



What is assessment?

Assessment is an evaluation process, occurring after the arrest of a child, which is designed to evaluate the child, the circumstances of the child and the circumstances of the child's alleged commission of an offence, with a view to formulating appropriate recommendations.

The Child Justice Bill provides that an assessment procedure by a probation officer must take place as soon as possible after arrest of a person thought to be a child and before a preliminary enquiry is held. The probation officer must in the assessment determine the probable age of the child; establish the prospects for diversion; determine whether the child is in need of care; and formulate recommendations for the release of the child that, where possible, will avoid pre-trial detention. Assessment increases the prospects for early release of children and gives children a greater chance to be considered for diversion.

Unfortunately, the 2007 Cabinet version of the Child Justice Bill differs significantly from the version of the Bill introduced to Parliament in 2002. The present version of the Bill excludes certain children from the assessment process depending on the nature of the offence the child is alleged to have committed. It is of concern that children charged with serious offences are excluded from this beneficial procedure as questions regarding their placement, age or whether they are children in need of care and protection in terms of the Children's Act 38 of 2005 are still eminently pertinent. A presiding officer should be placed in the best position possible to make informed decisions regarding the management of ALL children, and the assessment procedure is the most suitable mechanism for this.

Although assessment is already part of the child justice system, legislation is needed to ensure consistency and clarity to all role-players in the system. Currently, the Criminal Procedure Act requires an arresting officer to inform a probation officer within 48 hours of the arrest of a child, but does not spell out what the probation officer is required to do after being so informed. Furthermore, in practice arresting officers do not routinely inform probation officers of the arrest of a child. The Bill therefore sets out the responsibilities and powers of probation officers. It will also complement the provisions of the Probation Services Act. Due to the shortage of probation officers it is important to ensure that other suitably qualified professionals can assist with assessments where appropriate and that various types of assessment are provided for in accordance with the needs of the child and situation.

Just less than half the children who were consulted in the drafting process that had been through the criminal justice system said that a probation officer had assessed them. Most assessments took place in provinces where there are established assessment centres. This highlights the importance of having sufficient probation officers and appropriately trained professionals to manage the workload. Some provinces have experimented with appointing assistant probation officers and have found that that this has lead to probation officers being able to meet their obligations.

Of those children who said they were assessed, just less than two-thirds were assessed within 48 hours. The rest were assessed a week or more after arrest. The experience of those children who were assessed was positive. Two thirds thought the assessment had been done properly.

To protect the privacy of the child during assessment, the Bill says that the place where the assessment interview is held should be conducive to confidentiality. Most children consulted who had been assessed said their assessments took place in private offices that were either at a court, police station, prison or place of safety. The Bill says parents must be present at the assessment if possible. Just over half of children consulted who had been assessed had a parent, relative or guardian present during the interview. Provision is made for the probation officer to exclude any person from the assessment if such person is disrupting, undermining or obstructing the completion of the assessment.

Different kinds of assessment may be necessary and depend on the needs of the child and the child's circumstances, and the criminal justice process - such as where the child is charged with a sexual offence or is a repeat offender. These differing assessment needs may require the skills and experience of professionals other than but not excluding the probation officer. There are provisions in the chapter on the preliminary inquiry which provides for an extended period in which to assess the child in these situations.