

Gauteng Social Services

Gauteng Welfare Relations Act 17 of 1998

This Act has as its main objectives the delegation of certain welfare functions to officials in local government so as to provide for effective provision of quality welfare services. It seeks to promote the participation of local government in the delivery of welfare services and to provide for the building of capacity in the provision of welfare services at local level.

Delegation

The MEC and the Head of the Department of Welfare and Population Development (with the permission of the MEC) may delegate any power, function or duty imposed on them by the Social Assistance Act of 1992 to officials in the service of local government in the province. The MEC or Head of the Department may impose conditions on such a delegation and are obliged to (a) consult with the local authority concerned and (b) take into account the views, capacity and funding available to the local authority. The local government official is then obliged to perform such functions in accordance with the conditions and directives of the MEC or Head of Department, as the case may be. Funding for the discharge of this function comes from the MEC with the concurrence of the member of the Executive Council responsible for finance in the province.

Monitoring and support

Provision is made for the monitoring of the delegated function/s by the MEC or his or her appointee. The MEC is obliged, in terms of the Act, to take appropriate measures for the development of programmes that build capacity for the provision of welfare services at the local level.

Finally, the Act makes provision for

the withdrawal of mandates by the MEC or the Head of Department, and the making of regulations regarding the delegated functions in order to achieve the objectives of the Act.

Gauteng Street Children Shelters Act 16 of 1998

This Act sets out to provide a comprehensive framework in terms of which street children shelters must be operated. The main objectives of the Act are to meet the basic needs and to protect the rights of street children.

Aims

It aims to do this by, among other things, creating a safe environment, empowering street children to deal constructively with their world, encouraging family reunification, developing appropriate placement programmes, and ensuring competent care, treatment, development and education for street children.

Duties

The Act sets out the duties of shelter operators, employees and volunteers and provides specifically that those in charge must protect the street children against abuse, exploitation and discrimination. Corporal punishment is outlawed and disciplinary measures taken against children must be recorded. It is the duty of the shelter operator to provide each child under his or her care with certain social services, such as educational, health and social welfare services.

Governance

As far as the governance of shelters is concerned, the Act makes provision for a management board and stipulates its composition, powers and duties. Shelters are supposed to operate on a 24-hour basis and a register must be

maintained of all who use the facility. Certain minimum standards are laid down regarding physical facilities that are consistent with humane living conditions. The Act further provides that funding for a shelter may be obtained from the provincial coffers subject to conditions. Extensive provision is made for the monitoring of shelters. Inspectors with powers of search and seizure, may be appointed to enforce compliance with the Act. Lastly, the Act makes provision for the obligatory registration of shelters with the provincial authorities.

Comments

Significantly, when one compares the two Acts, there appears to be inconsistency. Whilst the Welfare Relations Act makes express provision for the delegation of certain welfare services to the local level in order to promote the participation of local government in the delivery of such services, the involvement of local government in the Street Shelters Act is conspicuous by its absence. Both Acts deal with the provision of social services at local level and one could argue that the involvement of local government in the provision of social services may result in more effective service delivery. A more compelling reason for the involvement of local government in the provision of shelters for street children, is the fact that the management of childcare facilities is, firstly, in terms of the LGTA, a competence of metropolitan local councils and secondly, in terms of the Constitution, a Schedule 4 competence of local government.

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