

20 August 2026

To:

**The Chairperson
Essential Services Committee**
Department of Labour
Cape Town
8001

Dear Grace Mafa-Chali,

**WRITTEN REPRESENTATION TO THE ESSENTIAL SERVICES COMMITTEE IN THE MATTER
OF THE INVESTIGATION INTO THE POSSIBLE DESIGNATION OF CHILD PROTECTION
SERVICES AS AN ESSENTIAL SERVICE**

1. Introduction

Scalabrini Centre of Cape Town ("SCCT") appreciates the opportunity to make written representations to the Essential Services Committee ("the Committee") regarding the investigation into the possible designation of child protection services as an essential service.

SCCT respectfully supports the designation of critical child protection functions as an essential service, subject to a clearly defined and proportionate approach.

SCCT does not submit that every social work function, every social service or every activity undertaken by a child protection organisation should automatically be designated as essential.

Rather, SCCT submits that those child protection functions where interruption may endanger the life, personal safety or health of a child meet the statutory threshold for essential services.

This approach is consistent with the wording of the Committee's Notice of Investigation, which specifically identifies child protection services including:

- investigating allegations of abuse;
- removing a child from an unsafe environment;
- obtaining urgent Children's Court intervention;
- placing a child in alternative care; and
- taking any action necessary to protect the life, health and safety of children.

SCCT's interest in this inquiry arises from its work with children and families affected by migration, displacement, documentation insecurity, family separation and other forms of vulnerability.

SCCT is also a Designated Child Protection Organisation (Prevention and Early Intervention Services) and provides child protection and related social work services as part of South Africa's child protection system.

SCCT's experience is that children cannot be protected through a single institution or profession. Effective protection depends upon a functioning system in which Social Workers, the Department of Social Development, SAPS, Children's Courts, health services, schools, designated child protection organisations, shelters, child and youth care centres and civil-society organisations perform complementary functions.

The interruption of critical child protection functions can therefore have consequences extending well beyond the particular service that is unavailable.

2. SCCT'S INTEREST IN THE INVESTIGATION

SCCT is a non-profit organisation based in Cape Town providing services to migrants, refugees, asylum seekers, stateless persons and other vulnerable communities.

SCCT's Children's Rights Project provides services to children and families, including unaccompanied and separated migrant children ("USMC"), children experiencing documentation barriers, and children requiring assistance with family tracing, reunification, alternative care and other child protection matters.

SCCT is a Designated Child Protection Organisation and therefore operates within the child protection framework established by the Children's Act 38 of 2005.

SCCT's child protection work includes, among other things:

- child protection assessments and interventions;
- statutory social work services;
- assistance to children who may be in need of care and protection;
- family tracing and reunification;
- interventions concerning unaccompanied and separated children;
- assistance with alternative care and placement;
- documentation interventions where documentation affects a child's protection and access to rights;
- referrals and coordination with government and other service providers; and
- advocacy and systemic interventions concerning the protection of vulnerable children.

SCCT's particular experience with migrant and refugee children provides an important perspective for the Committee. Children who are separated from their parents or usual caregivers, who lack documentation, or who are unfamiliar with South Africa's systems may face additional barriers to accessing protection. For these children, an organisation such as SCCT may be the point at which a child or caregiver first discloses a protection concern or seeks assistance. The continuity of that access point is therefore an important component of the broader child protection system.

3. THE STATUTORY TEST FOR AN ESSENTIAL SERVICE

Section 213 of the Labour Relations Act 66 of 1995 defines an essential service, in relevant part, as a service:

“the interruption of which endangers the life, personal safety or health of the whole or any part of the population.”

SCCT submits that this definition requires the Committee to focus on the consequences of interruption.

The question is not simply whether child protection services are important or socially valuable.

The relevant question is whether interruption of particular child protection functions may endanger the life, personal safety or health of children.

SCCT submits that critical statutory child protection functions clearly meet this threshold. Where a child is being abused, neglected, abandoned or otherwise exposed to serious harm, interruption of the intervention designed to protect that child may leave the child exposed to the very risk that triggered the intervention. The risk is therefore inherent in the interruption itself.

4. THE ESSENTIAL NATURE OF CHILD PROTECTION DOES NOT DEPEND ON 24-HOUR OPERATION

SCCT respectfully submits that the essential nature of a child protection service should not be determined by whether that service operates twenty-four hours a day. The statutory test concerns the consequences of interruption, rather than the ordinary operating hours of the service.

A service may operate during defined hours and nevertheless be essential if interruption of that service may expose a child to serious harm.

When a child protection intervention is underway, an interruption of the relevant statutory function may:

- leave a child in an unsafe environment;
- delay an investigation into suspected abuse;
- prevent an urgent assessment;
- delay removal from an unsafe environment;
- prevent appropriate alternative care from being arranged;
- delay Children's Court intervention;
- interrupt monitoring of a vulnerable child in alternative care; or
- delay reunification or other intervention in circumstances where delay may prejudice the child.

The fact that the service will resume at a later point does not necessarily eliminate the risk. A child may suffer further harm before the service becomes available again.

SCCT therefore submits that **essential-service status should be determined by the consequences of interruption, not by whether the service is continuously available.**

5. THE COMMITTEE'S OWN DESCRIPTION OF CHILD PROTECTION SERVICES

The Committee's Notice of Investigation is particularly relevant because it already identifies functions directly concerned with protecting children's life, health and safety. These include investigating allegations of abuse, removing children from unsafe environments, obtaining urgent Children's Court intervention, placing children in alternative care and taking any action necessary to protect children's life, health and safety.

SCCT submits that these should not be regarded as isolated functions. They form part of a continuum of child protection intervention.

A report of abuse may require an investigation. That investigation may identify an immediate safety risk. The child may then need to be removed. Removal may require temporary safe care.

The Social Worker may then need to obtain Children's Court intervention, assess the child's family circumstances, identify appropriate alternative care, undertake family tracing, facilitate reunification where appropriate, monitor the child's placement and determine longer-term permanency options.

The interruption of the process at any of these stages may undermine the protection that the initial intervention was intended to provide. The essential nature therefore lies not only in the emergency event itself, but in the **critical functions necessary to protect the child throughout the intervention.**

6. CHILD PROTECTION IS A CONTINUUM, NOT A SINGLE INTERVENTION

Child protection cannot be reduced to the physical removal of a child from an unsafe environment.

Removal may be necessary, but it is often only the beginning of the statutory intervention. Following removal, questions immediately arise concerning:

- where the child should safely stay;
- whether the child has relatives who can provide appropriate care;
- whether the child is in need of care and protection;
- what the child's immediate and longer-term needs are;
- whether family reunification is possible;
- whether siblings should remain together;
- whether the child requires psychosocial intervention;
- whether the child requires documentation or other assistance;
- what form of alternative care is appropriate; and
- what arrangements are required to safeguard the child's future.

These functions require appropriately trained professionals and cannot simply be replaced by the initial emergency response.

SCCT therefore submits that an essential-service designation should recognise the **critical statutory functions that follow from an identified child protection concern**, rather than focusing exclusively on the moment of emergency removal.

7. THE ROLE OF SAPS DOES NOT REMOVE THE NEED FOR ESSENTIAL CHILD PROTECTION SERVICES

SCCT recognises and strongly supports the important role played by the South African Police Service (“SAPS”) in protecting children. SAPS has powers and responsibilities relating to children in danger and may, in appropriate circumstances, remove a child from an unsafe environment. SCCT does not suggest that SAPS is incapable of performing this important emergency function.

However, the ability of SAPS to remove a child does not make the statutory child protection function unnecessary or interchangeable with policing.

Removal is frequently the beginning rather than the end of the child protection intervention.

A police official may respond to the immediate danger. A Social Worker must then undertake the professional and statutory assessment required to determine what should happen to the child.

This may include:

- assessing the child's circumstances;
- determining whether the child is in need of care and protection;
- assessing family and alternative care options;
- arranging appropriate placement;
- engaging with the Children's Court;
- preparing statutory reports;
- undertaking family tracing;
- facilitating reunification where appropriate;
- providing or coordinating psychosocial intervention; and
- monitoring the child's safety and wellbeing.

These are distinct but complementary functions. The fact that SAPS can perform certain emergency child protection functions should therefore not be used as an argument against designating critical Social Work functions as essential.

Indeed, the existence of these complementary roles demonstrates why **continuity across the child protection system is necessary**.

8. CHILD PROTECTION REQUIRES A MULTI-DISCIPLINARY RESPONSE

No single profession can provide the full range of protection required by a vulnerable child.

Child protection involves cooperation between:

- Social Workers;
- SAPS;
- Children's Courts;
- prosecutors;
- health professionals;
- educators;
- child and youth care workers;
- designated child protection organisations;

- temporary safe care providers;
- foster parents;
- shelters;
- legal practitioners;
- community organisations; and
- other government departments.

Each performs an important function.

However, the inability of one professional or institution to perform another's function does not mean that either service is unnecessary.

A police official cannot substitute for a Social Worker's statutory assessment. A Children's Court cannot itself conduct a home visit or provide ongoing psychosocial intervention. A hospital cannot determine all of a child's long-term care and permanency needs. A school cannot undertake the full statutory child protection process. The protection system therefore depends upon **continuity between these different functions**. Interruption of one critical component may compromise the effectiveness of the others.

9. CHILDREN MAY HAVE ONLY ONE OPPORTUNITY TO SEEK HELP

SCCT respectfully asks the Committee to consider the particular vulnerability of children when assessing the consequences of interruption.

A child may disclose abuse only once. A child may tell a teacher, Social Worker, health professional or community worker about abuse after months or years of fear.

A child may approach an organisation because they have developed sufficient trust to disclose what has happened. If the relevant service is unavailable at that moment, there is no guarantee that the child will disclose again.

Children may:

- fear the consequences of disclosure;
- be dependent on the perpetrator or caregiver;
- lack the ability to independently access services;
- be prevented from seeking assistance;
- not understand that what is happening to them constitutes abuse; or
- simply lack another opportunity to communicate their circumstances.

The interruption of a child protection service can therefore result in the loss of a **critical opportunity for intervention**.

The Committee should consider this when assessing whether interruption of the service may endanger a child's personal safety or health.

10. TRUSTED ACCESS POINTS ARE AN IMPORTANT PART OF CHILD PROTECTION

The existence of formal statutory mechanisms does not necessarily mean that a vulnerable child will access them directly.

Children and families may first approach organisations with which they already have a relationship of trust.

This is particularly relevant to SCCT's work with migrant and refugee communities.

A child or caregiver may be reluctant to approach SAPS or a government department because of:

- fear of authorities;
- immigration or documentation concerns;
- language barriers;
- unfamiliarity with the South African child protection system;
- previous negative experiences;
- fear of family separation; or
- concerns about the consequences of disclosure.

A trusted organisation may therefore be the **gateway into the formal protection system**.

SCCT's experience demonstrates that civil-society organisations can play an important role in identifying protection concerns, supporting disclosure, facilitating referrals and helping children and families navigate statutory systems. If those access points are interrupted, the existence of alternative formal mechanisms does not necessarily mean that the child will simply approach another service.

11. THE PARTICULAR VULNERABILITY OF MIGRANT AND REFUGEE CHILDREN

SCCT's experience with unaccompanied and separated migrant children provides a particularly important illustration.

A child who is separated from their parents or usual caregiver may have no adult who is able to advocate for their interests.

A child may also lack:

- identity documentation;
- knowledge of their family whereabouts;
- knowledge of the South African legal system;
- access to financial resources;
- a stable caregiver;
- familiarity with local services; or
- confidence in approaching authorities.

For these children, the Social Worker and child protection organisation may be one of the few mechanisms through which their circumstances can be assessed and appropriate protection arranged. Interruption of that service may therefore leave the child without another person capable of identifying and addressing their protection needs.

This reinforces the importance of maintaining critical child protection functions.

12. THE FUNCTIONAL NATURE OF THE CHILD PROTECTION SYSTEM

SCCT submits that essential-service status should attach to the function performed, rather than simply to the identity of the employer.

A child does not experience a difference between a statutory intervention performed by a Social Worker employed directly by the Department of Social Development and one performed by a Social Worker employed by a designated child protection organisation. In both circumstances, the child requires protection.

Designated child protection organisations form part of the statutory child protection system and undertake functions authorised and regulated within that system. The consequences of interrupting a statutory child protection investigation do not become less serious because the Social Worker is employed by an NPO.

SCCT therefore submits that any essential-service designation should expressly include appropriately defined statutory child protection functions performed by **designated child protection organisations and other authorised service providers**, where interruption may endanger life, personal safety or health.

13. PREVENTION AND EARLY INTERVENTION CAN ALSO PROTECT CHILDREN FROM SERIOUS HARM

Child protection is not limited to situations where serious harm has already occurred. Social Workers also intervene to prevent situations from escalating.

Early intervention may prevent:

- abuse from becoming more severe;
- family breakdown;
- abandonment;
- unnecessary removal;
- exploitation;
- homelessness;
- trafficking;
- prolonged exposure to violence; or
- other serious risks to children.

SCCT recognises, however, that not every preventative or developmental social service will necessarily meet the statutory threshold for an essential service.

The relevant distinction should be whether interruption of the particular function may foreseeably expose the child to serious harm or compromise an existing protective intervention. This again supports a targeted and functional designation.

14. INTERRUPTION MAY HAVE CONSEQUENCES THAT ARE NOT IMMEDIATELY VISIBLE

One of the particular challenges in assessing child protection services is that the consequences of interruption may not always be immediately visible.

If an emergency medical service is unavailable, the consequences may become apparent immediately. In child protection, interruption may instead allow an unsafe situation to continue.

- The child may remain in an abusive home.
- An investigation may be delayed.
- A child may remain in an inappropriate placement.
- A family tracing process may stop.
- A Children's Court intervention may be postponed.
- A foster placement may deteriorate without intervention.

- A child may remain separated from family unnecessarily.

The harm may only become apparent days, weeks, months or even years later.

The absence of an immediately visible consequence should therefore not be interpreted as evidence that interruption is harmless. In child protection, **the risk may be precisely that the harmful situation continues while the protective intervention is unavailable.**

15. THE BEST INTERESTS OF THE CHILD REQUIRE CONTINUITY

Section 28(2) of the Constitution provides that a child's best interests are of paramount importance in every matter concerning the child.

This constitutional principle is reinforced by the Children's Act 38 of 2005. The best interests principle requires more than an initial emergency response. Children require appropriate and continuous assessment of their circumstances.

- Their needs may change.
- Family circumstances may change.
- Placements may become unstable.
- New information may emerge.
- A child may disclose additional abuse.
- A relative may be traced.
- A reunification option may become possible.
- A child may require a different form of care.

The statutory child protection system therefore needs the capacity to respond to these developments. Where interruption of the relevant service may leave a child exposed to harm or undermine an existing protective intervention, continuity of the service is directly connected to the child's best interests.

16. A PROPORTIONATE APPROACH TO ESSENTIAL-SERVICE DESIGNATION

SCCT does not propose that all Social Work or social service functions should automatically be designated as essential. Such an approach would be unnecessarily broad and would not appropriately reflect the statutory test.

Instead, SCCT recommends a targeted and functional designation.

Functions that could appropriately fall within the designation include, where applicable:

- emergency child protection assessments;
- urgent investigations into allegations of abuse or neglect;
- removal of children from unsafe environments;
- urgent arrangements for temporary safe care;
- urgent alternative-care placement interventions;
- urgent Children's Court interventions;
- responses to abandoned children;
- interventions concerning children exposed to serious violence;
- critical monitoring of children where interruption may expose them to harm;
- urgent family tracing and reunification interventions where delay may prejudice the child's safety;
- critical statutory assessments and reports necessary to protect a child; and

- other statutory child protection functions where interruption may endanger the child's life, personal safety or health.

This approach would distinguish these functions from activities that can reasonably be postponed without creating a comparable risk.

17. CHILD PROTECTION SERVICES DURING CRISES AND DISASTERS

The need for child protection does not disappear during periods of social disruption, public emergencies or disasters. Indeed, crises can increase children's vulnerability.

Families may experience:

- displacement;
- loss of income;
- homelessness;
- family separation;
- increased domestic violence;
- disruption of schooling;
- loss of support networks; and
- increased exposure to exploitation or abuse.

These circumstances may increase rather than decrease the need for child protection intervention. A child protection system that can cease functioning during such circumstances may therefore leave the children most at risk without protection precisely when they need it most. Essential-service recognition would provide a mechanism for ensuring continuity of critical functions during such periods.

18. CHILD PROTECTION IS A STATUTORY FUNCTION, NOT SIMPLY A SOCIAL SERVICE

Child protection is sometimes characterised as a supportive or welfare service. SCCT submits that this description does not adequately reflect the nature of statutory child protection work.

Social Workers performing statutory child protection functions may be required to:

- investigate allegations of abuse and neglect;
- assess children and families;
- remove children where legally authorised;
- arrange alternative care;
- appear before Children's Courts;
- prepare statutory reports;
- make recommendations concerning children's care;
- facilitate reunification;
- monitor placements; and
- take other steps necessary to protect children.

These are statutory functions with direct implications for children's rights and safety. The essential-service inquiry should therefore distinguish between general social support and **statutory child protection functions where interruption may endanger life, personal safety or health.**

19. THE IMPORTANCE OF NPOs WITHIN THE STATUTORY CHILD PROTECTION SYSTEM

South Africa's child protection system relies substantially on partnerships between government and non-profit organisations.

Designated child protection organisations perform statutory functions on behalf of and within the broader child protection system. This is particularly important in the Western Cape, where NPOs form a significant part of the social service delivery infrastructure.

An essential-service designation that applies only to government employees would therefore risk creating a gap in the very system that the designation seeks to protect. SCCT submits that the designation should follow the **statutory function**, regardless of whether the appropriately authorised Social Worker is employed by government or by a designated NPO.

20. A CHILD-CENTRED APPROACH TO ESSENTIAL SERVICES

SCCT respectfully submits that the Committee's assessment should ultimately be guided by a simple question:

What happens to the child when the protective service is interrupted?

If the consequence is merely that a routine service is delayed, the statutory threshold may not be met.

If, however, interruption may result in a child:

- remaining in an unsafe environment;
- continuing to experience abuse or neglect;
- being exposed to violence;
- remaining without appropriate alternative care;
- being left without necessary statutory intervention;
- losing an opportunity to disclose abuse;
- remaining separated from a safe caregiver; or
- experiencing serious injury or other harm,

then the interruption may directly endanger the child's life, personal safety or health. That is the central consideration that SCCT respectfully asks the Committee to apply.

21. CONCLUSION

SCCT supports the designation of critical child protection functions as essential services.

SCCT submits that **where interruption of a child protection function may endanger the life, personal safety or health of a child**, that function satisfies the statutory definition of an essential service.

The essential nature of child protection does not depend upon whether a service operates twenty-four hours a day. It arises from the consequences of its interruption.

A child cannot necessarily wait for a service to resume.

A child may remain in an unsafe environment.

A disclosure may never be repeated.

A placement may deteriorate.

An opportunity to intervene may be lost.

And the consequences of failing to intervene may only become apparent when the harm has already occurred.

SAPS and other professionals play indispensable roles within the protective system, including responding to immediate danger. However, no single institution can provide the full range of statutory child protection functions. Emergency removal does not replace investigation, assessment, Children's Court intervention, alternative-care planning, family tracing, reunification, psychosocial intervention or ongoing monitoring. The child protection system therefore depends upon continuity between its different components.

SCCT further submits that this system must include designated child protection organisations and other authorised NPOs performing statutory functions. The essential nature of a child protection intervention cannot depend upon whether the Social Worker is employed by government or by an NPO.

The child needs protection regardless of who employs the Social Worker.

SCCT accordingly respectfully requests that the Essential Services Committee:

1. **Recognise critical statutory child protection functions as essential services where interruption may endanger the life, personal safety or health of children;**
2. **Adopt a functional approach based on the nature of the function and the consequences of its interruption, rather than on operating hours or the identity of the employer;**
3. **Recognise that essential child protection functions extend beyond emergency removal to include the critical statutory interventions necessary to protect a child throughout the protection process;**
4. **Recognise the complementary but distinct roles of SAPS, Social Workers, Children's Courts, health services, schools, NPOs and other actors within the child protection system;**
5. **Ensure that designated child protection organisations and other appropriately authorised NPOs performing statutory child protection functions are included within the scope of any designation; and**
6. **Consider a proportionate minimum-service requirement that preserves critical child protection functions while respecting the labour rights of Social Workers and other employees.**

SCCT remains available to engage further with the Committee should there be a need for clarification or additional information regarding the services described in this submission.

22. SCCT'S CONTACT DETAILS

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23. REFERENCES

Constitution of the Republic of South Africa, 1996.

Labour Relations Act 66 of 1995.

Children's Act 38 of 2005, as amended.

Department of Employment and Labour, Notice 4045 of 2026, 24 July 2026.

Scalabrini Centre of Cape Town