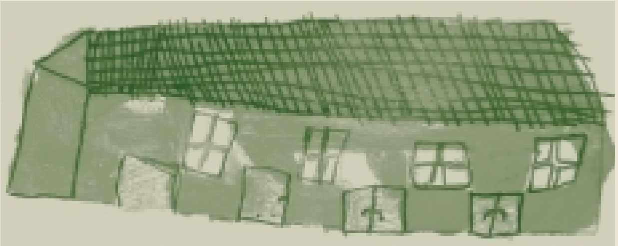
Budget allocations for implementing the Children's Act

Debbie Budlender (Centre for Actuarial Research, University of Cape Town), Paula Proudlock and Jo Monson (Children's Institute)



Section 7(2) of the Bill of Rights in the South African Constitution places an obligation on the State to give effect to all the rights in the Bill of Rights. This includes children's rights to family care or alternative care, social services, and protection from abuse and neglect. To meet its obligation the State must allocate adequate budgets so that the required conditions and services to fulfil these rights are available.

The Children's Act (No 38 of 2005) as amended by the Children's Amendment Bill [B19F-2006] sets out what services the State must provide to give effect to the rights listed above. The services include partial care, early childhood development, prevention and early intervention, protection, child and youth care centres, drop-in centres, foster care and adoption. Monitoring the budget allocations and expenditure for these services is a good way of measuring whether the State is fulfilling its constitutional obligations.

A costing exercise to estimate the costs of implementing the Children's Act showed that the State needs to spend a lot more on social services[1] for children than it is currently spending. The total amount allocated in the provincial social development budgets for children's social services needs in 2009/10 is R1.7 billion. The costing showed however that, for the lowest cost scenario, an amount of R5 billion is needed in the first year of implementing the Children's Act, growing to R12.5 billion in the sixth year.[2]

Comparing actual budget with the costing calculations shows that major budget growth is needed to implement the Act. This budget growth is unlikely to happen unless changes are made to the way budget decisions are made and unless the human resources capacity needed to spend the budget is improved.

This essay:

- discusses how the budget for social services is currently determined;
- points to what the Children's Act says about budget allocation;
- summarises what the costing exercise in respect of the Act revealed; and
- analyses the provincial and national departments of social development's proposed budgets for implementing the Act.

How are budgets for social services determined?

National government allocates money to provinces through the equitable share

Provinces get 95% of their money from national government and most of this is from the equitable share. The equitable share is given as a lump sum by National Treasury to each of the provinces to provide a range of services including education, health, housing and social services.

While equitable share allocations, as determined by Treasury, are passed by Parliament annually in the Division of Revenue Bill, Parliament does not yet have the power to amend the Bill. Section 75 of the Constitution requires Parliament to first work out the parliamentary rules for amending budgets before they can do so. They need to pass a law setting out this procedure but have not yet done so. The Executive, and more specifically Treasury, therefore determines how national revenue will be divided between the spheres of government and between the provinces.

The provincial treasuries decide how the lump sum allocated to the provinces will be divided between their govern-

1 The term 'social services' means the services that need to be delivered to give effect to children's constitutional right to "social services" in section 28(1)(c). Please see the essay on page 23 for more details.

2 The costing calculations were based on 2005/06 figures. The amounts today would be higher after adjusting for inflation since 2005.

ment departments. Provincial legislatures also do not yet have the power to amend provincial budgets; therefore decisions about allocations to departments are driven by the provincial executives.

Treasury does not include social services in the equitable share formula

Treasury uses a formula to calculate the equitable share. The Constitution has a list of factors in section 214 which Treasury must consider when devising the formula. One of these factors is the obligations imposed on provinces by national legislation such as the Children's Act.

In 2007/08, Treasury used a formula with six components to determine how much to allocate to the provincial sphere in total, and to each province:

- **education** (making up 51% of the total equitable share);
- **health** (26%);
- **basic** (14%);
- **poverty** (3%);
- **economic** (1%); and
- **institutional** (5%).

There is no explicit component for social services in the formula despite the fact that provinces are responsible for implementing the Child Care Act (No 74 of 1983)[3] as well as other welfare legislation for other vulnerable groups. Even though provinces do not have to allocate their lump sum according to the equitable share formula, it seems to shape provincial budgetary decisions. An examination, for instance, of the budget for Health and Education in 2005, shows that provinces matched their provincial budget allocations closely with the equitable share formula allocations. The equitable share allocations therefore send a message to provinces that certain service areas are important and that money is available for these services. Hence, if a service area is not expressly costed into the equitable share it is likely that the service area will be deprioritised in provinces' budget decisions.

Treasury must also consult the provincial governments and the Financial and Fiscal Commission (FFC) before deciding on the equitable share each year. In 2006, in recognition of new national legislative obligations soon to be imposed on provinces in the area of social services for vulnerable groups, the FFC recommended that the formula include an explicit component for social services. Treasury agreed with this recommendation and undertook to consider it in a planned review of the formula. Thus, there is now a window of opportunity to ensure that the necessary reform is made.

What does the Children's Act say about budget allocations?

All government spheres and departments must prioritise the implementation of the Act

Section 4(2) of the Children's Act states that all spheres and departments of government "must take reasonable measures to the maximum extent of their available resources to achieve the realisation of the objects of this Act".

This means that National Treasury and the provinces need to prioritise the implementation of the Act when they are making decisions about budgets and the allocation of resources.

MECs for Social Development are responsible for providing social services in the provinces

The Children's Amendment Bill says provincial Members of the Executive Council for Social Development **"must"** provide:

- prevention and early intervention services;
- protection services for children who have been abused or neglected; and
- child and youth care centres.

In terms of section 214 of the Constitution, the national government needs to take these obligations into account when making decisions about the equitable share. The obligations also give MECs for Social Development bargaining power to get a bigger slice of provincial budgets.

MECs for Social Development also have the responsibility to provide the following social services, but this is framed in discretionary language – **"may"** – in the Amendment Bill:

- drop-in centres for vulnerable children;
- partial care (crèches); and
- early childhood development programmes.

The MECs' discretion in these three service categories, combined with historical under-funding and under-provision, put these services at a disadvantage in the budget decision-making process. If funding is limited for these services, the Act says poor communities and children with disabilities should be prioritised.

What did the Children's Bill costing reveal?

About the costing

In 2006, the government commissioned a team from Cornerstone Economic Research to calculate the total cost of implementing the Children's Bill. The costing was done on a 2003 draft of the Bill. While some parts of the Bill have

3 The Child Care Act currently governs children's social services but will be replaced by the Children's Act of 2005 (as amended) when the President puts the new Act into effect. This is expected in 2009.

TABLE 1: Total cost of implementing the Children's Bill by scenario*

	Year 1 Rand (millions)	Year 2 Rand (millions)	Year 3 Rand (millions)	Year 4 Rand (millions)	Year 5 Rand (millions)	Year 6 Rand (millions)
IP low scenario	6 030	7 470	9 243	10 938	12 975	15 152
IP high scenario	8 400	10 471	13 019	15 449	18 347	21 452
FC low scenario	25 269	28 706	32 623	36 144	40 076	43 850
FC high scenario	46 894	53 948	61 786	69 177	77 196	85 054

* Note: 1,000 million equals one billion.
Source: Data from table E3, p.VII in: Barberton C (2006) *The cost of the Children's Bill: Estimates of the cost to government of the services envisaged by the comprehensive Children's Bill for the period 2005 to 2010*. Pretoria: Cornerstone Economic Research.

changed since 2003, the costing still gives a reliable picture of the likely costs of implementing the Act. The estimated amounts are, however, now lower than they should be because of inflation.

How the cost was calculated

The team worked out the costs for four different implementation scenarios:

- Implementation Plan (IP) low scenario
- Implementation Plan (IP) high scenario
- Full Cost (FC) low scenario
- Full Cost (FC) high scenario

For the "**Implementation Plan scenarios**" the team asked each government department to describe current service delivery and their plans to increase it in line with the Bill. These scenarios therefore do not measure total demand or actual need for services, but mainly measure current service delivery.

For the "**Full Cost scenarios**" the team used the most reliable evidence to estimate how many children actually need services. The FC scenarios are meant to provide for equitable distribution of social services rather than continuing with existing inequitable patterns.

The "**high scenarios**" cost 'good practice' standards for all services. The "**low scenarios**" use 'good practice' standards for services classified as priority, but lower standards for services classified as non-priority.

The cost of implementing the Children's Act

The costing report estimates the total cost of each of the four scenarios over the period 2005/06 (year one) to 2010/11 (year six).

Table 1 above shows that the cost of the IP low scenario increases from just over R6 billion in year one to R15.2 billion in year six. At the other end of the scale, the cost of the FC high scenario increases from R46.8 billion to R85 billion.

To provide a better basis for comparison with the figures presented in the rest of this essay, table 2 below presents the predicted costs across all the provincial social development departments for the 'cheapest' (IP low) and 'most expensive' (FC high) scenarios respectively. It makes sense to do this because these departments account for most of the cost of the implementation of the Act. For example, in year one, 84% of the total cost for the IP low scenario is carried by provincial social development departments, and they are responsible for 91% of the cost under the FC high scenario.

Only 25% of services in the Child Care Act are currently met by government budgets

The costing showed that existing government budgets covered only 25% of the services set out in the Child Care Act, which the Children's Act will replace. So even before implementation begins under the new Act, government is not meeting its obligations under the old Act.

Inequity between provinces

There are big differences between the provinces with regards to delivering on current legislative obligations. For example, in the Western Cape the costing found that the 2005/06 budget covered 34% of services required by the Child Care Act, compared to only 10% coverage in Limpopo.

Low budgets mean a slow scale-up

Current low budgets affect provinces' ability to scale services up rapidly. Scale-up needs increased institutional capacity and this takes time to develop. Recognising this reality, the IP low scenario for year one, with a total cost of R6 billion, only meets 30% of the total need for services.

TABLE 2: Total cost of implementing the Children's Bill across all provincial social development departments*

	Year 1 Rand (millions)	Year 2 Rand (millions)	Year 3 Rand (millions)	Year 4 Rand (millions)	Year 5 Rand (millions)	Year 6 Rand (millions)
IP low scenario	5 053	6 263	7 694	9 099	10 742	12 531
FC high scenario	42 697	49 186	56 312	63 125	70 438	77 706

* Note: 1,000 million equals one billion.
Source: Data from tables E6 and E7, p. IX in: Barberton C (2006) *The cost of the children's Bill: Estimates of the cost to government of the services envisaged by the comprehensive Children's Bill for the period 2005 to 2010*. Pretoria: Cornerstone Economic Research.

What have provinces planned to spend on implementing the Act?

As provincial social development departments bear most of the cost, this section analyses what their budgets say about the government's concrete plans for implementing the Act. Analysis of the budgets is for the medium-term expenditure framework (MTEF) for the period 2007/08 – 2009/10, as was tabled in February and March 2007. The MTEF includes the government's budget for the current year (2007/08) as well as predictions for the next two years (2008/09 and 2009/2010).

Increased budget for the social welfare programme as a whole

The provincial social development budgets are divided into programmes and the social welfare programme is the biggest programme. It has to cover a range of laws and programmes providing social services for vulnerable groups including children, the elderly and people with disabilities.

The first thing to note from the MTEF is that there is an increased budget for the social welfare programme as a whole. The total budget across the provinces increases from R3 148 million in 2006/07 to R4 152 million in 2007/08, an increase of 32%.

The child care and protection services sub-programme contains the bulk of the Children's Act budget

The social welfare programme is further divided into sub-programmes including (but not limited to):

- substance abuse, prevention and rehabilitation;
- crime prevention and support;
- child care and protection services;
- HIV/AIDS; and
- care and support services to families.

The child care and protection services sub-programme is almost always the biggest in monetary terms. In this essay, this sub-programme's budget will be used as an indicator of the extent to which provinces have begun to plan for implementing the Act. It must be noted, however, that other sub-programmes, in particular HIV/AIDS and care and support services to families, will also contain Children's Act expenditure. However, the Act's budget within these two sub-programmes is mixed up with other laws and programmes and therefore not easy to separate out for analyses.

Budget allocations to child care and protection services are increasing

Table 3 below gives the provincial budget estimates for the child care and protection services sub-programme over the period 2005/06 – 2009/10.

Table 4 on the next page shows the annual increase in the child care and protection services budget for the three MTEF years per province. Looking at all provinces combined, the average annual increase across the three years is 18%. There are large variations across the provinces. For example, Limpopo has the highest increase (averaging 52% a year over the MTEF) but comes off a very low base. Free State, Gauteng and KwaZulu-Natal have the lowest increases (averaging 10% a year over the MTEF).

When looking at the differences between the three MTEF years, the analyses show that, for six of the provinces, the budget increase in 2007/08 is larger than the average across the three MTEF years together. This possibly indicates plans for an implementation drive in 2007/08. Free State, KwaZulu-Natal and Gauteng are the exceptions as they show increases below inflation for the 2007/08 year. Gauteng stands out in particular with a 17% decrease. This is particularly worrying as Gauteng and KwaZulu-Natal are among the largest provinces population-wise and their budget allocations will affect a large number of children.

However, when dividing the 2007/08 budget by the 2005 child population figures from the *General Household Survey*, Gauteng – at R93 per child – is still allocating more per capita than Limpopo (R19), Eastern Cape (R50), and KwaZulu-Natal (R58). The Western Cape allocated the most per capita (R142), followed by Northern Cape (R126) and Free State (R117).

These comparisons identify KwaZulu-Natal – with the highest child population, a current low expenditure, low budget increase and low per capita expenditure – as a particular con-

TABLE 3: Budget estimates for child care and protection services across all the provinces and national government for 2005/06 – 2009/10

	2005/06 Actual expenditure (Rand in thousands)	2006/07 Adjusted estimates of expenditure (Rand in thousands)	2007/08 MTEF (Budget already voted on by the provincial legislatures) (Rand in thousands)	2008/09 MTEF (Subject to change in 2008) (Rand in thousands)	2009/10 MTEF (Subject to change in 2008 & 2009 (Rand in thousands)
Total provincial government	968 048	1 078 473	1 213 443	1 538 227	1 762 515
National government	9 483	10 664	17 620	18 331	19 247

Source: Analysis by Budlender D (Centre for Actuarial Research, UCT) of data in: National Treasury (2007) *Estimates of National Expenditure*; All nine provinces' estimates of provincial expenditure (2007).

TABLE 4: Annual increases in child care and protection services budgets per province, from the highest to the lowest

	2007/08 %	2008/09 %	2009/10 %	Average %
Limpopo	76	70	9	52
North West	47	66	4	39
Mpumalanga	35	47	4	29
Northern Cape	39	26	16	27
Western Cape	33	30	13	26
Eastern Cape	35	37	3	25
Free State	4	9	18	10
KwaZulu-Natal	5	16	8	10
Gauteng	-17	8	41	10
Average	13	27	15	18

Source: Analysis by Budlender D (Centre for Actuarial Research, UCT) of data in: National Treasury (2007) *Estimates of National Expenditure*; All nine provinces' estimates of provincial expenditure (2007).

cern. Eastern Cape, with the second highest child population, is also a concern mainly due to its low per capita expenditure.

What does comparing costing figures with provincial budgets say about plans to implement the Children's Act?

Comparison of the costing figures and the provincial budgets is complicated by the fact that the costing is provided for the years 2005/06 – 2010/11, whereas the provincial budgets are estimates for implementation starting in 2007/08. Comparison is therefore between year one of the costing (2005/06) and year three of the MTEF (2009/10) as this is when the Act should be ready for implementation. Note also that this comparison does not adjust the costing year one for inflation and therefore underestimates the shortfall.

Provincial allocations do not meet even 30% of the need

The comparison suggests that actual allocations are falling very short. Even with the 'cheapest' IP low cost projection, the amount in the costing report for all the provincial social development departments for the first year of implementation is R5 billion, whereas across provinces the total budget allocated for child care and protection services for 2009/10 is only about a third of that – R1.7 billion. To aggravate matters, recall that the IP low projection of R5 billion for year one provides for only 30% of the actual needs. Thus, crudely stated, the currently projected budget for 2009/10 will provide only a third of the money needed to provide services that cover only 30% of the needs of vulnerable children.

The shortfall increases by astronomical amounts when a comparison is made with the FC high scenario estimates for the first year (R42.6 billion).

What do the provincial budget narratives say about social services delivery?

This section looks at the provincial budget narratives to analyse where the provinces are focusing their attention.

All provinces mention the Children's Bill in their budget narratives. Several comment explicitly that the Bill will require significant additional resources which will place strain both on budgets and on human resources.

Early childhood development (ECD)

Provincial narratives show a focused attention on ECD. Most provinces report an increase in the number of crèches registered or funded and/or the number of children reached. While this is encouraging, the reach of ECD programmes is still very limited in relation to need. For example, the *General Household Survey 2005* recorded that 643,148 children under five years of age were living in Eastern Cape households with monthly expenditure of less than R1,200. Yet, the Eastern Cape plans to reach only 80,940 children under five by March 2008. Thus the province plans to provide for only 12% of children in need.

While registration is important, a real indicator of provisioning is the number of centres and programmes actually funded by the government, and the number of children reached. The provincial narratives do not provide this information clearly, which makes analysis and monitoring of progress very difficult.

Foster care

All provinces plan for increases in the number of children in foster care. For example, Free State plans to increase the number of children placed in foster care from 6,500 in 2006/07 to 8,000 in 2007/08.

Child and youth care centres (CYCCs)

There are fewer mentions of CYCCs in the provincial narratives than of foster care and adoption. Only four provinces – the Free State, Gauteng, KwaZulu-Natal and Northern Cape – note the need for increasing the number or capacity of CYCCs.

Non-profit organisations (NPOs)

Most provinces foresee an increase in funding to NPOs but none discuss changing the way in which NPOs are funded so that these organisations can improve their services and expand into under-serviced areas.

Human resources development

Four provinces (KwaZulu-Natal, Mpumalanga, Limpopo and North West) refer in their budget narratives to initiatives related to social workers and other categories of staff needed to implement social services. For example, KwaZulu-Natal records the appointment of 280 learner social auxiliary workers who should have completed their training by October 2007 and who will assist social workers with non-professional duties. The province also notes increases of R61.1 million, R7.4 million and R23 million respectively for the three MTEF years to employ social auxiliary workers and provide scholarships for social workers.

The silence on human resources in other provincial narratives may be partly explained by the agreement that human resources initiatives should be driven by national government. However, the issue was one of the nationally agreed upon priorities for the 2007/08 budget year and the related MTEF period and reference to it in the provincial budgets would therefore be expected.

Aside from money, finding and keeping the staff to implement and manage social services is a big challenge. While the government clearly has plans for social workers and capacity building for ECD practitioners, there is also a need for developing, and investing in, other social service practitioners, especially child and youth care workers. The provincial narratives are silent as to how the availability of child and youth care workers is going to be enhanced to ensure that the necessary human resources are available to staff the child and youth care centres, and to roll out the child-headed household mentorship scheme. See the essay on page 48 for a full discussion on the human resources challenges to implement the Act.

Standard items for provincial narratives will enable monitoring and evaluation of provinces' plans and progress in implementing the Act

The level of detail, focus and reliability of the information provided in the budget narratives varies across provinces and not all provinces give information needed for monitoring of implementation. Standard items that every province must report on in their budget in terms of the past year, plans for the coming year, indicators and targets would enable monitoring and comparisons between the provinces.

What does the national budget say about social service delivery?

Additional allocation for social worker scholarships

There is an additional allocation of R365 million over the MTEF period for the social worker scholarships programme. The national budget notes that 190 social work students were awarded scholarships in 2006/07. These students will take several years to graduate, some may drop out, choose to work outside of child care services, or choose a different career. Even if all persevere and subsequently work in child care, there is no hope of reaching the estimates of 16,504 social workers and 14,648 auxiliary social workers (calculated as necessary across the provinces for year six in the IP low scenario). The FC high scenario estimates of 66,329 social workers and 48,660 auxiliary social workers respectively are inconceivable.

Increased budget for strengthening human resources of NPO sub-directorate

The budget for the sub-programme "Registration and institutional capacity building of NPOs" in the Community Development Programme is also of interest. The allocation for this sub-programme increased radically from R4.7 million in 2006/07 to R12.3 million in 2007/08, but more slowly after that. The increase is explained by "strengthening the human resource capacity" within the sub-programme, presumably indicating a substantial increase in staff numbers. Whether and how this will affect delivery is not clear. As before, there is no mention in the budget narrative of changes in the way NPOs are funded.

What changes could affect cost effectiveness?

There are a number of policy changes that could reduce the costs of implementing the Act and ensure that more vulnerable children are reached faster and more effectively. These include improved NPO funding, addressing the shortage of all personnel categories needed to implement the Act, using the administratively simple Child Support Grant to support care of orphans by relatives, and ensuring that funding of ECD and prevention and early intervention services is prioritised. (See the Children's Act essay on page 35 for a more detailed discussion.)

What are the conclusions?

Monitoring of the budget allocations and expenditure for children's social services is a good way of measuring whether the State is fulfilling its constitutional obligations to give effect to children's right to social services.

Analysis of the 2007 provincial budgets suggests that provinces have stepped up allocations in areas related to the Children's Act. The increases are, however, uneven across the provinces, and not necessarily sustained over the MTEF period. The analysis identifies KwaZulu-Natal and Eastern Cape as the two provinces most in need of attention. The budget increases are also not sufficient to meet even the lowest scenario of the costing estimates. Given this dire picture, policy-makers should look carefully at cost-effective ways of implementing the Act, such as using a range of human resources and improving funding to NPOs.

The Children's Act places a legislative imperative on government, including National Treasury and the provinces, to prioritise the implementation of the Act when making decisions about budgets. This prioritisation is unlikely to happen unless the social services obligations imposed on provinces by the Act are explicitly reflected in the equitable share formula. An increase in the decision-making powers of Parliament and the provincial legislatures could also promote adequate provisioning. All the legislatures have been closely involved in the multi-year process of developing the Act. They are therefore acutely aware of the provinces' obligations. Parliament and the provincial legislatures should therefore be given the powers, foreseen in the Constitution, to amend budgets.

Lastly, to enable monitoring of implementation, all the provincial budget narratives should contain standard items such as targets and indicators per service area.

Sources

This essay was primarily informed by:

Budlender D & Proudlock P (2007) *Budget allocations for the Children's Act*. Research Paper commissioned by the Children's Institute, UCT. Available at: www.ci.org.za.

Other sources

Barberton C (2006) *The cost of the Children's Bill: Estimates of the cost to government of the services envisaged by the comprehensive Children's Bill for the period 2005 to 2010.* Pretoria: Cornerstone Economic Research.

Children's Act 38 of 2005.

Children's Amendment Bill [B19F-2006].

Eastern Cape Provincial Treasury (2007) *Budget 2007 Estimates of Provincial Expenditure.*

Free State Provincial Treasury (2007) *Budget 2007 Estimates of Provincial Expenditure.*

Financial and Fiscal Commission (2006) *For an equitable sharing of national revenue: Recommendations from the FFC review of the transfers in the Intergovernmental Fiscal Relations System in South Africa*. Johannesburg: FFC.

Gauteng Provincial Treasury (2007) *Budget 2007 Estimates of Provincial Expenditure.*

KwaZulu-Natal Provincial Treasury (2007) *Budget 2007 Estimates of Provincial Expenditure.*

Limpopo Provincial Treasury (2007) *Budget 2007 Estimates of Provincial Expenditure.*

Mpumalanga Provincial Treasury (2007) *Budget 2007 Estimates of Provincial Expenditure.*

National Treasury (2007) *Budget review 2007.* Pretoria: National Treasury.

National Treasury (2007) *Estimates of National Expenditure* (2007). Pretoria: National Treasury.

National Treasury (2005) *Budget Review*. Pretoria. National Treasury.

National Treasury (2005) *Provincial budgets and expenditure review 2001/2002 –2007/2008.* Pretoria: National Treasury.

Northern Cape Provincial Treasury (2007) *Budget 2007 Estimates of Provincial Expenditure.*

North West Provincial Treasury (2007) *Budget 2007 Estimates of Provincial Expenditure.*

Constitution of South Africa (Act 108 of 1996).

Western Cape Provincial Treasury (2007) *Budget 2007 Estimates of Provincial Expenditure.*