Official reply: 11 July 2016

**NATIONAL ASSEMBLY**

**QUESTION 150/2016**

**FOR WRITTEN REPLY**

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**150. Ms K de Kock (DA) to ask the Minister of Social Development:**

(a) How many (i) social workers and (ii) psychologists have been reported to the (aa) SA Council for Social Service Professions (SACSSP) and (bb) the Health Professions Council of South Africa (HPCSA) for writing ambush reports and prosecuted for breaching the Children's Act, Act 38 of 2005 and (b) what steps are the (i) SACSSP and (ii) HPCSA taking to update their codes of ethics to comply with the Act and prevent the windmill attack? NW150E

**Reply:**

(aa) This reply is only focused on the question regarding the S. A. Council for Social Service Professions (SACSSP).

1. How many:
2. Social workers: In the period 1 January 2015 to 31 December 2015; the following 25 complaints lodged against social workers had been attended to with specific reference to children. During the reported period, the Council received 25 complaints about social workers reported for alleged unprofessional conduct, however none of these social workers have been found guilty in a court of law for breaching the Children’s Act.

The reported 25 cases can be broken down as follows:

* + Five (5) matters that were pending served before the Registrars Committee for Professional Conduct (RCPC) on 4 May 2016 and were resolved.
  + Five (5) matters the practitioners were requested to familiarize themselves with the *Rules Relating to the Acts or Omissions of a Social Worker, a Social Auxiliary Worker or a Student Social Worker, which shall Constitute Unprofessional or Improper, with* specific reference to Rule 3 (2) *the execution of his or her professional duties in a manner which does not comply with general accepted standards of practising the profession.*
  + One (1) matter that is pending is still under investigation.
  + Fourteen (14) matters reported, and no unprofessional conduct could be detected and issues were thus closed.

At all levels of intervention of the Council as prescribed by the Social Service Professions Act, 110 of 1978, (as amended) where a complaint has been lodged, a legal person as well as a subject matter expert in children’s matters forms part of the panel.

No complaints regarding social workers writing ambush reports received, but the complaints were mainly about alleged biasness in mediation matters.

1. Steps to update the Code of Ethics SACSSP
2. The SACSSP always endeavours to take a developmental approach; hence its code of ethics booklet was translated into frequently asked questions to ensure capacitation of the social service practitioners as this will also be applicable to the updated version of the code of ethics policy:

* The 4th Council and 3rd Professional Board for Social Work (PBSW) identified the review of the Code of ethics as a priority and as such included in the handover report, for the incoming Council and PBSW to execute. The PBSW will constitute a Task Team for Profession Conduct (TPC), after which a steering committee will be constituted in order to revise the current *Policy guidelines for Course of Conduct, Code of Ethics and the Rules for Social Workers.*
* Expert advice will be consulted in different spheres of the social service practice for example; mediation, domestic violence, children in need of care.
* Both the child and the social worker should be protected in the Code of Ethics.
* Broad base sector consultation will be conducted on the code of ethics policy and this policy will be translated into Rules that will be published in the Government Gazette by the Minister of Social Development.

Ethical dilemmas regarding the Children’s Act 38 of 2005 that will be considered for inclusion in the revised Code of Ethics Policy document are:

* Consent of one parent is unreasonably withheld to assess a child. Section 30(2) of the Children’s Act 38 of 2005 will then apply. However, it will be advisable to inform the other party involved of the assessment.
* Confidentiality pertaining to information requested by Department of Home Affairs – the children’s right to confidentiality must be vividly protected.
* Confidential information that must be divulged in the best interest of a child in terms of Section18 (3) of the Children’s Act.
* The following will also be included in order to ensure that social workers maintains the protection of a child and not to contravene the rights of children:
* Protecting a child form placing a photo on social media: Corrie L & Van Niekerk 2015 A Practical Approach to the Child Justice Act (LexisNexis, in printing):

"Section 8.3 of the South African Press Code, which is clearly based on section 28(2) of the Constitution and affirms that a child’s best interests are of paramount importance in every matter concerning the child, provides as follows:

“*The press shall not identify children who have been victims of abuse, exploitation, or who have been charged with or convicted of a crime, unless a public interest is evident and it is in the best interest of the child*.”

The best interests’ principle is also to be found in section 9 of the Children’s Act 38 of 2005, which provides as follows:

“*In all matters concerning the care, protection and well-being of a child the standard that the child’s best interests is of paramount importance, must be applied.*”

In protecting the best interests of minor children, and in regard to criminal proceedings, section 154(3) of the Criminal Code provides that:

“*No person shall* *publish in any manner whatever any information which reveals or may reveal the identity of an accused under the age of eighteen years or of a witness at criminal proceedings who is under the age of eighteen years:  Provided that the presiding judge or judicial officer may authorize the publication of so much of such information as he may deem fit if the publication thereof would in his opinion be just and equitable and in the interest of any particular person.*” "

(bb) The question regarding the Psychologist that is regulated by the Health Professions Council of SA (HPCSA) should be referred to the respective statutory body under the Department of Health.