
HOUSING

HOUSING POLICY FOR CHILD HEADED HOUSEHOLDS**1 INTRODUCTION**

The implications of child headed households for the housing programme and the housing sector may not always seem obvious. However presently children are increasingly, having to fend for themselves, with little or no resources. Thus access to their basic needs such as food, clothing, education and even shelter is severely compromised.

The issue of child headed households requires a comprehensive and integrated policy response from the City. Although social development is the driver for addressing this phenomenon, as the well being of the children must ultimately be safeguarded the consequences associated with child headed households has an impact on the quality of housing environments that we deliver.

The National Department of Housing has identified that from a shelter perspective child headed households are generally experiencing the following:

- a. Their property rights are being violated;
- b. They are evicted as a result of not being able to pay for services, mortgage or loan installments and rentals;
- c. They have no direct access to housing if there is no caregiver available to receive a housing subsidy and contract.

This policy thus attempts to propose interventions for the City to successfully respond to the housing needs of child headed households.

2 OBJECTIVES OF THE POLICY

- To provide a range of housing support interventions for the protection of shelter and/or property rights for the children whose parents or primary care-giver of the household is terminally ill or has died.
- To ensure that children in households where there is no adult family member available to secure a reliable shelter or accommodation are not evicted or rendered without a home.

3 POLICY PRINCIPLES

It is important that the policy interventions articulated:

- Comply with and are supportive of the South African legislative framework, especially the Constitution and the Bill of Rights, Property Rights as well as Child Rights (eg. the Children's Bill of the National Department of Social Development).

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- Are supportive of the City of Johannesburg model for community based care and support for orphans and must be viewed as part of the basket of services for care and support.
- Promote that if parents and family are not able to care for children it is the obligation of the state (in this case the Municipality) to provide interventions for support.

4 SCOPE OF THE POLICY

The Policy targets:

- All child headed households within the City irrespective of whether their parents have died as a result of HIV/AIDS or not.

5 DATA ON CHILD HEADED HOUSEHOLDS

Although an increased observance of households headed by children or consisting only of children has generally been acknowledged in the housing and social development sectors there is however no conclusive data regarding the scale of this phenomenon, particularly within the City. Through the registration for social grants the City has however identified approximately 6 200 child headed households.

Nationally however, some data does exist. According to the Nelson Mandela/ HSRC (2002) study on HIV/AIDS approximately 3% of the households (number surveyed – 9 963) surveyed nationally could be child headed households as they were being headed by a person between the ages of 12 and 18 years. The largest number of child headed households was located in informal urban areas and in urban formal areas.

In the Review of Johannesburg's City Strategy and City System Issue Areas for Strategic Analysis (April 2005), which outlines a review process of the City's current strategy it is acknowledged that "Of central concern to the City is how the still largely racially defined imbalances in income and opportunity can be shifted, so that all Johannesburg's residents can access secure livelihoods, and so that all will have the scope and capacity to aspire to better lives for themselves and their children."

Amongst the various issues identified to address this concern the following directly tackles the issue of child headed households. It is recognised that we need to know more about:

- "Whether HIV/Aids will result in a deepening poverty crisis in the city, as households lose their breadwinners, as the rising cost of care crowds out other household expenditures, and as the number of orphans (estimated by some at over 140 000 by 2010) increase.
- Whether the protection provided by social grants and the municipal social package is targeted well enough to provide all residents in chronic poverty with

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a measure of security? In particular, the City needs to be alert to existing and potentially growing gaps in coverage where protection is needed most (eg by orphan-headed households."

6 DEFINING CHILD HEADED HOUSEHOLDS

It is important to note that although child headed households are not only as a consequence of HIV/AIDS there is definitely an increased observance of such households where parents have died or are severely ill because of HIV/AIDS.

The extent and context to which child headed households are addressed would need to take into account that children are not a homogeneous group, defined simply by a broad age range. It is imperative that other factors be recognised in order to respond adequately to their needs as well as attempt to ensure that children realise their fundamental rights.

The Children's Bill (2002) defines child headed households more broadly and articulates in clause 234. (1) A provincial head of Social Development may recognise a household as a child headed household if:

- (a) the parent or primary care giver of the household is terminally ill or has died because of AIDS or another cause;
- (b) no adult family member is available to provide care for children in the household;
- (c) a child has assumed the role of primary care giver in respect of a child or children in the household.

In these instances families do not make adequate arrangements for their children prior to their death, resulting in them having limited or no resources. Thus in addition to them losing their parents and income in many cases even their property and shelter rights are severely compromised.

7 LEGISLATIVE FRAMEWORK FOR CHILD RIGHTS

There are a number of Acts and conventions that currently address the need for improving the well being of children and which should underlay all services and interventions developed to address the needs of child headed households.

In South Africa one of the most critical pieces of legislation is the Bill of Rights in the Constitution. According to the Bill of Rights every child has the right:

- (a) to family care or parental care, or to appropriate alternative care when removed from the family environment;
- (b) to basic nutrition, shelter, basic health care services and social services;
- (c) to be protected from maltreatment, neglect, abuse or degradation.

In addition South Africa is a signatory to the Convention of the Rights of the Child, 1989, which highlights the issue of child headed households in the following articles:

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Article 20: Protection of a child without family: The State is obliged to provide special protection to a child deprived of a family environment and to ensure that appropriate alternative family care or institutional placement is available in such a case. Efforts to meet these obligations shall pay due regard to the child's cultural background.

Article 27: Standard of living: Every child has the right to a standard of living adequate to his or her physical, mental, spiritual, moral and social development. Parents have the primary responsibility to ensure that the child has an adequate standard of living. The State's duty is to ensure that this responsibility can be fulfilled. The State's responsibility may include material assistance to parents and their children.

The Children's Bill (2002), that defines child headed households, further identifies that municipalities are responsible for the monitoring of child headed households and lost and abandoned children within their area of jurisdiction, regularly investigating their location and socio economic conditions.

In addition to needing to adhere to the legislation there are also significant implications of child headed households for housing that necessitates a response from the City.

8 POLICY PROPOSALS

8.1 Property rights

In South African Law, especially the law of succession children are able to inherit property upon the death of their parents. This is possible through testate (where there is a will) or intestate (no will) succession.

Although ownership of the property may vest with the child/ children the rights that they have however are limited. The Master of the Court will appoint a curator to administer the property on behalf of the child/children until they reach a majority age. In addition the property cannot be sold without the prior approval of the Master. In this respect, the property rights of minors (child/children) are protected by South African Law.

In many instances however this formal route is not followed, as children and family are not aware of the processes and rules that must be adhered to. The reality is that children are not aware of their potential rights and can become the victims of unscrupulous relatives or community members.

With all the stakeholders involved, approaches in the community based research must be explored and used to determine choices housing authorities must make in ensuring and facilitating the management of the house as well as the protection of children's rights to the house.

The involvement of all the legal apparatus, Social Development, and community-based stakeholders to manage transaction of information between relevant players is important.

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In order to ensure housing property rights of child headed households, the following interventions by the City are required.

- (a) It is critical that a will be included when a beneficiary or household apply for a housing subsidy and when ownership and title deeds are registered. Especially if the parents would want their assets (house) to be taken over by their children, having a will with such instructions will ensure that the rights of the children are easily realisable.
- (b) Given the hardships that poor households and communities experience on a daily basis there is sometimes very little awareness and planning for the future. When there are children in a household however as well as when people acquire assets, such as property succession planning becomes necessary. Many people assume that this planning relates to stipulating how you assets are to be distributed, but there are also other very important considerations that need to be undertaken which relates to the appointment of guardians etc to take care of your children when parents are no longer able to do so as a result of death or terminal illness. Thus ensuring that potential homeowners are educated on succession planning is critical.
- (c) The City must proactively ensure that child headed households on housing projects are assisted in providing the necessary documentation to the Master of the Court so that the legal processes for inheritance are undertaken.

8.2 Preventing evictions

The issue of evictions, especially as a result of the inability of child headed households to continue servicing payment and home loans, by financial institutions has in the past years received much publicity. To this end financial institutions are enforcing that insurance cover is taken when loans are issued.

In addition, in the social housing sector the development and implementation of a hardship cover to protect households, including child headed, by providing a period of exemption from rentals is being considered.

The City has also instituted policy that to some extent addresses the payment of services by child headed households. The Special Cases Policy (April 2002) scraps all arrears inherited by the children and also provides a subsidy on refuse removal and sanitation for persons responsible for the payment of basic services that do have the means to do so, however this is limited to orphans that are as a direct result of HIV/AIDS. In many instances however it is not clear what the exact cause of death of parents are so it is necessary that such a policy is not limiting.

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In order to ensure that evictions as they relate to child headed households do not prevail the following interventions by the City are required.

- (a) That the Special Cases Policy (2002) be extended to all child headed households that do not have the means to pay for services, irrespective if their parents died of HIV/AIDS or not;
- (b) That the Hardship Cover, as proposed by the Social Housing Foundation and once approved by the National Department of Housing be implemented, especially in social housing projects within the City. The Housing department therefore needs to engage with the Social Housing Foundation and the National Department of Housing to facilitate the implementation of this instrument within the social housing programme in the City.

8.3 Housing Options

In addressing the needs of child headed households the community based care model has been advocated by the National Department as the framework within which to generally locate interventions. Similarly the City has also adopted a community based model and it is therefore necessary that the housing interventions identified are in line with this model.

All the interventions articulated in this policy thus far reinforces the rights of child headed households to their property, or house. Just as important however it also reinforces the principle that child headed households need to remain within their families and communities.

In addition to ensuring that the needs and rights of child headed households are addressed on the normal subsidy housing projects and social housing projects it is important that other housing options to accommodate such households are also explored.

The new National Housing Programme: Upgrading of Informal Settlements recently developed by the National Department of Housing also makes provision for child headed households to 'qualify' for a housing opportunity, in that their rights may be held by a guardian or in a trust. This is not dissimilar to our discussions under property rights.

In addition however housing options also need to extend to promoting the services of other Departments. An example of this would be the foster care programme of Social Services. Foster care is an option in cases where child headed households need to be removed from their current accommodation to live under the supervision of foster parents. The role of Housing in this instance would therefore be to facilitate the development or construction of additional rooms to accommodate the foster care arrangement. This intervention can be accommodated using the institutional subsidy programme. Housing however would only contribute the capital funding operational costs associated with such an intervention would need to be accommodated with the programmes of Social Services.

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In some instances however it may not be possible for child headed households to remain with family and within the community. Here institutional care although touted as being the option of last resort maybe the only option possible. The institutional and transitional housing programme could be utilised to construct such institutional care facilities, provided that the operating funding is available through other Departments such as Social Development.

9 IMPLEMENTATION AND MONITORING OF THE POLICY

A task team of relevant departments (especially the Departments of Housing, Social Services and Legal as well as the Regions and JOSHCO) within the City will be established to identify the necessary mechanisms and institutional arrangements required to implement the approved policy.

The implementation of the policy once approved will be monitored by the Housing Department. Like with the implementation of other housing policies within the City status and progress with the implementation of the policy will be reported to Council bi-annually.
