



*centre for* **DISABILITY**  
**LAW and POLICY**

# **Special Needs Housing Policy Framework in South Africa**

## **Workshop Report**

**Cape Town**

**28 June 2012**



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The contents of this document are the sole responsibility of the Community Law Centre and can under no circumstances be regarded as reflecting the position of the European Union

The Community Law Centre is grateful to all the speakers and participants of the workshop for their invaluable time and contribution that made a rich discussion possible.

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## **Abbreviations & Acronyms**

CDLP	Centre for Disability Law and Policy
CLC	Community Law Centre
DHS	Department of Human Settlements
DOH	Department of Health
DSD	Department of Social Development
DWCPD	Department of Women, Children and People with Disabilities
NGO	Non-governmental organisation
NPO	Non Profit Organisation
PPT	Project Preparation Trust
PWD	Persons with disabilities
SNH	Special Needs Housing
UWC	University of the Western Cape

## **Executive Summary**

Relevant stakeholders met for a workshop on 28 June 2012 to be presented with the findings of the *Special Needs Housing Policy Promotion Project*. The project has been a joint collaboration between the Community Law Centre (CLC) and the Centre for Disability Law and Policy (CDLP) at the University of the Western Cape (UWC). The research focused on how the rights of special needs groups have been promoted through the allocation of housing in the country. The feedback and recommendations put forward during the workshop on the state of special needs housing (SNH) would also be used to inform the final research report.

The research findings noted a lack of coherent national government response to the SNH delivery with most of the activity taking place at provincial level instead. A lack of ongoing meaningful consultation and engagement on SNH at all levels as well as with grassroots organisations was highlighted as an ongoing challenge. As a result, relevant resources and policy are not being directed towards specific problems that need to be targeted in order to adequately address SNH. This has led to the inherent problem of SNH not being visible in the policy space which has resulted in an ongoing policy void on the subject at a national level. Addressing SNH would require different approaches according to the needs of different groups. It would also need representation of these groups at policy level to be involved with the policy development process.

Participants were divided into various groups to discuss their experiences in addressing the needs of SNH within the context of the research project. Challenges and their possible solutions were noted including the role of government departments and other relevant stakeholders. The participants agreed that they would like to continue to engage collectively on the issue of SNH in South Africa. It was emphasised that this engagement should take place on a national level, including with relevant national government departments and across all provinces. This collective action is based on the fact that change is more likely when working through networks and alliances.

## **1. Introduction**

Relevant stakeholders met for a workshop on 28 June 2012 to be presented with the findings of the *Special Needs Housing Policy Promotion Project*. The project has been a joint collaboration between the Community Law Centre (CLC) and the Centre for Disability Law and Policy (CDLP) at the University of the Western Cape (UWC). The research focused on how the rights of special needs groups have been promoted through the allocation of housing in the country. The feedback and recommendations put forward during the workshop on the state of special needs housing (SNH) would also be used to inform the final research report.

There is a growing list of challenges towards addressing the pressing need for SNH. The waiting list to receive housing continues to grow with an ever greater backlog evident. As the housing needs grow, limited resources are available to provide for these needs, while government departments are challenged to address special needs housing despite a lack of national housing policy on this issue. As a result SNH has not been visible at policy level and needs of this group are not being adequately addressed.

A total of 606 protests were recorded by February 2007 and May 2011 in South Africa, of which 20% were related to the issue of housing. At the same time there has been no research on the housing for those with special needs, whether adequate resources are being directed towards this issue, whether the needs of this group are being addressed with respect and human dignity and how the special needs are defined and addressed within the current housing policy.

Within this context, the CLC and CDLP initiated a research project to look into the provision of SNH and the development of SNH policy. Through focus groups and general discussion the research findings were unpacked as participants provided their experiences and recommendations to addressing SNH. The outcomes of these discussions will be incorporated into the final research report.

## **2. Background and Objectives**

The objectives of the seminar were to:

- Share the findings from the research on housing for persons with special needs conducted by the University of the Western Cape's Community Law Centre and the Centre for Disability Law and Policy.
- Evaluate the recent developments since the 2009 special needs housing seminar hosted by the Community Law Centre

### **3. Overview of Provincial Policies**

A focus on provincial policies addressing SNH revealed differing levels of support to persons with disabilities (PWD). In Gauteng the policies, although only recently developed, was relatively more progressive than in KwaZulu Natal which did not have a specific SNH policy in place or the Western Cape which had addressed group accommodation for people with special needs. The following key policies were noted in the three provinces:

#### **Gauteng Province**

- Gauteng Department of Local Government and Housing Special Needs Policy (2012)
  - Addresses housing needs for special needs categories through a variety of housing instruments
  - The policy is relatively new and its implementation needs to be monitored
- Gauteng Housing Demand Database and Allocation Policy (2009)
  - Allocated 5% of each housing project to be prioritised for SNH
- Guidelines for the Gauteng Disability Policy
  - Recognises the needs for involving organisations representing people with disabilities
  - Identifies PWD as the key source of knowledge and information

#### **KwaZulu Natal Province**

- No specific policy to address SNH
- The KwaZulu Natal Housing Policy for the Aged and Disabled
  - Provides institutionalized care for the frail and those needing support
  - Says municipalities should facilitate physical access to housing for PWD and aged eg. ramps and rails
- KwaZulu Natal Policy Framework for Extra-Parliamentary War Veterans (2008)
  - Recognises military veterans as part of 'special needs group'
- KwaZulu Natal Guidelines of the Provincial Housing and Development Board of KwaZulu Natal on AIDS (2003)
  - Provides various housing options for those affected by HIV/AIDS

#### **Western Cape Province**

- Policy to Support Group Accommodation for People with Special Needs (2009)
  - Provides for group residential facilities for persons with special needs

- In January 2012, the Western Cape Provincial Department of Human Settlements sought to terminate the policy and the policy is now on hold

The National Housing Code does not address SNH and it does not provide space for provinces to do so either. As a result provinces are reluctant to develop their own policies, while the provincial Department of Human Settlements (DHS) has adapted existing housing delivery mechanisms to approve projects. Typically NPOs at grassroots level also apply to access capital funding from the provincial DHS to acquire, build or renovate structures. The sustainability is assessed and the evidence suggests that this process can work, eg the work of the Project Preparation Trust (PPT). At the same time, there are grassroots NPOs that are not receiving enough support from the DHS and local government.

#### **4. International Legal Framework on Rights for People with Special Needs**

- Convention on Rights of Persons with Disabilities (2006)
- UN Special Rapporteur on Adequate Housing SA
  - 2008 report: Lack of coordinated housing and support for people with particular housing requirements (i.e, special needs)
- CEDAW General recommendation 27 (2010) on older women and protection of their human rights
- Constitution of the Republic of South Africa
  - Section 26
  - Section 26(2)
- National Policy and Legislation
  - White Paper on Housing (A New Housing Policy and Strategy for South Africa 1994)
  - Housing Act, 1997
  - National Housing Code (2000, revised in 2009)
  - Breaking the New Ground Policy 2004
  - Disability Framework for Local Government 2009 – 2014

#### **5. Key Findings of the Research Project**

Participants at the meeting were given an overview of the *Special Needs Housing Policy Promotion Project* conducted by CLC and CDLP to investigate SNH delivery and examine efforts to develop SNH policy guidelines. This included interviews in the three provinces with non-governmental

organisations (NGOs) and policymakers. The following key points were noted from the interview process:

- Lack of coherent government response to housing delivery for persons with special needs
- Recommendation of a SNH guideline to streamline service delivery for persons with special housing needs
- Challenges in accessing institutional subsidies for housing projects for persons with special needs especially for grassroots organisations
- In the absence of a national policy / guideline / directive on SNH, various housing delivery programmes at different levels of government are used to cater for persons with special needs
- No uniform response in terms of housing delivery for persons with special needs
- A varying categorization of persons with special housing needs
- Problems with allocation of subsidies, funding and administrative capacity
- Maladministration and fraud in the housing process
- The need for consultation and meaningful engagement on SNH at all levels and with grassroots organisations

## **6. PPT Involvement in SNH**

A presentation was provided on the work of Project Preparation Trust of KwaZulu Natal (PPTTrust), its experience and challenges in addressing SNH. PPT is an independent NPO that specialises in preparing a wide range of pro-poor development projects including informal settlements, low income housing, special needs housing, pro-poor LED, infrastructure and capacity building. It has worked mainly in KwaZulu Natal, Eastern Cape, Western Cape and Gauteng provinces and has provided improved shelter / accommodation using state housing subsidies for those with special needs.

It utilizes the institutional subsidy mechanism (the transitional sub-type in KwaZulu Natal). A suitable and capable NPO owns and operates the project, and both the NPO and project must be

approved by the relevant provincial department of 'Welfare' or Health. One subsidy is provided per 'bed' and the beneficiaries are not registered on the national data base.

In the Western Cape, NPOs with viable potential projects can apply for preparation funding with the National Department of Human Settlements (DHS). The project must have preliminary support from the Western Cape Department of Social Development (DSD) or Department of Health (DOH) for the application process and comprehensive feasibility must be compiled. The application is evaluated by the DHS and if approved the agreement is signed and capital funding is released to the NPO/municipality to build the structure.

The main challenges with this work is that there is a general lack of understanding of SNH and a lack of national policy or directive, while the Western Cape policy has been put on hold. There is also a lack of preparation funding for NPOs to develop viable projects and demonstrate feasibility while there are differing levels of cooperation between different provincial departments regarding project approvals.

Finally, according to PPT while there is a great need for SNH, these needs can potentially be met. A high cost-benefit ratio exists as there is a small budgetary demand with the ability to address great need. There are several well established provincial SNH policies and programmes, with a significant project pipeline already in place, however partnership with government and NPOs is critical to address the needs of SNH.

## **7. Feedback from Focus Groups: Challenges and Recommendations**

Participants were divided into various groups to discuss their experiences in addressing the needs of SNH within the context of the research project. Challenges and possible solutions were noted including the role of government departments and other relevant stakeholders. The following key points were raised during discussions in the focus groups:

### **➤ Information and targeted action needed**

All stakeholders need to be aware of the specific challenges to addressing SNH in order to work towards providing targeted intervention. At present individuals/beneficiaries/organisations working on the ground are not fully informed. At the same time relevant government departments at all levels are also not fully engaging on SNH. While some information is being made available from government, the content needs to be simplified with less use of jargon and terminology that makes it difficult for all members of society to fully understand it.

It was suggested that all documentation and information on the development of SNH policy, the policy itself and implementation of policy could be made available on a website. However, in addition to this, different forms of communication will need to be used to share information with groups/individuals with different disabilities such as the deaf and blind community.

➤ **Need for engagement with government departments and between government departments**

The lack of consensus on SNH policy is due to the lack of communication and involvement from all relevant government departments. It was suggested that an interdepartmental secretariat be created and based in the Premier's office to facilitate communication on this issue.

The possible role of a special needs housing forum was emphasised. The Department of Human Settlements (DHS), Department of Social Development (DSD) and Department of Women, Children and People with Disabilities (DWCPD) were identified as the main departments that should be engaged with such a forum. A possible scenario could see DHS leading the development of policy on SNH, then have DSD, DOH and relevant NPOs work in consultation with each other on actual project delivery with the full backing of DHS on this issue. Whatever the scenario, each department needs to be informed of its specific duties and responsibility in the process in order to avoid a situation where each department abdicates its responsibilities to another department.

The PPT volunteered to lead the process on setting up a SNH Forum.

➤ **Immediate need to address SNH at all levels**

SNH needs to be addressed at a national level through a national policy in order to provide a framework at provincial and local level. It is important that there be representation of the special needs sector amongst policymakers and involved in this policy making process. At present, the experiences of grassroots organisations are also not being adequately taken into account in the national debate. These organisations and those encountering the difficulties of SNH first-hand, need to be included in the discussion and this could be furthered by establishing Special Housing Forums in each province, to allow an honest discussion of the challenges encountered, the costs involved in addressing housing needs and sustainability.

A plan of action also needs to then be set up to state what the responsibilities are for each department in terms of implementing the policy and the specific implementation costs. However, until a national policy is in place, a housing directive at the provincial level could play an important role in the interim to ensure SNH is addressed.

### **Beneficiaries of Special Needs Housing:**

- Disabled
- Paroled persons
- Victims of domestic abuse
- Refugees
- Orphans
- Persons affected by HIV/AIDS
- Child headed households
- Persons affected by chronic illness
- The elderly
- Individuals being rehabilitated from substance abuse
- Military veterans

#### **➤ Be informed of beneficiaries of SNH and the cross cutting nature of disability**

The categories of beneficiaries that qualify for SNH have been officially released and are publically available. It was emphasised though that disability should not be seen as a separate category within this list as it is an issue that affects and can be included in all vulnerable groups. At the same time there is no specific mention of those who become disabled once they have a house- acquired disability therefore needs to be addressed at a policy level. In addition, it was explained that abused women and children in this context refers to those coming out of shelters and does not refer to all abused women and children in a general sense.

#### **➤ Challenges to the current housing system**

Cases were highlighted where a disabled person is used to gain access to housing. Once the house is received, the house is then filled with other people. There is therefore a challenge to make sure that people with special needs, and SNH are not abused for the benefit of others.

At the same time, providing access to SNH does not mean that the beneficiaries are able to continue to afford to live in the house. The link between disability, employment and housing needs to be emphasized in order to address this problem. SNH needs to be sustainable in order to be successful. Therefore access to (long term) employment opportunities need to be made available to those with special needs in order to provide them with the chance to be self sustaining. This will help ensure that the provision of subsidies do not undermine independence.

#### **➤ Challenges to prioritising SNH**

When taking into account all the categories that need access to SNH, a large number of those on the waiting list would fall into these categories. A concern was noted that overarching focus seems

to be on those with disabilities. It was highlighted that people with disabilities were only one group within the overall focus on SNH. At the same time disability could also apply to many of the other groups within the defined categories of SNH.

Mention was made of ICF 10 classification that the World Health Organisation developed to provide an international (contextual) definition of health and disability. It was suggested that this definition be used as a possible starting point for categorization of SNH. However, there was concern that this definition was limited as it did not account for all possible groups within SNH such as women. Women leave abusive husbands in their homes when they escape abuse. These women need homes once they leave temporary or emergency housing but this is not taken into account when focusing only on categories of disability. The broader context of SNH therefore needs to be taken into account. Another example was given regarding people with TB living in damp housing- would their needs be addressed through SNH?

➤ **A need for heightened SNH advocacy efforts**

Obtaining funding for national advocacy programmes and activities remains a challenge. There is a need for advocacy on SNH issues at local, provincial and national level that focuses on the needs of all categories within SNH. Funding opportunities need to be identified in order to ensure that money is provided to this process. This will also assist with providing SNH with a national platform to address the concerns and needs that exist. At the same time all policies need to be made clear to beneficiaries on the ground.

## **8. Way Forward**

The participants present at the stakeholders meeting agreed that they would like to continue to engage collectively on the issue of SNH in South Africa. It was emphasised that this engagement should take place on a national level, including with relevant national government departments and across all provinces.

This collective action is based on the fact that change is more likely when working through networks and alliances. Communication and information were emphasised as the most important step towards collective action including the following key points:

- A communication network will be established via an email group that will include all relevant stakeholders and meeting participants.
- A set on consensus documents need to be developed that clearly states what the network wants to do. All relevant documentation and information useful to network members should be

distributed via the email group including possible submissions so that debate can take place and consensus can be found collectively.

- The Western Cape Shelter Network proposed that a SNH Forum be re-established in the province.
- The PPT suggested that it could play a limited role in leadership and communication in initiating engagement with relevant stakeholders on the establishment of the SNH Forum.
- The need for collaboration and engagement with different government and provincial departments was emphasised in order to create meaningful pressure for change.
- It was agreed that the issue of SNH needs to become more visible. Any action also needs to take into account though that different groups of people are affected by this issue in different ways and this will require a different set of possible solutions.
- Collective action will be driven through the activities of the individual organisations involved. The capacity for group action and an advocacy campaign will be discussed during a smaller teleconference to be held within the next two weeks. This meeting will consist of 6 individuals who volunteered to discuss and plan a strategy including a set of core goals to be agreed upon for collective action. The outcome of this meeting will be communicated to all stakeholders for consideration.

## **Annexure I: Presenters and Presentation Titles**

- Helene Combrinck, Centre for Disability Law and Policy, University of the Western Cape  
Background: Research on Special Needs Housing
- Gladys Mirugi-Mukundi, Community Law Centre, University of the Western Cape  
The Right to Have Access to Housing for Persons With Special Needs
- Mark Misselhorn, CEO Project Preparation Trust of KwaZulu Natal  
Special Needs Housing
- Matsobane Nkoko, Department of Local Government and Housing, Gauteng  
Gauteng Special Needs Policy 2012

## Annexure II: List of Seminar Participants

- Academic Information Service, Department of Library Services, University of Pretoria
- Pretoria
- Chesire Homes
- Community Law Centre (CLC)
- CTSB
- DEAFSA WC
- Department of Health and Social Development, City of Tshwane
- Department of Housing (DOH) WC
- Department of Human Settlements (DHS)
- Department of Human Settlements Directorate, City of Cape Town
- Department of Local Government & Traditional Affairs, Eastern Cape
- Department of Social Development (DSD)
- DG MURRAY TRUST
- DICAG
- Directorate: CDDG, Department of Health
- Directorate: Housing and Policy Research, Human Settlements, City of Cape Town
- Directorate: Policy and Research, Department of Human Settlements
- Directorate: Policy and Research, Department of Local Government and Housing
- DPSA
- IDC Consultants
- National Council for persons with physical disabilities in South Africa (NCPDASA)
- Oasis Association
- Office of the Premier, Northern Cape
- Project Preparation Trust of KwaZulu Natal (PPTrust)
- QuadPara Association of the Western Cape (QAWC)
- SADECO Quantum Consulting (Pty) Ltd
- South African National Deaf Association (SANDA)
- Sisters Incorporated
- Social Cohesion
- South African Faith and Family Institute (SAFFI)
- South African Human Rights Commission
- St .Anne's Homes
- Sector Task Team for Older Persons (STTOP)
- The South African National Council for the Blind (SANCB)
- Tshwane Deaf Association (TDA)
- Western Cape Cerebral Palsy Association
- Western Cape Forum for ID
- Western Cape Network on Disability

