

## JUSTICE FOR CHILDREN WITH BEHAVIOURAL DISORDERS WHO HAVE BEEN LEFT BEHIND & SENT FROM PILLAR-TO-POST

FOR IMMEDIATE RELEASE

03 August 2018

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Yesterday, the Centre for Child Law ('Centre') and the Departments of Social Development, Education and Health ('Departments') reached a settlement, that was made an order of court, affirming the constitutional rights of children that have for years been left behind by a system meant to protect them.

The case began two years ago due to the plight of a 10 year old girl, EM. She was orphaned and had been placed in foster care shortly after birth, but the placement broke down and she had had 15 placements in her 10 years of life. The effect this had on her attachment to caregivers was profound, and resulted in her developing a disruptive behaviour disorder. The organisation caring for her had asked the state to place her in a suitable care centre, but this request fell on deaf ears. The Centre for Child Law brought an urgent application to have EM placed – which also ended in settlement, and the Centre indicated at the time that it planned to bring 'Part B' of the case to fix the system as a whole. The South African Federation for Mental Health entered Part B of the matter as a friend of the court to support arguments made by the Centre. The settlement reached on 2 August 2018 is an important step in finding lasting solutions to the plight of these children.

The Departments of Social Development, Education and Health acknowledged that their present policies, programmes and plans did not comply with obligations imposed on them by the Constitution and legislation to provide appropriate assistance and care to children with severe or profound disruptive behaviour disorders ('children with behavioural difficulties').

The settlement agreement, which was made an order of court, requires the Departments to develop an inter-sectoral policy, and implementation plan, that removes barriers that hinder children with behavioural difficulties' full and effective participation in society. The policy and plan should be "properly costed and budgeted". The inter-sectoral policy and plan should set out how appropriate prevention and early intervention programmes will be provided to the children within their families and communities. The policy and plan must, as required by the Children's Act, also explain how residential care facilities, with appropriate programmes, will be spread out, to ensure that children have access to services they need and that these services address their particular needs if they are in need of care and protection. The

policy and plan must also set out how basic education and appropriate health care services will be provided to the children as well as how support for families and respite care will be provided so that children are not unnecessarily removed from their family environment.

The order also sets out interim arrangements that are to be in place while the policy and plan are being developed. The Departments, through a Committee established by them, must ensure that children with behavioural difficulties brought to their attention must be provided with suitable alternative care if necessary; have access to quality education; receive appropriate health care services and their families should be provided with necessary and suitable support.

Children with behavioural disorders in South Africa experience multiple failures by systems meant to protect and promote their constitutionally guaranteed rights. The Centre has, for more than 10 years, been trying to assist and seek out appropriate services for children with behavioural disorders. During this time, the Centre has time and time again implored government duty bearers to take their obligations to these children seriously. By the time the Centre got involved in different cases, each of the individual child had been sent from pillar to post, between various child and youth care centres, mental health institutions and the criminal justice system. The children have not enjoyed full and decent lives, they have been exposed to inadequate care, poor medical treatment and little to no access to education. They are in essence children “unwanted” by a system that is ill-equipped to care for them. The Centre is pleased that the relevant government departments has committed to finding a systemic solution for these children.

**Ends.**

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For more information, please contact:

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