



HEALTH, SAFETY AND ENVIRONMENTAL STANDARDS ANALYSIS PROJECT

ECD Stakeholder Engagement Meeting 1

Date: 08 February 2022

Welcome and introductions

The meeting was facilitated by Patsy Pillay who opened by explaining that the stakeholder engagement facilitated through the ECD CoP is aimed at garnering people's experiences and recommendations on the Environmental Health and Safety Norms and Standards that are prescribed in the registration of Early Childhood Development (ECD) programmes. The engagement also aims to advocate for the rights of children.

Most countries have policies in place intended to protect the child holistically in various ECD settings. Different role players play the overseer role in different countries, guided by their regulations. In South Africa, 3.5 million children do not have access to ECD programmes and services; in the main, it is the poor and vulnerable who are most affected. To address this, it is important to explore the question: how can we actively address equality, while moving towards equity? While government subsidies are helpful, certain conditions still prevail in accessing the subsidies.

Ilifa Labantwana and Equality Collective started a process of analysis, research and consultation to specifically address ECD norms and standards (N&S) focusing on health and safety. The project aims to document the process of redrafting the health and safety standards. The overarching purpose of the project can be summarised as follows:

"TO DEVELOP A FIT FOR PURPOSE HEALTH, SAFETY AND ENVIRONMENTAL FRAMEWORK AS PART OF ENSURING AN ENABLING LEGAL AND REGULATORY FRAMEWORK TO ADVANCE ACCESS TO INCLUSIVE, QUALITY AND HOLISTIC ECD SERVICES"

BRIDGE has been brought into the partnership to address the consultation process and provide knowledge management services. This engagement constituted the first broad stakeholder consultation.



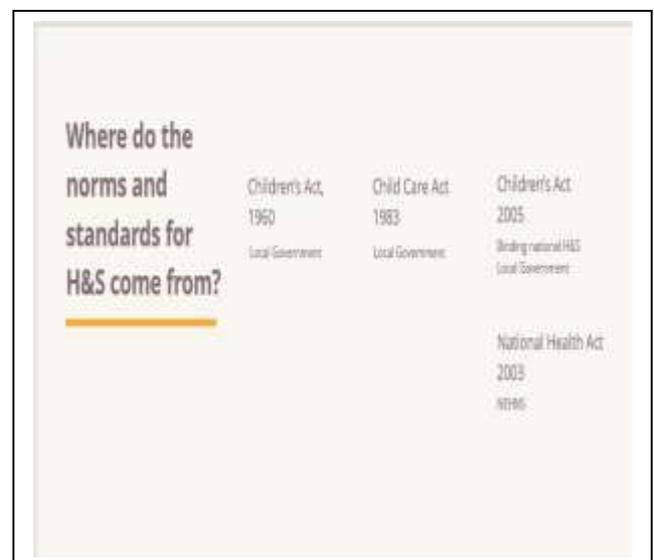
Presentation: Zaheera Mohammed (Ilifa Labantwana) and Tess Peacock (Equality Collective)

Zaheera explained that Ilifa Labantwana's main motivation in undertaking this work is to ensure that the environment for ECD is the best that it can possibly be for all children and providers. Underlying this is the drive towards attaining universal access and coverage. The work will be of interest to many partners and forms the core of the Environmental Health and Safety Analysis Project.

Tess added that Ilifa Labantwana and Equality Collective's aim for the meeting was to share their approach and learn from all the meeting participants in a collaborative and co-creative manner.

To contextualise the project, Tess gave a broad overview of **where the norms and standards for health and safety come from:**

Previously, neither the Children's Act of 1960 nor the Child Care Act of 1983 provided for health and safety N&S. Instead, these were entirely the purview of local government. The Children's Act of 2005 presented binding national health and safety N&S at a local government level. This introduced two levels of norms and standards: national and local government. In 2015, the *National Environmental Health Norms and Standards for Premises and Acceptable Monitoring Standards for Environmental Health Practitioners* (NEHNS) were published, which provide norms and standards for partial care facilities. These fall under the National Health Act.



Given the lack of synergy between the pieces of legislation governing the health and safety N&S at different legislative levels, the registration process and regulation of ECD programmes and partial care facilities is confusing and inaccessible for many providers. As an example, aspects such as inspections, the frequency of inspections, and by whom or which departments these inspections are conducted, have resulted in a complicated system of compliance. It is not at all clear why there are two departments (Health and Social Development) prescribing norms and standards to ECD service providers for partial care facilities. Moreover, the NEHNS are not registration requirements in terms of the Children's Act; despite this, ECD programmes have to comply with the NEHNS in cases where their local municipalities have adopted the NEHNS.

Regulation of health and safety standards at partial care facilities

	Health Act and NEHNS	Children's Act and Regs
Official responsible for inspections	EHP (may be appointed at national / provincial / local government level)	Person designated by provincial head of social development
Frequency of inspections	4 times a year	At least once every 5 years
Certificate / relevance to registration	'Health certificate' must be issued by EHP (Regs) - must be renewed annually	'Health certificate' must be issued by local authority Compliance with N&S considered by provincial dept in registration
Consequence of non-compliance with norms and standards	Compliance notice issued to person responsible for health nuisance or hazard (i.e. not necessarily for more general non-compliance with N&S). Health certificate may be withdrawn where conditions pose hazard or risk to children (Regs)	Suspend cancellation of registration to remedy non-compliance; OR Notice of enforcement to comply. Department can cancel registration by written notice, or approach court to require partial care facility to stop operating. May by way of written notice stop the provision of an ECD programme.

Table prepared by Nurina Ally

One can argue that we have moved from a system of under-regulation to one of over-regulation. In addition to the complexity around roles and responsibilities, it seems that the norms and standards are not necessarily about health and safety, but rather about endorsing and entrenching high living standards. This is **unrealistic, unattainable and untenable**, and leads to many providers operating outside of the regulatory net.

The project is therefore geared towards driving the sector to **attainable, inclusive and accessible health and safety norms and standards that don't compromise the health and safety of children**. There is a series of moving parts like the *Real Reform for ECD Campaign* and the *Second Children's Amendment Bill (SCAB)* that Ilifa Labantwana and Equality Collective are involved in, that feed into the thinking and research around these N&S. Most importantly, there is a working relationship with DBE so recommendations can be made on steps that can be taken in drafting health and safety norms and standards for ECD.

The DBE has been speaking about a new piece of legislation for ECD programmes. This means that the sector has an opportunity to think about the regulatory framework that should surround norms and standards. The project steps include:

- a landscaping analysis
- a series of stakeholder engagements
- a legal analysis, and
- comparative research.

Another stakeholder engagement will be held where the draft report will be presented and participants' final inputs into a redrafting process will be taken into account.

A selection of comments, questions and clarifications on the EHS Standards Analysis from the floor:

Clarification on the relationship between the NEHNS and the involvement of Environmental Health Practitioners (EHPs) and municipalities.

- Assumed justification for two departments prescribing norms and standards:
 - Health and safety N&S in Children's Act are meant for provincial departments who have to conduct inspections every two years for ECD programmes and every five years for partial care facilities.
 - NEHNS provides guidance to EHPs who are typically allocated at local government level and their inspections happen four times per year.
 - NHA says EHPs can be allocated at any level and so it is not obvious that the NEHNS provide guidance to local governments.
- With public schools, there is little to no involvement of municipalities in applying health and safety N&S.
- This emphasises the need for us to clarify the roles of municipalities and provincial government in applying health and safety norms and standards.

Why are we thinking about a new framework, given what has come out of Vangasali?

- This project does not create a new registration framework – it is forward looking and aims to rethink the regulative framework of health and safety N&S.
- Vangasali is laudable and will solicit great gains for the sector but still operates in a complicated regulatory framework.
- EHPs still find it difficult to implement ECD registration framework with its flexibility and they are prohibited by the legal framework.

Commentary on Municipalities

- There are efforts in WC province to achieve uniformity in application of by-laws in municipalities.
- These efforts are necessary because EHPs are inundated with inspecting ECD centres and many other facilities and due to different by-law application.
- Municipalities are more open to participating now; as an example, Ethekwini is currently reviewing by-laws and trying to open ECD registration.

Clarity on the Environmental Health and Safety Analysis Project

- The project will aim to cover health and safety N&S for all ECD programmes including centre and non-centre based. This will be of great assistance to DBE.
- The role of Social Service Organisations (SSOs) will be assessed due to the Function Shift, and this might have implications for the registration of ECD programmes.
- The questions that will be answered through the project are about which department should prescribe health and safety N&S, who should conduct inspections, and how often.

Group work: EHS standards Experiences and recommendations

Next, the meeting was invited to partake in a group activity reflecting on experiences with the environmental, health and safety standards and related recommendations stemming from both observations and experiences alike. Participants were divided into three groups and were given time to discuss and provide feedback on three questions. Below is a summary of the feedback.

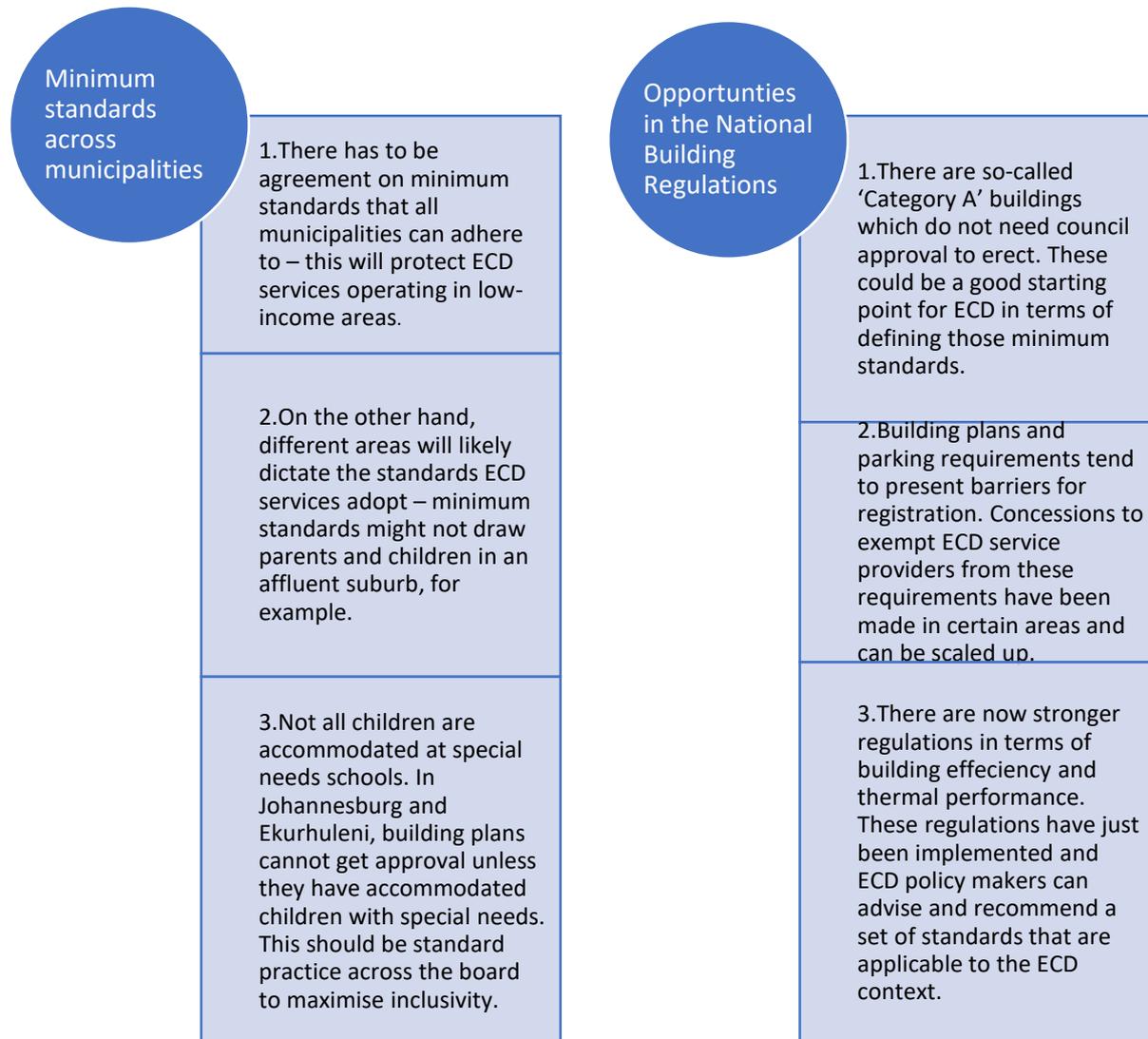
QUESTIONS	FEEDBACK FROM GROUPS
<p>What do you think are the most essential health and safety norms that any ECD programme in whatever context or setting must have to provide a safe and healthy environment for children?</p>	<p>The N&S need to take into consideration:</p> <ul style="list-style-type: none"> ▪ the structural safety of the building ▪ sufficient ventilation ▪ availability of clean drinking water ▪ sufficient provision of sanitation and hygiene – this doesn't have to be world class, as long as all the provisions are safe and clean ▪ an emergency plan ▪ a fire extinguisher ▪ sufficient space inside and out clear of any hazards ▪ police clearance certificate for all adults working in the programme ▪ facilities should not be overcrowded ▪ daily register for children <p>Bear in mind that all of this should be in the best interest of children, without impeding efforts to attain universal access and coverage. The N&S should prescribe a minimum without comprising on safety.</p>
<p>What is working and not working with the current health and safety N&S?</p>	<ul style="list-style-type: none"> ▪ The norms and standards need to be simplified and standardised – they are simply too high to attain! ▪ ECD taking place at people's homes does make application of N&S difficult at times.
<p>Recommendations and suggestions in addressing these challenges</p>	<ul style="list-style-type: none"> ▪ To simplify and standardise the norms and standards to what is absolutely necessary, in any context, to ensure a safe and healthy environment in which children can access a quality learning programme. ▪ These standards ought to be communicated to all stakeholders, especially those responsible for inspections. All of this needs to be governed by set time frames for registration and inspections, amongst others. ▪ Establish a national regulatory system that does not force ECDs to be set up in the same way that a commercial building would be required to. ▪ Universities and Resource Training Organisations (RTOs) to include the registration process in their curriculum.



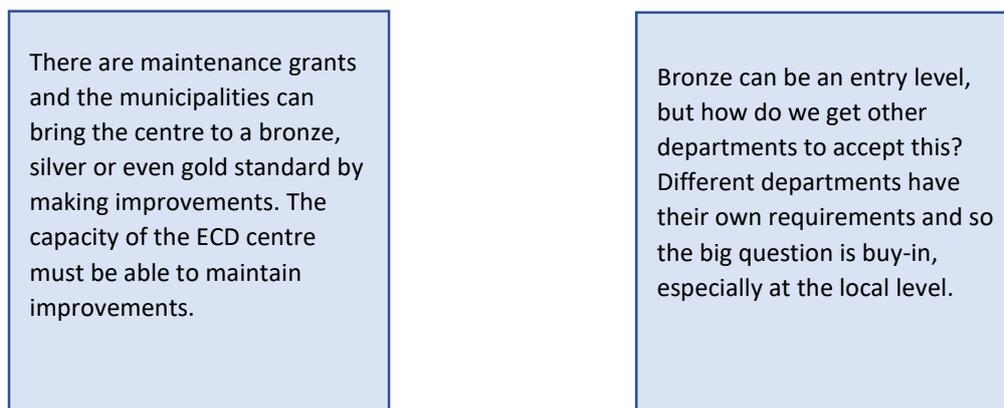
Plenary Discussion

The following is the feedback gathered from the plenary session.

- **What are the opportunities to simplify/streamline the health and safety norms and standards?**



- **Do you think the bronze level could work as the minimum standard level? Please explain.**



- **What should the roles and responsibilities of Provincial Departments of Education, the Department of Basic Education and local government be in relation to the norms and standards? Please explain.**

There has been very limited engagement at national level between lead departments and municipalities. In Ethekewini, there is a joint multi-stakeholder committee at municipal level that is working well. Officials from all departments come together and have a better understanding of ECD. There is also a District Development Plan being piloted by COGTA which will force all departments to have one plan and one budget.

The attitude towards practitioners needs to change. We need to be seen as professionals with a valuable contribution and not just disposable supplements to the education system. An ECD Act will assist us in that there will be appropriate policies, budgets and most importantly, accountability.

- **Do we need the NEHNS prescriptions as we already have the Children's Act determining our health and safety N&S?**

One participant admitted that she had never heard of the NEHNS and like many other pieces of legislation that involve ECD, it is not always clear what the relevance is. The ECD Act mentioned can allow us to start from scratch in determining legislature that is needed and relevant for us in the sector.

Conclusion

This process of engagement is continuous. A second, follow-up session will be held to garner sector inputs on the draft report based on the phases of the project outlined above.

