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COST IMPLICATIONS OF FUNDING NPOs FOLLOWING THE NAWONGO COURT JUDGEMENT

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Key PER Observations

Through this PER, National Treasury wants to:

> *Assess the fiscal implications for the provinces of implementing the decision of the Free State High Court in recent litigation to the funding of NPOs (the NAWONGO judgements).*

To date, provincial DSDs have regarded transfers to NPOs as subsidies to help NPOs provide social welfare services. The NAWONGO court case states that this approach to securing social welfare services "fails to recognise, as a fundamental principle of funding, that NPOs that provide care to children, older persons and vulnerable persons in need, as well as statutory services, fulfil constitutional and statutory obligations of the department."[1]

The table highlights the extent of the inequality in spending on social welfare services across provinces.

The unequal spending on social welfare services across provinces

All figures are for 2016/17 financial year	A Expenditure on social welfare services by province (000 Rands)	B Total spending on social welfare services divided by number of poor people in province (Q.1-3) (Rands)	C Percentage deviation from the average per capita spending
Eastern Cape	1,551,757	307	-10%
Free State	630,140	345	1%
Gauteng	2,864,463	454	33%
KwaZulu-Natal	1,715,765	236	-31%
Limpopo	983,975	220	-36%
Mpumalanga	759,699	255	-25%
North West	913,647	392	15%
Northern Cape	471,896	577	69%
Western Cape	1,576,783	622	82%
Total	**11,468,124**	**342**	

Source: Team analysis - 06. Provincial DSD expenditure on SWS - BAS analysis – Final.

These inequalities have their origins in apartheid policies, but provincial governments have perpetuated them by consistently deprioritising and cutting spending on social welfare services within their provincial budget processes. Indeed, the level of inequality is so extreme and increasing that it represents *prima facia* evidence of a violation of the state's constitutional obligation to ensure that "services are provided impartially, fairly, equitably and without bias."[2]

The analyses undertaken for this project indicate that:

- **R9.2 billion** is required to fill the 71 per cent funding gap in the level of transfers to existing NPO services that are currently delivering services for provinces.
- **R9.4 billion** is required to equalise spending across provinces at the 2016/17 levels of spending per poor person in the Western Cape.

These numbers make the R440 million that government allocated as an addition to the provincial equitable share over the 2018/19 MTEF to social welfare services for the implementation of the NAWONGO judgements appear rather modest; just 4.8 per cent of the R9.2 billion. However, given the current fiscal environment, this allocation of new funds must be welcomed. Nevertheless, questions need to be raised regarding the social justice and equity of prioritising free higher

1 See paragraph 47 of the First NAWONGO Judgement, 5 August 2010
2 See section 195(1)(d) of the Constitution.

education over expanding the provision of social welfare services to the most vulnerable. To paraphrase the judge in the NAWONGO case: a policy that excludes the most needy persons cannot be said to be a reasonable measure.[3]

In light of the above, government needs to develop a longer-term strategy that gives priority to improving the funding of social welfare services, addressing the issue of funding on both the national and provincial fronts.

i. Pressure needs to be placed on Limpopo, KwaZulu-Natal, Mpumalanga and Eastern Cape to prioritise spending on social welfare services to the same extent as other provinces. Given that the extreme and increasing inequality resulting from these provinces' actions very likely represents a failure by them to "fulfil an executive obligation in terms of the Constitution" it may be necessary for the national executive to intervene in terms of section 100 of the Constitution by issuing a directive to the respective provincial executives to take appropriate measures in the compilation of their budgets to rectify the failure to prioritise spending on social welfare services appropriately.

ii. The national government needs to address the overall underfunding of the social welfare sector by making substantial additions to the provincial equitable share over the medium to longer term. If provinces cannot be trusted to allocate these additional equitable share funds to social welfare services, then national government will need to introduce a suitable conditional grant to ensure the new funds are used for their intended purpose.

It is going to take time to increase the level of funding allocated to social welfare services. In the interim, national DSD needs to ensure that the NPO funding policy is aligned to the principles set out in the NAWONGO judgements and puts in place procedures to:

i. Ensure at least a minimum level of spending on effective prevention programmes;

ii. Protect existing NPO capacity to deliver social welfare services across a wide range of service areas, i.e. avoid funds being concentrated on a limited number of services;

iii. Ensure progressive improvements in the level of funding for existing services delivered by NPOs, starting with the highest priority services;

iv. Provide new funds for expanding access to priority services; and

v. Guard against unreasonable actions being taken by provincial DSDs to cut NPO funding.

The proposal for a revised funding policy set out in Annexure C seeks to provide a workable approach for realising these objectives in a manner that is reasonable and aligned to the NAWONGO judgements.

One of the key successes of this project was to compile NPO transfer and services delivery information for eight of the nine provinces (KwaZulu-Natal did not provide useful data). It is important that national DSD works with provinces to establish routine processes for gathering information on the provision of services by both provincial DSDs and NPOs.

3 See paragraph 23 of the Fourth NAWONGO Judgement, 28 August 2014

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List of Abbreviations

BAS	Basic Accounting Systems
BNB	Benchmark number of beneficiaries
DSD	Department of Social Development
FS	Free State
GTAC	Government Technical Advisory Centre
IES	Income and Expenditure Survey
NAWONGO	National Association of Welfare NGOs
NGO	non-government organisation
NPI	non-profit institution
NPO	non-profit organisation
PER	Performance and Expenditure Review
SCOA	Standard Chart of Accounts
SLA	service level agreement
SWS	social welfare services

Executive Summary

Background

To date, provincial DSDs have regarded transfers to NPOs as subsidies to help NPOs provide social welfare services. In recent years, most provincial DSDs have failed to ensure that these subsidies increased in line with inflation and, moreover, in many instances they have reduced them. This has been aggravated by poor management and late payment of the transfers. As a result, most NPOs are increasingly cash-strapped, and many have been forced to either retrench staff or close down, leading to cutbacks in service delivery. It is within this context that the National Association of Welfare NGOs (NAWONGO) took the Free State provincial government to court on the issue of NPO funding. The case stretched from mid-2010 to August 2014. Annexure A provides a summary of the judgement findings relevant to this project.

In February 2018, NAWONGO announced its intention to return to court due to the Free State provincial DSD's failure to take any meaningful steps to implement the court's previous judgements and align its NPO funding policy and level of funding appropriately. There is also an initiative by NPOs in the Eastern Cape to launch similar court action against the provincial government around the funding of NPOs.

Unpacking the objectives of the PER study

The aim of this Performance and Expenditure Review (PER) is to:

Assess the fiscal implications for the provinces of implementing the decision of the Free State High Court in recent litigation to the funding of NPOs (the NAWONGO judgements).

When a provincial DSD is planning the delivery of social welfare services, it can choose from the following modes of delivery:

- *Mode 1 – in-house delivery,*
- *Mode 2 – contracting out delivery,*
- *Mode 3 – subsidising NPOs to provide services, and*
- *Mode 4 – funding NPOs to provide services on its behalf.*

To date, provincial DSDs have regarded transfers to NPOs as facilitating the delivery of social welfare services through Mode 3. The NAWONGO judgement states that this mode "fails to recognise, as a fundamental principle of funding, that NPOs that provide care to children, older persons and vulnerable persons in need as well as statutory services, fulfil constitutional and statutory obligations of the department." By this finding, the court is laying down that provincial DSDs must use Mode 4 to secure the delivery of services through NPOs.

So, the above aim of this PER can be restated as follows:

What will it cost each provincial DSD to move from Mode 3 to Mode 4 in respect of the social welfare services it currently subsidises NPOs to deliver?

To work this out, the challenge is to understand the scope, content and nature of the services, how they are provided, and therefore how they might best be costed and funded.

The study analysed the BAS expenditure data, information on provincial DSDs' transfers to NPOs, and used the costing model developed for the Free State DSD to work out the cost implications of "fully funding" NPOs for the social welfare services they provide on behalf of government.

Analysis of expenditure on services social welfare services

The following table sets out the key results of the analysis of the BAS expenditure data for provincial DSDs for the period 2012/13 through to 2016/17:

Table ES1 Key evidence of the inequality in spending on social welfare services

All figures are for 2016/17 finance year	A Expenditure on social welfare services by province (000 Rands)	B Y-on-Y growth in spending on social welfare services minus Y-on-Y growth in total provincial expenditure	C Expenditure on social welfare services as a percentage of total provincial expenditure - excluding capital	D Total spending on social welfare services divided by number of poor people in province (Q.1-3) (Rands)	E Percentage deviation from the average per capita spending
Eastern Cape	1,551,757	-6.6%	2.4%	307	-10.3%
Free State	630,140	-4.9%	2.1%	345	0.9%
Gauteng	2,864,463	-6.8%	2.9%	454	32.8%
KwaZulu-Natal	1,715,765	1.4%	1.7%	236	-30.8%
Limpopo	983,975	-16.4%	1.7%	220	-35.7%
Mpumalanga	759,699	-5.2%	2.0%	255	-25.3%
North West	913,647	3.4%	2.6%	392	14.6%
Northern Cape	471,896	-2.5%	3.3%	577	68.7%
Western Cape	1,576,783	-3.5%	3.1%	622	81.8%
Total	**11,468,124**	**-4.7%**	**2.3%**	**342**	
Extent of inequality					**117.5%**

Source: Team analysis - 06. Provincial DSD expenditure on SWS - BAS analysis - Final

Column A shows each province's spending on social welfare services for 2016/17. Column B shows how, in 2016/17, seven of the nine provinces deprioritised spending on social welfare services relative to other provincial functions. The green highlights show the provinces that cut spending on social welfare services relative to the previous year.

This deprioritising of spending on welfare services has been a consistent pattern over the last five years, particularly in Eastern Cape, Free State, KwaZulu-Natal, Limpopo, and Mpumalanga. The consequence is reflected in column C, which shows that these five provinces do not prioritise spending on social welfare services to the same extent as other provinces, which is the primary driver of the unequal per capita spending shown in column D. The red shaded areas in columns D and E show the provinces with spending per poor person below the national average: Limpopo spent R220 per poor person, which is 36 per cent below the national average, while Western Cape spent R622 per poor person which is 82 per cent above the national average. So, the extent of inequality was 118 per cent, which is extreme compared to education and health which where inequality was 20 and 42 per cent respectively in 2016/17. Since 2013/14 the extent of inequality in spending on social welfare services has increased from 87 per cent to 118 per cent in 2016/17.

The fact that certain provincial governments have sought to respond to the constrained fiscal environment by cutting spending on social welfare services, while continuing to grow expenditure on non-social services is very worrying. It calls into question these provinces commitment to upholding the constitutional values of "human dignity, the achievement of equality and the advancement of human rights and freedoms". Indeed, the level of inequality in the delivery of social welfare services represents *prima facia* evidence of a violation of the state's constitutional obligation to ensure that "services are provided impartially, fairly, equitably and without bias."

Transfers to NPIs for the provision of social welfare services

In 2009, National Treasury's *Provincial Budget and Expenditure Review: 2005/06 – 2011/12* set out service delivery data for 2008/09, which showed that NPOs are responsible for running more than 98 per cent of the social welfare facilities available in the country and attending to more than 71 per cent of clients. In 2009/10, overall transfers to NPOs amounted to R3.4 billion, which was approximately 37 per cent of total social development expenditure.

National DSD has not compiled a more recent set of performance information. The BAS information shows that, in 2016/17, total provincial *transfers to NPIs* were R6.5 billion, which was 38.6 per cent of total provincial social development expenditure (excluding capital). This indicates that the NPOs' role in the sector remains very significant. However, the extent to which the different provincial DSDs use NPOs to deliver services differs widely.

The BAS data also shows that despite the presence of the NAWONGO judgements, the Free State government reduced its funding for NPOs from R162 million in 2013/14 to R151 million in 2015/16; disregarding the High Court completely. Indeed, it's actions could be seen as vindictive – punishing the NPOs that took it to court by reducing funding for them.

The cost of more equitable spending across provinces

Using the analysis of total spending on social welfare services divided by the number of poor people in each province, the team developed three scenarios to explore the cost implications of moving towards greater equity in spending across provincial DSDs.

Scenario 3 estimates the cost of equalising expenditure across the provinces at the 2016/17 level of Western Cape spending per poor person, i.e. R622. The table below shows the outcome.

Table ES2 Moving towards greater equity in spending on social welfare services

(000 Rands)	2016/2017 spending on social weflare services	Scenario 3 Minimum set at 2016/17 level of Western Cape spending per poor person	Increases required over 2016/17 expenditure to achieve Scenario 3	Increase in 2016/17 expenditure required to achieve Scenario 3
Target minimum spend per poor person		R622		
Eastern Cape	1,551,757	3,145,167	1,593,410	103%
Free State	630,140	1,135,138	504,998	80%
Gauteng	2,864,463	3,921,764	1,057,301	37%
KwaZulu-Natal	1,715,765	4,510,822	2,795,057	163%
Limpopo	983,975	2,781,217	1,797,242	183%
Mpumalanga	759,699	1,849,629	1,089,931	143%
North West	913,647	1,449,497	535,850	59%
Northern Cape	471,896	508,692	36,796	8%
Western Cape	1,576,783	1,576,783	0	0%
Total	**11,468,124**	**20,878,709**	**9,410,585**	**82%**

Source: Team analysis - 06. Provincial DSD expenditure on SWS - BAS analysis - Final

The above table shows that to equalise spending on social welfare services across provinces will require an additional R9.4 billion or an increase of 82 per cent in spending compared to the 2016/17 levels of expenditure.

Analysis of provincial NPO funding and beneficiary data

To work out the implications of the NAWONGO judgements, the team collected data on NPO transfers and beneficiaries from provincial DSDs. KwaZulu-Natal did not submit useful data.

The completeness of the data varied. However, the greatest challenge was the lack of a consistent set of service names across provinces. The following table provides a consolidated summary of the eight provinces' data according to standardised service names.

Table ES3 Consolidated NPO data according to standard services names

	No. of provinces with data	No. of NPOs	No. of Beneficiaries	Total Transfers (000 Rands)
Programme 2: Services to Older Persons				
Social Services (older Persons)	1	4	-	1,008,840
CBC: Basic Informal	1	2	183	920,066
Active Aging Programmes	3	392	4,053	63,126,189
Aged Service Centre: Level A	6	1,320	61,032	159,509,836
Home based care (comprehensive)	4	182	7,024	54,632,343
Residential facility: CatIIIA Max	6	402	15,720	448,882,394
Residential facility: CatIIIC Max	1	34	-	21,468,469
Programme 2: Services to Persons with Disabilities				
Rehab. And community based services - Social work	5	205	3,920	47,883,461
Protective workshop	8	272	10,377	58,184,618
CBC: Disability	2	26	102	2,456,520
Residential facility (Disabled)	7	117	5,448	128,342,164
Rehab. And community based services - Day care service	4	105	1,822	29,996,363
Programme 2: HIV/AIDS				
Community based Multi-purpose Organisation (Drop-in	4	342	190,285	143,458,283
Programme 3: Care and Services to Families				
Care and Services to Families	2	157	19,956	90,596,431
Counselling services	1	10	17,819	4,255,795
Education	1	32	5,449	3,048,579
Programme 3: Child Care and Protection				
Drop-in centres	5	297	18,897	47,864,547
Programme 3: ECD and Partial Care				
Partial care	1	8	272	852,720
Centre based ECD	7	8,815	364,369	1,508,587,997
Non-centre based ECD	1	44	-	1,864,657
Programme 3: Child and Youth Care Centres				
CYCC: Shelters for street children	4	52	1,144	35,642,970
CYCC: Temporary safe care	2	73	866	121,801,425
CYCC: Children's Home	4	183	8,213	276,845,456
Programme 3: Community Based Care Services for Children				
Community based programme for children	1	24	-	9,188,819
Programme 4: Crime Prevention and Support				
Secure care centre	1	7	-	2,495,842
Programme 4: Victim Empowerment				
Community based services	1	65	2,265	19,088,645
Training workshops (VEP)	1	1	-	376,408
One stop centre	2	151	665	28,027,098
Victim Empowerment Services	4	87	19,160	25,468,017
Shelter	6	104	588	65,235,549
Programme 4: Substance Abuse, Prevention and Rehabilitation				
Prevention	4	114	917,618	38,858,512
Inpatient	6	48	8,910	81,399,692
Outpatient	6	105	9,603	81,012,067
Programme 5: Poverty Alleviation and Sustainable Livelihoods				
Sustainable livelihoods projects	3	141	803	25,857,129
Programme 5: Youth Development				
Youth Development	3	41	1,500	20,838,921
Flag Not allocated to above services	8	2,890	24,525	1,180,041,599
Total		**16,852**	**1,689,955**	**4,829,118,417**

Source: Team analysis – 07. Costing the Implications of NAWONGO - Final.

The "Flag" line shows that 24 per cent of the transfers could not be allocated to standard service names. However, even the allocations that were made against standard service names could benefit from further checking.

The team compiled uniform flat files of eight provinces' NPO transfer and beneficiary data. To the best of our knowledge, this is the first time that a set of data of this nature has been compiled.

Estimating the cost of transfers using the FS Costing Model

In the course of the NAWONGO court case, the Free State DSD engaged KPMG to produce the "Combined Costing and Allocation Model", which is referred to as the FS Costing Model in this project. The team updated this model to 2016/17, and then used it to cost the NPO services that we could map to services covered by the model, and for which there were beneficiary numbers. The following table sets out the results of this exercise.

Table ES4 The extent of the funding gap for the NPO services that could be costed directly in the FS Costing Model

(000 Rands)	Total transfers for services costed by the FS Costing Model and that have beneficiary numbers	Costing results from the FS Costing Model	Calculated funding gap	% funding gap
	A	C	A-C	
Eastern Cape	144,811	686,307	-541,496	-79%
Free State	no data			
Gauteng	428,165	1,250,468	-822,303	-66%
KwaZulu-Natal	no data			
Limpopo	46,708	696,856	-650,148	-93%
Mpumalanga	106,391	480,560	-374,169	-78%
North West	115,466	189,750	-74,284	-39%
Northern Cape	15,404	98,735	-83,330	-84%
Western Cape	274,524	871,402	-596,878	-68%
Total	**1,131,470**	**4,274,079**	**-3,142,608**	**-74%**

Note: based on 80 per cent of public service salaries.
Source: Team analysis - 07. Costing the Implications of NAWONGO - Final.

The above table shows that, for the 30 per cent of transfers linked to services that could be costed in the FS Costing Model, the funding gap is R3.14 billion or 74 per cent. The extent of the funding gap differs across provincial DSDs, though it is not comparable because different services were costed for each province, based on the availability of suitable data.

Table ES5 on the following page takes the analysis a step further and extrapolates the above costing results to the remaining 70 per cent of NPO transfers for which there was no beneficiary data available. The analysis presents three scenarios as follows:

- **High Scenario:** based on the highest percentage funding gap for a costed service in each province. This is the worst-case scenario.
- **Medium Scenario:** based on the weighted average percentage funding gap for all costed services in a province. This is the percentage funding gap shown in Table ES4.
- **Low Scenario:** based on the lowest percentage funding gap for a costed service in each province. This is the most optimistic scenario.

For Free State and KwaZulu-Natal, the extrapolation is made using the average national funding gap, calculated based on the seven provinces for which there is some data (i.e. the average funding gap before adding these two departments into the calculation).

Table ES5 The extent of the funding gap calculated by extrapolating the funding gaps calculated using the FS Costing Model (2017 Rands)

(000 Rands)	Total transfers to NPOs excluding ECD	High Scenario	Medium Scenario	Low Scenario	Calculated costing result			Calculated funding gap		
		Highest % funding gap for a costed service	Weighted average % funding gap for all costed services	Lowest % funding gap for a costed service	High Scenario	Medium Scenario	Low Scenario	High Scenario	Medium Scenario	Low Scenario
Eastern Cape	392,679	-93.5%	-76.5%	-62.4%	6,067,975	1,669,152	1,043,440	-5,675,296	-1,276,473	-650,761
Free State	204,180	-86.2%	-65.0%	-37.6%	1,480,306	582,730	327,097	-1,276,126	-378,550	-122,916
Gauteng	835,930	-84.5%	-65.3%	-41.4%	5,380,152	2,408,994	1,426,751	-4,544,222	-1,573,064	-590,821
KwaZulu-Natal	574,119	-86.2%	-65.0%	-37.6%	4,162,366	1,638,537	919,739	-3,588,247	-1,064,417	-345,620
Limpopo	112,785	-94.8%	-93.3%	-87.7%	2,180,837	1,685,442	919,001	-2,068,052	-1,572,657	-806,216
Mpumalanga	207,154	-90.4%	-77.8%	-43.5%	2,159,901	931,293	366,529	-1,952,748	-724,139	-159,375
North West	470,904	-92.0%	-16.4%	-13.7%	5,907,434	563,018	545,495	-5,436,530	-92,114	-74,591
Northern Cape	115,160	-88.2%	-86.3%	-7.0%	976,176	842,639	123,859	-861,016	-727,479	-8,699
Western Cape	826,444	-81.6%	-68.2%	-47.1%	4,486,146	2,597,926	1,563,388	-3,659,702	-1,771,482	-736,944
Total	**3,739,356**	**-88.6%**	**-71.1%**	**-48.3%**	**32,801,293**	**12,919,733**	**7,235,298**	**-29,061,937**	**-9,180,377**	**-3,495,943**

Note: based on 80 per cent of public service salaries.

Source: Team analysis - 07. Costing the Implications of NAWONGO - Final.

With reference to Table ES5:

- The average funding gap ranges from R3.5 billion in the Low Scenario to R29.1 billion in the High Scenario.
- The Medium Scenario is probably the most robust, given that it is based on the weighted average funding gap of all the services that could be costed in the FS Costing Model. It shows a funding gap of R9.2 billion or 71 per cent.

Implications of the NAWONGO judgements for the funding of NPOs

Each of the four NAWONGO judgements emphasise that the government's NPO funding policy must be "reasonable". Therefore, drawing from these judgements, the report outlines a set of principles that need to inform the development of national and provincial NPO funding policies going forward if they are to be considered reasonable.

Although the court found the revised Free State policy (Annexure B) to be reasonable, the court was careful to emphasise that this did not imply that it represented the best policy option, or that better policy options were not possible.

Section 7.2 discusses a range of issues where reasonable modifications to the Free State NPO funding policy may be considered. These discussions should be read together with section 0, which proposes a method for prioritising the allocation of funds to NPOs delivering social welfare services, and with Annexure C, which gives a systematic description of the proposed key elements of a revised NPO funding policy.

The way forward

1. Acknowledge government is responsible for fully funding social welfare services.

The point of departure for moving forward is for government to recognise, as a fundamental principle of funding social welfare services, that NPOs that provide care to children, older persons and vulnerable persons in need, as well as statutory services, fulfil the constitutional and statutory obligations of the government. This needs to inform government's overall approach to funding NPOs that provide social welfare services.

2. Develop a longer-term strategy to prioritise the funding of social welfare services.

Ensuring adequate funding for NPOs that deliver social welfare services on behalf of government is a key challenge within the sector. Another key challenge is the very unequal spending on social welfare services across provinces. The analyses undertaken for this project indicate that:

- **R9.2 billion** is required to fill the 71 per cent funding gap in the level of transfers to existing NPO services that are currently delivering services for provinces.
- **R9.4 billion** is required to equalise spending across provinces at the 2016/17 levels of spending per poor person in the Western Cape.

These numbers make the R440 million that government allocated as an addition to the provincial equitable share over the 2018/19 MTEF to social welfare services for the implementation of the NAWONGO judgement appear rather modest; just 4.8 per cent of R9.2 billion – the lower of the above two numbers. Given the current fiscal environment, the above allocation of new funds to social welfare services must be welcomed. However, questions need to be raised regarding the social justice and equity of prioritising free higher education over expanding the provision of social welfare services to the most vulnerable. To paraphrase the judge in the NAWONGO court case: a policy that excludes the most needy persons cannot be said to be a reasonable measure.

In light of the above, government needs to develop a longer-term strategy that gives priority to improving the funding of social welfare services. This strategy needs to address the issue of funding on both the national and provincial fronts.

(a) Certain provincial governments have not prioritised spending on social welfare services within their provincial budgets. Pressure needs to be placed on Limpopo, KwaZulu-Natal, Mpumalanga and Eastern Cape to prioritise spending on social welfare services to the same extent as other provinces. Given that the extreme and increasing inequality resulting from these provinces' actions very likely represents a failure by them to "fulfil an executive obligation in terms of the Constitution" it may be necessary for the national executive to intervene in terms of section 100 of the Constitution by issuing a directive to the respective provincial executives to take appropriate measures in the compilation of their budgets to rectify the failure to prioritise spending on social welfare services appropriately.

(b) The national government needs to address the overall underfunding of the social welfare sector by making substantial additions to the provincial equitable share over the medium to longer term. If provinces cannot be trusted to allocate these additional equitable share funds to social welfare services, then national government will need to introduce a suitable conditional grant to ensure the new funds are used for their intended purpose.

3. Put in place an NPO funding policy that prioritises the allocation of funds.

It is going to take time to substantially increase funding for social welfare services. In the interim, national DSD needs to ensure that the NPO funding policy puts in place procedures to:

(a) ensure at least a minimum level of spending on effective prevention programmes;

(b) protect existing NPO capacity to deliver social welfare services across a wide range of service areas, i.e. avoid a situation where funds are concentrated on a limited number of services;

(c) ensure that progressive improvements are made to the level of funding for existing services delivered by NPOs, starting with the highest priority services;

(d) provide new funds for expanding access to priority services; and

(e) guard against unreasonable actions being taken by provincial DSDs, such as cutting funding to NPOs.

The proposed revised funding policy in Annexure C seeks to provide a workable approach to realising these objectives in a manner that is reasonable and aligned to the NAWONGO judgement.

4. Put in place service funding standards for priority services.

Moving from the principle that NPOs are providing social welfare services on behalf of government, the NAWONGO judgement stated that the level of funding for a service should cover the core items required to deliver the service at a reasonable unit cost of these items. To address this aspect of the judgement, but also to promote equitable funding of services across provinces, it is proposed that national DSD should develop *service funding standards* for each service, which specify the minimum level at which a provincial DSD can fund an NPO to deliver the specified service. National DSD should aim to issue service funding standards for a limited number of easily costed priority services, and then gradually expand the number of standards each year. This would have the advantage of phasing in the budgetary implications of these standards over time. National DSD must also ensure that processes are put in place to review these standards every three years in consultation with stakeholders.

However, to move forward, the following issue would need to be addressed.

5. Put in place standard service names and definitions of the content of services.

At present, provincial DSDs do their own thing when it comes to naming services and defining the content of such services. As a result, a service might have the same name across provinces, but its content differs as does its funding requirement. More often, there is simply no consistency. Unless there is uniformity in the naming and defining of services, it will be counterproductive to prescribe uniform service funding standards. National DSD needs to lead a process to put in place standard service names and definitions of the content of services. Again, the department should see this as an incremental process, and start with those services that are easily named and defined, gradually expanding the list each year.

6. Gather information on the provision of services by both provincial DSDs and NPOs

One of the key successes of this project was the compilation of NPO transfer and services delivery information for eight of the nine provinces. It is important that national DSD works with provinces to put in place routine processes for gathering information on the provision of services by both provincial DSDs and NPOs. Section 5.2 outlines the steps that need to be taken to do this.

1. Introduction

This Performance and Expenditure Review (PER) was commissioned by the National Treasury. It forms part of a broader initiative to understand the planning, implementation and financing dynamics of policy initiatives of government. It is envisaged that PER studies such as this will facilitate the realisation of greater value for money in government expenditure, and improved implementation of policy initiatives.

1.1 Topic

Through this PER, National Treasury wants to:

> *Assess the fiscal implications for the provinces of implementing the decision of the Free State High court in recent litigation to the funding of NPOs (the NAWONGO judgements).*

To date, provincial departments of social development (provincial DSDs) have regarded transfers to non-profit organisations (NPOs) as subsidies to help NPOs provide social welfare services. In recent years, most provincial DSDs have failed to ensure that these subsidies increased in line with inflation and, moreover, in many instances they have reduced the level of transfers to NPOs. This has been aggravated by poor management[4] and late payment. As a result, most NPOs providing welfare services are increasingly cash-strapped, and many have been forced to either retrench staff or close down, leading to cutbacks in service delivery.

It was in this context that the National Association of Welfare NGOs (NAWONGO) took the Free State provincial government[5] to court on the issue of funding NPOs for the delivery of social welfare services. The court case[6] stretched from mid-2010 to August 2014, involved thousands of pages of affidavits, the development of a costing model, and four court judgments. Debbie Budlender has written a comprehensive review of the NAWONGO court case appropriately titled *The Size of the Pie and How to Cut It,* which is available on the website of the Centre for Child Law of the University of Pretoria.[7] Annexure A provides a summary of the key findings of the NAWONGO court judgements relevant to this PER.

In February 2018, NAWONGO announced its intention to return to court due to the Free State provincial DSD's failure to take any meaningful steps to implement the court's previous judgements

4 Including poorly structured SLAs, the late signing of SLAs, arbitrary cuts in funding and limited monitoring of service quality.
5 Note that the national Minister of Social Development was the second respondent, but did not oppose the case.
6 *National Association of Welfare Organisations and Non-Governmental Organisations and Others vs the Member of the Executive Council for Social Development, Free State and Others* (Case no: 1719/2010. Free State High Court)
7 Budlender, D., 2016. *The Size of the Pie and How to Cut It: Assessing the NAWONGO Case and the Effects on Social Welfare Allocations for Children*, Centre for Child Law, University of Pretoria. Available at http://www.centreforchildlaw.co.za/publications.

and align its NPO funding policy and level of funding appropriately.[8] There is also an initiative by NPOs in the Eastern Cape to launch similar court action against the government around the funding of NPOs.[9]

1.2 Purpose and scope

This study does not fit the typical mould of the PER methodology, in that it is not examining the delivery and funding of a government programme. Rather, its purpose is to work out the funding consequences of the four High Court judgements delivered in the NAWONGO court case. Therefore, the methodology for the study was crafted to realise this purpose.

National Treasury's stated objectives for the PER are to:

- assess the quality of the completed costing model[10] provided to the Free State government and to the court, recognising data limitations;
- provide a succinct analysis of the main cost drivers and overall cost implications; and
- based on the assessment of the work, provide an understanding of the cost implications for the provinces.

It is envisaged that the execution of this PER will contribute to achieving the following outcome:

> *Government is able to budget for NGO funding in compliance with court rulings,*

and that this in turn will have the following overall impact:

> *A financially sustainable NGO sector.*

1.3 Unpacking the objectives of the PER study

When a provincial DSD is planning the delivery of social welfare services, it can choose from the following modes of delivery:

- *Mode 1 – in-house delivery*: the department delivers the service itself.
- *Mode 2 – contracting out delivery*: the department uses the supply chain management process to conclude a commercial contract with an entity (usually a for-profit business) to deliver the service on its behalf.
- *Mode 3 – subsidising the provision of a service:* the department concludes a funding agreement with an NPO to subsidise the services that the NPO delivers.

8 See two articles in the Volksblad:
https://www.pressreader.com/south-africa/volksblad/20180221/281500751730165/textview
https://www.pressreader.com/south-africa/volksblad/20180223/281702615197683

9 Letter from Weber Wentzel Attorneys to the Acting HOD of the Eastern Cape DSD, regarding "Enquiry on the policy of the Eastern Cape Department of Social Development relied on to reduce subsidy grants to NGOs" dated 18 February 2018.

10 The Combined Costing and Allocation Model developed by KPMG for the Free State provincial DSD – referred to in this study as the FS Costing Model.

- *Mode 4 – funding an entity to provide the service on its behalf*: the department concludes a funding agreement, usually with an NPO, to fully fund the delivery of the service on behalf of the department. The funds are paid to the NPO by means of a transfer.

To date, provincial DSDs have regarded transfers to NPOs as facilitating the delivery of social welfare services through Mode 3, i.e. they have understood the transfers to be subsidising the services that NPOs deliver. The NAWONGO judgement states that this mode of securing social welfare services “fails to recognise, as a fundamental principle of funding, that NPOs that provide care to children, older persons and vulnerable persons in need as well as statutory services, fulfil constitutional and statutory obligations of the department.”[11] By this finding, the court is laying down that provincial DSDs must use Mode 4 to secure the delivery of services through NPOs.

Restated, the objective of this PER study is to work out: *What will it cost each provincial DSD to move from Mode 3 to Mode 4 in respect of the social welfare services it currently subsidises NPOs to deliver?*

To answer this question, the following information is required:

(a) Information on what services the provincial DSD is funding NPOs to deliver.

(b) Information on the level of funding allocated to each NPO.

(c) Information on the number of beneficiaries each NPO is serving.

(d) The reasonable cost of fully funding the NPOs to deliver the services to the specified number of beneficiaries.

The main body of work for this PER related to obtaining and processing the information referred to in items (a), (b) and (c) above. Then, using this information to estimate the cost implications for all provinces, using the FS Costing Model developed for the Free State provincial DSD.

1.4 Information used in conducting the review

Annexure H sets out a list of the documents referenced in the course of conducting this study.

1.5 List of documents that make up the review

This report is one component of a large body of work that comprises the PER. Much of the work consists of spreadsheets in MS Excel, and so cannot be attached to the report as annexures. The following outputs form part of the review:

01. Funding flow process maps for NPO allocations - Final

02. Logframe with programme elements - Final

03. List of Welfare Services and Priority Index

04. SWS Fact Sheet template

05. Consolidated Provincial DSD BAS data 2016-17 – Final

06. Provincial DSD expenditure on SWS - BAS analysis – Final

07. Costing the Implications of NAWONGO – Final

[11] See paragraph 47 of the First NAWONGO Judgement, 5 August 2010.

In addition, there is

- a flat file with NPO transfer and beneficiary data for each province.
- a copy of the FS Costing Model 2017 set up for each province.

All these files have been submitted to Government Technical Advisory Centre (GTAC) in electronic format.

2. Defining the social welfare services being provided and funded

To work out the cost to provinces of funding social welfare services provided by NPOs, a large part of the challenge is to understand the scope, content and nature of the services, how they are provided, and therefore how they might best be costed and funded.

The Free State NPO funding policy approved in the fourth NAWONGO judgement sets out a prioritisation schedule (Annexure B1) that lists thirty-four social welfare services. The original schedule presented to the court in the second judgement covered forty services. ECD was excluded from the later schedule because the department decided to ring-fence its funding – which is not unreasonable, given the way ECD services are being prioritised and financed by government. Other services were collapsed into the “integrated social work” item, which lead to the prioritising of certain services that had been lower down on the first prioritisation schedule. There are also some obvious gaps in the later schedule, which appear to reflect whether NPOs are funded to provide the services in the Free State or not.

For the most part, the names of the thirty-four services do not correlate with the service names used by other provincial DSDs. Indeed, national DSD has not established a uniform approach to naming and defining of services in the sector. As a result, service names and the meanings of service names differ widely across provincial DSDs, and sometimes even between districts within a single department.

The absence of an agreed, standardised list of defined social welfare service names within the sector means that

- it is difficult, if not impossible, to consolidate service delivery information across provinces;
- comparing the funding of services across provinces with similar names may be misleading because the content of the services may not be the same; and
- frequently, the names used by provinces are very general, which obscures the nature and content of the service.

The absence of a standardised list of defined social welfare services greatly complicated efforts to analyse the delivery and funding of services provided by NPOs, and impacted on the progress this PER was able to make in establishing the cost implications to provinces of complying with the NAWONGO judgements. See section 5 and Annexure F for more details.

The following subsections present some initial work done on outlining and describing the scope of social welfare services. It is envisaged that this work should be taken further by the national DSD and developed into a standard list of defined social welfare services that can underpin the planning, funding and monitoring of social welfare services.

2.1 Defining the scope and content of social welfare services

As part of a separate project for the National Treasury, Cornerstone Economic Research developed a list of all the social welfare services that are currently funded by national DSD and the provincial DSDs, as well as developed a proposal on how social welfare services should be defined. This work is set out in two MS Excel documents:

03. SWS List and Priority Index and

04. SWS Fact Sheet template.

The SWS List and Priority Index seeks to identify and define the social welfare service interventions that the state funds. To date, sixty-four distinct services, social grants and key management activities have been identified. The list is organised according to the provincial DSD budget programme structure, except where the services fall within national DSD. Where appropriate, services are broken down further into service components and activities. It needs to be emphasised that the compilation of this list is an ongoing process.

Figure 1 on the following page is a sample from the SWS List and Priority Index to show how it is structured. In the list:

- the items in red are the social welfare services or key interventions – of which there are 64;
- the items in brown are the service components – of which there are 127'
- the items in green are the activities – of which there are currently 293.

Figure 1 Structure of the SWS List and Priority Index list of social welfare services

Programme	Sub-Programme	Management processes	Services	Components of service	Mode delivery	Activities
P2 Social Welfare Services						
P2	Management And Support					
P2						
P2	Services To Older Persons					
P2			Community Based Programmes for older persons			
P2				Active Aging Programmes (Govt)		
P2						Golden games
P2				Active Aging Programmes (NGOs)		
P2						Golden games
P2				Service centres managed by funded NGOs		
P2				Luncheon clubs managed by funded NGOs		
P2				Meals on wheels		
P2				Protection of financial resources		
P2						Financial Advice
P2						Pension Administration
P2						Pension Procuration
P2				Prevention and Promotion Programmes		
P2						Group Work/Projects: Social Objectives
P2						Group Work/Projects: Economic Objectives
P2						Care Rings
P2						Community Work/Community Structures
P2						Social Work Monitoring
P2						Transporting elderly people
P2						Field work assessments
P2						Placements
P2						72 Hour Assessments (Psychiatric Evaluations and
P2			Home Based Care for older persons			
P2						Intake
P2						Assessments

Source: 03. SWS List and Priority Index.

The SWS List and Priority Index highlights that government is funding a very wide range of social welfare service interventions, and therefore the task of developing a costing for each service is a very large undertaking – and may not be a practical way of approaching the issue.

Building on the SWS List and Priority Index, we developed a SWS Fact Sheet Template. The idea is to use the template to define the content of each service, i.e. a separate fact sheet would be produced for each service. Figure 2 and Figure 3 below and on the following page illustrate the structure and use of the template with reference to Victim Empowerment Programmes (VEPs).

Figure 2 Structure of the SWS Fact Sheet Template – VEP

1 Service:	Victim empowerment services	2 Programme:	P4 Restorative Services	3 Primary Legislation	Domestic Violence Act, 116 of 1998 Children's Act, 38 of 2005 Criminal Law (Sexual Offences and Related Matters) Amendment Act, 32 of 2007 Older Person's Act, 13 of 2006
Service description					
Target group/s	Women, Victims of domestic violence, Victims of sexual assault and rape, Abused children, Abused older persons, Abused people with disabilities, Victims of human trafficking, Victims of hate victimisation	Sub-programme:	Victim empowerment	Statutory frameworks, policies and guidelines	Service Charter and Minimum Standards for Victims of Crime in SA National Crime Prevention Strategy, 1996 National Policy Guidelines for Handling of Victimes/Survivirs of Sexual Offences, 1997 Service Charter for Victims of Crime in SA, 2004
Eligibility	Universal	Sub-sub-programme:	Victim empowerment	Norms and standards	Minimum Standards on Services for Victims of Crime, 2004 National Norms and Standards for CYCCs
4 Past Research					
Useful Research	CSIR. 1999. Crime Prevention Centre (CPC).1999. From Policy to Practice: Exploring Victim Empowerment Initiatives in South Africa. Nel J. and Kruger J. CSIR Pretoria. CSIR. 2001. Crime Prevention Centre (CPC). Baseline Study on Domestic Violence. Marthi du Plessis, October. Pretoria. Unpublished. Masuku S. 2002, Prevention is better than Cure (Addressing violent crime in South Africa. Institute for Security Studies, SA Crime Quarterly No 2, November 2002 Masuku S. 2003, For Better and For Worse South African Crime Trends in 2002. Institute for Security Studies, SA Crime Quarterly No 3, March 2003				
Previous costing rese					
	Activities				
5 Activities	Health care, medico-legal services, & evidence	Care, support & social reintegration	Prosecution & conviction & court assistance	Reintegration & Rehabilitation	
Description	For detailed description of each activity follow the links by clicking on the name of each activity				
Comments:					

Source: 04. SWS Fact Sheet template.

If a similar Fact Sheet were produced for each of the listed social welfare services, there would be sixty-four Fact Sheets.

The **(5) Activities** line in Figure 2 above lists the activities required to deliver the relevant social welfare service. In this instance, the VEP programme consists of health care, medico-legal services, & evidence, care, support & social reintegration, prosecution & conviction & court assistance, and reintegration & rehabilitation activities. Each of these activities is described separately in a linked template. The template for the health care, medico-legal services, & evidence activities is presented in Figure 3 on the following page.

Figure 3 Structure of the Fact Sheet Template – VEP health care activities

❶ Activity:	Health care, medico-legal services, & evidence	❷ Main department:	Health	❸ Primary Legislation	Children's Act, 38 of 2005 Criminal Law (Sexual Offences and Related Matters) Amendment Act, 32 of 2007
Target group/s	Women, Victims of domestic violence, Victims of sexual	Programme:		Statutory frameworks, policies and	Service Charter and Minimum Standards for Victims of Crime in SA National Crime Prevention Strategy, 1996
Eligibility	Universal	Sub-programme:		Norms and standards	Minimum Standards on Services for Victims of Crime, 2004
❹ Past Research					
Useful Research Previous costing re					

Activities						
❺ Sub-activities	**Post Exposure Prophylaxis**	**Designation of public health facilities**	**Referral**	**Medico-legal services**		
Target groups						
Aim/Objectives	Receiving PEP for HIV infection at a public health facility at the state's expense. Given free medical advice w.r.t PEP.	Designate any public health facility for the purposes of providing PEP to victims and carrying out compulsory HIV	To other relevant service providers	In terms of a Clinical Forensic Health / Medicine Policy		
❻ **Legislation**						
Relevant legislation - s	Sexual Offences Amendment Act 2013 - sections 28,	Sexual Offences Amendment Act 2013 - sections 29				
Relevant regulations /	Gender policy guidelines for the Public Health Sector, 2002 Sexual Assault Policy					
Forms/Templates						
Other						
❼ **Demand & provision**						
Demographic data (demand)						
Current level of provision						
Factors affecting demand						
APP Demand						
❽ **Delivery mechanisms**						
Implementer	Health	Health				
Government support	Police					
❾ **Funding**						
DSD Own operational costs						
Transfers to NPOs						
Budget data/spending						

Comments:	

Source: 04. SWS Fact Sheet template.

For many services, the provincial DSDs fund NPOs to deliver against these activities, rather than the services as a whole. This complicates the issue of costing social welfare services for the purposes of funding NPOs still further.

2.2 Factors influencing the prioritisation of services for funding

There are different ways of describing or classifying social welfare services; the question is, do such classifications help us to better understand (a) the priority that should be given to such services, and (b) how NPOs providing the different services should be funded?

The NAWONGO judgements noted that government needs to properly plan the provision of services and, on the basis of such plans, indicate to NPOs which services it is prepared to fund. The court avoided giving guidance on which services should be prioritised, except to note that “a policy that excludes the most needy persons could not be said to be a reasonable measure.”[12]

The work on the SWS List and Priority Index also involved thinking through the factors that might be considered when prioritising services. The sections below set out proposals as to how these factors might be combined to compile a prioritisation index for social welfare services.

2.2.1 Beneficiaries of the service

Should certain beneficiaries enjoy greater priority in the provision of social welfare services than others? The question is partly answered by section 28 of the Constitution, which outlines the rights of children including their right to social services, their right to be protected from maltreatment, neglect, abuse and degradation, and their right to be protected from exploitative labour practices. Unlike other rights clauses in the Constitution, section 28 is not qualified by a “progressive realisation” provision, which many people argue indicates these rights of children are “immediately realisable”. On this basis, it is argued that the funding of social services for children should enjoy priority over social services for other groups.

If one considers only who the beneficiaries are (ignoring the level of harm being addressed), then one might put forward the following prioritisation list:

Table 1 Prioritisation based on the beneficiaries of a service

Beneficiary target group	Prioritisation score
Children	5
Women	5
Youth	4
Families	4
People with disabilities	4
Elderly	3
Offenders	3
Communities	2
Other	2

Source: 03. SWS List and Priority Index.

Note that the application of the list has been structured to be non-exclusive, i.e. a service that addresses the needs of children through reaching families can be scored under both the children and family headings. The list might also be expanded to include other categories of beneficiaries, for instance, victims.

In some instances, focussing on the immediate recipients of a service may hide who the intended beneficiaries are. For instance, a fatherhood programme aims to make children and women safer. This is difficult to capture in a simple matrix.

2.2.2 Level of harm being addressed

Different social welfare services are designed to prevent or address different kinds of harm, or to ensure social inclusion of vulnerable people, such as those with disabilities. The following table

[12] See paragraph 23 of the Fourth NAWONGO Judgement, 28 August 2014

seeks to capture the relative priority of services based on an understanding of the harm they address.

Table 2 Prioritisation based on level of harm being addressed

Level of harm	Prioritisation score	Description
High harm	5	Services that seek to intervene in situations where the level of harm is high or even life threatening. These services are often statutory in nature.
Medium harm	3	Services that seek to prevent high level harm situations or that address situations where the level of harm is medium in nature, i.e. does not require immediate intervention.
Nice to have	1	Services that address social concerns, but if they were discontinued the future individual and social consequences would be minimal. These services sometimes fall outside the sector's social welfare mandate.

Source: 03. SWS List and Priority Index.

2.2.3 Statutory/mandatory services

Statutory services describe those services that government is obliged to provide in terms of legislation. For instance, the Children's Act, 2005 places statutory requirements on social workers to manage and monitor foster care placements.

The Children's Act, 2005 contains provisions that distinguish between whether the MEC for Social Development "must" or "may" fund different services. These words were included so as to reflect the relative prioritisation of the services concerned. The following table provides a summary of the contents of these funding provisions.

Table 3 Summary of the sections in the Children's Act, 2005 dealing with funding

Section and service		Nature of the MEC's funding obligation	Funding conditional on compliance with the relevant norms and standards	Allocation of funding must be prioritised to poor communities	Must prioritise making service accessible to children with disabilities
s78	**partial care facilities**	may fund	yes + h&s	yes	yes
s93	**ECD programmes**	may fund	yes	yes	yes
s105	**designated child protection services**	must fund	yes	not mentioned	not mentioned
s146	**prevention and early intervention programmes**	must fund	yes	yes	yes
s193	**child and youth care centres**	must fund	yes + h&s	not mentioned	not mentioned
s215	**drop in centres**	may fund	yes + h&s	yes	yes

Note: "h&s" stands for "the structural safety, health and other requirements of the municipality".
Source: National Treasury, Guideline for the Management of Transfers, draft for consultation: 22 December 2016.

However, this "must/may fund" formulation is not found in other social welfare legislation such as the Probation Service Act (1991), Older Persons' Act (2006), Child Justice Act (2008) or the

Prevention of and Treatment for Substance Abuse Act (2008). Consequently, it cannot be used consistently as a prioritisation criterion across all social welfare services.

Whether a service is statutory or not largely depends on whether national DSD has legislated services in the area or not, and the scope and content of existing legislation. Certain legislation places explicit obligations on the state to provide specific services, while other legislation simply regulates the provision of services if they are provided. For instance, services to people with disabilities are completely unlegislated.

2.2.4 Desirable service characteristics

There are certain service characteristics that the sector wants to promote, for instance, prevention and early intervention versus response services, or community-based care versus institutional care. The following table sets out a list of service characteristics that should be considered when prioritising services.

Table 4 Prioritisation based on service characteristics

Service characteristic	Prioritisation score	Description
Statutory service / responsive	5	The service is required by law. These generally cover the responsive services that aim to address harm.
Prevention & early intervention	5	The service aims to prevent future harm or address situations that may lead to harm as early as possible.
Remedial	4	The service aims to remedy a harm that has occurred
Developmental	4	The service aims to build a community or individual up so that they can function better in society.
Supportive	3	A service concerned with providing physical / financial support, encouragement or emotional help.
Community based services	3	The service aims to keep people living in the community, as opposed to institutional accommodation.
Institutional residential	2	Providing institutional accommodation
Income generation	4	Service aimed at providing opportunities to earn an income.
Income maintenance	3	Material support or grant

Source: 03. SWS List and Priority Index.

One may want to add items to this list, redefine certain items or change the prioritisation score. The list is non-exclusionary, so a single service could score against a number of these characteristics, and the average score would feed into the calculation of the prioritisation index.

2.2.5 Evidence of effectiveness

Government needs to ensure sound use of public funds. Therefore, whether or not a service is effective in achieving its intended objectives is important. Ideally, the effectiveness of programmes should be evaluated at regular intervals. Special attention needs to be given to evaluating new programmes and services.

The following table sets out an effectiveness ranking for taking into consideration when prioritising social welfare services. The logic is that government should prioritise the funding of those services that have been shown to be more effective.

Table 5 Prioritisation based on the effectiveness of services

Effectiveness	Prioritisation score	Description
High	5	There is good evidence that the service achieves its intended objectives.
Medium	3	There is some evidence that the service achieves its intended objectives, but the evidence is not fully convincing.
Low	1	There is limited or no evidence that the service achieves its intended objectives

Source: 03. SWS List and Priority Index.

2.2.6 Scalability of services

Many NPOs run highly effective programmes on a small scale, or on a pilot basis. The challenge is whether such programmes can be scaled-up successfully, since government needs to deliver social welfare services at scale. The following table sets out criteria for assessing the scalability of different social welfare services.

Table 6 Prioritisation based on the scalability of services

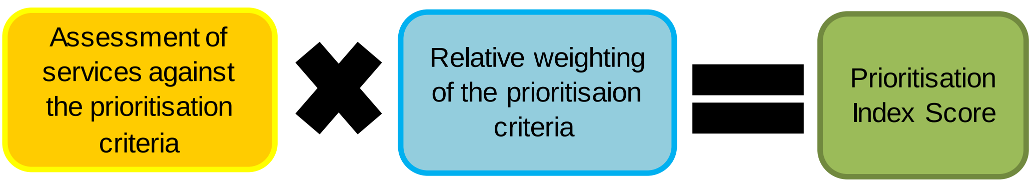
Scalability	Prioritisation score	Description
High	5	The service is already being delivered at scale or there is good evidence that a new service can be scaled-up successfully.
Medium	3	The service is already being delivered at a moderate scale, but further scale-up would be hard to achieve; or there is good evidence that a new service can be scaled-up to a moderate level of delivery
Low	1	The service does not lend itself to being delivered effectively at scale, relative to the need for the service, or there is no evidence that a small-scale intervention can be taken to scale or not.

Source: 03. SWS List and Priority Index.

2.3 Developing a social welfare service prioritisation index

Using the factors or criteria presented in section 2.2, an index was developed that ranks the sixty-four services, social grants and key management activities undertaken/funded by national and provincial DSDs in order of priority. The full workings are presented in the *03. SWS List and Priority Index* spreadsheet, together with the resulting prioritised list of services/activities.

The calculation of the prioritisation index consists of two parts, as follows:



The following figure illustrates the assessment of services against the five prioritisation criteria.

Figure 4 Example of an assessment of services against the prioritisation criteria

Highlight All services

		Beneficiaries of service									Level of harm			Service characteristics									Evidence of effectivenes			Potential for scale up		
	Weighting for ranking	5	5	4	4	4	3	3	2	2	5	3	1	5	4	4	4	3	3	2	4	3	5	3	1	5	3	1
Programme	Sub-Programme / Management processes / Services / Components of service / Mode delivery / Activities	Children	Women	Youth	Family	People with disabilities	Elderly	Offenders	Communities	Other	High harm	Medium harm	Nice to have	Statutory / Responsive	Prevention & early intervent	Remedial	Developmental	Supportive	Community residential	Institutional Residential	Income generation	Income maintenance	High	Medium	Low	High	Medium	Low
2 Social Welfare Services																												
P2	Management And Support																											
P2	Services To Older Persons																											
P2	Community Based Programmes for older persons						X						X				X	X						X			X	
P2	Home Based Care for older persons						X					X			X		X	X					X				X	
P2	Residential for older persons						X					X								X			X			X		
P2	Protection of Older Persons from Abuse						X				X			X	X	X		X							X		X	

Source: 03. SWS List and Priority Index.

With reference to the above figure:

- The beneficiaries of service and service characteristic criteria are non-exclusive, and so the average score of a service against each of these elements feeds into the calculation of the prioritisation index.
- All the other prioritisation criteria are exclusive, i.e. a service can only be scored against one of the items listed.

The following table sets out the weightings currently being applied to the five prioritisation criteria.

Table 7 Weightings applied to the prioritisation criteria

Prioritisation criteria	Relative weightings	Rationale
Beneficiaries of the service	15%	Not too much weight should be attached to the age or gender of a beneficiary, but rather the level of harm being addressed and kinds of service an individual requires.
Level of harm being addressed	30%	Top priority needs to be given to services that prevent or respond to the most serious kinds of harm, i.e. address the needs of the most vulnerable.
Characteristics of services	25%	Services with desirable characteristics should be prioritised.
Evidence of effectiveness	20%	Services that are more effective should be given higher priority, but the issue of effectiveness should not be overemphasised at the expense of services that tackle difficult issues.
Scalability of services	10%	Scalability is a consideration particularly for new services, however, it is less important than the other criteria.
Overall ranking	**100%**	

Source: 03. SWS List and Priority Index.

Note that the relative weightings applied are based on a purely subjective evaluation of the different criteria with reference to the rationale set out to the right of the table. There is really no definitively "right" weighting, only one that makes logical sense. These weightings can be easily changed in the calculation, which would impact on the ranking order of services in the prioritisation index.

Indeed, subjective decisions underpin the entire structure of the ranking tables and the scoring – the numbers merely reflect the outcomes of each of these decisions and serve as a record of the rationale for the prioritisation that emerges from the process. The numbers themselves do not determine the outcome of the exercise, but rather the quality of the decision-making around the choice of criteria and the allocation of scores. There is also no reason why the final ranking produced by this indexing exercise should not be further modified by reasoned but subjective changes – after the fact, as it were.

The following table sets out the results of ranking thirty-six social welfare services using the above methodology for thinking through the issue of priority. Note that the last item on the list was not scored.

Table 8 Ranking of services using the prioritisation index

Rank	Services	Prioritisation Index Score
1	Adoption Services	4.88
2	Designated child protection services	4.83
3	Removal of a child to temporary safe care	4.67
4	Foster Care Services	4.50
5	Day Care for Persons with Disabilities	4.35
6	Children's Homes - CYCC	4.27
7	Temporary Safe Care - CYCC	4.27
8	In Patient Treatment	4.20
9	Out Patient Treatment	4.08
10	Rehabilitation Programmes for Persons with Disabilities	4.05
11	Childline	4.02
12	Services to Child Headed Households	3.97
13	Child and family units	3.95
14	Substance Abuse Prevention Programmes	3.90
15	Shelters For Abused Women	3.90
16	Drop-in centres for children	3.88
17	Violence against Women and Children Programmes	3.65
18	Victim Empowerment Services	3.65
19	Restorative Programmes	3.65
20	Community Based Care and support for Persons with Disabilities	3.63
21	Protection of Older Persons from Abuse	3.45
22	Child Diversion	3.45
23	Schools of Industry - CYCC	3.37
24	Reform Schools - CYCC	3.37
25	Centre Based ECD services	3.35
26	Community Based Care for People Living with HIV and AIDS	3.33
27	Social Crime Awareness and Prevention Programmes	3.22
28	Training ECD Practitioners	3.15
29	Non-centre based ECD programmes	3.05
30	Social Relief of Distress Programme	3.00
31	EPWP Work Opportunities for Vulnerable Groups	3.00
32	Protective workshops for Persons with Disabilities	2.58
33	Community Based Care Services for Children	2.45
34	Disability Prevention Programmes	1.85
35	Girl Child Programmes	1.35
36	Temporary safe care for children affected by substance abuse	0.00

Source: 03. List of Welfare Services and Priority Index.

It is proposed that national DSD and provincial DSDs should consider using this or a similar methodology to assist them in thinking through the prioritisation of social welfare services in a structured way for purposes of funding existing services and planning the expansion of access to services, as discussed in section 7.2 and Annexure C.

3. Analysis of institutional and funding arrangements

3.1 Arrangements for the delivery of social welfare services

Social welfare services are listed in Schedule 4 Part A of the Constitution, which means they are a concurrent function. The Constitution provides that provinces may legislate for concurrent functions, and national legislation will only override such provincial legislation if the national legislation is deemed necessary to maintain national norms and standards, etc.[13] However, to date, none of the provinces have done so. There is only national legislation governing social welfare services, though in some service areas there is no governing legislation.

Government plays four distinct roles when it comes to the provision of social welfare services, namely: policy maker, regulator, funder and provider. The following table sets out how these roles are divided between national DSD and provincial DSDs in current practice.

Table 9 Division of roles between national DSD and provincial DSDs

Roles	National DSD	Provincial DSDs
Policy maker	Sets the overall policy framework for the delivery of social welfare services through: – national policy documents – national legislation & regulations – frameworks and guidelines	– Provide input to national policy initiatives. – Adapt national frameworks and guidelines to the provincial context. – Set provincial service delivery priorities.
Regulator	Exercise oversight of provincial implementation and compliance with national legislation, frameworks and guidelines – though in most areas this oversight is not done systematically.	Registering and monitoring of institutions and non-government providers of social welfare services to ensure compliance with norms and standards.
Funder	*2016/17 expenditure: R1.43 billion (excludes social protection)* – Represents the sector in the division of revenue and national budgeting processes. – Responsible for the conditional grant for ECD. – Budgets for and manages the disbursement of funds to a limited number of national NPOs.	*2016/17 expenditure: R17.53 billion, of which 39% goes to funding NPOs* – Responsible for mobilising funds through the provincial budget process for the provision of services. – Manage the funding of NPOs that provide social welfare services on behalf of the state.
Provider	Responsible for the direct provision of a limited number of services, e.g. managing international adoptions.	Responsible for planning and managing the delivery of social welfare services either in-house or through other mechanisms such as funding NPOs.

Source: Team analysis

With reference to Table 9 note following three points:

i. Provinces must budget for the delivery of social welfare services

The current division of roles provides that national DSD sets the policy and legislative framework and provinces are responsible for the funding and delivery of services. So, provinces are responsible for ensuring the adequacy of budgets for social welfare services; whether those services are provided in-house or through the funding of NPOs. Any funding gap is, firstly, a provincial responsibility, and needs to be resolved through reprioritising the allocation of funds in the provincial budget in favour of the provincial DSD and social welfare services.

However, provinces' responsibility for ensuring the adequacy of budgets for social welfare services needs to be understood within the context of the following two points.

13 See section 146 of the Constitution.

ii. Separation of policy-making and funding roles, and unfunded mandates

The separation of the policy-making and funding roles raises the risk of unfunded mandates:

- national DSD, through policy and legislative instruments, mandates provinces to deliver specific welfare services, and sets norms and standards regarding access and quality;
- provinces have to provide the required budgets to deliver the specified services in accordance with the prescribed norms and standards;
- but if national government does not provide provinces with adequate funds through the division of revenue process to enable them to properly fund the specified services, then it could be argued that national government, through national DSD's policy and legislative activity, is imposing unfunded mandates on provinces.

Although the above argument is straight forward, the reality is not so simple. Firstly, national DSD consults extensively with provincial DSDs when developing any national policy or legislation relating to social welfare services; therefore, it would be more accurate to describe the resultant policies and legislation as products agreed to by the sector rather than as national DSD mandates imposed on the provinces. Secondly, any ordinary bill affecting provinces tabled in Parliament has to follow the legislative process set out in section 76 of the Constitution. This process provides for a greater role to be played by the National Council of Provinces in approving legislation, so as to protect the interests of provinces. All legislation dealing with social welfare services follows the section 76 legislative process, so provinces, through their representatives in the National Council of Provinces, have an opportunity to consider and modify the mandates the legislation is imposing on them. Thirdly, national DSD has been proactive in getting policy and legislative proposals costed in line with section 35 of the Public Finance Management Act; this means that provinces and provincial DSDs have been aware of the funding responsibilities at the time most of these policy and legislative mandates were developed.

So, where does the current disconnect between ambitious national service mandates and the limited provincial funding available to the sector come from? It is suggested that the following factors have played a role:

- the focus of policy-making in the sector has been on legislating best practice, largely driven by the involvement of experts with a rights-based approach. As a result, the sector's legislation sets very high standards, rather than specifying minimum acceptable norms and standards for services that take account of the funding and capacity limitations confronting the sector and the country;
- policy development has been informed by an overly optimistic view that if something is provided for in legislation, government is obliged to fund it. This is reflected in the debate around the use of the words "must" and "may" in the specification of services in the Children's Act, 2005;
- the sector, led by the national DSD, has not been very effective in presenting a compelling case for increased funding for social welfare services in the government forums that manage the division of revenue process (MTEC, Budget Council, cabinet and Parliament). The main weakness has been the lack of a credible medium-term funding strategy and clear national-led implementation plans; and

- the sector has historically only subsidised the NPO sector to fill the service gap, relying on it to raise the additional funds required from private sources. In other words, provinces have to date not taken responsibility for fully funding the provision of social welfare services by NPOs, a fact highlighted and changed by the NAWONGO judgement.

As noted above, provincial governments carry the primary responsibility for ensuring appropriate budgets for social welfare services. Analysis of expenditures indicates that certain provincial governments have not given adequate priority to the funding of social welfare services. Also, on occasion, when additional resources have been added to the provincial equitable share for social welfare services, certain provinces have diverted these funds to other priorities.

iii. Potential for conflicts between funder, regulator and provider roles

The regulatory role is split between national DSD and the provincial DSDs. National DSD sets the regulatory framework through legislation, regulations, frameworks and guidelines, which provincial DSDs have to both adhere to themselves and enforce within the sector.

This means that, in respect of in-house services, the provincial DSDs are the funders, providers and regulators of the services. The funder and provider roles go naturally together, but the fact that there is no arms-length relationship in the exercise of the regulatory role is problematic – potentially leading to the department being soft on itself when it comes to enforcing compliance with norms and standards in the provision of in-house services.

This conflict of interest is removed when provincial DSDs exercise oversight of the services provided by NPOs or other private entities. Although other issues arise:

Firstly, if the provincial DSD is funding an NPO to provide a service, to what extent is the department responsible for ensuring the level of funding provided is sufficient to enable the NPO to meet the prescribed norms and standards for the service? Or can the department, as funder, provide an inadequate subsidy for the service, and then, as regulator, find the NPO to be in breach of the norms and standards applicable to the service? This question was answered by the NAWONGO judgement as follows:

- when government funds an NPO to provide a service, it needs to recognise that the NPO is providing a service that government would be obliged to provide itself;[14]
- therefore, government is obliged to fully fund the NPO so that it is able to provide the service according to the prescribed norms and standards.[15]

Secondly, the department, as funder, has an obligation to ensure the NPO implements effective, efficient and transparent financial management and internal control systems[16] to ensure that the allocated funds are applied for their intended purpose.[17] However, the department, as regulator, also has to ensure that the NPO complies with the prescribed norms and standards in the delivery of the services. Generally, provincial DSDs have tended to place greater emphasis on exercising oversight of NPOs management and use of funds rather than ensuring NPOs comply with the

[14] See paragraph 47 of the First NAWONGO Judgement, 5 August 2010.
[15] See paragraph 22 of the Second NAWONGO Judgement, 9 June 2011.
[16] See section 38(1)(j) and(k) of the PFMA.
[17] See regulation 8.4 of the Treasury Regulations (March 2005).

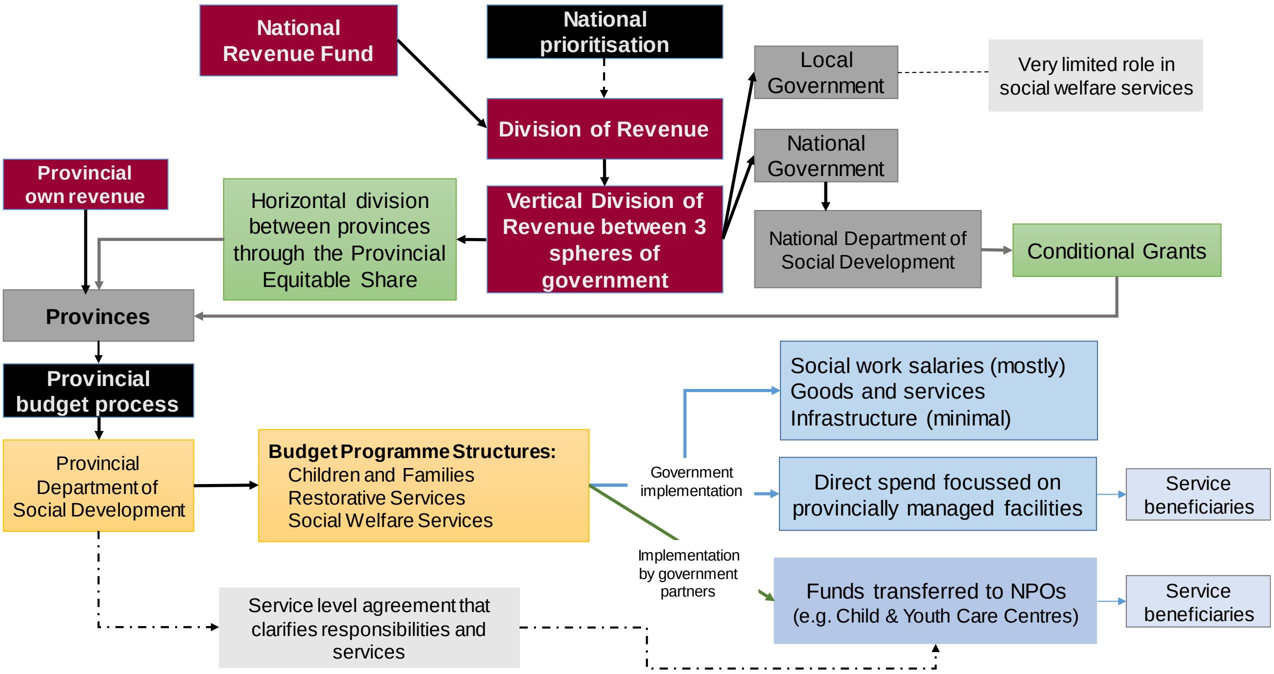
required service norms and standards. This suggests an unhealthy tension regarding their funder and regulator roles.

Ideally, provincial DSDs should clearly define their regulator role, possibly even creating separate capacity to ensure the role is exercised independently of the other roles they play.

3.2 Funding of social welfare services

The following figure shows the flow of government funds from the national revenue fund down to NPOs.

Figure 5 Flow of government funds to NPOs



Source: Team analysis - 01. Funding flow process maps for NPO allocations - Final.

With reference to Figure 5:

- The provincial equitable share formula consists of six components – Education, Health, Basic share, Poverty, Economic Activity, and Institutional. It is often argued that the absence of a "social development" component works against the funding of social welfare services. However, this argument does not hold because:
  - The provincial equitable share funding is untied funding, meaning provinces are free to allocate it in line with provincial priorities. This is done through the provincial budget process. A province's allocation to social welfare services is purely a function of provincial decision-making.
  - The purpose of the formula is to divide the total provincial equitable share equitably among the provinces. The education and health components are simply part of the overall strategy for doing so. They do not have any impact on what the provinces budget for these two functions.

- There are at least ten other provincial departments that are not mentioned in the provincial equitable share formula: roads, agriculture, sports, community policing, etc. The fact that they are not mentioned does not have an impact on what the provinces budget for these functions.

- The ECD conditional grant was introduced in 2017/18. These funds come from the national government's equitable share and are allocated through the national budget process to the national DSD, which transfers them to the respective provinces for spending. Provinces may only use these funds in accordance with the conditions set out in the conditional grant framework published with the Division of Revenue Act. The primary reasons for introducing this grant were (a) to force changes in the management of ECD funding (these management changes are set out in the conditional grant framework, and are set as conditions for the use of the funds) and (b) to ensure the funds flowed to ECD. In the past, new funds for ECD had been added to the provincial equitable share on the understanding that provinces would allocate them accordingly, but some provinces did not honour this "soft earmarking" and chose to allocate the funds elsewhere in their budgets.
- Over the years, new funds have been added to the provincial equitable share on the understanding that they are intended to strengthen provincial delivery of social welfare services. However, because equitable share funds are untied, some provinces have chosen to allocate the funds elsewhere in their budgets. It is within their rights to do so. However, this has served to perpetuate and accentuate the unequal funding and provision of social welfare services between provinces (see analysis in section 4 below).

In terms of the Constitution, a province, acting through the provincial executive committee (provincial cabinet) and the provincial legislature, is free to compile its budget as it sees fit, based on provincial priorities. What the province's political leaders decide to allocate to the provincial DSD reflects the relative priority they give to the function vis-à-vis other functions and spending priorities.

3.3 Approaches to funding NPOs for different services

Possible approaches to funding NPOs for the provision of social welfare services include:

- *Per capita funding:* An NPO is funded a fixed amount per beneficiary they serve. The amount is defined in relation to a specific time period: a day, a month or a year. For instance, R15 per capita per day for eligible children in ECD centres. Usually the funding is linked to a named beneficiary, and the funding is only paid out based on proof that that named beneficiary was served; therefore, NPOs submit attendance registers against which the provincial DSDs pay the per capita subsidies. This procedure often results in long delays in the processing of payments.
- *Per place/bed funding:* Similar to per capita funding, except in this instance the funding is not linked to the number of beneficiaries served, but rather to the number of registered places / beds in the institution. This approach recognises that institutions have overhead costs that they incur irrespective of the varying number of beneficiaries served. Usually the funds are transferred according to a fixed payment schedule, and reporting procedures are used to check that the NPO is serving at least 80 per cent of the intended number of beneficiaries.

- *Post funding:* The provincial DSD subsidises specific posts within the NPO at a fixed rate. This approach is widely used in relation to NPOs that are delivering non-institution-based services like prevention, adoption, child protection and foster care services.
- *Programme-based funding:* This approach to funding a service is intended to cover the reasonable costs of all staff, items and other inputs (e.g. management) required to deliver the service on an ongoing basis. The calculation of the funding quantum may include post funding and per capita funding components, but would also include other cost components required to deliver the service. The focus should be on funding the institutional capacity required to deliver specific services, including the actual cost of the service delivery itself.
- *Project funding:* Here the department funds a NPO to deliver a specific defined output or set of outputs. The focus is on the outputs themselves. These are very often limited period funding agreements.
- *Funding of specific items:* Here the focus is on funding NPOs to purchase specific items like a vehicle or washing machine, or to perform specific renovations.

Legislation does not specify how provincial DSDs should structure funding agreements with NPOs; it is left open for department managers to decide what is appropriate in particular circumstances. However, the 2014 draft *Financing Policy for the Developmental Social Welfare Services* indicates that programme funding should replace all other forms of funding.

While the programme funding approach can be widely used in social welfare services, it is not clear that it is fit for purpose in all circumstances, for instance when funding an NPO to purchase specific equipment or the upgrading of buildings. Instead of trying to impose a one-size-fits-all approach to funding, the national DSD should describe a range of suitable approaches.

Currently, provincial DSDs are funding NPOs on the basis of post subsidies, per capita/place subsidies and programme funding.

There are concerns that, with post subsidies, (a) the level of funding is fixed (usually at the entry level) irrespective of the post incumbent's experience or years of service, and (b) they do not cover the associated operating costs of employing personnel (management) and enabling them to do their work (e.g. transport and materials). Similarly, per capita service subsidies do not recognise that most costs related to running facilities or programmes are fixed in nature and do not vary according to the number of beneficiaries served. Therefore, it is recommended that these two funding approaches should be converted to programme financing. Within a programme-based approach, certain items are likely to be costed on a per place or per post basis, but these would not be standalone amounts. They would be one cost component within the context of other cost components that make up the overall funding allocation for the programme.

Previous work done for National Treasury[18] on the management of transfers indicates that departments should use different types of funding agreements in different circumstances. The following table sets out the types of funding agreements and when they should be used.

[18] See National Treasury, *Guideline for the Management of Transfers,* draft for consultation: 22 December 2016

Table 10 Types of funding agreements

Type of funding agreement	*When should it be used?*
a) **Agreements to fund on-going programmes**	To make transfers to NPOs that provide services or run programmes[19] that are on-going in nature. This includes social welfare facilities such as shelters, drop-in centres, CYCCs, ECD centres, protective workshops etc. as well as programmes such as child protection services.
b) **Agreements to fund limited period projects**	To make transfers to NPOs to fund specific projects that are once-off and of limited duration, such as awareness/education campaigns or livelihood projects.
c) **Agreements to fund equipment or vehicles**	To make transfers to NPOs to enable them to purchase equipment or vehicles required for the provision of social welfare services.
d) **Agreements to fund the repair or renovation of existing infrastructure[20]**	To make transfers to NPOs to subsidise repairs and maintenance, renovations to existing buildings.

Source: National Treasury, Guideline for the Management of Transfers, draft for consultation: 22 December 2016

The National Treasury advises that, where appropriate, two or more types of funding agreement may be used in combination. These can be subject to separate SLAs, or be managed in terms of a single SLA. It also advises that funding agreements based exclusively on *post subsidies* and *per capita service subsidies* must be phased out and replaced by programme-based funding agreements.

There is thus agreement between national DSD and National Treasury that NPOs delivering social welfare services should be funded on the basis of programme-based funding arrangements. This does not exclude the use of per capita or per post information in the calculation of the funding quantum, but as already noted, these should not be standalone components in determining the funding quantum.

The NAWONGO judgements emphasised that it was not in the court's power to make an order specifying the financial amount to be allocated or the specific services to be funded. Nor does the judgement specify how the funding quantum for NPOs delivering services on behalf of government should be structured or calculated. The judgement simply emphasises that the government has an obligation to fully fund the reasonable core costs involved in delivering services so as to enable the NPOs to deliver in accordance with the prescribed norms and standards applicable to the service.[21]

19 A programme is a planned, coordinated group of activities and procedures for a specific purpose. Programmes cover a very wide range of social welfare services.

20 Once the policy uncertainty around government subsidising NPOs for the building of new buildings is resolved, then such transfers would fall into this type of transfer.

21 See the Third NAWONGO Judgement, 28 March 2013, and the Fourth NAWONGO Judgement, 28 August 2014.

4. Analysis of expenditure on social welfare services

The team analysed the BAS data for 2012/13 through to 2016/17 for each of the provincial DSDs. The consolidated provincial data is available in an MS Excel flat file:

05. Consolidated Provincial DSD BAS data 2016-17 - Final

Relevant data was extracted from this file and analysed. This analysis is presented in the following MS Excel file:

06. Provincial DSD expenditure on SWS - BAS analysis - Final

Also included in the above file, is information on provincial DSD's budgets and provinces' spending on education and health taken from provincial budget documents sourced on National Treasury's website.

This section presents the main findings of the analysis of the BAS expenditure information.

The focus of this analysis is on provincial DSDs' expenditure and NPI transfers[22] linked to the delivery of *social welfare services* across all provincial DSD budget programmes, not just Programme 2: Social Welfare Services. In compiling the expenditure, the following items were excluded:[23]

- expenditures and NPI transfers on the HIV and AIDS sub-programme in Programme 2 were excluded because Western Cape allocates funds for this function under Health, so including the remaining provinces' expenditure would skew the analysis. It could also be argued that this expenditure fits better with health, not social welfare services;
- expenditures and NPI transfers on the ECD and Partial Care sub-programme in Programme 3 were excluded because budgeting for ECD is being done separately from other social welfare services. There is also an ECD conditional grant that cannot be reallocated to other social welfare services;
- seventy-five per cent of expenditures and NPI transfers on Programme 5: Development and Research were excluded because it is assumed that this spending is on development and social mobilisation type interventions that do not fall under the normal definition of social welfare services; and
- a calculated proportion of expenditure on Programme 1: Administration was excluded. The proportion is based on the percentage share of the above items of the total expenditure.

Note that information on total spending and total NPI transfers are analysed in the abovementioned spreadsheet and can be reviewed there.

4.1 Expenditure on social welfare services

Table 11 on the following page shows total main budgets and total expenditure by provincial DSD, and then the level of over- or underspending by each department. Part C indicates that generally

[22] *Transfers to Non-Profit Institutions* (NPIs) is the accounting classification in the national Standard Chart of Accounts (SCOA) under which all transfer payments to NPOs are captured within the BAS system.

[23] Note that the spreadsheet has been set up to allow the user to either include or adjust the level at which these items are included/excluded.

provincial DSD's have shown good discipline in implementing their allocated budgets – with over/underspending within an acceptable five per cent margin of the main budget, except on the three occasions that are highlighted.

Table 11 Level of total spending against total budgets

(000 Rands)	Financial_Year 2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
A. Total main budgets for provincial DSDs					
Eastern Cape		2,015,205	2,158,958	2,230,784	2,383,626
Free State		951,229	973,054	1,020,074	1,145,164
Gauteng		2,896,320	3,524,662	3,963,972	4,235,362
KwaZulu-Natal		2,325,185	2,497,952	2,630,481	2,778,162
Limpopo		1,377,843	1,468,887	1,537,757	1,633,719
Mpumalanga		1,154,294	1,232,065	1,293,198	1,454,716
North West		1,082,130	1,241,360	1,334,112	1,414,986
Northern Cape		603,823	651,206	709,856	773,894
Western Cape		1,577,602	1,755,933	1,897,985	1,961,438
Total		**13,983,631**	**15,504,077**	**16,618,219**	**17,781,067**
B. Total expenditure by provincial DSD					
Eastern Cape	1,942,282	2,134,236	2,253,879	2,366,364	
Free State	962,711	956,336	1,002,691	1,089,323	
Gauteng	2,899,683	3,408,805	3,942,241	4,256,847	
KwaZulu-Natal	2,329,906	2,487,431	2,607,143	2,753,744	
Limpopo	1,315,002	1,708,584	1,585,496	1,659,384	
Mpumalanga	1,132,962	1,220,303	1,270,653	1,369,843	
North West	1,039,132	1,208,009	1,277,980	1,349,240	
Northern Cape	604,415	654,471	713,793	729,777	
Western Cape	1,580,143	1,733,842	1,892,072	1,959,993	
Total	**13,806,235**	**15,512,016**	**16,545,949**	**17,534,515**	
C. Percentage of over (+) or under (-) spending by provincial DSD					
Eastern Cape		-3.6%	-1.1%	1.0%	-0.7%
Free State		1.2%	-1.7%	-1.7%	-4.9%
Gauteng		0.1%	-3.3%	-0.5%	0.5%
KwaZulu-Natal		0.2%	-0.4%	-0.9%	-0.9%
Limpopo		-4.6%	16.3%	3.1%	1.6%
Mpumalanga		-1.8%	-1.0%	-1.7%	-5.8%
North West		-4.0%	-2.7%	-4.2%	-4.6%
Northern Cape		0.1%	0.5%	0.6%	-5.7%
Western Cape		0.2%	-1.3%	-0.3%	-0.1%
Total		**-1.3%**	**0.1%**	**-0.4%**	**-1.4%**

Note: Consistent budget data for 2012/13 could not be sourced.

Source: Team analysis - 06. Provincial DSD expenditure on SWS - BAS analysis - Final.

A similar analysis of the over/underspending of NPI transfers by provincial DSDs also indicates good discipline in implementing this component of the budget by seven of the nine provincial DSDs. North West and Mpumalanga are the only two departments where underspending on NPI transfers exceeds five per cent of the main budgets for this item.[24] With the available information, it is not

[24] See analysis on *5a-NPI transfers budgets* worksheet in *06. Provincial DSD expenditure on SWS - BAS analysis - Final.*

possible to say whether the underspending in these two departments is due to NPOs not spending their allocated transfers, or to the departments not managing the transfers properly. Information gathered on the issue of managing transfers for National Treasury indicates that the problems are most likely to lie with the respective departments management of the transfers. [25]

What the above analysis of spending versus budgets shows is that over/underspending has a very limited impact on the remaining analysis which focusses on expenditures.

Table 12 on the following page shows total expenditure on social welfare services by provincial DSD, and then spending on social welfare services as a percentage of total provincial expenditure (excluding capital expenditure) by province. The purpose of this table is to draw attention to the level of priority each province gives to budgeting for social welfare services within the context of the total provincial budget.

Table 12 Level of priority given to social welfare services in provincial budgets

(000 Rands)	Financial_Year 2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
A. Expenditure on social welfare services by province					
Eastern Cape	1,400,020	1,553,653	1,486,109	1,576,939	1,551,757
Free State	495,922	550,005	562,177	597,989	630,140
Gauteng	1,628,545	1,968,201	2,290,085	2,706,326	2,864,463
KwaZulu-Natal	1,563,131	1,798,944	1,693,535	1,580,449	1,715,765
Limpopo	859,571	1,008,038	945,486	1,023,184	983,975
Mpumalanga	475,445	877,326	705,547	741,362	759,699
North West	703,414	834,231	779,374	788,761	913,647
Northern Cape	332,784	364,497	419,472	445,071	471,896
Western Cape	1,137,181	1,249,423	1,343,122	1,485,773	1,576,783
Total	**8,596,012**	**10,204,319**	**10,224,907**	**10,945,854**	**11,468,124**
B. Expenditure on social welfare services as a percentage of total provincial expenditure - excluding capital					
Eastern Cape	2.7%	2.7%	2.6%	2.6%	2.4%
Free State	2.2%	2.2%	2.1%	2.2%	2.1%
Gauteng	2.4%	2.7%	2.8%	3.0%	2.9%
KwaZulu-Natal	2.1%	2.2%	1.9%	1.7%	1.7%
Limpopo	2.0%	2.3%	2.0%	2.0%	1.7%
Mpumalanga	1.7%	2.9%	2.1%	2.1%	2.0%
North West	3.0%	3.1%	2.7%	2.5%	2.6%
Northern Cape	3.4%	3.2%	3.5%	3.4%	3.3%
Western Cape	3.2%	3.1%	3.1%	3.2%	3.1%
Total	**2.4%**	**2.6%**	**2.4%**	**2.4%**	**2.3%**

Source: Team analysis - 06. Provincial DSD expenditure on SWS - BAS analysis - Final.

Part B of Table 12 shows that Free State, KwaZulu-Natal, Limpopo and Mpumalanga do not prioritise spending on social welfare services to the same extent as other provinces. In 2016/17, KwaZulu-Natal spending on social welfare services was only 1.7 per cent of total provincial expenditure, compared 3.1 per cent in the Western Cape and 3.3 per cent for the Northern Cape. These differences in the level of priority given to social welfare services within the overall provincial

25 See National Treasury, *Guideline for the Management of Transfers*, draft for consultation: 22 December 2016

budget are the primary driver of the unequal per capita spending on social welfare services across provinces observed below.

Note that between 2012/13 and 2013/14, Mpumalanga’s spending on social welfare services is reported to have grown very rapidly (by 84.5 per cent). This is driven by a large shift in expenditure from Programme 5: Development and Research to other programmes, as well as a R236 million increase in overall spending. This seems to suggest a deliberate attempt to redress backlogs. It does, however, impact on the year-on-year analysis presented in Table 13.

Part A of Table 13 shows the year-on-year growth in total provincial expenditure (excluding capital) by province, while part B shows the year-on-year growth in expenditure on social welfare services by provincial DSD. Part C of the table shows year-on-year growth in social welfare services expenditure minus year-on-year growth in total provincial expenditure (i.e. B-A). If the number is positive in this section, it indicates that the year-on-year growth in social welfare services is higher than the year-on-year growth in total provincial expenditure. This indicates that the province is prioritising social welfare services relative to other functions in the allocation of new funds. However, if the number is negative then the province is de-prioritising social welfare services relative to other functions in the allocation of new funds.

Table 13 Level of priority given to social welfare services in the allocation of new funds in provincial budgets

Financial_Year	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
A. Total provincial expendture (excluding capital) - year-on-year growth in expenditure					
Eastern Cape		8.6%	1.7%	6.6%	5.0%
Free State		8.3%	6.4%	3.0%	10.3%
Gauteng		6.8%	10.1%	10.6%	12.7%
KwaZulu-Natal		9.6%	6.2%	8.0%	7.2%
Limpopo		3.2%	9.3%	5.5%	12.5%
Mpumalanga		8.3%	8.3%	7.9%	7.7%
North West		14.1%	9.6%	5.9%	12.5%
Northern Cape		17.8%	4.0%	9.9%	8.5%
Western Cape		10.5%	8.7%	7.6%	9.7%
Total		**8.6%**	**7.2%**	**7.6%**	**9.5%**
B. Social welfare services - year-on-year growth in expenditure					
Eastern Cape		11.0%	-4.3%	6.1%	-1.6%
Free State		10.9%	2.2%	6.4%	5.4%
Gauteng		20.9%	16.4%	18.2%	5.8%
KwaZulu-Natal		15.1%	-5.9%	-6.7%	8.6%
Limpopo		17.3%	-6.2%	8.2%	-3.8%
Mpumalanga		84.5%	-19.6%	5.1%	2.5%
North West		18.6%	-6.6%	1.2%	15.8%
Northern Cape		9.5%	15.1%	6.1%	6.0%
Western Cape		9.9%	7.5%	10.6%	6.1%
National year-on-year growth in SWS		**18.7%**	**0.2%**	**7.1%**	**4.8%**
C. Year-on-year growth in SWS expenditure minus year-on-year growth in total provincial expenditure					
Eastern Cape		2.4%	-6.1%	-0.4%	-6.6%
Free State		2.6%	-4.2%	3.4%	-4.9%
Gauteng		14.1%	6.2%	7.6%	-6.8%
KwaZulu-Natal		5.4%	-12.1%	-14.7%	1.4%
Limpopo		14.0%	-15.5%	2.7%	-16.4%
Mpumalanga		76.2%	-27.8%	-2.8%	-5.2%
North West		4.5%	-16.2%	-4.6%	3.4%
Northern Cape		-8.3%	11.1%	-3.8%	-2.5%
Western Cape		-0.6%	-1.2%	3.0%	-3.5%
Prioritisation of SWS		**10.1%**	**-7.0%**	**-0.5%**	**-4.7%**

Source: Team analysis - 06. Provincial DSD expenditure on SWS - BAS analysis - Final.

The red shading in part C of the table indicates that, since 2013/14, all provinces have in one or more years de-prioritised spending on social welfare services relative to other functions in the allocation of new funds in provincial budgets. A province like the Western Cape has continued to grow spending on social welfare services, but in most years the rate of growth has been lower than the year-on-year growth in total provincial expenditure. This means the province has chosen to increase spending on other functions more rapidly than spending on social welfare services. In part B, the negative numbers in green shading indicate where provinces have cut spending on social welfare services from one year to the next. Of concern is the fact that the provinces that show the highest cuts in spending on social welfare services are also those that are not prioritising spending on social welfare services relative to other provincial functions in the first instance. So, these cuts in year-on-year spending accentuate the unequal spending on social welfare services across provinces.

The treatment of spending on social welfare services stands in stark contrast to how provinces prioritise spending on non-social services, education and health (excluding tertiary health services). Table 14 shows the year-on-year growth in provinces' spending on non-social services (i.e. total provincial spending less education, health and social welfare services.

Table 14 Provinces prioritisation of spending on non-social services

	Financial_Year 2013/2014	2014/2015	2015/2016	2016/2017
Percentage year-on-year growth in spending on non-social services				
Eastern Cape	15.1%	0.1%	8.1%	2.4%
Free State	14.2%	6.5%	5.6%	17.0%
Gauteng	5.1%	7.6%	2.4%	31.2%
KwaZulu-Natal	10.8%	4.6%	3.1%	2.8%
Limpopo	-9.7%	15.6%	4.6%	18.6%
Mpumalanga	7.2%	10.0%	2.4%	11.6%
North West	22.9%	22.3%	0.6%	17.2%
Northern Cape	39.0%	-3.8%	10.2%	5.1%
Western Cape	12.7%	9.6%	4.9%	11.4%
National year-on-year growth in non-social services	**9.9%**	**7.7%**	**4.1%**	**13.2%**

Source: Team analysis - 06. Provincial DSD expenditure on SWS - BAS analysis - Final.

Table 14 shows that between 2013/14 and 2016/17 year-on-year growth in spending on non-social services has been positive in all provinces in all years, except in Limpopo in 2013/14 when spending was cut by 9.7 per cent, and in Northern Cape in 2014/15 when spending was cut by 3.8 per cent. A similar level of prioritisation is given to education and health spending: between 2012/13 to 2016/17 only one province cut spending on education, namely Free State by 1.2 per cent in 2015/16.[26] Contrast this with Part B of Table 13 above which shows that Eastern Cape, KwaZulu-Natal and Limpopo cut expenditure on social welfare services in two of the four years in the period, and Mpumalanga and North West cut spending on social welfare services in one year out of the four in the period. This comparison confirms that provinces are not prioritising spending on social welfare services.

This is highlighted further in Table 15 below, which compares provincial DSD expenditure on social welfare services divided by the number of poor people (income quintiles 1, 2 and 3) in the province because it is assumed that social welfare services are primarily intended to serve this sector of the population. Note that the poverty component in the equitable share formula for the division of revenue uses quintiles 1 and 2, which is a narrower definition of poverty and directs funds to the poorer provinces.[27]

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26 See analysis on the Education & Health spreadsheet in *06. Provincial DSD expenditure on SWS - BAS analysis - Final.*

27 See *Annexure W1 - Explanatory memorandum to the division of revenue* (various years), which can be downloaded from www.treasury.gov.za.

Table 15 The extent of inequality in spending on social welfare services across provinces

(000 Rands)	Financial_Year 2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
A. Total spending on social welfare services divided by number of poor people in province (Q.1-2)					
Eastern Cape	303	328	306	318	307
Free State	286	313	316	333	345
Gauteng	278	331	379	439	454
KwaZulu-Natal	234	263	242	221	236
Limpopo	206	237	218	232	220
Mpumalanga	172	309	243	252	255
North West	325	377	345	346	392
Northern Cape	418	457	524	547	577
Western Cape	477	515	545	594	622
National average	**276**	**321**	**316**	**332**	**342**
B. Percentage deviation from the average per capita spending					
Eastern Cape	9.8%	2.0%	-3.2%	-4.1%	-10.3%
Free State	3.7%	-2.5%	0.2%	0.2%	0.9%
Gauteng	0.8%	3.1%	20.2%	32.1%	32.8%
KwaZulu-Natal	-15.3%	-18.2%	-23.4%	-33.4%	-30.8%
Limpopo	-25.2%	-26.2%	-31.0%	-30.2%	-35.7%
Mpumalanga	-37.7%	-3.7%	-23.1%	-24.2%	-25.3%
North West	17.8%	17.4%	9.2%	4.2%	14.6%
Northern Cape	51.7%	42.2%	65.9%	64.7%	68.7%
Western Cape	72.9%	60.5%	72.6%	79.1%	81.8%
Extent of inequality	110.6%	86.7%	103.6%	112.5%	117.5%

Source: Team analysis - 06. Provincial DSD expenditure on SWS - BAS analysis - Final.

The red shaded areas in part A show the provinces with per capita spending per poor person below the national average. The figures outlined with red dashes show per capita figures that are lower than the previous year – these correlate with the cuts in spending on social welfare services shown in the previous table.

Part B of the table shows the percentage deviation in per capita spending from the national average, i.e. it highlights the extent of the inequality across provinces. In 2016/17, Limpopo spent R220 per poor person on social welfare services, which is 36 per cent below the national average. At the other end, Western Cape spent R622 per poor person, which is 82 per cent above the national average. This means that the gap between Limpopo and Western Cape is 118 per cent in 2016/17. These figures correlate with those in Table 12, which show that Limpopo only allocates 1.7 per cent of total provincial expenditure to social welfare services, while Western Cape allocates 3.1 per cent. What is more, Limpopo cut spending on social welfare services by 6.2 per cent in 2014/15 and 3.8 per cent in 2016/17.

Of great concern is the fact that since 2013/14 the extent of inequality in spending on social welfare services has increased from 87 per cent to 118 per cent in 2016/17.

Again, the above analysis stands in contrast to provincial spending on education and health (excluding tertiary health services). This is illustrated for 2016/17.

Table 16 The extent of inequality in spending on education and health services across provinces

	Social welfare services		Education sector		Health sector	
	Total spending on SWS divided by number of poor people (Q.1-3) (Rands)	Percentage deviation from average per capita spending	Total spending on education divided by school enrollment 2015 (Rands)	Percentage deviation from average per capita spending	Total spending on health divided by risk adjusted population (Rands)	Percentage deviation from average per capita spending
Eastern Cape	307	-10.3%	14,658	-7.0%	3,039	-1.2%
Free State	345	0.9%	17,737	12.5%	2,948	-4.2%
Gauteng	454	32.8%	16,391	4.0%	2,584	-16.0%
KwaZulu-Natal	236	-30.8%	15,126	-4.0%	3,580	16.4%
Limpopo	220	-35.7%	15,092	-4.3%	3,239	5.3%
Mpumalanga	255	-25.3%	15,994	1.5%	2,894	-5.9%
North West	392	14.6%	16,301	3.4%	3,004	-2.4%
Northern Cape	577	68.7%	17,734	12.5%	4,287	39.4%
Western Cape	622	81.8%	16,820	6.7%	3,004	-2.4%
National average	**342**	-	**15,764**	-	**3,077**	-
Extent of inequality in spending		**117.5%**		**19.5%**		**41.7%**

Note: Total expenditure on health excludes spending on tertiary health services.
Source: Team analysis - 06. Provincial DSD expenditure on SWS - BAS analysis - Final.

Table 16 shows the percentage deviation in per capita spending from the national average, i.e. it highlights the extent of the inequality in education and health spending across provinces. It shows:

- Education – 20 per cent gap in 2016/17 – Eastern Cape spent R14 658 per learner enrolled in school in 2015, which is 7 per cent below the national average. At the other end, Free State spent R17 737 per poor child, which is 12.5 per cent above the national average.
- Health - 42 per cent gap in 2016/17 – Gauteng spent R2 584 per risk adjusted poor person on health services, which is 16 per cent below the national average. At the other end, Northern Cape spent R4 287 per risk adjusted poor person, which is 39 per cent above the national average.

In other words, spending on social welfare services is six times more unequal across the provinces compared to the education services, and nearly three times more unequal compared to health services.

At the transition to democracy in 1994, there were high levels of inequality in the provision of social welfare services across regions of the country, which were the deliberate product of apartheid policies. However, the above analysis indicates that these inequalities persist and are growing because the provincial governments in Limpopo, KwaZulu-Natal, Mpumalanga and Eastern Cape have deliberately and consciously decided not to prioritise spending on social welfare services in the allocation of funds in their provincial budget processes. In fact, the analysis shows that these provincial governments have cut spending on social welfare services in certain years, which provides a first line of evidence that they are failing to ensure the progressive realisation of the provision of social welfare services as required by the Constitution.[28]

[28] See section 27(2) of the Constitution.

The extent of inequality in spending on social welfare services is extreme and growing, and continues to reflect apartheid patterns of service provision. The fact that certain provincial governments have sought to respond to the recent constrained fiscal environment by cutting spending on social welfare services, while continuing to grow expenditure on non-social services is very worrying. Such cost cutting measures impact on the most vulnerable in society which echoes the callous mindset that resulted in the Life Esidimeni tragedy.[29] It calls into question these provinces commitment to upholding the constitutional values of “human dignity, the achievement of equality and the advancement of human rights and freedoms”[30]. Indeed, the level of inequality represents *prima facia* evidence of a violation of the state’s constitutional obligation to ensure that “services must be provided impartially, fairly, equitably and without bias.”[31]

4.2 Transfers to NPIs for the provision of social welfare services

In 2009, National Treasury’s *Provincial Budget and Expenditure Review: 2005/06 – 2011/12*[32] set out service delivery data for 2008/09, which showed that NPOs are responsible for running more than 98 per cent of the social welfare facilities and attending to more than 71 per cent of clients. In 2005/06, overall transfers to NPOs amounted to R1.7 billion, which was approximately 40 per cent of total social development expenditure. In 2009/10, transfers to NPOs increased to R3.4 billion, though the NPOs’ share of total social development expenditure declined to approximately 36.8 per cent.

Unfortunately, national DSD has not compiled a more recent set of performance information, so there is no current information on the extent of the role played by NPOs in providing social welfare services. The BAS information shows that, in 2016/17, total provincial transfers to NPIs were R6.5 billion, which was 38.6 per cent of total provincial social development expenditure (excluding capital). This indicates that NPOs’ role in the sector remains very significant.

Part A of Table 17 on the following page sets out information on transfers to NPIs for social welfare services by province, i.e. excluding transfers related to ECD services, HIV and AIDS and 75 per cent of transfers in Programme 5: Development and Research. Part B shows NPI transfers as a percentage of total expenditure on social welfare services by province. The purpose of the table is to show the extent to which provincial DSDs use NPOs to deliver social welfare services.

29 Read the whole report: Makgoba, M.W., 2018. *The Report into the ‘Circumstances surrounding the deaths of mentally ill patients: Gauteng Province”. Health Ombud: Republic of South Africa.*

30 See section 1(a) of the Constitution.

31 See section 195(1)(d) of the Constitution.

32 See page 84 of the *Provincial Budget and Expenditure Review: 2005/06 – 2011/12,* which can be accessed at http://www.treasury.gov.za/publications/igfr/2009/prov/default.aspxhttp://www.treasury.gov.za/publications/igfr/2009/prov/default.aspx.

Table 17 The extent to which provincial DSDs use NPOs to deliver social welfare services

(000 Rands)	Financial_Year 2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
A. Transfers to NPIs for social welfare services by province					
Eastern Cape	368,606	438,984	297,940	288,323	276,356
Free State	145,526	162,594	154,256	151,755	159,329
Gauteng	724,793	947,817	1,132,961	1,321,673	1,393,193
KwaZulu-Natal	517,811	593,811	424,878	439,629	472,924
Limpopo	263,426	268,177	118,581	196,314	191,996
Mpumalanga	235,736	322,666	189,988	220,838	214,086
North West	143,357	180,083	139,176	128,097	160,577
Northern Cape	49,261	67,057	71,291	76,914	76,307
Western Cape	570,554	610,887	627,487	726,542	748,028
Total	**3,019,069**	**3,592,076**	**3,156,557**	**3,550,086**	**3,692,797**
B. NPI transfers as a percentage of total expenditure on social welfare services					
Eastern Cape	26.3%	28.3%	20.0%	18.3%	17.8%
Free State	29.3%	29.6%	27.4%	25.4%	25.3%
Gauteng	44.5%	48.2%	49.5%	48.8%	48.6%
KwaZulu-Natal	33.1%	33.0%	25.1%	27.8%	27.6%
Limpopo	30.6%	26.6%	12.5%	19.2%	19.5%
Mpumalanga	49.6%	36.8%	26.9%	29.8%	28.2%
North West	20.4%	21.6%	17.9%	16.2%	17.6%
Northern Cape	14.8%	18.4%	17.0%	17.3%	16.2%
Western Cape	50.2%	48.9%	46.7%	48.9%	47.4%
Total	**35.1%**	**35.2%**	**30.9%**	**32.4%**	**32.2%**

Source: Team analysis - 06. Provincial DSD expenditure on SWS - BAS analysis - Final

This table is not supposed to include transfers related to ECD, HIV and AIDS and income generation programmes. However, new budget formats were introduced in 2014/15, and the structure of the data indicates that Eastern Cape, KwaZulu-Natal, Limpopo, Mpumalanga and North West have not re-classified their ECD transfers in 2012/13 and 2013/14, which is resulting in higher levels of transfers in these years (shown in red). The data for 2014/15 going forward appears to be reliable.

In 2016/17, transfers to NPIs were 32.2 per cent of total expenditure on social welfare services by provinces. There are significant differences between provincial DSDs: Gauteng allocates 48.6 per cent of its expenditure on social welfare services to NPOs; Western Cape is close behind at 47.4 per cent. At the other end, Northern Cape allocates only 16.2 per cent of its expenditure on social welfare services to NPOs, with North West at 17.6 per cent and Eastern Cape at 17.8 per cent.

Table 17 shows that despite the presence of the NAWONGO judgements (the last of which was delivered on 28 August 2014), the Free State government reduced its funding for NPOs from R162 million in 2013/14 to R154 million in 2014/15, and again to R151 million in 2015/16. So instead of complying with the High Court judgement[33] and increasing funding for NPOs, the Free State government chose to disregard it completely. Indeed, the government's actions could be seen as vindictive – punishing the NPOs that took it to court by reducing funding for them; and in the process

[33] See paragraph 27 of the Fourth Judgement, 28 August 2014.

showing complete disdain for the High Court and the rights of vulnerable children, older persons and other beneficiaries.

The contrast between Western Cape and Northern Cape is interesting because they have the highest levels of per capita spending per poor person on social welfare services (see Table 15), but the extent to which they rely on NPOs to deliver the services differs significantly. This undermines the argument that spending on social welfare services remains low in provinces like Limpopo and KwaZulu-Natal because there are not enough NPOs in these provinces with whom the departments can partner to deliver services. Rather, it indicates that a provincial DSD can build its own capacity to deliver social welfare services where the service is appropriately prioritised in budgets and there is the managerial capacity and the will to do so.

Part A of Table 18 below sets out the amounts provincial DSDs transferred to NPOs by programme in 2016/17. Part B shows NPI transfers as a percentage of total expenditure by programme (excluding capital). The purpose of the table is to highlight the extent to which provincial DSDs use NPI transfers to fund the provision of services across the different social welfare programmes.

Table 18 NPI transfers for social welfare services across provincial DSD programmes

		Provincial DSD programmes				
(000 Rands)	Total for 2016/17	Prg. 1 Administration	Prg. 2 Social Welfare Services	Prg. 3 Children & Families	Prg. 4 Restorative Services	Prg. 5 Development & Research
A. NPI transfers for social welfare services by programme by province - 2016/17						
Eastern Cape	276,356	0	123,596	92,111	60,650	0
Free State	159,329	0	63,269	71,530	16,217	8,313
Gauteng	1,393,193	0	315,671	734,991	281,062	61,469
KwaZulu-Natal	472,924	0	175,912	232,811	49,660	14,541
Limpopo	191,996	0	43,158	123,587	19,462	5,790
Mpumalanga	214,086	0	82,775	86,936	33,286	11,088
North West	160,577	0	64,502	66,763	25,456	3,855
Northern Cape	76,307	0	25,650	37,790	2,769	10,099
Western Cape	748,028	0	334,866	306,566	97,661	8,935
Total	**3,692,797**	**0**	**1,229,398**	**1,753,086**	**586,223**	**124,090**
B. NPI transfers as a percentage of total expenditure on social welfare services by programme - 2016/17						
Eastern Cape	17.8%	0.0%	26.1%	23.8%	17.3%	0.0%
Free State	25.3%	0.0%	39.7%	37.1%	15.2%	25.2%
Gauteng	48.6%	0.0%	78.7%	47.4%	64.4%	49.8%
KwaZulu-Natal	27.6%	0.0%	43.2%	33.0%	18.5%	28.8%
Limpopo	19.5%	0.0%	18.9%	31.2%	11.7%	13.0%
Mpumalanga	28.2%	0.0%	46.6%	35.1%	23.6%	27.0%
North West	17.6%	0.0%	20.1%	30.8%	12.0%	9.7%
Northern Cape	16.2%	0.0%	31.5%	24.8%	2.1%	33.4%
Western Cape	47.4%	0.0%	44.6%	94.0%	28.6%	71.8%
Total	**32.2%**	**0.0%**	**41.0%**	**42.0%**	**27.2%**	**27.8%**

Note: The table does not include transfers related to ECD, HIV and AIDS and income generation programmes.
Source: Team analysis - 06. Provincial DSD expenditure on SWS - BAS analysis - Final.

Part B of Table 18 shows the extent to which provincial DSDs use NPOs to deliver different services within each of the budget programmes. Firstly, provincial DSDs rely more heavily on NPOs to deliver services in Programmes 2 and 3 than Programmes 4 and 5. This is to be expected, since the more traditional social welfare services fall within the scope of the former programmes. Secondly, note the degree of variation across provinces within the same programme: Gauteng allocates 64.4 per cent of its spending on Programme 4 to transfers to NPIs, whereas Northern Cape allocates only 2.1 per cent.

The NAWONGO court case focussed on the issue of properly funding the services provided by NPOs on behalf of provincial DSDs. What the above table suggests is that moving towards uniform service funding standards for services provided by NPOs will have a differential impact on provinces, depending on (a) the extent to which the provincial DSD relies on NPOs to deliver services and (b) the gap between the current level of funding the provincial DSD provides and what is required to "fully fund" the provision of the service by an NPO. Depending on how these two factors are balanced, moving towards uniform service funding standards of the NPO-provided services across provinces may accentuate the already unequal spending patterns. For instance, if it is assumed the funding gap of NPO-provided services is similar between Eastern Cape and Gauteng, then moving to service funding standards would increase the required funding for 48.6 per cent of Gauteng's budget and only 17.8 per cent of the Eastern Cape's budget. Given the initial assumption, this would result in more unequal spending across these two provinces. In reality, the situation is more complicated – the funding gap is likely to differ across provincial DSDs and across services. So, the equity impact of moving to uniform services standards cannot be deduced from Table 18.

4.3 The cost of more equitable spending across provinces

Given that the prevailing inequitable spending pattern is very likely in violation of the Constitution, what would it cost to move towards greater equity in spending on social welfare services across provinces? The preceding discussion highlights two issues:

- Improving the level at which services provided by NPOs are funded is important, but it does not fully address the wider issue of unequal spending on social welfare services that has its origins in the unequal provision of services under apartheid, and has been perpetuated by certain provincial governments not prioritising social welfare services in the allocation of provincial budgets.
- In moving towards equity, the focus must not be on equalising transfers to NPIs across provinces. Such transfers are only one of the modes used by provincial DSDs to secure the provision of services. The focus needs to be on equalising spending on social welfare services across provinces and leaving it to each provincial DSD to decide whether to build up in-house capacity or partner with NPOs to improve access and coverage to social welfare services.

Using the analysis presented in Table 15, which shows total spending on social welfare services divided by the number of poor people in each province, as our point of departure, the team developed the following three scenarios to explore the cost implications of moving towards greater equity in spending on social welfare services across provinces:

(a) *Scenario 1 - Minimum set at 2016/17 national average per capita spending per poor person.* In this scenario, the starting point is R342, which is the average per capita per poor person spending on social welfare services across the nine provinces in 2016/17. If a province's spending per capita per poor person is below this amount, then we calculate what the gap is and what the province needs to budget to cover the gap. If a province's spending per capita per poor person is above R342, then it is assumed the province will maintain its current level of spending on social welfare services.

(b) *Scenario 2 - Minimum set at 25 per cent above 2016/17 national average per capita spending per poor person.* In this scenario, the starting point is R342 plus 25 per cent, i.e. R428. A similar methodology to that described for Scenario 1 is applied.

(c) *Scenario 3 - Minimum set at 2016/17 level of Western Cape per capita spending per poor person.* In this scenario the starting point is R622. This is Western Cape's level of spending per capita per poor person on social welfare services, which in 2016/17 was the highest of the nine provinces. A similar methodology to that described in Scenario 1 is applied.

The cost outcomes of these three scenarios are presented in Table 19 on the following page.

Table 19 Moving towards greater equity in spending on social welfare services

		Scenario 1	Scenario 2	Scenario 3		
(000 Rands)	2016/2017	Minimum set at 2016/17 national average per capita spending per poor person	Minimum set at 25% above 2016/17 national average per capita spending per poor person	Minimum set at 2016/17 level of Western Cape per capita spending per poor person	Scenario 3 as % of total provincial expenditure	2016/17 expenditure as % of total provincial expenditure
A. Scenarios to move to greater equity in spending on social welfare services across provinces						
Target minimum spend per poor person		R342	R428	R622		
Eastern Cape	1,551,757	1,729,868	2,162,335	3,145,167	4.9%	2.4%
Free State	630,140	630,140	780,419	1,135,138	3.8%	2.1%
Gauteng	2,864,463	2,864,463	2,864,463	3,921,764	3.9%	2.9%
KwaZulu-Natal	1,715,765	2,480,989	3,101,237	4,510,822	4.4%	1.7%
Limpopo	983,975	1,529,692	1,912,115	2,781,217	4.9%	1.7%
Mpumalanga	759,699	1,017,312	1,271,639	1,849,629	4.8%	2.0%
North West	913,647	913,647	996,544	1,449,497	4.1%	2.6%
Northern Cape	471,896	471,896	471,896	508,692	3.6%	3.3%
Western Cape	1,576,783	1,576,783	1,576,783	1,576,783	3.1%	3.1%
Total	**11,468,124**	**13,214,791**	**15,137,432**	**20,878,709**	**4.2%**	**2.3%**
B. Increases required over 2016/17 expenditure to fund greater equity					Increase in 2016/17 expenditure required to achieve Scenario 3	
Eastern Cape		178,111	610,578	1,593,410	103%	
Free State		0	150,279	504,998	80%	
Gauteng		0	0	1,057,301	37%	
KwaZulu-Natal		765,225	1,385,472	2,795,057	163%	
Limpopo		545,718	928,141	1,797,242	183%	
Mpumalanga		257,613	511,941	1,089,931	143%	
North West		0	82,897	535,850	59%	
Northern Cape		0	0	36,796	8%	
Western Cape		0	0	0	0%	
Total		**1,746,666**	**3,669,308**	**9,410,585**	**82%**	
Extent of inequality		**57%**	**43%**	**0%**		

Note: Doing the same analysis using quintiles 1 and 2 yields a higher cost result (R14.33 billion for Scenario 3) due to the distribution of poverty across provinces. See analysis on the 4. SWServices worksheet in 06. Provincial DSD expenditure on SWS - BAS analysis – Final.

Source: Team analysis - 06. Provincial DSD expenditure on SWS - BAS analysis - Final.

With reference to Table 19, the following:

- Scenario 1 shows that four provinces will need to increase spending on social welfare services in order to reach the current average per poor person spend of R342. Limpopo will have to add R546 million to its current 2016/17 level of expenditure, which is a 55 per cent increase. KwaZulu-Natal will have to increase spending by 45 per cent, and Mpumalanga by 34 per cent to reach the R342 per poor person target. The changes proposed by this scenario would reduce the extent of inequality from 118 per cent down to 57 per cent.
- Scenario 2 shows that the same four provinces as in Scenario 1, plus North West and Free State , will need to increase spending on social welfare services to reach the minimum target level of R428. This scenario would reduce the extent of inequality down to 43 per cent.
- Scenario 3 shows that for the other eight provinces to match Western Cape's 2016/17 level of R622 per poor person spending on social welfare services, they will need to increase their combined spending by R9.4 billion, an increase of 82 per cent over the current total combined spending on social welfare services. This scenario would eliminate all inequality in spending on social welfare services across provinces.
- In Scenario 3, Limpopo would need to increase its 2016/17 spending by 183 per cent, which would require the provincial government to significantly reprioritise its spending on social welfare services from 2 per cent of total provincial expenditure to 4.9 per cent. Most provinces would need to significantly reprioritise spending on social welfare services to around 4 per cent of total provincial expenditure in light of the fact that their levels of poverty are higher than in the Western Cape.

In assessing the above scenarios, consider the following:

- The health component in the provincial equitable share formula uses a risk adjusted capitation index to estimate a weighted population that reflects each provinces' health risk profile. In the above scenarios, the analysis is based on poverty quintiles 1, 2 and 3. The question is: how well do these three poverty quintiles reflect each provinces' social welfare risk profile? There is definitely a link between poverty and the demand for social welfare services, but it is also true that many non-poor people require social welfare services as well. Despite this, we are not presently aware of a better proxy for the demand for social welfare services than the number of poor people in a province.
- It is true that social problems differ across provinces, and therefore the mix of social services required in each province differs (the same applies to health services). What is not clear is the extent to which these different mixes in social welfare services will result in significantly differing levels of expenditure? In other words, what is a realistic level of variation in per capita spending across provinces based on differing social welfare services requirements? Exact equality in spending is most unlikely, but that does not detract from the fact that the current extent of inequality in spending is unacceptably high, and the fact that it is increasing is of grave concern.
- We are not aware of any evidence to suggest that Western Cape's level of spending on social welfare services is excessive in relation to existing service delivery norms and standards. Indeed, the remainder of this report shows that the Western Cape provincial DSD, like all other provincial DSDs, is under-funding NPOs that provide social welfare services on behalf of the department.

- The argument that using the Western Cape as a benchmark for Scenario 3 is unrealistic, indicates a failure to appreciate the extent of the gap between current levels of social welfare provision, even in the Western Cape, and what is objectively required to ensure compliance with constitutional obligations to protect those that are most vulnerable in society and comply with service delivery norms and standards (many of which are legislated). There are a range of costing studies that point to the existence of very large funding gaps, including the remainder of this report.

Obviously, Scenario 3 represents an ideal – where all inequality in spending on social welfare services is eliminated. While a perfect result like this is unlikely, it nevertheless highlights the extent of the changes each province needs to make to their budgets for social welfare services to bring greater equity to the sector. Ensuring existing NPOs are properly funded to provide social welfare services on behalf of government represents a step towards more equitable provision of social welfare services – but ensuring equitable access and provisioning irrespective of the mode of delivery is the greater task confronting the sector. Annexure G explores the full extent of the funding gap for social welfare services, taking into account both the issues of adequate funding for NPOs and ensuring equity in spending across provinces.

5. Analysis of provincial NPO funding and beneficiary data

To work out the cost implications of the NAWONGO judgements, the project team initiated a process to collect information from each provincial DSD. Annexure F gives details for the data requested, the response from provincial DSDs, challenges with the data received and mitigation measures.

Good data in electronic format was received from Gauteng, Limpopo, North West and Western Cape. The data from Eastern Cape and Northern Cape were in complicated formats that required a lot of work to get in order. The data received from Mpumalanga was good, but some of it had to be captured from hard copy documents. Despite Free State DSD being the respondent in the NAWONGO court case, the data received from the provincial DSD was incomplete. No meaningful data was received from the KwaZulu-Natal DSD

The following were some of the most significant challenges encountered, with the data.

- Data not in MS Excel
- No consistency in the format of the data received
- No standardised service names
- No standards for capturing beneficiary numbers
- Information on total transfers to NPOs does not align with transfers to NPIs in BAS

Annexure F describes how the team tackled each of the above data challenges and went about the process of compiling flat files for each of the eight provinces that provided data.

5.1 Analysis of NPO funding and beneficiary data

The flat files of the eight provinces' NPO transfer and beneficiary data are key outputs of this project. To the best knowledge of the project team, this is the first time that a set of data of this nature has been compiled. The following tables present information extracted from these flat files.

5.1.1 The completeness of the NPO data provided

Table 20 below assesses the completeness of the NPO data provided by the provincial DSDs by comparing the total transfers to NPOs in the data provided to the total transfers to NPIs in the BAS data. Ideally, the information from these two sources should be similar.

Table 20 Assessing the completeness of the NPO data provided by provincial DSDs

	Transfers to NPIs from BAS for 2016/17		Transfers to NPOs reported by provncial DSDs			Comparison of the data from provincial DSDs to the BAS data		Comparison of the BAS data to the data from provincial DSDs	
(000 Rands)	Total transfers to NPIs	Transfers to NPI excluding ECD	Total transfers to NPOs	Tansfers to NPOs excluding ECD	Source of data	Total transfers	Total transfers excluding ECD	Total transfers	Total transfers excluding ECD
Eastern Cape	463,504	295,622	561,375	392,679	Budget allocations for 2017/18	21%	33%	97,871	97,057
Free State	411,377	203,564	411,994	204,180	Expenditure data for 2016/17	0%	0%	616	616
Gauteng	2,247,525	1,888,866	1,224,134	835,930	Budget allocations for 2017/18	-46%	-56%	-1,023,391	-1,052,936
KwaZulu-Natal	869,635	574,119	869,635	574,119	BAS expenditure data for 2016/17				
Limpopo	512,139	223,250	421,499	112,785	Budget allocations for 2016/17	-18%	-49%	-90,640	-110,465
Mpumalanga	484,620	286,915	401,905	207,154	Expenditures for 2016/17	-17%	-28%	-82,715	-79,761
North West	256,295	196,696	630,483	470,904	Amounts transferred for 2016/17	146%	139%	374,187	274,208
Northern Cape	206,095	122,445	183,536	115,160	Budget allocations for 2017/18	-11%	-6%	-22,559	-7,284
Western Cape	1,047,131	774,832	1,047,457	826,444	Amounts transferred for 2016/17	0%	7%	326	51,612
Total	**6,498,321**	**4,566,310**	**5,752,018**	**3,739,356**					

Source: Team analysis - 06. Provincial DSD expenditure on SWS - BAS analysis - Final.

With reference to Table 20:

- The Free State and Western Cape information on transfers to NPOs correlates well with transfers to NPIs from BAS, indicating that the information on transfers to NPOs provided by these two provincial DSDs is accurate.
- Mpumalanga and North West are also reporting expenditures for 2016/17, so the numbers should correlate with the BAS data. The numbers reported for Mpumalanga seem to be incomplete. However, the North West numbers suggest that there are significant problems with numbers provided, either (a) misallocation of transfers on BAS, (b) some level of double counting of transfers (though this could not be found), or (c) errors in the reported transfers to NPOs provided by the department.
- In the case of Gauteng, the data on NPOs provided by the department appears to be incomplete. This issue was raised with the department, who have yet to respond. The data also covers budget allocations for 2017/18, which is not fully comparable to the 2016/17 BAS numbers.
- The Eastern Cape and Norther Cape provided information on budget allocations for 2017/18, which could explain the variance from the 2016/17 BAS numbers.
- Limpopo provided budget allocations for 2016/17, which may explain why they are lower than the 2016/17 BAS expenditure numbers.

When setting up a process to consolidate data like transfers to NPOs, one expects there to be a certain level of discrepancy as definitions, reporting periods and issues of completeness are sorted out. The above table points to where there are issues that need to be addressed to improve the accuracy of the data on NPO transfers provided by provincial DSDs. These issues can really only be addressed effectively by putting in place standard data definitions and formats, and routine reporting processes – see proposals in section 5.2 below.

5.1.2 Consolidated information on NPO transfers received from provincial DSDs

As already noted, the data on NPO transfers received from provincial DSDs was not comparable across provinces, so needed to be mapped onto standard service names. Table 21 shows how this mapping was done in the case of the NPO data received from Mpumalanga.

Table 21 Mapping of NPO data from Mpumalanga – 2016/17

Mapped services Original services names in data provided	Count of NPOs	Sum of No. of Beneficiaries	Sum of Transfers
CBC: Disability	**5**	**102**	**383,724**
STIMULATION CENTRE DISABILITY HCBC PROGRAMME	5	102	383,724
Centre based ECD	**821**	**48,319**	**194,751,114**
ECD CENTRES	821	48,319	194,751,114
Community based Multi-purpose Organisation (Drop-in Ce	**50**	**2,801**	**20,334,204**
DROP IN CENTRES	41	2,403	16,796,612
HCBC	8	398	3,537,592
HIV AND AIDS	1	-	-
CYCC: Shelters for street children	**34**	**810**	**21,422,934**
SHELTERS FOR STREET CHILDREN	34	810	21,422,934
CYCC: Temporary safe care	**21**	**866**	**26,092,500**
PLACE OF SAFETY (CHILD CARE)	21	866	26,092,500
Home based care (comprehensive)	**6**	**183**	**2,457,620**
ASSISTED LIVING	6	183	2,457,620
Inpatient	**2**	**78**	**3,408,986**
IN-PATIENT TREATMENT CENTRES	2	78	3,408,986
Outpatient	**6**	**-**	**8,355,284**
OUT-PATIENT TREATMENT CENTRES	6	-	8,355,284
Protective workshop	**60**	**1,716**	**6,217,128**
PROTECTIVE WORKSHOPS	49	1,447	5,209,200
PROTECTIVE WORKSHOPS HBC CARE PROGRAMMES	11	269	1,007,928
Rehab. And community based services - Social work	**49**	**1,232**	**7,452,000**
STIMULATION CENTRE DISABILITY	49	1,232	7,452,000
Residential facility (Disabled)	**7**	**596**	**12,781,980**
RESIDENTIAL CARE FACILITIES	7	596	12,781,980
Residential facility: CatIIIA Max	**20**	**919**	**18,943,855**
RESIDENTIAL CARE FOR OLDER PERSO	20	919	18,943,855
Shelter	**1**	**24**	**472,000**
SHELTERS FOR ABUSED WOMEN	1	24	472,000
Flag (could not be mapped)	**208**	**6,265**	**78,831,663**
ABSORPTION OF SOCIAL WORK GRAD	9	24	6,984,130
COMMUNITY SERVICE (WITH FRAIL)	29	1,781	6,055,376
COMMUNITY SERVICES	16	385	1,120,560
EPWP (INCENTIVE)	55	2,004	9,790,471
GROUP S FOR ADULTS	2	-	86,000
MPC	40	2,071	17,515,044
SHELTERS FAMILIES	1	-	266,436
SOCIAL SERVICE ORG FOR DISABILIT	10	-	9,667,067
SOCIAL SERVICE ORGANIZ FAMILIES	8	-	2,805,049
SOCIAL SERVICE ORGANIZATI CRIME	38	-	24,541,530
Grand Total	**1,290**	**63,911**	**401,904,992**

Source: Team analysis – MP_Flat file_final.

In the preceding table, the "Flag" item at the bottom shows the services in the original data that could not be mapped logically to any of the standard service names without further information on the nature and content of the services concerned. Similar mapping processes were done on each provincial DSD's data, which can be explored in the flat files.

Table 22 below provides a consolidated summary of the eight provinces' data according to the standard service names.

Table 22 Consolidated NPO data according to standard services names

	No. of provinces with data	No. of NPOs	No. of Beneficiaries	Total Transfers (000 Rands)
Programme 2: Services to Older Persons				
Social Services (older Persons)	1	4	-	1,008,840
CBC: Basic Informal	1	2	183	920,066
Active Aging Programmes	3	392	4,053	63,126,189
Aged Service Centre: Level A	6	1,320	61,032	159,509,836
Home based care (comprehensive)	4	182	7,024	54,632,343
Residential facility: CatIIIA Max	6	402	15,720	448,882,394
Residential facility: CatIIIC Max	1	34	-	21,468,469
Programme 2: Services to Persons with Disabilities				
Rehab. And community based services - Social work	5	205	3,920	47,883,461
Protective workshop	8	272	10,377	58,184,618
CBC: Disability	2	26	102	2,456,520
Residential facility (Disabled)	7	117	5,448	128,342,164
Rehab. And community based services - Day care service	4	105	1,822	29,996,363
Programme 2: HIV/AIDS				
Community based Multi-purpose Organisation (Drop-in	4	342	190,285	143,458,283
Programme 3: Care and Services to Families				
Care and Services to Families	2	157	19,956	90,596,431
Counselling services	1	10	17,819	4,255,795
Education	1	32	5,449	3,048,579
Programme 3: Child Care and Protection				
Drop-in centres	5	297	18,897	47,864,547
Programme 3: ECD and Partial Care				
Partial care	1	8	272	852,720
Centre based ECD	7	8,815	364,369	1,508,587,997
Non-centre based ECD	1	44	-	1,864,657
Programme 3: Child and Youth Care Centres				
CYCC: Shelters for street children	4	52	1,144	35,642,970
CYCC: Temporary safe care	2	73	866	121,801,425
CYCC: Children's Home	4	183	8,213	276,845,456
Programme 3: Community Based Care Services for Children				
Community based programme for children	1	24	-	9,188,819
Programme 4: Crime Prevention and Support				
Secure care centre	1	7	-	2,495,842
Programme 4: Victim Empowerment				
Community based services	1	65	2,265	19,088,645
Training workshops (VEP)	1	1	-	376,408
One stop centre	2	151	665	28,027,098
Victim Empowerment Services	4	87	19,160	25,468,017
Shelter	6	104	588	65,235,549
Programme 4: Substance Abuse, Prevention and Rehabilitation				
Prevention	4	114	917,618	38,858,512
Inpatient	6	48	8,910	81,399,692
Outpatient	6	105	9,603	81,012,067
Programme 5: Poverty Alleviation and Sustainable Livelihoods				
Sustainable livelihoods projects	3	141	803	25,857,129
Programme 5: Youth Development				
Youth Development	3	41	1,500	20,838,921
Flag Not allocated to above services	8	2,890	24,525	1,180,041,599
Total		**16,852**	**1,689,955**	**4,829,118,417**

Note: Data does not include KwaZulu-Natal because the provincial DSD did not provide meaningful data
Source: Team analysis – 07. Costing the Implications of NAWONGO - Final.

Note that the “Flag” line shows that 24 per cent of the transfers could not be allocated to standard service names. However, even the allocations that were made against standard service names could benefit from checking and refinement.

5.2 Managing the collection of data in future

The information reported in Table 22 is based on data that has gaps and other problems, but it sets a baseline for improving the collection of NPO transfer and service delivery information in future. It is important to bring KwaZulu-Natal into the process, and to compile the data from previous years. However, most important going forward will be for national DSD to develop standard service names, tools and processes for collecting the data from the provincial DSDs on a routine basis.

The following are essential steps going forward:

(a) National DSD needs to develop a flat file template for recording data on transfers to NPOs. The flat files developed for this project could form the basis for this template.

(b) National DSD needs to standardise:
- the names of services and definitions of the content of these services,
- the names of beneficiaries and how data on beneficiaries is defined for each service; and
- the names of funded posts.

(c) Provincial DSDs must be required to capture their information on transfers to NPOs in the flat file template, using the standardised names and definitions set by national DSD.

(d) Provincial DSDs must be required to submit the completed template to national DSD:
- at the beginning of each financial year – showing budgeted allocations;
- 30 days after the end of each quarter – showing transfers made during the quarter; and
- 30 days after the end of each financial year – showing total transfers made during the year.

(e) National DSD needs to put in place processes to check the completeness and quality of the information provincial DSDs submit, for instance comparing it to the BAS information on transfers to NPIs.

(f) National DSD should publish the information in MS Excel format on a separate dedicated website.

6. Estimating the cost of transfers using the FS Costing Model

In the course of the NAWONGO court case, the Free State DSD engaged the consulting company KPMG to produce a costing model that calculates the cost of providing the different services the department funds NPOs to deliver. KPMG produced the “Combined Costing and Allocation Model” which is referred to as the FS Costing Model in this project. Free State DSD then used this costing model to specify a set of service funding schedules that were included in its NPO funding policy, which the court accepted as complying with legislated and constitutional requirements.

A key objective of this project is to investigate the impact of the NAWONGO court case on the cost of funding NPOs at the levels set out in the FS Costing Model. This section explores this issue.

6.1 Overview of the FS Costing Model

The FS Costing Model is complicated. It takes time and effort to understand how the model is constructed and how to use it correctly. Annexure D provides a description of the key sheets in the model and sets out a step-by-step guide to using the model correctly.

Once the FS Costing Model is correctly calibrated for a particular financial year, the process of costing services provided by NPOs involves the following steps:

- **Step 1:** Enter the beneficiary numbers for each NPO on the *Inputs – Beneficiary numbers* worksheet. Ensure the definitions of beneficiaries are the same used for the service being costed.
- **Step 2:** Extract the costing results for each service from the *Cost Calculations* worksheet, remembering to check for two numbers for each NPO, namely:
  - Variable beneficiary cost per month (some services do not have variable costs),
  - Overhead costs per month.
- **Step 3:** Multiply up the costing results extracted in Step 2 by 12 months to get the annual cost for each NPO that provides a particular service.

When using the FS Costing Model, it is important to keep the following in mind:

(a) Most of the non-salary cost assumptions date from 2010/11, and are inflated to give current costs.[34] These cost assumptions are therefore eight to nine years old, and do not reflect any changes in the relative cost of inputs that may have occurred in the intervening years.

(b) The version of the model received from KPMG is setup with the public service salary scale for 1 April 2016. These numbers feed into the costing directly and are then adjusted by the applicable inflation rates from 2014 to 2016. This means there is double counting of the impact of inflation on salaries (see discussion at the end of this section regarding the change made to eliminate this).

(c) The cost results reported on the *Cost Calculations* worksheet are built around the “core costs” reflected in column F on the *Costs (Necessity level)* worksheet. These core costs are determined with reference to the allocation of costs on the *Necessity Levels* worksheet,

[34] The cost assumptions for inputs are mostly based on information collected by AFReC, who built a series of costing models for national DSD in 2010/11. KPMG inflated these costs to get figures for 2013/14, which are shown in the *Var. Cost Assump.* and *Overhead Cost Assump.* worksheets. When applying the model, these cost assumptions are inflated again using the inflation rates entered on the *Adjustments* worksheet to produce costs applicable to the current year (2017/18 in this exercise).

which allocates each input cost to 1 = non-necessity, 2 = partial necessity and 3 = core cost. This allocation has a significant impact on the costing results, because it excludes a range of personnel and other input items from the costing of the different services, i.e. core cost < total cost. It is not clear what informed the allocation of costs on the *Necessity Levels* worksheet.

(d) The cost results reported on the *Cost Calculations* worksheet can be expanded to cover "partially necessary" costs and "non-necessity" costs by making the appropriate changes on the *Adjustment Calculations* worksheet.

(e) The "core costs" reflected in column F on the *Costs (Necessity level)* worksheet are the non-inflated costs for 2013/14, which are then adjusted for inflation to produce the costing results that get reported on the *Cost Calculations* worksheet.

(f) The "core costs" reflected in column F on the *Costs (Necessity level)* worksheet do not include a supervisory cost element, which is added to Overhead costs in the *Cost Calculations* worksheet.

(g) The costing results reported on the *Cost Calculations* worksheet are presented as follows:
- Variable beneficiary cost per month per NPO
- Overhead costs, which includes:
  - an overhead cost linked to the service, and
  - a "supervisory cost" calculation.

These costs need to be multiplied up by 12 months to get annual costs. This has to be done outside the FS Costing Model.[35]

(h) The "supervisory costs" are not reflected on the *Costs (Necessity level)* worksheet, they only enter the cost calculation on the *Cost Calculations* worksheet. It is not clear what underpins these supervisory costs because the worksheets where they are setup are hidden.[36]

(i) Overhead costs for each service are calculated with reference to a "Benchmark number of beneficiaries" (BNB), which is set for each service on line 3 of the Base Assumptions worksheet. To calculate overhead costs, the number of beneficiaries entered (BE) for an NPO on the *Inputs – Beneficiary numbers* worksheet is divided by this baseline number of beneficiaries, and the formula is setup so that:

- if BE/BNB is < 1, then the full overhead cost is applied (including full salaries). This means very small NPOs get allocated the full overhead costs.
- if BE/BNB is > 1, then the overhead cost is multiplied by this ratio. This is a rather blunt way of dealing with the stepped nature of overhead costs, but developing an alternative approach would be very complicated.

(j) It is important that beneficiary numbers for a service entered on the *Inputs – Beneficiary numbers* worksheet have the same definition (i.e. are counting the same things) as the

35 For this exercise, these calculations are done in the MS Excel workbook 07. Costing the Implications of NAWONGO – Final.

36 Note the "hidden" status of these worksheets is not the normal one provided for in MS Excel, but rather a "deep" hiding of the worksheets using a macro. The project team met with KPMG to request that all hidden worksheets be unhidden. KPMG unhid some of the worksheets, but those relating to these supervisory costs remain hidden. The project team has made a further request to KPMG to unhide these worksheets, but no response was received by the time this report was finalised.

"Benchmark number of beneficiaries" set for each service on line 3 of the *Base Assumptions* worksheet. If the beneficiary numbers entered are not counting the same things, the costing results will be wrong.

(k) For certain services (e.g. after-hours emergency services or childline), the costs are calculated on the basis that they are "Funded by programme". This is setup on line 3 of the *Base Assumptions* worksheet where the "Benchmark number of beneficiaries" is shown as 1, and also noted in column A of the *Inputs – Beneficiary numbers* worksheet. This means that the calculated cost of these services remains constant irrespective of the size of the operation or programme run by the NPO. This is not realistic when the model is applied across programmes that are very different in size, which is likely to be the case when looking at the same programme across provinces.

(l) To calculate the cost of a particular service, the relevant beneficiary/service numbers are entered on the *Inputs – Beneficiary numbers* worksheet. It is important that these numbers are entered *per NPO,* and not as a total number of beneficiaries for the service in the province. If the latter numbers are used, the overhead costs are under counted as follows: overhead costs X the number of NPOs -1 that deliver the services concerned. I.e. the greater the number of NPOs delivering the service, the greater the level of undercounting.[37]

6.2 Setting up the FS Costing Model for this project

When setting up the FS Costing Model to be used for this project, the following key variables were updated:

- The salary information on the *Salary Scales* worksheet was updated to reflect the DPSA public service salary scale applicable from 1 April 2017. Also, a calculation was introduced to "deflate" these salaries so that they enter the model at a deflated value equivalent to 2013/14 prices, which eliminates the issue of double counting the impact of inflation on salaries noted above.[38]
- Up-to-date inflation figures were entered on the *Adjustments* worksheet.
- The 2017/18 values for the Old Age Grant and the Disability Grant were entered on the *Adjustments* worksheet. It is assumed that where the recipient is in a residential facility, these grants are ceded to the NPO running the facility.

NPO workers' salaries were set at the level of public service employees' salaries plus a thirteenth cheque and benefits when the FS Costing Model was applied to calculate the core costs of services set out in Schedule 2 of the Free State funding policy that was approved by the fourth NAWONGO judgement. Given the current constrained fiscal circumstances, as well as the considerations noted

[37] When KPMG gave the FS Costing Model to the team total beneficiary numbers for each service were entered on the *Inputs – Beneficiary numbers* worksheet. This indicates that KPMG was not using their own model correctly to work out the cost of funding NPOS in the Free State for purposes of the NAWONGO court case. This would have resulted in the estimated cost being significantly lower than it should have been.

[38] Note that the deflating calculation does not use the inflation plus increases that are a feature of public service salary adjustments. The deflating of the 2017 salaries only uses the inflation rate so as to address the issue of double counting the impact of inflation in the model. Consequently, the deflating of the 2017 salary numbers does not give numbers that are the same as the public service salaries applicable from 1 April 2013.

in section 7.2.7, it was decided not to follow this approach to NPO workers' salaries in this project, but rather to run two costing scenarios as follows:

- *80 per cent scenario*: in this scenario NPO workers' salaries are set at 80 per cent of the public service salary scale (excluding benefits) applicable from 1 April 2017. All the FS Costing Model costing outcomes presented in the remainder of this report, in the Key Observations and Executive Summary are based on this 80 per cent scenario.
- *100 per cent scenario:* in this scenario NPO workers' salaries are set at 100 per cent of the public service salary scale (excluding benefits) applicable from 1 April 2017. The costing outcomes based on this scenario are presented in Annexure E. The tables in Annexure E mirror those in the main report.

The cost results in this project cover the core costs (plus supervisory costs) as defined in the FS Costing Model, i.e. no changes were made to what is included in core costs on the *Necessity Levels* worksheet. This aligns with the costing model set-up that was used to calculate the proposed funding levels the Free State DSD presented to the court in the Fourth NAWONGO judgement.

6.3 Application of the FS Costing Model to selected services

The FS Costing Model is set up to cost forty different social welfare services, of which six are costed by programme, and the rest are costed according to the number of beneficiaries or size of facility. Table 23 presents the costing for five services, showing the costing results for the baseline 2013/14 cost as reflected on the *Costs (Necessity level)* worksheet, and the costing results for 2017/18 as reflected on the *Cost Calculations* worksheet.

Table 23 Costing results for selected services from the FS Costing Model

	Size of costed facility	Cost categories	Monthly overhead Cost	Monthly variable cost	Monthly supervisory costs	Annual overhead cost	Annual variable cost	Annual supervisory costs	Total Cost
A. CYCC: Children's home									
Baseline 2013/14	60	**Total costs**	**216,703**	**113,627**	**-**	**2,600,433**	**1,363,526**	**-**	**3,963,959**
costs on *Costs*		**Core costs**	179,432	107,327		2,153,182	1,287,926	-	**3,441,109**
(Necessity level)		Partial necessity	17,871	-		214,457	-	-	**214,457**
worksheet		Non-necessity	19,399	6,300		232,793	75,600	-	**308,393**
Costing results for	60	**Total costs**	**256,130**	**134,301**	**7,730**	**3,073,564**	**1,611,615**	**92,758**	**4,777,937**
2017/18 on Cost		**Core costs**	212,078	126,855	7,730	2,544,940	1,522,260	92,758	**4,159,958**
Calculations		Partial necessity	21,123	-	-	253,476	-	-	**253,476**
worksheet		Non-necessity	22,929	7,446	-	275,148	89,355	-	**364,503**
B. Inpatient - substance abuse treatment centres									
Baseline 2013/14	60	**Total costs**	**391,146**	**161,664**	**-**	**4,693,755**	**1,939,962**	**-**	**6,633,718**
costs on *Costs*		**Core costs**	65,632	159,056		787,584	1,908,672	-	**2,696,257**
(Necessity level)		Partial necessity	244,997	2,608		2,939,960	31,290	-	2,971,250
worksheet		Non-necessity	80,518	-		966,211	-	-	966,211
Costing results for	60	**Total costs**	**462,313**	**191,077**	**30,919**	**5,547,753**	**2,292,926**	**371,034**	**8,211,713**
2017/18 on Cost		**Core costs**	77,573	187,995	30,919	930,880	2,255,943	371,034	**3,557,856**
Calculations		Partial necessity	289,572	3,082		3,474,866	36,983	-	**3,511,849**
worksheet		Non-necessity	95,167			1,142,007	-	-	**1,142,007**
C. Protective workshops - for people with disabilities									
Baseline 2013/14	20	**Total costs**	**55,802**	**16,052**	**-**	**669,623**	**192,620**	**-**	**862,243**
costs on *Costs*		**Core costs**	33,866	14,986		406,398	179,829	-	**586,227**
(Necessity level)		Partial necessity	268	-		3,210	-	-	**3,210**
worksheet		Non-necessity	21,668	1,066		260,015	12,791	-	**272,806**
Costing results for	20	**Total costs**	**65,955**	**18,972**	**2,577**	**791,456**	**227,663**	**30,919**	**1,050,038**
2017/18 on Cost		**Core costs**	40,028	17,712	2,577	480,339	212,544	30,919	**723,803**
Calculations		Partial necessity	316	-	-	3,794	-	-	**3,794**
worksheet		Non-necessity	25,610	1,260	-	307,323	15,119	-	**322,441**
D. Prevention programme - substance abuse									
Baseline 2013/14	1	**Total costs**	**40,580**	**-**	**-**	**486,960**	**-**	**-**	**486,960**
costs on *Costs*		**Core costs**	12,877	-		154,530	-	-	**154,530**
(Necessity level)		Partial necessity	852	-		10,221	-	-	**10,221**
worksheet		Non-necessity	26,851	-		322,208	-	-	**322,208**
Costing results for	1	**Total costs**	**47,963**	**-**	**7,730**	**575,562**	**-**	**92,758**	**668,320**
2017/18 on Cost		**Core costs**	15,220	-	7,730	182,646	-	92,758	**275,404**
Calculations		Partial necessity	1,007	-	-	12,084	-	-	**12,084**
worksheet		Non-necessity	31,736	-	-	380,832	-	-	**380,832**
E. Social services (older persons)									
Baseline 2013/14	3900	**Total costs**	**87,978**	**-**	**-**	**1,055,742**	**-**	**-**	**1,055,742**
costs on *Costs*		**Core costs**	60,826	-		729,917	-	-	**729,917**
(Necessity level)		Partial necessity	194	-		2,328	-	-	**2,328**
worksheet		Non-necessity	26,958	-		323,496	-	-	**323,496**
Costing results for	3900	**Total costs**	**103,985**	**-**	**23,190**	**1,247,823**	**-**	**278,275**	**1,526,099**
2017/18 on Cost		**Core costs**	71,893	-	23,190	862,721	-	278,275	**1,140,996**
Calculations		Partial necessity	229	-	-	2,748	-	-	**2,748**
worksheet		Non-necessity	31,863	-	-	382,354	-	-	**382,354**

Note: based on 80 per cent of public service salaries.

Source: Team analysis - 07. Costing the Implications of NAWONGO - Final.

With reference to Table 23, the following is worth noting:

- As noted, when reporting to the court, Free State DSD used the core costs to calculate the level at which it would fund NPOs. In this project the core costs for 2017/18 (highlighted in yellow) are used to calculate the costing results in this project.
- For the costing results for 2017/18, the core costs as a percentage of total costs differs significantly across the services:
  - 87 per cent for CYCC: Children's home
  - 43 per cent for Inpatient – substance abuse treatment centres
  - 69 per cent for Protective workshops for people with disabilities
  - 41 per cent for Prevention programmes related to substance abuse

– 75 per cent for Social services to older persons

- These differences raise questions around the rationale and the appropriateness of the categorisation of costs into Core, Partial necessity and Non-necessity costs on the *Necessity Levels* worksheet.

- Including the "supervisory cost" in the costing results increases the cost of each of the services as follows:
  – 2 per cent for CYCC: Children's home
  – 10 per cent for Inpatient – substance abuse treatment centres
  – 4 per cent for Protective workshops for people with disabilities
  – 34 per cent for Prevention programmes related to substance abuse
  – 24 per cent for Social services to older persons

- It is not clear what is driving these differences in the supervisory costs, because the worksheets showing these assumptions are hidden.[39]

Table 24 and Table 25 illustrate the application of the FS Costing Model to two social welfare services that a number of provincial DSDs fund NPOs to provide. The costing numbers are all for 2017/18. The tables show the following information:

- the cost result based on the baseline number of beneficiaries for the service;
- the total cost result for all NPOs providing the service within a province; and
- the cost result for three NPOs (generally there are many more NPOs that provide the service in each province).

Note that overhead costs and supervisory costs have been combined, as they are in the FS Costing Model.

Table 24 Cost of inpatient substance abuse treatment centres (2017 Rands)

Names of NPOs	No. of beds	Level of Provincial Subsidy	Transfer per bed	Cost per bed	Annual Overhead Cost	Annual Variable Cost	Total Annual NPO Cost	Funding gap/ surplus	% gap/ surplus
Modelled costing	60			59,298	1,301,914	2,255,943	3,557,856		
Gauteng total	**370**	**48,343,388**	**130,658**	**84,932**	**17,513,115**	**13,911,647**	**31,424,763**	**16,918,625**	**54%**
Christ Hani Barag	20	3,180,000	159,000	102,695	1,301,914	751,981	2,053,895	1,126,105	55%
Freedom recover	26	2,804,568	107,868	87,673	1,301,914	977,575	2,279,489	525,079	23%
House Of Mercy	15	1,618,020	107,868	124,393	1,301,914	563,986	1,865,899	- 247,879	-13%
Mpumalanga total	**78**	**3,408,986**	**43,705**	**77,330**	**3,098,978**	**2,932,726**	**6,031,704**	**- 2,622,718**	**-43%**
HEALING WINGS	10	588,000	58,800	167,790	1,301,914	375,990	1,677,904	- 1,089,904	-65%
MKHONDO ALATH	68	2820986	41,485	64,026	1,797,065	2,556,735	4,353,800	- 1,532,814	-35%
North West total	**7867**	**10,499,384**	**1,335**	**61,433**	**187,502,994**	**295,791,704**	**483,294,698**	**- 472,795,314**	**-98%**
DEPARTMENT OF		4,066,274			-	-	-		
MAMOVICH		1,163,437			-	-	-		
SAINTS CARE GIVE	7867	1,733,868	220	61,433	187,502,994	295,791,704	483,294,698	- 481,560,831	-100%
Western Cape total	**595**	**16,238,032**	**27,291**	**61,249**	**14,071,496**	**22,371,433**	**36,442,929**	**- 20,204,897**	**-55%**
False Bay Therap	35	746,567	21,330	74,797	1,301,914	1,315,967	2,617,880	- 1,871,313	-71%
Heskith King Salv	125	3,296,827	26,375	62,019	3,052,434	4,699,881	7,752,315	- 4,455,488	-57%
Ramot Treatment	105	2,239,702	21,330	60,181	2,371,107	3,947,900	6,319,007	- 4,079,305	-65%

Note: based on 80 per cent of public service salaries.
Source: Team analysis - 07. Costing the Implications of NAWONGO - Final.

With reference to Table 24:

39 See notes on this issue in section 6.1 above.

- The red shaded area for North West shows the impact of not using the correct beneficiary number to do the costing in the FS Costing Model. The 7 867 figure shown is probably counting the number of patients within a year, whereas the costing in the FS Costing Model is based on the number of beds in the facility. This is an example of where the beneficiary numbers provided by the province are defined differently to those used in the FS Costing Model. As a result, the costing results for North West are wrong, and therefore excluded from the costing exercise.
- The benchmark number of beneficiaries for an inpatient substance abuse treatment centre is 60 beds. The cost per bed, according to the FS Costing Model, is R59 298 per year.
- Where inpatient facilities are smaller than 60 beds, the cost per bed according to the FS Costing Model is above R59 298 per year. For instance, Healing Wings in Mpumalanga only has 10 beds, and the cost per bed is R167 790 per year. This is because the Annual Overhead costs remain constant for all facilities smaller than 60 beds.
- Gauteng's funding of these facilities appears to be far more generous than other provincial DSDs – compare the average of R130 658 per bed in Gauteng to the R27 291 in the Western Cape. However, in this instance it is not clear that the inpatient treatment centres in the two provinces are comparable: are they offering similar services?
- In Gauteng, for two of the three facilities shown, the transfer per bed is higher than the cost per bed calculation using the FS Costing Model (see orange shaded area). This would suggest that, relative to the costing model results, these facilities are being over-funded.
- On average, Western Cape shows a higher funding gap than Mpumalanga for these inpatient facilities.

Table 25 Cost of protective workshops for people with disabilities (2017 Rands)

Names of NPOs	No. of places	Level of Provincial Subsidy	Transfer per place	Cost per place	Annual Overhead Cost	Annual Variable Cost	Total Annual NPO Cost	Funding shortfall/surplus	% shortfall/ surplus
Modelled costing	20			36,190	511,259	212,544	723,803		
Eastern cape	**803**	**1,927,200**	**2,400**	**37,087**	**20,488,448**	**8,533,783**	**29,780,562**	**- 27,853,362**	**-94%**
ACVV	29	69,600	2,400	36,777	758,331	308,194	1,066,525	- 996,925	-93%
APD Protective	25	60,000	2,400	37,118	662,263	265,684	927,947	- 867,947	-94%
Inkqubela Protec	101	242,400	2,400	36,481	2,611,229	1,073,365	3,684,594	- 3,442,194	-93%
Gauteng	**3920**	**22,447,589**	**5,726**	**36,791**	**102,561,473**	**41,659,317**	**144,220,790**	**- 121,773,202**	**-84%**
A re itireleng Tru		300,948	#DIV/0!	#DIV/0!	-	-	-	300,948	#DIV/0!
APD-AIM WORKSH	31	290,541	9,372	36,639	806,365	329,449	1,135,813	- 845,272	-74%
APD-MODIMO O N	145	754,738	5,205	36,350	3,729,814	1,540,970	5,270,784	- 4,516,046	-86%
Limpopo	**791**	**3,664,020**	**4,632**	**37,744**	**21,449,126**	**8,406,255**	**29,855,381**	**- 26,191,361**	**-88%**
Achine foundatic	18	85,320	4,740	39,030.63	511,259	191,293	702,551	- 617,231	-88%
Alverton Self Hel	14	66,360	4,740	47,146	511,259	148,783	660,042	- 593,682	-90%
BANGWANATE DIS	20	94,800	4,740	36,190	511,259	212,548	723,806	- 629,006	-87%
Mpumalanga	**1716**	**6,217,128**	**3,623**	**37,776**	**46,586,651**	**18,236,578**	**64,823,230**	**- 58,606,102**	**-90%**
AMASS PROTECTIV	30	108,000	3,600	36,706	782,348	318,821	1,101,169	- 993,169	-90%
BAMBANANI PROT	60	216,000	3,600	36,190	1,533,776	637,643	2,171,418	- 1,955,418	-90%
DUNDONALD DISA	20	75,240	3,762	36,190	511,259	212,548	723,806	- 648,566	-90%
North West	**69**	**674,685**	**9,778**	**36,885**	**1,811,767**	**733,289**	**2,545,056**	**- 1,870,371**	**-73%**
AGE-IN-ACTION N		444,740	#DIV/0!	#DIV/0!	-	-	-	444,740	#DIV/0!
IPOPENG CLUB FO	22	74,820	3,401	37,455	590,212	233,802	824,014	- 749,194	-91%
THUSANANG DISA	47	155,125	3,301	36,618	1,221,555	499,487	1,721,042	- 1,565,917	-91%
Norther Cape	**225**	**1,211,580**	**5,385**	**37,498**	**6,045,937**	**2,391,160**	**8,437,097**	**- 7,225,517**	**-86%**
BA ONE INTELLEC	76	351,120	4,620	36,272	1,948,966	807,681	2,756,647	- 2,405,527	-87%
ESTIKELELO	10	46,200	4,620	61,753	511,259	106,274	617,532	- 571,332	-93%
IMMANUEL	20	92,400	4,620	36,190	511,259	212,548	723,806	- 631,406	-87%
Western Cape	**2853**	**19,265,861**	**6,753**	**36,656**	**74,260,045**	**30,319,906**	**104,579,951**	**- 85,314,090**	**-82%**
AANHOUWEN WC	65	442,260	6,804	36,547	1,684,780	690,779	2,375,559	- 1,933,299	-81%
Alta Du Toit Work	55	374,220	6,804	36,331	1,413,691	584,506	1,998,197	- 1,623,977	-81%
APD Beaufort We	45	306,180	6,804	36,706	1,173,521	478,232	1,651,753	- 1,345,573	-81%

Note: based on 80 per cent of public service salaries.
Source: Team analysis - 07. Costing the Implications of NAWONGO - Final.

With reference to Table 25:

- Comparing the transfers per place across the provinces, it is clear that each provincial DSD, except Gauteng, uses a fixed per capita transfer for funding these facilities. The levels of funding differ significantly between provinces, with a high of R6 804 per place in the Western Cape and a low of R2 400 per place in the Eastern Cape.
- The benchmark number of beneficiaries for a protective workshop is 20 places. The cost per place, according to the FS Costing Model, is R36 190 per year. This indicates a funding gap ranging from 81 per cent for the Western Cape to 94 per cent for the Eastern Cape.
- These gaps are significant. Indeed, so significant that it raises the question whether the content of the protective workshop service costed for the Free State is equivalent to what the provincial DSDs in other provinces are currently funding NPOs to provide? Only those working in such protective workshops can answer this question. But the discrepancy in costs and transfers highlights the need for standard service definitions to guide both the funding and the provision of services.

6.4 Application of the FS Costing Model to all mapped NPO services

This section presents the results of using the FS Costing Model to cost the services of all the NPOs that we could map to services covered by the model and for which there are beneficiary numbers.

Table 26 shows the total transfers to NPOs by province, and then what percentage of these numbers could actually be costed in the FS Costing Model because the services could be mapped to services covered by the model and there were beneficiary numbers available.

Table 26 Transfers for services costed by the FS Costing Model and that have beneficiary numbers

	Total transfers to NPOs	Total transfers to NPOs excluding ECD		Total transfers to NPOs that are mapped to standard service names		Total transfers for services costed by the FS Costing Model and that have beneficiary numbers	
(000 Rands)	A	B	% of A	Amount	% of B	Amount	% of B
Eastern Cape	561,375	392,679	70%	305,164	78%	144,811	37%
Free State	411,994	204,180	50%	176,045	86%	no data	
Gauteng	1,224,134	835,930	68%	573,511	69%	428,165	51%
KwaZulu-Natal	869,635	574,119	66%	no data		no data	
Limpopo	421,499	112,785	27%	50,529	45%	46,708	41%
Mpumalanga	401,905	207,154	52%	128,322	62%	106,391	51%
North West	630,483	470,904	75%	453,042	96%	115,466	25%
Northern Cape	183,536	115,160	63%	58,536	51%	15,404	13%
Western Cape	1,047,457	826,444	79%	450,534	55%	274,524	33%
Total	**5,752,018**	**3,739,356**	**65%**	**2,195,683**	**59%**	**1,131,470**	**30%**

Source: Team analysis - 07. Costing the Implications of NAWONGO - Final.

Table 26 shows that provincial DSDs provided information on transfers to NPOs to the value R5.7 billion. Of this amount, about 35 per cent were transfers for ECD services, which fall outside the scope of this specific costing exercise. This leaves a total of R3.7 billion in transfers to NPOs (excluding ECD). Of this amount, about 59 per cent can be mapped to standard service names, and 30 per cent can be mapped to services that are costed by the FS Costing Model and for which there are beneficiary numbers.

Table 27 below sets out the results of costing this 30 per cent of transfers to NPOs using the FS Costing Model. For each NPO concerned, the steps 1, 2 and 3 described in section 6.1 were followed to produce annual costs per NPO. These annual costs were then aggregated by service and then by provincial DSD.

Table 27 The extent of the funding gap for the NPO services that could be costed directly in the FS Costing Model (2017 Rands)

(000 Rands)	Total transfers for services costed by the FS Costing Model and that have beneficiary numbers	Costing results from the FS Costing Model	Calculated funding gap	% funding gap
	A	C	A-C	
Eastern Cape	144,811	686,307	-541,496	-79%
Free State	no data			
Gauteng	428,165	1,250,468	-822,303	-66%
KwaZulu-Natal	no data			
Limpopo	46,708	696,856	-650,148	-93%
Mpumalanga	106,391	480,560	-374,169	-78%
North West	115,466	189,750	-74,284	-39%
Northern Cape	15,404	98,735	-83,330	-84%
Western Cape	274,524	871,402	-596,878	-68%
Total	**1,131,470**	**4,274,079**	**-3,142,608**	**-74%**

Note: based on 80 per cent of public service salaries.
Source: Team analysis - 07. Costing the Implications of NAWONGO - Final.

The above table shows that, for the 30 per cent of transfers linked to services that could be costed in the FS Costing Model, the funding gap is R3.14 billion or 74 per cent. The extent of the funding gap differs across provincial DSDs: Limpopo shows a gap of 93 per cent, and North West a gap of 39 per cent. However, the funding gap across provincial DSDs is not comparable because different services were costed for each province, based on the availability of suitable data. Free State and KwaZulu-Natal did not provide useful data that could be used in the FS Costing Model, hence the “no data” notes in the table.

Table 28 on the following page takes the analysis a step further and extrapolates the above costing results to the remaining 70 per cent of NPO transfers for which there was no beneficiary data available. The analysis presents three scenarios as follows:

- **High Scenario:** based on the highest percentage funding gap for a costed service in each province. This is the worst-case scenario, in that it assumes the greatest funding gap applies to all services that a provincial DSD funds NPOs to provide.
- **Medium Scenario:** based on the weighted average percentage funding gap for all costed services in a province. This is the percentage funding gap shown in Table 27.
- **Low Scenario:** based on the lowest percentage funding gap for a costed service in each province. This is the most optimistic scenario, in that it assumes the lowest funding gap applies to all services that a provincial DSD funds NPOs to provide.

For Free State and KwaZulu-Natal, the extrapolation is made using the average national funding gap, calculated based on the seven provinces for which there is some data (i.e. the average funding gap before adding these two departments into the calculation).

Table 28 The extent of the funding gap calculated by extrapolating the funding gaps calculated using the FS Costing Model (2017 Rands)

(000 Rands)	Total transfers to NPOs excluding ECD	High Scenario: Highest % funding gap for a costed service	Medium Scenario: Weighted average % funding gap for all costed services	Low Scenario: Lowest % funding gap for a costed service	Calculated costing result: High Scenario	Calculated costing result: Medium Scenario	Calculated costing result: Low Scenario	Calculated funding gap: High Scenario	Calculated funding gap: Medium Scenario	Calculated funding gap: Low Scenario
Eastern Cape	392,679	-93.5%	-76.5%	-62.4%	6,067,975	1,669,152	1,043,440	-5,675,296	-1,276,473	-650,761
Free State	204,180	-86.2%	-65.0%	-37.6%	1,480,306	582,730	327,097	-1,276,126	-378,550	-122,916
Gauteng	835,930	-84.5%	-65.3%	-41.4%	5,380,152	2,408,994	1,426,751	-4,544,222	-1,573,064	-590,821
KwaZulu-Natal	574,119	-86.2%	-65.0%	-37.6%	4,162,366	1,638,537	919,739	-3,588,247	-1,064,417	-345,620
Limpopo	112,785	-94.8%	-93.3%	-87.7%	2,180,837	1,685,442	919,001	-2,068,052	-1,572,657	-806,216
Mpumalanga	207,154	-90.4%	-77.8%	-43.5%	2,159,901	931,293	366,529	-1,952,748	-724,139	-159,375
North West	470,904	-92.0%	-16.4%	-13.7%	5,907,434	563,018	545,495	-5,436,530	-92,114	-74,591
Northern Cape	115,160	-88.2%	-86.3%	-7.0%	976,176	842,639	123,859	-861,016	-727,479	-8,699
Western Cape	826,444	-81.6%	-68.2%	-47.1%	4,486,146	2,597,926	1,563,388	-3,659,702	-1,771,482	-736,944
Total	**3,739,356**	**-88.6%**	**-71.1%**	**-48.3%**	**32,801,293**	**12,919,733**	**7,235,298**	**-29,061,937**	**-9,180,377**	**-3,495,943**

Note: based on 80 per cent of public service salaries.

Source: Team analysis - 07. Costing the Implications of NAWONGO – Final.

With reference to Table 28:

- The average funding gap ranges from 48.3 per cent in the Low Scenario to 88.6 per cent in the High Scenario. This translates into a funding gap of R3.5 billion in the Low Scenario to R29.1 billion in the High Scenario.
- The Medium Scenario is probably the most robust, given that it is based on the weighted average funding gap of all the services that could be costed in the FS Costing Model. It shows a funding gap of R9.2 billion or 71 per cent.
- In paragraph 27 of the Fourth NAWONGO Judgement it is stated that "KPMG calculated that on the basis of current NPO programmes and beneficiary numbers, a budget allocation of approximately R572 million would cover the current core costs of all NPO programmes." In the above table, it is estimated in the Medium Scenario that R582 million is required. These numbers are very similar, though it should be noted that the calculations in this project are based on 80 per cent of public service salaries, whereas the original KPMG calculation covers 100 per cent of public service salaries plus benefits. When comparing the numbers, the impact of inflation also needs to be taken into account.

The analyses conducted in section 4 and in this section highlight two kinds of funding gaps in the provision of social welfare services, namely (a) a gap resulting from unequal spending on social welfare services across provinces, and (b) a gap resulting from the underfunding of NPOs that provide services on behalf of provincial DSDs. These two funding gaps overlap. Addressing the funding gap related to the funding of NPOs will increase the cost of bringing greater equity in spending across provinces. Annexure G explores the full extent of the funding gap for social welfare services, taking into account both the issues.

The issue of the underfunding of social welfare services needs to be tackled on both the national and provincial fronts:

i. Certain provincial governments have not prioritised spending on social welfare services within their provincial budgets. This is highlighted by part B of Table 12, which shows the unequal shares of total provincial expenditure spent on social welfare services. Pressure needs to be placed on Limpopo, KwaZulu-Natal, Mpumalanga and Eastern Cape to prioritise spending on social welfare services to the same extent as other provinces. Given that the extreme and increasing inequality resulting from these provinces' actions very likely represents a failure by them to "fulfil an executive obligation in terms of the Constitution" it may be necessary for the national executive to intervene in terms of section 100 of the Constitution by issuing a directive to the respective provincial executives to take appropriate measures in the compilation of their budgets to rectify the failure to prioritise spending on social welfare services appropriately.[40]

ii. The above analysis indicates that the social welfare services function as a whole is significantly underfunded. The extent of the underfunding is large. This needs to be addressed over the medium term by national government making further additions to the provincial equitable share for the funding of social welfare services. If provinces cannot be trusted to allocate these additional equitable share funds to social welfare services, then national government will need to introduce a suitable conditional grant to ensure the new funds are used for their intended purpose.

[40] See section 100(1)(a) of the Constitution.

7. Key issues emerging from the NAWONGO court case

Annexure A provides a summary of the key findings of the NAWONGO judgements relevant to this PER. Cutting through all the complexity, this section aims to extract the implications of the NAWONGO case for government's funding of NPOs going forward.

From the outset, note that the court's finding – that the Free State *Policy on Financial Awards to the Non-profit Organisations in the Social Development* Sector of 2003 was unreasonable – extends to the *National Policy on Financial Awards to Service* Providers of 2004 and the *National Procedure Guidelines for the Implementation of the Policy on Financial Awards to Service Providers of 2005*. The court noted that these policies did not differ fundamentally. Therefore the finding that the Free State policy was unreasonable by implication means the national policy is flawed as well.[41] By extension, if other provinces' NPO funding policies are aligned to the flawed national policy, then they are also unreasonable and need to be revised.

7.1 Implications for government's funding of NPOs

Drawing from the NAWONGO judgements, the following points must inform the development of national and provincial NPO funding policies going forward if they are to be considered reasonable:

1. *Government is free to explore better policy options for financing NPOs.*
    - Although the court found the revised Free State policy (Annexure B) to be reasonable, the court was careful to emphasise that this did not imply that it represented the best policy option, or that better policy options were not possible.
    - When government explores alternative policy options for financing NPOs, it needs to ensure that any new policy is aligned with the NAWONGO judgements.
2. *Government must consult thoroughly with NPOs when developing or revising its NPO funding policy.*
    - The NAWONGO judgements placed great emphasis on the importance of thorough and meaningful consultation between government and NPOs.
    - Failure to consult may well lead to a policy being regarded as unreasonable.
3. *Government's policy for financing NPOs must be aligned to its constitutional and legislative obligations.*
4. *Government has an obligation to fund NPOs that provide services that the state is obliged to provide.*
    - The policy must recognise that by providing services to vulnerable people, NPOs are fulfilling the obligations of government.
5. *Government must take reasonable measures to the maximum extent of available resources to ensure funding is available for funding the services that NPOs provide, particularly those services required by the most vulnerable.*

[41] See paragraphs 19 through 32 and 47 of the First NAWONGO Judgement, 5 August 2014.

- Government is obliged by both the Constitution and statutes to achieve progressive realisation of socio-economic rights. This requires that government must progressively increase the amount allocated for social welfare services.
- The court stated that "a policy that excludes the most needy persons could not be said to be a reasonable measure"[42].

6. *Government's policy for financing NPOs must be reasonable, fair, equitable and transparent.*
   - This applies both to the content of the policy itself, and any processes it puts in place relating to the prioritisation of services, the approval of services plans, the allocation of funding, and the determination of NPO contributions (if required).
7. *Government's policy for financing NPOs must indicate which services it will fund, what inputs it will fund and at what level it will fund those inputs.*
8. *The level of funding for a service should cover the core items required to deliver the service at a reasonable unit cost of these items, which should be revised every three years in consultation with stakeholders.*
9. *It is reasonable to expect NPOs to contribute to the funding of services.*
   - The court did not say that NPOs *must* contribute to the funding of services. Rather, the court noted that it is *not unreasonable* for an NPO funding policy to require that NPOs make a contribution.
10. *Government's policy for financing NPOs must provide for a method of planning and prioritising services so as to provide a rational basis for making tough decisions regarding which services to fund.*
    - Government does not need to provide for the coverage of all services, but must have a rational process for defining which services it will fund, and which not.
    - Government should sign SLAs only with those NPOs it intends "fully" funding in line with the policy.
11. *Government's policy for financing NPOs may not provide for a downward adjustment in the level of funding for a service in order to fit within the available budget.*
    - The court indicated that when a service is prioritised, it must be fully funded according to the criteria set out in the policy.
12. *Government must clearly define the quality and content of the services it intends funding, in alignment with any norms and standards specified in legislation.*
    - The policy cannot provide for lowering the quality of services in order to fit the available budget.
13. *Government's policy for financing NPOs must provide certainty; it cannot allow government to exercise an undefined discretion.*
    - This applies to any processes the policy puts in place relating to the prioritisation of services, the approval of services plans, the allocation of funding and the determination of NPO contributions.

[42] See paragraph 23 of the Fourth NAWONGO Judgement, 28 August 2014

14. *Funding agreements should be for three years to facilitate planning, both by government and NPOs.*
    - The amounts for the second and third years may be provisional.
15. *Government's administration of NPO transfers must be timeous, reasonable, fair, equitable and transparent, and aligned to the provisions governing transfer payments in the PFMA.*
    - This applies to publishing information on the services required, managing applications for funding, processing applications, allocating funding, signing SLAs, paying transfers, monitoring the use of transfers and service delivery, and resolving any problems.

7.2 Reasonable modifications to the court-approved NPO funding policy

Annexure B2 sets out the "revised clauses" in the *Free State Policy on Financial Awards to the Non-profit Organisations in the Social Development Sector* that the court found to be "compliant" in the fourth NAWONGO judgement. Are these clauses set in stone, or can they be modified?

In each of the four NAWONGO judgements, the court emphasised that the government's NPO funding policy must be "reasonable". All the items noted in the previous section give further substance to what the court regards to be "reasonable". Some of the items are clearly non-negotiable, for instance compliance with the Constitution. However, others propose a "reasonable" line of action, but this does not preclude government from proposing an alternative "reasonable" approach in the search for better policy options. So, the court-approved NPO funding policy set out in Annexure B2 can be modified, so long as such modifications are "reasonable".

The following subsections discuss issues where reasonable modifications to the Free State NPO funding policy approved by the court may be considered. This section should be read together with section 2.3, which proposes a method for prioritising the allocation of funds to NPOs delivering social welfare services, and Annexure C, which gives a systematic description of the proposed key elements of a revised NPO funding policy.

7.2.1 Trade-off between expanding access and fully funding services

Given limited budgets, provincial DSDs have been seeking to manage the trade-off between expanding access to social welfare services and the funding of existing services provided by NPOs. To date, the departments have sought to strike some kind of balance between partially funding (subsidising) services and ensuring as wide a coverage of services as possible. They have sought to expand access across a range of services simultaneously, as opportunities for doing so have arisen. Given the level of need, this has tended to result in the available funds being spread very thinly. And there is no doubt that this situation gave impetus to NAWONGO approaching the courts.

The NAWONGO judgements have changed how this trade-off between expanding services and funding services must be managed. The court stated that if government is going to fund an NPO to provide a service on its behalf, it must "fully fund" the core costs necessary to provide the service according to the required norms and standards applicable to the service. In a similar vein, the court indicated that the department should clearly specify which services it is prepared to fund, which items it will fund and at what level. The court recognised that this would result in "tough decisions" where some services would not be funded.

To give effect to this change in funding approach, the Free State DSD compiled *Schedule 1: prioritisation schedule* (see Annexure B1), of which an extract is presented below:

Directorate	Programme	Rank
Children	Integrated social work services	1
Children	Adoptions	2
Children	CYCC: Children's home	3
Children	CYCC: Schools of industry	4
Social crime	CYCC: Reform school	5
Social crime	Secure care centre	6
Children	CYCC: Temporary safe care	7
Social crime	Probation services	8
Older persons	Residential facility: frail care (cat C)	9

The Free State NPO funding policy indicates that the department will evaluate NPO applications and then allocate the available funding in the order of services as specified by the list. Simulations of what would happen if the Free State's 2013 budget for transfers were to be allocated to currently funded NPOs in this way showed that only NPOs providing services in the top 17 out of 34 categories of service would be funded; the rest not.

The way this funding procedure is described in both the judgement and the funding policy seems to focus on fully funding the services currently being provided by NPOs. This gives priority to existing services, and will tend to maintain the status quo with regards to access. The procedure does not provide guidance on what priority should be given to expanding access to services; for instance, how to handle the trade-off between funding existing NPOs that provide, say, frail care services (priority 9) versus expanding access to probation services (priority 8). Should the provincial DSD first ensure that full access to the higher priority service is realised before moving on to funding the next priority service?

Focussing on ensuring 100 per cent access to one service at a time fails to recognise the integrated nature of social welfare services: those who are most vulnerable often require a range of services. It also fails to recognise that very vulnerable people are found across the age and service spectrum.

Rather than adopting a linear (or silo) approach to expanding social welfare services, the aim needs to be on building up the social welfare sector on a range of priority fronts simultaneously. The funding policy also needs to deal with the trade-off between services that are currently being funded and funding expanding access.

7.2.2 Need to move progressively from the current situation

Currently, provincial DSDs are subsidising a wide range of services provided by NPOs. It is generally acknowledged that the level of funding provided is inadequate to enable them to provide the services to the required standards. However, from the beneficiaries' perspective, a lower level of service is, within reason, probably better than no service. If the quality is too low, however, the services in some instances might well do more harm than good. Further, because it will appear that services are being delivered, it might take a long time before the harm is recognised.

The court seems to have assumed that it would be relatively easy for the Free State government to increase the budget so as to cover the gap between current transfers and "fully funded" transfers. However, this did not happen during the four years the court case was in progress, and has not happened in the four years following the last judgement in this case. Given the very tight fiscal circumstances that currently exist (in 2018), it is very unlikely that either national or provincial government will be able to budget to cover the gap in the immediate future. So, what is the most reasonable way to proceed?

If the funding available for transfers does not increase, implementing the NAWONGO judgements:

- will result in large numbers of vulnerable beneficiaries who are currently receiving inadequately funded services, receiving no service at all. This would be a regressive outcome.
- could result in a substantial number of NPOs that do not get any further funding having to close down. This would seriously shock the social welfare sector, and compromise prospects for upscaling services in future. This could happen, for example, where retrenched staff find other work outside the social welfare field. This is not in the interests of the beneficiaries, the employees of the NPOs affected, or the country.

An alternative approach that avoids these regressive and undesirable outcomes is required. Therefore, it is proposed that the most reasonable way to proceed is as follows:

(a) Each provincial DSD needs to thoroughly review the services and activities it currently funds (both in-house and NPO provided services) with a view to cutting spending on non-priority services, including the funding of those NPOs that deliver services either very low down on the priority list or that are not aligned with the department's core mandate. The savings realised must be reallocated as described below.

(b) Each year, each provincial DSD needs to thoroughly review all departmental spending, including the NPOs it currently funds, with a view to cutting those activities that are ineffective. Again, the savings realised must be reallocated, as described below.

(c) After the above two processes, each provincial DSD must continue to fund the NPOs it is currently funding at current levels plus an annual inflation increase.

(d) New funds or funds from savings must be used to increase the level of transfers being made to existing NPOs in order of priority until the level of funding covers the core costs specified in the relevant service funding standard.

(e) A provincial DSD may only move to expand access to services once all the existing NPOs providing that service are being funded according to the relevant service funding standard.

(f) All new services must be funded according to the relevant service funding standard (but only once all existing services are funded in line with this standard).

7.2.3 Modifying the linear prioritisation schedule when expanding access

The prioritisation schedule (Annexure B1) prepared by the Free State DSD lists thirty-four services in a linear list, and the court-approved policy provides that the available budget is allocated to fund the core costs of these services strictly in order of priority. The preceding section proposes that this allocation procedure should be modified to require provincial DSDs to continue to fund NPOs currently being funded, and to improve the level of funding from the top of the list moving down. Should the same linear approach to prioritising the allocation of new funds for expanding access be applied?

Applying a linear prioritisation schedule to expanding access would imply that the provincial DSD must first fully cover access to the top priority service before moving on to the next one. This would result in:

(a) developing the social welfare system in a piecemeal fashion, resulting in an unbalanced provision of services;

(b) a failure to develop the complementary services that beneficiaries often require to ensure the effectiveness of the primary service that is funded; and

(c) a failure to take advantage of easy or quick-win opportunities to expand services in other important areas and so meet the needs of a range of vulnerable beneficiaries.

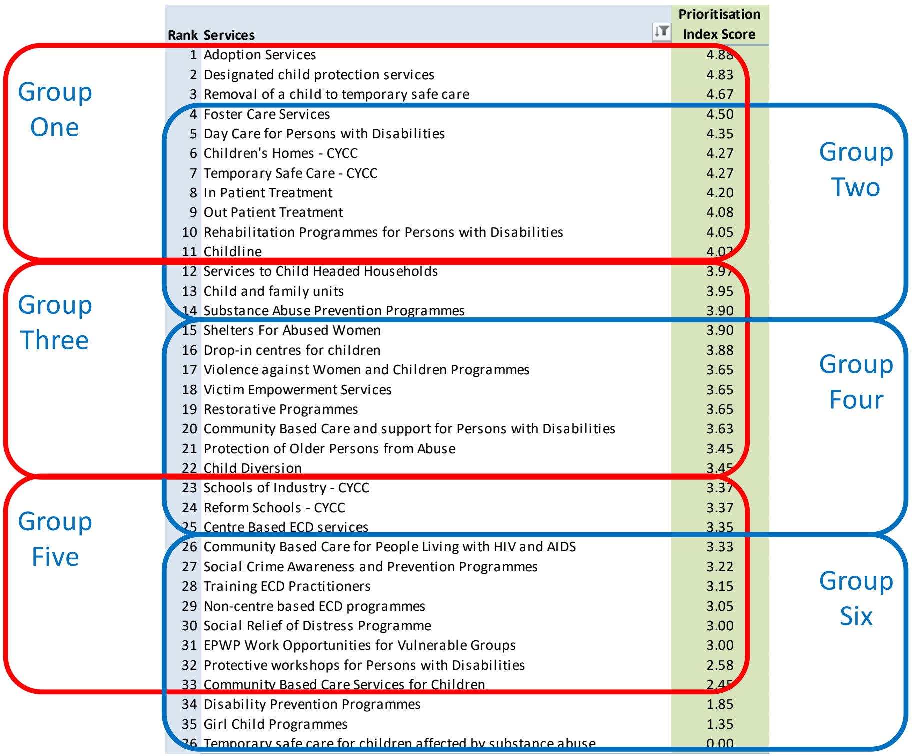
To build up a balanced and effective social welfare system, provincial DSDs need to be able to expand access on a range of service fronts. To ensure that this happens, it is proposed that, for the purpose of directing new funds for expanding access:

(a) the national DSD should organise the prioritisation listing of services into overlapping "priority groups" of complementary services, which provincial DSDs may modify to reflect province-specific priorities;

(b) the funding policy must require provincial DSDs to budget explicitly/separately for "new funds" to expand access;

(c) the funding policy should specify that at least 60 per cent of these new funds must be allocated to expanding access to services in the highest priority group where access is still required, with the remainder being available to expand access across the lower priority service groups.

Figure 6 Example of a possible set of overlapping priority groups



Note that, when looking to expand access to a service, the department must first ensure that all the existing NPOs providing that service are being fully funded according to the relevant service funding standard, and that all new services must be funded according to the relevant service funding standard.

In addition, the funding policy must provide that the provincial DSD cannot allocate funds to the expansion of services provided by the department itself (own capacity) unless the NPOs providing those specific services are “fully funded” according to the applicable service funding standard.

7.2.4 Giving priority to prevention

Prevention is cheaper than cure. Therefore, government should prioritise the funding of prevention programmes so as to prevent harm, and to save costs. Keeping teens drug-free is cheaper than dealing with the consequences of drug addiction. The Free State funding policy that the court approved focusses on existing NPO-provided services, and so does not give adequate priority to the funding of prevention programmes. Indeed, many of the prevention programmes are listed very low down on the prioritisation schedule. To fill this gap, it is proposed that:

- national DSD must compile a list of the top five priority prevention focus areas;
- provincial DSDs must each compile a list of the priority prevention programmes within these five focus areas that it will fund (not all five areas have to be covered);
- each provincial DSD must allocate at least 5 per cent of its total budget to the funding of these priority prevention programmes.

Provincial DSDs can either budget separately or top-slice its total budget for these priority prevention programmes. The bottom-line is that each department must spend at least the equivalent of 5 per cent of their total budget on priority prevention programmes.

7.2.5 Drawing up a prioritisation schedule

The prioritisation schedule (Annexure B1) prepared by the Free State DSD lists thirty-four social welfare services in a specific order or priority. The following issues have been raised with this list:

- The original prioritisation schedule was developed at a workshop held on 2 July 2012 with Free State DSD, facilitated by KPMG. There was no NPO participation or participation from beyond the province in this process.
- the original schedule covered forty services, which the Free State DSD reduced to thirty-four services in the court-approved funding policy. ECD was excluded from the later schedule because the department decided to ring-fence its funding. Other services were collapsed into the “integrated social work” item, which lead to the prioritising of certain services that had been lower down on the first priority schedule. There are also some obvious gaps in the later schedule, which appear to be reflect whether NPOs are funded to provide the services in the Free State or not. Work on the scope of social welfare services for National Treasury[43] has identified a list of thirty-six distinct social welfare services.

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[43] See the SWS List and Priority Index – an MS Excel spreadsheet developed by Cornerstone Economic Research.

- For the most part, the naming of the thirty-four services does not correlate with the service names used by other provincial DSDs (indeed, there is no consistency in the naming or definition of services across provinces).
- It is not clear what criteria guided the prioritisation decisions. Free State DSD has also changed the original prioritisation schedule, and again it is not clear what criteria informed such changes.

All the above point to the need for a new process to develop an appropriate prioritisation schedule of social welfare services. To be credible, the prioritisation schedule needs to be:

- based on standardised service names and descriptions;
- informed by clear criteria for prioritisation; and
- based on broad consultations between national DSD, provincial DSDs, sector experts and representative NPO organisations.

It is proposed that national DSD should compile a series of prioritisation schedules (for prevention priorities, service funding priorities and for expanding service access), each of which the provincial DSDs would be free to adapt to reflect province-specific priorities and circumstances (for more details, see Annexure C).

7.2.6 Definition of core costs

The definition of "core costs" is key to the Free State NPO funding policy. The policy commits the department to fully fund the core costs of services. In this regard, it provides that:

> 11.4.4 The officials of the Provincial Office evaluate the finances of the service plan and the prioritisation of the social welfare programmes as set out in 11.6. The Department shall strive to ensure that the core costs as defined in 11.6.2.4 are based on sound financial principles and the delivery of services that comply with the applicable legislative and constitutional standards that are prescribed.
>
> 11.6.2.4 The reasonable unit cost, being those costs that are reasonably necessary to provide the service, ("core costs") as contained in the second schedule of each item of expenditure that the Department will fund for the relevant social welfare service programmes to be provided, as updated applying CPI to expenses other than salaries and wages and DPSA salary scales to salaries and wages.

The core costs presented by the Free State DSD in its funding policy are those identified as "core" in the FS Costing Model, and include salaries of key personnel, costs of supervision of the key personnel, water and electricity, food supplies, clothing, lease of premises, communication costs, stationery, training and staff development, hire of equipment, office insurance, security and transport. The costs excluded from "core costs" include all overhead, non-key personnel and other costs that might not relate only to a particular funded programme, for instance, costs related to management. Audit fees are excluded, despite the fact that the department insists on NPOs having their annual financial statements audited. Also excluded are infrastructure costs, and the cost of new capital assets.

For many services, "core costs" closely correlates with the full cost of services. However, for many other services there is a very wide divergence between the full cost of providing a service and the core costs. The core costs for substance abuse programmes illustrate this.

Table 29 Core costs for substance abuse programmes in the FS Costing Model

Variable costs per beneficiary per month					
Per # Bens (for Overhead costs ar		Total Cost	Core cost	Partially Necessary	Non-Necessity
Substance Abuse					
Inpatient	60	2,694.39	2,650.93	43.46	-
Outpatient	120	1,192.34	-	1,148.88	43.46
Training services (SA)	1	-	-	-	-
Prevention	1	-	-	-	-
Overhead Cost per Facility/Programme					
Substance Abuse					
Inpatient	60	522,302.62	86,683.67	324,818.62	110,800.33
Outpatient	120	149,133.79	87,073.68	52,828.78	9,231.33
Training services (SA)	1	15,793.35	12,201.94	3,591.41	-
Prevention	1	53,152.10	15,329.32	851.78	36,971.00

Source: FS Costing Model.

The core costs for outpatient programmes cover 58 per cent of the total cost (as calculated by the FS Costing Model) of providing these programmes, whereas for inpatient programmes the core costs only cover 17 per cent of the total cost.

This raises two questions:

- Who made the judgement call to classify certain costs as "core" and others not?
- What criteria were used to inform this classification of costs?

The concern is that if core costs cover only a very low percentage of total costs, it undermines the NAWONGO judgements' findings that the government must "fully fund" NPOs for the services they are providing on the state's behalf, and that the level of funding must be sufficient to enable the NPO to deliver services according to the prescribed norms and standards for that service.

A review of the core costs reflected in the FS Costing Model indicates that there is a need to revisit this classification of costs.

7.2.7 Treatment of NPO workers' salaries

In the last round of consultations, before the fourth judgement, NAWONGO persuaded the Free State DSD to cost NPO staff salaries at the public service salary scales and include all employer costs and benefits, adding a further 37 per cent to the salary costs. NAWONGO saw this as a victory, recognising the principle of equal pay for equal work irrespective of who the employer is.

The court noted that, by pushing for the inclusion of a thirteenth cheque and benefits, the core costs were now higher than the "full costs" for services that the NPOs had accepted at an earlier stage of the consultation and that the core costs were also higher than the actual costs currently being incurred by NPOs for certain services.[44]

Including NPO workers' salaries at the level of public service employees' salaries has two important potential impacts:

- By increasing the cost of services, it means that a given budget can fund fewer services and NPOs, thus restricting access; i.e. there is a trade-off between increasing salaries of NPO staff versus extending access to services;
- Increasing the cost of services provided by NPOs reduces the cost advantage they have relative to government in-house provision. If NPOs are no-longer more cost-effective, departments may well decide to bring service delivery in-house.

The treatment of salaries in the costing of services provided by NPOs needs to be revisited. Taking the above two points into account, it is proposed that national DSD needs to provide policy guidance on the issue along the following lines:

- the core costs should cover NPO staff salaries at 80 per cent of the middle notch of the equivalent public service cost of employment (i.e. excluding a 13th cheque and other benefits); and
- the total costs should cover NPO staff salaries at 100 per cent of the middle notch of the equivalent public service cost of employment (i.e. including a 13th cheque and other benefits).

Over the long term, government should aim to achieve equal pay for equal work within the sector, but greater priority needs to be given to extending access to services while funding is constrained.

7.2.8 The issue of NPO contributions

In the first NAWONGO judgement, the judge stated the following:

> … I do not think that in considering the funding of these NPO's it is unreasonable to take into account that the NPO's have or may have resources of their own and sources of income other than State funding, such as interest received, fundraising projects and donations. … What should be contributed from own resources and /or sources of income by the NPOs that fulfil the obligations of the department, cannot be determined arbitrarily. To be a reasonable measure in this regard, the policy must contain a fair, equitable and transparent method of determination of what these NPO's are able and should contribute to the provision of care for children, older children and vulnerable persons in need and statutory services. The department must show that the policy is reasonable in this respect. [45]

[44] See paragraph 40 of the Fourth NAWONGO Judgement, 28 August 2014.
[45] See paragraphs 48 and 49 of the First NAWONGO Judgement, 5 August 2010.

In response, the Free State provincial DSD put forward the following provisions in its third revised funding policy[46]:

> 11.6.7 In the third stage the Department will determine the amount that each service provider is reasonably able to contribute towards the costs of the programme it has applied to perform, after consultation with the service provider concerned, taking into account inter alia the service provider's service plan (submitted in accordance with clause 10 of this Policy), its financial statements for the preceding fiscal year and the Department's service specifications, as well as any further information which the Department may require service providers to provide that is reasonably required for this purpose. Service providers, as part of their service plan, make written representations regarding the amount they are reasonably able to contribute.
>
> 11.6.8 In the fourth stage the Department will deduct the amount which each service provider is reasonably able to contribute from the required funding for the service to be provided by that service provider to calculate the amount of the financial award that is required ("the required financial funding").

In the fourth NAWONGO judgement, the judge addresses the NPO's argument that the above provisions still allow the department to "arbitrarily determine these contributions by NPOs." The judge finds that the above provisions do not give the department "an unfettered discretion and the determination of NPO contributions towards core costs in terms of the third revision, will not be arbitrary, but fair, equitable and transparent."[47]

While the judge found the proposed process for determining NPO's contribution to be fair equitable and transparent, this does not address the question:

i. When should an NPO be required to make a contribution from own funds?

In the Free State funding policy, which the court approved, the provisions regarding NPO contributions apply within a context where the department is committing to fully fund the core costs of services that NPO's provide on behalf of the department. In the case of a children's home, this core cost amounted to R6 436.41 per child per month in 2013, which compared very favourably with the R4 800 per child per month which the NPOs claimed at the time was the minimum cost of caring for a child. Indeed, the judge found "that it is clear that funding of core costs in terms of schedule 2 will enable the applicants to render the services that they do."[48] So the judge was satisfied that the core costs set out in schedule 2 were sufficient to "fully fund" the services that NPOs were providing on behalf of government.

[46] See Annexure B2 - the *Supplementary Affidavit* submitted on 9 September 2013 to the Free State High Court, Bloemfontein.
[47] See paragraphs 42 and 43 of the Fourth NAWONGO Judgement, 28 August 2014.
[48] See paragraph 40 of the Fourth NAWONGO Judgement, 28 August 2014.

So, putting things together, the court found that it is appropriate to take NPO contributions into account when the following is true:

Government transfer + NPO funds **>** *the full cost of service.*

Currently, the levels of government transfers are relatively low compared to the both the core cost and the full cost of services proposed by the FS Costing Model; therefore it is very likely that for nearly all NPOs the following applies:

Government transfer + NPO funds **<** *the full cost of service.*

In such circumstances it would be inappropriate to deduct an NPO contribution from the transfer amount, because it would result in the service being even more underfunded.

To complicate matters still further, in the case of children's homes core costs as determined by the FS Costing Model are 86 per cent of the total cost of the service, whereas the core costs only cover 17 per cent of the total cost of inpatient programmes (see Table 29 above). In other words:

Government transfer = core cost of service **<** *the full cost of service.*

This means that, at present, it would be inappropriate to rely on the core costs proposed for different services in the FS Costing Model as a basis for determining a threshold for applying the NPO contribution provision. The lack of consistency in the determination of these core costs does not provide a fair, and transparent starting point for determining appropriate NPO contributions.

It also needs to be recognised that the FS Costing Model does not cover certain items/areas of routine expenditure, for instance maintenance, book-keeping and auditing, or the replacement of capital assets.

Of course, it is possible that there may be very well financed NPOs. But unless there is agreement on the reasonable full cost of services, there is no benchmark against which to measure whether an NPO is over-funded or not. In the absence of agreed full cost of services such assertions are subjective, and not a sound basis for determining a fair NPO contribution.

ii. How does one determine what NPO own funds should be taken into account?

NPO's derive funds and in-kind donations from multiple sources, and for a range of purposes. Consider the following examples of NPO income:

- a donor gives a vehicle;
- a farmer gives cabbages;
- a shop gives food stuffs that have passed their sell-by date;
- a donor gives cash to buy a vehicle, or to renovate a building;
- a client pays a fee for a service;
- income from an investment trust established to fund the NPO;
- overseas philanthropic funding;
- local philanthropic funding;
- section 18(a) donations from individuals and corporates;

- Lotto funding (which in terms of Lotto's new funding policy now may only be granted for a maximum of two years); and
- funding from other government departments for unrelated projects.

Which of these should be counted as income for the purposes of making a deduction? It becomes very complicated. In the fourth NAWONGO judgement the judge placed great emphasis on the fact that the amount will be determined after consultation with the service provider. However, we submit, that without very concrete guidance, leaving it to the discretion of social welfare officials, who may not have the requisite financial management training and who have a strong interest in stretching departmental funds as far as possible, is unlikely to foster harmonious relations between the department and the NPOs concerned.

iii. Interim proposal regarding NPO contributions

At present, the following equation describes the relationship between government transfers, core costs and the full cost of services for nearly all services that provincial DSDs fund NPOs to provide on their behalf:

Government transfer **<** *core cost of service* **<** *the full cost of service.*

In such circumstances, in would be unreasonable and unfair for provincial DSDs to deduct anything from the transfer amount, because they are not even fulfilling their minimum constitutional obligation to fund the core cost of the service the NPO is providing on their behalf. It is, therefore, proposed that any provisions regarding NPO contributions should not be implemented until such time as:

a. there is agreement on the reasonable core costs delivering each of the different services, and the gap between these core costs and the full cost of services is not unreasonably large;
b. government transfers are covering these core costs of delivering services; and
c. there is an agreed framework to guide which sources of income should be taken into consideration.

In essence, this means the issue of NPO contributions should only come into consideration once government has fulfilled its obligations to adequately fund the services NPO's are providing on its behalf – which fully aligns with the context of the judge's findings on this issue in the fourth NAWONGO judgement.

7.2.9 The NPO funding policy must limit opportunities for gaming the allocation of funds

The NPO funding policy must be structured to create certainty, and prevent unscrupulous parties from manipulating the arrangements to achieve outcomes not specifically intended, or outside of what is fair and reasonable. For this reason, it is important that the policy should include provisions that promote transparency, structured decision processes, consultation, medium-term planning, a preference for three-year allocations, etc.

Some further thought needs to be given to how to manage changes to the service prioritisation schedules in a fair and transparent manner. For instance, a department could remove a service from the schedule with the express purpose of collapsing the NPOs that are being funded to provide that specific service. This suggests that, to be reasonable, an NPO funding policy needs to include the following provisions:

- Any changes to the order of services on the prioritisation schedule may not impact on the funding of NPOs that are currently providing the affected services, i.e. existing levels of funding may not be reduced or cut purely on the basis of changes to the prioritisation schedule.
- Before a department may remove a service from the prioritisation schedule, it must consult with representative organisations within the NPO sector, as well as with all the NPOs currently being funded to provide the affected service. If the service is removed from the prioritisation schedule, the department must continue to fund the NPOs providing the service at the time the change is made for at least another two years, so as to allow them time to make alternative funding arrangements or close the services down in an orderly manner.

7.2.10 Provincial DSDs seeking to avoid the funding implications of the NAWONGO judgements

Probably the greatest risk is that certain provincial DSDs may seek to avoid the funding implications of the NAWONGO judgements by cutting funding to NPOs either partially or completely, and argue that they are using the “saved” funds to build up the department’s capacity to deliver services in-house.

This would effectively reduce the provincial DSD’s obligation to find additional funds to fully fund NPOs providing services on its behalf. However, it is likely to lead to a regressive contraction in the availability of social welfare services, because a department’s costs of provision are higher than those of NPOs. By bringing delivery in-house, the department would be able to hide the level of underfunding of social welfare services by lowering levels of access and lowering the quality of services. See the discussion in section 3.1, which highlights the potential for conflicts between a provincial DSDs’ funder, regulator and provider roles in the provision of social welfare services. The fact that there is no arms-length relationship in the exercise of the regulatory role could mean that the department goes soft on itself in monitoring the maintenance of service standards in relation to the services that it moves in-house. The net result would be to seriously disadvantage the most vulnerable people, who would receive either lower quality services or no services at all.

It is not clear what mechanisms are available to prevent a provincial DSD from taking this line of action. The national Minister of Social Development may seek to exercise moral suasion by issuing guidelines discouraging provincial DSDs from cutting allocations to NPOs. Other than that, the affected NPOs may have to approach the courts to interdict the department from acting in a way that is patently unreasonable and against the interests of the most vulnerable.

8. The Way Forward

1. Acknowledge government is responsible for fully funding social welfare services.

The point of departure for moving forward is for government to recognise, as a fundamental principle of funding, that NPOs that provide care to children, older persons and vulnerable persons in need, as well as statutory services, fulfil the constitutional and statutory obligations of the government.[49] This needs to inform government's overall approach to funding NPOs that provide social welfare services.

2. Develop a longer-term strategy to prioritise the funding of social welfare services.

Ensuring adequate funding for NPOs that deliver social welfare services on behalf of government is a key challenge within the sector. Another key challenge is the very unequal spending on social welfare services across provinces. The analyses undertaken for this project indicate that:

- **R9.2 billion** is required to fill the 71 per cent funding gap in the level of transfers to existing NPO services that are currently delivering services for provinces. This represents an increase of 80 per cent over the current total combined spending on social welfare services in 2016/17.
- **R9.4 billion** is required to equalise spending across provinces at the 2016/17 levels of spending per poor person in the Western Cape. This represents an increase of 82 per cent over the current total combined spending on social welfare services in 2016/17.

These numbers make the R440 million that government allocated as an addition to the provincial equitable share over the 2018/19 MTEF to social welfare services for the implementation of the NAWONGO judgement appear rather modest; just 4.8 per cent of R9.2 billion – the lower of the above two numbers.[50] Given the current fiscal environment, the above allocation of new funds to social welfare services must be welcomed. However, questions need to be raised regarding the social justice and equity of prioritising free higher education over expanding the provision of social welfare services to the most vulnerable. To paraphrase the judge in the NAWONGO court case: a policy that excludes the most needy persons cannot be said to be a reasonable measure.[51]

In light of the above, government needs to develop a longer-term strategy that gives priority to improving the funding of social welfare services. This strategy needs to address the issue of funding on both the national and provincial fronts.

(a) Certain provincial governments have not prioritised spending on social welfare services within their provincial budgets. Pressure needs to be placed on Limpopo, KwaZulu-Natal, Mpumalanga and Eastern Cape to prioritise spending on social welfare services to the same extent as other provinces. Given that the extreme and increasing inequality resulting from these provinces' actions very likely represents a failure by them to "fulfil an executive obligation in terms of the Constitution" it may be necessary for the national executive to intervene in terms of section 100 of the Constitution by issuing a directive to the respective provincial executives to take appropriate measures in the compilation of their budgets to rectify the failure to prioritise spending on social welfare services appropriately.[52]

49 See paragraph 47 of the First NAWONGO Judgement, 5 August 2010
50 See page ix of the Introduction in National Treasury, 2018. *Estimates of National Expenditure 2018*.
51 See paragraph 23 of the Fourth NAWONGO Judgement, 28 August 2014
52 See section 100(1)(a) of the Constitution.

(b) The national government needs to address the overall underfunding of the social welfare sector by making substantial additions to the provincial equitable share over the medium to longer term. If provinces cannot be trusted to allocate these additional equitable share funds to social welfare services, then national government will need to introduce a suitable conditional grant to ensure the new funds are used for their intended purpose.

3. Put in place an NPO funding policy that prioritises the allocation of funds.

It is going to take time to substantially increase funding for social welfare services. In the interim, national DSD needs to ensure that the NPO funding policy puts in place procedures to:

(a) ensure at least a minimum level of spending on effective prevention programmes;

(b) protect existing NPO capacity to deliver social welfare services across a wide range of service areas, i.e. avoid a situation where funds are concentrated on a limited number of services;

(c) ensure that progressive improvements are made to the level of funding for existing services delivered by NPOs, starting with the highest priority services;

(d) provide new funds for expanding access to priority services; and

(e) guard against unreasonable actions being taken by provincial DSDs, such as cutting funding to NPOs.

The proposed revised funding policy in Annexure C seeks to provide a workable approach to realising these objectives in a manner that is reasonable and aligned to the NAWONGO judgement.

4. Put in place service funding standards for priority services.

Moving from the principle that NPOs are providing social welfare services on behalf of government, the NAWONGO judgement stated that the level of funding for a service should cover the core items required to deliver the service at a reasonable unit cost of these items. To address this aspect of the judgement, but also to promote equitable funding of services across provinces, it is proposed that national DSD should develop *service funding standards* for each service, which specify the minimum level at which a provincial DSD can fund an NPO to deliver the specified service. National DSD should aim to issue service funding standards for a limited number of easily costed priority services, and then gradually expand the number of standards each year. This would have the advantage of phasing in the budgetary implications of these standards over time. National DSD must also ensure that processes are put in place to review these standards every three years in consultation with stakeholders.

The FS Costing Model in its current form does not provide a sound foundation for developing these service funding standards due to deficiencies in the way it deals with overhead costs, supervision costs, its definition of core costs and its approach to costing programmes. Also the data it uses for the cost of items is out-of-date. Nevertheless, if the model is modified to resolve these issues it could be used; however, such modifications will not be easy to execute.

There is a range of other existing costing models that could also be modified and updated to produce these service funding standards. However, to move forward, the following issue would need to be addressed.

5. Put in place standard service names and definitions of the content of services.

At present, provincial DSDs do their own thing when it comes to naming services and defining the content of such services. As a result, a service might have the same name across provinces, but its content differs as does its funding requirement. More often, there is simply no consistency. Unless there is uniformity in the naming and defining of services, it will be counterproductive to prescribe uniform service funding standards. National DSD needs to lead a process to put in place standard service names and definitions of the content of services. Again, the department should see this as an incremental process, and start with those services that are easily named and defined, gradually expanding the list each year.

6. Gather information on the provision of services by both provincial DSDs and NPOs

One of the key successes of this project was the compilation of NPO transfer and services delivery information for eight of the nine provinces. It is important that national DSD works with provinces to put in place routine processes for gathering information on the provision of services by both provincial DSDs and NPOs. Section 5.2 outlines the steps that need to be taken to do this.

Annexure A – Key findings of the NAWONGO court judgements

Four judgements were delivered in the course of the NAWONGO case. The first judgement put in place a structural interdict that required the Free State DSD to revise its Financing Policy to align with constitutional and legislative requirements, and to report back so that the court could check compliance. Each of the successive judgements reviewed the department's revised drafts of the Financing Policy. The judgements are complex, due to the specifics of the case. One also needs to take into consideration the parties' interactions between the judgements. This section sets out the key findings of each of the judgements.

1. The first judgment, August 2010

At the outset, the court adopted a firm line with regards to the late payment of transfers to NPOs. It rejected the department's excuses for late payment, and its efforts to delay payments further. Instead, the court ordered the department to make immediate payment of all outstanding transfers.

The Free State government's submission referred to three policies as being relevant, namely (a) the National Policy on Financial Awards to Service Providers of 2004; (b) National Procedure Guidelines for the Implementation of the Policy on Financial Awards to Service Providers of 2005; and (c) the Free State Policy on Financial Awards to the Non-profit Organisations in the Social Development Sector of 2003.

The court focused on the Free State Policy on the basis that it did not differ fundamentally from the national policy. The court identified the "fundamental question" as being whether the Free State Policy is in line with the constitutional and statutory obligations of the state.

The Free State Policy stated, among other things, that:

- funding would depend on availability of funds and the need for a particular service in terms of DSD's strategic objectives;
- determination of the amount of the award was the "prerogative" of DSD, and NPOs were free to "accept or reject" it;
- The payment was a "subsidy", i.e. that it would not cover the full cost.

Reflecting on these provisions, the court noted that the key problem lay in the fact that the Free State Policy "fails to recognise, as a fundamental principle of funding, that NPOs that provide care to children, older persons and vulnerable persons in need as well as statutory services, fulfil constitutional and statutory obligations of the department."[53]

The court further found that:

- the "take it or leave it" approach in which it is fully the department's prerogative to decide whether, what and how much to fund was "fundamentally flawed", as it did not recognise the state's constitutional and statutory obligations;
- it is not unreasonable to consider other resources that an NPO might have, but the method of calculating the amount must be "fair, equitable and transparent".

[53] See paragraph 47 of the first NAWONGO judgement, 5 August 2010

The judgment provided guidance on how the department should revise its policy so as to pass the test of reasonableness. The court said that, to be reasonable, the policy must:

- recognise that NPOs provide services the department itself is obliged to provide in terms of the Constitution and various laws; and
- have a fair, equitable and transparent method of determining how much the Department should pay and how much the NPOs should contribute from other sources of income.[54]

In respect of s28(b)-(d) of the Constitution, the court noted that children's rights to family, parental, or alternative care; basic nutrition, shelter, health care and social services; protection from maltreatment, neglect, abuse, and degradation are not subject to the same "internal limitation" as other rights clauses in the Constitution. However, the court noted further that, where there was other subsidiary legislation aimed at giving effect to constitutional rights, the other legislation applied unless directly challenged in the court. So, in the absence of such a challenge, section 4(2) of the Children's Act, 2005, which obliges the state to "take reasonable measures to the maximum extent of available resources", therefore applied. The judge also cited similar sections in legislation related to other vulnerable groups

In this first judgement, the court did not make a finding as to whether differential funding of NPO and government facilities contravenes the constitutional requirement of equality and thus constitutes unfair discrimination. The judge stated that it was not necessary to make such a finding, as a new policy drafted in line with constitutional and statutory obligations would, by definition, not incorporate unfair discrimination (see below, where the court returns to this issue in the second judgement.)

2. The second judgment, June 2011

The Free State DSD reported in its submission to the court that it was still in the process of revising its funding policy, but it proposed a revised clause 11.6, which provided that:

- DSD "has a statutory and constitutional obligation to achieve, within its available resources the progressive realization of the applicable socio-economic rights which it must fulfil by striving to progressively increase the resources available for the provision of social welfare services";
- the objective is "to ensure that its financial awards will eventually cover the full cost of service";
- the NPO contribution from other sources would be determined after consultation with the NPO concerned, and would take into account the NPO's financial statement from the previous year;
- allocations would be provisionally approved for three years;
- the costing would be reviewed annually by the provincial Public Private Partnership Sub-directorate based on input from the relevant service delivery sub-directorates.

However, the court noted that the revised policy then went on to provide, as before, that the department would provide only a percentage of the calculated amount needed by the NPOs to

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54 Orders of the first NAWONGO judgement

deliver services if the department's total allocation for NPO transfers could not cover the full amount. Clause 11.6.9 of the proposed policy read as follows:

> *11.6.9 The provisional awards so determined will further be subject to adjustment by an appropriate percentage, if necessary, to provide the final awards of all programmes to which subsidies have been allocated to ensure that the aggregate of the approved financial awards do not exceed the funds allocated to the Department for transfer to the service providers rendering the relevant social services.*

The court agreed that the policy should contain a mechanism to allocate an insufficient budget, but stated that this mechanism must be reasonable. The court noted that, as the proposed policy read, it appeared to be “irrational and illogical”. The court observed that, in essence, NPOs were expected to “share” the deficit in funding among themselves.

The judge noted that while “tough decisions” might be required, sufficient time was available each year for DSD to plan and prioritise in a way that produces justifiable funding decisions that were in line with the Bill of Rights rather than – as proposed in the policy – engaging in “senseless procedures of approval of service plans that cannot be fully funded (albeit with the assistance of reasonable contributions by NPO[’]s) and payment of palpably insufficient amounts to all approved NPO[’]s.”[55] In the judge’s view, clause 11.6.9 was “self-defeating”, as NPOs would not have sufficient funds to deliver the services that DSD was obliged to provide. This judgment thus implied that DSD’s allocation plus a possible NPO contribution should together cover the full basic costs of a service.

Although the judge had noted in the first judgment that he was not required to express a view on whether differential funding of NPO and DSD services was inequitable, in this judgment he seemed to suggest that this might well be the case. He asked: “And what about their rights to equality, because they may suffer solely as a result thereof that they happened to be referred to the NPO’s child and youth care centre and not, for instance, to one of the department’s own institutions?”

3. The third judgment, March 2013

DSD’s proposal at this point was to specify that NPOs should deliver services at a minimum, average or maximum level depending on funds available. The objective was to allocate the available funds, which would be inadequate, to as many programmes as possible, with the required quality level adjusted to fit within the budget.

The clause in respect of determining the reasonable contribution by NPOs allowed for written representations by the NPO concerned. The timing of review of costs was now specified as “from time to time”.

NAWONGO contested the revised policy on three grounds, namely (a) the lack of consultation (which was not contested by DSD); (b) that DSD was still given too much discretion; and (c) that the costing did not “fully and finally” determine the expenses DSD would pay.

DSD argued that the fact that it would have benchmark costs and prioritise meant it was no longer requiring NPOs to cover the deficit. Nevertheless, at about the time the matter went to court, the

[55] Paragraph 22 of the second NAWONGO judgement

department sent out a letter alerting all subsidised NPOs in the province that the redrafted policy meant that some of them might in future receive no funding while others would receive more than previously.

After reviewing the proposed changes, the court concluded that the allocation model was still a "deficit-sharing" model because it allowed the department to decide what was essential and what was not. The proposed model meant that none of the programmes would be fully funded for all listed expenses. The model also meant that NPOs would not know what funding – if any – they would receive from government for a particular programme. Instead, this would depend on how the department chose to spread its budget. On this issue, the court expressed itself as follows:

> *The department must approve a service plan and then fully fund it. Of the 40 items listed in Schedule 1, the department must determine which programmes it will fully fund… Then it must determine which costs of that programme it will fund. If, for instance, it is not willing to fund the electricity costs of the Substance Abuse Training Services…, then it must spell that out in its description of the programme… The policy cannot use an undefined discretion.*

4. The fourth judgment, August 2014

The revised Policy submitted by Free State DSD[56] provided that the department would make publicly available the prioritised schedule of programmes and the costs to be covered within each. Coverage would be determined on the basis of funds made available by Provincial Treasury "for funding of social welfare service programmes", and NPOs would be required to meet legislative and constitutional standards in terms of quality of services. NPO contributions would be determined after consultation with the NPO concerned, on the basis of written submissions, the service plan, and the preceding year's financial statements "as well as any further information which the Department may require service providers to provide that is reasonably required for this purpose." DSD would "not take into account any funds that the service provider requires for its reasonable operational costs that are not funded by the department and/or capital expenditure." The costs to be funded ("core costs") would be updated by the consumer price index and Department of Public Service and Administration (DPSA) scales each year, and reviewed every three years. The schedule would not specify how far the funding would reach. Instead, once the funding amount was known, DSD would go down the priority list until it reached a programme that could not be fully funded. The remaining funds would then be allocated pro rata within that programme.

The court noted that clauses 11.6.12 and 11.6.13, which referred to striving for eventual full funding, were the "constitutional foundation of funding". However, partial funding was meanwhile acceptable in that "[T]he socio-economic rights in question have no minimum core or threshold… Progressive realisation means that the rights in question must over time be made accessible to a larger number of people and a wider range of people." The fact that some currently-funded programmes would not be funded in the near future did not render the policy unlawful if this happened on the basis of prioritisation.

The judgment reiterated that it was not in the court's power in this case to make an order specifying the financial amount to be allocated or the specific programmes to be funded. However, the court

[56] See Annexure B2.

concluded that "a policy that excludes the most needy persons could not be said to be a reasonable measure."[57]

The judgement included a range of statements that indicated the judge had confidence that the DSD would utilise the information now available to successfully convince the provincial treasury to increase allocations for funding NPOs. This seemed to him a reasonable expectation, given that the additional funds required represented only 1.4 per cent of the total Free State budget. (As it turned out, the Free State government did not approve any additional funding; in fact, the Free State budget for NPO transfers has declined in real terms since 2010/11.[58])

The judge stated that it was reasonable that funding did not cover infrastructure if DSD funded only those NPOs that had the necessary infrastructure. He felt further that the addition of the phrase in the Policy stating that DSD must, in determining what other resources the NPO had, "leave out of account funds required for the reasonable operational costs of the NPO that are not funded by the department and capital expenditure" would make the decision on NPO contributions "fair, equitable and transparent" rather than arbitrary.

The court declared the department's third revision of its *Policy on Financial Awards* to be compliant with the previous judgments (see Annexure B2). However, near the outset of the judgement, the court noted that – given the principle of separation of powers – government, not courts, had the power to make policy. Courts could only assess whether the policy was in line with the Constitution. They could not and should not make a judgment as to whether a policy was better than other possible policies.

57 See paragraph 23 of the Fourth NAWONGO Judgement, 28 August 2014

58 Page 40 of Budlender, D., 2016, *The Size of the Pie and How to Cut It: Assessing the NAWONGO Case and the Effects on Social Welfare Allocations for Children*, Centre for Child Law, University of Pretoria. Available at http://www.centreforchildlaw.co.za/publications.

Annexure B1 – Free State DSD's service prioritisation schedule

Schedule 1: prioritisation schedule

Calculation of amount funded per beneficiary

Directorate	Programme	Rank
Children	Integrated social work services	1
Children	Adoptions	2
Children	CYCC: Children's home	3
Children	CYCC: Schools of industry	4
Social crime	CYCC: Reform school	5
Social crime	Secure care centre	6
Children	CYCC: Temporary safe care	7
Social crime	Probation services	8
Older persons	Residential facility: frail care (cat C)	9
Disability	Residential facility (Disabled)	10
Substance Abuse	Inpatient	11
Substance Abuse	Outpatient	12
Children	Drop-in centres	13
Children	After-hours emergency services	14
Children	Childline	15
VEP	Community-based services	16
Disability	Rehab. and community-based services - Day care services	17
VEP	Shelter	18
Older persons	Home-based care (comprehensive)	19
Children	Community-based programme	20
HIV/AIDS	Community-based multi-purpose organisation (Drop-in centre)	21
Disability	Protective workshop	22
HIV/AIDS	Child care forums	23
VEP	One-stop centre	24
Older persons	CBC: Basic informal	25
Older persons	CBC: Basic formal	26
VEP	Advocacy (VEP)	27
Disability	Advocacy (Disabled)	28
Older persons	CBC: Intermediate	29
Substance Abuse	Training services (SA)	30
Older persons	CBC: Tertiary	31
Families	Training services (Families)	32
VEP	Training workshops (VEP)	33
Families	Education	34

Annexure B2 – Free State NPO funding policy – revised clauses

The following “revised clauses” for the Free State NPO funding policy are copied from *Supplementary Affidavit* submitted on 9 September 2013 by the acting head of the Free State Department of Social Development, Johannes Lindstrom, to the Free State High Court, Bloemfontein in the NAWONGO case.

The Revised Clauses in the Written Policy

6.1 Budget inputs in terms of the medium term expenditure framework (NPEF):

6.1.3 The budget inputs for transfer payments are calculated according to the amount required to fully fund the programmes, calculated according to the costing model.

6.1.5 For the purposes of this transfer payment policy the budget will be informed by the principle of programme/project financing. (For more detailed information on the financial assessment of service plans and the determination of financial awards for specific programmes, refer to 11.6.)

8.2 Publishing of service specifications:

8.3.3 The service specifications are published no later than 30 March of the year preceding the year to which the service specifications relate. The service specifications will cover all programmes and services that the Department envisages that NPOs will provide. The service specifications will make clear the ranking that Government will apply in determining which services can be funded.

9.2 Times frames for the call of service plans:

9.2.1 The Department of Social Development calls for service plans at the same time as the publication of the service specifications annually, not later than 15 March.

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9.2.2 The closing date for the submission of service plans is 6 weeks after the date on which a call for service plans was issued and service specifications were published.

11.4 Role of Provincial Office:

11.4.4 The officials of the Provincial Office evaluate the finances of the service plan and the prioritisation of the social welfare programmes as set out in 11.6. The Department shall strive to ensure that the core costs as defined in 11.6.2.4 are based on sound financial principles and the delivery of services that comply with the applicable legislative and constitutional standards that are prescribed.

Financial assessment of service plans:

11.6.1 Applications for State funding of social welfare service programmes (service plans) will only be considered if they pertain to one of the recognised social welfare service programs identified in the first schedule.

11.6.2 The financial appraisal of service plans will be performed in accordance with the principles and procedures set out in paragraphs 11.6.3 to 11.6.15 below based upon:

11.6.2.1 The service specifications published annually by the Department;

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11.6.2.2 The level of prioritisation allocated to each social welfare service programme as listed in the first schedule which shall be made publicly available;

11.6.2.3 The items of expenditure which the department will fund to deliver the relevant programme, as contained in the second schedule which shall be made publicly available;

11.6.2.4 The reasonable unit cost, being those costs that are reasonably necessary to provide the service, ("core costs") as contained in the second schedule of each item of expenditure that the Department will fund for the relevant social welfare service programmes to be provided, as updated applying CPI to expenses other than salaries and wages and DPSA salary scales to salaries and wages.

11.6.2.5 The need for funding, which is determined by taking into account what service providers are reasonably able to contribute;

11.6.2.6 The number of programmes that may be funded will be dependent on the funding made available to the Department by the Provincial Legislature for the funding of social welfare service programmes;

11.6.2.7 The quality of the service that shall be provided must comply with the applicable legislative and constitutional standards that are prescribed.

11.6.3 The allocation of available funding to approved programmes will be done in accordance with the allocation model contained in the third schedule.

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11.6.4 The financial appraisal of service plans will be conducted in stages;

11.6.5 During the first stage service plans will be evaluated against the Department's service specifications, and subject to compliance therewith, may be approved;

11.6.6 In the second stage the Department will apply the costing model for each programme, as contained in the second schedule, in order to determine the standardised costs and other costs of rendering the services which are to be delivered in terms of the approved service plan ("the required funding").

11.6.7 In the third stage the Department will determine the amount that each service provider is reasonably able to contribute towards the costs of the programme it has applied to perform, after consultation with the service provider concerned, taking into account inter alia the service provider's service plan (submitted in accordance with clause 10 of this Policy), its financial statements for the preceding fiscal year and the Department's service specifications, as well as any further information which the Department may require service providers to provide that is reasonably required for this purpose. Service providers, as part of their service plan, make written representations regarding the amount they are reasonably able to contribute.

11.6.8 In the fourth stage the Department will deduct the amount which each service provider is reasonably able to contribute from the required funding for the service to be provided by that service provider to calculate the amount of the financial award that is required ("the required financial funding").

11.6.9 In the fifth phase the Department determines the distribution of the funds made available to it by the Provincial Legislature to

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cover the transfer of funding to NPO programmes, in order of their ranking in the first schedule to defray in full the required financial funding, as is described in the allocation model. Once a point is reached where the funds are insufficient to fully fund the core cost items for the next ranked programme applying this approach, then the funds so remaining shall be applied pro rata to cover the funding of such programme so that it is partially funded.

11.6.10 In the sixth stage the financial award so determined will then be submitted for approval in terms of clause 12.2.2 and if approved, it shall be allocated and paid to the service provider in the manner as prescribed in this Policy.

11.6.11 The financial appraisal performed in terms of paragraphs 11.6.2 to 11.6.10 will be predicated upon the principles set out in paragraphs 11.6.12 to 11.6.15 below.

11.6.12 The Department has a statutory and constitutional obligation to achieve, within its available resources, the progressive realisation of the applicable socio-economic rights, which it must fulfil by striving to progressively increase the resources available for the provision of social welfare services.

11.6.13 It is recognised that whilst the Department strives and will continue to strive to fund all of the recognised social welfare service programmes to the maximum extent possible, its objective being to ensure that its financial awards will eventually cover the full costs of all social welfare service programmes, the limited resources at its disposal presently preclude it from doing so.

11.6.14 Financial awards will, in order to facilitate forward planning and budgeting, be approved for a minimum period of three financial years, with approval in respect of the second and third years being provisional.

11.6.16 The core costs contained in the second schedule to this policy will be reviewed every three (3) years by the Department pursuant to its having considered input received from relevant stakeholders."

12.2 The process of obtaining approval:

12.2.3 The submission to obtain approval for payment of the financial awards is presented to the Head of Department no later than two months after the closing date for service plans but no later than 30 June of the relevant year.

Annexure C – Proposals for a revised NPO funding policy

Principles of the funding policy

Drawing from the NAWONGO case judgements, the following points must inform NPO funding policies going forward if they are to be considered reasonable:

1. *Government is free to explore better policy options for financing NPOs.*
    - Although the court found the revised Free State policy (Annexure B) to be reasonable, the court was careful to emphasise that this did not imply that it represented the best policy option, or that better policy options were not possible.
    - When government explores alternative policy options for financing NPOs, it needs to ensure that any new policy is aligned with the NAWONGO judgements.
2. *Government must consult thoroughly with NPOs when developing or revising its NPO funding policy.*
    - The NAWONGO case placed great emphasis on the importance of thorough and meaningful consultation between government and NPOs.
    - Failure to consult may well lead to a policy being regarded as unreasonable.
3. *Government's policy for financing NPOs must be aligned to its constitutional and legislative obligations.*
4. *Government has an obligation to fund NPOs that provide services that the state is obliged to provide.*
    - The policy must recognise that by providing services to vulnerable people, NPOs are fulfilling the obligations of government.
5. *Government must take reasonable measures to the maximum extent of available resources to ensure funding is available for funding the services that NPOs provide, particularly those services required by the most vulnerable.*
    - Government is obliged by both the Constitution and statutes to achieve progressive realisation of socio-economic rights. This requires that government must progressively increase the amount allocated for social welfare services.
    - The court stated that "a policy that excludes the most needy persons could not be said to be a reasonable measure"[59].
6. *Government's policy for financing NPOs must be reasonable, fair, equitable and transparent.*
    - This applies both to the content of the policy itself, and any processes it puts in place relating to the prioritisation of services, the approval of services plans, the allocation of funding, and the determination of NPO contributions (if required).
7. *Government's policy for financing NPOs must indicate which services it will fund, what inputs it will fund and at what level it will fund those inputs.*

[59] See paragraph 23 of the Fourth NAWONGO Judgement, 28 August 2014

8. *The level of funding for a service should cover the core items required to deliver the service at a reasonable unit cost of these items, which should be revised every three years in consultation with stakeholders.*

9. *It is reasonable to expect NPOs to contribute to the funding of services.*

   - The court did not say that NPOs *must* contribute to the funding of services. Rather the court noted that it is *not unreasonable* for an NPO funding policy to require that NPOs make a contribution.

10. *Government's policy for financing NPOs must provide for a method of planning and prioritising services so as to provide a rational basis for making tough decisions regarding which services to fund.*

    - Government does not need to provide for the coverage of all services, but must have a rational process for defining which services it will fund, and which not.
    - Government should sign SLAs only with those NPOs it intends "fully" funding in line with the policy.

11. *Government's policy for financing NPOs may not provide for a downward adjustment in the level of funding for a service in order to fit within the available budget.*

    - The court indicated that when a service is prioritised it must be fully funded according to the criteria set out in the policy.

12. *Government must clearly define the quality and content of the services it intends funding, in alignment with any norms and standards specified in legislation.*

    - The policy cannot provide for lowering the quality of services in order to fit the available budget.

13. *Government's policy for financing NPOs must provide certainty; it cannot allow government to exercise an undefined discretion.*

    - This applies to any processes the policy puts in place relating to the prioritisation of services, the approval of services plans, the allocation of funding and the determination of NPO contributions.

14. *Funding agreements should be for three years to facilitate planning, both by government and NPOs.*

    - The amounts for the second and third years may be provisional.

15. *Government's administration of NPO transfers must be timeous, reasonable, fair, equitable and transparent, and aligned to the provisions governing transfer payments in the PFMA.*

    - This applies to publishing information on the services required, managing applications for funding, processing applications, allocating funding, signing SLAs, paying transfers, monitoring the use of transfers and service delivery, and resolving any problems.

Objectives the funding awards policy must achieve

Address the trade-off between expanding access and fully funding services

The funding policy must recognise that there is a trade-off between expanding access and fully funding services, and provide a rational approach to making this trade off. This trade off exists both within services and across services. Therefore, the funding policy must clarify the decision-making process that guides how the department chooses between fully funding, or funding more fully, services that have a high priority over expanding access to more people requiring services.

The policy must recognise that spreading funding too thinly reduces the quality of services, and the funding policy must identify in which services spreading the funding too thinly has the potential to create greater harm than if the service is not provided. These evaluations must take into account the integrated nature of social services.

Define core costs

In order to fully fund services, the department must define and quantify the core costs required to deliver a service. These core costs must be used to calculate the unit costs, which inform the value of subsidies or other transfers paid to NPOs. The following principles must be adhered to when defining core costs:

(a) Core costs are those costs that are reasonably necessary to provide the service. Costs deemed as reasonably necessary must be set after consultation with the NPOs providing the services.
(b) Norms and standards relating to the service must be used to identify the minimum range of items to be included in the core costs.
(c) The core costs must take into account the need for NPOs to incur overhead and management costs to ensure services are managed, funded and reported on. Therefore, core costs must include a component for overhead costs and other costs not directly incurred in the provision of the service.

Treatment of NPO workers' salaries

The core costs must be calculated on the basis that government will cover NPO staff salaries at 80 per cent of the middle notch of the equivalent public service salary scale (i.e. excluding a thirteenth cheque and other public sector benefits).

The implementation of the funding policy must be robust against manipulation

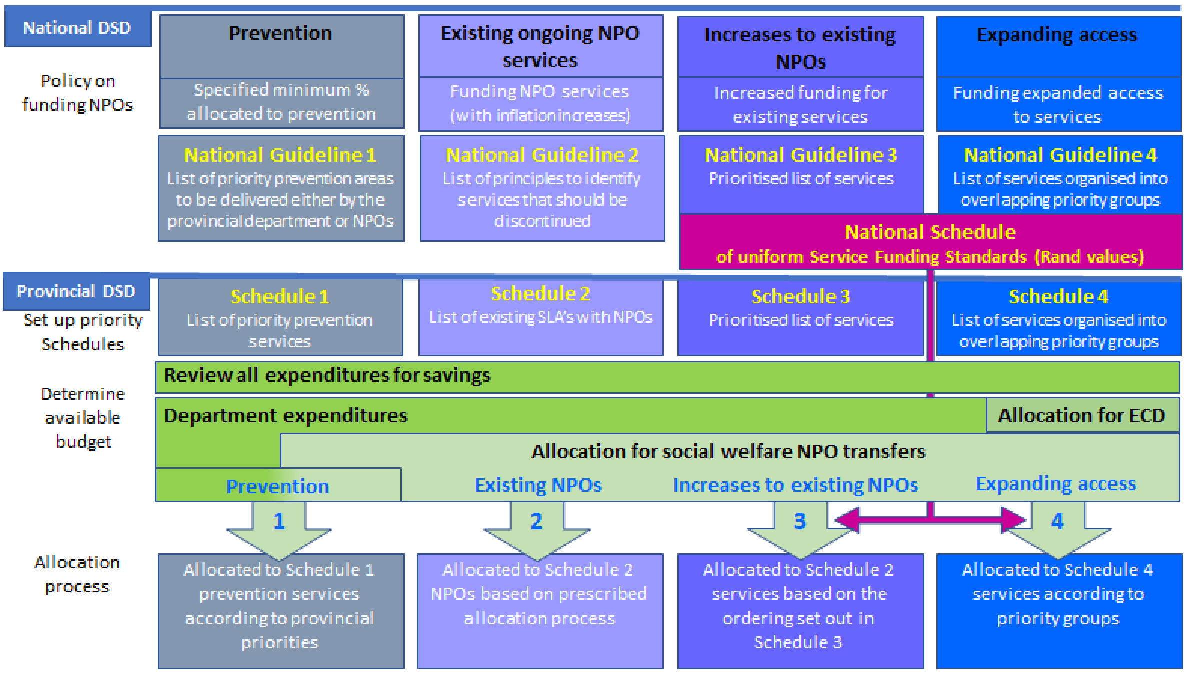
To ensure the process for finalising allocations is not subject to gaming or manipulation by influential stakeholders, provincial funding awards policies must:

- describe in detail the structured decision-making processes that will be followed when reviewing, revising and updating the funding policy and its components.
- award funding to NPOs over three years.
- require review of prioritisation schedules every five years. If they need to be reviewed within a shorter period of time, the full and comprehensive review process that will be followed every five years must still be followed.
- ensure that changes to the order of services on the prioritisation schedule do not lead to reductions in the funding of services to NPOs currently providing services.
- ensure that if a service is removed from the prioritisation schedule, this is done in consultation with the NPOs providing the service, and that their level of funding at the time of the decision is protected for a further two years.

Roles and responsibilities in managing the proposed NPO funding policy

Figure D7 on the following page sets out the key roles and responsibilities in managing the proposed NPO funding policy.

Figure D7: Overview of the proposed NPO funding policy



National Department of Social Development

As the custodian of policies governing the provision of social welfare services, national DSD must provide leadership and direction in determining the NPO funding policy.

The national department has the responsibility to finalise four guidelines:

- **National Guideline 1**: *List of priority prevention areas.* This list must identify the five highest-priority prevention focus areas within which provinces must develop and fund prevention programmes;
- **National Guideline 2**: *List of principles to identify services that should be discontinued*. Knowing which services should be funded is to some extent clarified by knowing which services should not be funded. The principles must be stated explicitly so to avoid ambiguity, but must also take into consideration the integrated nature of social services. These principles should apply to both department in-house delivery and delivery through NPOs.
- **National Guideline 3**: *Prioritised list of services*. This list of services must be guided by current government policy. It can be an extensive list, as the sector faces a wide range of priority issues. Most importantly, the list must be ordered according to the relative priority of the different services. The prioritisation list must be:
    - based on standardised service names and descriptions;
    - informed by clear criteria for prioritisation; and
    - based on broad consultations between national DSD, provincial DSDs, sector experts and representative NPO organisations.

- **National Guideline 4***: List of services organised into overlapping priority groups*. The national DSD should organise the prioritisation list compiled for National Guideline 3 into overlapping "priority groups" of complementary services (see Figure 6 for an example). The aim is to facilitate expanding access across a range of services within the "priority groups" so as to ensure social welfare services are built up in a balanced way.

- **National Schedule of uniform service funding standards:** this schedule must set out minimum national service funding standards for those services for which national DSD proposes prescribing standards for funding. These standards should reflect the core cost of delivering a particular service in line with the prescribed norms and standards for the service. The structure of the service funding standards may differ, but they should be built around at least one of the following:
    - a per beneficiary funding amount;
    - a per place/bed funding amount
    - the programme cost of a particular service;
    - levels at which posts are funded.

  The schedule should be re-issued each year, with the new amounts adjusted for inflation using the CPI. National DSD may also add new standards to the list as they are developed.

  National DSD should have a process to review all service funding standards every three years.

Provincial departments of social development

Provincial DSDs are responsible for managing the processes that culminate in the final award of allocations to NPOs. These include several consultation processes. The provincial DSDs must motivate for funding during the budget process and ensure budget bids are informed by costing exercises, information about the magnitude of demand and need for services, and a quantification of the consequences of underfunding services.

Provinces must follow three steps to reach final allocations.

Step 1: Set up priority schedules for the province every five years

There are four schedules the provinces need to set up, which must align with the stages of the allocation process (Step 3) discussed below. These schedules must be reviewed and, if necessary, revised every five years.

Schedule 1: List of priority prevention interventions. Working within the parameters set by National Guideline 1, provincial DSDs must each compile a list of the priority prevention programmes it will fund. These programmes must fall within the five prevention focus areas listed by national DSD. Not all five areas have to be covered, and the decision to select specific programmes must be based on their likely efficacy in the province.

Schedule 2: List of existing SLAs. Existing funding arrangements that are in place must be honoured unless there are good reasons to cancel the agreements (which reasons must be provided to the NPOs concerned). Therefore, provinces must compile a list of all existing SLAs and the respective costs of those agreements. This information must be structured to show what service each SLA provides. When compiling this list, the provincial DSD should evaluate each SLA against the principles set out in National Guideline 2.

Schedule 3: Prioritised list of services. Each provincial DSD must compile a prioritised list of services, taking into the account National Guideline 3. Provincial DSDs may provide for a different ordering of services to those in National Guideline 3, so long as the changes are well motivated with reference to the provincial specific context and based on consultations with provincial role-players and experts.

Schedule 4: Prioritised list of services organised into overlapping groups. Each provincial DSD must organise the prioritisation list compiled for Schedule 3 above into overlapping "priority groups" of complementary services (see Figure 6 for an example). The provincial DSD may propose groups similar to those listed in National Guideline 4, or propose alternative groups based on the local context. The aim is to facilitate expanding access across a range of services within the "priority groups," so as to ensure that social welfare services are built up in a balanced way.

Step 2: Budget process

The overall aim of this step is to bid effectively for funds within the provincial budget process, and to determine the available budget for funding department activities and services provided by NPOs.

(a) ***Prepare a well-structured budget bid:*** Each provincial DSD has a responsibility to prepare well-structured budget bids to feed into the provincial budget process. These budget bids need to be informed by proper planning and accurate costing of services.

(b) ***Review all expenditures for savings:*** In addition to maximising the budget allocated to the department, the department must maximise resources available for services by ensuring that all opportunities for savings in the department are identified. This requires each provincial DSD to:

- thoroughly review all expenditure incurred by the department with a view to identifying opportunities for efficiencies and cutting non-essential expenditure wherever possible.
- thoroughly review the NPOs it currently funds, with a view to cutting the funding of those NPOs that are ineffective.
- thoroughly review the services and activities it currently funds, with a view to cutting the funding of those NPOs that deliver services either very low down on the priority list or that are not aligned with the department's core mandate.

(c) ***Divide available budget up between key areas of spending:*** These areas of spending are:

- top slice for prevention,
- department expenditures, which include management and own delivery,
- allocation for ECD,
- allocation for social welfare NPO transfers.

i. ***Top-slice funds for prevention:*** Once the overall budget for the department is known, the budget should be top sliced to fund prevention services. To ensure prevention is properly prioritised, this top slice must be at least 5 per cent of the total budget for the department. These funds can be allocated to transfers to NPOs for prevention interventions and/or to prevention interventions that the department will implement itself.

ii. ***Department expenditures:*** Sufficient funds must be set aside in the budget for the management and oversight activities of the department, but these allocations should be kept to a minimum. Provincial DSD must also allocate funds to the provision of services it provides (own delivery) at this stage. However, provinces may not allocate funds for the expansion of own capacity unless the NPOs providing those specific services are "fully funded" according to the applicable service funding standard. Also, provincial DSDs may not cut funding to NPOs on the pretext that it is going to deliver the services in-house unless there has been a thorough process of consultation with the NPOs concerned, and an orderly process for transferring responsibility for the delivery of the services from the NPOs to the department has been followed.

iii. ***Allocation for ECD:*** Determine the allocation for ECD, including funds from the ECD conditional grants.

iv. ***Transfers to NPOs providing social services:*** There should be a deliberate process to determine the budget for transfers to NPOs providing social welfare services that is informed by:
- a budget required to continue funding existing SLAs, including an annual inflation increase;
- a budget to provide for increasing the level of funding allocated to NPOs with existing SLAs, to align their level of funding to the minimum specified in the applicable service funding standards.
- a possible budget for expanding access to new or existing categories of service. When considering providing a budget for expanding access to a service, the department must first ensure that all the existing NPOs providing that service are being fully funded according to the relevant service funding standard, and that all new services will be funded according to the same standard. Note that the budget for expanding access should be new funds, allocated explicitly for the purpose in the provincial budget process.

Step 3: Allocation process

(a) Allocate top slice funds for prevention. This budget must be allocated to interventions listed in *Schedule 1: List of priority prevention interventions.* A portion of the budget may fund programmes or projects implemented by the department, and a portion may go to NPOs as transfers to fund prevention programmes or projects. The available budget may be divided up between the priority prevention programmes according to the provincial DSD's understanding of the relative priority of the different programmes, i.e. there is no strict order in which these programmes have to be funded.

(b) Allocate budget for existing SLAs. This budget must be large enough to cover all existing SLAs, plus provide for an annual inflation increase. NPOs should have three-year SLAs, so the process followed should mostly involving confirming existing commitments and renewing SLAs for another three years.

(c) Allocate budget for increasing transfers to existing NPOs. This budget must be allocated to NPOs listed in Schedule 2, based on the ordering of priority services set out in Schedule 3. Each service must be funded to the minimum level set by the relevant service funding standard set out in the *National Schedule of uniform service funding standards,* before moving down to the next service on the priority list.

(d) ***Allocate budget or expanding access.*** To facilitate the building up of a balanced social welfare system, at least 60 per cent of the budget must be allocated to expanding access to services in the highest priority group as specified in Schedule 4 where access is still required, and the remaining 40 per cent can be used to expand access across the lower priority service groups, provided that all the existing NPOs providing the services earmarked for expansion are being fully funded according to the relevant service funding standard, and that all new services will be funded according to the relevant service funding standard.

Annexure D – Key to using the FS Costing Model correctly

1. Structure of the model

The FS Costing Model is large and complicated, with many worksheets. This is not atypical for a costing model that seeks to cost services in a sector as diverse and complex as social welfare services. The workbook is divided into sections, each of which serves a specific and different function in estimating the final cost estimates. The sections of the model are:

- Operational
- Output
- Total cost calculations
- Benchmark cost calculations
- Benchmark costs
- Control sheets

The discussion below focuses only on the sections of the model that are relevant to calculating total and benchmark costs. It is important to note that the discussion excludes the functionality of the worksheets that deal with prioritisation and the incorporation of funding received by NPOs into the modelling.

(a) Operational

Users can enter data in this section of the model.

There are four worksheets in this section. The key worksheet is the *Inputs – Beneficiary numbers* worksheet, which is where the user enters in the number of beneficiaries attached to an NPO. This feeds through into the cost calculations discussed below.

The other key worksheet in this section is the *Adjustments* worksheet, which contains inflation assumptions. It also contains assumptions about grants paid to NPOs.

(b) Total cost calculations

These are information worksheets.

This section contains the *Adjustment Calculations* worksheet, which shows which costs are included in the cost calculations. Below, it is described how three different types of costs are combined in the calculations. The three different costs are “Core costs”, “Partially Necessary” and “Non-Necessity”. They are described as necessity levels.

The last worksheet in this section is the *Cost Calculations* worksheet. These calculations show the variable and overhead costs calculated by the model. The total costs calculated is driven by the number of beneficiaries entered in the *Inputs – Beneficiary numbers* worksheet.

(c) Benchmark Cost Calculations

These worksheets contain a combination of calculations and space for entering key assumptions about facilities. The price assumptions entered in these worksheets have a fundamental bearing on the accuracy of the cost calculations. These are as follows:

- *Base assumptions* worksheet – the benchmark number of beneficiaries in a facility (this is the size of a "typical" facility that is costed in the model, and all variable and unit costs are based on this typical size). This is the worksheet where the user can also enter in assumptions about numbers of days and months worked per year.
- *Var. Cost Assump.* worksheet – this where the user enters in assumptions affecting variable costs. In some cases, the user enters in actual costs per month, such as water and lights, while in other sections the user is required to enter in assumptions about demand or usage that affect monthly costs (e.g. number of meals per day and proportion of beneficiaries receiving meals).
- *Overhead Cost Assump.* worksheet – as for above, but for overhead costs. This includes assumptions about the workloads (span of control) of different categories of staff. As salary costs make up a large portion of total costs, these assumptions are crucial to the final cost estimates.
- *Allocation to Responsibilities* worksheet – this is where proportions of staff are allocated to different responsibilities. Most professional staff are allocated 100 per cent to care and supervision, while a Centre Manager is shared evenly across the six different categories.
- *Necessity Levels* worksheet – this is a very important part of the model, as it allocates different input costs to different types of costs. The types of costs, as mentioned above, are "Core costs", "Partially Necessary" and "Non-Necessity". In this worksheet, all costs, e.g. a social worker salary, are categorised into one of the above three cost categories. Note that each input cost can only be categorised as one of these and no more than one.
- *Salary scales* worksheet – users enter in the salary scales used in the costing here. This is another crucial worksheet, given the proportion of total costs that salaries make up.
- *Cost calculations* worksheets – included in this section of the workbook are worksheets that show the outputs of the variable cost, overhead cost and cost necessity (types of costs) calculations.

(d) Benchmark costs

There are four worksheets in this section, all of which show the outputs of different cost calculations. The cost calculations shown here are driven by the assumptions and not by the number of beneficiaries. The important cost information in these worksheets are variable costs per beneficiary, personnel costs and overhead costs per facility and the costs shown by necessity level.

(e) Control worksheets

In the *Global Variables* worksheet, the user enters in all the names used in the model. So names of institutions, names of expense categories, names of expenses, the names of sub-directorates etc. The names in this part of the worksheet feed into the rest of the model.

2. Calibrating the model for use in a particular year

The model uses the input and price information discussed in the previous section to calculate the various costs. All the prices are adjusted to current costs using inflation rates. So, the original nominal prices are inflated into today's values. Because of this, the salary information, which is entered in current terms using the latest salary scales needs to be "un-inflated" to ensure all the costs are standardised.

The costs shown in the *Cost Calculation* worksheet are calculated as follows. The number of beneficiaries entered (BE) in the *Inputs – Beneficiary numbers* worksheet is divided by the baseline number of beneficiaries (BNB) in the *Base Assumptions* worksheet to calculate total overheads.

The minimum overhead cost is the total overhead cost for the baseline number of beneficiaries. So, if BE/BNB is less than one, then the full overhead cost is applied (including full salaries). If the number of beneficiaries is increased so that BE is larger than the BNB (i.e. BE/BNB > 1) the proportion over 1 is multiplied by the overhead cost. If you enter 60 and the baseline is 50, it will 60/50 * the calculated cost. One needs to be conscious of this. If the average size of facilities in reality is a lot smaller than the baseline number, then overhead costs will on average be higher than in reality. Therefore, the relevant assumptions need to be changed and a number of variable and overhead costs will need to be adjusted downward accordingly.

If the average size in reality is larger, then the overhead costs will be increased in proportion, as shown above. If the difference is mostly less than 30 per cent – i.e. the real size is 65 when the baseline in the model is 50, or 26 and 20 etc. the resulting costs may still be realistic. But above that ratio, the calculations start to disproportionately increase the costs more than may be the case in reality. It is therefore necessary to calibrate the model accordingly. This is important, as the costs estimated by the model increase linearly, whereas in reality they will increase in steps.

3. Steps in using the costing model

The first step in the costing is to update price information that needs to be costed. Because this model adjusts the prices using inflation, the only price information that must be increased is the salary information. However, one must remember to “un”-adjust salary cost estimates for the impact of inflation.

The second step is to assess the alignment between the assumptions and any norms and standards that may have been revised since the model was developed. This is most likely to affect the number of staff per facility i.e. “span of control” in the *Overhead Cost Assump.* worksheet.

The third step is to ensure the costing done is aligned with the baseline assumptions regarding the number of beneficiaries per facility and per service. This is shown as the “Benchmark number of beneficiaries” in the *Base Assumptions* worksheet. If the baseline is realistically aligned with actual numbers of beneficiaries, then the costings can be used. If not, the calibrations are required as proposed above.

The last step is to use the cost calculations. There are two ways to do this. First is to enter in beneficiary numbers in the *Input - Beneficiary numbers* worksheet and extract the cost information from the *Cost Calculations* worksheet. But bear in mind that these costs are only the “core” costs, as categorized in the *Necessity Levels* worksheet. One may want to adjust the necessity levels to make all the costs core (change all the numbers to 1). An alternative approach is to use the cost information from the *Costs (Expense Types)* and *Costs (Necessity Level)* worksheets that are most relevant to the analysis required.

In all instances, care needs to be taken to multiply up the costs extracted from the model to get annual costs – where these are required – as the model only calculates the cost per month.

Annexure E – 100 per cent scenario costing outcomes

This annexure presents the costing outcomes of the *100 per cent scenario.* In this scenario NPO workers' salaries are set at 100 per cent of the public service salary scale (excluding benefits) applicable from 1 April 2017. The tables below mirror the *80 per cent scenario* tables presented in section 6, above

Table 30 Costing results for selected services from the FS Costing Model (100% scenario)

	Size of costed facility	Cost categories	Monthly overhead Cost	Monthly variable cost	Monthly supervision costs	Annual overhead cost	Annual variable cost	Annual supervisory costs	Total Cost
A. CYCC: Children's home									
Baseline 2013/14	60	Total costs	261,824	113,627	-	3,141,884	1,363,526	-	4,505,410
costs on Costs		Core costs	217,540	107,327		2,610,482	1,287,926	-	3,898,408
(Necessity level)		Partial necessity	22,339	-		268,071	-	-	268,071
worksheet		Non-necessity	21,944	6,300		263,331	75,600	-	338,931
Costing results for	60	Total costs	309,461	134,301	9,042	3,713,529	1,611,615	108,501	5,433,645
2017/18 on Cost		Core costs	257,120	126,855	9,042	3,085,442	1,522,260	108,501	4,716,203
Calculations		Partial necessity	26,404	-	-	316,845	-	-	316,845
worksheet		Non-necessity	25,937	7,446	-	311,242	89,355	-	400,597
B. Inpatient - substance abuse treatment centres									
Baseline 2013/14	60	Total costs	478,603	161,664	-	5,743,238	1,939,962	-	7,683,200
costs on Costs		Core costs	79,595	159,056		955,142	1,908,672	-	2,863,814
(Necessity level)		Partial necessity	298,404	2,608		3,580,853	31,290	-	3,612,143
worksheet		Non-necessity	100,604	-		1,207,243	-	-	1,207,243
Costing results for	60	Total costs	565,682	191,077	36,167	6,788,182	2,292,926	434,003	9,515,111
2017/18 on Cost		Core costs	94,077	187,995	36,167	1,128,924	2,255,943	434,003	3,818,870
Calculations		Partial necessity	352,697	3,082	-	4,232,366	36,983	-	4,269,349
worksheet		Non-necessity	118,908	-	-	1,426,893	-	-	1,426,893
C. Protective workshops - for people with disabilities									
Baseline 2013/14	20	Total costs	65,211	16,040	-	782,536	192,480	-	975,016
costs on Costs		Core costs	39,448	14,980		473,373	179,760	-	653,133
(Necessity level)		Partial necessity	268	-		3,210	-	-	3,210
worksheet		Non-necessity	25,496	1,060		305,954	12,720	-	318,674
Costing results for	20	Total costs	77,076	18,972	3,014	924,914	227,666	36,167	1,188,747
2017/18 on Cost		Core costs	46,625	17,712	3,014	559,500	212,548	36,167	808,214
Calculations		Partial necessity	316	-	-	3,794	-	-	3,794
worksheet		Non-necessity	30,135	1,260	-	361,620	15,119	-	376,739
D. Prevention programme - substance abuse									
Baseline 2013/14	1	Total costs	49,383	-	-	592,590	-	-	592,590
costs on Costs		Core costs	14,967	-		179,609	-	-	179,609
(Necessity level)		Partial necessity	852	-		10,221	-	-	10,221
worksheet		Non-necessity	33,563	-		402,760	-	-	402,760
Costing results for	1	Total costs	58,367	-	9,042	700,408	-	108,501	808,909
2017/18 on Cost		Core costs	17,691	-	9,042	212,287	-	108,501	320,788
Calculations		Partial necessity	1,007	-	-	12,081	-	-	12,081
worksheet		Non-necessity	39,670	-	-	476,040	-	-	476,040
E. Social services (older persons)									
Baseline 2013/14	3900	Total costs	107,039	-	-	1,284,466	-	-	1,284,466
costs on Costs		Core costs	74,498	-		893,975	-	-	893,975
(Necessity level)		Partial necessity	194	-		2,328	-	-	2,328
worksheet		Non-necessity	32,347	-		388,163	-	-	388,163
Costing results for	3900	Total costs	126,514	-	27,125	1,518,166	-	325,502	1,843,668
2017/18 on Cost		Core costs	88,052	-	27,125	1,056,628	-	325,502	1,382,130
Calculations		Partial necessity	229	-	-	2,752	-	-	2,752
worksheet		Non-necessity	38,232	-	-	458,786	-	-	458,786

Note: based on 100 per cent of public service salaries. See Table 23 for results of 80 per cent scenario.

Source: Team analysis - 07. Costing the Implications of NAWONGO - Final.

Table 31 Cost of inpatient substance abuse treatment centres (2017 Rands - 100% scenario)

Names of NPOs	No. of beds	Level of Provincial Subsidy	Transfer per bed	Cost per bed	Annual Overhead Cost	Annual Variable Cost	Total Annual NPO Cost	Funding gap/ surplus	% gap/ surplus
Modelled costing	60			63,648	1,562,927	2,255,943	3,818,870		
Gauteng total	**370**	**48,343,388**	**130,658**	**94,398**	**21,015,469**	**13,911,647**	**34,927,116**	**13,416,272**	**38%**
Christ Hani Barag	20	3,180,000	159,000	115,745	1,562,927	751,981	2,314,908	865,092	37%
Freedom recover	26	2,804,568	107,868	97,712	1,562,927	977,575	2,540,502	264,066	10%
House Of Mercy	15	1,618,020	107,868	141,794	1,562,927	563,986	2,126,913	- 508,893	-24%
Mpumalanga total	**78**	**3,408,986**	**43,705**	**85,168**	**3,710,380**	**2,932,726**	**6,643,106**	**- 3,234,120**	**-49%**
HEALING WINGS \	10	588,000	58,800	193,892	1,562,927	375,990	1,938,917	- 1,350,917	-70%
MKHONDO ALATH	68	2820986	41,485	69,179	2,147,453	2,556,735	4,704,189	- 1,883,203	-40%
North West total	**7867**	**10,499,384**	**1,335**	**66,223**	**225,185,057**	**295,791,704**	**520,976,762**	**- 510,477,378**	**-98%**
DEPARTMENT OF I		4,066,274			-	-	-		
MAMOVICH		1,163,437			-	-	-		
SAINTS CARE GIVE	7867	1,733,868	220	66,223	225,185,057	295,791,704	520,976,762	- 519,242,894	-100%
Western Cape total	**595**	**16,238,032**	**27,291**	**65,958**	**16,873,584**	**22,371,433**	**39,245,017**	**- 23,006,985**	**-59%**
False Bay Therap	35	746,567	21,330	82,254	1,562,927	1,315,967	2,878,894	- 2,132,327	-74%
Heskith King Salv	125	3,296,827	26,375	66,831	3,653,934	4,699,881	8,353,815	- 5,056,988	-61%
Ramot Treatment	105	2,239,702	21,330	64,681	2,843,623	3,947,900	6,791,523	- 4,551,821	-67%

Note: based on 100 per cent of public service salaries. See Table 24 for results of 80 per cent scenario.
Source: Team analysis - 07. Costing the Implications of NAWONGO - Final.

Table 32 Cost of protective workshops for people with disabilities (2017 Rands - 100% scenario)

Names of NPOs	No. of places	Level of Provincial Subsidy	Transfer per place	Cost per place	Annual Overhead Cost	Annual Variable Cost	Total Annual NPO Cost	Funding shortfall/surplus	% shortfall/ surplus
Modelled costing	20			40,411	595,667	212,548	808,214		
Eastern cape	**803**	**1,927,200**	**2,400**	**41,457**	**24,756,022**	**8,533,783**	**33,289,805**	**- 31,362,605**	**-94%**
ACVV	29	69,600	2,400	41,097	883,608	308,194	1,191,802	- 1,122,202	-94%
APD Protective	25	60,000	2,400	41,496	771,708	265,684	1,037,393	- 977,393	-94%
Inkqubela Protec	101	242,400	2,400	40,751	3,042,475	1,073,365	4,115,840	- 3,873,440	-94%
Gauteng	**3920**	**22,447,589**	**5,726**	**41,111**	**119,497,761**	**41,659,317**	**161,157,077**	**- 138,709,489**	**-86%**
A re itireleng Tru		300,948	#DIV/0!	#DIV/0!	-	-	-	300,948	#DIV/0!
APD-AIM WORKSH	31	290,541	9,372	40,936	939,558	329,449	1,269,007	- 978,466	-77%
APD-MODIMO O N	145	754,738	5,205	40,598	4,345,707	1,540,970	5,886,677	- 5,131,939	-87%
Limpopo	**791**	**3,664,020**	**4,632**	**42,222**	**24,991,413**	**8,406,255**	**33,397,668**	**- 29,733,648**	**-89%**
Achine foundatic	18	85,320	4,740	43,720	595,667	191,293	786,959	- 701,639	-89%
Alverton Self Hel	14	66,360	4,740	53,175	595,667	148,783	744,450	- 678,090	-91%
BANGWANATE DI:	20	94,800	4,740	40,411	595,667	212,548	808,214	- 713,414	-88%
Mpumalanga	**1716**	**6,217,128**	**3,623**	**42,259**	**54,279,381**	**18,236,578**	**72,515,959**	**- 66,298,831**	**-91%**
AMASS PROTECTI\	30	108,000	3,600	41,013	911,583	318,821	1,230,405	- 1,122,405	-91%
BAMBANANI PRO	60	216,000	3,600	40,411	1,787,000	637,643	2,424,642	- 2,208,642	-91%
DUNDONALD DIS/	20	75,240	3,762	40,411	595,667	212,548	808,214	- 732,974	-91%
North West	**69**	**674,685**	**9,778**	**41,223**	**2,111,108**	**733,289**	**2,844,397**	**- 2,169,712**	**-76%**
AGE-IN-ACTION N		444,740	#DIV/0!	#DIV/0!	-	-	-	444,740	#DIV/0!
IPOPENG CLUB FO	22	74,820	3,401	41,890	687,783	233,802	921,586	- 846,766	-92%
THUSANANG DIS/	47	155,125	3,301	40,911	1,423,325	499,487	1,922,812	- 1,767,687	-92%
Norther Cape	**225**	**1,211,580**	**5,385**	**41,935**	**7,044,290**	**2,391,160**	**9,435,450**	**- 8,223,870**	**-87%**
BA ONE INTELLEC	76	351,120	4,620	40,506	2,270,766	807,681	3,078,447	- 2,727,327	-89%
ESTIKELELO	10	46,200	4,620	70,194	595,667	106,274	701,940	- 655,740	-93%
IMMANUEL	20	92,400	4,620	40,411	595,667	212,548	808,214	- 715,814	-89%
Western Cape	**2853**	**19,265,861**	**6,753**	**40,954**	**86,522,500**	**30,319,906**	**116,842,405**	**- 97,576,544**	**-84%**
AANHOUWEN WC	65	442,260	6,804	40,828	1,963,041	690,779	2,653,821	- 2,211,561	-83%
Alta Du Toit Worl	55	374,220	6,804	40,575	1,647,125	584,506	2,231,630	- 1,857,410	-83%
APD Beaufort We	45	306,180	6,804	41,013	1,367,375	478,232	1,845,607	- 1,539,427	-83%

Note: based on 100 per cent of public service salaries. See Table 25 for results of 80 per cent scenario.
Source: Team analysis - 07. Costing the Implications of NAWONGO - Final.

Table 33 The extent of the funding gap for the NPO services that could be costed directly in the FS Costing Model (2017 Rands)

(000 Rands)	Total transfers for services costed by the FS Costing Model and that have beneficiary numbers	Costing results from the FS Costing Model	Calculated funding gap	% funding gap
	A	B	A-B	
Eastern Cape	144,811	791,936	-647,125	-82%
Free State	no data			
Gauteng	428,165	1,431,571	-1,003,406	-70%
KwaZulu-Natal	no data			
Limpopo	46,708	772,013	-725,304	-94%
Mpumalanga	106,391	550,303	-443,912	-81%
North West	115,466	217,583	-102,117	-47%
Northern Cape	15,404	115,923	-100,519	-87%
Western Cape	274,524	990,143	-715,619	-72%
Total	**1,131,470**	**4,869,473**	**-3,738,003**	**-77%**

Note: based on 100 per cent of public service salaries. See Table 27 for results of 80 per cent scenario.
Source: Team analysis - 07. Costing the Implications of NAWONGO - Final..

Table 34 The extent of the funding gap calculated by extrapolating the funding gaps calculated using the FS Costing Model (2017 Rands)

(000 Rands)	Total transfers to NPOs excluding ECD	High Scenario	Medium Scenario	Low Scenario	Calculated costing result			Calculated funding gap		
		Highest % funding gap for a costed service	Weighted average % funding gap for all costed services	Lowest % funding gap for a costed service	High Scenario	Medium Scenario	Low Scenario	High Scenario	Medium Scenario	Low Scenario
Eastern Cape	392,679	-94.2%	-79.5%	-67.1%	6,783,005	1,918,907	1,194,923	-6,390,326	-1,526,228	-802,244
Free State	204,180	-87.8%	-69.3%	-42.9%	1,674,277	665,627	357,315	-1,470,097	-461,447	-153,135
Gauteng	835,930	-86.1%	-69.7%	-46.2%	6,011,026	2,757,378	1,554,904	-5,175,096	-1,921,448	-718,974
KwaZulu-Natal	574,119	-87.8%	-69.3%	-42.9%	4,707,780	1,871,629	1,004,709	-4,133,660	-1,297,510	-430,590
Limpopo	112,785	-95.4%	-94.0%	-89.0%	2,429,203	1,866,928	1,028,039	-2,316,418	-1,754,143	-915,254
Mpumalanga	207,154	-91.4%	-80.6%	-48.7%	2,416,222	1,066,161	403,682	-2,209,068	-859,007	-196,528
North West	470,904	-93.0%	-27.1%	-25.3%	6,730,088	645,969	630,637	-6,259,184	-175,065	-159,733
Northern Cape	115,160	-90.0%	-88.2%	-12.8%	1,155,592	974,007	132,110	-1,040,431	-858,847	-16,950
Western Cape	826,444	-83.5%	-72.0%	-48.4%	5,012,166	2,948,668	1,601,033	-4,185,722	-2,122,224	-774,589
Total	**3,739,356**	**-89.9%**	**-74.6%**	**-52.7%**	**36,919,358**	**14,715,274**	**7,907,351**	**-33,180,002**	**-10,975,918**	**-4,167,996**

Note: based on 100 per cent of public service salaries. See Table 28 for results of 80 per cent scenario.
Source: Team analysis - 07. Costing the Implications of NAWONGO - Final.

Table 35 The cost of closing the funding gap for NPOs and equalising spending across provinces

(000 Rands)	Total expenditure on social welfare services in 2016/17	Medium Scenario funding gap for transfers to NPOs	Total expenditure plus NPO funding gap adjustment	New spending per poor person (Q1-3 for 2016/17) (Rands)	Minimum set at level of Northern Cape spending per poor person (Q1-3)	New funding gap
	A	*B*	*A+B*		1,626	
Eastern Cape	1,551,757	1,526,228	3,077,984	608	8,227,788	6,676,032
Free State	630,140	461,447	1,091,587	598	2,969,534	2,339,394
Gauteng	2,864,463	1,921,448	4,785,910	759	10,259,376	7,394,913
KwaZulu-Natal	1,715,765	1,297,510	3,013,275	415	11,800,356	10,084,592
Limpopo	983,975	1,754,143	2,738,117	612	7,275,691	6,291,717
Mpumalanga	759,699	859,007	1,618,706	544	4,838,650	4,078,951
North West	913,647	175,065	1,088,712	467	3,791,899	2,878,252
Northern Cape	471,896	858,847	1,330,743	1,626	1,330,743	858,847
Western Cape	1,576,783	2,122,224	3,699,008	1,458	4,124,882	2,548,099
Total	**11,468,124**	**10,975,918**	**22,444,042**	**669**	**54,618,920**	**43,150,796**

*Note: based on 100 per cent of public service salaries. See Table 37**Error! Reference source not found.** for results of 80 per cent scenario.*
Source: Team analysis.

Annexure F – Data collection process and challenges

To work out the cost implications of the NAWONGO judgements, the project team initiated a process to collect information from each provincial DSD.

The following information was requested:

- The provincial Policy on Financial Awards, and any other document or information that informs how the province decides on allocations to NPOs;
- Information on all transfers to NPOs and what services these transfers are funding. The following information (where available) is required per NPO for the financial years 2012/13 – 2017/18:
  - Name of NPO (show NPOs providing ECD services separately).
  - Municipal district where NPO is delivering services.
  - DSD District under which the NPO falls for management purposes.
  - Budget programme from where the transfers are made.
  - Type of service provided (specify the type of service – if non ECD).
  - Number of beneficiaries or other measure of capacity (if relevant).
  - Number and type of social welfare posts subsidised (if relevant).
- Information on any costing models or other methods for working out the "reasonable unit costs" for funding services that the provincial department might be using.

The following table sets out the information that was received from each provincial DSD.

Table 36 Data received from provincial DSDs for this study

Province	Format of data received	Information on transfers to NPOs	Quality of beneficiaries data
Eastern Cape	Complex multiple spreadsheets	Budget allocations for 2017/18	Beneficiaries and post data. But the naming of services poses a challenge.
Free State	Spreadsheet. Well organised	Expenditure data for 2016/17	Only beneficiary numbers for homes for the elderly, not for any of the other services.
Gauteng	Spreadsheet. Well organised	Budget allocations for 2017/18	Good beneficiaries data and service descriptions
KwaZulu-Natal	Sent a BAS dump of allocations to NPOs. Not useful.	Allocations for 2016/17, but not useful because there are no service designations	no data
Limpopo	Multiple spreadsheets. Complex.	Budget allocations for 2016/17	Good beneficiaries data.
Mpumalanga	Complex, Some spreadsheets, and hardcopies	Expenditures for 2016/17	Beneficiaries data had to be manually imputed from hard copies.
North West	Multiple spreadsheets. Uniform in structure	Amounts transferred for 2016/17	Some beneficiaries, but large gaps
Northern Cape	Spreadsheet. Very complex	Budget allocations for 2017/18	Good beneficiaries data
Western Cape	Spreadsheet. Well organised	Amounts trasnferred for 2016/17	Good beneficiaries data

Good data in electronic format was received from Gauteng, Limpopo, North West and Western Cape. The data from Eastern Cape and Northern Cape were in complicated formats that required a lot of work to get in order. The data received from Mpumalanga was good, but some of it had to be captured from hard copy documents. Despite Free State DSD being the respondent in the NAWONGO court case, the data received from the provincial DSD was incomplete.

No meaningful data was received from the KwaZulu-Natal DSD despite communications from both national DSD and National Treasury as well as communications and a visit to the department by the project team. On 7 February 2018, a person in the department sent through data dumps from BAS for 2013/14 to 2017/18, showing transfers by NPOs, but because there were no fields indicating the nature of the services being funded, the data could not be used for this project. There was also no information on beneficiaries.

Challenges with the data received and mitigation measures

The national DSD has not put in place standard names and definitions for services and beneficiaries, or standard formats for capturing and reporting service delivery information. Consequently, each provincial DSD has developed their own processes and formats. The result is that there is no uniformity in the way provincial DSDs capture and report information on NPO services, beneficiary numbers and transfers.

The following paragraphs describe the most significant challenges encountered, how the team tackled them, and the extent to which we were able to resolve them.

(a) *Data not in MS Excel*

- Some provinces first submitted information in PDF, but on request later submitted it in MS Excel. In the end, seven of the eight provinces from whom data was received submitted most of it in MS Excel, and some of it in PDF format.
- Mpumalanga submitted some of their data in MS Excel, but the beneficiary information was contained in hardcopy documents. The team captured this information in MS Excel.

(b) *Differing data formats*

- There was no consistency in the format of the data received from provinces. The structure of the data from the Eastern Cape and Northern Cape was not internally consistent and very hard to work with.
- The team created a standard flat file with uniform categories, then transposed each province's data into this. This was a very time-consuming exercise. The output is a data flat file for each province, with a pivot table that can be used to review and extract categories of information.

(c) *No standardised service names*

- This issue posed the greatest challenge. Each province uses different service names, and in many instances service names differ within a province. Certain provinces also use very general names that cannot be readily linked to any definable service.
- The team first established a single set of names within each province by mapping similar names and different spellings of names onto a single name. Then, the team sought to rename the services with very general names with reference to the names of the NPOs being funded.

- The next step was to draw up a standard list of service names from the FS Costing Model and the work on the social welfare service list reported in section 2 above and then map the service names of each province to this standard set. The spreadsheets used to do this mapping are in the workbook *07. Costing the Implications of NAWONGO – Final.* This mapping was only partly successful, as many of the provinces' own names could not be logically linked to the standard list names.

(d) *No standards for capturing beneficiary numbers*

- For certain services, especially those with very general names, it is not clear how beneficiaries are defined, so it is unclear what the beneficiary numbers are reporting. This has implications for the costing of these services if the definitions of beneficiary numbers are not the same as those used in the FS Costing Model.

(e) *Information on total transfers to NPOs does not align with transfers to NPIs in BAS*

- Where the differences were significant, the team brought it to the attention of the provincial DSD concerned and sought to resolve the issue. There are still problems in this regard.

In line with our data request, certain provincial DSDs made information available for more than one financial year. However, due to the amount of work involved in sorting out the data, the team only reworked the data into uniform flat files for 2016/17 (or 2017/18 in the case of Eastern Cape, Gauteng and Northern Cape).

Annexure G - Understanding the full extent of the funding gap for social welfare services

The analyses conducted in section 4 and in section 6 highlight two kinds of funding gaps in the provision of social welfare services.

The first gap is the unequal spending on social welfare services across provinces , as highlighted by Table 15. The scenarios presented in Table 19 indicate that to equalise spending at the 2016/17 level of per poor person spending in the Western Cape would require an 82 per cent increase in total spending on social welfare services, i.e. increasing spending from R11.5 billion to R20.8 billion. This is distributed unequally across provinces, depending on their current level of funding on social welfare services.

The second gap is the underfunding of NPOs that provide services on behalf of provincial DSDs as highlighted by the analysis in this section, specifically Table 27 and Table 28. The Medium Scenario shows that this funding gap is about 71 per cent or R9.2 billion. If the NPO funding gap in each of the provinces is addressed, the spending on social welfare services will remain unequal across provincial DSDs.

These two funding gaps overlap. Addressing the funding gap related to the funding of NPOs will increase the cost of equalising the spending on social welfare services per poor person across provinces. This is illustrated in Table 37.

Table 37 The cost of closing the funding gap for NPOs and equalising spending across provinces

(000 Rands)	Total expenditure on social welfare services in 2016/17	Medium Scenario funding gap for transfers to NPOs	Total expenditure plus NPO funding gap adjustment	New spending per poor person (Q1-3 for 2016/17) (Rands)	Minimum set at level of Northern Cape spending per poor person (Q1-3)	New funding gap
	A	*B*	*A+B*		**1,466**	
Eastern Cape	1,551,757	1,276,473	2,828,229	559	7,415,561	5,863,805
Free State	630,140	378,550	1,008,690	552	2,676,389	2,046,248
Gauteng	2,864,463	1,573,064	4,437,527	703	9,246,595	6,382,132
KwaZulu-Natal	1,715,765	1,064,417	2,780,182	383	10,635,454	8,919,689
Limpopo	983,975	1,572,657	2,556,632	571	6,557,453	5,573,478
Mpumalanga	759,699	724,139	1,483,838	499	4,360,990	3,601,291
North West	913,647	92,114	1,005,762	431	3,417,572	2,503,925
Northern Cape	471,896	727,479	1,199,375	1,466	1,199,375	727,479
Western Cape	1,576,783	1,771,482	3,348,266	1,320	3,717,684	2,140,900
Total	**11,468,124**	**9,180,377**	**20,648,501**	**616**	**49,227,073**	**37,758,948**

Note: based on 80 per cent of public service salaries.
Source: Team analysis.

The above table shows that to address the funding gap associated with transfers to NPOs and then to address the resultant unequal spending across provinces by equalising spending at Northern Cape's level of spending per poor person of R1 466 will require an additional R37 billion in funding for social welfare services. This highlights the extent to which NPOs are being underfunded, and the level of inequality in social welfare spending across the provinces.

Annexure H – List of Documents Referenced in Conducting the Study

Acting Head of the Department of Social Development in the Free State Province, The Revised Clauses in the Written Policy, Filing notice: Supplementary affidavit and policy, 6 September 2013

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National Treasury. 2017. Budget Review: Annexure E.

National Treasury. Various years. Budget Review: Annexure W1

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Refer to Annexure F. Data received from provinces.