



# Western Cape Street Children's Forum

Together for children living, working and begging on the street

## CONSTITUTION

### 1. Name: **Western Cape Street Children's Forum**

1.1. The organisation hereby constituted will be called Western Cape Street Children's Forum.

1.2. Its shortened name will be "**WCSCF**".

### 1.3. **Body Corporate**

The WCSCF shall:

- Exist in its own right, separately from its members.
- Continue to exist even when its membership changes and there are different office bearers.
- Be able to own property and other possessions.
- Be able to sue and be sued in its own name.

## 2. Definitions

- A child – a person under 18 years old
- A youth – a person between the ages of 18 and 24
- A street child – the Children's Act defines a 'street Child' as a child who 'has left his or her home, family or community and lives, begs or works on the streets', or 'begs or works on the streets but returns home at night'. The Act regards street children as 'children in need of care and protection' (Section 150(c)),
- A vulnerable child – a child who needs protection for any reason, especially those who are abused or neglected and at risk of moving onto the street.

## 3. Objectives

(a) The WCSCF's main objectives are to:

- Establish and sustain a network of organisations working in partnership to create a well-equipped, coordinated, integrated and collaborative sector for children and youth who are currently, or are at risk of, living, working or begging on the streets of the Western Cape, on the levels of crisis, early intervention and prevention.
- Support and promote developmental initiatives and programmes, building their capacity and providing a platform where individuals and member organisations can share their skills and experience.
- Serve as a unifying voice to debate, advocate and lobby around common issues (eg strategies, policy formulation, legislative formulation, implementation, etc) that involve or affect the above target group of children and youth in one way or another.

(b) The WCSCF's secondary objectives will be to:

- Liaise with the public, relevant authorities and the media with the aim of informing, educating and developing a response to the above mentioned target group of children and youth in the Western Cape.
- Act as a resource for its member organisations to receive training, capacity building, technical assistance and support.
- Act as an information, referral and advice service to the public.
- Function as an organisational base for research, monitoring the situation of children and youth within the target group, and the developmental aspects of the street child phenomenon.
- Assist projects in developing appropriate standards, guidelines, and evaluation criteria for their programmes.

#### **4. Income and property:**

4.1. The WCSCF will keep a record of everything it owns.

4.2. The WCSCF may not give any of its money or property to its members or office bearers. The only time it can do this is when it pays for work that a member or office bearer has done for the WCSCF. The payment must be a reasonable amount for the work that has been done.

4.3. A member of the WCSCF can only get money back from the WCSCF for expenses that were pre-approved by the management committee, and that she or he has paid for or on behalf of the WCSCF.

4.4. Members or office bearers of the WCSCF do not have rights over things that belong to the WCSCF.

#### **5. Membership and General Meetings**

5.1. If an organisation wants to become a member of the WCSCF, they will have to apply to the WCSCF's Management Committee. The Management Committee has the right to say no if their strategies, practices or objectives are not in line with the aims and objectives of the WCSCF (eg. for self-interest, political, personal or financial gain).

5.2. Membership of the WCSCF shall comprise of the following categories:

- **Organisational Membership with voting powers.** Such organisations can only be a "Nonprofit" organisation as defined by the NPO Act 71 of 1997 or a Non-Profit Company as defined by the Non-Profit Company Act and registered as working either nationally or within the Western Cape Province of South Africa. Umbrella organisations are allowed to apply for separate membership for each project or branch as long as each individual project or branch has a separate NPO registration number. Each organisation shall have one vote, even if several representatives of that organisation attend the forum meetings.
- **Individuals** are welcome to attend meetings, participate and contribute, but have no nomination or voting rights.

- **Partner Affiliate with no voting powers.** This type of membership shall comprise all other organisations, departments and companies: such as Government Departments; Non-NGO organisations; Security Companies; Police Forums; City Improvement Districts (particular CID's which operate in collaboration with the WCSCF and with policies in line with the aims and objectives of the WCSCF, can be made Organisational Members by the Management Committee); Commercial Businesses; Local, National and International Affiliations and Networks; Concerned Organisations; and all other organisations who are not NGO's or who do not work directly in the sector, but who want to participate in meetings, discussions, strategies and the general business of the WCSCF. Partner Affiliates shall however have no official voting power, but their affiliation, input, participation and support shall be noted and considered by the management committee and they are entitled to make submissions to the WCSCF for consideration. Partner Affiliates believe in the work of the WCSCF and are entitled to support the work of the WCSCF in any way they see fit, including financially.

5.3. Organisational Members of the WCSCF are considered full members of the WCSCF and will be required to pay an annual subscription fee within 3 months after the end of each financial year. Such fee shall be determined from time to time by the management committee. Partner Affiliates and Individuals shall not be required to pay an annual subscription fee, as they have no voting powers.

5.4. Full Members of the WCSCF must endeavour to attend its annual general meetings. At the annual general meeting full members exercise their right to determine the policy of the WCSCF.

5.5. The Management Committee may suspend or terminate the membership of any member, in terms of the Code of Conduct and the WCSCF aims and objectives, provided that:

4.5.1 At least (14) fourteen days prior written notice is given to all members of the Management Committee and to the member concerned of the intention to terminate a membership;

4.5.2 The notice shall invite the member to make written or verbal representations to the meeting as the member may consider appropriate.

4.5.3 The decision of the Management Committee to admit an applicant to membership, or to suspend or terminate a membership shall lapse unless confirmed by a resolution of a quorum of the members of the WCSCF present at the next General Meeting.

## **6. Management:**

6.1. A management committee will manage the WCSCF. The management committee will be made up of not less than 5 Full Members. They are the office bearers of the WCSCF and accept fiduciary responsibility for the public benefit organisation. These with fiduciary responsibility may not be connected persons in relation to one another, and no single person may directly or indirectly control the decision making powers of the organisation.

- 6.2. If one or two individuals are deemed to have specific skill set required by the Board (such as legal or financial expertise), the Management Committee may make the decision to co-opt them onto the Management Committee, with or without voting rights.
- 6.3. Members shall be elected annually at the Annual General Meeting.
- 6.4. Office bearers will serve for one year, but they can stand for re-election for another term in office after that. Depending on what kind of services they give to the WCSCF, they can stand for re-election into office again and again. This is so long as their services are needed and they are ready to give their services.
- 6.5. If a member of the management committee does not attend three management committee meetings in a row, without having applied for and obtained leave of absence from the management committee, then the management committee will find a new member to take that person's place.
- 6.6. The management committee will meet at least once every three months. More than half of members need to be at the meeting to make decisions that are allowed to be carried forward. This constitutes a quorum.
- 6.7. Minutes will be taken at every meeting to record the management committee's decisions. The minutes of each meeting will be given to management committee members at least two weeks before the next meeting. The minutes shall be confirmed as a true record of proceedings, by the next meeting of the management committee, and shall thereafter be signed by the chairperson.
- 6.8. The WCSCF has the right to form sub-committees. The decisions that sub-committees take must be given to the management committee. The management committee must decide whether to agree to them or not at its next meeting. This meeting should take place soon after the sub-committee's meeting. By agreeing to decisions the management committee ratifies them.
- 6.9. The Management Committee may co-opt additional non-voting members as it may consider appropriate from time to time. The co-opted members shall serve for such period as the Management Committee considers appropriate and shall not have voting rights.
- 6.10. All members of the WCSCF have to abide by decisions that are taken by the management committee.

## **7. Powers of the WCSCF**

The management committee may take on the power and authority that it believes it needs to be able to achieve the objectives that are stated in point number 2 of this constitution. Its activities must abide by the law.

- 7.1. The management committee has the power and authority to raise funds or to invite and receive contributions.

- 7.2. The management committee has the power to buy, hire or exchange for any property that it needs to achieve its objectives.
- 7.3. The management committee has the right to make by-laws for proper management, including procedure for application, approval and termination of membership.
- 7.4. Members will decide on the powers and functions of office bearers at the annual general meeting each year.

## **8. Meetings and Procedures**

- 8.1. The management committee must hold at least four (4) ordinary meetings each year.
- 8.2. The chairperson, or two members of the committee, can call a special meeting if they want to. But they must let the other management committee members know the date of the proposed meeting not less than 21 days before it is due to take place. They must also tell the other members of the committee which issues will be discussed at the meeting. If, however, one of the matters to be discussed is to appoint a new management committee member, then those calling the meeting must give the other committee members not less than 30 days notice.
- 8.3. The chairperson shall act as the chairperson of the management committee. If the chairperson does not attend a meeting, then members of the committee who are present choose which one of them will chair that meeting. This must be done before the meeting starts.
- 8.4. There shall be a quorum whenever such a meeting is held.
- 8.5. If a quorum is not present at a particular Meeting (AGM or Special voting meeting), then the meeting can be continued and voting take place with those present. Decisions can be made based on the votes by those present. Those decisions are then carried over to a meeting 7 days later. The meeting is then recalled 7 days later. All decisions taken at the previous meeting can then be ratified at the second meeting. A quorum is not required at the second meeting. Decisions made at Executive Meetings can be ratified through email.
- 8.6. When necessary, the management committee will vote on issues. If the votes are equal on an issue, then the chairperson has either a second or a deciding vote.
- 8.7. Minutes of all meetings must be kept safely and always be on hand for members to consult.
- 8.8. If the management committee thinks it is necessary, then it can decide to set up one or more subcommittees. It may decide to do this to get some work done quickly. Or it may want a subcommittee to do an inquiry, for example. There must

be at least three people on a sub-committee. The sub-committee must report back to the management committee on its activities. It should do this regularly.

## **9. Annual General Meetings**

The annual general meeting must be held once every year and not more than 6 months after the WCSCF's financial year end. The WCSCF must deal with the following business, amongst others, at its annual general meeting:

- Agree to the items to be discussed on the agenda
- Write down who is there and who has sent apologies because they cannot attend
- Read and confirm the previous meeting's minutes with matters arising
- Chairperson's report
- Treasurer's report
- Changes to the constitution that members may want to make
- Elect new office bearers
- General

## **10. Finance**

- 10.1. An accounting officer shall be appointed at the annual general meeting. His or her duty is to audit and check on the finances of the WCSCF.
- 10.2. The treasurer's job is to control the day to day finances of the WCSCF. The treasurer shall arrange for all funds to be put into a bank account in the name of the WCSCF. The treasurer must also keep proper records of all the finances.
- 10.3. Whenever funds are taken out of the bank account, at least two members of the WCSCF, who have been assigned signing powers by the management committee, must sign the withdrawal or cheque.
- 10.4. The financial year of the WCSCF ends on the 31 March each year.
- 10.5. The WCSCF's accounting records and reports must be ready and handed to the Director of Non Profit Organisations within six months after the financial year end.
- 10.6. If the WCSCF has funds that can be invested, the funds may only be invested with registered financial institutions. These institutions are listed in Section 1 of the Financial Institutions (Investment of Funds) Act, 1984. Or the WCSCF can get securities that are listed on a licensed stock exchange as set out in the Stock Exchange Control Act, 1985. The WCSCF can go to different banks to seek advice on the best way to look after its funds.

## **11. PUBLIC BENEFIT ORGANISATION STATUS AND EXEMPTION FROM INCOME TAX (SECTION 18A)**

The WCSCF has been awarded PBO status and exemption from income tax in terms of the requirements of a Public Benefit Organisation set out in section 30(3) of the Income Tax Act 58 of 1962. Our Income Tax Exemption has been granted in terms of section 10(1)(cN) of the Act with effect from the 1 September 2017. As per our PBO status:

- a) The activities of the organisation are carried on in a non-profit manner and with an altruistic or philanthropic intent.
- b) No activity will directly or indirectly promote the economic self-interest of any fiduciary or employee of the organisation otherwise than by way of reasonable remuneration.
- c) No funds will be distributed to any person (other than in the course of undertaking any public benefit activity).
- d) The funds of the public benefit organisation will be used solely for the objects for which it was established.
- e) The public benefit organisation will not be a party to, or does not knowingly permit, or has not knowingly permitted, itself to be used as part of any transaction, operation or scheme of which the sole or main purpose is the reduction, postponement or avoidance of liability for any tax, duty or levy which, but for such transaction, operation or scheme, would have been or would have become payable by any person under this Act or any other Act administered by the Commissioner;
- f) No resources will be used, directly or indirectly, to support, advance or oppose any political party.
- g) No remuneration will be paid to any employee, office bearer, member or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered and has not and will not economically benefit any person in a manner which is not consistent with its objectives.
- h) No donation will be accepted which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of section 18A: Provided that a donor (other than a donor which is an approved public benefit organisation or an institution, board or body which is exempt from tax in terms of section 10(1)(cA)(i), which has as its sole or principal object the carrying on of any public benefit activity) may not impose any conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation.

## **12. Changes to the constitution and voting for Executive Members**

- 12.1. The constitution can be changed by a resolution. Voting for Executive Members and resolutions have to be agreed upon and passed by not less than half plus one (“a quorum”) of the members. General “proxy votes” are also allowed.
- 12.2. Any annual general meeting may vote upon such a resolution, if the details of the changes are set out in the notice referred to in 10.3
- 12.3. A written notice must go out not less than twenty-one (21) days before the meeting at which the changes to the constitution are going to be proposed. The notice must indicate the proposed changes to the constitution that will be discussed at the meeting.
- 12.4. No amendments may be made which would have the effect of making the organisation cease to exist.

## **12.5. Voting and Election Policy.**

- 10.5.1 Nominations for Executive Members can be accepted before the Annual General Meeting. If these nominations are insufficient, then 2 further nominations can be accepted at the AGM.
- 10.5.2 For those Members unable to attend the Special Meeting or AGM, their votes can be made by proxy.
- 10.5.3 Process for lodging a Proxy Mandate
  - a) Should a member not be able to attend the AGM or Special Meeting in person, then a Proxy may be appointed to vote in place of the Member.
  - b) Proxies can only be given by current Members in good standing.
  - c) Proxies must be submitted to the Coordinator by email ([wcstreetchild@gmail.com](mailto:wcstreetchild@gmail.com)) 48 hours before the Meeting, so that the Proxy may be verified.
  - d) The Member gives their Proxy by completing the WCSCF Proxy Form.
  - e) The Proxy needs to attend the meeting to vote.

## **13. DISPUTES**

- 12.1 In the event of a serious disagreement between the members of the Management Committee and/or the WCSCF regarding the interpretation of this constitution then any two (2) Management Committee members or any five (5) members of the WCSCF shall be entitled to declare a dispute. Such declaration shall be in writing, state the issue in dispute, and be addressed to the Management Committee.
- 12.2 The Management Committee shall consider such declaration within one month of receiving it. Should the Management Committee not be able to resolve the dispute to the satisfaction of the person(s) declaring it, the dispute shall be referred either to a mediator or arbitrator.
- 12.3 Should the dispute be referred to a mediator, the person(s) declaring the dispute and the Management Committee must agree on a suitable mediator and to the costs of such mediation. A mediator may recommend an appropriate resolution of the dispute.
- 12.4 In the absence of agreement regarding a mediator or should mediation not resolve the dispute, the dispute shall be referred to arbitration. The arbitrator shall be such suitably qualified person/s as the person(s) declaring the dispute and the Management Committee may mutually agree. Alternatively, each of the parties shall be entitled to nominate one arbitrator, who shall act jointly with a third person to be nominated jointly by the respective nominees of the parties; on the basis that a majority decision of the appointed arbitrators shall be final and binding.
- 12.5 The arbitration shall be held on an informal basis, and the arbitrator shall have the power to determine the procedure to be adopted subject to principles of natural justice.
- 12.6 The arbitrator may base her/his award not only upon the applicable law but also upon the principles of equity and fairness.
- 12.7 The person(s) declaring the dispute and the Management Committee, beforehand, may agree to share the costs of the arbitration. In the absence of such agreement the arbitrator shall decide which parties shall be liable for the costs.
- 12.8 The decision of the arbitrator shall be final and binding upon all parties and capable of being made an Order of Court on application by any of them.

## **14. Dissolution/Winding-up**



- 14.1. The WCSCF may close down if at least two-thirds of the members present and voting at a meeting convened for the purpose of considering such matter, are in favour of closing down.
- 14.2. When the WCSCF closes down it has to pay off all its debts. After doing this, if there is property or money left over it should not be paid or given to members of the WCSCF. It should be given in some way to another non-profit organisation that has similar objectives. The WCSCF's general meeting can decide what organisation this should be.
- 14.3. On dissolution of the public benefit organisation, the remaining assets must be transferred to -
- i) A public benefit organisation, which has been approved in terms of section 30 of the Act.
  - ii) Any institution, board or body which is exempt from the payment of income tax in terms of section 10(1)(cA)(i) of the Act, which has as its sole or principal object the carrying on of any public benefit activity; or
  - iii) Any department of state or administration in the national or provincial or local sphere of government of the Republic, contemplated in section 10(1)(a) or (b) of the Act.

**This constitution was approved and adopted by members of WCSCF**

At the WCSCF Special Meeting held on Wednesday 13<sup>th</sup> November 2019 in Cape Town.

Wilma Piek, WCSCF Acting Chairperson

Signed:  \_\_\_\_\_