

PORTFOLIO COMMITTEE :

COMMUNITY SERVICES

Chairperson :

Cllr R Nutt

Committee Members :

**Ald K Brice, Cllrs T Els,
K Ngqandana and B Nombula**

COMMUNITY SERVICES PORTFOLIO COMMITTEE

4 February 2025

I N D E X

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4 February 2025
(Also the agenda for the Mayoral Committee Meeting: 10 February 2025)**

**1.
INSUFFICIENT AND NON-COMPLIANT CHILDCARE / PARTIAL CARE FACILITIES
IN OVERSTRAND**

**GG Smit
20/01/2025**

Special Projects Officer

(028) 313 8035

1. Executive Summary

The purpose of this report is to inform Council of some key issues highlighted by Internal Audit Services in an Internal Consulting Report regarding childcare / partial care facilities in the Overstrand.

2. Service Delivery and Budget Implementation Plan - IGNITE

Directorate: Community Services
Department: Facilities, Halls & Building Maintenance

3. Compliance with Strategic Priorities

Provision of democratic, accountable and ethical governance
Provision and maintenance of municipal services
Creation and maintenance of a safe and healthy environment
Promotion of tourism, economic and social development

4. Delegated Authority

None

5. Legal Requirements

Constitution of the Republic of South Africa, Act No. 108 of 1996
Children's Act No. 38 of 2005
National Integrated Early Childhood Development Policy 2015
National Building Regulations and Building Standards Act 103 of 1977

6. Background/Discussion/Evaluation/Conclusion

Background

The Overall Risk Register generated on 5 September 2023 lists the "Insufficient number of childcare / partial care facilities in the Overstrand" as one of the high operational risks with an inherent risk rating of 70 and a residual risk rating of 63, which is above the risk appetite of 40. The risk was included in the approved internal audit projects for the 2023/24 financial year, resulting in a Consulting

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Service performed by Internal Audit Service (hereafter referred to as IAS) in respect of “insufficient number of childcare / partial care facilities in Overstrand.

Discussion

Responsibilities of Local government in relation to Early Childhood Development

Section 153 of the Constitution states that, “*A municipality must – (a) structure and manage its administration and budgeting and planning processes to give effect to the basic needs of the community, and to promote the social and economic development of the community; and (b) participate in national and provincial development programmes.*”

Section 56 (1) of the constitution states that, “*A municipality has executive authority in respect of and has the right to administer the local government matters listed in Part B of Schedule 4 ...*”, which include childcare facilities.

The Local Government, Powers, and Functions – Definitions, Norms and Standards (MDB) 20023 states that: *Child care facilities means, ensuring a safe and healthy environment within facilities not included in national and provincial legislation pertaining to child care facilities.*”

The National Integrated Early Childhood Development Policy 2015 states that *Local and metropolitan municipalities must participate in the planning of early childhood development services. They are responsible for supporting child care facilities to meet minimum infrastructural health and safety standards; registration of child-minding services; development of new early childhood development service provision infrastructure; and audit and identification of available infrastructure that may be used for the expansion of learning services and programmes in areas of need.*

Sufficiency of childcare / partial care facilities in the Overstrand

There are a total of 92 childcare facilities operating in the Overstrand, 23 of these are operated from municipal (leased properties) while the remaining 69 are operated in / from private buildings / properties.

Based on the total number of children aged between 0-5 years of age in the Overstrand (Census 2022), the number of childcare / partial care facilities in the Overstrand (whether registered or not) and the number of children enrolled in these facilities, IAS found that there is an insufficient supply of childcare / partial care facilities in the Overstrand.

IAS highlighted the following risks associated with insufficient childcare facilities in the Overstrand, these are, but not limited to:

- Children being deprived of their basic right to education, a safe and healthy environment, nutrition, and protection.

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- Children entering pre-school with less linguistic knowledge and exposure, which influences later educational success.
- Poor school attendance.
- Poor academic performance due to lack of resources and / or environment to stimulate early literacy skills.
- Increased rate of school dropouts and / or not furthering education after high school.

Safety and compliance of childcare / partial care facilities

The National Building Regulations and Building Standards Act 103 of 1977 (“the Act”) provides that no person may erect, alter, add to, or convert any building without the prior approval of the Local Authority. Furthermore, the Act requires that a local authority (in this instance, the Overstrand Municipality) shall issue a Certificate of Occupancy for every building that is built within its jurisdiction if it is of the opinion that such building has been erected in accordance with the provisions of the Act, before such building is occupied.

The significance and importance of the Certificate of Occupancy is that is a certificate from the local authority certifying that a building was:

- completed in accordance with an approved building plan(s),
- that all conditions of approval and other municipal requirements have been met, and
- that all necessary compliance certificates (structural completion, electrical, plumbing etc.) have been issued accordingly.

Regarding the 23 municipal buildings / properties operating as childcare or partial care facilities:

- only 20 buildings have approved building plans, of which one is in process, one is not yet approved and there is one without any.
- only 4 buildings, which represent 17% of the 22 buildings were issued with a Certificate of Occupancy.

In respect of the 69 private buildings that are used as childcare or partial care facilities, only 39 (45%) have approved building plans and only 11 (16%) facilities were issued with a Certificate of Occupancy.

The risks associated with abovementioned non-compliance issues include the following:

- In terms of section 14(4)(a)(i) of the Act, it is an offence for an owner of a building to occupy, use or permit occupation or use of such building unless a certificate of occupancy has been issued.
- Section 24 of the Act provides that any person convicted of an offence under the Act shall be liable to a fine not exceeding R4000 or to imprisonment for a period not exceeding 12 months.

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Given that some of the non-compliant buildings/ properties used as childcare / partial care facilities are municipal buildings/ properties, it places the municipality at additional risk and liability.

Conclusion

In conclusion, IAS found that the insufficiency of childcare/ partial care facilities in the Overstrand is a reality which requires concerted efforts between the municipality and the relevant National and/ or Provincial government departments to be addressed. Aspects relating to the safety and compliance of existing childcare facilities with relevant legislation and regulations is an issue that requires immediate management actions to avoid, and potential adverse consequences associated therewith.

Appropriate regulation, planning and monitoring of the ECD programmes / operations in Overstrand requires documented and formalised regulations, guidelines, procedures and/ or SOPs. This can be achieved by developing municipal by-law(s) on the operation of ECD's, ECD policy (ies), strategy(ies), SOPs, etc.

7. Financial Implications

The Directorate: Community Services, who is among others, responsible for the maintenance of municipal buildings is in the process of assessing the maintenance needs of all Overstrand properties / buildings used for childcare / partial care services and will submit a budget request in this regard for the 2025/26 financial year.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

None

RECOMMENDATION TO THE COUNCIL:

1. that the following **be noted**:
 - a) municipal powers and functions with regard to childcare/ partial care facilities;

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- b) the insufficient supply of childcare / partial care facilities in the Overstrand and the risks associated therewith; and
 - c) safety and compliance issues of childcare / partial care facilities, especially in respect of municipal buildings / properties used as childcare / partial care facilities;
2. that the necessary budgetary provisions be made to enable Community Services to address the safety and compliance issues at municipal buildings / properties used as childcare / partial care facilities; and
 3. that a by-law be drafted to enable appropriate regulation, planning and monitoring of childcare / partial care facilities in the Overstrand.

RESPONSIBLE OFFICIAL :

**S SWARTZ
G SMIT**

TARGET DATE FOR IMPLEMENTATION :

1 MARCH 2025

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20/01/2025**

Special Projects Officer

(028) 313 8035

**THIS MATTER SERVED BEFORE THE COMMUNITY SERVICES PORTFOLIO
COMMITTEE ON 4 FEBRUARY 2025, WHICH COMMITTEE RECOMMENDED AS
FOLLOWS:**

RECOMMENDATION TO THE COUNCIL:

1. that the following **be noted**:
 - a) municipal powers and functions with regard to childcare/ partial care facilities;
 - b) the insufficient supply of childcare / partial care facilities in the Overstrand and the risks associated therewith; and
 - c) safety and compliance issues of childcare / partial care facilities, especially in respect of municipal buildings / properties used as childcare / partial care facilities;
2. that the necessary budgetary provisions be made to enable Community Services to address the safety and compliance issues at municipal buildings / properties used as childcare / partial care facilities; and
3. that a by-law be drafted to enable appropriate regulation, planning and monitoring of childcare / partial care facilities in the Overstrand.

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