Up had to be re-allocated to another line item due to not being able to be spent as the Social Assistance Amendment Bill had not yet been passed. Treasury has again allocated a budget for the CSG Top-Up of R344 million for the 2020/21 financial year and R1billion for 2021/22.  However, if Parliament does not pass the Social Assistance Amendment Bill soon, that money will again be lost and re-allocated to another line item. The bill is on the list of bills that the LOGB has asked Parliament to revive. It should therefore soon be on your committee’s table for debate and passage. We are appealing to your committee to please prioritise the Social Assistance Amendment Bill so that the CSG Top-Up can be implemented by April 2020/21. The bill is a short bill and therefore could be processed within this time if prioritised.

The draft Children’s Amendment Bill (which is not yet tabled) has 300 clauses and deals with many controversial issues. Therefore, when it reaches your committee, it is likely to take at least 12 months to process in the NA, and then a further 6 months in the NCOP due to the need for provincial hearings. This timing problem, coupled with the bill not clarifying which children qualify for foster care, is not going to help solve the foster care challenge in the short, medium or long term.   The components of the solution in this bill are therefore only a very long-term prospect and have little bearing on the short and medium- term crisis that is ongoing in the child protection system.

Prioritising the deliberations and passage of the Social Assistance Amendment Bill would however be a concrete step towards a sustainable long-term solution. This will provide social workers and magistrates with an alternative which they can start giving to relatives and orphans even before the Children’s Amendment Bill is passed. Once this option becomes more well known, the foster care numbers should start declining, therefore reducing the pressure on the system and the growing backlog. The CSG Top-Up application process will be much quicker and accessible for relatives as they will go directly to SASSA and not have to wait for a social worker report or children’s court order (minimum of 12 months wait). It is likely to become the preferred choice for relatives due to its accessibility.

Please contact me if you need any further information.

Yours sincerely

Paula Proudlock

Children’s Institute, UCT