

ECD DISCUSSION DOCUMENT #3: **BARRIERS TO EFFECTIVE ECD SERVICE PROVISION AT SCALE**



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ECD DISCUSSION DOCUMENT #3:

BARRIERS TO EFFECTIVE ECD SERVICE PROVISION AT SCALE

This is a series of five papers aimed at stimulating discussion and awareness about local government matters that affect the delivery of Early Childhood Development (ECD) services. These papers are a product of a series of work that the Nelson Mandela Foundation commissioned the Project Preparation Trust to do.

The discussion papers cover the following topics:

- 1) Land-use and related challenges
- 2) Simplifying land use processes
- 3) Barriers to effective ECD delivery
- 4) Developmental role of the LM/ Metros in ECD
- 5) Programmatic approach

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SUMMARY

FOCUS OF THIS DISCUSSION DOCUMENT: The purpose of this discussion document is to provide an overview of barriers to effective Early Childhood Development (ECD) delivery on a national, provincial and local government level as well as legislative and policy level. Poor infrastructure, a lack of capacity, funding constraints and a rigid regulatory environment are amongst the barriers which exclude centres from government's system of monitoring and support. These barriers also prevent a scaled-up ECD response in South Africa in order to meet the national goal of all young children having access to adequate ECD services by 2030. Municipalities, working with other stakeholders, have a key role to play in helping to overcome these barriers and thus enabling a more developmental and programmatic approach.

OVERVIEW OF KEY BARRIERS TO EFFECTIVE ECD SERVICE PROVISION AT SCALE

The National Integrated ECD Policy provides an overarching, multi-sectoral framework for a comprehensive package of ECD services and an ECD system that should be properly resourced, coordinated and managed to ensure accessible, quality and integrated services to all young children by 2030. There are however several barriers to be addressed on different fronts:

- 1. Lack of consensus on ECD approach:** There are diverging views on how ECD is defined and the best way in which to address the challenge of ECD in South Africa in a manner that is sufficiently scalable and programmatic. For example, some support the construction of high standard new ECD centres, others opt for a more cost-effective model of improving existing ECD facilities in order to meet minimum norms and standards with a mix of affordable new-builds. Some only agree to improvement of state facilities while others see the need to improve NPO owned facilities. Others advocate non-centre based solutions e.g. child-minding/ informal care augmented with regular playgroup-based learning. There is no clear 'roadmap' or 'theory of change' for ECD in South Africa which establishes how the national ECD target of providing all children with acceptable ECD care by 2030 will be achieved within the prevailing fiscal and other resource constraints. As a point of departure, it is therefore critical that there is consensus regarding an ECD approach for South Africa, which is realistic, which optimises limited fiscal and other resources, and which better accommodates and addresses informality and other constraining factors.
- 2. Insufficient priority afforded to ECD:** Often the importance of ECD is not fully appreciated by government departments and municipalities. If the priority of ECD is not reflected in budgets and plans of government departments and municipalities, and if enabling and statutory flexibility are not dealt with, then limited or no progress will be realised.
- 3. Fiscal limitations:** There is currently insufficient fiscal allocation to ECD in order to adequately address the scale of needs, both in terms of operational funding (per child subsidies) to ECD centres (noting that many centres which are registered do not yet receive operational grants for all children in attendance due to funding shortages) as well as funding for ECD infrastructure improvements. Although it is recognised that there are a range of other barriers to be overcome in order to speed up service delivery (e.g. in terms of regulatory flexibility), without sufficient fiscal allocation, a scalable national response will not be possible and the national ECD goal of acceptable ECD care for all by 2030 cannot be achieved.
- 4. Statutory and regulatory inflexibility:** ECD provisioning is constrained by a burdensome legislative framework spanning across national and municipal laws. A good start has been made with the gold-silver-bronze ECD Registration Framework developed and approved by the DSD and now DBE, that affords important flexibility (e.g. relating to national DBE and national environmental health requirements) to enable centres to obtain conditional registration at bronze or silver level. However, many ECD centres are

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still unable to fully register because they cannot meet complex, costly and rigid regulations relating to planning and land use matters (e.g. rezoning, building plans). Please refer to Discussion Documents #1 and #2 for more information in this regard. Municipalities should be encouraged to adopt a developmental approach that is more responsive to the reality of informality.

5. **Difficulties in responding to informality:** It must be accepted that, at least in the short to medium term, much of the ECD services and care of young children will be provided by informal and/or unregistered service providers, including childminders. Change will take time. However, government is currently struggling to find ways to respond optimally to this situation. In order to move to scale, government will need to identify the most critical 'levers' it has at its disposal to unlock the potential for improvement amongst these 'less formal' service providers. In addition to the greater statutory and regulatory flexibility (as outlined above), there also needs to be consideration of how best to include and optimise the range of different ECD service providers who provide much, if not most of the de-facto care to young children in low income, under-resourced communities such as informal settlements and rural communities. One way to do this is through incremental planning and land use arrangements which include all communities within municipal planning frameworks, where formal schemes have not yet been established (e.g. through inclusion in the Spatial Development Framework (SDF) or the establishment of incremental development areas). Other creative avenues also need to be explored. The principle is to find ways to include all facilities, incentivise improvements and monitor and support progress and improvements over time.
6. **Inadequate ECD planning and coordination:** ECD planning has been significantly limited by a lack of reliable data. Phase 1 of the Vangasali campaign was launched in 2020 against the backdrop of DSD not having a reliable database of all ECD services – in the absence of reliable data, effective national population-based planning is impossible¹. This data later fed into the 2021 DBE ECD Census. Available data is also not readily shared between departments and with municipalities, making it difficult to formulate municipal ECD strategies sector plans. These issues are now gradually being addressed by government in terms of a DBE ECD Census, the development of a National Online ECD Registration Management Tool and later the Registration and Management System. National and provincial plans are not adequately shared within (e.g. down to provincial and district level) and across key departments and are typically not shared at all with municipalities. ECD planning by municipalities is very limited and often only done on an ad hoc basis. ECD delivery in South Africa is also constrained by weak institutional arrangements, insufficient inter-sectoral collaboration, coordination and service integration. There has also been a lack of accountability at all levels (national, provincial and district) across the sector.² More functional structures for multi stakeholder collaboration will have to be established to ensure a common vision, clear roles and responsibilities, workable action plans for integrated service delivery, monitoring and evaluation, etc.

¹ Vangasali presentation of 28 November 2020

² Draft National ECD Framework V2.7 (03/02/2020)

1 BACKGROUND

The country's first National Integrated Early Childhood Development (NIECD) Policy was approved by Cabinet in December 2015. The policy provides an overarching, multi-sectoral framework for a comprehensive package of ECD services and presents several strategic shifts in supporting early childhood development. It outlines services which must be realised immediately. A number of essential services are prioritised in the policy, and implementation should take effect in the short-to medium term to be available and accessible to all young children and caregivers by 2024. The policy envisages the roll-out of the comprehensive package by 2030. The services include birth registration and access to the Child Support Grant from birth; basic health care and nutrition for pregnant women, infants and young children; preventive and curative maternal, infant and child nutrition services; support for parents; safe quality childcare; early learning support and services from birth; as well as public information about ECD services.

The Children's Act and National Integrated ECD Policy sets out that an ECD system must be properly resourced, coordinated and managed. It should include children with special needs, and must be based on collaboration between DSD, DBE, Health, provincial and local government, finance and transport sectors. Such a system includes governance, delivery, and capacity development for implementation and is linked to effective monitoring methods. Hence, the coming together of core delivery systems (i.e. health, care and protection, infrastructure, education and governance) within government and at community level aimed at ensuring accessible, quality and integrated services to all young children, with special provisions for those whose development is most at risk.

There are, however, various barriers which exist in realising the kind of ECD system that the Children's Act and the National Integrated ECD Policy envisions. These include barriers on a national, provincial and legislative and policy level, local government level as well as barriers to registration.

1.1 Barriers on national, provincial and legislative and policy level

1.1.1 Framing

One of the major challenges outlined by Black et al. (2017) regarding advancing ECD globally, is that of framing. Framing refers to how early childhood development is understood and conceptualised. It includes the definition of early childhood development, reliable and valid measures, as well as effective intervention strategies. The absence of clear framing impedes planning and progress, as interested parties struggle to agree on basic issues.

a) Lack of consensus on approach

There are diverging views on how ECD is defined and on the best way in which to address the challenge of ECD in South Africa in a manner that is sufficiently scalable and programmatic. For example, some support the construction of high standard new ECD centres, others opt for a more cost-effective model of improving existing ECD facilities in order to meet minimum norms and standards with a mix of affordable new-builds. Some only agree to improvement of state facilities while others see the need to improve NPO owned facilities. Others advocate non-centre based solutions e.g. child-minding/informal care augmented with regular playgroup-based learning. There is no clear 'roadmap' or 'theory of change' for ECD in South Africa which

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establishes how the national ECD target of providing all children with acceptable ECD care by 2030 will be achieved within the prevailing fiscal and other resource constraints. As a point of departure, it is therefore critical that there is consensus regarding an ECD approach for South Africa, which is realistic, which optimises limited fiscal and other resources and which better accommodates and addresses informality and other constraining factors.

b) Insufficient priority afforded to ECD

Often the importance of ECD is not fully appreciated by government departments and municipalities. If the priority of ECD is not reflected in budgets and plans of government departments and municipalities and if enabling and statutory flexibility are not dealt with, then limited or no progress will be realised.

1.1.2 Limited awareness of the critical importance of ECD

There is limited awareness by South African society in general and amongst caregivers of the critical importance of early learning for child development, school and employment outcomes over and above just the need for day-care. As outlined in the Mandela Initiative Report (2018), young children (unlike students, for example) are a silent and mostly invisible constituency - they do not have political voice, they cannot vote or protest. Early childhood development, whilst recognised as important, is still often cast as a 'soft' issue and overlooked in the national development discourse, rather than treated as both urgent and fundamental to achieving a socially just and equitable society.³ This may also be the case on a local government level.

1.1.3 Childcare facilities as a municipal function

Schedule 4, Part B of the Constitution lists 'child care facilities' as a function of municipalities. The Constitution also provides in its Bill of Rights a broad rights based policy imperative that applies to all. This Bill should be promoted, protected and fulfilled by all tiers of government (national, provincial and local). It obliges local municipalities to adhere and play their role within the constitutional democracy to fulfil the rights of children. The problem is that there is no clear definition within the existing legal frameworks that defines exactly what a "child care facility" is and/or what it encompasses, as defined by the Constitution⁴. Many municipalities seem to be of the view that their role is primarily regulatory in nature i.e. ensuring compliance with legislation and municipal bylaws (Refer to Discussion Document #4: Developmental role of Municipalities in ECD).

1.1.4 Absence of strategy to support ECD on local government level

Local government has not yet been made aware of and has not yet been mobilised to take up the role and responsibilities assigned to them in terms of the NIECDP. This is because national departments have not yet 'unpacked' roles and responsibilities to gain a clear idea of "what it is that municipalities must do" in practice. Many national department officials do not have a municipal background to give guidance on how to embed a new programme within a municipal system while COGTA who knows, is not familiar with ECD. Not knowing what exactly the Municipalities must do⁵ and how to roll it out, makes it difficult for both national and provincial departments to interact and provide meaningful support to municipalities (Refer to Discussion Document #4: Developmental role of Municipalities, section 3).

³ Grappling with Poverty and Inequality a report on the process and findings of the Mandela Initiative, 2018

⁴ Municipalities, Young Children and ECD - The Last Frontier, ECD Knowledge Building; Seminar 2014 (Andre Viviers (UNICEF) and Mandu Mallane (SALGA))

⁵ This issue was raised at the SALGA Forum for enhancing ECD in Local Government meeting in July 2019.

1.1.5 Challenges with Inter-sectoral collaboration

There has been a growth in the number of countries who have multi-sectoral early childhood development policies⁶. In 2000, seven Low to Middle Income Countries (LMICs) had these in place and by mid-2014, 68 of 215 countries worldwide (constituting 45% of LMICs) had such policies. Three common reasons for approaching service delivery in an inter-sectoral manner are: a) to be able to deliver more services b) to cut costs by sharing resources and not duplicating and c) to deliver services more quickly with less difficulty for the client⁷. South Africa only developed its own multi-sectoral ECD policy in 2015 called the National Integrated ECD policy. Thirty (30) departments and entities are mentioned in the policy in terms of having responsibility related to the delivery of ECD⁸. The question is whether departments know and accept their responsibilities as outlined in the Policy?

Responsibility for ECD does not 'belong' to any one sector and it requires an integrated set of services and programmes that cut across departments - other than the Department of Basic Education - such as the Departments of Social Development, Health, Education and Human Settlements and over-arching departments like the National Treasury and Department of Planning, Monitoring and Evaluation as well as the different spheres of government - national, provincial and local (Mandela Initiative Report, 2018). Bringing these different spheres and departments together to focus on young children has proved to be enormously challenging, as are the practicalities of budgeting and planning. The multi-sectoral nature of ECD is not unique to South Africa and neither is the struggle to achieve a coordinated approach to ECD services (Devercelli, Sayre and Denboba⁹). The multi-sectoral nature of early childhood development is a challenge because governance¹⁰ is often spread across multiple sectors with limited accountability and ownership. The challenges experienced in South Africa with respect to ECD is thus reflective of global challenges experienced in this respect.

Challenges regarding inter-sectoral collaboration experience on national level¹¹ were highlighted during a presentation at a Joint Portfolio Committee Briefing in October 2017. These included among others:

- The strategy is multi-sectoral and has to speak to multiple different processes and systems within a common framework
- Lack of co-operation from COGTA as a key department in implementing the ECD policy (specifically with regard to Infrastructure, by-laws, zoning, registration and basic services)
- The lack of prioritization of ECD objectives by other departments in the implementation of the policy due to competing priorities with shrinking resources
- Slow movement in alignment of policies and legislation with ECD policy by partner departments
- Lack of clarity and agreement on responsibilities in the policy
- Concerns about the respective departments' autonomy

⁶ Early Childhood Policies in Sub-Saharan Africa: Challenges and Opportunities Michelle J. Neuman Ph. D. & Amanda E. Devercelli Ed. M. International Journal of Child Care and Education Policy, published 20 February 2015

⁷ Report on national ECD policies and programmes undertaken in terms of the European Union Technical Assistance to the Department of Education Project (SA96/73200/04), May 2001

⁸ Minutes Meeting Minutes: Unpacking Roles & Responsibilities in Local Government, 16 July 2019, Pretoria

⁹ Devercelli, A., Sayre, R., & Denboba, A. What do we know about early childhood development policies in low and middle income countries? Washington, DC: World Bank Group, 2016.

¹⁰ Governance refers to the actions established to implement and support early childhood development.

¹¹ Joint Portfolio Committee Briefing On Early Childhood Development, Department of Basic Education, Department of Social Development and Department of Health, 31 October 2017

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1.1.6 Inadequate planning and coordination

ECD planning has been significantly limited by a lack of reliable data. The Vangasali campaign was launched in 2020 in recognition of the fact that the DSD needed a reliable database of all ECD services, and that this makes effective national population-based planning impossible¹². Later DBE carried out the 2021 ECD census which is the most reliable data set of ECD services in the country.

Available data is also not readily shared between departments and with municipalities, making it difficult to formulate municipal ECD strategies sector plans. National and provincial plans are not adequately shared within (e.g. down to provincial and district level) and across key departments and are typically not shared at all with municipalities. ECD planning by municipalities is very limited and often only done on an ad hoc basis. ECD delivery in South Africa is also constrained by weak institutional arrangements, insufficient inter-sectoral collaboration, coordination and service integration.

Current ECD coordinating structures on provincial level are not adequately informed or involved in the roll out of ECD infrastructure and related programmes on local government level and very few municipalities have established municipal ECD multi-stakeholder committees to ensure a common vision, clear roles and responsibilities, workable action plans for integrated service delivery, monitoring and evaluation etc. (Refer to Discussion Document #5: Programmatic response to ECD).

1.1.7 Lack of human resources, capacity and resources.

It must be recognised that quality in ECD cannot be achieved without a competent and capacitated workforce of government officials and practitioners. Workforce planning needs to cover both government and non-government ECD workforce requirements, including the qualifications and training system to support ECD on various fronts. Attention should also be given to COGTA officials tasked to provide guidance to 257¹³ municipalities on the integration of ECD within municipal systems, IDPs and municipalities expected to fulfil the roles and responsibilities as set out in the NIECDP (refer to section 1.2.4).

1.1.8 Funding

Monitoring and comparing the level of ECD financing across countries is difficult because ECD expenditure is linked to different sectoral budgets and domains. In many countries the sectoral budgets are not managed in a way that allows tracking of ECD investments. In addition, ECD interventions range widely in content and intensity (Naudeau et al., 2011). Government prioritization of ECD finance can also be linked to other long-run government priorities, such as increasing female labour participation; this feature of ECD policy further complicates the task of how to define spending to be “counted” as ECD spending.

Funding is a critical success factor, and the reality is that the over-all funding allocation for ECD as a national priority programme is insufficient to roll out ECD at the scale required to meet the 2030 goal of providing access to adequate ECD services to all young children. Policies and programmes are effective only if adequate funding and human resources are available to ensure universal availability, adequate quality and equitable access (Also refer to section 1.2.5).

¹² Vangasali presentation of 28 November 2020

¹³ Local Government: <https://www.gov.za/about-government/government-system/local-government>

1.2 Barriers on local government level

1.2.1 Limited ECD awareness on municipal level

There is limited awareness among municipalities that ECD is a national priority programme and the roles and responsibilities assigned to them in terms of the National Integrated ECD Policy. Since there is not a lot of literature on the level of ECD delivery by municipalities, an assessment of all 53 municipal IDPs in KZN had been undertaken by Project Preparation Trust in 2018 to determine awareness and the level to which Municipalities provide for ECD in their IDPs. None of the 53 municipalities mentioned ECD as national priority programme and none referred to the roles and responsibilities of municipalities as set out in the NIECDP. KZN COGTA is attending to this matter in terms of the IDPs – it is however imperative that all municipalities adopt ECD as a municipal priority.

1.2.2 Issues affecting ECD service delivery on municipal level

KYB¹⁴ have identified five main reasons why services do not reach children in the municipality and the broader Sedibeng district¹⁵:

- **Accountability:** Children are everybody's responsibility – from caregivers to government – but no-one is held accountable. Local municipalities are the sphere of government closest to where children live, though they are least involved in supporting children's early development.
- **Location:** Implementation of policies and legislation is uneven and often reflects the legacy of apartheid. Children living in poorer townships, informal settlements or in rural areas have poor access to ECD services and the services are of lower quality compared to those in the cities.
- **Integration:** Lack of integration and a misalignment of policies or by-laws within the system.
- **Planning:** Insufficient integrated planning and coordination between the province and local municipality result in contradictions and gaps in the implementation process.
- **Multiple factors:** These factors combine to create a system and practices that are dysfunctional at best and undermine the national agenda of making ECD services accessible to all children.

These issues are not unique to this municipality and are found to a lesser or broader extent in all municipalities.

1.2.3 No municipal ECD strategy or sector plan

There has been until now, no requirement for the drafting of an ECD strategy or sector plan. It is difficult in the absence of an ECD sector plan or strategy to consolidate information relating to ECD services; to reach consensus on the overall approach for ECD infrastructure support at municipal level; to determine optimal stakeholder roles; to develop practical strategies and plans and determine how limited budgets can be used more effectively to ensure a better coordinated and integrated ECD response; and to find practical solutions as to how statutory and regulatory flexibility can be achieved in order to scale up ECD infrastructure improvements and new builds etc. Attending to ECD in an ad hoc way is often creating stress and is not creating an enabling environment for ECD. The DSD, DBE, COGTA and SALGA have been in discussions about developing an ECD Infrastructure Sector Plan template for use by municipalities – it is vital that this work continues after the ECD function shift (Refer to Discussion Document#5: Programmatic approach to ECD).

¹⁴ Kago Ya Bana (KYB)

¹⁵ Strengthening ECD service delivery: Addressing systemic challenges (André Viviers (UNICEF South Africa), Linda Biersteker and Sinah Moruane) in Berry L, Biersteker L, Dawes A, Lake L & Smith C (eds) (2013) South African Child Gauge 2013. Cape Town: Children's Institute, University of Cape Town.

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1.2.4 Lack of capacity and resources

ECD does not have an institutional home within the municipal set up. Municipalities generally recognise the need for ECD support, but do not have the necessary capacity to set up a dedicated section to deal with ECD. Many can at best nominate a lead department and senior staff member (e.g. at Special Projects or Community Services) to take on the added responsibility for the coordination of ECD related matters. It is however important that such staff members be trained and that ECD is added to their key performance indicators (KPIs). Such arrangement may suffice for the interim, as long as the municipality is well supported by a well-established and well run Municipal ECD Multi-Stakeholder Committee, sector departments that are properly mandated, trained and resourced as well as support NGOs providing hands-on guidance and support.

1.2.5 Limited funding

The global fiscal allocation to ECD (both operational and infrastructural) is insufficient and does not meet the expectations of Chapter 8 of the National Integrated Early Childhood Policy on Funding for Early Childhood Development Services¹⁶ (Refer to section 1.1.8 above).

a) Low monthly contributions

Poverty is a systemic barrier to access and quality, with parent fees representing a fundamental barrier to access amongst the poorest and most vulnerable. Most of the ECD centres in poor communities were established, without any state assistance, by community based NPOs, CBOs, FBOs or private individuals. Many of these facilities have infrastructure deficiencies and cannot afford expensive land use applications which prove to be a major barrier for ECD Partial Care Registration for ECD centres. Most ECD centres are completely reliant on irregular and low monthly parent contributions- between R50 and R150 per child per month in low income and underserved communities. Without registration, centres are unable to access much-needed state support (including operational subsidies and training) and they remain outside the system and 'off the radar' of government. Providing support to all centres within the municipality's jurisdiction area, so they can improve and become registered is therefore critical.

b) Limited funding for planning

The percentage of municipal funding that can be allocated for planning and technical work is insufficient in the ECD context (e.g. capped at 10% for ICDG and 5% for MIG). Adequate funding is required for various programme activities such as the drafting of an ECD strategy or sector plan; undertaking of an area based ECD survey and maintenance of a municipal ECD database; the compilation of a population-based plan and the effective up-front infrastructure planning to establish a pipeline of ECD infrastructure projects (mix of improvements, extensions and new builds). Most municipalities and provincial sector departments and COGTA do not have sufficient in-house capacity to assist municipalities with these activities in a hands-on fashion. It

¹⁶ Chapter 8 of the ECD Policy states that "the objective is to secure and distribute sufficient funds to ensure universal availability of, and equitable access to, the comprehensive quality early childhood development programmes and services, with prioritisation of the identified essential components thereof, especially for low-income families that cannot afford user fees."

- i. "The solution lies in increased investment of public funds and the development of national early childhood development funding norms and related policy in terms of which Government takes the lead and responsibility for the mobilisation and allocation of sufficient human, financial and other resources to implement the national early childhood development policy and programme"
- ii. Funding for early childhood development services should thus:
 - Ensure sufficient resourcing to secure delivery of services, provision of infrastructure and adequate overall resources for early childhood development, including both centre and non-centre based programmes providing early learning and development, and especially for the most vulnerable children;
 - Develop flexible funding mechanisms which promote and are responsive, to local early childhood development contexts, needs, risks and strengths; and
 - Mobilise diverse and innovative financing sources from Government departments, development partners and the private sector in support of early childhood development

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is therefore necessary that additional specialist capacity from either the NGO or private sector is secured to provide support in undertaking these critical areas of work.

c) Limited capital funding for ECD infrastructure improvements and new builds

Greater fiscal priority for ECD via various funding instruments is ultimately necessary in order to enable a response at scale.

- i. ECD Grant: Infrastructure component: The R98 million grant available for the ECD Infrastructure Component for 2022/23 for maintenance and upgrading of centres at a maximum of R300,000 per conditionally registered centre and R150,000 per unregistered centre and a maximum of R3 million that is availed per province for the construction of new affordable, low cost ECD centres, illustrates commitment but the current allocation is not sufficient to make a notable impact in terms of the current need.
- ii. Municipal Infrastructure funding: Municipalities can access various sources of infrastructure funding e.g. Municipal Infrastructure Grant (MIG) for municipalities, Integrated Urban Development Grant (IUDG), the Integrated City Development Grant (ICDG) for metros, Urban Settlement Development Grant (USDG), Water Services infrastructure Grant (WSIG), and Human Settlement Development Grant (HSDG) for socio-economic amenities as sources of funding for ECD basic services (e.g. water, sanitation) building improvements and new builds. Such usage is common and envisaged in the Division of Revenue Act. However, most of these funds make provision for only a small portion to be utilised for community facilities. This is problematic as ECD has to compete with other infrastructure funding demands. Municipalities are currently not required to make firm ECD allocations e.g. on their Built Environment Performance Plans (BEPPs) and Medium Term Revenue Expenditure Frameworks (MTREFs). National Treasury should facilitate ECD priority within municipal infrastructure grants (MIG, USDG, HSDG) and require firm allocations on BEPPs/MTREFs and/or ring-fencing for ECD allowing also greater flexibility with respect to centre and land ownership. This will help empower Municipalities to play a more developmental ECD role (noting that ECD is a concurrent function).
- iii. Donor funding/corporate social investment for infrastructure improvements or new builds is very limited as the donor scene and focus have changed considerably over the past two decades. International donor funding dried up and domestic funders have changed their focus and attention away from the actual construction of ECD centres.

d) Limited operational/per child subsidies

The lack of sufficient operational funding has a detrimental effect on the quality of service that ECD centres can provide. Even though the operational funding allocation almost tripled since 2018/19 from R412 million to R1.1 billion in 2022/23, it is still hugely insufficient to meet the current need. Operations are still constrained as a) parents in low income areas are unable to contribute sufficiently and regularly; b) many ECD centres registered for partial care in poor communities, still do not receive per child subsidies; c) not all children benefit where subsidies are allocated (only those whose family income are below the prescribed level in poor wards); d) the per child subsidy of R17 per day does not cover the true costs of ECD delivery and it only covers 264 days - i.e. R4,488 annually for centre based services; and e) operational budgets/per child subsidies are not necessarily linked to infrastructure improvements. All processes should be aligned to optimise support and services at centres in which government invests. It also needs to be noted that a subsidy of R6 multiplied

by the number of sessions multiplied by the number of qualifying children will be paid to each registered non centre based ECD programme as from 2022/2023.¹⁷

1.3 Barriers to registration

a) Bylaws and related matters

Bylaws are often not aligned with national legislation and regulations and lack uniformity which negatively impacts the operation of ECD centres and or delays registration.

Bylaws are often regarded as inflexible. These inflexibilities are often directly linked to the stipulations in legislation that cannot be ignored by municipalities, but there are also many instances where the inflexibilities result from the way in which municipalities choose to implement their bylaws. Bylaws seem to be formulated for a) administrative ease of implementation; b) uniformity – i.e. it must apply to all parts of the city/town; and c) spatial and economic neutrality - even though it is recognised that the financial rules may well have economic and spatial impacts and despite the fact that municipalities should be developmental. Bylaws are often applied universally and indiscriminately and are not making socio-economic distinction in terms of on the ground realities and tariffs. ECD centres in low income underserved rural, peri-urban and informal settlement contexts do not have the means to meet land use and other business requirements which were designed with formal businesses in mind that have both the financial means and access to the legal and other professional services necessary to navigate the web of legislation.

Bylaws are often not easily accessible to ECD operators especially those regarding land use and fire protection. Not all municipalities have handouts that explain the application procedures in a user friendly way. Different processes are followed - some municipalities have one entry/contact point e.g. EHPs who then channel the application to all the various offices for comments and approval while others require ECD operators to follow a very cumbersome process - taking their documents from office to office to obtain approval which can take months. It is an expensive exercise - principals must arrange and pay a relief person to take care of the children, pay transport to and from municipal offices. In some cases, the application process commences with the approval of land use rights and no other process (e.g. building plan approval, health inspections, fire clearance) is allowed to be undertaken if the land use rights are not in place.

ECD centres are primarily governed by environmental health/childcare and land use bylaws and related matters:

i. Environmental health and childcare bylaws

- **Many local municipalities do not have specific (custom) by-laws for early childhood development centres** (partial care facilities providing early childhood development programmes) and make use of general by-laws that are often incompatible with their peri-urban, informal or rural context. Environmental health and childcare by-laws focus mainly on the requirements for premises, regulation of certain services and provide for safety and medical care, administrative issues etc.
- **The lack of uniformity** and applicability of requirements for infrastructure at a municipal level and inconsistency and non-alignment to infrastructure related regulations, negatively impacts on the operation of early childhood development centres. It often results in delays in registrations as

¹⁷ Division of Revenue Bill [B6-2022]

contemplated by the Children's Act, resulting in exclusion from funding, resources and support required¹⁸

- **Infrastructure deficiencies have proven to be a barrier to partial care registration.** These deficiencies usually relate to requirements for the Certificate of Acceptability for kitchens, toilets and hand washing facilities which are costly and unaffordable. The capital costs for the improvement of infrastructure are prohibitive. The situation is often exacerbated by the fact that some municipalities specify higher norms and standards than those required in terms of the Children's Act and/or the NEHNS (e.g. separate sick bay for a centre for 20 children while it is only required for facilities with 50+ children or running hot water when there is not even a standpipe on site). This creates huge compliance issues for ECD centres in low-income areas as they may not be exempted from these higher norms and standards. Most EHPs apply some measure of flexibility especially in rural communities, low-income areas and informal settlements but these are subjective, inconsistent and often not agreed to among EHPs within a specific municipality. It is anticipated that these challenges will be largely overcome with the implementation of the ECD Registration Framework.

ii. Land use by-laws (framework/schemes)

- **The amendment of land use scheme – rezoning (i.e. changing development use), and consent use (i.e. granting a development use without changing formal zoning) in established townships requires technical and professional input.** The technical nature of the various support documents (e.g. power of attorney, copy of title deed, locality plans) for the application for rezoning and consent use requires ECD operators to appoint professionals that are very expensive and unaffordable. Some of the costs involve expensive advertisement which none or very few residents in their neighbourhood may ever see and respond to while there are other options e.g. neighbour's consent.
- **ECD centres often struggle to produce the required support documentation e.g.** a title deed or lease agreement. It is very expensive for ECD centres to replace a lost title deed and it takes a long time. There are also many cases where land/property changes hands in an informal way i.e. without formal transfer to the new owner. Lack of title deeds and lack of money for the conveyancing process may be some of the reasons for the ECD centres not following the formal conveyancing route. Written lease agreements may not be in place and owners may not be easily contactable (e.g. other province, rural areas with limited reception) to organise such an agreement.
- **Some conditions set for rezoning/consent use are out of touch with the local circumstances and daily realities** for example:
 - Parking requirements of 1 parking bay per 10 children plus drop off zones in low-income communities/informal settlements where most people walk to the centre or make use of public transport.
 - Stipulation of hours of operation: ECD centres in impoverished communities generally try and accommodate parents leaving as early as 5h30 in the morning and arriving as late as 19h00 from work as they may work shifts and are making use of public transport. These centres play a very important and supportive role in their communities as parents may otherwise have no one to take care of their children during those hours.
- **Prohibitive cumulative costs of land use applications and related fees/tariffs prevents registration** e.g.:
 - an architectural professional (est. R10,000)
 - application fees for building plan approval and levies on building costs (est. R3,500)

¹⁸ Terms of reference: National ECD By-Laws. 7 February 2016. Ilifa Labantwana, Hollard Trust in collaboration with the Department of Social Development.

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- the application fees for rezoning/consent use, departures and related costs e.g. cost of professionals to assist with application, advertising, etc (Est. minimum R15,000).
- Capital contribution for bulk services/development charge (est. up to R30,000) though some municipalities (e.g. Cape Town) have exempted smaller centres with less than 35 children from the payment of these charges. Since no distinction is made on a socio-economic basis, the cost for a small ECD centre in a poor community is unaffordable.
- **Inability to secure land use rights prevents registration.** Land informally settled on may or may not belong to the Municipality. Acquisition, town planning and establishment processes takes a very long time. There is no town planning scheme and zoning is not done. This means that applications cannot be made of land use rights in the traditional sense of the word. Many municipalities refuse ECD applications if the land use rights cannot be confirmed. Many informal settlement areas are not yet categorised¹⁹ which makes it difficult for municipalities to develop interim rights that can be upgraded over time. These are issues ECD Centres cannot control e.g. living in an informal settlement or on land without land use/zoning scheme, where there is no secure tenure, where ECD operators have no choice but to use a corrugated iron facility or a wattle and daub facility similar to all surrounding housing structures that are not recognised in terms of the National Building Regulations and for which no building plan can be submitted.
- **Many of the land use by-laws/frames and schemes are unsupportive with little room for informality.** These by-laws are applied universally and indiscriminately and in many cases in a way that does not make any socio-economic distinction in terms of fees, tariffs or charges. This ultimately results in “enforced informalisation” where ECD centres have no choice, but to operate their centres illegally. Officials understanding the need for partial care registration are in some instances channelling these applications via a traditional leader or ward councillor office (bypassing the Municipality) to try and help ECD centres get registered and included in the system. In order to break this stalemate, ECD centres are now conditionally registered (bronze or silver level).

iii. Related matters:

- **Building plans:** Adherence to National Building Regulations is required which stipulates the submission of a building plan. Hundreds if not thousands of ECD centres are unable to present As-built plans for existing buildings as it is unaffordable for ECD centres to appoint a registered architectural professional. In order to break the stalemate, hand drawn site and floor plans are now accepted by the Department of Basic Education for conditional partial care registration (bronze or silver level). This decision needs to be communicated with the relevant municipalities to unblock the registration process but parallel to this DBE needs to engage with the Minister of Department Trade, Industry and Competition (DTIC) to bring about alignment.
- **Fire certificates²⁰** are difficult to obtain where a) the necessary land use rights are not in place; b) there are no approved building plans and or where the building is of an informal nature (e.g. metal sheets, container, wattle and daub structures); c) Where centres operational for years in low-income areas, are not registered for various reasons (e.g. do not have the capital to upgrade the centre to meet norms and standards). This means that these centres operate without any training, guidance, fire inspections etc.

¹⁹ Category A – full conventional upgrading; Category B1- earmarked for incremental in-situ upgrading; Category B2 deferred relocation and such process can take up to 10 years; Category C - imminent relocation

²⁰ Fire regulations are usually referred in bylaws in terms of the requirement that national building regulations must be met. The fire safety bylaws of municipalities do not refer to every type of facility so ECD centres

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(Refer to Discussion Documents #1: Solving land use & related issues and #2: Possible solutions to simplifying land use processes). Municipalities that are reluctant to amend their by-laws to create an enabling environment that allow ECD centres to gradually meet the norms and standards, are preventing ECD centres from rendering acceptable ECD services to thousands of the children living in these communities.

b) Difficulties in responding to informality

It must be accepted that, at least in the short to medium term, much of the ECD services and care of young children will be provided by informal and/or unregistered service providers, including childminders. Change will take time. In order to move to scale, government will need to identify the most critical 'levers' it has at its disposal to unlock the potential for improvement amongst these 'less formal' service providers. In addition to the greater statutory and regulatory flexibility (as outlined above), there also needs to be consideration of how best to include and optimise the range of different ECD service providers who provide much, if not most of the de-facto care to young children in low income, under-resourced communities such as informal settlements and rural communities. One such example is the ECD Registration Framework that provides flexibility and conditional registration (bronze and silver). DSD (now DBE) realising that many ECD centres, may not meet bronze registration standards went one step further to bring pre-bronze centres into the fold by providing for the issuing of a compliance notice with a 3-month validity and funding for improvements up to R150,000 per unregistered centre.

Municipalities can also do this through incremental planning and land use arrangements which include all communities within municipal planning frameworks, where formal schemes have not yet been established (e.g. through inclusion in the SDF or the establishment of incremental development areas). Other creative avenues also need to be explored. The principle is to find ways to include all facilities, incentivise improvement and monitor and support progress and improvement over time.

