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To: Deputy Directors-General, Chief Directors, Directors, Circuit Managers, Heads of all educational institutions and Members of governing bodies

Short summary: *Vetting of all officials who have contact with learners at institutions against the National Register for Sexual Offenders.*

Subject: Amended process of vetting officials against the National Register for Sexual Offenders

1. This circular is applicable to all officials of education institutions within the Western Cape Education Department (WCED) who have contact with learners.
2. The President assented the Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Act, 2021 (Act 13 of 2021), to strengthen the fight against gender-based violence, amongst others, on 28 January 2022.
3. The Amendment Act Amendment Act amends Chapter 6 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act to:
 - 3.1 Expand the scope of the National Register for Sex Offenders (NRSO) to include the particulars of all sex offenders and not only sex offenders against children and persons with disabilities;
 - 3.2 Expand the list of persons who must be protected to include other vulnerable persons, namely certain young women, persons with physical, mental or intellectual disabilities and persons over 60 years of age who, for example, receive community-based care and support services; and
 - 3.3 Increase the periods for which a sex offender's particulars must remain on the NRSO before it can be removed.
4. The WCED welcomes this legislation as it will augment safe and secure spaces for all, and it will strengthen the professional image and standing of all public service and educator staff in every school and office in the department.

5. Based on the assented amendments, the WCED, in conjunction with the Departments of Justice and Social Development, is embarking on the process to ensure that all officials who will be appointed via the recruitment and selection process, officials currently in service, as well as any other persons coming into contact with learners, are vetted against the NRSO and the National Child Protection Register.
6. A decision was taken within the education sector under the auspices of the Department of Basic Education and in conjunction with the Department of Justice and Constitutional Development to do this incrementally, using three phases. Phase 1 will focus on all staff at special schools. This is based on the principle that learners at special schools are deemed as the most vulnerable.
7. In order to comply with the legislation, the following phased-in process will be followed:

PHASE 1: STAFF AT SPECIAL SCHOOLS		
Category	Action	Due Date
Appointments and promotions via the recruitment and selection process	All applicants must complete Form 7 (J738): <i>Application for certificate by person in respect of own particulars</i> and submit the verified certificate as part of the application process.	Applicable to each appointment
Special schools	All staff working at special schools must complete Form 8 (J739): <i>Application to determine whether particulars of a person have been included in the NRSO.</i>	Forms to be submitted to district office 30 April 2023
Hostels at special schools	All staff working at hostels based at special schools must complete Form 8 (J739): <i>Application to determine whether particulars of a person have been included in the NRSO.</i>	Forms to be submitted to the district office by 30 April 2023

PHASE 2: STAFF AT ORDINARY PUBLIC SCHOOLS		
Category	Action	Due Date
Hostels at ordinary public schools	All staff working at hostels of ordinary public schools must complete Form 8 (J739): <i>Application to determine whether particulars of a person have been included in the NRSO.</i>	Forms to be submitted to the district office by 30 September 2023
Primary schools	All staff working at primary schools must complete Form 8 (J739): <i>Application to determine whether particulars of a person have been included in the NRSO.</i>	Forms to be submitted to the district office by 30 September 2023
Secondary schools	All staff working at secondary schools must complete Form 8 (J739): <i>Application to determine whether particulars of a person have been included in the NRSO.</i>	Forms to be submitted to the district office by 30 September 2023

PHASE 3: STAFF AT OFFICES OF THE WCED		
Category	Action	Due Date
Head Office and district offices	All staff working at Head Office and district offices must complete Form 8 (J739): <i>Application to determine whether particulars of a person have been included in the NRSO.</i>	Forms to be submitted to Head Office by 30 September 2023

8. Forms for officials currently in service as mentioned in paragraph 7 must be hand-delivered to the following offices:
- 8.1 Schools: submit to the relevant district office. The district office must collate and submit the documents via their circuit structures.
- 8.2 District office staff: staff must collate and submit the documents to the office of the Chief Director: People Management Practices at Head Office.
- 8.3 Head Office staff: directors must collate and submit the documents to the office of the Chief Director: People Management Practices.
9. Please note that the cost for application to the South African Police Services (SAPS) is R75 for the Fingerprint Clearance Form. It is requested that employees pay the amount and then submit the receipt, as received from SAPS for the payment following the application, to principals. A collated form (Annexure E) reflecting all employees' details and proofs of receipt attached must be submitted, per school, to district offices, who will collate it in order for the department to reimburse the school. Alternatively, schools may pay the cost of R75 and claim the payment from the department, following the same claims process described above.
10. Forms to be completed, which are issued by the Department of Justice, are attached as Annexure A and B.
11. Obligations of employees, as per section 46 of Chapter 6 of the Amendment Act Amendment Act, are as follows:
- 11.1 *An employee in the employ of an employer at the commencement of this Chapter, who is or was convicted of a sexual offence against a child or a person who is mentally disabled, or is alleged to have committed a sexual offence against a child or a person who is mentally disabled and who has been dealt with in terms of section 77 (6) or 78 (6) of the Criminal Procedure Act, 1977, irrespective of whether or not such offence was committed or allegedly committed during the course of his or her employment, and whose particulars are included or are to be included in the Register, must without delay disclose such conviction or finding to his or her employer.*

- 11.2 *An employee who, after the commencement of this Chapter, applies for employment, must, if he or she has been convicted of a sexual offence against a child or a person who is mentally disabled or is alleged to have committed a sexual offence against a child or a person who is mentally disabled and who has been dealt with in terms of section 77 (6) or 78 (6) of the Criminal Procedure Act, 1977, and whose particulars are included or are to be included in the Register, disclose such conviction or finding when applying for employment.*
- 11.3 *An employee who fails to comply with subsection (1) or (2), is guilty of an offence and is liable on conviction to a fine or to imprisonment not exceeding seven years or to both a fine and such imprisonment.*
12. Further information pertaining to the processes to follow in respect of the NRSO can be obtained from the Department of Justice: <https://www.justice.gov.za/>. Governing bodies must follow similar processes for staff appointed by them as the legislation is applicable to all individuals who are in contact with learners. It must also be noted that any individual who is in contact with learners must be vetted against the NSRO and proof must be provided.
13. A guide on the steps to follow is attached as Annexure C.
14. A signed letter from the WCED is attached as Annexure D. This letter can be used at SAPS when applying for the fingerprint reports
15. The contents of this circular must be brought to the attention of all stakeholders and staff.

SIGNED: B WALTERS

HEAD: EDUCATION

DATE: 2023-03-03