

NATIONAL ASSEMBLY

WRITTEN REPLY

QUESTION 58.

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58. Ms N M Gasa (MK) to ask the Minister of Basic Education: to ask the Minister of Basic Education:

What measures has her department taken to (a) identify and (b) prevent sexual offenders from infiltrating the education system in the 2024-25 financial year, despite the existence of vetting procedures as the recent revelation of nine sexual offenders within Gauteng schools, including teachers and teaching assistants, which highlight severe vulnerabilities in the safeguarding mechanisms of the education system (details furnished)?

NATIONAL ASSEMBLY

WRITTEN REPLY

QUESTION 58.

Response

In terms of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2021, relevant employers are required to vet existing and potential employees against the National Register for Sex Offenders (NRSO) to determine their suitability to work with vulnerable persons. The Employment of Educators Act defines the employer of educators in a Provincial Education Department as the Head of Department. The Department of Basic Education (DBE) has been monitoring compliance by Provincial Education Departments (PEDs) in relation to the vetting of educators, in line with its mandate under the National Education Policy Act.

It must be noted that there are two separate offender registers due to their distinct legislative purposes:

- National Register for Sex Offenders (NRSO): Established under the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2021 and maintained by the Department of Justice and Constitutional Development (DoJ&CD). It records individuals convicted of sexual offences against children, persons with mental disabilities, and other vulnerable persons, aiming to prevent these offenders from working in environments where they have access to such individuals.
- National Child Protection Register (NCPR): Established under the Children's Act, 2005 and managed by the Department of Social Development (DSD). It records individuals found unsuitable to work with children due to abuse, neglect, or exploitation. Unlike the NRSO, the NCPR captures a broader range of offences beyond sexual crimes.

The two registers have not been consolidated because they serve distinct legal and protective functions, operate under different legislation, and fall under separate national departments (DoJ&CD for the NRSO and DSD for the NCPR). Combining them would require legislative amendments and interdepartmental coordination.

PEDs have been granted direct access to the NCPR through an agreement with DSD, allowing trained human resource practitioners at PEDs to conduct suitability checks on educators. However, the NRSO is not directly accessible at the provincial level.

Employers must submit a formal application to the NRSO Registrar for a certificate verifying whether an individual appears on the NRSO, as per Section 45(1) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2021. While this centralised process ensures thorough vetting, it has led to delays due to capacity constraints at police stations and the DoJ&CD.

NATIONAL ASSEMBLY

WRITTEN REPLY

QUESTION 58.

To close loopholes in the vetting process applicable to educators, the following measures have been implemented:

- **Mandatory suitability checks:** PEDs are required to conduct checks for all employees and prospective employees against both the NRSO and the NCPR before appointments are finalised. School Governing Bodies are required to ensure the same for all employees and prospective employees for whom they are responsible.
- **Employer responsibilities:** Employers must apply for certificates from the NRSO and NCPR to confirm if an individual's details are recorded. If an existing employee is later found to be listed on either register, the employer must immediately terminate the employee's contract.
- **Criminal penalties:** Employers who fail to conduct suitability checks, fail to terminate the employment of a listed individual, or otherwise violate the provisions of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2021 may be prosecuted and upon conviction be liable to a fine or imprisonment for up to 7 years or both.
- **Monitoring and oversight:** The DBE monitors the progress of suitability checks within PEDs.
- **Stronger collaboration with the South African Police Service (SAPS):** I met with the Minister of Police on 4 December 2024 to discuss matters related to school safety, including the vetting of school-based employees. Of the key issues raised during this meeting was (a) the need for the reactivation of a vetting fee waiver for the Basic Education Sector, given that the Heads of Education Departments Committee (HEDCOM) had previously resolved that the cost of vetting would be borne by the PEDs; and (b) the need for provincial offices of the SAPS to enter into agreements with PEDs on the method of payment for SAPS 69(i) reports. It was agreed that a technical task team would be established, comprising officials from the DBE and SAPS, to address these issues and provide recommendations to both Ministers on what steps may be taken to ensure that the vetting of educators can be expedited and streamlined.
- **Stronger collaboration with DoJ&CD:** I will seek an engagement with the Minister of Justice and Constitutional Development to address related issues that fall within the purview of the DoJ&CD.

These measures are designed to enhance the vetting process and ensure that educators do not pose a risk to learners. Preventing sexual offenders and individuals

NATIONAL ASSEMBLY

WRITTEN REPLY

QUESTION 58.

deemed unsuitable from working with children must remain a shared responsibility among all stakeholders, including SGBs, PEDs, SAPS, DoJ&CD and DSD.