

**ADVICE FROM THE ORACLE: THE STRUCTURING OF PARENTING PLANS FOR
SPECIAL NEEDS CHILDREN IN SOUTH AFRICA – FROM CONFLICT TO
CONSENSUS**

By

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Declaration

I declare that the “Advice from the oracle: The structuring of parenting plans for special needs children in South Africa – from conflict to consensus” is my own work and that all the sources that I used or quoted are indicated and acknowledged in a complete reference list.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Signature: _____

Date: 25 August 2025

Abstract

Divorce rates are increasing globally, and research suggests that successful co-parenting post-divorce, as characterised by the absence of conflict, positive communication, and collaboration, is beneficial for children's behavioural outcomes, academic achievement, and psychological well-being. With an increasing number of special needs children, the courts are faced with a growing number of separation and divorce cases involving these vulnerable children. Care and contact evaluations and parenting plans have a profound impact on children and family adjustment post-divorce. The focus of this research is on special needs children with learning disorders, cognitive impairments, chronic developmental disorders, physical disabilities, serious medical conditions, and severe psychiatric and behavioural disorders affected by separation and divorce. The lack of parenting plan guidelines in South Africa is a cause of concern for psycho-legal professionals and families. The information generated by this research will provide guidelines for the development of parenting plans to assist this vulnerable population. This study took a qualitative research approach and collected data using two rounds of semi-structured interviews utilising the Delphi method. The findings culminated in a consensus on 10 guidelines to assist the court in making decisions that will be in the best interest of the special needs child.

Key words: best interest of the child, Delphi method, divorce, forensic psychology, parenting plans, neurodevelopmental disorders, special needs children (SNCs).

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List of Abbreviations

| | |
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| ACRWC | African Charter on the Rights and Welfare of the Child |
| ADHD | Attention-deficit hyperactivity disorder |
| AFCC | Association of Family and Conciliation Courts |
| ASD | Autism spectrum disorder |
| CP | Cerebral palsy |
| HPCSA | Health Professions Council of South Africa |
| ICF | The International Classification of Functioning, Disability and Health |
| MDD | Major depressive disorder |
| NDD | Neurodevelopmental disorder |
| SNC | Special needs child |
| UNCRC | United Nations Convention on the Rights of the Child |
| UNICEF | United Nations Children's Fund |

Chapter 1 Introduction

Internationally and nationally, there is a dearth of research on issues that inform residency, care, and contact planning evaluations. Although there exists a substantial body of literature concerning the best interests of children in divorce proceedings, the best interests of special needs children (SNCs) remain generally overlooked.

Research is therefore needed to highlight the difficulties faced in these cases and to suggest improvements. This chapter discusses the background and the problem statement of the current study. It presents the operational definitions, the aim and objectives of the research, and an overview of the remaining chapters of this thesis.

1.1 Background of the Study

Research has highlighted the adverse consequences divorce can have on children in all aspects of life. Two extensive meta-analysis studies (Amato & Keith, 1991; Amato & Booth, 1997) revealed that children of divorced parents consistently had considerably poorer scores in academic achievement, behaviour, psychological adjustment, self-concept, and social relations.

Research suggests that successful co-parenting after a divorce or separation is characterised by the absence of conflict with active co-parenting and communication between parents (Cohen & Weissman, 1984). Successful co-parenting is beneficial for children's behavioural outcomes, academic achievement, and psychological well-being (Amato & Gilbreth, 1999). Consequently, primary residency and contact evaluations can have a profound impact on children and family adjustment after a divorce, and, therefore, these evaluations should be conducted by highly trained professionals.

In most cases, parents can make primary residency and contact arrangements on their own. However, in South Africa, a large percentage of divorce cases are contested, reducing children's well-being, and decisions then need to be taken by the court (Melton et al., 2007).

Between 1960 and 2008, divorce rates increased globally (Amato & Boyd, 2013; Wang & Schofer, 2018). In the most recent South African statistics on marriages and divorces (Statistics South Africa, 2023b, p. 19), 20,196 divorces were completed during 2022. In 2022, 55.3% of these divorces involved children (Statistics South Africa, 2023b, p. 27). Divorce has an inescapable influence on all parties involved (Kunz, 2013, p. 238), and children are affected in various ways.

Parenting plans for divorcing parents ensure stability for children after their parents' divorce and are in the best interest of the child. However, only 25% to 30% of parents use a co-parenting system characterised by joint decision-making, flexibility, good communication, and regular visits (McIntosh et al., 2011).

A divorce decree cannot be granted until the court is satisfied that (i) the provisions made for the welfare of any minor or dependent child of the marriage are fulfilled, (ii) the Family Advocate has instituted an enquiry in accordance with the Mediation in Certain Divorce Matters Act (24/1987), and (iii) the court has thoughtfully considered the Family Advocate's report and recommendations, according to Section 6(1) of the Divorce Act (70/1979).

In divorce cases, parents, as co-holders of responsibilities and rights, are required to reach an agreement on a parenting plan before consulting the court. Often, family advocates, social workers, psychologists, or mediators are approached to assist in drafting a parenting plan. Although a parenting plan is a recent concept in South Africa, it is possibly the most useful legal instrument introduced by the Children's Act (38/2005). It is essentially a written agreement, drafted with the assistance of an objective third party, that should also consider

the voice of the affected child(ren). Parenting plans define the rights and responsibilities of all affected and give a legal platform for implementing the “best interests of the child” principle.

In cases where judges rely on mental health professionals to guide decisions on the care and primary residency of minor children, there is an expectation that these consultants would be highly trained and skilled in child and adult psychopathology, psychological assessments, child development, the family system, the impact of divorce, intimate partner violence, and relevant legal standards and procedures.

1.2 Problem Statement

The focus of this proposed research is on SNCs. This term describes children who have learning disorders, cognitive impairments, chronic developmental disorders, physical disabilities, serious medical conditions, and severe psychiatric and behavioural disorders. Together with an increasing number of SNCs, the courts are faced with an increasing number of divorce and separation cases involving these children (Eme, 2009; Price, 2012).

SNCs need specialist parenting strategies, which can impose significant responsibilities on the parents caring for them. Separation or divorce is often a consequence of having to parent SNCs, and parenting after a divorce can complicate already problematic symptoms or behaviours of children (Pickar & Kaufman, 2015).

Unfortunately, in South Africa, forensic psychology is still in its infancy, and there are significant variations in the education and training of the professionals who undertake this important task. Despite the limited training in this field, primary residency and contact evaluators, who have an ethical and moral obligation to do no harm, play an important role, as they often have a significant impact on the adjustment and long-term psychological and physical well-being of children and families.

To ensure that these evaluators, who are all clinicians, practise appropriately and ethically, governing bodies, such as the Health Professions Council of South Africa (HPCSA), should have standards to guide these important assessments. Unfortunately, South African psychologists are reliant on American guidelines as no South African protocols are available (Thompson, 2012).

Deficient child care and primary residency regulations in South Africa have led to varying numbers of primary residency and contact evaluations being of poor value and consequently objectionable. Hence, primary residency and contact evaluations in South Africa are increasingly often criticised within the psycho-legal field, especially in child care and residency litigations (Allan & Louw, 2001; Kaliski, 2006; Thompson, 2012).

Thompson (2012), in a South African review, observed that while psychologists typically followed guidelines, several practitioners failed to employ multiple data collection methods, and some conducted care and contact assessments without accounting for critical variables such as parenting capacity or the child's needs. Furthermore, Thompson found that recommendations were sometimes made without assessing parents and children or without considering the child's wishes.

Numerous South African researchers have observed the scarcity of research on care and contact evaluations and parenting plans in South Africa (Africa et al., 2003; Brandt et al., 2004). The available research only focuses on criteria that inform psychological decision-making (Brandt et al., 2004; Cumes & Lambiase, 1987), criteria for the evaluation of parents (Bezuidenhout, 2000), or broader psychological practices.

A multitude of authors (Allan & Louw, 2001; Kaliski, 2006; Melton et al., 2007) have raised concerns about psychologists' potential contribution to childcare and residency evaluations. These concerns were based on the contention that unscientific assessment techniques and methodologies were used and that personal bias affected conclusions (Emery

et al., 2005; Scherrer et al., 2002). Despite these caveats, psychological opinion is often sought concerning primary residency and contact evaluations and parenting plan development (Africa et al., 2003).

Goldstein et al. (1973) expressed apprehensions over the suitability of psychologists' participation in primary residency and contact assessments almost three decades ago in their publication, *Beyond the Best Interests of the Child*. The identified concerns led to the development of various practice guidelines, including those set forth by the American Psychological Association (1994) and the model standards of practice from the Association of Family and Conciliation Courts (AFCC, 2007), designed to assist American forensic psychologists involved in primary contact and residency evaluations. A variety of American publications were developed as resources for primary residency and contact assessments (e.g., Ackerman, 2006; Bartol & Bartol, 2004; Clark, 1995; Stahl, 1994; 1999; 2011).

Currently, South African psychologists, regrettably, must depend on American principles. Within the South African forensic domain, two American publications are regarded as the benchmark: *Conducting Child Custody Evaluations: A Comprehensive Guide* (Stahl, 1994) and the family systems assessment model introduced by Jameson et al. (1997).

Stahl (1994) presented criteria for assessing the parent-child relationship, parenting capacity, and parental dysfunction, as well as for formulating a parenting plan, emphasising the alignment between the needs of the parent and the child. The family systems assessment model, named the Best Interests of the Child assessment model (Jameson et al., 1997), prioritises the "best interests of the child" criterion and identifies three key areas of assessment: the developmental needs of the child, the structural needs (the relationships among carers and between the child and carers), and the functional needs (the capabilities of the carers).

Brandt et al. (2005) advised that primary residency and contact assessments “should adhere to and be grounded in the prevailing best practice recommendations and credible publications in the domain” (p. 149) and further proposed that mental health practitioners should tailor their assessments to the referral cause, as no standardised technique exists in the South African environment.

Louw et al. (2003) presented a succinct and fundamental framework for primary residency and contact assessments, drawing upon the research of Gardner (1989, 1999). Regrettably, the South African publications addressing this critical topic are either obsolete or no longer in circulation (Bosman-Swanepoel et al., 1998; Hoffman & Pincus, 1989; Kaliski, 2006). Moreover, in South Africa, instructional standards (Brandt et al., 2005), ethical principles (Louw & Allan, 1997), and judicial regulations (*McCall v McCall*, 1994 (3) SA 201 (C)) are present but need empirical confirmation.

The South African context is further complicated by the significant evolution of family law regarding children’s rights and parental responsibilities, exemplified by the repeal of seven previous statutes by the Children’s Act, which currently regulates public and private aspects of child law (Schäfer, 2007).

The “best interest of the child” criterion is enshrined in Section 28 of The Bill of Rights (in the Constitution of the Republic of South Africa, 1996) and Section 7 of the Children’s Act and will be discussed in Chapter 2. The legal criteria are viewed as indeterminate and complicate the examination of the decision-making process. Additionally, the legal best interest of the child does not necessarily imply their best psychological interests. Psychologists prioritise the emotional well-being of the child, whereas legal practitioners emphasise moral considerations, financial stability, and educational prospects as vital (Miller, 2002).

Various South African authors have reported the scarcity of psycho-legal research dealing with primary residency and contact arrangements, and parenting plans. Moreover, owing to restricted training and the absence of institutional accreditation and peer review for South African psycho-legal assessments, most psychologists entering this domain are self-taught (Thompson, 2012).

The lack of guidance and standards generates apprehension among psychologists, the legal profession, and families affected by the turmoil of divorce. Therefore, the findings of this research must be developed into standardised guidelines for the formulation of parenting plans to assist psychologists, the judiciary, parents, and children, especially those who are most vulnerable: SNCs.

1.3 Research Aims and Objectives.

The above-mentioned limitations highlight the importance of this research project. The purpose of this research is, firstly, to determine best practices for the development of parenting plans for SNCs and, secondly, to develop a comprehensive guideline to assist the courts in making these critical decisions, especially for the vulnerable SNCs.

To achieve this, the researcher examined what experts in this field believe are important psycho-legal and ethical considerations when assisting the courts in developing parenting plans for SNCs and examined the experiences of families with SNCs affected by divorce.

1.4 Definitions of Key Terms and Concepts

In the present study, the following definitions have been accepted for key terms: best interest of the child criterion, the Delphi method, divorce, forensic psychology, parenting plans, neurodevelopmental disorders (NDDs), SNCs, and the Delphi method.

1.4.1 The Best Interest of the Child Criterion

The best interest of the child criterion is a principle that prioritises a child's needs and welfare in legal and policy determinations. This is a fundamental principle in the protection of children's rights, grounded in the United Nations Convention on the Rights of the Child (UNCRC; United Nations Children's Fund, UNICEF, 1989).

1.4.2 The Delphi Method

The Delphi survey was initially developed as a group facilitation technique and a multistage process aimed at converting individual opinions into collective consensus (Dalkey & Helmer, 1963). This method is essential for gathering and verifying expert opinions in areas with limited knowledge (Fletcher & Marchildon, 2018). Linstone and Turoff (2002, p. 3) characterised it as a method for organising group communication to enable a collective of individuals to address complex problems effectively. It consists of multiple rounds where an issue is presented to a panel of experts in a particular field to obtain consensus.

1.4.3 Forensic Psychology

De Fabrique (2011) states that forensic psychology entails the application of psychological principles within the legal system. De Fabrique (2011) posits that forensic psychology pertains to the application of psychological principles inside the legal system.

1.4.4 Divorce

The Divorce Act defines divorce in South Africa as the legal process of terminating a marriage and dissolving the legal bonds between a married couple.

1.4.5 Parenting Plans

The Children's Act, Section 33(1) stipulates that the co-holders of parental responsibilities and rights may agree on their respective parental duties in the form of a parenting plan. The concept of a parenting plan represents a move from child custody to a

more progressive system that recognises that both parents play a significant role in a child's life (Children's Act; Mahlobogwane, 2013).

1.4.6 Neurodevelopmental disorders

NDDs are a group of conditions that result from abnormal brain development, typically during childhood, leading to deficits in cognitive, emotional, and motor development (Van Herwegen et al., 2014). These disorders can affect a variety of functions, including language, communication, behaviour, and learning. Examples of NDDs include autism spectrum disorder (ASD), intellectual disability, attention-deficit hyperactivity disorder (ADHD), and specific learning disabilities.

1.4.7 Special Needs Children

The term "special needs" is an umbrella term referring to a variety of disabilities. Special needs can include learning disabilities, visual impairment, hearing impairment, cerebral palsy (CP), ADHD, physical limitations, asthma, and ASD. In general, the term "special needs" is applied when a person needs services not usually required by all citizens (Parsons, 2011).

1.5 Significance of the proposed research study

This research aims to identify best practices for developing parenting plans for SNCs. The information generated by this research will be developed into standardised guidelines for the development of parenting plans, assisting psychologists, the judiciary, parents, and SNCs.

1.6 Overview of chapters

Chapter 1 presents a general introduction and background to the thesis. It includes the rationale for the study, provides objectives, and provides a brief overview of the research methodology.

Chapter 2 is the first part of the literature review and explores the legal context of parenting plans and discusses the advantages of successful co-parenting arrangements. References are made to applicable legislation.

Chapter 3 is the second part of the literature review and defines SNCs and discusses the types of special needs of these children. In addition, it explores the challenges faced by parents and the legal system when confronted with separation or divorce.

Chapter 4 details the challenges faced by professionals and parents when designing parenting plans for SNCs. It highlights the unique challenges and requirements SNCs have that need to be considered in the development of parenting plans.

Chapter 5 focuses on the research design and the procedures followed during data sampling, collection, and analysis. This chapter explains the steps taken to enhance the trustworthiness of the findings, as well as the legal and ethical considerations that guided the research.

Chapter 6 presents the findings of the thematic review of the psycho-legal experts' experiences with developing care and primary residency plans for SNCs, while incorporating the relevant literature.

Chapter 7 focuses on the experiences of parents of SNCs and provides a thematic analysis of the findings in the light of relevant literature.

Chapter 8 presents the results of the Delphi method in conjunction with the literature and discusses the quantitative part of the research.

Chapter 9 presents 10 guidelines for designing parenting plans for SNCs based on the findings of the research.

Chapter 10 describes the conclusion, strengths, limitations, and clinical recommendations of the study. This chapter also provides recommendations for future research directions.

1.7 Chapter Summary

Few obstacles are as arduous as navigating divorce while raising an SNC, as residence, care, and contact arrangements are far more intricate to manage. The best interest criterion for children is a fundamental principle in family law cases involving minors, particularly in cases involving SNCs. Their distinct requirements must be considered while formulating parenting plans. This chapter presented an overview of the topic and a preface to the complex assessments of care and contact. The next chapter will concentrate on the legal framework around parenting plans.

Chapter 2 Parenting Plans: The Interface Between South African Law and Psychology

2.1 Legal Framework

This chapter provides the legal context of parenting plans in South Africa and discusses the advantages of successful co-parenting arrangements. The formulation and evolution of parenting plans are comparatively recent in South Africa, in contrast to nations like the United States of America (USA) and Australia. In divorce proceedings, particularly those concerning children, South African courts consult various legal sources, including the Constitution, the UNCRC (1989), the African Charter on the Rights and Welfare of the Child (ACRWC; African Union, 1990), the pivotal *McCall v McCall* judgement, and the Children's Act.

2.2 The White Paper for Social Welfare

The “White Paper for Social Welfare” (Department of Welfare, 1997) is especially relevant for this research, as it identifies children of divorced or divorcing parents as a vulnerable demographic in need of specialised support and attention. South Africa has endorsed the “United Nations’ Standard Rules on the Equalisation of Opportunities for Persons with Disabilities” (UN, 1993). These rules act as a point of departure for planning policies and implementation. According to the “White Paper for Social Welfare”, financial assistance, home nursing training, and guidance on accessing the services of organisations that provide complementary support, such as psycho-social and spiritual counselling, transport to a hospital, as well as home visits, will be provided to home caregivers of SNCs.

According to “The Global Report on Children with Developmental Disabilities” (World Health Organization (WHO) & UNICEF, 2023), an estimated 317 million children have developmental conditions. Yet, their needs are often overlooked in health systems’ planning and policy provisions, leading to stigmatisation, prejudice, and barriers to

participation, as well as educational and social exclusion. This report provides a framework for actionable, fast-track policy development changes and care provision to ensure inclusion and equitable health outcomes. The report further proposes the strengthening of multi-sectoral coordination and accountability mechanisms to improve the outcomes for children with developmental disabilities and their families.

2.3 Section 28 of the Constitution of the Republic of South Africa, 1996

Section 28 of the Constitution serves as a foundational reference, focussing on children's rights and prioritising the best interest of the child (Strous, 2008). Subsections (1)(b) and (2) are of particular importance. Subsection (1)(b) compels that every child is entitled to familial care, parental care, or appropriate alternative care if they are removed from their family environment. In addition, Subsection (2) emphasises a child-centric approach, asserting that the best interest of the child is paramount in any deliberation. Both values are enshrined in the Children's Act. According to Section 28, researchers have formulated criteria for creating parenting plans that foster relationships, mitigate loss, and accommodate children's developmental needs (Carter et al., 2010).

2.4 United Nations Convention on the Rights of the Child

South Africa ratified the United Nations Convention on the Rights of the Child (UNCRC) on 16 June 1995. These provisions of the UNCRC were essential for incorporating children's rights into the Constitution during its drafting. The Constitution incorporates principles from the UNCRC to promote the welfare and best interest of the child, ensuring that children can express their views on issues that affect them. The constitutional provisions regarding children's rights are closely linked with the guidelines established by the UNCRC. Article 6 of the UNCRC states that every child has the right to survival, development, protection, and participation.

Robinson et al. (2011) asserted that the following UNCRC rules warrant consideration:

- The safety of the child is the overriding concern.
- Direct and personal communication with both parents is essential unless exceptional circumstances dictate otherwise.
- Parents and children should remain together unless exceptional circumstances warrant separation.
- The principal consideration is the best interest of the child, which must be entrenched.
- Children should be permitted to articulate their emotions if they are able.
- Children's development and living conditions must prioritise the enhancement of their well-being.
- Children should have regular contact and access to parents during relocation.
- Children must be safeguarded from abuse, neglect, mistreatment, and exploitation.
- The care and protection of children must adhere to the highest standards.
- Both parents share the responsibility of raising their children.
- Both parents should provide direction and guidance.
- Parental responsibilities and rights are critical.

This research study is particularly pertinent to the following articles of the UNCRC concerning SNCs:

- Article 2(2): Children should not be discriminated against.
- Article 3(1): The paramount priority in all acts concerning children must be the best interest of the child.
- Article 4: All accessible resources must be used to fulfil children's economic, social, and cultural rights.

- Article 12(1): The child’s freedom to express their opinions shall be respected in agreement with the child’s maturity and age.
- Article 19(1): All necessary measures must be implemented to safeguard children from any violence, harm, neglect, abuse, and exploitation.
- Article 23: SNCs are entitled to “full and dignified lives” and need “particular care,” which should be provided at no cost and contingent upon available resources to facilitate their maximum social integration and personal development.
- Article 24: Pursuing the “highest attainable level of health” is imperative.

2.5 African Charter on the Rights and Welfare of the Child

South Africa sanctioned the ACRWC in 1999. Like the UNCRC, the ACRWC is a comprehensive legal framework outlining children’s rights and establishing global principles and standards for their welfare. The ACRWC is particularly significant in the African context, as it addresses the unique challenges faced by children in Africa. It provides essential guidance for developing and implementing parenting plans. Furthermore, the ACRWC creates a legal framework to protect children.

The following guidelines extracted from the ACRWC are pertinent to this research as they relate to the formulation of parenting plans:

- optimise the welfare of the child
- include the child’s perspectives and sentiments
- allow for leisure activities for the child
- include child maintenance
- include parental guardianship and safeguarding of the child
- consider the child’s interaction with their parents during separation or relocation
- prioritise the child’s quality of life

2.6 The Mediation in Certain Divorce Matters Act

The Mediation in Certain Divorce Matters Act is an initiative by the South African legislature aimed at protecting the rights of children affected by divorce proceedings. The Office of the Family Advocate functions under the Mediation in Certain Divorce Matters Act, which aims to identify and support of children in cases where parental conflict may negatively affect the child's well-being. This statute mandates the employment of Family Counsellors to assist the Family Advocate. Upon the request of either party or the court, the Family Advocate may undertake an inquiry and furnish a report containing recommendations for the welfare of the children involved.

2.7 The Children's Act

Historically, as stipulated by the Divorce Act, parental agreement on child support arrangements was necessary before a court could dissolve a marriage. The court required sufficient provisions for the well-being of any minor or dependent child. Custody was typically awarded to one parent, while visitation rights were granted to the non-custodial parent. The South African judicial system has significantly advanced children's rights and responsibilities since the enactment of the Children's Act. The Children's Act provides the legal framework for adjusting parental responsibilities and rights in South Africa. It represents a shift from the traditional child custody framework that favoured mothers over fathers to a more progressive model that acknowledges the essential roles of both parents in a child's upbringing (Mahlobogwane, 2013). The Children's Act promotes developing and implementing parenting plans in South Africa. This is a procedure for parents to monitor, organise, and consent to fulfilling their parental responsibilities and rights.

Three provisions of this Act are especially pertinent to parenting plans: Section 7 (the best interest of the child standard) and Sections 33 and 34 (the requirements and formalities for parenting plans). The criteria for the best interest of the child include physical, economic,

emotional, intellectual, cultural, spiritual, social, moral, and religious well-being. Due to the diversity of children's circumstances, compiling a comprehensive list is impossible.

However, it is essential to incorporate these interests into a parenting plan.

Robinson (2009) asserted that the best interest of the child standard is regarded as the fundamental principle of South African family law. Section 9 of the Children's Act stipulates that the paramount consideration is the best interest of the child, which must be applied to all matters concerning children. This priority is further supported by Section 28(2) of the Constitution. In many countries, including South Africa, the concept of the best interest of the child is crucial in legal decisions regarding children.

Section 9 of the Children's Act 38 of 2005, read with Sections 7 and 33, requires that the child's best interest is of paramount importance in all matters concerning their care and protection, including the creation of a parenting plan and provides the specific factors to evaluate when determining these interests and requires that professionals assess the child's best interest when creating a parenting plan. The principle of the child's best interest was recognised in South African case law in *Fletcher v Fletcher*, 1948 (1) SA 130 (A). However, guidelines regarding this principle were not established until *McCall v McCall*, which specified factors for courts to consider before approving custody applications.

Section 7 of the Children's Act delineates several elements that courts must evaluate when rendering decisions that impact a child. The criteria include:

- the quality of the relationship between the child and each parent,
- the attitude of each parent towards the child,
- the ability of parents or carers to meet the child's physical and emotional needs,
- the possible effects on the child resulting from alterations in their living circumstances, including separation from parents or siblings,
- the significance of nurturing a child within a stable familial context,

- additional attributes of the child that may be pertinent to the decision,
- practical concerns, including the challenges and costs of maintaining regular communication between the child and each parent, and whether these factors would significantly impede the child's right to a continuing relationship with the parent(s).

Attention should be given to the child's need to maintain family relationships, as well as their age, maturity, gender, background, and other relevant characteristics. The child's physical and mental well-being, as well as their intellectual, emotional, social, and cultural development, are essential.

Section 7 explicitly states that any impairment or chronic illness affecting a child must be considered, along with the need for the child to be raised in a stable family environment. Additional factors include the need to protect the child against physical and psychological harm, maltreatment, abuse, and exposure to domestic violence (Van Zyl, 1997).

Sections 33 and 34 of the Children's Act are particularly relevant to this research study since they concern the formalisation of parenting plans. Although the Act does not define a parenting plan, it offers a comprehensive outline of its possible components. Parenting plans are agreements that clarify parental responsibilities and rights. They serve two primary purposes: to nurture a child's relationship with both parents, unless there are compelling reasons to do otherwise, and to help parents fulfil their obligations with minimal conflict during high-conflict divorces (Birnbaum & Fidler, 2005). According to Sections 33 and 34 of the Children's Act 38 of 2005, a complete parenting plan must include:

- a clearly delineated schedule, including provisions for holidays and prolonged weekends,
- the party responsible for coordinating transport to the other parent's domicile and for extracurricular engagements,

- the financial, physical, and psychological responsibilities of each parent,
- specific parenting responsibilities, including caring for ill children, aiding with educational tasks, and transporting children to medical appointments,
- the rights and responsibilities of both parents regarding the child's needs and well-being (Strous, 2008),
- the individuals accountable for decision-making and the process to be followed when both parents share responsibility for a certain decision,
- a platform for addressing conflicts as they occur and for offering direction towards resolutions in instances of disputes (De Wit et al., 2014),
- a system for information dissemination (Strous, 2008), encompassing communication channels,
- a schedule to assess and modify the parenting plans to facilitate informed decision-making as necessary (Hartson & Payne, 2006).

Robinson et al. (2011) underscored that a comprehensive parenting plan should encompass all critical aspects of a child's life, including healthcare, residence, safety, and overall well-being.

Section 34 of the Children's Act delineates the formal requirements for a valid parenting plan. To prevent future misunderstandings and as a matter of prudent practice, the agreement should be documented in writing and endorsed by both parents of the child. Parenting plans can be registered with the Office of the Family Advocate, or a court may be petitioned to render the parenting plan legally enforceable. The Office of the Family Advocate in South Africa was established under the Mediation in Certain Divorce Matters Act, with the responsibility of safeguarding the best interests of children through care and contact investigations. It was established in 1990 to safeguard the best interests of minor

children involved in civil disputes, particularly during divorce proceedings (Geldenhuis, 2020).

The Office of the Family Advocate represents a collaboration of experts, including family advocates and social workers, who possess specific skills, training, and education to ensure that the child's perspective is recognised. Following the implementation of the Children's Act, the Office of the Family Advocate provides services to all children, regardless of their parents' marital status.

For parenting plans for SNCs, the court will rely on expert reports submitted with the application. The experts' assessments will significantly influence the judge's deliberations. The court must be convinced that the plan is fair and prioritises the child's best interest, rather than merely serving as a bargaining tool for co-parenting responsibilities and rights. A parenting plan can be modified or annulled with the joint written consent of the parties involved. Changes are often requested if they serve the child's best interest. According to Section 29 of the Children's Act, the court is not required to formalise a parenting plan as a court order; the primary consideration in the court's evaluation will be the child's best interest. Parenting plans focus on the child's best interest, moving away from "custody" and "access" concepts to encompass a residential schedule that fosters strong relationships with both parents. Section 33(5) pertains to the resolution of conflicts and disputes. It encourages parents to establish agreements with the assistance of a family advocate, social worker, or psychologist. If they are unable to achieve a consensus, mediation is required.

A parenting plan must consider the following elements, as outlined by Robinson et al. (2011) and Strous (2008):

- the relationship between a child and their parents and other important individuals,
- the ability of parents to fulfil the emotional, intellectual, financial, religious, and secular requirements of their child,

- the interaction between the parent and the child,
- the child's preferences if they are mature enough to articulate their desires to a professional,
- keeping siblings together, or, if a child is separated from their siblings, facilitating consistent communication with family members to maintain familial connections,
- the child's age, maturity, developmental stage, gender, background, and psychological development,
- chronic illnesses and disabilities that a child may possess,
- the stability of the child's environment,
- the child's safety against all forms of maltreatment, including physical, psychological, or environmental abuse,
- the child's safety against domestic violence,
- the child's safety against exposure to detrimental legal or administrative actions,
- all adverse influences that may negatively affect the child.

Section 18 outlines parental responsibilities and rights that begin at the child's birth.

Traditionally, maternal preference prevailed in most custody and access decisions. However, this maternal preference may be seen as contradictory to the equality clause in the Constitution since it differentiates between parents based on gender, as noted by Hattingh J in *Van der Linde v Van der Linde*, 1996 (3) SA 509 (O).

Men and women can equally fulfil the role of primary caretaker of a child. In the case of *Madiehe v Madiehe*, 1997 (2) All SA 153 (B), the court emphasised that maternal preference contradicts the equality clause in the Constitution and that custody is not a gender-based advantage or entitlement.

Article 18 of the UNCRC recognises the contributions of both parents, stating that "both parents share common responsibilities for the upbringing and development of the

child” unless a court determines that joint responsibility is not in the child’s best interest. Equal parental responsibilities were established under Sections 20 and 21 of the Children’s Act, extending full parental responsibilities and rights to the father, regardless of his marital status with the mother.

2.8 Legislative Initiatives to Facilitate Co-parenting — Chapter 8 of the Children’s Amendment Act

Over the past three decades, there has been an increasing emphasis on co-parenting, underscoring its importance for family dynamics (e.g., Gable et al., 1994; Margolin et al., 2001). Co-parenting refers to the relationship between parents that excludes romantic love and is defined by their collaborative efforts to raise and care for their child. It involves the cooperation between the individuals tasked with this responsibility, encompassing obligations that go beyond mere babysitting. McHale (1995) and Belsky et al. (1995) noted that co-parenting includes the following key characteristics: the level of solidarity and support among co-parental partners, the degree of dissonance and antagonism in their efforts, and the extent to which these partners actively engage with and guide the child. Effective co-parenting is more than simply the absence of parental conflict, as it includes positive actions. It involves the interactions between parents and their children while excluding any romantic, emotional, financial, or legal aspects of the adults’ relationships that are unrelated to child-rearing. Co-parenting is deemed effective when the primary adults provide the child with support, interparental unity, and a consistent, predictable framework of norms, regardless of whether the family lives in one or multiple households, to ensure a safe and secure environment (Feinberg, 2003).

This concept encompasses positive elements, including support, parental coordination, communication, and loyalty, alongside negative elements, such as conflicts

concerning children, competition, undermining of the other parent, and children's triangulation (i.e., involving children in parental disputes; Teubert & Pinquart, 2010).

Thus, parenting plans must foster and promote successful co-parenting in the best interests of children. In the USA, many divorcing parents are required to take part in a divorce education programme focused on co-parenting collaboration.

In South Africa, Chapter 8 of the Children's Amendment Act (41/2007) requires actions to support and promote effective parenting through prevention and early intervention programs. The goals of these programmes are to strengthen the co-parenting bond and reduce conflict. Section 144 emphasises enhancing parents' ability to prioritise their children's welfare by:

- fostering constructive familial interactions
- enhancing the caregiving abilities of parents
- employing non-violent disciplinary methods

While divorce is regarded as a detrimental life event, Kelly (2012) posited that its negative impact is often moderate, and numerous children experience favourable outcomes post-divorce when robust co-parenting alliances (Teubert & Pinquart, 2010) and effective parenting practices (Elam et al., 2019; Sandler et al., 2012) are present.

Effective co-parenting post-divorce is marked by a lack of conflict and proactive cooperation and communication between parents (Cohen & Weissman, 1984). It positively impacts children's behavioural outcomes, academic performance, and psychological well-being (Amato & Gilbreth, 1999; Yuan, 2016). Empirical evidence indicates that effective co-parenting enhances parental well-being by alleviating stress levels. Less parental stress promotes effective parenting. Effective co-parenting enhances paternal engagement with their children by diminishing barriers such as maternal gatekeeping (Cowan & Cowan,

2015). Effective co-parenting appears to be the key to enhancing family well-being and ensuring high-quality relationships between family members.

In conclusion, a parenting plan should go beyond a theoretical framework or professional guidance; it must be a practical document that is clear and actionable for family members, addressing the family's needs while prioritising the best interests of the children and the parents involved.

The field of psychology has made immense progress in understanding what makes divorce difficult for children and how to support family adaptation through various interventions. However, the drafting of a parenting plan remains challenging due to the conflicting needs of family members. It can be even more challenging in families raising a SNC. To optimise these families' welfare post-divorce, professionals involved in the drafting of parenting plans should understand the needs of these families—especially the needs of SNCs.

Chapter 3 Divorce and Parenting the Special Needs Child

A significant increase has been observed in the population of SNCs, encompassing those with life-threatening chronic medical conditions, persistent developmental impairments, and psychological and behavioural syndromes (Schmidt & Kober, 2010). An increasing number of children with developmental disorders are reaching adulthood and frequently have lifespans approaching normalcy (Patja et al., 2000).

As these children transition from infancy to adolescence and adulthood, their behavioural and functional capacities evolve (McCallion & Nickle, 2008; Shattuck et al., 2007; Smith et al., 2012; Taylor & Mailick, 2014). However, they generally need varying levels of support throughout their lifetimes. Primarily, parents retain the responsibility of delivering or organising their assistance and care, hence maintaining a lifetime parental role. Studies demonstrate that social support, problem-focused coping, and good affect regulation help mitigate the stress linked to the continuous responsibilities of parenting SNCs (Pruchno & Meeks, 2004; Smith et al., 2012; Woodman, 2014).

Research indicates that parents of children with developmental disabilities are more prone to divorce than parents of non-disabled children, owing to the pressures that raising a SNC can impose on a marital relationship (Davis & Carter, 2008; Namkung et al., 2015; Wymbs et al., 2008). Therefore, the courts and divorce and family law experts are increasingly likely to encounter SNCs (Lahaie et al., 2023).

Handling the diagnosis of SNCs can be very difficult, as parents should preferably concur on their child's diagnosis, the home intervention plan, and external services (Kaufman & Pickar, 2017).

This chapter will, firstly, define SNCs. Secondly, it will discuss the various types of special needs these children may have, and thirdly, it will explore the challenges faced by parents and the legal system when confronted with separation or divorce.

3.1 Definition of Special Needs Children

The focus of this research is on SNCs. The term SNCs is an umbrella term used to describe children who have learning disorders, cognitive impairments, chronic developmental disorders, physical disabilities, serious medical conditions, and severe psychiatric and behavioural disorders. In the families of SNCs, parents often require assistance to develop special skills to implement intervention plans that will facilitate the optimal growth and development of their children. Legal practitioners need to understand the encompassing definition of SNCs, their unique challenges, and that parenting plans commonly recommended in typical situations may not be suitable for SNCs.

SNCs are a highly diverse population group, including children born with a genetic condition that affects their physical, mental, or social development; children who were exposed to environmental toxins that resulted in developmental delays; or children who sustained serious injuries, nutritional deficiencies, or infections that contributed to long-term functional difficulties. SNCs also include those who develop anxiety or depression because of stressful life situations (WHO & UNICEF, 2023).

Disability is a multifaceted and dynamic concept encompassing elements of bodily function and structure (impairments), capacity (assessed by the ability to perform fundamental activities independently), and performance (evaluated by the individual's capability to execute these activities with assistance). The Convention on the Rights of Persons with Disabilities (United Nations, 2007) states that disability stems from the interaction between certain conditions or impairments and an unaccommodating environment that impedes an individual's full and effective participation in society on an equal basis with others. The International Classification of Functioning, Disability and Health (ICF) framework employs a three-tiered paradigm to articulate the idea of disability (WHO, 2001). The ICF states that disability may initially manifest as an impairment in bodily function or

structure, such as a cataract or opacity of the natural lens of the eye, which obstructs light transmission and compromises or obliterates vision. Secondly, it may be perceived as a limitation in activity, such as diminished vision or an incapacity to see, read, or partake in other activities, and thirdly, as a constraint in participation, exemplified by exclusion from mainstream educational institutions or involvement in social, recreational, or other events or roles.

3.2 Types of Special Needs Children

According to McPherson et al. (1998), SNCs are children who either have or are at increased risk of a chronic physical, developmental, behavioural, or emotional condition and who require health and related services that exceed what is typically required by children in general. Included in this group are children exposed to biological or environmental risk factors associated with chronic physical, developmental, behavioural, or emotional conditions. Biological risk factors include pathologies and physiological abnormalities that have been shown to increase the likelihood of the future onset of chronic conditions, such as very low birth weight, metabolic deficiencies, chromosomal abnormalities, cystic fibrosis, and other genetically determined conditions. Environmental risk factors are social and economic factors, such as extreme poverty, the absence of social support, and child abuse or neglect, that have been shown to increase the probability of a child developing chronic physical, developmental, behavioural, or emotional conditions (Maguire-Jack and Font, 2017).

Divorce can impact adults and children negatively and not only poses a significant risk to the healthy development of children but also places them at greater risk of developing psychiatric problems (Laletas & Khasin, 2021). Divorce is considered an adverse life experience and often aggravates pre-existing medical and psychiatric issues in children (O'Connor et al., 2000).

The special needs of these children can fall into one or more of the following main categories: acute, life-threatening medical conditions; chronic and pervasive developmental disorders; psychological and behavioural disorders; and physical and sensory disabilities.

Although these conditions cannot be discussed in detail in this chapter, it should be noted that they present distinctive parenting challenges that could complicate coordinated parenting during divorce.

3.2.1 Chronic, life-threatening medical conditions

Chronic medical conditions, such as asthma and food allergies, are becoming increasingly prevalent, often forcing parents to change their children's dietary habits significantly and attentively monitor their children's contact with foods at restaurants, relatives' homes, and at school (Saposnek et al., 2005). As asthma and food allergies can be potentially lethal, the court needs to determine which parent is better equipped and educated about the medical condition and willing to implement the required treatment plan (Shulhan-Kilroy et al., 2022). Such assessments also need to consider environmental factors, such as the presence of pets or a parent who smokes.

3.2.2 Physical and sensory disabilities

Physical disabilities are substantial and long-term conditions affecting a part of a person's body and impairing their physical functioning, mobility, stamina, or dexterity. The loss of physical capacity results in the person having reduced ability, or inability, to perform body movements, such as walking, moving their hands and arms, sitting, standing, and controlling their muscles. These disabilities include conditions such as muscular dystrophy, epilepsy, and CP. Some conditions are progressive in nature.

Sensory disabilities include low vision and blindness, as well as impaired hearing and deafness. These conditions impede one or more sensory abilities of children, necessitating additional and often lifelong care from parents or guardians.

3.2.3 Chronic and pervasive developmental disorders

These disorders include learning disabilities, ADHD, and ASD, and can vary in severity and pervasiveness.

Many NDDs are postulated to be present from birth and chronic, possibly resulting in lifelong disabilities and necessitating ongoing care (Johnson & Slomka, 2000; Pallanti & Salerno, 2023). These conditions can affect memory, language, intellect, attention, as well as sensory-perceptual integration, and can cause impairments in academic, social, and psychological functioning. Addressing these challenges requires parents to undergo specialised educational and behavioural training and to adhere to medical regimes. Sophisticated and rigorous behaviour modification programmes and parenting abilities often determine the prognosis of the child. These factors should be considered during the drafting and implementation of the parenting plan.

Parents often disagree about the diagnosis and treatment options, which typically leads to conflicts between the child, the educator, the parents, and the treating medical professionals. A lack of cohesive parenting can exacerbate the symptoms of these developmental disorders, as a child may receive medication at one home but not at another. Similarly, conflict could affect nutritional and academic routines (Saposnek et al., 2005; Baeza-Velasco et al., 2013).

3.2.4 Psychological and behavioural disorders

Depression, anxiety, and conduct disorders are prevalent mental health conditions of SNCs. Stressful situations can aggravate challenging behaviour, consequently impairing children's academic and social functioning, and compromising their optimal development. Predictability, routine, and timely notice of change aid children with anxiety to cope with and improve their condition. Children with conduct disorder need consistent limits, discipline, and fair and flexible parents when they misbehave. These conditions require

psychotherapeutic interventions, but unfortunately, parents tend to disagree about the diagnosis, impacting the outcome of the treatment (Saposnek et al., 2005; Gallagher & Hannigan, 2014).

3.3 Challenges

Primary residency and contact evaluations and parenting plans can have a profound impact on children and family adjustment after a divorce. Professionals responsible for formulating parenting plans for SNCs encounter intricate challenges, particularly stemming from the requirements imposed on a co-parenting dynamic by such a child. These children face an increased risk of adverse outcomes post-divorce compared to higher-functioning children (Saposnek et al., 2005; Galbraith & Kingsbury, 2022).

The court encounters multiple problems in addressing divorce cases involving SNCs. Firstly, the court often lacks adequate information regarding the conditions, treatment options, and prognosis. Secondly, they often lack information about the parents' parenting skills in general and regarding the special needs of their child. Thirdly, the court is often unaware of deficits in co-parenting skills that can exacerbate co-parenting problems. Lastly, there is limited knowledge available about the impact of specific parenting plans on SNCs concerning the frequencies of exchanges or durations of visits (Saposnek et al., 2005; Galbraith & Kingsbury, 2022).

To manage an SNC case appropriately, legal experts should identify and recognise any existing special needs. Unfortunately, in South Africa, forensic psychology is still in its infancy, and there are significant variations in the education and training of professionals who undertake this important task. Despite the limited training in this field, primary residency and contact evaluators, who have an ethical and moral obligation to do no harm, frequently have a significant impact on the adjustment and long-term psychological and physical well-being of children and families. It is essential that legal experts, despite their limited training, ask about

the existence of special needs and enquire about the specific diagnosis and available services, such as therapy, counselling, and medication. They also need to enquire about educational plans or other modifications for daily life that should be considered. SNCs are considered vulnerable, and therefore, it should also be established whether the appointment of a *guardian ad litem* needs to be requested (Price, 2012).

Little is known about the factors associated with the positive adjustment of SNCs, especially children diagnosed with ASD, following parental separation (Rappaport et al., 2016; Saini et al., 2015). Several studies, however, describe these children's specific needs and the challenges they pose for parenting and co-parenting both before and after divorce (Hayes & Watson, 2013; Karst & Van Hecke, 2012; McStay et al., 2014; Rivard et al., 2014; Sim et al., 2015; Thullen & Bonsall, 2017). Poor parenting collaboration and high interparental conflict are associated with poorer outcomes for SNCs (Hess, 2022). In contrast, functional parental communication, well-defined and accepted parental roles, ongoing communication, and information-sharing are associated with better prognoses (Garriga & Pennoni, 2022). The importance of parenting collaboration has serious implications for the decisions of family courts.

SNCs require specialised parenting approaches and can place excessive demands on parents regarding healthcare and related needs. Often, divorce or separation is a consequence of having to parent SNCs, and parenting after a divorce can complicate already problematic symptoms or behaviour (Pickar & Kaufman, 2015). SNCs typically require a different approach to everyday life, as well as a different approach by the court to divorce or separation. Price (2012) recommends an eight-step approach to address this. Firstly, the special needs and their relevance to the legal situation must be identified. Secondly, there should be an understanding of why special-needs issues need to be addressed. Thirdly, it should be determined whether a *guardian ad litem* is required or advisable. Fourthly,

essential information should be established regarding the care and needs of the child. The fifth step involves the evaluation of assumptions that legal experts may make about SNCs. The financial issues of the case should be addressed in step six. The seventh step involves custody and visitation (i.e. care and contact), and lastly, an SNC protocol should be considered to develop a working plan.

Just as the approach to needs should be tailored, the services that SNCs require also need to be considered from a different perspective. McPherson et al. (1998), therefore, defined healthcare and related services that SNCs require as a continuum of services that may be required to maintain or improve their health and functioning. These may include:

- specialised/enhanced medical and nursing services (e.g., physician sub-specialists, hospitals specialising in the care of children, and enhanced preventive and primary services),
- therapeutic services (e.g., physical, speech and occupational therapy, mental health services, and home health and home-nursing services),
- family support services (e.g., family counselling and education, comprehensive case management and care coordination, and respite care),
- equipment and supplies (e.g., durable medical equipment and assistive devices),
- related services (e.g., early intervention, special education, transportation, and social services).

In addition, time and financial needs should be explored. Legal experts need to obtain information on how these special needs affect not only the child but also the caretaker and the daily life of the entire family. Due to the time-consuming nature of specific needs, the child's and parents' schedules should be considered (Price, 2012).

Legal experts further need to consider how caring for the child impacts the career prospects, income, medical insurance, and retirement of parents (Price, 2012). Financial costs

should be considered, such as therapy, equipment, medication, dietary requirements, transportation, and home modifications. As some children never become fully independent, provision must be made for lifetime services, which may include support from specialised caregivers at an additional cost and necessitating specialised planning.

SNCs often have challenging and disruptive behaviours that place a high demand on families and parents. Often, parents feel that their energy, knowledge, skills, and resources are insufficient to meet their children's demands (Stein et al., 2011; Cheng and Kai, 2023).

In conclusion, SNCs require extraordinary parenting skills and place exceptional demands on their parents or caretakers (Lavin, 2001). In truth, conflict, marital separation, and divorce are frequently the fateful consequences of raising SNCs (Namkung et al., 2015). In addition, parental separation and divorce appear to aggravate the difficulties of SNCs, making it even more challenging to care for them with fewer resources available.

Consequently, such families are more likely to find themselves in court, highlighting the need for experts involved in the drafting and implementation of parenting plans to have specialised knowledge to assist these high-risk families. Price (2012, p. 197) stated that "our family courts should not be measured by how quickly and efficiently they can process a divorce, but rather, by how compassionately and intelligently they achieve a working plan that is sensitive to the needs of the human beings involved". This sentiment will be the focus of Chapter 4.

Chapter 4 Children With Special Needs – Parenting Plans

Globally, divorce rates are increasing (Amato & Boyd, 2013; Wang & Schofer, 2018). Research suggests that successful co-parenting after divorce, characterised by the absence of conflict with active cooperation and communication between parents (Cohen & Weissman, 1984), is beneficial for children's behavioural outcomes, academic achievements, and psychological well-being (Amato & Gilbreth, 1999). Therefore, it is increasingly important to set up parenting plans that promote successful co-parenting.

Psychologists and social workers, as specialists, are frequently solicited to provide parenting recommendations that prioritise the welfare of children. The absence of guidance and standardisation in the formulation of parenting plans raises concerns among psychologists, legal professionals, and families impacted by the upheaval of divorce. The absence of guidelines significantly affects family courts and their decision-making capabilities, particularly concerning families with SNCs, such as those with ASD (Birnbaum & Bala, 2019).

Expert testimony is becoming increasingly essential in divorce proceedings involving SNCs (Melton, 2018). The findings from this research will be formulated into standardised recommendations for creating parenting plans to aid psychologists, the judiciary, parents, children, and particularly, those most at risk - SNCs.

As mentioned in the introduction, due to the lack of South African guidelines, experts in South Africa frequently refer to the AFCC (2007) when mediating and drafting parenting plans. The AFCC, located in the USA, is an interdisciplinary and multinational organisation of experts committed to resolving family conflict. The AFCC asserts that professionals conducting custody evaluations must possess specialised knowledge and training and employ a recognised and systematic methodology to assess issues related to domestic violence, substance abuse, child alienation, child maltreatment, child sexual abuse, relocation, and

decisions regarding the child's sexual orientation. Regrettably, there is presently no such official methodology in the evaluation of situations concerning SNCs in South Africa.

4.1 Divorce and Increased Risk: Effective Co-Parenting and Mediation

It is well known that parental separation and divorce increase the risk of adverse physical and behavioural outcomes in adulthood (Dube et al., 2003). Kelly (2012), however, contended that despite the adversity, the negative effect tends to be modest, and many children have positive outcomes after divorce. Research indicates that this is only true when there are strong co-parenting alliances (Teubert & Pinquart, 2010) and positive parenting practices (Sandler et al., 2012).

Parents often believe that tension behind closed doors does not negatively impact their children's well-being. Parenting plans are critical, as they delineate boundaries, increase certainty, and allow for predictable interactions while minimising parental alienation for the benefit of the children. Mediation and parenting plans help parents and children adapt to the trauma of a post-divorce landscape. Mediation is a structured, voluntary, and confidential process where a neutral third party (the mediator) helps separating or divorcing parents negotiate disputes, particularly regarding children, without relying on an adversarial court process. This process assists families by transforming a potential "win-lose" courtroom battle into a "win-win" co-parenting arrangement, reducing conflict, and ensuring both parents remain active in their children's lives.

Assistance from an objective, skilled, and experienced third party becomes invaluable.

More families with SNCs are approaching the court to assist them with parenting plans (Pickar & Kaufman, 2015). Given the heterogeneity of disorders, syndromes, and conditions, this has become a particularly challenging issue. According to DeMatteo et al. (2009) and Hartson and Payne (2006), parents expect legal and mental health experts to have extensive knowledge and experience in child development and psychology and relevant

aspects of family law. Research indicates that both professions, however, find the drafting of parenting plans a daunting task fraught with complexity and turmoil (Robinson et al., 2018). Furthermore, the absence of appropriate guidelines contributes to a discrepancy between professional parenting plan structures.

Since the 1960s, the number of children diagnosed with diverse neurodevelopmental, psychiatric, and medical abnormalities has increased (Perrin, 2002). As outlined in Chapter 3, SNCs may experience a range of learning disabilities, medical conditions, cognitive impairments, chronic developmental disorders, physical disabilities, and severe psychiatric and behavioural disorders (Pickar & Kaufman, 2015), frequently necessitating specialised parenting strategies, heightened supervision, and substantial engagement with mental health professionals.

Unfortunately, children who struggle with psychiatric and/or neurodevelopmental problems are especially at risk of several short and long-term consequences of divorce (Pickar & Kaufman, 2015). While some SNCs may react similarly to parental separation and divorce as typical children, some could face a greater risk of adverse psychiatric outcomes (Perryman, 2005). Professionals making decisions need to be educated; otherwise, the outcomes for children could be calamitous.

SNCs typically blame themselves for their parents' separation or divorce, as they are self-conscious of the additional challenges their disability adds to a relationship (Price, 2012). Divorce proceedings can exacerbate medical and psychological conditions and can lead to short-term withdrawal; regressions in language development, social skills, toilet training, and academic skills; aggression; emotional outbursts; depression; self-injury; hopelessness; suicidal ideation; running away; and worsening medical conditions (Lomas & Johnson, 2012). These problems may continue in the long term, accompanied by the reality that many primary caretakers become exhausted, leading to the institutionalisation of the child.

Post-divorce, elevated occurrences of abuse have been observed in children with ADHD (Briscoe-Smith & Hinshaw, 2006; De Sanctis et al., 2012), learning disabilities (Spencer et al., 2005), hearing impairments (Lomas & Johnson, 2012), and ASD (Mandell et al., 2005b).

SNCs typically have poorer school outcomes and academic performance and suffer from greater peer rejection than their peers. Children with ADHD have an increased risk of developing conduct disorders and substance abuse disorders (Eme, 2009; Fletcher & Wolfe, 2009), while children with major depressive disorder (MDD) have a higher risk for suicide and self-harm, and ASD children struggle to develop independence and acquire employment (Saposnek et al., 2005) following the separation and divorce of their parents.

Family law practitioners engaged in formulating parenting plans for this at-risk demographic must recognise the heightened vulnerabilities these children face, along with the possible ramifications of divorce. SNCs possess greater requirements than ordinary children, necessitating that professionals engaged in parenting plans receive instruction on these matters.

4.2 Parenting Plans for Children With Special Needs

Currently, no legislation exists that mandates the courts to consider residency and care planning for parents with an SNC (Pickar, 2022), and parenting plans are typically based on chronological age or the developmental phase and do not always prioritise the mental health needs of the child when determining the child's best interest (Mermelstein et al., 2016). Although traditional and typical developmental models are useful, professionals involved in the development of care, primary residency and parenting plans should recognise that these models have limitations.

Consequently, these plans may insufficiently address the needs of SNCs, as the principle of "best interest of the child" does not explicitly account for safety, care, and

visitation issues for families with SNCs undergoing divorce (Pickar & Kaufman, 2015; Pickar & Kaufman, 2019; Price, 2012; Saposnek et al., 2005). Saposnek et al. (2005, p. 579) suggested that the term “best interest of the child” be replaced with the “best interest of the child’s special needs.”

Researchers (Pickar & Kaufman, 2015; Pickar & Kaufman, 2019; Price, 2012; Saposnek et al., 2005) have underscored that the recurrent presence of SNCs in court mandates that professionals engaged in developing parenting plans attain proficiency to assist these vulnerable families. Saposnek et al. (2005) proposed the use of a modified case-management model based on the juvenile justice system (Larson & Turner, 2002), termed an individualised parenting plan. This model includes residency, education, recreation, family relationships, medical needs, psychological requirements, transportation, advocacy, and financial concerns.

The following guidelines were established:

- The child’s health and developmental concerns must be examined at the initial contact session.
- The significant peril and distinct hazards to the child resulting from parental non-cooperation must be emphasised.
- If one parent possesses greater knowledge and is more attentive to the child’s special needs, the court must be convinced that this parent should assume the role of primary caretaker.
- The other parent should be motivated to engage actively in the child’s care to develop a comprehensive understanding of the child’s needs and routines.
- The professional engaged in the case must acquire expertise regarding the child’s illness and champion evidence-based therapy methodologies for the particular ailment.

According to various authors (Pickar & Kaufman, 2015; Pickar & Kaufman, 2019; Price, 2012; Saposnek et al., 2005), the following critical risk factors have to be considered when formulating a parenting plan for families who have an SNC:

4.2.1 Healthcare Concerns

Parents are encouraged to use the same healthcare professionals and healthcare models and to talk to service providers jointly to allow for a unified understanding and approach. Parenting planning sessions should ideally include healthcare professionals. The short-term needs of the child should be identified as soon as possible to mitigate the potential adverse risks of no immediate plan of action. Continuity of care and reduced disruptions to the routine of the child must be emphasised. The medical needs are of primary importance as parents often disagree on the diagnosis, causing children to become non-compliant with the medication regimen (Saposnek et al., 2005).

Birnbaum et al. (2016) asserted that child custody evaluators assessing children with NDDs, including epilepsy, ASD, or CP, must consider the child's age and functional level, such as their capacity to process information, their ability to communicate, and their mobility. Treatment options should guide parenting plans. Legal professionals should acquire information from parents, medical professionals, and other specialists to understand the child's individual needs and the parent-child relationships. Each parent's understanding and awareness of the child's needs – together with their ability, willingness, and inclination to advocate for their child's best interest – must be considered. Birnbaum et al. (2016) emphasised that children with NDDs require a parenting approach that is both developmentally informed and specifically adapted to the particular neurodevelopmental condition and its associated developmental and behavioural challenges. Pickar and Kaufman (2015) asserted that professionals must be educated on evidence-based therapies and recognise that these may encompass parent education and involvement.

4.2.2 *Quality of Parenting*

Kaufman and Pickar (2017) suggested that co-parenting is contingent upon parents agreeing on their child's diagnosis and needs. They noted that, in certain families, one parent would be more proficient in working with their child than the other parent and that this could impact their ability to co-parent. SNCs impose significant obligations on parents who are already fatigued and now undergoing a divorce. These parents exhibit inconsistency and become preoccupied with coordinating therapeutic visits, disregarding their children's social and recreational requirements. Kaufman and Pickar (2017) advocated for a parenting coordinator, co-parenting counsellor, or family therapist to serve as a gatekeeper to establish a parenting partnership that provides respite for both parents.

Furthermore, effective co-parenting (Thullen & Bonsall, 2017) and a consistent routine (Stoppelbein et al., 2016) mitigate the child's risk of disorganisation and enhance their adjustment following divorce. The custody plan must consider both the chronological and psychological age of the child.

Moreover, parenting plans must acknowledge that parents of children with epilepsy, ASD, or CP frequently endure elevated stress levels due to their children's increased emotional, behavioural, and social challenges compared to neurotypical children. It is essential to distinguish between aspirational parenting goals and realistic parenting plans to consider the requirements of co-parenting an SNC. These strategies necessitate an extensive level of parent communication, collaboration, and adaptability. In cases where effective cooperation and communication are absent, alternative custodial arrangements should be considered while prioritising the parent-child relationship over time (Birnbaum et al., 2016).

4.2.3 *Academic Prerequisites*

The educational needs of SNCs must be recognised, as only specific schools can accommodate the demands of those facing learning obstacles. It is essential to ascertain if a

child needs particular support or accommodations in the educational setting or requires alterations to their school environment. Rappaport et al. (2016) emphasised the significance of parental involvement in their child's education to enhance the child's education and general development (Burrell & Borrego, 2012; Casenhiser et al., 2013; Đorđević et al., 2021). The greater a parent's involvement in a child's life before separation, the more crucial that parent's ongoing contact will be for the child's adaptation following the separation (Poortman, 2018).

4.2.4 Familial Interactions

It is crucial to evaluate the entire family system while developing parenting practices for SNCs. When parents remarry or form new partnerships, especially when this includes stepchildren and additional siblings, the family structure expands. Psycho-legal specialists must acknowledge that these modifications can, in the long run, improve an SNC's life rather than merely complicate it. Professionals must assess the advantages and disadvantages of complicated family dynamics, stepparent involvement, and the potential roles of grandparents in the life of an SNC, notwithstanding the growing intricacy of parental arrangements.

4.2.5 Financial Requirements

A decrease in living standards is often associated with divorce, and many primary caregivers need to return to work to supplement their income, resulting in longer days at daycare and less time and caregiving from that parent, who often cannot participate in therapy anymore due to work requirements (Price, 2012). The financial needs of an SNC require a comprehensive evaluation, as these children require enhanced support and specialised care, often even after they turn 18 years of age.

Co-parenting an SNC requires augmented financial resources (for expenses such as wheelchairs, medications, specialised clothing, therapy, and dietary needs) and increased time commitment (for travel to medical appointments and rehabilitative services). Emphasis needs

to be placed on immediate and long-term financial requirements, as well as the increasing cost of living. The parenting plan should consider each parent's ability to meet the child's special needs (Birnbaum et al., 2016; Price, 2012).

As SNCs typically require therapeutic interventions, practical responsibilities, such as payment for therapy and who will participate, need to be stipulated. Moreover, the transportation needs of children and the potential impact of lengthy travel times on children (Price, 2012) should also be included.

Given that parenting an SNC can be particularly exhausting, provisions for respite care and the associated costs, such as specialised day-care facilities (Price, 2012), need to be included in a parenting plan. Both parents' physical and emotional well-being and available resources should be considered when developing a parenting plan. Respite care and improved well-being will allow parents to be advocates for their children, ensuring that all their necessary financial, educational, and medical needs are met.

4.2.6 Schedules

Residency and visitation schedules pose challenges regarding SNCs (Pickar, 2022; Pickar & Kaufman, 2015). A typical schedule might not be suitable, as their need for stability in their environment and routine outweighs their need for equal contact time with both parents. Multiple weekly transitions can be especially challenging for these children. Research suggests that the court often favours the parent better equipped to fulfil the psychological and treatment needs of the SNC, such as children with ASD (Saini et al., 2015).

In the planning of visitation schedules, consideration should be given to the psychological needs of SNCs. Their schedules should preferably include fewer transitions or supervised exchanges to prevent exposure to conflict. Some children require time away from siblings, while others are not emotionally ready for lengthy periods of separation from a

parent. Parenting strategies grounded in childhood development, often endorsed by the court, may be inappropriate for children with ASD due to the developmental delays typically associated with this condition (Pickar & Kaufman, 2015). Children with ASD particularly benefit from a consistent family routine (Stoppelbein et al., 2016), since some parents have experienced behavioural difficulties resulting from alterations to the child's routine (Bagby et al., 2012; DeGrace, 2004; Kuhaneck et al., 2010).

A personalised parenting plan should include an SNC's recreational requirements, specifying the quantity and nature of activities that are suitable and enjoyable for the child.

4.3 Final Assessment

Psycho-legal experts face complex challenges when assisting separated or divorced families with SNCs. Consequently, it is essential for family law practitioners to have specialised expertise regarding various childhood disabilities and to comprehend the best parenting methods to address the unique needs of the child.

Saposnek et al. (2005) observed:

The ubiquitous presence of these children in family court cases suggests that court personnel and divorce professionals need to acquire special knowledge in order to facilitate the development of parenting plans for these high-risk families. (p. 586)

This sentiment was reiterated by Price (2012), who asserted that:

[I]n order to properly deal with the reality of today's divorce climate, all lawyers and judges handling family law cases should educate themselves on special needs and the impact they have on family law cases. SNCs have greater needs than typical children, so they need lawyers and judges who are educated on these issues. (p. 181)

This chapter has emphasised the difficulties in formulating parenting plans that prioritise the best interests of SNCs. It is crucial to recognise that these children are the subject of increasing research, contributing to a growing knowledge base that can aid psycho-legal professionals. Integrating the distinct needs of SNCs within the family law framework is essential for achieving optimal outcomes for them.

Chapter 5 Research Design and Methodology

The previous chapter provided the theoretical basis for the study, while this chapter will describe the research methods and design. The purpose and objectives of the study will be summarised, followed by a discussion of the sampling strategies, data collection, and analysis techniques. Ultimately, the steps implemented to guarantee trustworthiness and align with ethical guidelines will be examined.

5.1 Rationale

Research indicates that post-divorce care and contact arrangements can function as either a protective factor or a risk factor for psychological issues in children. Successful co-parenting after the dissolution of a relationship is characterised by the absence of conflict coupled with active cooperation and effective communication between parents (Cohen & Weissman, 1984) that improves children's behavioural outcomes, academic achievements, and psychological well-being (Amato & Gilbreth, 1999). Consequently, primary residency and contact evaluations can profoundly impact children and family adjustment after a divorce, and therefore, these evaluations should be conducted by highly trained professionals.

In most cases, parents can make primary residency and contact arrangements independently. However, in South Africa, a large percentage of divorce cases are contested. Contesting divorce cases often escalates conflict between parents and thus have the potential to reduce children's well-being, and decisions are then left to the court (Melton et al., 2007). Section 6(1) of the Divorce Act determines that a divorce decree may not be granted until the court is satisfied that (i) the provisions made for the welfare of any minor or dependent child of the marriage are fulfilled, (ii) the Family Advocate has enquired in terms of the Mediation in Certain Divorce Matters Act, and (iii) the court has deliberated on the report and recommendations of the Family Advocate. In divorce cases, parents are required to

agree on a parenting plan before consulting the court. Although a parenting plan is a recent concept in South Africa, it is possibly the most useful legal instrument introduced by the Children's Act.

The focus of this research study was SNCs affected by divorce and separation. As described in Chapter 3, the term "SNCs" is used to describe children who have learning disorders, cognitive impairments, chronic developmental disorders, physical disabilities, serious medical conditions, and severe psychiatric and behavioural disorders. Together with an increasing number of SNCs, the courts also face an increasing number of divorce and separation cases involving these children (Eme, 2009; Price, 2012).

SNCs require specialised parenting approaches and can place excessive demands on their parents. Often, divorce or separation is a consequence of parenting SNCs. In turn, parenting after a divorce can complicate already problematic symptoms or behaviours in SNCs (Pickar & Kaufman, 2015). In South Africa, forensic psychology remains underdeveloped, with considerable discrepancies in the education and training of professionals engaged in this critical field. Despite limited training, primary residency and contact evaluators, who have an ethical and moral obligation to do no harm, often have a significant impact on the adjustment and long-term psychological and physical well-being of children and their families.

To ensure that these evaluators, who are clinicians, practise appropriately and ethically, governing bodies, such as the HPCSA, should establish standards to guide these important assessments. Unfortunately, South African psychologists are reliant on American guidelines as no South African protocols are currently available (Thompson, 2012).

The paucity of research on primary residency and contact evaluations and parenting plans in South Africa has been noted by numerous South African authors (Africa et al., 2003; Brandt et al., 2004). The existing research focuses on criteria that inform psychological

decision-making (Brandt et al., 2004; Cumes & Lambiase, 1987), criteria for the evaluation of parents (Bezuidenhout, 2000), or broader psychological practices.

Several authors (Allan & Louw, 2001; Kaliski, 2006; Melton et al., 2007) have raised concerns that unscientific assessment techniques and methodologies were being employed, and that personal biases were affecting conclusions (Emery et al., 2005; Scherrer et al., 2002). Despite these cautions, psychological opinion is often sought concerning primary residency and contact evaluations, as well as parenting plan development (Africa et al., 2003).

As previously mentioned, South African psychologists rely on American guidelines. Two prominent American texts are considered the gold standard: Stahl's *Conducting Child Custody Evaluations: A Comprehensive Guide* (1994) and the "family systems assessment model" proposed by Jameson et al. (1997). South African publications specifically addressing this important issue are either outdated or out of print (Bosman-Swanepoel et al., 1998; Hoffman & Pincus, 1989; Kaliski, 2006). In South Africa, there are instructional guidelines (Brandt et al., 2005), ethical guidelines (Louw & Allan, 1997), and judicial guidelines (*McCall v McCall*) in place, but they lack empirical support. To further complicate matters, family law in South Africa has dramatically changed over the last several years regarding the rights of children and the responsibilities of parents. This is exemplified by the Children's Act, which has repealed seven previous acts of law and now regulates public and private aspects of child law (Schäfer, 2007).

The lack of guidance and standardisation is a cause of concern for psychologists, the legal fraternity, and divorcing families and further highlights the importance of this research project. It is, therefore, imperative that information generated by this research should be developed into standardised guidelines for the development of parenting plans to assist psychologists, the judiciary, parents, children, and those most vulnerable – SNCs.

5.2 Goals

The goals of this research were twofold. Firstly, this research aimed to identify optimal strategies for creating parenting plans specifically designed for SNCs. The second aim was to provide a thorough guideline to aid the courts in making critical judgments for vulnerable SNCs.

5.3 Objectives

The objectives of this study were to examine what experts in the psycho-legal field believed were important psycho-legal and ethical considerations when assisting the courts in developing parenting plans for SNCs and to explore the experiences of families with SNCs affected by divorce.

With the above objectives in mind, the specific research questions were:

- Which psycho-legal and ethical considerations are important to experts when they assist the courts in developing parenting plans for SNCs?
- What were the experiences of families with SNCs affected by divorce?

A qualitative approach was used to answer these research questions. This study was conducted using an interpretive paradigm, which prioritises rich experiential data over causality (Terre Blanche & Durrheim, 2002). An interpretive design provided the flexibility to seek answers on how respondents created their social experiences and constructed meaning. Researchers in this tradition assume that people's realities and experiences are genuine and ought to be considered seriously (ontology) and that people's experiences can be understood by interacting with and listening to them to gain this local knowledge (epistemology). Consequently, qualitative research techniques are designed to implement and accomplish this task.

5.4 Qualitative Research Approach

A qualitative research paradigm provided the methodological tools to explore this complex research topic, providing rich descriptions and explanations of the phenomenon. It allowed the diverging complex perspectives of psychology and law to be integrated into the development of parenting plans.

According to Denzin and Lincoln (2005), qualitative research acknowledges the connections between the unknown and the known and is based on a relativist, constructivist ontology, suggesting that there is no objective reality (Krauss, 2005). Accordingly, no single objective truth exists. Instead, there are multiple versions of reality (Becvar & Becvar, 2013), and meaning can only be understood within a social context. Qualitative research provides an in-depth understanding of social context and dynamics from the respondents' perspectives (De Vos et al., 2011). Additionally, qualitative research emphasises that an intimate relationship exists between the researcher and the topic being studied (Denzin & Lincoln, 2005). From an epistemological perspective, the researcher and their subject are therefore inseparable, and the researcher cannot remain objective and value-free (Creswell, 1998; Denzin & Lincoln, 2005; Guba & Lincoln, 1994).

5.5 Population and Respondent Selection

Interview respondents were purposively sampled. The first population included psycho-legal experts (i.e., psychologists, social workers, family advocates, and attorneys). The inclusion criteria were psycho-legal experts with a minimum of 10 years of experience in divorce cases and the drafting of parenting plans; this had to include some experience with families who had SNCs. Purposefully select experts furthermore represented different roles (psychologists, social workers, family advocates, and attorneys) rather than concentrating on one perspective to ensure the sample is not homogeneous.

The second population included parents who were either separated, in the process of getting divorced, or already divorced and who had an SNC. Parents with varied SNC types (e.g., physical disability vs. neurodevelopmental), different residency arrangements (shared vs. sole), and different stages of the divorce process were selected to capture a broader range of experiences

5.6 Sampling Strategy and Sample Size

Respondents who met the above-mentioned criteria were initially purposively sampled. Although a sample size of six respondents from each population was deemed to be sufficient to allow for saturation and variation (Guest et al., 2006), eleven psycho-legal experts and eight parents were recruited. These psycho-legal experts and parents possess diverse experiences and viewpoints ensuring that complex or unique voices are not overlooked. The additional participants beyond the minimum six served to validate the initial patterns identified, strengthening the credibility and rigor of the study's findings.

The selected respondents needed to be knowledgeable about and experienced in the topic and had to provide a satisfactory diversity of perspectives on the topic under investigation to “best inform the researcher about the research problem under examination” (Creswell, 1998, p. 102). Additionally, snowball sampling was employed to obtain a sufficient sample size. To maintain the anonymity of the Delphi process, research respondents did not personally recruit others and were not informed about whether the individuals they identified were included in the research project or not.

Potential respondents received an email requesting their participation in this research study. The email included an information sheet that outlined the aim and method of the study (see Annexure A), as well as a statement affirming anonymity and voluntary participation (Tognetto et al., 2019; see Annexure B).

The inclusion of respondents was not limited to specific provinces, as High Court matters and South African legislation are uniform in all provinces.

5.7 Data Collection

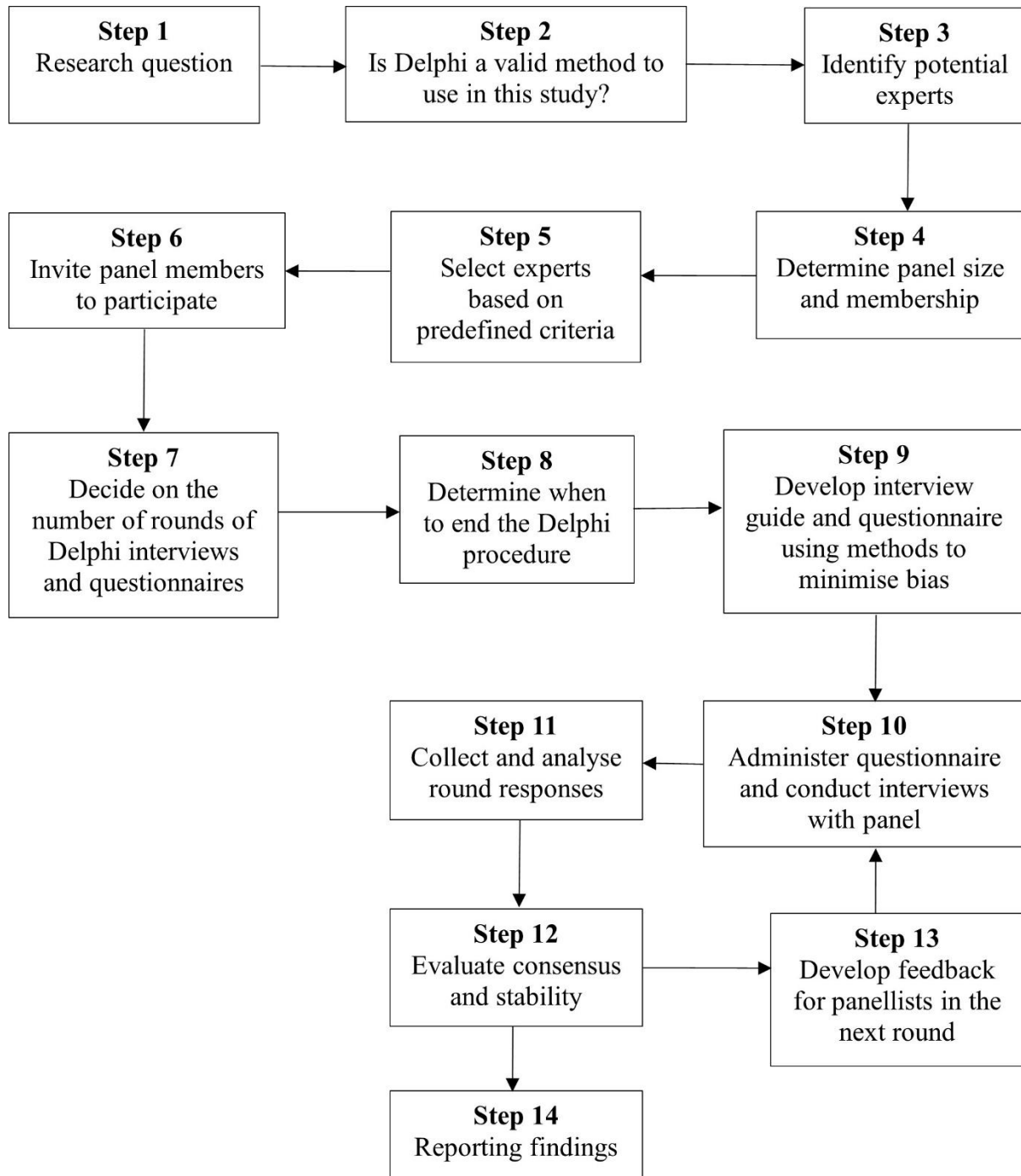
The Delphi method was employed as a research tool, as it is used in social sciences and policy development to conduct structured, anonymous communication among experts to reach a consensus on a topic (Birdsall, 2004; Dalkey & Helmer, 1963; Khodyakov et al., 2023). This pragmatic approach is grounded in the philosophical assumptions of Locke, Kant, and Hegel (Turoff, 1970) and allows research to inform practice where there is contradictory or insufficient information available about a research topic. Therefore, it was ideally suited for this research project as it builds a bridge between the theories and methods stemming from the interpretive paradigm, which focuses on subjective experience and related truths, and the postpositivist paradigm, which prioritises generalisability and objectivity (Fay, 1996; Kirk & Reid, 2002). This flexible model was used on its own. It is an ideal research tool for community-based research and decision-making (Skulmoski et al., 2007), with direct and significant implications for practice, policy, or decision-making (Adler & Ziglio, 1996; Dietz, 1987).

This method was appropriate, as expert knowledge is required to inform decision-making on parenting plan guidelines for SNCs. It has been applied in education (Alexander, 2004), healthcare (Fletcher & Marchildon, 2014), information technology, and management and organisational development to improve working relationships and group decisions (Birdsall, 2004; Skulmoski et al., 2007). In this study, it enabled a joint but anonymous engagement of experts on parenting plans for SNCs after divorce.

The study followed the procedure proposed by Hallowell and Gambatese (2009, p. 102; Figure 5.1).

Figure 5.1

A Diagram of The Delphi Method (Hallowell & Gambatese, 2009)



5.7.1 The Research Question and the Method (Steps 1 and 2)

Step 1 (the research question) guided the selection of the appropriate methodology and the selection criteria of the respondents to obtain relevant data (Avella, 2016). This research study aimed to answer the question: “Which crucial components should be included in a parenting plan to address the specific needs of SNCs after separation or divorce in South Africa?” To answer this question, the study required the anonymous consensual opinion of experts in psychology and law, making the Delphi method ideal for this study (Step 2).

5.7.2 Sampling Method (Steps 3–6)

Steps 3 to 6 describe respondent recruitment. Legal and psychology professionals who were practising in mediation and family law were identified. Furthermore, separated or divorced parents of SNCs were included in this study. Before interviews were conducted, emails were sent to all potential respondents, requesting their permission and consent and informing them of their right to withdraw at any time (See Annexure A and B).

5.7.3 Determining the Number of Rounds and When to Stop (Steps 7 and 8)

Step 7 determined the number of rounds of Delphi questionnaires and interviews that would be completed (Murray & Hammons, 1995). There are varied opinions about the required number of rounds. Literature advocates that it should vary according to the desired outcomes of studies (Grime & Wright, 2014). However, two rounds appear to be adequate (Rowe & Wright, 2001), as this allows for convergence (Aligica & Herritt, 2009).

Step 8 involved deciding when to end the Delphi procedure (Murray & Hammons, 1995). For this study, the endpoint was after two rounds of interviews to allow for consensus to be achieved among respondents (Linstone & Turoff, 2002).

5.7.4 Data Collection Method (Steps 9 and 10)

Steps 9 and 10 involved the data collection of the study. The interview guides (Annexures C and D) included open-ended questions (Dalkey & Helmer, 1963; Skulmoski et

al., 2007), based on a literature review of publications on parenting plans for SNCs. As data was collected, the questions became more structured to build consensus, test propositions, and, ultimately, finalise decision-making models (Birdsall, 2004). The interviews were audiotaped and transcribed full verbatim by a professional transcriber (Braun & Clarke, 2006; Castleberry & Nolen, 2018).

5.7.5 Data Analysis (Step 11)

Step 11 involved data analysis. Although little research has been done on data analysis when employing the Delphi method (Brady & O'Connor, 2014; Skulmoski et al., 2007), thematic analysis is consistent with the Delphi method (Linstone & Turoff, 2002). Feedback from the interviews was organised using thematic analysis and assisted in the development of the consensus questionnaire for the next round (Turoff, 1970). As per Strauss and Corbin's (1998) and Bazeley's (2009) recommendations, the identified concepts and categories allowed for the movement from specific ideas to more explanatory ideas. These concepts guided the thematic analysis process.

Thematic analysis is consistent with the constructionist paradigm (Braun & Clarke, 2006). Braun and Clarke (2006, p. 79) described thematic analysis as "a method for identifying, analysing and reporting patterns (themes) within data". The research study employed the six-phase framework of Braun and Clarke (2006) for conducting the thematic analysis.

The first phase required researchers to acquaint themselves with the data (Braun & Clarke, 2006). This involved reading the interview transcripts several times while making notes of any thoughts, impressions, or coding suggestions (Braun & Clarke, 2006).

The second phase required "generating initial codes" (Braun & Clarke, 2006, p. 88). The coding process was mainly theory-driven (deductive) because the study had specific research questions to address, and therefore, the codes were generated around these questions

(Braun & Clarke, 2006; Maguire & Delahunt, 2017). The codes developed during the analysis process were not pre-determined and represented open coding (Maguire & Delahunt, 2017). Open coding allowed for codes to be developed and modified as the researcher ventured further into the analysis process (Maguire & Delahunt, 2017).

The third phase required “searching for themes” (Braun & Clarke, 2006, p. 89). In this phase, codes with similar characteristics or representing a similar idea were organised into themes (Braun & Clarke, 2006; Maguire & Delahunt, 2017) until all codes were allocated to a theme (Braun & Clarke, 2006).

The fourth phase required themes to be revised (Braun & Clarke, 2006). During this phase, the data represented by each code within a specific theme was grouped together and then read to ensure that the data supported the grouping of the codes. Themes were further reviewed to ensure that they worked within an item and within the data set (Braun & Clarke, 2006; Maguire & Delahunt, 2017).

During the fifth phase, a title and description were created for each identified theme (Braun & Clarke, 2006; Maguire & Delahunt, 2017). Further, themes were defined by understanding how themes and sub-themes, if any, related to each other (Maguire & Delahunt, 2017).

The last phase was reporting the analysis (Braun & Clarke, 2006; Maguire & Delahunt, 2017).

5.7.6 Evaluating Consensus (Step 12)

Step 12 of the Delphi Method evaluated the consensus or stability of responses (Hallowell & Gambatese, 2009, p. 102). For this study, consensus was assumed if 75% of participants agreed on a statement (Diamond et al., 2014; Khodyakov et al., 2023). Following Tognetto et al. (2019), the Delphi-method phase of the study evaluated each response item to establish whether the item should be included or excluded.

5.7.7 Providing Feedback (Step 13)

In Step 13, results from the first round were developed into a questionnaire for the respondents for the second round (Hallowell & Gambatese, 2009). (Annexure E). The respondents received a list of statements that evaluated their views of current parenting plans and requirements that should be included in parenting plans for SNCs.

5.7.8 Reporting Findings (Step 14)

The findings of the research study are reported in Chapters 6 to 9 (Hallowell & Gambatese, 2009).

5.8 Limitations and Contributions of the Research Design

The Delphi method provides ample time for thinking and reflection due to the sequential nature of rounds and questionnaires, and respondents can remain focused and problem-centred because of the semi-structured interviews and consensus questionnaires (Delbecq et al., 1975; Franklin & Hart, 2007; Uhl, 1983). There are no face-to-face debates that could lead to undue influence by dominant personalities, and groupthink is avoided.

Despite these benefits, the Delphi method has been criticised for a lack of methodical rigour, affecting the trustworthiness of findings. There are also arguments regarding the reliability of the Delphi method (Hasson et al., 2000).

5.9 Measures to Ensure Trustworthiness

Lincoln and Guba (1985) provided criteria to ensure that findings are interpreted credibly and dependably. These criteria address four concerns, namely credibility, transferability, dependability, and confirmability. The criteria of Lincoln & Guba (1985) can address the shortcomings of qualitative research using the Delphi method. To address credibility, researchers need to demonstrate that the phenomenon under investigation reflects reality accurately. As stated by Merriam (1988), credibility deals with the question: “How congruent are the findings with reality?” To answer this question, the researcher ensured that

the research methods were recognised equally in both qualitative investigations in general and information science in particular. The precise procedures utilised (for example, the line of questioning employed during the data collection sessions and the data analysis methods) arose, where feasible, from those that have been successfully employed in former equivalent projects (Yin, 2011). The purposive sampling of expert respondents and the implementation of successive rounds of data collection increased the credibility of this study.

Participation was voluntary, allowing for data collection to take place freely. Respondents were asked to read through the transcripts of the dialogues they had participated in to confirm that their words accurately conveyed their intended meaning. Member checks were considered the most essential condition for enhancing a study's credibility (Lincoln & Guba, 1985). To allow for transferability, sufficient detail through an audit trail of the context of the fieldwork was provided to allow the reader to determine whether the existing environment was similar to another situation they may be familiar with and whether the findings could reasonably be applied to another setting.

Transferability (the second criterion) focuses on the degree to which a study's conclusions are relevant to other situations (Merriam, 1988). Positivist research is often concerned with proving that the results of a study can be applied to a wider population. In contrast, qualitative research is specific to a small number of individuals in a particular environment. It is usually, therefore, difficult to prove that the findings and conclusions can be applied to other situations and populations. The following measures were taken to ensure transferability. The researcher firstly provided a sufficiently rich and detailed description of the data (as suggested by Lincoln and Guba, 1985; Firestone, 1993), and secondly, gathered relevant information from experts in the field through purposive sampling. This detail will allow readers to evaluate the phenomenon described in the research report relative to other contexts.

Eventually, the findings of a qualitative study must be interpreted within the framework of the organisation and geographical area in which the fieldwork was carried out.

The third criterion, namely dependability, refers to the idea that if the study were repeated with the same or a similar group in a similar context, the findings would be similar. Fidel (1993) and Marshall and Rossman (2014), however, stated that the changing nature of the phenomena examined by qualitative researchers makes such provisions challenging. Florio-Ruane (1987) showed how the investigator's observations are dependent on the situation of the study. Lincoln and Guba (1985) stressed the close ties between credibility and dependability, claiming that, in practice, a demonstration of the former goes some distance to ensure the latter.

In addition to the strategies already used to ensure credibility, a co-coder was used to ensure the dependability of this study. A co-coder is an experienced qualitative researcher who analyses the data. Furthermore, the processes within the study are reported in detail. This will allow a prospective researcher to repeat the research, although they will not necessarily find the same findings. Consequently, the research design may be seen as a "prototype model". Detailed reporting also allows the reader to consider the degree to which appropriate research practices have been followed. The text includes details of the research design, implementation, data gathering, activities in the field, the reflective review of the project, and the appraisal of the effectiveness of the inquiry.

Finally, to ensure confirmability (the fourth criterion), the researcher must show that the findings originated from the data and not from an undeclared subjectivity of the researcher. To a qualitative investigator, confirmability is as important as objectivity. Therefore, measures were taken to ensure that the work's findings were the result of the experiences and ideas of the respondents, instead of the characteristics and preferences of the

researcher. An audit trail was created and electronically documented throughout the research process. This audit trail included all data collection, analysis, and reporting processes.

The first-round interview schedule of this study was developed by the researcher from the literature and served as the foundation for the questionnaire in the second round. The researcher remained aware that the first questions needed to justly reflect the key elements of the research topic (Franklin & Hart, 2007).

Although purposive sampling allows for information-rich cases and in-depth study (Patton, 1990), in statistical sampling, this can be viewed as “bias”. However, a purposeful and judicious panel allowed for expert opinion, which is considered a strength of this method, as the purpose of this study was not to generate empirical generalisations, but to reach a consensus concerning the development of effective parenting plans for SNCs (Kelly, 2010).

To address the limitations of the Delphi method, careful consideration was given to the following:

- The research problem was clearly presented to potential respondents.
- The structure of the initial interview was carefully designed, based on literature, and the number of rounds to be used was predetermined.
- The terms “expert” and “consensus” were carefully defined before the onset of the study (Eggers & Jones, 1998) to ensure the dependability of findings.
- Special attention was paid to ensure that data collection effectively captured opinions and identified the most pertinent issues in each round, and that the data was properly managed.
- Dependability and credibility were consistently addressed throughout the data collection process (Hasson et al., 2000) by adopting well-established qualitative research methods. The use of iterative questioning assisted in identifying falsehoods and contradictions to ensure honesty by informants (Shenton, 2004).

5.10 Ethical Considerations

The methods of this study were approved by the College of Human Sciences Research Ethics Review Committee at UNISA (Rec-240816-052, Appendix F) before the research commenced (De Vos et al., 2011). The study strictly adhered to the approved proposal, the UNISA ethics policy, and the rules of conduct promulgated by the Professional Board for Psychology (HPCSA, 2016).

To protect respondents, each respondent was informed of the possible risks and benefits of partaking in the study (UNISA, 2016). The only risk of harm identified was that respondents might experience minor discomfort or inconvenience, particularly the parents involved. Free debriefing services were offered by senior clinical psychologist, Elmarie Visser (UFS, 1982; Ps0012645). No participants required debriefing during the interview process.

Before consenting to participate, respondents were provided with a written document (Annexure A) addressing the following:

- the purpose and objectives of the research,
- the procedures that will be followed,
- the nature of the interviews and the measures that will be taken to ensure the safekeeping of the data,
- who will have access to the study and its data,
- the voluntary nature of participation and their freedom to withdraw at any time without any penalties,
- the credibility of the researcher.

The researcher obtained written and verbal consent after thoroughly discussing the nature of the study with potential respondents. Regarding privacy and confidentiality, all identifying biographical data was treated with respect and kept confidential at all times. All

interviews were recorded and transcribed by a professional transcriber who dealt only with anonymised data and signed a confidentiality agreement (Annexure G) before commencing transcription. The transcriptions were only available to the researcher, the promoter of the study, and the co-coder, who had no access to the biographical information of the respondents and signed a confidentiality agreement (Annexure H).

Hard copies of all data are locked in a cupboard or filing cabinet at the researcher's home for future research or academic purposes only, and electronic information is stored on a password-protected computer and external hard drive (South Africa, 2013; UNISA, 2016). Future use of the stored data will be subject to further research ethics review and approval, if applicable. Only the researcher and promoter will have access to the data. After 5 years, hard copies will be shredded, and electronic copies will be permanently deleted from the hard drive of the researcher's computer and the external hard drive (South Africa, 2013).

5.11 Concluding remarks

A good qualitative study entails procedures that are open-ended and rigorous and do justice to the complexity of the topic (Denzin & Lincoln, 2005). This chapter explored the research methods that made up the research design. The procedures of the study, including the data analysis, were outlined. In addition, this chapter considered trustworthiness and the measures that were taken to promote the credibility, transferability, dependability, and confirmability of the research findings. Finally, the steps taken to ensure ethical research were highlighted. The next chapter presents psycho-legal experts' experiences with developing parenting plans for SNCs.

The research findings are presented in four chapters. Chapter 6 covers psycho-legal experts' experiences with developing care and contact parenting plans for SNCs. Chapter 7 focuses on parents' experiences of participating in conceptualising parenting plans for their SNCs during their separation or divorce process. Chapter 8 reports the statements rated by

research respondents during the Delphi questionnaire utilised to achieve consensus amongst the respondents in the anonymous panel. These insights were incorporated into guidelines, which are presented in Chapter 9, to assist South African courts in making decisions about this neglected and vulnerable population. The findings include the voices of the respondents, an interpretation of the research problem, and relevant literature, as introduced earlier.

Chapter 6 Findings and Discussion of Interviews with Psycho-Legal Experts

The first aim of this research was to determine the best practices for developing parenting plans for SNCs in South Africa, as there are no established national guidelines available. South African courts are reliant on limited international guidelines, which might not apply to the South African context, further supporting the importance of this research endeavour, not just for South Africa but also internationally. The second aim was to develop guidelines to assist the courts in making these critical decisions, particularly for vulnerable SNCs.

The objectives of this research were twofold: firstly, to explore the key psycho-legal and ethical considerations that experts believe are crucial when developing parenting plans for SNCs in South Africa; and secondly, to examine the experiences of South African families of SNCs that have been affected by divorce.

A brief description of the psycho-legal respondents who participated in this study is presented to provide context while maintaining anonymity. As indicated in Chapter 5, eleven psycho-legal experts, including four attorneys, two family advocates, three clinical psychologists, one social worker, and one educational psychologist, were interviewed, and a total of 143 pages were transcribed. The respondents were from four provinces within South Africa (The Northern Cape, the Western Cape, Mpumalanga, and Gauteng). Nine were female and two were male. Three respondents (two clinical psychologists and the educational psychologist) only participated in the first round of interviews. All the respondents expressed an expectation that the research findings could assist them in navigating the challenging landscape of SNCs affected by their parents' separation and divorce.

- Attorney 1

SL is a coloured female attorney in private practice in the Northern Cape. She obtained her degree in 2003 and has been in private practice since 2013. She has extensive experience in family mediation and is passionate about children's rights.

- Attorney 2

SB is a white female attorney with a private practice in the Western Cape. She obtained her LLB degree in 1999 and has been actively engaged in family mediation for over two decades. She asserted that the principle of the best interest of the child guides her work.

- Advocate 3

NS is a coloured female advocate from Mpumalanga. She obtained her BCom LLB degree in 2001 and has been working as a family advocate focussing on care and contact matters since 2013.

- Attorney 4

VH is a white female attorney practising in the Northern Cape. She obtained her law degree in 2010. Initially, her practice focused on commercial work, but since 2014, she has primarily been involved in Family Law.

- Family Advocate 1

DN is a white male advocate from the Northern Cape, and after obtaining his degree in 1994, he went into private practice. DN joined the Office of the Family Advocate 20 years ago and became largely involved in family matters and indicated that care and contact matters comprised more than 50% of his work.

- Family Advocate 2

FR is a white male advocate from Mpumalanga. He has been actively involved in family law for over 25 years, serving on various councils and committees, and participating in community work related to family life. He has been employed as a family advocate since 2007.

- Social Worker 1

EB is a white female clinical social worker in the Western Cape. After graduating with her Master's degree and working in various contexts, she started her private practice in 1998. She has extensive experience in mediation as well as care and contact matters.

- Clinical Psychologist 1

EK is a white female clinical psychologist in private practice in the Western Cape. She obtained her PhD in clinical psychology and has been practising since 1997. She is actively engaged in psycho-legal work, particularly mediation.

- Clinical Psychologist 2

LR is a white female clinical psychologist based in Gauteng. She has been licensed as a clinical psychologist since 1986, focussing on psycho-legal and forensic matters. She has testified in Regional Magistrates' Court, Children's Court, and High Court proceedings throughout South Africa, and has performed investigations and testified in international courts. Additionally, she is a certified mediator, focussing on family law mediation, parenting plans, and medico-legal conflicts. The High Court has appointed her in various cases as a parenting coordinator in a quasi-legal capacity. LR only participated in the first round of interviews.

- Clinical Psychologist 3

RF is a white female clinical psychologist from Gauteng. She is predominantly trained as a family therapist and, therefore, qualified to analyse and evaluate adult relationship issues and those concerning children, as well as their manifestations within the family context. A significant aspect of her business involves conducting child custody examinations for forensic purposes. She has maintained a private practice since 1991. RF only participated in the first round of interviews.

- Educational Psychologist 1

TH is a white female educational psychologist from Gauteng. She has worked with children and families since 1989 in her capacity as a teacher and, later, as an educational psychologist. She has experience and training in psycho-educational assessments, interventions, diagnosis, psychotherapy, and psycho-legal evaluations and interventions. She is an accredited family and divorce mediator and a supervisor of mediators and educational psychology interns. She has 14 years of experience as an educator in both primary and high school settings (mainstream and specialised). TH only participated in the first round of interviews.

Consistent with the study's constructionist paradigm and qualitative research approach, this study's findings embody rich experiential data rather than causality (Terre Blanche & Durrheim, 2002). Thematic analysis, which aligns with the constructionist paradigm (Braun & Clarke, 2006, p. 79), as discussed in Chapter 5, was used to identify, analyse, and report patterns (themes) within the data.

Thematic analysis was used to categorise and interpret the data according to themes. Five organising themes and 17 sub-themes were produced. The first theme defines special needs, while the second theme addresses the difficulties and challenges of raising an SNC during and after a divorce. The third theme relates to the role of different professionals in creating a parenting plan, and the fourth theme refers to developing a parenting plan that fits the special needs of the child. The fifth theme focuses on the interpretation of the "best interest of the child" principle.

Table 6.1

A Summary of the Organising Themes and Sub-Themes Extracted From the Interviews with Psycho-Legal Experts

| Organising Themes | Sub-Themes |
|--|---|
| Theme 1: Defining special needs | <ol style="list-style-type: none"> 1. Physical disabilities 2. Neurodevelopmental disabilities 3. Characteristics outside of the norm 4. Mental and intellectual disabilities |
| Theme 2: The challenges faced by divorced parents of special needs children in South Africa | <ol style="list-style-type: none"> 1. Uninvolved co-parents 2. Unstable households 3. Specialised requirements of special needs children 4. Parental attention disparity between siblings |
| Theme 3: The essential support network – incorporating advice from professionals in the parenting plan | <ol style="list-style-type: none"> 1. Multidisciplinary collaboration 2. Professional assessment and diagnosis 3. Specialised multidisciplinary approach |
| Theme 4: Developing parenting plans for special needs children | <ol style="list-style-type: none"> 1. Tailoring parenting plans for specific conditions 2. Reviewing parenting plans 3. A stable and inclusive educational environment 4. Specialised training for legal professionals 5. Time-sharing arrangements 6. Financial support and planning |
| Theme 5: Interpretation of the best interest of the special needs child | |

The following sections will discuss each of the sub-themes. Each sub-theme will include direct and paraphrased quotations from respondents and expert insights from the literature.

6.1 Theme 1: Defining Special Needs

In this theme, we delve into psycho-legal experts' understanding of special needs. Respondents recognised that special needs encompass a wide range of characteristics and conditions, including physical disabilities, NDDs, traits that place individuals outside conventional expectations, and mental and intellectual disabilities. All the conditions mentioned by the respondents are recognised as special needs. However, none of the respondents mentioned severe, chronic medical conditions, such as asthma and allergies (Saposnek et al., 2005), indicating a possible gap in psycho-legal professionals' view of special needs. Addressing the best interests of SNCs is highly complex due to the diversity of disabilities, illnesses, and syndromes encompassed by the phrase "special needs".

Recognising and addressing special needs in this context involves identifying significant deviations from the standard developmental milestones of children. It underscores the importance of having a solid understanding of normal child development to identify and support those who do not function on par with their peers in one or more developmental domains.

6.1.1 Sub-Theme 1.1: Physical Disabilities

This sub-theme describes children with physical disabilities, such as being wheelchair-bound, blind, or deaf. It includes those with neurological conditions that impede communication. Children with physical disabilities may require various levels of support, including physical assistance such as wheelchairs or guide dogs, and adaptations in their learning environment such as braille texts, Augmentative and Alternative Communication devices, and assessments to formulate Individualised Education Programmes for SNCs.

Determining a child's needs requires assessments by several medical and allied professionals as well as educators within the child's schooling environment. The focus should be on ensuring their safety, mobility, and access to education and care that accommodates their physical abilities and needs, socio-emotional needs, and behavioural challenges. Two respondents expressed an awareness of the diversity of disabilities that needs to be considered, by stating:

... special needs will differ from physical handicap – physical handicap, like in a wheelchair or being blind, something like that, physical – then also obviously, neurological: and there you would have a child that is basically not able to communicate even. (Family Advocate 1)

It's the one who might be mentally disabled, who does not have control over their intellectual ability, and then there are those who are physically disabled, who might have limited movement to go and ride or walk or something. (Attorneys 4)

The first quote explicitly mentions physical disabilities like being wheelchair-bound or blind, which directly aligns with the sub-theme's definition of special needs based on physical characteristics. The second quote differentiates between mental and physical disabilities, mentioning physical limitations in movement like walking or riding a wheelchair, which aligns with the sub-theme's focus.

6.1.2 *Sub-Theme 1.2: Neurodevelopmental Disabilities*

This sub-theme includes children with NDDs ranging from physical to neurological issues. It encompasses conditions like ASD, where there are varying degrees of developmental challenges. Children with NDDs may have diverse needs, from physical limitations such as spina bifida to complex neurological or psychiatric conditions such as

ASD. The emphasis is upon comprehensively understanding each child's unique developmental trajectory and providing support tailored to their specific challenges.

There are also different degrees there; that is the whole thing. You will have a child – even a child who's autistic, etcetera. So, those would be the range, I think, from physical to neurological issues. (Family Advocate 1)

This quote explicitly mentions “a child who's autistic” as an example of an SNC, directly aligning with the sub-theme's focus on NDDs. ASD is a recognised NDD (American Psychiatric Association, 2022) with varying degrees of challenges in terms of severity that require different levels of support.

One needs to look at it developmentally, and special needs can range from special needs in terms of physical needs, emotional needs, intellectual needs – so it's a continuum, where about you need to evaluate whether a child is functioning on par developmentally as set out in various theories. (Social Worker 1)

This quotation aligns with the sub-theme's focus on understanding each child's unique developmental trajectory.

6.1.3 Sub-Theme 1.3: Characteristics Outside of the Norm

This sub-theme emphasises an awareness of children whose development deviates significantly from typical developmental guidelines.

Medically, it would be outside of the normal guideline of what children are supposed to be ... it – one doesn't also want to be politically incorrect, but normally there's a guideline of, you know, development that children have, so your kids have to be in that guideline and if not, then I would think that the child is special needs. (Attorney 1)

Special needs include a broad range of conditions. It is important to acknowledge that a cold or a fractured arm does not grant a child the status of “special needs”. SNCs are those who possess or are at heightened risk for chronic physical, developmental, behavioural, or emotional conditions, necessitating health and related services that exceed those typically required by the general paediatric population (McPherson et al., 1998).

Special needs include conditions such as ADHD, MDD, ASD, and physical impairments such as visual or hearing impairments. These disorders fall outside the “normal” or typical range of child development.

And, I would say any significant deviance from developmental functioning would justify a child with additional or special needs ... (Social Worker 1)

This quote directly uses the phrase “significant deviance from developmental functioning”, which aligns perfectly with the sub-theme’s definition of special needs as deviating significantly from typical developmental guidelines. It clearly states the connection between such deviation and identifying “additional or special needs”.

I think the basis of that should be an understanding of child development as per the norm, as set out – you have to have a very solid understanding of child development before you can actually have an understanding of: “what does it mean when a child does not function on par?” (Social Worker 1)

This respondent emphasised the importance of understanding “normal child development” as a foundation for identifying children who do not function on par. This quotation aligns directly with the sub-theme’s emphasis on “recognising and addressing special needs” by recognising deviations from standard developmental milestones. Expertise in developmental psychology and NDDs becomes critical in pinpointing what needs to be addressed to assist the child’s growth and quality of life.

6.1.4 Sub-Theme 1.4: Mental and Intellectual Disabilities

This sub-theme refers to children who have intellectual disabilities and cannot function in mainstream education. These could include children who are unable to regulate their emotions. Children diagnosed with intellectual disabilities require specific environments and interactions after undergoing a scholastic assessment by a psychologist. Their varying needs may necessitate personalised approaches to education, therapy, and care as well as parenting plans. The psycho-legal respondents offered the following when asked about children with intellectual disabilities:

When we have the intellectually handicapped children, that is a difficult thing ... the way to deal with it – and the social worker will basically attend to the voice of the child part. (Family Advocate 1)

... and special needs can range from special needs in terms of physical needs, emotional needs, intellectual needs – so it's a continuum, where about you need to evaluate whether a child is functioning on par. (Social Worker 1)

6.2 Theme 2: The Challenges Faced by Divorced Parents of Special Needs Children in South Africa

Divorce and separation are considered one of the more common adverse childhood experiences (Finkelhor et al., 2015). This theme explores the profound challenges encountered by South African parents and families nurturing SNCs and experiencing separation or divorce. It delves into the turbulence and adversity (Cummings & Davies, 2010) within households affected by these challenges, including the implications of divorce, the child's adjustment to new environments, their reactions to divorce, and the crucial importance of support networks. This section examines the interconnected challenges

parents of SNCs face and highlights the essential roles played by the psycho-legal professionals who advocate on their behalf.

6.2.1 Sub-Theme 2.1: Uninvolved Co-Parents

This sub-theme refers to the dynamics observed in co-parenting situations, especially those concerning SNCs, where one parent is less involved, non-compliant, or uncooperative in shared parenting responsibilities. It encompasses instances where one parent, often due to a lack of understanding, denial, or other personal challenges, fails to participate in the child's care and decision-making processes actively or fails to acknowledge and adapt to the child's special needs. All respondents mentioned this as problematic.

I mean, sometimes the parent does not believe in the medication, does not give the tablets ... (Educational Psychologist 1)

... you are sitting with parents whose 5-year-old child, born with cerebral palsy – very serious physical limitations and mental – and they have not – and the child is five and maybe they are not even at a place yet where they are ready to accept that this child is not going to be able to be self-sufficient ... (Clinical Psychologist 2)

The diagnosis of a disability in a child presents challenges for many parents and families (Huang et al., 2010; Tigere & Makhubele, 2019; Yaacob et al., 2021). Upon receiving their children's disability diagnosis, most parents initially experience shock (Hemming & Akhurst, 2009; Yaacob et al., 2021). The initial shock is frequently succeeded by denial, anger, apprehension of the unknown (Huang et al., 2010), or a state of denial that often leads to feelings of helplessness, impeding their ability to cope with the child's disability (Hemming & Akhurst, 2009). Perryman (2005) asserts that parents of SNCs frequently exhibit denial regarding their child's disability. Respondents described how denial often manifested as insistence on switching therapists, changing parenting coordinators,

removing experts, and refusing medication recommendations. Parents in denial frequently challenged findings that confirmed the disability and demanded regular returns to court over insignificant matters. Some parents experience chronic sorrow. Chronic sorrow is the periodic recurrence of permanent, pervasive sadness or grief-related feelings associated with the significant loss often experienced by parents with SNCs (Raap et al., 2024).

Respondents described the frustration of being abandoned by their partner upon receiving a definitive diagnosis of the child's permanent disability. Typically, the mother is left alone with an SNC (Durà-Vilà et al., 2010). Deserted mothers must independently provide for themselves in the absence of fathers, resulting in emotional and physical stress (Zuurmond et al., 2018). The obligation of nurturing an SNC generally rests exclusively with the mother; due to the stigmatisation and discrimination associated with disability, fathers are more prone to ignore their paternal responsibilities when their children have a disability (Pelchat et al., 2003). Moreover, for most men, financial stability is fundamental to the practice of fatherhood (Kelly, 2012), indicating that the elevated unemployment rates in South Africa may intensify the rising incidence of absent fathers.

Pickar and Kaufman (2015), however, highlighted that sound co-parenting relationships and healthy communication between parents are protective measures against divorce, while poor collaboration and communication are salient risk factors in families. When one parent disengages from the care of an SNC, the burden of care falls disproportionately upon the other parent. This unsustainable imbalance frequently leads to caregiver burnout, financial hardship, and emotional distress. When asked about the impact of an uninvolved parent, one respondent stated:

... in cases where there's a special needs child, one of the parents have to stop working and [speaking simultaneously] to take care of the child.

(Family Advocate 1)

All psycho-legal respondents mentioned the unfair burden placed on the involved parent due to the uninvolved co-parent and how one parent often has to take on the full responsibility of caring for the child, sometimes sacrificing their own career or well-being. In their advice on handling uninvolved parents, all psycho-legal respondents emphasised the complexities faced when one parent is reluctant to cooperate in co-parenting. This issue is particularly acute when it involves decisions and caregiving activities for an SNC, especially after divorce or separation. Such reluctance can leave the primary caregiving responsibilities to one parent, creating imbalances and potential stressors within the family dynamic. One respondent shared this frustration and stated:

I think dads to a certain extent try and not deal with it until they're forced to deal with it. (Attorney 2)

Social Worker 1 emphasised the need for both parents to be cooperative and engaged in the child's life.

We would need a parent to be able to co-parent with the other parent: to ask for assistance and help; to be open, upfront. So, the ability of such a parent to disengage from conflictual realities and to regroup as parents that need to focus on the needs of the child. (Social Worker 1)

The effect of divorce on a child is already challenging, and even more so when the child experiences emotional difficulties due to an inconsistent parental bond. In cases where there is an SNC, the unfair burden placed on the involved parent due to the uninvolved co-parent is often exacerbated. It also relates to the sub-theme's description of how one parent usually has to take on the full responsibility of caring for the child, and it emphasises the unique financial burdens associated with raising an SNC.

... in our specific communities is that – many of those children are actually in the rural environment; the children are dependent on grants. (Family Advocate 1)

A lot of special needs kids, even if they may go out into the world and start working, there is some sort of a dependency still on the parent, which again ends up being carried by the primary parent only. (Attorney 1)

All the psycho-legal respondents noted that non-compliance with agreed-upon responsibilities of caring for an SNC, whether informally or legally, exacerbates these challenges. Compliance is particularly crucial in areas such as the child's healthcare, education, and general welfare.

I want to say, carefully, the extra labour that comes with taking care of a special needs child – and that should be put into the parenting plan, so it becomes a court order. And if they can afford assistance in the form of a nanny that works – a special person that can deal with it – maybe even two or three days, that should also be included. (Attorney 1)

[T]ry and help the family. Find out if there is some way, you know, a way to get somebody in to help the father. (Clinical Psychologist 2)

These quotes emphasise the additional burdens carried and sacrifices made by single parents and suggest that support (such as nannies) should be incorporated into the parenting plan. Support from nannies aligns with the sub-theme's recommendation to consider wider support systems and whether the parents have access to respite care facilities.

These findings agree with statements such as: "If parents are important resources for children's development, then, all things being equal, two parents should be better than one" (Amato & Keith, 1991, p. 27). Therefore, the impact of uninvolved or non-compliant behaviour extends to the child's emotional and psychological well-being, affecting their

relationship with the non-engaged parent. In instances of an absent parent, children of divorce frequently encounter reduced parental attention, assistance, and oversight. Reduced parental support is often linked to a heightened probability of scholastic failure, diminished self-esteem, and misconduct in children (Rollins & Thomas, 1979). The absence of parental role models in the household may lead to the insufficient acquisition of essential social skills (such as co-parenting, negotiation, and compromise) required for success in the broader society (Amato & Keith, 1991).

All the psycho-legal respondents recommended a multifaceted approach, including legal interventions to enforce parental responsibilities and counselling for parents and children to prioritise the child's well-being and ensure active contributions from both parents. One respondent stated:

Especially, if you've got, like we said just now, a delinquent parent that doesn't understand or want to accept the presence of a disability. (Family Advocate 2)

In the context of divorce, where a family has an SNC, the roles of legal and counselling professionals become vital. They often have to address these challenges and facilitate a more cooperative approach between the parents. To deal with uninvolved parents effectively, psycho-legal experts advise a multifaceted approach.

Remember, when parents are divorcing, there is very little trust between them. The communication has broken down. So, the mediator can assist them as acting as somebody that is not polarised ... because I think sometimes parents forget about the best interests of the child. (Educational Psychologist 1)

Respondents highlighted the importance of recalibrating the parenting strategy to prioritise the child's best interest, ensuring both parents are fully engaged and comprehend

the significance of their roles in the child's life. An SNC needs exceptional parenting, and parenting plans must consider the parents' understanding of the child's unique requirements as well as their dedication and availability to seek medical, educational, psychological, and financial support for the child. According to respondents, the evaluation should assess each parent's awareness and acceptance of the child's unique needs, their history of engagement with therapy, and their readiness to offer the comprehensive assistance necessary. The availability of parents and their financial capabilities are critical variables in choosing whether one parent should receive primary residential custody of the child. The court should examine records of all existing and prospective expenses related to the child's care and treatment, encompassing diverse therapies, counselling, medical consultations, pharmaceuticals, costs for medical or communication devices, potential hospitalisation expenses, remuneration for case managers or other clinical professionals, non-parental carer fees, transportation, and any other pertinent costs. Respondents stated that the court must thoroughly comprehend how the child's potential inability or diminished capacity to earn a livelihood will affect the financial circumstances of both parents, considering factors such as the child's employment prospects, future income, the necessity for comprehensive health insurance, and eligibility for public assistance, among others. This approach not only addresses immediate concerns but also sets a foundation for healthier long-term family dynamics.

In their risk assessment model, Pickar and Kaufman (2015) identified a parent's denial of their child's special needs as a factor that increases the risk for harm.

I see lots of parents who are experts with regard to their children; they've done the work, they've done a lot of hard work, they've gone through each and every possible talk and whatever and then I see people in denial, so it is difficult. (Attorney 2)

Psycho-legal respondents suggested legal interventions that will ensure compliance with parental responsibilities and counselling sessions to address the underlying issues causing the reluctance or denial. Causes of denial can vary from cultural barriers, fear of abandonment by a partner, lack of information, social support, community services, and financial support (Sukeri et al., 2017).

So, the dad gives a cream, and the mom gives a tablet, and the mom will not give the cream, and the dad will not give the tablet ... if you have got a child with cerebral palsy and they have got a flu, let us say they have got flu, it definitely makes it more difficult. The parents need then a much clearer guidelines ... because the child with cerebral palsy who is in a wheelchair is not moving their lungs ... parents need to act quickly ...
(Educational Psychologist 1)

The only route that we can see is that there should be a curator, I think, that must be appointed for their personal issues and – if needs be, for legal issues or whatever – and for financial management. (Family Advocate 1)

Pickar and Kaufman (2015) emphasised the influence of disengaged parents, advocating for parenting plans to be based on a thorough evaluation of parenting competencies, which encompasses understanding of specific needs, acknowledgement of the syndrome or condition, and, particularly, the willingness and capacity to facilitate the treatment plan specified in the specialists' reports.

6.2.2 Sub-Theme 2.2: Unstable Households: When the Home is Not a Sanctuary – the Need for Stability and Predictability

This sub-theme highlights the complexities and challenges faced by children, especially SNCs, in environments marked by instability. Instability can stem from various sources, such as parental illness, conflict, financial stress, or the emotional and psychological

aftermath of traumatic events. The sub-theme captures how these unstable environments impact the child's emotional and behavioural well-being, focussing on how changes in routine or family dynamics disproportionately affect SNCs. Extensive studies have underscored the difficulties encountered by individuals and couples raising an SNC, with marital separation or divorce occasionally resulting from the problems associated with parenting an SNC. Parents of SNCs experience higher incidences of divorce or marital disagreement than parents of children without disabilities (Hartley et al., 2010; Risdal & Singer, 2004; Wymbs et al., 2008). Respondents mentioned that disagreements between parents on the treatment or educational strategies for their SNC tend to intensify during separation or divorce. The responsibilities of parenting an SNC can impose significant pressure on parents, while separation or divorce can inflict mental distress on these children, perhaps aggravating their existing symptoms (Pickar & Kaufman, 2019).

SNCs may also require an unusually high level of supervision and a time-consuming interface with medical, educational, and mental-health personnel, as reiterated by the quotation below:

They need more support, they need more time, they need more money, usually. Without all those things, then they definitely are more vulnerable.

(Clinical Psychologist 2)

Providing care for an SNC incurs significant costs. Newacheck and McManus (1988) asserted that the expense of raising SNCs was two to three times greater than that of raising non-disabled children. Additionally, separation or divorce frequently results in diminished financial resources for children. Increased financial strain can cause further instability in a household post-divorce, leading to increased working hours for parents and reduced contact time with their children.

Family law practitioners encounter intricate challenges while supporting separated or divorced families with SNCs (Elrod & Spector, 2012). Cases where professionals provide guidance or make determinations regarding effective parenting methods are especially challenging, as these children are susceptible to significantly adverse outcomes in situations that may be sufficient for other higher-functioning children. Persistent conflict between parents, especially after divorce, significantly impacts children, frequently resulting in emotional stunting or increased suffering. SNCs are particularly sensitive to parental conflict, since they need stable routines and familiar surroundings. In these situations, conventional parenting practices may be inadequate, as these children can impose exceptional demands on their carers. Therefore, they require tailored parenting strategies.

I think children with special needs are more vulnerable to change generally.

So, the disruption of a family structure is an enormous change, and very often it goes hand in hand with movement of home – movement of environment. Two different home environments may become their reality.

Very different – a different schooling system. So, it's an enormous disruption and more so a difficult adjustment for children in that regard.

(Social Worker 1)

This opinion is consistent with the literature that reiterates that, like all children, SNCs are at risk of poor outcomes when their families go through separation or divorce. Divorce is a significant risk factor affecting children's adjustment and well-being, presenting numerous problems in adaptation for all family members. Studies demonstrate that children with severe psychiatric or neurodevelopmental abnormalities face a range of potentially detrimental short- and long-term effects, including mortality and certain illnesses (de Araujo Scattolin, 2022). Research indicates elevated instances of child maltreatment in children diagnosed with ADHD (Briscoe-Smith & Hinshaw, 2006; De Sanctis et al., 2012), learning

disabilities (Spencer et al., 2005), hearing impairments (Lomas & Johnson, 2012), and ASD (Mandell et al., 2005a).

Financial considerations, such as using an SNC as a means of income or as leverage in marital disputes, can compound the instability of the household and negatively affect the child's well-being.

In your more affluent communities, those children are being used as pawns.

Sometimes, for some reason, the people are very attached to those children because there's a lot invested in those children ... (Family Advocate 1)

... the biggest issue is usually money, the child is sometimes used as an ATM because the child is getting a proper grant and so forth and if the child gets to an institution and they don't use that grant directly, that is part of it. So, the fight usually starts with the money issue. It's now a very general statement, but that is my experience. (Advocate 3)

And a lot of parents sees a child like that, unfortunately, as a second income and use the child's needs as an excuse to maybe to go emotionally into a divorce, and don't always think about what will be the best for the child. (Attorney 4)

There are a lot of emotional feelings there and guilty feelings about their child, and now they are investing themselves in that situation (having to accept a disability). Marriages don't last after such an incident of having a child with special needs ... such a lot of guilty feelings and such a lot of emotions that, that is where the fight starts. But those fights are more than about, "I really want to have access to the child", "I'm now going to spite you because you are the person who's responsible for this situation", etcetera, etcetera. (Family Advocate 1)

As seen in the above statements, psycho-legal respondents warned that psycho-legal professionals working with families in such situations should be vigilant about these dynamics and advocate for the child's well-being above all else. In legal and mediation processes, a thorough investigation into the family dynamics and the needs of each child is necessary. Investigations should include assessing the impact of the family environment on the child and ensuring that any parenting plans or legal arrangements prioritise the child's emotional and developmental needs. Parents must understand that prioritising financial motivations or using the child as a bargaining chip directly undermines the child's well-being.

All the psycho-legal respondents recommended a multifaceted approach for addressing the challenges in unstable households, particularly when SNCs are involved. This approach includes providing tailored support to manage the emotional and behavioural needs of these children in the face of family instability.

So, the best interest principle can never be adhered to. I mean, when we work with a child with special needs, very often – and it should be a team's approach; a system approach is needed because, very often, the parents would need support ... (Social Worker 1)

Optimal psychological outcomes are most probable when children are nurtured in an environment that is psychologically and physically secure, while also offering consistent support and care (Kuppens & Ceulemans, 2019). In support hereof, all the psycho-legal respondents recommended involving multidisciplinary teams, including therapists and legal advisors, to ensure the child's needs are prioritised and their routine is disrupted as little as possible. The following responses further stressed the importance of consistent routines and familiar environments for SNCs to minimise their distress in unstable households.

... so, you need to know how to address routines that – because you will find that the other parent doesn't stick to the routine ... (Family Advocate 2)

Because that child also gets traumatised and his little world gets disrupted, especially an autistic child: he has a daily routine, and he knows what he must do, whom he must be with – he is not comfortable with someone.

(Attorney 4)

I've been involved in parenting plans where children are being diagnosed as on the autistic spectrum many, many times, and they struggle to move between two homes – change is traumatic for them. (Social Worker 1)

These quotes reinforce the challenges faced by SNCs in unstable environments. It specifically mentions children with ASD and their difficulty adjusting to shifting between two homes, which is a direct consequence of parental separation and potentially unstable living arrangements. Children with ASD particularly thrive within predictable routines and familiar environments. Research has shown that children with ADHD can be slower to adapt when moving from one household to another, especially when there are differences between the two environments. Consequently, custodial arrangements including more frequent transitions between residences are frequently troublesome. Mid-week transitions are especially difficult, as young children require consistent routines to fulfil the demands of school (Pickar & Kaufman, 2015).

The importance of familiar and predictable routines is also relevant for children who have medical conditions such as asthma, as evident in the comment below:

... there are certain parameters which should stay the same from one house to the other ... it could be even more enhanced for a child who has a special needs, say like a diet, for example, for a child with asthma who is reactive

to milk products: then, you would want to state in a parenting plan that both parents should conform to the treating professional's limits on ingesting milk products, for example. So, you would want to make that specific in a parenting plan, but also under the caveats that, actually, you cannot replicate exactly from one house to the other what is going to happen, and that is not a bad thing. (Clinical Psychologist 3)

Unstable home environments stemming from parental conflict, financial instability, or ongoing changes in living arrangements can profoundly disrupt children's emotional regulation and overall development. To mitigate these negative impacts, all the psycho-legal respondents recommended providing tailored support to the child, prioritising consistency whenever possible, and involving therapists and legal advisors in divorce cases to safeguard the child's specific needs. Family law practitioners generally advocate for time-sharing arrangements that align with the developmental phases of the children in a family (Berman & Daneback, 2020). Young children typically need regular interaction with both parents to maintain and develop parent-child connections following a divorce. School-age children, preteens, and teenagers benefit from custodial arrangements that enable them to establish routines in each parent's residence for extended durations (Cao et al., 2022). Respondents noted that time-sharing arrangements that are based on a typical child's developmental stage may not be ideal for an SNC. Due to the significant demands these children impose on parents and the diversity of conditions categorised as special needs, various aspects must be evaluated to establish a suitable time-sharing arrangement (Pickar & Kaufman, 2015).

6.2.3 Sub-Theme 2.3: Specialised Requirements of Special Needs Children

This sub-theme discusses the intricate and specific care requirements of SNCs and how parents and caregivers should provide tailored treatments and interventions to address these problems. Respondents described specialised diets, assistive devices, adapted living

environments, and the challenges of managing medical conditions. The sub-theme also addresses the logistical and financial burdens of providing such specialised treatments, especially in the context of co-parenting and post-divorce scenarios. It highlights the emotional and physical toll on families that seek to accommodate the needs of their SNC. The respondents' narratives provide a window into the dedication required to manage these treatments and the often-overlooked details that significantly affect the child's quality of life.

Access to specialised interventions, assessments, and therapies designed to address a child's unique needs is crucial. The 2023 General Household Survey (Statistics South Africa, 2023a) indicated that merely 16% of South Africans possess medical insurance, while around 52 million, or 84%, rely predominantly on public healthcare. Nonetheless, medical insurance and public healthcare services may be challenging to access due to constrained resources or a shortage of adequately trained healthcare professionals. The South African Human Rights Commission's 2017 National Investigative Hearing Report on the Status of Mental Health Care in South Africa indicated that the deficiency in skills, training, and resources adversely affected the rights of vulnerable populations, including individuals with mental illnesses. These deficiencies are also applicable to SNCs.

All the psycho-legal respondents advocated for comprehensive, individualised assessments to guide treatment plans, ongoing professional development to ensure the highest quality of care, and a collaborative approach encompassing healthcare, legal, and psychological specialists. To ensure the child receives appropriate support, legal and healthcare professionals must consider the child's best interest holistically, going beyond their immediate needs to include their long-term well-being.

And, very often, that means that you need an assessment. Very often that would mean a specialised professional like a developmental paediatrician

for autism, or further specialist in terms – if it's physical needs, or it may mean a different professional to complement that. (Social Worker 1)

This quote directly emphasises the need for specific, detailed assessments tailored to the unique needs of the child, moving beyond generic approaches. It aligns with the sub-theme's emphasis on individualised treatment based on the child's specific developmental phase (which often does not coincide with the child's chronological age) and challenges.

Well, that child is actually at the mercy of everybody: at the mercy of the law, at the mercy of the parents ... That child is at the mercy of everybody because you cannot, resource-wise, do a good job; you need really, really a lot more resources, and you need other people also. (Family Advocate 1)

This quote highlights the complexities involved in determining the best interest of the child.

6.2.4 Sub-Theme 2.4: Parental Attention Disparity Between Siblings: When Each Child's Needs Matter

This sub-theme refers to the perceived or actual imbalance in the attention and resources given to siblings within a family, particularly when one or more children have special needs. The quotations below capture the nuances and challenges of co-parenting and divorce when the needs of one child might significantly differ from those of their siblings, leading to feelings of neglect or unequal treatment among the children.

... that complex situation where you have got more than one child.

Ultimately, what I will do is I will try and help the parents to design a contact schedule that meets both the children's needs ... Because the child who is fully abled – their needs are just as important ... And so, the contact schedule becomes quite complex then, but still trying to keep the children

together as much as possible while meeting each of the individual children's needs ... (Clinical Psychologist 2)

Yes, they have totally different needs. You get that, especially, in cases where – I think now of a case where the child sustained brain damage and the other siblings are fine ... handicap issues will be explored, but the whole idea during that process is to maintain a bond between the siblings.

(Family Advocate 1)

... a system approach is needed because very often the parents would need support, the other children that's not diagnosed may have a spill effect of living with a sibling with special needs: not enough support and different needs. (Social Worker 1)

As seen from the responses, the differing needs of siblings highlight the complexities of addressing children's diverse needs. This aligns with the sub-theme's focus on individualised plans and the importance of considering the different needs of the entire family.

This sub-theme also encompasses the efforts and strategies employed by parents and professionals to manage and address these disparities, reflecting the complexity of meeting the diverse needs of siblings, especially when one child has special needs.

... have a section [in the parenting plan] that deals with child number one and another section that deals with child number two in a detailed fashion. I think that would solve the problem. (Advocate 1)

All the psycho-legal respondents suggested that parenting plans and investigations need to differentiate between the needs of each child, avoiding a one-size-fits-all approach. They emphasised the importance of a detailed, individually focused plan for each child. Differentiation in parenting plans is necessary, with all the psycho-legal experts pointing out

that, while normal developmental activities might be suitable for one child, a sibling with special needs might require additional, specific support.

I need to see if that environment can accommodate both children, that they both can look after both in the same manner. (Attorney 4)

The importance of maintaining sibling bonds and ensuring equal treatment is also emphasised by Clinical Psychologist 3:

... the biggest consideration is the sibling relationship. I would have to assess and investigate the sibling relationship because if there is a finding that the sibling relationship cannot be dismantled, even in a parenting plan, so you cannot separate the children because their bond is an important bond, and maybe, even with a child that special needs there might even be an enhanced need not to separate them because the other sibling might feel very protective towards the child with the special needs. (Clinical Psychologist 3)

... try to orchestrate the parenting plan so that both children were perhaps at one parent on a weekend ... So, there was not a complete parallel schedule. There was cross-over where both children could be with mom on one weekend and dad on the other weekend, but during the week they would spend disparate time with each parent. (Clinical Psychologist 2)

These quotations emphasise the importance of conducting detailed assessments and tailoring interventions to ensure that each child receives appropriate attention and resources. The parenting plan must ascertain the best interests of the children and should sufficiently account for their siblings, whether they are typically developing or possess special needs. The advantages and disadvantages of separating siblings versus maintaining their unity must be evaluated. If the children have a close bond, they should remain together as much as possible.

If one sibling enjoys visitation with the non-custodial parent, the SNC should likewise be granted the same visitation, if feasible. Should the children be segregated or denied equivalent visitation rights, the SNC may experience feelings of inadequacy or difference. Nonetheless, the requirements of all children must be sufficiently met (Mermelstein et al., 2016).

Moreover, the psycho-legal respondents and literature advocated for the preservation and enhancement of sibling relationships, since sibling support is essential for emotional and social development, irrespective of their specific requirements (Jacobs & Sillars, 2012). Children and adolescents with supportive siblings have lower rates of depression, loneliness, and unhappiness (Milevsky & Levitt, 2005); display increased prosocial behaviour (Bryant, 1982); and adapt better to familial discord (Caya & Liem, 1998). Children with siblings may adjust to parental divorce more effectively than those without siblings (Kempton et al., 1991).

Respondents suggested that professionals should adopt a systemic approach, considering the impact of a child's special needs on their siblings and the entire family dynamic. This approach should include providing support to parents and non-special needs siblings who might require assistance and attention. In legal and mediation processes, psycho-legal respondents emphasised the importance of ensuring that all siblings' voices are heard and their needs considered, and that decisions are not just based on the needs of the SNC, but also on maintaining a harmonious and supportive family environment for all siblings.

... obviously, the relationship between the children and their sibling that has a disability – handicap – issues will be explored. But the whole idea during that process is to maintain a bond between the siblings. That is one of the most important issues that we are looking at because, for some or

other way, it doesn't matter what the child's – they are supporting each other. (Family Advocate 1)

It is essential to recognise that the significant attention and resources often required by an SNC may unintentionally lead to feelings of neglect or resentment among siblings.

... so, I don't think for a child that does not have special needs that there would have to be any adjustment. They can actually carry on with the system that they have now. It would just be the addition of a section, you know, not to lump it all together in the parenting plan. (Attorney 1)

According to respondents, parents and professionals should maintain open communication and cultivate a sense of fairness within the family. Parenting plans and legal investigations should avoid one-size-fits-all approaches, as each child requires tailored strategies to address their individual needs, foster strong sibling bonds, and provide support to parents and siblings alike, for example:

... the child that is "normal" will have to comply with what is appropriate for the child with special needs if they cannot be separated. If, however – and there is a protocol for assessing whether separating siblings is appropriate or not. And if you follow a protocol that gives you a risk-benefit analysis that separating the siblings is not a risk to either of them, then you could have two parenting plans ... (Clinical Psychologist 3)

Research states that commonly recommended developmentally-based parenting plans may be inappropriate for SNCs. Some of these children function significantly below their developmental age and pose extreme behavioural challenges. The necessity for a constant routine and stability in residential placement, along with the paramount requirement for safety and supervision, may supersede a custodial arrangement that allocates substantial time with both parents. Developing a parenting plan that fosters the child's cognitive, social, and

emotional growth while also strengthening parent-child and sibling connections can be difficult (Pickar & Kaufman, 2015).

6.3 Theme 3: The Essential Support Network – Incorporating Advice From Professionals in the Parenting Plan

SNCs display such a vast range of disorders and syndromes that neither family law nor mental health professionals can provide expertise on every type of SNC. One respondent echoed the importance of support by stating:

You cannot rely on parents solely ... So, what you need to do is you need to anchor your parameters on the parents, but more importantly on the treating professionals because they have a more objective and less vested interest in promoting one thing or another. (Family Advocate 2)

This theme centres around the invaluable guidance and support provided by different professionals to families raising SNCs. It emphasises the collaborative efforts of various experts and caregivers who play a crucial role in helping these families navigate their unique challenges. Within this theme, we explore the roles of caregivers who offer unwavering support, child advocate offices that champion the rights and well-being of SNCs, and family support services that provide essential resources. This theme reflects the diverse network of professionals who contribute their expertise to enhance the lives of SNCs and their families.

6.3.1 Sub-Theme 3.1: Multidisciplinary Collaboration

All the psycho-legal respondents emphasised a multidisciplinary approach when dealing with SNCs, involving social workers, medical professionals, and family counsellors or psychologists. Raising any child requires a nurturing support network, but for SNCs, these networks are extraordinarily complex, with each person playing a vital role in addressing the child's unique needs. In family law matters, such as care and contact disputes, this

multidisciplinary team becomes even more critical to ensuring the child's well-being, stability, and access to essential care.

I go to the treating professionals. Whether it is the OT [occupational therapist] in terms of a physical disability that they are attending OT, or the physician who is treating them, or the psychiatrist who is treating ADHD. (Clinical Psychologist 3)

You need to do your homework. You need to speak to people. If the child is already seeing a therapist, you need to speak to that therapist and say, "You've been seeing this child, you've been treating this child. This divorce is coming – what would you propose?" (Family Advocate 2)

Parents are essential nodes of the support structure.

I see lots of parents who are experts with regard to their children, they've done the work, they've done a lot of hard work, they've gone through each and every possible talk. (Attorney 2)

Very often, it's not possible for the child to move between two homes and we need to sort of be creative and look at different ways of having contact. So, there is not, there is not a set routine and structure. The focus of determining – and the guidelines that I follow is theoretical in terms of the development and the needs of a specific child. And, that very often goes hand-in-hand with the advice and the input from the diagnostic clinical person to me and to the parents in writing a parenting plan. (Social Worker 1)

Parents are a vital source of collateral information, but you cannot rely on parents solely. You can ask parents, but you cannot rely on them because

they sometimes manipulate the child's illness in order to support the position that they want to support. (Clinical Psychologist 3)

These quotes emphasise the complexity and need for creativity in addressing the needs of SNCs. They underscore the importance of not only relying on parents but collaborating with clinical professionals to develop an objective, tailored approach that goes beyond a one-size-fits-all structure, considering the specific developmental needs of the child and the outlined treatment goals and prognosis.

6.3.2 *Sub-Theme 3.2: Professional Assessment and Diagnosis*

This sub-theme emphasises the importance of conducting balanced and comprehensive assessments to arrive at the correct diagnosis and understand a child's specific needs. Such assessments are fundamental to tailoring individualised approaches and helping legal professionals grasp the complexities of each case.

... parenting plans is like a minefield to lawyers, and I find it extremely helpful if we have more of this and assistance and – how it's going to benefit the profession. But the reality is, lawyers think they can do everything, and reality is, they can't. This is very specialised, and I'm not talking about special needs, I'm just talking about family law ... (Attorney 2)

But, I would like a formal diagnosis so we can know how to support the child best in the movement between two homes. (Social Worker 1)

And, very often, that means that you need an assessment. Very often that would mean a specialised professional like a developmental paediatrician for autism, or further specialist in terms – if it's physical needs or – it may mean a different professional to complement that. (Social Worker 1)

I always go to those professionals to get information about the child's condition and how that will impact the arrangement in a parenting plan.

(Clinical Psychologist 3)

These extracts underline the need for specialised professionals, such as developmental paediatricians, to conduct assessments and provide specific expertise based on the child's needs. These statements align with the sub-theme's call for a multidisciplinary team approach and direct assessment of physical needs. Experts mentioned by respondents that should be included in this multi-disciplinary team, include child and adolescent psychiatrists, paediatric neurologists, developmental paediatricians, psychologists, social workers, occupational therapists, physiotherapists, speech and language therapists, audiologists, and dieticians.

6.3.3 Sub-Theme 3.3: Specialised Multidisciplinary Approach

The psycho-legal respondents strongly recommended a multidisciplinary approach when dealing with SNCs. These children face a broad range of conditions, including physical, emotional, intellectual, and developmental challenges. Each professional brings a unique perspective that is critical for understanding the child's condition and developing effective management strategies.

So, I would say that is definitely an area that you could promote, that they should consider and speak to all treating professionals, whether they are medical, whether they are ancillary, whatever, whatever. (Clinical Psychologist 3)

A key element of this network, according to respondents, is the specialised expertise of medical professionals such as physiotherapists, occupational therapists, and developmental paediatricians, as they offer indispensable assessments of the child's physical, cognitive, and emotional requirements. Their comprehensive evaluations and ongoing consultations become

the building blocks of effective parenting plans, ensuring that financial, custodial, and educational decisions align with the child's best interest in terms of their health.

There's no ways that you will be able to do a proper job regarding a special needs child where there is conflict between the parents. Obviously, if there is no conflict, it won't even end up here, but when there is an issue about the child, you cannot – we cannot just do justice to the process from our side. No mediator on his or her own can do that. There will be – it will go outside that environment. You will have to involve, definitely the school, any – like you say – occupational therapist, speech therapist – all those people must be involved at the end of the day ... (Family Advocate 1)

Legal professionals, including family advocates, play a pivotal role in crafting parenting plans that consider the child's specific circumstances. Nonetheless, they lack the qualifications of mental health specialists and generally do not possess the requisite expertise in behavioural and social sciences or medicine to assess relevant clinical information and comprehend its effects on a child's life and parenting capabilities. Consequently, respondents strongly advised that legal practitioners engage a diverse array of expertise. The court may consider material from the child's educators, therapists, or other healthcare experts actively involved in the child's treatment, including academic and medical records. These experts can deliver the clinical assessment required to accurately appraise the information pertinent to a conclusive custody decision and parenting arrangement. Legal professionals' collaboration within a multidisciplinary network ensures that legal decisions reflect the nuanced needs of SNCs. Multidisciplinary input is particularly valuable in cases where a child may not be able to express their preferences or experiences verbally.

When we have the intellectually handicapped children, that is a difficult thing. We have the benefit of having family counsellors, social workers that

are in our employment that are available. So, if you have a situation like that, you will do it as a multi-disciplinary team, that is the way to deal with it, and the social worker will basically attend to the voice of the child part.

(Family Advocate 1)

Respondents described how they frequently negotiated complex maintenance agreements to balance the SNC's ongoing medical and therapeutic needs with the financial realities of each parent. They often had to facilitate additional legal measures, such as appointing curators, as part of long-term planning for children who may require specialised care well into adulthood. Children cannot conduct themselves in legal proceedings, especially not SNCs. According to the South African Constitution and the Children's Act, a curator *ad litem* can be appointed to legally assist children in litigation and "to avoid injustice" (Boezaart, 2013).

Parenting plans should continue after the child reaches an age of maturity, and you can motivate why, and very often it may be helpful to also make provision for the appointment of a curator or an administrator should the parents need one after the age of 18. (Social Worker 1)

Mental health specialists play a crucial role in the preparation of parenting plans. Respondents mentioned the importance of mental health specialists such as family counsellors, social workers, psychologists, and medical doctors or specialists. These specialists are essential for comprehending and making recommendations regarding the physical, medical, mental, emotional, and practical requirements of the child, especially in cases involving psychological issues such as MDD, ADHD, or ASD.

I think there is a whole – there is a huge gap in terms of training in respect of the needs of children per se, to set out in parenting plans and the reality is there is no such training really readily available, and one relies on the

expertise of mental health professionals to assist in that regard to indicate and to evaluate the specific needs to incorporate that in a parenting plan.

(Social Worker 1)

... if it's a mental health professional drafting the parenting plan, I would suggest that a clinical opinion of some sort, either it be a doctor, or a clinical psychologist, or a clinical opinion other than a systemic social work view. (Social Worker 1)

These quotes highlight the role of mental health professionals, such as clinical psychologists or doctors, in the consultation network, aligning with the sub-theme's emphasis on involving such specialists in creating parenting plans in terms of their clinical knowledge and expertise.

After an independent and suitably qualified child expert ascertained the child's voice, mediators, particularly in family law, play a vital role in facilitating agreements between parties, focussing on the child's best interest.

So, I wouldn't deal with it alone in terms of the parenting plan solely, or if a parenting plan is the only mechanism that we have, I will draw in an experienced mediator, attorney to deal with the financial aspects of the parenting plan ... (Social Worker 1)

You ultimately, as the mediator, you are here to help the parent find a schedule, a system, an approach, or whatever, okay, that works for them and is, so to say, in the children or child's best interest, and in the child's best interest would mean it would work for the parents too. (Clinical Psychologist 2)

... I think either way, the mediator would come up with creative ideas in terms of how to best meet the needs of the child ... when parents are

divorcing, there is very little trust between them. The communication has broken down. So, the mediator can assist them as acting as somebody that is not polarised. (Educational Psychologist 1)

These comments elaborate on the role of mediators in facilitating communication and incorporating their perspectives into the parenting plan. They align with the sub-theme's emphasis on the child-centric approach and the mediator's role in gathering unfiltered information.

I always, always speak to doctors or specialists who have been dealing with the children to find out what the implications are of any chronic or congenital condition that the children have. That is one of my primary things ... I go to the treating professionals. Whether it is the OT in terms of a physical disability that they are attending OT, or the physician who is treating them, or the psychiatrist who is treating ADHD. I always go to those professionals to get information. I am sure you have done that about the child's condition and how that will impact the arrangement in a parenting plan. (Clinical Psychologist 3)

This detailed response clearly and directly highlights the multidisciplinary approach involving all professionals, aligning with the sub-theme's emphasis on consultation networks. Physiotherapists should be included in the consultation network for parenting plans, particularly in cases where a child has physical needs or disabilities. Physiotherapists bring specialised expertise in assessing and addressing the physical challenges and requirements of children, such as wheelchairs or assistive devices, which are vital for creating effective and supportive parenting plans.

In line with a multidisciplinary approach, three respondents highlighted the importance of making provision for assistance and support in parenting plans when stating:

... if you have got a child with a disability, if they are more vulnerable than other children, I think you need to ensure that they are placed correctly at school. You cannot put a child in a wheelchair in a school that is known for not following up on bullying, you know? (Educational Psychologist 1)

... he could only really use his hands, and he could move his head, but he was provided with a very, very nice wheelchair, and he ended up doing a tertiary degree in maths ... So, I think with the correct support, *ja* (yes), with the correct ... I think it is about support. (Educational Psychologist 1)

How does the child get transported there and back, you know? Kind of, are their cars equipped to actually manage that? Okay, a child that is quadriplegic, obviously, you can pick the child up, put them in the car, strap them, and that sort of thing. (Clinical Psychologist 2)

Furthermore, specialists such as occupational therapists need to be involved, especially for children with conditions like ASD, to provide detailed assessments and recommendations in terms of the daily functioning of the child.

Same with the occupational therapist, I mean, the OT would know best what the child's physical needs are, and if there are any other doctors, I mean, if there's medication that's being prescribed, definitely the doctors need to step in. I mean, we don't know. That is not our field of expertise, and you can't always rely on the parents to give accurate information.

(Attorney 1)

This quote directly highlights the expertise of occupational therapists in understanding and addressing a child's physical needs and aligning with the sub-theme's emphasis on including them in the consultation network. It also recognises the limitations of other professionals in this specific area.

Caregivers are another essential component of the support network. Parenting plans must consider their role, ensuring adequate financial support, training, and respite for primary caregivers who become integral to the child's daily life. However, when a child's condition necessitates constant care, it can lead to financial hardship, especially for single parents and those lacking extended family support. Incorporating provisions for caregiver support in parenting plans helps to ensure that the child's needs are consistently met without jeopardising the primary caregiver's well-being.

I mean, children that have disabilities of whatever sort – special needs – they require a lot of extra caregiving and assistance. That is not dealt with at all in our parenting plans, and there's no division of that labour either. So, very often it ends up just falling automatically to the primary caregiver, which in 99 per cent of the cases is the mum. (Attorney 1)

This quote clearly emphasises the increased need for secondary caregiving and assistance for SNCs, which is often not addressed in parenting plans and falls upon the primary caregiver. It aligns with the sub-theme's emphasis on ensuring support for caregivers and addressing the division of labour.

... the nanny has to be included. I mean, there is one parent gone, the mother works, the mother's support was the nanny ... the medical expenses must be included for someone who – I mean, I had to include my personal ideas – it must be there, because they are expensive expenditure if you don't have it in place. Especially, if you are used – your financial assistance has been there all the time, and now it is gone. (Attorney 4)

This response illustrates the importance of including non-parent caregivers employed by families with SNCs, such as nannies, *au pairs*, facilitators, and tutors, in parenting plans, and considering the financial implications (salary) thereof. This quote aligns with the sub-

theme's focus on integrating caregivers into the child's life and recognising the logistical and financial aspects of caregiving.

Family counsellors based at the Office of the Family Advocate and social workers become the child's intermediaries, observing interactions and offering unbiased assessments without the distraction and influence of parental conflict. Social workers act as vital liaisons, bridging the gap between families, schools, and professionals. They identify any unmet needs, investigate the home environment, and provide insights into the child's progress and comfort level with potential living arrangements.

Social workers ... they have some sort of exposure, obviously, to people with disabilities and then children. (Family Advocate 1)

6.4 Theme 4: Developing Parenting Plans for Special Needs Children

This theme revolves around the intricacies of crafting a tailored parenting plan that meets the unique requirements of an SNC and is illustrated by the following quotations:

I do not know that in its current form, in the Children's Act, the parenting plan standards, let us say really actually address special needs at all ... I do think that that is something that needs to be looked at, and because children with special needs, and it is something that when I do training on parenting plans to assist the parents with coming up with a parenting plan that is going to meet that child's needs as best as possible ... (Clinical Psychologist 2)

So, it's the finer nuances which have to be taken into consideration when there is a child with a disability in a family. (Attorney 4)

... when you are drafting a parenting plan, you know, where you have got these complex issues, I mean, children with special needs is a complex issue. (Clinical Psychologist 2)

The above responses illustrate that a comprehensive approach, addressing various aspects of parenting, should be followed and that case-specific needs should be considered.

6.4.1 Sub-Theme 4.1: Tailoring Parenting Plans for Specific Conditions

This sub-theme highlights the respondents' observations that each child has specific needs, regardless of their developmental, mental, or physical disabilities. After each child has been evaluated and assessed to understand their individual requirements to function optimally, a parenting plan should be created to meet those needs.

... very often in complex families, there needs to be individual plans for separate children within the plan. It may be that the one child cannot move into the same contact with the most of the others. So, the – it's impossible that a generic plan can fit the needs of all children and, very specifically, children with unique, special needs. So no, it's not possible. One needs to take and make a plan for a family and, in particular, a child with special needs. (Social Worker 1)

Due to the varying spectrum of special needs, parenting plans should be crafted with a deep understanding of each child's specific condition. Such customised plans ensure the child's physical and mental well-being, encompassing necessary medical and other practical arrangements, as emphasised by the quotation below:

[I]n terms of the parents' capacity, their physical arrangements, like the car, physical ... What is dad's home like? For example, are there a lot of stairs? You know, is this house wheelchair-friendly? You know, kind of, it could be that the child has a carer, okay? So, is the carer prepared to move between the two homes? You know, you cannot just write that into a parenting plan and you have not spoken to the carer. (Clinical Psychologist 2)

Price (2012) stated that if a child has difficulty handling transitions, a standard visitation schedule can be highly inappropriate. When necessary equipment is in only one of the households, overnight visitations can become an issue. She suggests that, where there are non-disabled children in the family, a creative visitation scheme in which each child has a regular recurring one-on-one visitation block with each parent may be beneficial. The schedules of the primary and non-primary contacts should be considered when designing the visitation schedule.

SNCs often require one or more types of therapy, and the parenting schedule should ensure that the child is reliably taken to all treatment and therapy sessions. Individualised care plans tailored to the unique needs of each child are crucial, emphasising the role of collaborative decision-making to ensure comprehensive support and care.

I think every family is unique, and I don't believe in a template for parenting plans. There are obviously legal criteria that we need to adhere to, but the guidelines that I absolutely follow in terms of care and contact arrangements, twofold, will be the capacity of the child to move between two homes, the capacity of the parents to fulfil in the specific needs of the child in equal manner - in a similar way - otherwise we need to focus on the strengths and the weaknesses of the carers in terms of determining where the child's special needs will be best met. (Social Worker 1)

This quote underscores the uniqueness of each family and the need for a case-specific approach. It emphasises that the child's specific needs and capacities, as well as the parents' abilities to meet them, should be considered, aligning with the sub-theme's focus on addressing individual requirements.

... that is the problem ... because what I can see now is that there is absolutely a big gap because the case of the special needs child you will

have to conduct – depending on the level – we are now talking about the serious disabilities – despite the fact that you are not supposed to conduct an investigation after the parenting plan has been reached, the voice of the child should be – in our view, I think the act is perhaps wide enough to interpret what I’m now going to say or to include that, but if you look at how – and everybody’s doing it like this, even the smart mediators ... everybody, they all just involve the child specifically, but you will have to basically do an investigation to see if there is an alignment between what the parents have agreed upon and what the best interests of the child are, it is really indeed so. (Family Advocate 1)

This response acknowledges the limitations of generic plans and underscores the need for a nuanced understanding of the child’s specific circumstances. It highlights the importance of going beyond surface-level involvement, actively investigating the child’s needs to meet their best interests. Given the complexities of time-sharing arrangements, parenting plans must be thoroughly reviewed and adapted to meet the SNC’s medical, educational, and emotional needs. A key aspect of a parenting plan is the need for flexibility, as circumstances are likely to change over time.

Consequently, the parents of the child with ADHD must identify and concur on desired behaviours and corresponding penalties applicable in both households. Without such an agreement, a collaborative parenting plan may be unfeasible. The arrangement of the residences must be considered, as children with ADHD may struggle to acclimatise to overly stimulating situations, which might arise with the introduction of additional stepchildren or siblings. Due to the intrinsic challenges associated with cognitive flexibility and adaptability in ADHD, these children frequently struggle with transitions between environments. Children with ADHD may exhibit a delayed adjustment when transitioning between households,

particularly when there are disparities between the two settings. Consequently, care and contact arrangements that include more frequent transitions between residences are frequently troublesome. Mid-week transitions are especially challenging, as these children require consistent routines to fulfil the expectations of school. Children with ADHD often misplace assignments, books, and other educational materials, and they also encounter difficulties in completing homework and projects punctually (Pickar & Kaufman, 2015).

6.4.2 Sub-Theme 4.2 Reviewing Parenting Plans

This sub-theme captures the idea that parenting plans, especially for SNCs, should be revisited and potentially revised as the child grows older or as their circumstances change. According to psycho-legal respondents, parents expect various psycho-legal professionals to revise the parenting plan. Even with the most meticulous planning, unforeseen challenges arise. Parenting plans may require frequent review and adjustment, particularly as a child's ages or their needs evolve.

The importance of having the parenting plan reviewed regularly, especially as the child with challenges maybe, you know, gains further skills or, you know, to some extent, you know, that is also important. (Clinical Psychologist 2)

It depends on the age of the child, but I think you can either just review it when necessary. *Ja* (yes), I think when necessary. Because if a child with cerebral palsy, let us say they are 16, they should at least have stabilised ...

It needs to be according to the child's specific needs and the child's context as well. (Educational Psychologist 1)

For example, ADHD is not a static condition. As the child matures, behavioural correlates often fluctuate due to the development of compensatory coping strategies, the varying efficacy of medical, behavioural, and educational interventions, and the enhancement

of parental skills (Benzies et al., 2023). These changes will necessitate regular reassessment of the parenting plan. Parenting a child with ADHD post-divorce requires greater coordination and collaboration than usual to provide the structure, consistency, and predictability these children need to thrive. Both literature (Cao et al., 2022) and respondents underscored the importance of ongoing professional input and a willingness to adapt plans based on the child's progress. Therapists and educators can provide invaluable feedback on the effectiveness of the parenting plan, indicating whether changes would benefit the child.

The provisions of the Children's Act lapse when a child turns 18, except in specific circumstances like disability. According to the Act, when a child reaches the age of 18 years, they become independent. There are exceptions, for example, when a child is still furthering their education, or the child is mentally or physically dependent on a parent, guardian, or caregiver.

So, maybe, including that in your parenting plan as a matter of course, that you cannot just abdicate responsibility by virtue of the age of 18 or once they have finished a course or whatever, if they are not able to self-sustain.
(Clinical Psychologist 2)

Significant changes in family circumstances, such as the death of one or both parents, can necessitate a review of the arrangements. Parenting plans for SNCs often require long-term considerations, including amendments to parents' wills and the potential appointment of a curator or administrator for the child, as the conditions could lead to lifelong dependency and the need for support (Boezaart, 2013).

So, if children's circumstances change ... the question is: how do you address changes? What we did in that case, if I remember correctly, is to ask the family counsellor and the social worker, just to establish from collaterals ... that is the housing circumstances. This is how the child was

dealt with and, obviously, if the child is at an institution, then you have very good – you can get information and I think in that case the child was at Jannie Brink ... one of the schools here, so you could contact the school and just confirm how the child is progressing that side, what exactly is going on, they have actually more information about the parents than what we will ever get because they know how this child operates for a year, two, three, four years, involved with the parents, etcetera, etcetera. (Family Advocate 1)

This quote highlights the role of professionals such as family counsellors, social workers, and educators in reviewing parenting plans. This statement aligns with the sub-theme's emphasis on gathering information about the child's living and schooling environment, progress, and family dynamics, which is crucial for adapting the plan.

... as far as the Children's Act is concerned, it lapses when the child is 18 years old. It's one of those ironic things ... we can deal with dependent children during divorce matters who are older than 18 years old ... you can do the financial arrangements for a 22-year-old in a divorce matter, but if the child has a disability ... nobody knows, are we really going to talk about care and contact because "don't you need a curator?" That is what you actually do need there ... (Family Advocate 1)

This quote emphasises that, while the provisions of the Children's Act generally lapse for adults, exceptions exist for dependent SNCs, allowing for the continued review of care and contact arrangements in parenting plans. This point reflects the sub-theme's focus on addressing the unique and evolving needs of SNCs throughout their lifetime.

Revision, or the input – the direct input of the therapist regarding the child’s changing needs if they feel that a change is validated that need it.

(Social Worker 1)

I think a sensitivity – that is not an easy document to draw up, and I think sensitivity that what we put in place for children has got a long-term effect on their well-being. That it is a huge responsibility to ensure the children are looked after post-divorce in two systems. (Social Worker 1)

... ask the family councillor, the social worker, just to establish from collaterals, meaning you can do a home visit ... ask collateral, interview collateral people ... contact the school and just confirm how the child is progressing that side. (Family Advocate 1)

6.4.3 Sub-Theme 4.3: A Stable and Inclusive Educational Environment.

The absence of dependable school enrolment statistics about SNCs considerably impairs South Africa’s capacity to provide high-quality, inclusive primary and secondary education for SNCs. An estimated 600,000 SNCs in South Africa are not enrolled in school.

Government data (Department of Basic Education, 2015) indicates that in 2015, around 121,500 SNCs attended “regular” schools. More than 119,500 students were registered in special schools, and in 2015, about 11,500 SNCs were on waiting lists for admission to these institutions. The South African Constitution does not inherently guarantee the right to free education; nonetheless, most children enrolled in public schools are exempt from paying school fees, although most SNCs in public special schools are required to pay fees. Numerous SNCs enrolled in mainstream schools incur supplementary fees that are not levied on their non-disabled counterparts (Human Rights Watch, 2015). Between 2002 and 2022, the number of special schools rose from 295 to 489 and that of full-service schools expanded from 30 to 832 (Department of Basic Education, 2023). During the same time, the

population of SNCs in ordinary public schools grew from 77,000 to 121,461, and the number of students enrolled in special schools surged from 435 to 137,483.

Many parents cannot afford to send their SNCs to school and pay for their transport or accommodation. They have no option but to keep them at home, preventing parents from earning an income. Special schools also have prohibitively expensive fees for families living on grants and caregivers who are unemployed.

Within this context, this sub-theme emphasises the complex considerations involved in crafting parental plans for the schooling of SNCs. It underscores the need to ensure that the child's education remains uninterrupted and unaffected by parental arrangements. The stability of the child's environment, both at school and at home, is crucial, requiring an assessment of parental dynamics and their impact on the child. Additionally, socioeconomic factors may influence access to appropriate educational resources and support for SNCs. Hence, parenting plans should incorporate equitable arrangements for visitation, allowing the primary caregiver respite while fulfilling the child's needs. Psycho-legal respondents acknowledged the challenge of finding suitable educational institutions that cater to the needs of SNCs, including age limitations and transitions between specialised facilities.

This sub-theme also reflects all the respondents' belief that an SNC needs a stable environment while receiving an education. Their education requires a specialised approach, involving professionals such as remedial teachers and occupational therapists to meet their unique needs.

Within the parenting plan, one would cover aspects such as being part of the school: supporting the child in education. (Social Worker 1)

[What] we did was to ensure that the child's schooling or being in that institution is not really affected negatively by this parenting plan – it continued on the same basis (Family Advocate 1)

This quote underlines the importance of minimising disruption to the child’s existing educational setting. It must be ensured that the parenting plan does not negatively impact the child’s schooling.

You know, if we just look at the child’s needs – level of disability – as he then goes to school maybe; many of them come to Elcon school, but they are seen as a school that takes disabled children. And then you get those who go to Yonder or have to go to Jannie Brink school. I always say it is probably a good thing that they ... are in school. But, I know many of the places also have a certain age limit, then after that the child can’t come there any more or they get transferred to ... limited institutions. (Attorney 4)

This respondent touches upon several key aspects of the sub-theme: “the child’s needs – level of disability – as he then goes to school”. This quotation reflects the sub-theme’s focus on considering individual needs and finding suitable educational institutions that cater to those needs. This quotation directly addresses the sub-theme’s concern regarding finding appropriate and affordable educational resources for SNCs.

6.4.4 Sub-Theme 4.4: Specialised Training for Legal Professionals

This sub-theme captures the need for specific programmes or training for legal professionals who work with SNCs affected by divorce, emphasising the importance of specialised knowledge and skills in dealing with various disabilities. While formal training may often be lacking, psycho-legal respondents agreed that experience serves as a significant learning tool for legal professionals handling cases with SNCs. This experience provides the knowledge and insight needed for legal professionals to effectively represent and safeguard the interests of SNCs and their families.

So, they are also – all of us, in reality – are just learning as we go along and try and get the best practice from that. (Family Advocate 1)

Attorney 2 and Attorney 4 highlighted this by stating:

It needs to be a practical type thing, you know, a guideline: how to work with children and what to look out for and what to plan for. How, how to deal with that separation and or divorce. (Attorney 2)

We don't have intensive, physical, or a special degree, a small degree which can say "I am focused and specialised on disabled and parent learning", but my degree gives me a wide enough scope to be able to say, "Listen here, I can help them." But, as soon as I see it gets a bit more intense and more specialised, we normally refer [to psychologists or social workers] so that someone can assist us with a parenting plan. (Attorney 4)

Effective training and therapy are crucial to ensure that the child's best interest is met in every aspect of their care.

I think there would also have to be some sort of training as to how to talk to the children and to understand them, because often in these family matters, you have to, at some point, interview the kids or you deal with them at some point somehow. So, interaction: taught how to interact with the children. Also, for an understanding of what we're supposed to be looking for and how you can get that information. (Attorney 1)

This quote reflects the importance of training professionals to communicate and interact effectively with SNCs, especially in family matters such as divorce proceedings.

Despite their best efforts, all the legal respondents acknowledged their limitations in understanding complex medical or psychological issues. They openly stressed the importance of collaborating with specialists, highlighting a need for increased training in addressing the

intricate requirements of SNCs. This ongoing learning process underscores the evolving nature of providing holistic care for children within complex family dynamics.

... lawyers don't have any conflict training at all. I mean, I teach that in mediation training to lawyers and psychologists, but we don't get special training in terms of that, so when we're working with special needs – I mean, for me, it will be amazing if we get more information that is accessible. (Attorney 2)

6.4.5 Sub-Theme 4.5: Time-Sharing Arrangements

This sub-theme, in the context of parenting plans for SNCs, involves several key considerations, as highlighted by FR's comment:

So, when you have got a complex situation where you have got more than one child, ultimately what I will do is I will try and help the parents to design a contact schedule that meets both the children's needs, and that may mean that the children are not always together ... Because the child who is fully abled, fully functioning, whatever, you know, whatever the situation is, their needs are just as important and they may well or may not, I mean it is not a given and not an assumption either, it is something that one has to consider. The one that is not challenged in any way may well just need time alone with each parent. And so, the contact schedule becomes quite complex then, but still trying to keep the children together as much as possible while meeting each of the individual children's needs.

(Family Advocate 2)

Respondents described how, in many cases involving SNCs, existing arrangements such as medical visits often dictate time-sharing. Parents generally agree to continue these arrangements if they are working well. When an SNC resides in an institution, the institution

usually regulates contact and visitation. Having the institution regulate contact can simplify the process of developing the parenting plan.

Professionals involved in the development of parenting plans often have to navigate the intricacies of visitation rights.

It becomes really quite nuanced because you have got to then almost, and also look at the parents and their capacity to meet the child's needs ... things like catheters and – so you might have a little girl who is a quadriplegic, okay, and she needs to be catheterised, and the father is not comfortable doing that. Okay, so you need to then structure the contact schedule around a factor like that, maybe ... (Clinical Psychologist 2)

Professionals may need to step in to direct time-sharing arrangements if parents cannot agree, such as in deciding holiday schedules. Time-sharing is not just about visitation; it also involves times when the non-primary parent takes over caregiving to give the primary parent a break. The time-sharing schedule will depend on the working hours and capabilities of both parents.

I think, one of the big ones is: what are the parents' capacities? You know, what can they cope with? I do not, you know, if a mom says she cannot manage, because there is this one child who is struggling with serious behavioural issues, you know, for example, and this is one that I think is often missed is if you have got a child that is ADHD, okay, or you have got a child on the autistic spectrum and one of the parents just does not cope well with that child's behaviour over a sustained period of time ... (Clinical Psychologist 2)

... one of the parents does not manage, for example, doing homework well with that child, one has to consider that when doing the parenting plan.

(Educational Psychologist 1)

The financial situation of each parent can influence the time-sharing arrangement, as one parent cannot necessarily afford to make adjustments to the home for wheelchairs or does not necessarily have a vehicle large enough to take their child for medical visits or to school. The best interest of the child is a broad concept that includes emotional, physical, and educational needs. Each aspect needs to be considered individually in the parenting plan. Every family is unique, and there is no one-size-fits-all template for parenting plans.

The child's ability to move between homes and the parents' capability to meet the child's needs are crucial factors.

So, I've been involved in parenting plans where children are being diagnosed as on the autistic spectrum many, many times, and they struggle to move between two homes – change is traumatic for them. (Social Worker 1)

This quote emphasises the individualised approach required for time-sharing arrangements with SNCs. It highlights the importance of considering the child's ability to handle transitions between two homes and the parents' capacities to meet the child's unique needs consistently.

When it comes to contact – precisely say, that time, especially – it also depends on what type of child it is ... if it's someone with autism who is used to a routine – this is the time I must go, this is the time I must go home, is the time ... then I will say it depends on the two situations – what type of child you have. (Attorney 4)

This quote highlights the need for flexibility and customisation in time-sharing arrangements based on the specific needs of the child. It emphasises the child's individual characteristics, such as their developmental level and sensitivities. It allows for the schedule to be adapted to accommodate their need for routines and stability, highlighting the departure from a one-size-fits-all approach and the need to consider the unique circumstances of each family.

6.4.6 Sub-Theme 4.6: Financial Support and Planning

This sub-theme encompasses the complexities and considerations surrounding the financial aspects of parenting plans, especially for SNCs. These responses from psycho-legal experts highlight various challenges and strategies in addressing financial responsibilities in these scenarios:

Maintenance is a complex issue ... from a psychology point of view, not from a financial point of view, that one parent that has to forego their own fulfilment in life in order to look after a child, I would try and alleviate that responsibility by sharing it more with the other parent because I think that can be a precipitating factor in depression. So, the parent's whole life is given up just to look after a child. I would worry about the quality of the parenting that the parent would be able to deliver, given that they are not themselves feeling fulfilled in their lives. (Clinical Psychologist 3)

Integrating maintenance into parenting plans often halts the process, as maintenance becomes a contentious issue between parents and is sometimes removed from the negotiations of the parenting plan to reach an agreement.

Maintenance is, in theory, part of the process, the financial side, but the reality is, the moment you introduce maintenance into the parenting plan process, which you actually are supposed to do, the whole thing stops

because maintenance – doesn't matter what the law says – maintenance is the payment somebody must do to see the child. And, you can explain that to people, and they will accept that, and two seconds later, they will fight again about that: "You can't see the child!" So, what we usually do to get to an agreement: we try and remove the maintenance and say, "Listen, you have the maintenance court; you have the specialised court." Not the correct thing to do. (Family Advocate 1)

I am actually an accredited maintenance mediator, but I prefer not to do it, so I avoid it like the plague ... there is nothing wrong with actually sending the parents to somebody who, attorney, for example, one who is really good at mediating maintenance ... (Clinical Psychologist 1)

... a parenting plan with a child with special needs, especially when there are big financial components to meeting that child's needs, then you do need to actually sit with them and say, "Okay, what do we need to consider financially? You know, how is it going to go forward?". Also, things like the long-term care of the child financially and to start addressing that with the parents ... bearing in mind that the Children's Act says that parents are financially responsible for their children until their children are self-sufficient. (Clinical Psychologist 2)

And then, the one partner says but he is going to stop paying maintenance at the age of 18, but now the parent has stopped working for 12 years of his or her life. So, there is, and it impacts on the resentment, and the children also suffer because, *ja* (yes), and there is no real provision made for that in parenting plans in South Africa. (Clinical Psychologist 2)

And, maybe, you can come up with a great plan and say, “Okay, I tell you what, you have got much more money than you, so why do not you pay 80% for the wheelchair and you pay 20% for the wheelchair?” (Educational Psychologist 1)

Psycho-legal respondents emphasised the need for detailed financial planning for SNCs, including considerations for therapy, medical expenses, and other related costs. Addressing financial support for SNCs in divorce cases is complex, and sometimes a curator is recommended for managing personal, legal, and financial matters. Legal respondents suggested that parenting plans should have specific provisions for SNCs, separate from general maintenance clauses. The division of medical expenses and caregiving responsibilities often falls unevenly, usually on the primary caregiver, who is typically the mother. The financial needs of SNCs are higher than those of other children, requiring more detailed and long-term financial planning in parenting plans.

There was a call from the psycho-legal respondents for more government assistance and legal provisions to support the financial needs of SNCs (and later possibly as adult dependents).

The Children’s Act says that parents are financially responsible for their children until their children are self-sufficient; it does not put an age to that. It does not say once they turn 18 and reach majority, they are now, you know, kind of, they do not have to financially support them. So, in actual fact, yes. Now that we talk about it, most definitely because that child will probably never be self-sufficient, you know? (Clinical Psychologist 2)

Psycho-legal respondents suggested long-term financial planning, including provisions in parents’ wills and the potential need for a curator or administrator after the child reaches adulthood.

The parent who earns more pays more. It's not 50/50 anymore like it was in the past, but I suppose it would have to be dealt with on a case-by-case basis if it would be possible. If the law changed and the government could also subsidise some of that, that would be helpful, or make some sort of medical provision available to cover some of those costs, you know, obviously, because there's one income. But, I don't know the answer of how that would be done. (Attorney 1)

... parents should really give us a lot of detail. And, it's more difficult when children, for example, are not on a medical plan or on some specific assistance. But *ja* (yes), I think there should be made very specific provision for unknown medical expenses and ... specific needs in terms of that. (Attorney 2)

These quotes directly address the need for detailed financial planning in the parenting plan. It highlights the importance of considering unknown medical expenses and specific needs associated with the child's disability, emphasising the inadequacy of solely relying on general information provided by parents.

One girl needed nappies, she had a special feeding – or those little bags (I can't even remember what it was) – I included that in mine and then especially included hospital expense ... their well-being is normally a bit less than a normal child's immunity, and that, that they can cover a full hospital plan with all aspects inclusive of pharmacy and after hours, day-to-day, in case if they have extra needs like nappies or feeding or maybe, medication because a lot of their medication is, is excessively expensive; so that it can make provision for those expenses. (Attorney 4)

This quote provides a concrete example of incorporating specific needs in the financial component of the plan. It mentions details like diapers, special feeding supplies, and comprehensive medical coverage, demonstrating how the plan can address the unique expenses associated with caring for an SNC. It highlights the need for detailed and specific financial planning that considers the unique needs and potential future costs of SNCs in parenting plans. This statement illustrates how the plan can go beyond basic maintenance to address the specific financial realities of raising an SNC.

6.5 Theme 5: Interpretation of the Best Interest of the Special Needs Child

This sub-theme addresses the concept of the “best interest of the child” within legal processes and psycho-legal practices. It encapsulates the discrepancies between legal interpretations and the actual needs of the child. All the psycho-legal respondents noted that the best interest principle is often vague and subject to varied interpretations, sometimes being manipulated to serve specific agendas.

The focus of this sub-theme is on understanding and addressing the child’s emotional, physical, and familial needs holistically, rather than just legally. All the respondents suggested that the best interest of the child should be interpreted and applied with specificity and context. Rather than a blanket application, it should be tailored to the unique emotional, physical, and relational needs of each child.

The psycho-legal respondents acknowledged that the legal system may not always align with the child’s best interest. Psycho-legal professionals should bridge this gap by focussing on the child’s stable environment, school performance, and the quality of parental interaction. The principle should not be used loosely or as a tool to achieve a certain outcome. Instead, the details regarding what constitutes the child’s best interest in various aspects of their life should be carefully considered.

Psycho-legal professionals should consider the child's life history, current circumstances, and prognostic indicators to make informed decisions about their welfare. Considerations should include the child's routine, comfort with caregivers, and response to changes in their environment, especially for children with ASD. All psycho-legal respondents recommended a more integrated approach where legal and psycho-legal practitioners work together to serve the child's best interests. This approach may involve various experts like psychologists who work with children, educational consultants, and family therapists, to provide a comprehensive view of the child's needs. In cases where the legal interpretation of the child's best interest conflicts with the child's actual needs, a more nuanced approach is advised. This involves re-evaluating the case, focussing on the child's mental and emotional health, stability, and overall well-being, rather than strictly adhering to conventional legal precedents or processes.

I think that the best interest of the child, the concept, is a very complex one. It is not simply just okay, this looks like it is best for the child type of thing because actually, if I dare to say, what works for the parents will impact on the – or not work for the parents will impact on the child. So, it is a far more complex and nuanced aspect, principle ... we do not want to be super-prescriptive and make, and be like a real nanny state. I do not know that, in its current form, in the Children's Act, the parenting plan standards actually address special needs at all. (Clinical Psychologist 1)

... one has to carefully look at what is in the best interest of the child in that moment, and to ascertain that for myself, I often look at the child's life up to that point. I try to identify the child's stable environment: whether the child is okay at school, the interaction between the parents, and how that affects the child, whether the parents are able to deal with each other

properly or not, and if they argue and fight, does that take place in front of the child? (Attorney 1)

These quotes directly illustrate the sub-theme's emphasis upon specifically considering the child's individual needs in various aspects of their life, including whether the child is in a stable environment, their school performance, and the quality of the parents' interactions with each other. It also highlights the importance of focussing on the child's emotional well-being beyond just the legal requirements.

I think the best interest principle – if you pardon me – is as vague as the reader who interprets it. It is absolutely open for interpretation by lawyers, it's subject to almost abuse to serve a certain agenda – I think it's loosely used by professionals to gain a certain outcome. The best interest principle is not contextualised and operationalised in a sense to actually serve the children that we are dealing with. So, one needs to be very, very careful when you refer to the best interest of a child – you need to be specific – the best interest in terms of emotional functioning, the best interest in terms of physical care, the best interest in terms of contact with both parents, extended family members etcetera, etcetera, etcetera. So, I think that's one of the terms that's abused in our legal system. (Social Worker 1)

This respondent addresses several key points from the sub-theme and criticises the vagueness and potential manipulation of the “best interest of the child” principle, aligning with the sub-theme's call for careful interpretation and application. The respondent also advocates for a contextualised and specific approach to the child's best interest, considering various aspects like emotional, physical, and relational needs. Finally, it highlights the need to avoid loose interpretations and to rather strive for a more nuanced approach that prioritises

the child's actual well-being, covering various elements in a holistic way over legal precedents.

6.6 Conclusion

Navigating the complexities of legal and caregiving needs for SNCs demands a collective, integrated, and multidisciplinary approach. By harnessing professional expertise, encouraging parental participation, and promoting school inclusivity, we can ensure a child-centric approach that truly meets their comprehensive needs. Parenting plans should be crafted with an in-depth understanding of the child's specific condition, ensuring their physical and mental well-being and including the necessary medical, educational, financial, and living arrangements that consider the need for stability and routine. In the end, participants emphasised the importance of crafting an individualised parenting plan that ensures the mental and physical well-being of the child.

The following chapter will explore the experiences of parents involved in the development of parenting plans for their SNCs.

Chapter 7 Findings and Discussion of Interviews With Parents – Results Part 2

Chapter 7 covers parents' experiences with care and custody planning for SNCs, detailing the current care and contact landscape in South Africa. To determine the best practices for developing parenting plans for SNCs in South Africa and to create a guideline to assist the courts, it was imperative to include the parents of SNCs.

Initially, the study aimed to interview six co-parent couples of SNCs who have experienced the process of co-developing parenting plans for their child(ren). However, due to conflict between co-parents, only one co-parent couple was willing to participate in the research project during the purposive sampling process. All other respondents were individuals who were either divorced or separated and had an SNC(-s). One parent participated in only the first interview. Over 8 hours of interviews were conducted, and 115 pages were transcribed.

The following eight parents shared their experiences with parenting plans for their SNCs after divorce or separation:

- SB:

Mr SB is a white, English-speaking man from the Western Cape Province. He has a 10-year-old son who has been diagnosed with ASD. Primary residence has been awarded to his son's mother.

- JB:

Mr JB is a white, English-speaking male from the Northern Cape Province whose 13-year-old son has been diagnosed with ADHD, anxiety disorder, and learning disabilities. His son's primary residency was with his mother, while JB has regular access and visitation rights.

- CVV:

Ms CVV is a white, Afrikaans-speaking female from the Free State Province. She had two SNCs. Her son, age 23, had a learning disability, and her daughter, age 17, had been diagnosed with ADHD. Primary residency of the two children had been awarded to CVV.

- NM:

Ms NM is a Xhosa female from the Northern Cape Province. Her son had been diagnosed with CP and had passed away just before his 18th birthday. Her son's father had abandoned them after his birth and was never involved in their son's life. NM only participated in the first round of interviews.

- MV:

Ms MV is a white, Afrikaans-speaking female from Mpumalanga whose 9-year-old son has been diagnosed with ASD and oppositional defiant disorder. Her son resides with her.

- LoC:

Ms LoC is a white, Afrikaans-speaking female from Gauteng, whose 9-year-old daughter had been diagnosed with a chromosomal abnormality. LoC had primary residency.

- SBa:

Mr SBa is a white, English-speaking male from the Western Cape Province whose son, age 10, had been diagnosed with ADHD. He was also presumed to have autistic traits, but this diagnosis had not been confirmed. The parents had joint residency.

- SaB:

Ms SaB is a white, English-speaking female from the Northern Cape Province. Her son, age 12, has been diagnosed with ADHD, anxiety disorder, and dysgraphia. Her son resides with her and visits his father every second weekend.

Table 7.1

A Summary of the Organising and Sub-Themes Extracted From the Interviews With Divorced Parents of Special Needs Children

| Organising Theme | Sub-Themes |
|---|---|
| Theme 1 Defining special needs | <ol style="list-style-type: none"> 1. Intellectual and mental disabilities and specific learning disorders 2. Neurodevelopmental disorders 3. Physical disabilities |
| Theme 2 The challenges faced by divorced parents of special needs children in South Africa | <ol style="list-style-type: none"> 1. Accepting a diagnosis 2. Education for special needs children 3. Government financial support 4. Access to specialised treatment 5. Uninvolved and non-compliant co-parents 6. Unstable households 7. Children's adjustments and reactions to divorce 8. Insufficient and unreliable financial contributions from co-parents 9. Single parents' sacrifices 10. Single parents' access to mental health support 11. Court interventions 12. Misuse of the phrase "the best interest of the child" |
| Theme 3 The essential support network | <ol style="list-style-type: none"> 1. Child advocate offices 2. Caregivers 3. Family 4. Mediators 5. Legal experts 6. Physiotherapists 7. Mental health specialists |
| Theme 4 Developing parenting plans for special needs children | <ol style="list-style-type: none"> 1. The absence of a formal parenting plan 2. Professional assessment and diagnosis 3. Case-specific needs 4. Stable and inclusive educational environments 5. Parents educated through experience 6. The child's access to treatment 7. Including the child's preferences 8. Specialised training for caregivers 9. Strict rules for parents 10. Time-sharing arrangements 11. Reviewing the parenting plan 12. Financial support and planning 13. The role of communication between co-parents |
| Theme 5 Parental responsibilities and rights | <ol style="list-style-type: none"> 1. Being a present parent |

| Organising Theme | Sub-Themes |
|------------------|--|
| | <ol style="list-style-type: none"><li data-bbox="703 255 1366 322">2. Ensuring the physical and mental well-being of children<li data-bbox="703 327 1366 398">3. Children's need for social development and interaction |

The following sections will discuss each of the organising and sub-themes. They will be substantiated by paraphrased information and verbatim quotations from the respondents and selections from the literature.

7.1 Theme 1: Defining Special Needs

In this theme, we delve into the conceptualisation and definition of special needs from the parents' perspective. Special needs can encompass a wide range of characteristics and conditions. These may include intellectual and mental disabilities, specific learning disorders, NDDs, and physical disabilities. The theme aims to provide a nuanced understanding of special needs, acknowledging the diversity and complexity of this category and emphasising that special needs are not limited to a single dimension but encompass a spectrum of conditions and characteristics as experienced and expressed by the parental respondents.

7.1.1 Sub-Theme 1.1: Intellectual and Mental Disabilities and Specific Learning Disorders

This sub-theme emphasises the diverse array of disabilities that impact a child's academic performance. It includes dyslexia, general learning problems, dysgraphia, reading difficulties, ASD, and other academic challenges. The parents acknowledged the different degrees and types of mental characteristics associated with special needs, ranging from mild to severe impacts on a child's daily life and learning abilities.

Respondents described the characteristics and definitions of intellectual and mental disabilities in children, informed by their personal experiences of caring for SNCs with conditions such as ADHD, ASD, dyslexia, dysgraphia, and anxiety.

A special needs child is someone, or a child that needs extra attention in certain areas of their personality ... maybe academically, which they are struggling with. Even maybe emotionally as well. (CVV)

Special needs can range from special needs in terms of physical needs to emotional needs. (SB)

These days, you also get children that have been the victims of anxiety, trauma, stress – and even though there are no studies done or a law that says that they are special needs ... to me, they are special needs, because you need to treat them accordingly. (MV)

The above-mentioned remarks acknowledge the impact of anxiety, trauma, and stress on a child's functioning, even if not formally diagnosed. This quotation highlights the need for a broader understanding of mental characteristics that can necessitate special care and the importance of considering mental health and emotional well-being as integral to the concept of special needs. The quotes under this sub-theme address a range of mental characteristics within the definition – ASD, emotional needs, and the impact of trauma or stress – and directly reference specific aspects of mental and emotional functioning, which is the focus of this sub-theme.

7.1.2 Sub-Theme 1.2: Neurodevelopmental Disorders

This sub-theme underscores the respondents' views that special needs can manifest in various developmental aspects, ranging from physical to neurological issues. Six of the respondents' children had been diagnosed with NDDs such as ADHD, ASD, CP, and chromosomal abnormalities. NDD is a comprehensive phrase that denotes problems impacting the neurological development of children. Yeargin-Allsopp and Boyle (2002) characterise NDDs as a diverse array of conditions that exhibit shared long-term consequences of developmental delays and variations stemming from impairment to the neurological structures that influence development. The aetiology of NDDs is often unknown, with impairments perhaps arising in utero or during early childhood (Cascio, 2012). A substantial level of communication and collaboration is required among parents,

child-care providers, and medical specialists for post-separation preparation and throughout the child's life. Child custody evaluators ought to design post-separation parenting plans that address the "best interest of the child's special needs" (Saposnek et al., 2005, p. 579).

In agreement with the literature cited above, three respondents who have children with NDDs suggested an understanding that SNCs, especially those with NDDs, require a tailored approach to address the unique challenges each child faces. These disorders cover a wide range, including ASD, intellectual disabilities, and sensory impairments (e.g., vision or hearing difficulties), and present differently in each child. For example, ASD can vary greatly in severity and the types of challenges faced. NDDs can affect various aspects of a child's life, including their physical, emotional, social, and intellectual development. The level of impact on a child's daily functioning can vary significantly.

Being a father with a son that's got – in the olden days, you used to call it Asperger's, but today they just say on the spectrum. So, his special needs, if I just take a look at since we started reading up – once we learned that he was diagnosed with Asperger – his special needs to the needs of an Asperger child are totally different. (SBa)

This statement highlights key elements of the sub-theme; directly referencing an NDD (ASD, formerly Asperger's) and emphasising the variation within a specific diagnosis ("totally different"). It implies that there is a broader range of possible NDDs that necessitate special needs support.

So, I think that an atypical child is probably someone who just needs a little bit of extra help and is not so independent, but I think there are different levels. (MV)

I do not know. Look, through a lot of this, my big journey has been accepting it because, even when he was diagnosed, I always felt that he was – shall we say – on the low end, on the end of the spectrum. (SB)

Then you do have your children that's on the spectrum – you need to look at that. (MV)

The above-mentioned remarks expand the definition of special needs to include ASD, a well-established category of NDDs.

The sub-theme further captures how respondents perceived special needs in terms of developmental deviations from typical age-related milestones as outside of the norm. This definition hinges on the understanding that there are standard developmental stages for children, and special needs are identified when a child does not conform to these expected typical patterns of development and encompass a wide range of needs, including physical, intellectual, and emotional aspects. Respondents indicated that special needs are not confined to a single domain:

So special needs is any child that has a need for something out of the ordinary. (SB)

I think a child that needs, basically, like extra help in normal life circumstances ... Listen, I do not have other children, so I cannot compare. (MV)

These quotes highlight the understanding that SNCs require additional support compared to the speaker's implicit assumptions of "normal". The lack of a direct comparison in the second quotation emphasises that the child's needs fall outside the speaker's typical expectations. These quotations explicitly or implicitly centre the definition of special needs on a deviation from what is expected and indirectly reference how these differences in need impact a child's functioning in daily life.

7.1.3 Sub-Theme 1.3: Physical Disabilities

In addition to intellectual challenges, this sub-theme encompasses physical disabilities, from mobility challenges to sensory disabilities like blindness or deafness. It also recognises neurological conditions that affect physical function or communication. Special needs often involve a reliance on others for essential activities like moving, eating, or personal care. Unlike some NDDs, physical special needs are usually more visible and easily identifiable. The sub-theme refers to the respondents' understanding of special needs related to physical disabilities and limitations. One respondent had a child who was born with CP, and another parent had a daughter born with a chromosomal abnormality that affected her hearing, sight, and mobility.

Special needs are those children who do not – who have specific needs. Not like other children, because with them, they cannot talk ... They cannot do anything for themselves. (LoC)

So, they always need assistance from either their parents or siblings. That is, they cannot do everything like other children. (NM)

NM's comment highlights the contrast between SNCs and typical children, focussing on physical or functional abilities and placing emphasis on needing assistance for basic self-care, directly related to physical limitations on an ongoing basis, which is likely lifelong.

If I look at [my daughter], she still cannot go to the toilet on her own.

(LoC)

7.2 Theme 2: The Challenges Faced by Divorced Parents of Special Needs Children in South Africa

This theme explores the profound challenges and obstacles encountered by parents and families who are nurturing an SNC. According to respondents, these challenges may be present during marriage but are often exacerbated after divorce or separation. This theme

explores the emotional journey of acceptance when the diagnosis is made. It sheds light on the struggles faced when assisting the child with schoolwork, seeking government support, accessing specialised treatment, and coping with uninvolved and non-compliant co-parents. Moreover, the implications of divorce, such as the child's adjustment and reactions to divorce, and the crucial importance of support networks, will be reviewed. Financial contributions from co-parents can be a sensitive issue, as can single-parent access to mental health support. Additionally, the significant sacrifices made by single parents will be highlighted, and the legal complexities that may arise, such as court interventions, custody planning, and concerns regarding the professional use of "the best interest of the child", will be investigated.

7.2.1 Sub-Theme 2.1: Accepting a Diagnosis

This sub-theme captures the multifaceted journey parents face when recognising and coming to terms with their SNC's diagnosis. All respondents shared the difficult journey to a place of acceptance. It reflects on the initial emotional response – often a tumultuous mix of denial, grief, and confusion, known as chronic sorrow – as well as the gradual process of understanding the child's condition. This sub-theme delves into the narratives that highlight the societal and personal challenges faced by parents, from confronting educational and medical professionals' assessments to navigating the legal implications of the diagnosis in custody disputes.

Six of the parents described that their children's diagnoses had either been challenged or had still not been accepted by the other parents, and seven of the eight children had been reassessed because one of the parents had not accepted the diagnosis.

I was one of those dads – I didn't want to see it; I didn't want to accept it, and then at the end of the day, when [my son] was diagnosed, I still had challenges in accepting it. (JB)

... accepting it was difficult for all of us ... (CVV)

It is not bad. It is not a bad thing. He is just different ... He is just different, and it will be in the child's best interest to agree on how we are going to discipline or redirect him in certain scenarios. (MV)

I think his dad was in denial the more they were explaining to us. Even the physio, every time when we took him to physio, he would be discouraged and say, "No man, this physio is not helping. I do not see anything happening here." Then, I think, that is where our fight started, because I just wanted to go to all the appointments of physio with the hope that he would get better. (NM)

This quotation encapsulates the trajectory from shock to acknowledgement and the pivotal role this acceptance plays in shaping the parents' advocacy for their child and the co-parenting dynamics.

Both me and the dad felt offended and – obviously – as this is our first child and we believe we know better, which is wrong because we have only one case study where the experts have many, many case studies ... He said that I am pretending that my son is ASD. Well, obviously, he was then proven misleading the court because he was very well aware of the diagnosis. (MV)

This quote powerfully illustrates the struggle with acceptance and the potential for it to become a point of conflict within divorce proceedings. We see one parent accepting the diagnosis, while the other denies it, leading to legal battles ("he misled the court"). This denial of the child's needs has severe implications in divorce and custody arrangements. This response vividly demonstrates the essence of the sub-theme, which is centred on the struggle to accept the special needs diagnosis and the consequences of non-acceptance.

It was difficult for all of us. I was just thankful that it was not as bad as what other parents with disabled children have it. (CVV)

Well, at the moment, because the dad is playing the dilly-dally thing, you know, the waiting game, and not coming to the point. I have never actually gone that far to get any medication for [my son], although it was said by the paediatric neurologist that he needs Ritalin. (MV)

These quotations note the potential harm caused by delaying acceptance – the child might not receive timely support.

The quotation below explicitly addresses the later stages of acceptance and sets the stage for this journey.

I mean, I did not know anything. But I also felt relieved having an understanding, because when I started reading about it, I could connect and then I felt like now I know what to do. Let me try this therapy in a mean of a mother-child relationship, you know, approach. It is like psychology that I have to do with [my son]. So, the diagnosis was very helpful. (MV)

7.2.2 *Sub-Theme 2.2: Education for Special Needs Children*

This sub-theme delves into the parental experiences and struggles of providing academic support to their SNCs within the context of divorce. This sub-theme captures discussions on the comments of seven of the eight respondents, about the practical challenges of homework assistance, the emotional labour involved in addressing the child's learning requirements, and the complexities of ensuring educational continuity amid familial changes; as specifically expressed by three respondents, stating the following:

Obviously, it is very difficult to help him with his schoolwork. *Ja* (yes), it is very frustrating sometimes. (JB)

... it's just that they are frustrated because they will want to do something, and people don't understand them. And then obviously, if the children are in a mainstream school, now getting bullied and stuff. (SB)

So, like for instance, to make a decision about a school ... Every day, [my son], when we go there, he would cry and go into a meltdown. He says no, he does not want to go to that school. The school's teachers will say to me [my son] is very disruptive. (MV)

Seven parents reported encountering systemic difficulties, such as finding appropriate educational institutions, handling feedback from schools regarding the child's behaviour and performance, and negotiating the division of educational responsibilities between co-parents. This sub-theme underscores the importance of a supportive educational environment that accommodates the child's specific needs and the parents' efforts to maintain stability in their child's schooling experience during and after the transition of divorce.

This sub-theme captures the discussion about the child's education, specifically the decision to enrol the child in a particular school and the reasoning behind it, as shared by the respondents. It also reflects on how parents need to evaluate the child and whether the school is a good fit. It further highlights the importance placed on educational choices in parenting plans.

So, then the dad was forcing – kept on forcing me to take the child to [S] school, but he was not listening to the child. What about the feelings of the child? We must listen to what the child is saying. So, look at his challenges: He is sensory seeking, and you are asking him to have a mask on and to do all those funny things and to sit still. He is not a person that sits still.

Luckily, with COVID, I went into homeschooling ... The school's teachers

will say to me [my son] is very disruptive. He is destroying the quietness of the school, and [he] is not listening. (MV)

The teachers said, “They completely evaluated him wrong. He is not in the right place ...” (MV)

I mean, I had a lump in my throat when I dropped her at school, and I saw how severely handicapped some of the other children were. I think it is extremely stressful and tiring for parents. (CVV)

These responses offer a multifaceted view of the complex decision-making processes parents face in choosing the right educational setting for an SNC. It vividly highlights the clash between parental expectations, teacher feedback, and the child’s distress. It underscores the struggles to find a suitable learning environment that acknowledges the child’s unique needs and the difficulties parents face with conflicting priorities.

What happened was, when [my son] was diagnosed, he started having problems at school. So, eventually, he was taken out of school, and we tried to get a place for him here, and they had a place ... (SBa, translated)

This quotation emphasises the impact of a child’s special needs diagnosis on educational choices. It demonstrates parents’ proactive approach to seeking appropriate schooling after a traditional school proved unsuccessful, highlighting the challenges of finding suitable options, especially in South Africa. The responses quoted so far prioritise the child’s well-being and educational needs. They showcase parents listening to their children, recognising challenges, and exploring alternatives. They highlight the complexities and potential conflicts between teachers’ feedback, parents’ objectives, and the children’s experiences and needs, and demonstrate parents’ willingness to explore alternative educational settings, emphasising their commitment to finding the best possible fit for their children. The Department of Education White Paper 6 (Department of Basic Education,

2001) outlines that SNCs should be assisted with their education and that the government should ensure that the education system is more efficient, equitable, and just. It also aims to ensure that all learners are formally assessed to receive the support they need. Assessments in care and contact matters should have a similar aim.

Seven of the parents described experiencing frustration while trying to provide effective support, and the emotional impact highlights how challenging it can be to find suitable educational environments and manage feedback about the child's behaviour. This sub-theme also applies to five of the respondents whose children attended mainstream institutions and who actively included and supported their SNCs alongside their non-special-needs peers. It highlights the schools' commitment to fostering an inclusive environment that accommodates the diverse needs of all students. The sub-theme reflects the balance between providing specialised support and maintaining an inclusive, mainstream educational setting.

You know, it is obviously not like a special-needs school, but they do have that department there, and they look out for children. (JB)

Then the only way – when I went to [P] School, is because the occupational therapist referred [us] ... And, she said, “Your son will be very happy in [P] School.” So, we went there. They invited us, and there is an educational psychologist at the school. So, then I knew with the approval of the educational psychologist, she said to me she was looking at the assessment from the school. (SB)

These quotations offer a multifaceted view of the role of mainstream schools for SNCs. It highlights the importance of a thorough assessment by qualified specialists and emphasises the collaborative efforts of occupational therapists and educational psychologists in determining the best educational placement for an SNC, whether that be a mainstream school with support or a special needs school.

Then we need to find a school for him ... [he] could not function in a normal school. So, we are also applying to school, but his mom feel this school is not right. So, I want assistance from the government to help my child find a school, because I do not have the money for a private tutor.

(SB, translated)

This comment provides a glimpse into a parent's perspective on navigating the specific educational needs of an SNC. It underscores the challenges of finding a suitable school environment and the desire for support in accessing appropriate educational options, highlighting the potential financial considerations when seeking specialised education. It highlights the crucial role specialised schools play in fulfilling the unique learning and developmental needs of SNCs as well as tailoring the plan according to specific educational needs. It further explicitly shows the importance of experts working together to determine the most appropriate educational setting for an SNC. All eight parents highlighted the emotional and potential financial hardships they face in finding and accessing specialised educational options, suggesting the need for greater accessibility and support from the state for these families in South Africa.

7.2.3 Sub-Theme 2.3: Government Financial Support

This sub-theme discusses the role of the government in providing financial support to the families of SNCs. It includes references to the availability of financial grants, services, and resources. South Africa makes provisions for a care dependency grant to the value of R2,180 per month for needy families raising SNCs who are not in the care of a government institution and under 18 years of age who need full-time and special care (South African Government, 2025). This amount is not nearly enough to cover costs such as healthcare, education, adapted equipment, childcare, and special educational needs. A state medical officer must assess the severity of the child's condition. Respondents raised concerns about

the limitations of the grant, since, to date, assessments to determine eligibility have been based primarily on the determination of the income of the parents and the severity of the health condition or impairment, without consistent and in-depth assessment of activity limitations and/or participation restrictions or environmental factors that may result in high levels of disability for the child (UNICEF, 2011).

Only one parent applied for a grant, but she did not qualify because her income was too high. Most parents did not even consider applying. The following quotation highlights the challenge when NM says:

So, when he reached 18 years, he became so sick; then he passed on. So, he never got any help for him from our government. (NM)

Respondents highlighted challenges such as understanding eligibility criteria, bureaucratic hurdles, and the sufficiency of the support offered. These challenges reflect on the systemic advocacy required to ensure that support is not only accessible but also adequately addresses the unique needs of each child, including immediate and long-term financial, medical, and educational requirements.

The sub-theme acknowledges the critical role of the government in facilitating a supportive environment that allows SNCs and their families to lead meaningful lives, as was echoed by one parent who said:

Now, the care dependency grant will take care of this – the child. So, if the court could allow all the disabled children to get that grant, irrespective of whether the parents are working, I think it would make a very huge difference, really. (NM)

This response powerfully encapsulates the frustrations and direct need for government aid, especially regarding the care dependency grant.

But I think maybe if the courts or the law can enforce that all those children with cerebral palsy or disabled children, they must get medical attention, and I think it must be made even free for them. In my case, I feel that it was unfair. Okay, I realised that something happened. As a result of that, my child ended up having cerebral palsy. It is not like there were any abnormalities with my pregnancy. So, it is not my mistake, and I do not want to point fingers, but at least if the courts were to meet me halfway that – okay, since I do have medical aid, but they can just top up on the specific needs of the child. (NM)

This response emphasises the necessity for government-subsidised or free medical care for SNCs. Even though medical services and therapeutic services such as psychotherapy, occupational, speech, or physical therapy are available in government hospitals, waiting lists to access these services are often exceptionally long due to limited resources. This quotation also touches on the additional financial burdens caused by medical circumstances the parent does not feel responsible for, highlighting a potential gap in support systems. Furthermore, the lack of accessible financial aid and gaps in healthcare support directly exacerbate the challenges faced by these parents, influencing their ability to provide adequate care for their children. Unfortunately, there is a paucity of evidence-based publications on the health conditions of South African SNCs and their access to general healthcare services. CP is the most frequent physical disorder in children (Guimarães et al., 2023). Children with CP are predisposed to self-care limitations and require specialised help to fulfil care needs. As CP is a lifelong disorder, these children face long-term dependence on their parents, requiring parents to perform different roles. It brings additional challenges such as coping with grief (i.e., diagnosis and adjustment in expectations), additional parenting tasks (e.g., help in mobility), parenting under public scrutiny (i.e., stigma perception), social (e.g., inadequate

facilities and services) and psychoemotional (e.g., being worried) strain, the physical load related to the parents' childcare tasks, such as bathing and toileting, and also the financial implications as highlighted by NM when she states:

The government must already start helping or finding ways of helping financially because everything is difficult even for people who are not disabled. Everything is expensive. Now what more with those who are with special needs? I think there should be made provision for support for the family, especially the child, to help them to still have a meaningful life and to support the parents to do that for them financially. (NM)

Eligibility barriers, such as income-related disqualifications, were exposed, highlighting the need for proactive rather than reactive government intervention, starting from early diagnosis to address systemic challenges faced by families. This quotation emphasises that standard support systems might not be sufficient to meet these children's complex needs. CVV stated:

I think the parent, then, who now then cannot work has to be compensated either by the state, but also definitely by the other parent. There has to be a financial plan drawn up. (CVV)

7.2.4 *Sub-Theme 2.4: Access to Specialised Treatment*

Although close to 8,000 physiotherapists were registered with the HPCSA in 2019 (HPCSA, 2019), only about 1,500 (~19%) were employed in the public sector, which translates to 3.1 physiotherapists per 100,000 people dependent on the public health system (Tiwari et al., 2020). These figures are even lower for occupational therapists, with 5,500 in total and 1,300 working in the public sector, translating to 2.4 per 100,000. For SNCs to meet their rehabilitation goals and achieve their maximum potential, referrals are often made to an

entire multidisciplinary team. Unfortunately, there is often only access to one type of professional, compromising the quality of rehabilitation services (UNICEF, 2012).

This sub-theme captures the discussions about the intricate and specific care requirements for SNCs, reflecting the parents' and caregivers' efforts to provide tailored treatments and interventions. It encompasses the description of specialised diets, the use of assistive devices, the necessity for adapted living environments, and the challenges of managing chronic medical conditions.

All eight parent respondents mentioned the logistical and financial burdens of consistently providing such specialised treatments to their children, especially in the context of co-parenting and post-divorce scenarios. The narratives provide a window into the dedication required to manage these treatments and the often-overlooked details that make a significant difference in the child's quality of life.

Because they have their special food that they are eating, even the clothing.

Now, with my son, he was not able to talk. So, we had to buy nappies.

Throughout his 18 years of existence, he was just on nappies. So, if I had financial assistance from the father at least: sometimes he would buy the nappies, and the other month maybe I would buy them. But, like I am saying, that would have helped a lot ... So, all of that needs extra money.

(NM)

This response delves deeply into the specific challenges surrounding specialised treatment for a non-verbal child. It highlights the constant need for adapted food (puréed or blended), the ongoing expense of diapers far beyond typical childhood development, and the financial strain these specialised needs create.

... our homes are maybe equipped with one bathroom, now there needs to be two different homes where it's replicated. There is a vast amount of

practical, logistical difficulties that one faces when you divorce, where it needs to be duplicated almost to account for the needs of a child in two systems. (LoC)

... the practical difficulty is a family may have one car that's suited for the child to be transported between two homes. Now we need to have two cars that – where a wheelchair would, for example, fit. (NM)

These responses highlight the need to explicitly address the multifaceted and often costly nature of specialised treatment. From the parents' perspective, it conveys the first-hand experience and stress of parents navigating these complexities, especially in the financially strained situation often caused by divorce.

7.2.5 Sub-Theme 2.5 Uninvolved and Non-Compliant Co-Parents

This sub-theme characterises the complexities and frustrations that arise when one parent is either passively uninvolved or actively non-compliant in the care of an SNC. It encompasses instances where the non-custodial or less involved parent fails to understand, accept, or educate themselves about their child's condition, and, therefore, does not participate effectively in their care. This sub-theme reflects on the experiences of five respondents regarding the additional strain placed on the custodial or primary caregiving parent who had to compensate for this lack of involvement by the other parent and the impact of that on the child's consistent care and well-being. It also encompasses the legal and interpersonal conflicts that can ensue when one parent does not fulfil their responsibilities, leading to challenges in creating and implementing effective parenting plans. This sub-theme highlights the critical need for both parents to be informed, cooperative, and proactive in addressing the needs of their SNC, and the consequences when this is not achieved.

Okay. Because I am in a situation. My situation is I have moved from [therapist N] to [therapist T], to [therapist R], to [doctor L], to [therapist H], and then to [therapist C], and the father is still non-compliant. (MV)

This response powerfully demonstrates a pattern of non-compliance and denial by the other parent. It highlights their refusal to participate in the child's care and their dismissal of professional advice.

What happened was, when [my son] was diagnosed, he started having problems at school. So he was eventually taken out of school and we tried to get him a place and there was space at a school for special needs children and we went to see the woman and then she sat down with me and the mom and then she – and, obviously, there was a fight about the diagnosis and placement – and she told us we were screwing up the child. (SBa, translated)

This quotation clearly illustrates the sub-theme's focus on a parent's detrimental lack of involvement and understanding, hindering the child's well-being. It depicts co-parents who dispute the child's needs and intentionally create obstacles rather than cooperate in their child's care. The quotation further hints at the negative impact on the child if one parent attempts to have the original diagnosis overturned.

He is not on board. I do not know how to say it in a non-offensive way. But I wanted to understand. I am even being threatened now that he is going to take my son to be diagnosed again ... and I was respecting the psychologist's professionalism, and everything she said was perfect for [my son]. And then, she would invite the dad, but he did not come ... He is not around. He stays out of touch, as well, for weeks. (MV)

The above response captures the primary caregiver's frustration, exasperation, and struggle to obtain the necessary care for their child in the face of the other parent's active undermining, while the following respondent wants to be more involved but is prevented by the primary caretaker and states:

So, lack of communication. If you do not know who is being appointed, you do not know what the cost is, you do not know what the service is. It is fine to say somebody is an occupational therapist, but if you are not there with your child, you do not experience it. So, it becomes difficult to keep track of medical costs, because you are not involved in the decision-making process, and we offered on multiple occasions, you know, to be there because – So, I think it is more about implementation. It is fine to say you have full parental rights, but you are never really involved in the decision-making. (SB)

Another parent expressed their frustration:

He has a right to raise his child. He has a right to see and to look after the child. He has a right to have a relationship with the child. But it is also his responsibility to take care of the child and to accommodate the child in his own life, even if we are living separately, but he has that responsibility to make sure that the child also spends time with him. (NM)

7.2.6 Sub-Theme 2.6 Unstable Households

This sub-theme identifies discussions where the household environment was described as inadequate or detrimental to the development and well-being of an SNC. For six of the eight respondents, the child's needs were not being met due to parental ignorance, neglect, or conflict, leading to an unstable and sometimes toxic living environment. This instability can manifest in various forms, including emotional neglect, lack of adherence to

necessary routines, or exposure to familial conflict, which can violate the child's rights and lead to serious consequences.

... It is completely – his psychological issues – are completely me and [my ex-wife]. It is us. I think we played the biggest part in that, not his neuro-diversity ... Fighting, disagreeing, hating each other, insulting each other, not gelling. (SB, translated)

... children have been priorly exposed to horrendous conflict within the home to such an extent that they are almost emotionally stunted and blunted – and that's got an impact. (SB)

... “Daddy slapped Mommy in the face and Mommy's eyes pop out.” The way he expressed himself, what he saw that day, he would tell the nanny. He would not tell it to me like that. (MV)

These quotations depict the child being exposed to intense parental conflict and emotional abuse, including witnessing physical violence. They demonstrate how unstable households can severely impact the child's emotional well-being and sense of safety and illustrate the sub-theme's focus on the detrimental effects of unstable households on SNCs. Family systems theory asserts the critical significance of the marital relationship for children's adaptability and development (Cox & Paley, 2003; Erel & Burman, 1995).

Notably, marital conflict is uniquely predictive of children's emotional and behavioural adjustment concurrently and over time, with the frequency, intensity, content, and resolution of conflict all connected with the child's functioning (Zimet & Jacob, 2001). Recent research studies indicate that children from households with poorly managed conflict are at an increased risk of developmental issues (Vaez et al., 2015). The literature underscored the parents' inadequacy in creating secure and caring environments for their children, highlighting the significance of parental education and assistance. The complex

array of symptoms and behaviours displayed by children with ASD correlates with elevated parental stress and diminished psychological well-being among parents (Estes et al., 2013; McStay et al., 2014). Furthermore, a recent study has uncovered significant disparities in the marital dynamics of couples with children diagnosed with ASD, in contrast to those with generally developing children. Hartley et al. (2017) utilised the same dataset as the present study to investigate the daily experiences of couples, revealing that parents of children with ASD allocated less time to their partners and reported diminished partner closeness and fewer positive couple interactions compared to parents in the comparison group. The authors discovered that parents of children with ASD experienced more severe and unresolved marital problems compared to the control group. These findings correspond with research on parenting in various family contexts (e.g., raising a child with ADHD, conduct disorder, or significant behavioural issues), indicating that certain parents are more susceptible to increased marital conflict, diminished marital satisfaction, and higher rates of divorce (Heckel et al., 2009; Verlaan & Schwartzman, 2002; Wymbs et al., 2008).

7.2.7 Sub-Theme 2.7: Children's Adjustments and Reactions to Divorce

All respondents shared how their children responded to the upheaval caused by their parents' divorce. Their reactions involved a range of emotional, psychological, and behavioural responses, or regressive behaviours, due to the significant changes in their lives and routines. Here are some key points from the provided quotes:

Divorce often leaves children, especially SNCs, with emotional scars and trauma.

My son – I have an older son as well – he hides his emotions; he doesn't talk about it. I think with a normal child – I don't know – I think for both it is just as bad. It doesn't matter if you are disabled or not ... (CVV)

They may appear to suffer from depression and the challenges of their condition.

... he would look at the picture of his dad and just smile, and then he would look away. Later on, again, he will look at the picture. I will just hold it for about close to 5 minutes, and he will just look at it and smile and look away. After a while, you can see that smile is fading, and he is becoming sad ... (NM)

Children may exhibit aggression, not because they are inherently aggressive, but due to frustration from not being understood, as supported by the following response:

He feels hurt, and then he inflicts the hurt on the dog by bending the legs, making him cry – making the dog cry. Because he actually started to verbalise things more, he would say to me: “No, I do not want you to go” ... “I miss you”. (NM)

For SNCs, a parental divorce can feel like their entire world is falling apart. Everything familiar and trusted is disrupted, which can have profound negative impacts. Siblings can provide support and comfort to each other during and after a divorce.

And sometimes the special needs child is more willing to go out of their comfort zone if their sibling is with them. (SBa)

And, finally, as stated by SB:

There was a great impact on my relationship with my other child, his sister. When not together ... [his sister] would say, for example, that she is not sleeping well. She cries herself awake at night. (SB, translated)

These selections clearly illustrate the sub-theme’s focus on the heightened impact of divorce on SNCs, where it addresses emotional trauma and pre-existing vulnerabilities.

7.2.8 Sub-Theme 2.8: Insufficient and Unreliable Financial Contributions From Co-Parents

This sub-theme highlights the challenges of obtaining financial support from a non-custodial parent, as highlighted by all respondents. The additional care and resources SNCs require often exacerbate financial challenges.

Because even the wheelchair, his first wheelchair, we got it from the occupational therapist in Kimberley Hospital. From there, as he was growing up, we had to look for donations to get him a specialised wheelchair, and it was also a lot of money, which was not covered by medical aid. (NM)

Divorce often involves verbal, emotional, and financial abuse, which affect the children and the custodial parent. SNCs, despite their challenges, can perceive and be impacted by these dynamics. Four of the eight respondents needed to stop working to care for their SNC, leading to financial strain and reliance on limited resources, particularly in rural environments. None of the parents successfully applied for a grant.

I think the parenting plan does mention sharing costs about some things, but it focuses more on decision-making. Responsibilities, for sure, but the costs – medical costs and school costs, even decisions costs ... (SB)

Introducing maintenance issues into parenting plans can halt progress, as maintenance is often wrongly perceived as a precondition for child visitation rights. The Children's Act and the Divorce Act provide guidelines for child support, but there are gaps, particularly for children over 18 who are still dependent due to their special needs. For SNCs, especially those in limbo due to their parents' inability to provide for them, the appointment of a curator for personal and financial management may be necessary.

We need people who are specialists in searching for parents who abandon their family responsibilities and then try to find out where the father works so that they can enforce the maintenance. Even if it must be deducted from his salary if he refuses to come to court. So, I think maintenance must be enforced because of the needs of the child – both parents need to support the child financially, not only emotionally and otherwise, but also financially. (NM)

In cases where one parent is financially incapable of providing care, due to unemployment, for example, the burden falls heavily on the other, often necessitating indefinite maintenance and legal interventions. Settlement agreements often include provisions for maintenance, but these can be contentious and depend upon the parents' negotiations. The law does not always make specific provisions for the unique needs of SNCs.

... if one parent has to stop working, then the other parent have to definitely contribute more, which I do not see happening ... (JB)

Nothing. He did not contribute anything. (NM)

7.2.9 Sub-Theme 2.9: Single Parent Sacrifices

This sub-theme highlights the significant sacrifices made by single parents raising an SNC. All respondents shared their challenges, including personal life compromises, professional or career limitations, financial strain, and the emotional toll of managing parenting responsibilities without the support of a partner. It also recognises the sacrifices made by non-residential or secondary parents who compromise their living situations and put in extra effort to bond with their child. The sacrifices of not being as involved as the primary caregiver are also noted.

Here are the main takeaways from the responses. Often, one parent, typically the primary caregiver, may have to stop working or reduce working hours to care for an SNC. In this study, five respondents reported that they had to sacrifice their careers. This decision had a profound impact on their professional lives and financial stability. Financial implications were a significant concern for all the parents as the need for additional resources, such as specialised care, therapy, and medical expenses, typically requires financial support from both parents, including maintenance and healthcare provisions.

Single parents often bear the brunt of the emotional and physical labour involved in caring for an SNC. Responsibilities include managing the child's daily needs, attending therapy sessions, and dealing with emotional and behavioural challenges, while potentially caring for siblings.

So, I think that she [ex-wife] has just devoted her life to them. So, she has never really gone forward with her life or, you know, never looked for different work or anything. Even now, she is just, you know, stuck there.

(JB)

I had to work. I had to carry on working because otherwise, the money, we need money, and I cannot say, "No, I will apply for the grant", and that grant will not be enough, because I also have other children. So, I had to continue to work. (NM)

These remarks emphasise the everyday challenges all parents face in raising SNCs while juggling a full-time job. The interviewees highlighted the emotional and practical burdens of fulfilling daily commitments and managing the children's needs, all while maintaining a career, clearly focussing on the immense sacrifices borne by single parents. It showcases mothers who often shoulder the role of sole provider, unable to rely on a partner or government support to reduce their financial burden. This response further clearly

underscores the necessity of continued work for a single mother of an SNC due to the financial burden, lack of support options, and the stark reality of shouldering the responsibilities of providing specialised care while maintaining financial stability. According to Mbanjwa and Harvey (2023), parents are in a paradoxical situation of either financially providing for their children or caring for themselves.

As the mother, I am dead, and I have risen and resurrected as the advocate of my child. (MV)

This quotation highlights the potential limitations on personal life due to the demanding role of being the primary caregiver for an SNC. While not explicitly stated, the above remarks imply the immense emotional and psychological strain on single parents, raising SNCs in the context of divorce. Mbanjwa and Harvey (2023) agreed with this and highlighted how raising an SNC fundamentally alters how a single mother lives as she constantly attends to her child's complex requirements, powerfully stating "...her life no longer belongs to her and is now centred around providing particular care and safety for her child" (2023, p. 6).

7.2.10 Sub-Theme 2.10: Single Parents' Access to Mental Health Support

This sub-theme emphasises the significant mental and emotional strain faced by single parents, particularly those caring for SNCs. Parenting an SNC presents a distinct array of obstacles. These issues are exacerbated by poverty, resource scarcity, and inadequate understanding of disability (Pelchat et al., 2003). These factors pertain to low- to middle-income (LMI) countries like South Africa. The obligation of caring for an SNC frequently rests predominantly on mothers. This phenomenon can be ascribed to the stigmatisation and prejudice associated with disability, resulting in fathers being more prone to ignore their paternal responsibilities when their child has special needs (Pelchat et al., 2003).

Psychological support and counselling services are crucial for helping these parents cope with their challenges. More than half of the respondents accessed therapy but discontinued due to financial constraints, as they felt their children needed it more. The following quote from a respondent underscores this need.

The single parents, we are having a very tough time. So, we also need like, you know, psychologists, you know, just to help you cope. I used to go for psychology, for counselling at the City Clinic. But it took place, I think it was only after two months. So, if it was made compulsory in all the clinics, it would help because, really, nobody understands what a single parent is going through. Worse, if you are a single parent to a special needs child it is even worse. (NM)

Divorce and single parenting, especially when caring for an SNC, are described as emotionally traumatic experiences that significantly impact a parent's ability to function effectively, as reported by the literature and all the respondents. Parents of SNCs must manage the emotional, psychological, financial, and social difficulties of their child's long-term care demands, which can increase the carer load (Bédard et al., 2001; Gérain & Zech, 2018). The elevated carer burden associated with raising an SNC can increase the risk of burnout, adversely impacting familial relationships, diminishing family activities, and undermining the quality of the parents' marriage. Parents of children with chronic illnesses neglect their own physical and emotional needs, resulting in elevated levels of burnout (Gérain & Zech, 2018; Vinayak & Dhanoa, 2017). All parent respondents in the current study articulated an urgent need for psychological support to manage the distinctive problems they are encountering.

All the respondents considered the availability of counselling services essential, particularly at clinics. However, the respondents and literature suggest that there are barriers

for parents of SNCs to access mental health services. Caregiving duties make it difficult to schedule appointments. Parents of SNCs might also consider their health and well-being as a low priority and are reluctant to use services to meet their own needs, especially when there are limited resources for all family members (Sloper, 1999). The delay in accessing these services, such as psychologists in public health only being available every two months, highlights the inadequacy of current support systems. The sub-theme emphasises that the struggles of single parents, especially those with SNCs, are often misunderstood or inadequately addressed by society. The impact of such disabilities also extends beyond the child. Parents of SNCs are at increased risk of having mental illnesses compared to parents of children without disabilities (Chen et al., 2023). The importance of counselling is not limited to mothers; fathers, too, were encouraged to undergo counselling by the female respondents.

7.2.11 Sub-Theme 2.11: Court Interventions

This sub-theme focuses on respondents' experiences where a child was neglected due to mismanagement of their special needs or the other parent failing to follow agreed-upon separation rules, communication agreements, and care regulations, as reported by seven of the respondents. Such mismanagement can ultimately disrupt the SNC's environment. Therefore, proactive court or legal intervention may be necessary to ensure the parent cooperates with the procedures and does not cause further stress for the child, as reported by one of the respondents:

The thing is, you know, the court must take it seriously [if a parent does not adhere to the parenting plan], then the court must immediately take action.

Immediately. And must have the supervised – you know – somebody supervising them. Why? Because they are going – not only going to teach the parent how to deal with co-parenting, but they are also going to protect the child from being brainwashed. (MV)

This respondent underscores the necessity of swift court intervention in cases concerning an SNC. It advocates for immediate action and supervised visitations to protect the child and educate the parent, emphasising the potential for repeated offences without intervention.

While mediation can alleviate the negative effects of high-conflict co-parenting issues, it seems to be ineffective for chronically conflicted co-parents, who are unwilling to compromise and inclined to triangulate their children into their conflict (Beck et al., 2008). The draft Family Dispute Resolution Bill, 2020, deals with parenting coordination as an alternative dispute resolution process in South Africa (South African Law Reform Commission, 2019). This bill has the potential to provide extensive benefits for divorcing or separating parents, their children, and the court system as it lessens the conflict between parents, reduces the harmful effects of parental discord on children, and creates a more harmonious environment for children. Parenting coordinators support high-conflict co-parents with the development and implementation of parenting plans, they ensure compliance with court orders, and assist with the timeous resolution of pre- and post-divorce parenting disputes in a non-adversarial, court-sanctioned, private forum (De Jong, 2022).

The family advocates do not actually answer. So, I will have lots of emails where the family advocate says, “I will get back to you”, and lots of emails where she does not actually respond at all. And from my side, I sort of lost a lot of faith, and I have not contacted her for about a year, maybe more.

(SB)

This quotation emphasises that South African court processes might be too slow or insufficient when an SNC faces disruption or neglect due to parental conflict. It underscores that the court’s primary focus must be protecting the child’s well-being, which might necessitate swift intervention, supervised visits, and parental education programmes.

7.2.12 Sub-Theme 2.12: Misuse of the Phrase “The Best Interest of the Child”

Skelton (2019) applauded the South African Constitutional Court for its application of the best interest of the child criterion in judgments. However, it also questioned if the court goes too far in applying this principle, especially in cases where there is an equal or more appropriate right in the Bill of Rights (South Africa, 1996) or where international law can more fully interpret a right. This sub-theme relates to the use of vague words where respondents perceive that the other parent or professionals involved in the divorce (e.g., healthcare providers, educators, and legal experts) misuse standard phrases or jargon, potentially leading to misunderstandings or feelings of frustration among parents. All respondents felt that phrases such as “the best interest of the child” are used inappropriately or excessively, leading to a sense of being undermined or not heard. The concept of the “best interest of the child” in legal matters related to separation or divorce is crucial, but its interpretation and application can be varied, and in some cases, problematic. This was highlighted by Bekink and Bekink (2004), who pointed out that there is often conflict between the interests of parents or private institutions on the one hand and the best interest of the child on the other hand. Resolving these conflicts is often complicated and varies from case to case. They argued that the principle should be afforded paramountcy and that each case should be objectively determined according to its merits, after all relevant circumstances have been considered, and not purely to enact a list of factors. The best interest of the child criterion is especially relevant when confronted by the unique and vulnerable position of SNCs.

... there are certain situations where it is just too easy to follow the standard practice. The status quo. And the use of the phrase “best interest of the child” to me – because it feels like an attack because I would say something and then any professional would say: “No, best interest of the

child”, and they are just following status quo and often the way I hear it, it is almost like an attack on me: like I am not thinking of the best interest of the child. So, I heard it so much, it just ended up feeling like an attack on my – like as if I am not going to have the best interest of the child. (SB)

All parental respondents believed that the best interest of the child is not always in harmony with legal processes, suggesting a disconnect between the legal framework and the actual needs and well-being of children. As one respondent stated:

You know, it is such a broad statement: “in the best interest of the child”, and it actually makes me scared ... it’s loosely used by professionals to gain a certain outcome ... (MV)

The principle was often viewed as vague and open to interpretation by all the respondents, which can lead to its misuse by legal professionals to achieve specific outcomes rather than genuinely serving the child’s needs. Additionally, not everyone involved in divorce proceedings understands the concept, impacting its effective consideration and application. For example, all respondents had a different and vague understanding of the term. There is a need for a broader and more practical interpretation of “the best interest of the child”, which would involve comprehensively considering the child’s emotional, physical, and social needs.

That phrase – “the best interest of the child” – became quite hypocritical to me because I heard [it] from lawyers and professionals, and we reached a point where, when I heard that word, I just heard them protecting their careers. (SB)

It is a term that [my ex-wife] uses all the time, you know, for her own goals ... She manipulates the situation so that she can say, “Yes, but is it in the best interest?” Everything is “in the best interest of the child.” Now, you

know, I know [my ex-wife] very well. The best interest is her interest, not the child's interest. (SB, translated)

These quotations illustrate how the legal phrase “in the best interest of the child” can be misused by a co-parent to manipulate situations and justify actions that may not truly prioritise the child's well-being. They highlight concerns that the phrase is being misused for personal gain rather than the genuine protection of the child, causing misunderstanding and frustration. They showcase how the overuse or dismissive deployment of the phrase erodes trust and makes parents feel like their genuine concerns for their child are not valued or are even undermined. The quotations further highlight how a well-intentioned legal principle designed to protect children can be twisted for personal advantage within the power dynamics of familial conflict. The misuse of this phrase can be especially anxiety-inducing for parents of SNCs, as professionals within the legal system might not fully understand the child's unique needs. The respondents' remarks clearly illustrated the sub-theme's focus on gaps in understanding and the potential misuse of the “best interest of the child” principle, raising concerns about the potential for decisions to be made that are not truly aligned with the child's needs and rights, and emphasised the importance of ensuring that parents involved in legal proceedings are adequately informed about the “best interest of the child” principle and its implications.

Skelton (2019) underscored the above remarks in her constructive critique of the best interest of the child principle, arguing that a rights-based approach is needed and children need to be viewed as bearers of all the rights listed in the Constitution. The Committee on the Rights of the Child emphasised that there is no hierarchy of rights in the Convention and that “an adult's judgment of a child's best interest cannot override the obligation to respect all the child's rights under the Convention”. The best interest principle, therefore, requires a value

judgement where the unique circumstances of each child need to be determined (Bekink & Bekink, 2004).

7.3 Theme 3: The Essential Support Network

This sub-theme highlights the critical need for support systems for parents of SNCs, particularly in the aftermath of a divorce. Caring for an SNC is a demanding task that often cannot be effectively managed by a single parent. It requires a collective effort, involving both parents, caregivers, and professional support, to ensure the child's well-being and development. The need for support was supported by the following respondents who shared their views:

You cannot do this on your own. You cannot. *Ja* (yes), I think they would have made a huge difference, especially by involving both parents and also the extended families. *Ja*, extended families must also be involved. (NM)

Okay. I think there should be made provision for support for the family, especially the child, to help them to still have a meaningful life and to support the parents to do that for them financially. (CVV)

This theme describes the invaluable guidance and support provided by various individuals to families raising SNCs. Within this theme, we explore the role of caregivers who offer unwavering support, child advocate offices that advocate for the rights and well-being of SNCs, and family-support services that provide essential resources. This theme reflects the diverse network of professionals who enhance the lives of SNCs and their families during divorce and the development of parenting plans.

7.3.1 Sub-Theme 3.1: Child Advocate Offices

According to all respondents, child advocacy professionals, including family advocates, social workers, counsellors, and legal representatives, are instrumental in

representing and safeguarding the interests of SNCs in legal matters. These professionals need to evaluate the child's unique circumstances, understand their routine, and assess the emotional and developmental impact of any changes in their environment, such as divorce or custody (care and contact) rearrangements. They provide critical insights and recommendations to the court, ensuring that decisions made are in the best interest of the child.

Then the law must also be involved ... there is a need for us as parents to get formal training in parenting plans because I've seen that some [advocates] don't understand the cases when it comes to special needs.

And, it's not that they are not good advocates, it's just that they haven't had the exposure. They – sometimes it's a foreign concept for them ... (CVV)

This quotation offers the strongest representation of the sub-theme. It highlights the proactive approach of recognising the need for specialised training and understanding, acknowledging the current limitations within the office, and emphasising the commitment to address those gaps for the benefit of SNCs. All respondents underscored the need for family advocates to have an awareness and specialised knowledge of the unique and complex needs of SNCs. It highlights the importance of advocates seeking training and resources to ensure their expertise in handling SNC cases. It also demonstrates the family advocate's primary role in making child-centred recommendations and their understanding of managing the legal system and the complexities of supporting parents and children during difficult transitions.

7.3.2 *Sub-Theme 3.2: Caregivers*

This sub-theme encompasses the roles of nannies, au pairs, day-care workers, and other caregiving professionals who provide essential support to SNCs.

... and so, I have heard more about [my son's] emotion through a nanny, or his way of what he saw that day ... The way he expressed himself, what he

saw that day, he would tell the nanny. He would not tell it to me like that.

(MV)

This quotation reflects on a caregiver's contributions to managing the daily care needs of SNCs, facilitating communication, and ensuring a stable environment, particularly when the family is facing the challenges of separation or divorce. This sub-theme highlights the significance of caregivers as part of the broader consultation network, acknowledging their unique insights into the child's needs and behaviours, and their role in maintaining continuity of care. It demonstrates the importance of including caregivers in the development of parenting plans and acknowledges the need for their presence in various legal and therapeutic settings to advocate for the child's best interest.

... the latest nanny, like I said, she was with us for a long time. She could even take my son to the physio when the appointment is due, where then I have to go to work. So, at least she could do that physiotherapy. The physiotherapist showed her how to do it at home. (NM)

7.3.3 Sub-Theme 3.3: Family

This sub-theme is about the significance of an inclusive family support system in the context of caring for SNCs. According to research, family support is indispensable for SNCs. This can consist of information, emotional support, appreciation, and instrumental support. The most common form of support is material or instrumental, where families provide basic needs such as food, shelter, and health care (Pursitasari et al., 2020). Family support also minimises psychological complaints: It provides strength, motivation, and energy and reduces uncertainty and insecurity that affect the health and quality of life of SNCs (Låftman & Östberg, 2006).

All respondents highlighted the roles and responsibilities of extended family members in providing essential care, emotional support, and stability in the child's life. This support

extends beyond routine caregiving to encompass involvement in decision-making processes, participation in the child's developmental activities, and contribution to their overall well-being. Key aspects of the "family support" sub-theme include the involvement of extended family members in daily caregiving tasks, especially when primary caregivers (parents) are working or unable to provide continuous care. It also includes the role of family members in ensuring the continuity of care for the child, particularly in circumstances where the parents are unavailable.

My mom was still alive by then, so my mom helped me with him because I was also working. I had to go to work. So, me and my mom. My other children were still very young to look after him, but it was my mom who helped me after the divorce. (NM)

This remark showcases the crucial role of extended family support, specifically the mother's reliance on her mother for childcare assistance. It highlights the practical support offered by a trusted family member during difficult times, suggesting that family support is vital, both for short-term assistance (when parents are unavailable) and for long-term care planning.

... the family must be appointed to assist the minor child ... (MV)

The above remarks acknowledge that SNCs require specialised care and a consistent understanding of their needs, which family members are often best positioned to provide. These responses also underscore the importance of involving the extended family in discussions about guardianship and future care plans, ensuring continuity of care and familiarity for the child.

7.3.4 Sub-Theme 3.4: Mediators

This sub-theme emphasises the significant role of mediators in engaging with complex family dynamics and legal processes, especially when SNCs are involved. Three

respondents made use of mediators to serve as neutral facilitators who help parties find common ground and make informed decisions that prioritise the child's best interest. Key aspects of this role include mediators working collaboratively with families, legal professionals, social workers, psychologists, doctors, therapists, and educational experts to develop solutions that cater to the unique needs of the child. They encourage open communication and understanding among all parties. This comprehensive approach informs the mediation process and outcomes.

Mediators advocate for the child's welfare and guide parents in making decisions that align with the child's best interest. They play a crucial role in educating parents about the implications of their choices and the importance of stability and support for the child. Mediators assist in drafting parenting plans that comprehensively address the care, therapy, education, and overall well-being of the SNC. They specialise in resolving conflicts and disagreements between parents, helping them reach agreements that are in the best interest of the child, thereby reducing the need for court interventions. Mediators aid in long-term planning, including financial arrangements and caregiving responsibilities, ensuring the child's ongoing care and support. Parenting coordinators monitor the implementation of these parenting plans and make necessary adjustments based on the evolving needs of the child and family dynamics.

There were other issues that arose; then we did get a mediator to help sort that out ... (JB)

This quotation demonstrates the use of a mediator to resolve ongoing disagreements and challenges within the family dynamic. While it lacks specific details, it highlights the mediator's role as a neutral third party, facilitating resolution.

I think mediation is a very good thing, and I think it is a very important thing. (SB, translated)

This brief but clear statement emphasises the perceived importance of mediation in divorce cases involving SNCs.

... because sometimes there is a lot of – especially if you divorce – a lot of conflict between the two parents. So, to get – you know – you need a point of view that does not favour either ... and definitely appoint a mediator.

(JB)

The selected excerpts highlight the sub-theme's focus on the role of mediators in helping families overcome complex dynamics and make informed decisions. It demonstrates how mediators assist in addressing disagreements and finding common ground, which is especially crucial when parents have differing understandings of their SNC.

7.3.5 Sub-Theme 3.5: Legal Experts

This sub-theme highlights the essential involvement of legal experts in navigating the complexities of care and custody arrangements for SNCs. In South Africa, “the best interest of the child” is a constitutional right as stated by Article 28(2) of the Children's Act: “A child's best interests are of paramount importance in every matter concerning the child”. According to all respondents, legal professionals play a pivotal role in upholding the rights and best interests of SNCs during legal proceedings, such as divorce or custody disputes.

What I did then was I approached the family advocate, and the social worker came and he did an assessment. (SB, translated)

This response demonstrates the active involvement of legal experts and allied professionals in the case of an SNC.

... and all aspects are best dealt with by the settlement agreement by the legal professionals. (JB)

Although short, this quotation emphasises the fundamental importance of involving legal experts when dealing with complex custody arrangements for an SNC. It underscores

the need for legal safeguards and guidance during divorce and clearly illustrates the sub-theme's focus on the crucial role legal experts play in protecting the rights of SNCs. The collaborative approach of legal experts is demonstrated as they engage with other specialists to assess the child's specific needs and development, ensuring that custody and care arrangements are tailored accordingly. The quotation also highlights the importance of legal experts in ensuring that decisions comply with legal frameworks designed to protect the best interest of the child.

7.3.6 *Sub-Theme 3.6: Physiotherapists*

This sub-theme emphasises the integral role of physiotherapists in the care and support of children, particularly SNCs. Their involvement is crucial to the assessment, treatment, and ongoing support of SNCs.

So, Doctor gave us a referral to the physio at Kimberley Hospital. Then, when they assessed him, they told me it was cerebral palsy. (NM)

... the physiotherapist, they can even lead whatever training that needs to be done Because sometimes if both parents are not there, then what is going to happen to the child? Say maybe we go somewhere or maybe – okay, sorry, but – we pass or pass away, and then the child remains with family members; they must also be involved. (NM)

The respondent clearly explains the vital role played by physiotherapists in diagnosing SNCs. Physiotherapists work as part of a larger collaborative team of specialists that can include mental health specialists.

7.3.7 *Sub-Theme 3.7: Mental Health Specialists*

This sub-theme encapsulates the importance of mental health specialists, including psychologists, in the holistic care of SNCs. These professionals offer a range of services that

are integral to understanding and supporting the SNC's unique needs. Mental health services are essential to diagnosing and assessing the SNC's needs, forming the foundation for developing effective care and support plans. They also provide targeted therapy, tailored to the child's specific challenges and developmental requirements. All respondents have, at various times throughout their children's lives, accessed the services of mental health professionals and emphasised the vital role they play in the development of parenting plans.

So, for me, that was because everyone you talked to – I was at a psychiatrist with her and a child psychologist. They worked together. I mean, if it's a mental health professional drafting the parenting plan, I would suggest that a clinical opinion of some sort, either it be a doctor, or a clinical psychologist, or a clinical opinion other than a systemic social work view ... (CVV)

So, two would be the child psychiatrist or psychologist. So, both of us went to both. So, my legal team appointed one psychiatrist and one child psychiatrist, and then [the mom's] team also appointed two. We both went into those, and [our son] was assessed by both the child psychologists. (SBa)

Educational psychologists often work with SNCs to facilitate learning and cognitive development, ensuring educational settings are adapted to the SNC's requirements. All respondents consulted with an educational psychologist, and the following statement underscores the importance of these professionals' contributions:

I went with my wife to this educational psychologist. This educational psychologist taught me how to handle my own son. And today, we have the greatest relationship that you can see. (SBa)

Mental health specialists not only work with the child but also provide vital support and guidance to family members, aiding them in understanding and effectively responding to the child's needs. In family law cases, these professionals offer critical insights into the child's best interest, helping legal teams make informed decisions regarding custody and care arrangements. According to all respondents, they regularly work as part of a multidisciplinary team, collaborating with social workers, family advocates, and legal professionals to ensure a comprehensive approach to the child's welfare. For five of the respondents, these specialists contributed significantly to the development of detailed parenting plans, ensuring that the child's special needs were adequately addressed and catered to. Regular follow-ups and adjustments to therapy and support plans are crucial, and mental health specialists play a key role in monitoring the child's progress and adapting interventions as needed.

So, the only way I dealt with disputes was always to have an expert ... a qualified educational psychologist with at least 10 years of experience in working with children with special needs and their families – not just the child, but the family – would be appointed to assist the minor child, and the parties would undertake to support his or her advice, taking the minor child's best interest into account. Then this educational psychologist shall continue to act so until she resigns. (MV)

This quotation serves as the strongest representation of the sub-theme. It exemplifies a parent's dedication to seeking expert guidance from mental health specialists, showing a deep understanding of the importance of having specialised mental health support for an SNC throughout the complex process of divorce.

I've got a strong sort of belief that we have very well-trained social workers to identify gaps, to identify that a child has got special needs, to identify

that a child is not functioning on par, to see the red lights – red flags – if it hasn't been picked up before. (SaB)

This quotation emphasises the necessity of clinical assessments by mental health specialists in cases involving SNCs. All of the above responses prioritise the unique and complex needs of SNCs in the context of divorce and advocate for a proactive approach involving mental health experts from the beginning of the legal process, promoting informed decision-making and the long-term well-being of the child, and highlighting the crucial collaboration between different professionals for a holistic support system for the child.

7.4 Theme 4: Developing Parenting Plans for Special Needs Children

This theme revolves around the intricacies of crafting a tailored parenting plan that meets the unique requirements of an SNC. It encompasses a comprehensive approach, addressing various aspects of parenting. The theme includes a discussion about the problems faced by parents when there is no parenting plan in place. Key considerations include the importance of professional assessments and diagnoses to identify the unique needs of the child in a specific case. It highlights the significance of ensuring the child's access to a suitable and stable educational environment and the necessary therapy and medical treatment. The theme states that children should be involved in decisions regarding their care and development. Parents and other caretakers should receive adequate training and should strictly adhere to the rules and routines set out in the parenting plan. The parenting plan should include time-sharing arrangements that best suit the child's needs and a detailed financial plan that covers the extra expenses of raising an SNC. The theme emphasises the need for periodic reviews of parenting plans to adapt to changing circumstances.

7.4.1 Sub-Theme 4.1: The Absence of a Formal Parenting Plan

This sub-theme captures the lack of a structured or formalised parenting plan following separation, particularly noting the absence of mutual arrangements for parenting responsibilities. Four respondents did not have any parenting plans.

There was no plan because the father just – he is not from the Northern Cape. He is from KwaZulu-Natal. So, he just went home, and he left me with my son ... (NM)

This remark highlights the stark reality of a mother left without a parenting plan after the father simply left, leaving her to care for their SNC on her own. It demonstrates the vulnerability and lack of support faced by parents in such situations.

There is no parenting plan. There isn't. (SB, translated)

This sub-theme highlights the vulnerability of single parents, particularly mothers, who are left to manage complex situations without legal guidance or support. A well-structured plan is critical for the well-being of SNCs.

7.4.2 Sub-Theme 4.2: Professional Assessment and Diagnosis

This sub-theme argues that the caregivers of the child, as well as the professionals involved in drafting the parenting plan, need to know the child's diagnosis so that they can assist and plan for their specific needs.

... the school said, "There are many things that we are concerned about.

You need to go and evaluate [your son]. We are concerned." So, we went to [a psychologist]. She used the international assessment. My terminology is not going to be excellent. I cannot remember ... She saw him often. And then she came to, well, the results from those assessments were that [my son] is leaning towards ASD with potential ODD [oppositional defiant

disorder] ... We even got a paediatric neurologist that made the diagnosis.

(MV)

This quotation presents a parent's experience of engaging with multiple professionals to obtain an accurate diagnosis and address the challenges related to their SNC. It underscores the parent's desire for professionals to acknowledge the diagnosis and to understand its impact on the child.

So, the only way I dealt with disputes was always to have an expert ... it's always a strong position if you can have a clinical expert such as a doctor or clinical psychologist ... [CL], she is a person with more than 10 years of experience with atypical children, she has got experience hands-on working with the children and working with families ... she had a very good understanding on how those children's minds work, and that a sudden overnight is not going to be advisable. (MV)

The above explanation demonstrates the critical need for appropriate professional assessments and diagnoses to create appropriate parenting plans tailored to SNCs. They also illustrate the active role parents play in identifying their child's needs and advocating for specialised care.

7.4.3 Sub-Theme 4.3: Case-Specific Needs

The respondents indicated that each child has their own specific needs, regardless of their particular developmental, mental, or physical disabilities. Each child should be evaluated and assessed to understand what the child needs to function optimally.

So, you'll have to look at each child on their own to determine what are their needs that are special in a case. (SB)

And the specific child with special needs may have very specific special needs and sort of criteria that we need to look at and listen to, and a very

particular voice that needs to be heard in a different way – that may sometimes not be heard in a way of the verbal narrative. But it's complex and, I think, for the professional person not well versed with the development of children, it's easily missed. And we very easily throw children under the bus rather than look after their special needs. (MV)

These responses emphasise the importance of assessing each child individually to identify and address each child's unique needs, even within the same family, and highlight the fundamental importance of recognising that every SNC has a unique set of requirements and challenges that must be addressed in a tailored parenting plan. The following quotations underscore that one-size-fits-all approaches can fail to meet the specific needs of a child, potentially compromising their development and well-being:

... looking at the individual child, his personal routine that he is used to ... it must look the same 7 days a week. It must look the same. There should not be a difference between home and school. It is always the same. And whatever is happening, the routine that we have got there at the school, when I come back home, I am homeschooling as well. (MV)

... you cannot leave him because he had no fear, so he would do things that can be extremely dangerous ... He does not stop, and then he goes in hiding and he thinks it is okay, but he gets lost. And that is really frightening, especially in a shopping mall. (MV)

I think every family is unique and very often it's not possible for a child to move between two homes and we need to sort of be creative and look at different ways of having contact. So, there is not, there is not a set routine and structure. (SB)

7.4.4 Sub-Theme 4.4: Stable and Inclusive Educational Environments

Respondents highlighted the importance of providing a stable educational environment for SNCs, which requires a specialised approach involving several professionals.

The people at the school has also got a programme where they assist children with learning challenges. (JB)

They also noted issues that arise when a child transitions from education to higher education/training or the workforce, which present their own challenges.

... [My son] is now 21 and done with school 2 years ago, and his father told me that time a few years ago that he is thankful that I pushed for [our son] to go here. He did exceptionally well there ... (CVV)

These quotations showcase how a stable educational environment can benefit an SNC. Five of the respondents felt satisfied with their child's educational environment, while two respondents were at the time of the interview still struggling to find placement in an appropriate school. The eighth respondent's child's disability was too severe for him to attend any educational environment. Cooperation between the school and parents is essential in maintaining routines and providing emotional support during life transitions, as emphasised by seven of the eight respondents.

7.4.5 Sub-Theme 4.5: Parents Educated Through Experience

Respondents indicated that they have learned how to care for their SNCs and are knowledgeable about their child's reactions and requirements for optimal functioning. These parents have often undergone training, whether through self-study or formal classes, on how to care for SNCs. Ultimately, the parents gain knowledge of their child's special needs from practical daily experience with their children.

I mean, I did not know anything. But I also felt relieved having an understanding because when I started reading about it, I could connect and then I felt like now I know what to do. Let me try this therapy ... It is like psychology that I have to do with [my son]. So, the diagnosis was very helpful. (MV)

This response highlights a parent's proactive approach to seeking information, developing their understanding of their child's diagnosis, and applying their newly gained knowledge.

... I think from the legal profession it sounds like it would be great if there was like a very sophisticated sort of special-needs checklist that they could work on with my son because, at the moment, I feel like I am coming up with ideas to give to the facilitator, where I think it should be the other way around. (SB)

This quotation showcases a parent's frustration while seeking the appropriate support for their child. Implicitly, it highlights their vast experience and understanding of their child's special needs. The desire for a more tailored approach in terms of a useful parenting plan underscores their accumulated knowledge and the recognition that they possess valuable insights into their child's unique needs. The response also demonstrates the active role parents play as advocates for their children and highlights the unique challenges these parents face within systems that might not be sufficiently tailored to special needs. This statement emphasises the depth of their knowledge, gained through the necessity of advocating for their child and protecting their SNC from marginalisation or undignified treatment.

7.4.6 Sub-Theme 4.6: The Child's Access to Treatment

The child needs access to therapy to help them cope with life adjustments, both pre- and post-divorce. Parenting plans should incorporate therapeutic arrangements as highlighted by the following quotations:

So, like the father's visitations are to be compatible with the minor child's therapy sessions. (MV)

Just that he has access to, say, therapy or, you know, ways to cope with life at the moment. (JB)

Counselling for children should also be part of the parenting plan.

Mandated counselling: it is a must. (SaB)

The comments above demonstrate how a parenting plan can be structured to safeguard the child's psychotherapy (and other therapies) schedule and how a parent's proactive approach ensures that visitation schedules do not disrupt the child's routine and needed therapy sessions. These statements demonstrate a prioritisation of the child's specific special needs. These quotations further highlight the critical importance of therapy for SNCs who are going through the upheaval of divorce. They acknowledge the necessity for tailored and ongoing support of the child's mental and emotional well-being. The parents' emphasis on incorporating therapy as a crucial aspect in cases involving SNCs is demonstrated. A forward-thinking approach is suggested, focussing on minimising disruption and maximising support for the child.

7.4.7 Sub-Theme 4.7: Including the Child's Preferences

Ja (yes). At his age now, I think definitely. Maybe from, you know, when a child can start giving their own point of view, they can be included. (JB)

Respondents, like JB, emphasised that children should be included in the process of developing and revising the parenting plan, acknowledging the importance of considering the child's perspective in decisions affecting their lives. Parents noted that the child's age is a factor in deciding their involvement, suggesting that, as children reach an age where they can articulate their views, they should be allowed to contribute to discussions about their care and living arrangements.

This quotation provides a parent's perspective, acknowledging that the child is the best person to express their preferences and needs in determining aspects of their life. While recognising differences in age-appropriate communication, it ultimately emphasises the importance of listening to the child's views, preferences, and perspectives and tracking their behaviour within their capacity to convey or verbalise their needs and preferences as a core principle.

I think all children should be included – I think newborn children can be included in parenting plans – you hear a child in different ways. It doesn't mean that the spoken narrative of the child is the only way that you can hear them. There are very, very, very many techniques that one can use in terms of observations, in terms of behavioural indicators. Similar with a child with special needs. They most definitely need to be included in a parenting plan, even if it's via a specialist who understands and then a carer, parents, school, and observation. So most definitely that – it's their plan – they should be there ... (SaB)

This respondent advocated for the involvement of all children, including SNCs, in their parenting plans. The response emphasises the importance of finding appropriate ways to hear the child's voice, whether through spoken language or by observation and interpretation of non-verbal cues, to be embedded in the decision-making process. This quotation

demonstrates a deep comprehension of the child's entitlement to participate in decisions regarding their lives, irrespective of age or ability. It underscores Article 12 of the UNCRC, which states that "States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child." To this end, the child shall be allowed to express their opinions in any judicial and administrative processes that impact them, with such views receiving appropriate consideration relative to the child's age and maturity.

Lundy (2007) suggested a paradigm with four fundamental aspects for conceptualising Article 12: space, voice, audience, and influence. Space pertains to whether the child has been invited and encouraged to articulate their opinions safely and inclusively. Voice pertains to whether the child has had the opportunity to freely articulate their opinions and, where suitable, support in forming their perspectives. Audience is the extent to which a child's perspectives, encompassing vocal and non-verbal manifestations, have been acknowledged and afforded appropriate consideration. Influence describes the extent to which the child's perspective has been implemented, as deemed appropriate. To effectively implement Article 12 and guarantee the accurate representation of children's ideas, perspectives, and experiences, all four aspects are essential for their opinions to be heard, actively considered, and taken seriously.

I don't think there is anyone better than the child. My son is already at a good age, and my daughter is also relatively – but also not too young – but there is no better thing than if the child can say, "my mom" or "my dad".

(CVV)

... when he speaks, he speaks with words of wisdom ... I have seen it with the kids, his neurotypical friends ... he will also give it to me straight.

(MV)

These quotations present the viewpoints of two parents, recognising that the child is the best person to express their preferences and needs in determining aspects of their life. While acknowledging differences in age-appropriate communication, it ultimately emphasises the importance of listening to the child within their capacity to make decisions as a core principle. Both responses highlight the fundamental right of the child to be heard and involved in decisions impacting their lives, regardless of their special needs or developmental stage. They acknowledge the need to tailor communication methods, incorporating observations, non-verbal cues, and input from professionals skilled in interpreting the needs of SNCs. The responses underscore the value of respecting the child's unique perspective and preferences, emphasising the principle of self-determination and genuine participation as well as inclusion in society even for those who may communicate differently and highlight research conducted by Lewis-Dagnell et al. (2023) that states that all children have the right to convey their views and for their views to be taken seriously. This right must not depend on an individual's perceived ability or skills to communicate, as there exists a legal and moral duty to ensure that all children's voices are acknowledged and heard. Consequently, all forms of communication should be esteemed and recognised, and obstacles to participation and expression must be eliminated.

7.4.8 Sub-Theme 4.8: Specialised Training for Caregivers

This sub-theme captures the need for specific programmes or training for parents and nannies, emphasising the importance of specialised knowledge and skills in handling various disabilities.

... we also need people who will stay with disabled children. They need to be taught the type of disabilities and how to handle certain disabilities and the needs, any special needs that are involved with that certain disability ... Not only the nanny, but everybody else who is in contact with the child – the disabled child. (NM)

... the physiotherapist and the occupational therapist – they can even lead whatever training that needs to be done for the extended family members and both parents. (NM)

I think it will help a lot if they [the child's therapists] train the extended family about this disability and how to handle it. (CVV)

These quotations strongly advocate for specialised training for caregivers and extended family members who interact with an SNC. They emphasise the need to train those involved in the child's care on specific disabilities, handling techniques, therapy methods, and the overall special needs the child might have. It underscores the importance of training for parents and personal caregivers of SNCs, recognising that optimal care requires a broad base of understanding.

7.4.9 Sub-Theme 4.9: Strict Parental Rules

When considering the household and the difficulties SNCs experience in adapting, it was mentioned by all respondents that, in the best interest of the child, there should be strict rules and responsibilities for parents to comply with in both homes. On the topic of how to ensure that the child has a consistent and supportive environment to develop and thrive in, two respondents shared the following insights:

I am an adult; I get hurt; I am traumatised, but I have learned how to pick myself up, to heal, and to move forward, but my son is not there. So, loose ends – if there is no precision – it is that lack of precision that opens a door

for violence and chaos in that child's life, and that is not fair. And it is actually easy for us as adults to adapt to precision. It is easy. In a parenting plan, nothing must be vague. It must be actually annoying, particular, or precise, you know, but for the child's sake. (MV)

So, most of the children – I have learned from his friends and from [my son] – is routine, structure, predictability is when they flourish the best ... So, we have got a very good plan from the moment he wakes up, you know, until the time he goes to bed. There is actually a routine and the father or the mother – whoever – needs to – both of us – need to stick to that routine. (MV)

Responsibilities, for sure. Costs, medical costs and school costs, decisions. Everything that is there actually should stay there ... [my] son has actually gone to Joburg without me knowing. I still think that should be illegal, that you should be told if your child is going away. (SB)

The above responses imply a shared responsibility of both parents to adhere to the structure and predictability established in the plan to ensure the best interest of the child is met, and further emphasise the importance of clear, detailed and non-negotiable rules within a parenting plan to create stability. They also highlight that shared consent should be stipulated in a parenting plan.

Lists would be so helpful. I remember when we started building up to kind of meeting, I said, "Is there no list of special foods?" Some people are allergic to nuts. Like lists, and you are right, a list of certain niceties that are afforded in a normal situation, like picking up a child. Lists. (SB)

This quotation echoes the need for detailed, practical lists within parenting plans for SNCs. It stresses the importance of outlining all relevant aspects of care and decision-

making, especially when numerous specialists and specific routines are involved, suggesting a comprehensive and specific approach. It also highlights the specific needs of an SNC. It recognises that strict rules, consistency and clarity within a parenting plan are key to providing the stability and predictability required for optimal development and further acknowledges the complexities in managing the care of SNCs, advocating for detailed, comprehensive plans that address a wide range of aspects beyond those in typical parenting plans.

I think the parenting plan should say that is your responsibility as a parent and make you sign and say, “yes, I will honour them”. So, by law, they can be taken to task. (JB)

Maybe there should be a body, a governing body, to check that people are impartial, one. To act in the best interest of the child ... If a governing body can support – actually support – both parties, because then [my son’s] neuro-paediatrician says that “no, he needs this intervention”. (SB)

These quotations offer in-depth insights from parents’ perspectives, advocating for more stringent oversight and accountability in divorce cases with SNCs. They highlight the need for impartiality and child-focused actions and emphasise the desire for a governing body to ensure these standards are met. The quotations also suggest frustration with professionals who are perceived as not fulfilling their mandates or not acting collaboratively.

7.4.10 Sub-Theme 4.10: Time-Sharing Arrangements

All respondents discussed whether there was a plan outlining how the child’s time would be divided between parents. They also mentioned that, although they had equal opportunity to spend time with the child, it would be ideal for the child to have only one household, as supported by respondents who said:

I think it is sufficient, but I definitely think it will be more positive if he was just in, or more time in one household, or stay in the household, *ja* (yes). (JB)

I just think that routine, and so, and being in one place. Well, he is very scared: being all over the place. I think he sees that as his life, but I think it would be more positive if he was more based just under one roof, which obviously, divorced you cannot ... (SBa)

This sub-theme captures the viewpoint that both parents, regardless of where the child resides, should have equal rights to see and interact with their child, emphasising the principle of equal parental involvement. This remark presents a parent's viewpoint that a more cohesive schedule, with the child residing predominantly in one household, would be advantageous for the SNC. It emphasises the significance of routine and consistency for these children, indicating that frequent changes between households may be upsetting or perplexing for the child.

... retrospectively, I think might have been a great idea was not long visits but more short visits when he is young, a year and a half old. But then I took the other option, which, at the time, I thought was a better idea, but I think I might have made a mistake there. (SB)

And now, retrospectively, I can see how that week it would have been beneficial to see him every second day so [my son] would have – well, get used to seeing me often. At the moment, *ja* (yes), I do not think he has any separation anxiety from not seeing me for that length of time, six days. I think it just helped him to get used to long periods of not seeing me. (SB)

The respondent reflected in hindsight that shorter, more frequent visits early on might have been preferable for establishing a stronger bond with both parents. This response also

emphasises the need to tailor the time-sharing plan to the child's specific needs and to have an established schedule. These responses highlight the potential impact of time-sharing arrangements on an SNC, recognising the importance of routine and avoiding disruption. They demonstrate a combination of lived experience and thoughtful analysis in approaching shared custody arrangements. One quotation highlights immediate challenges, while the other considers long-term effects. Implicitly, they suggest the need for flexibility when structuring time-sharing plans and the potential difficulty in altering them once established, as stated by SB:

Well, it has now been 6 or 7 years, and now, practically, it does not seem to have a way of getting out of what it is now. It is very difficult to change anything. (SB)

7.4.11 Sub-Theme 4.11: Reviewing Parenting Plans

Although all the parents who had parenting plans reported that none of their parenting plans had been reviewed, this sub-theme captures the idea that parenting plans, especially for SNCs, should be revisited and potentially revised as the child grows older or as their circumstances change, as confirmed by two respondents:

Parenting plans do not necessarily mature, but I do think a parenting plan for a child with special needs needs to be reviewed as they grow older ... (JB)

Revision, or the input, the direct input of the therapist, if they feel that a change is validated, that is needed ... (SBa)

It reflects an understanding that these plans are not static and need to adapt to the changing needs of the child. Parents expect that professionals involved in the care and treatment of children, such as treating psychologists, should play a role in revising the parenting plan. It shows the belief in the value of professional input in tailoring the revised

plan to the child's needs. When one respondent was asked how often a parenting plan must be revised, she stated:

Once a year. I feel like 6 months go so quickly to do evaluations. Why must the child go – you know – go through that? I feel every 12 months makes more sense to reassess the situation. Because what is amazing, I see a huge difference in [my son] from year to year ... because both parents' lives are going to change, but also the child is maybe "healing", because that is what I am seeing in [my son]. I have been doing everything the experts are telling me, and we see that he is "healing", but the father is not involved in that. So, then we can say, okay, let us reconsider now, you know. What are the options? (MV)

This detailed answer showcases the view of a parent, advocating for a regular review schedule for the parenting plan (every 12 months). The quotation emphasises a dynamic understanding of the child's evolving needs. Most parents agreed about revising the parent plan. When asked how often parenting plans should be reviewed, most respondents said every 3 years. One parent advocated for periodic reassessments, varying from 6 months to a year, or as the child matures, allowing for adjustments that benefit the child's progress. Two respondents suggested every 6 months.

We are currently trying to employ a new social worker. All of this, obviously, has cost implications ... even when you follow the process and you follow the law and you try the legal route and there is not an alternative and you have to try that, currently it has not changed anything. The situation is what it is. So, the parenting plan is not great. [My son] is turning nine this year. It should have been revised. It is not within our knowledge to know how to make somebody do that. (SB)

7.4.12 Sub-Theme 4.12: Financial Support and Planning

This sub-theme addresses the financial implications of caring for an SNC, including the costs of special food, clothing and medical expenses. It highlights the economic burden experienced mainly by the primary caregiver, noting that medical aids only partially alleviate this burden. While financial circumstances should be considered in the parenting plan, it also recognises the challenges single parents face in securing adequate financial support for their child.

My daughter is not on such a bad level, but I think for parents where it is really bad and there is a higher level of handicap, I would imagine the medical costs can get really rough. I think the parent who then cannot work has to be compensated either by the state but also definitely by the other parent; there has to be a financial plan drawn up. (CVV)

And as reiterated by NM:

Because they have their special food that they are eating, even the clothing. Now with my son, he was – he was not able to talk. So, we had to buy nappies. Throughout his 18 years of existence, he was just on nappies. So, if I had financial assistance from the father at least: sometimes he would buy the nappies and the other month maybe I would buy them. But, like I am saying, that would have helped a lot ... And also medical, because sometimes he would get sick. I do not know what is wrong with him. I have to take him to a doctor. The doctor will give us a referral to other specialists, and each and every specialist has to be paid. So, sometimes the medical aid does not even cover everything or maybe the medical aid gets exhausted. Then I have to pay out of my own pocket. (NM)

This lengthy quotation details the various financial burdens carried by a single parent of an SNC. Respondents mentioned extensive additional costs associated with raising an SNC, such as medical expenses, specialised equipment, therapy costs, and childcare, highlighting the extraordinary costs associated with raising an SNC. This response further underscores the significant financial challenges faced by many parents, particularly single parents, in such situations.

... I struggled a lot to make it work, but eventually, I couldn't, and I had to stop the medical aid because I could not afford it. You know, those things need to be paid off. The lawyers. I have lawyers blowing down my neck all the time about money ... It is not possible, because then I do not have money for other things. (SB, translated)

The finances, I can say I am thankful that the medical aid helped a lot for that which they were on their dad's medical aid, so if they needed occupational therapy or a lot of play therapy ... (CVV)

These quotations highlight the real-world struggles of parents attempting to manage the financial responsibilities of caring for SNCs amidst personal financial constraints. They emphasise the difficulty of meeting medical expenses, addressing legal debts, and even providing basic necessities for the children. They also portray the practical, day-to-day financial hurdles parents of SNCs face. These costs can be overwhelming and affect multiple aspects of life. The responses highlight the perspectives of parents with primary financial responsibility for their SNCs, providing insights into the emotional and practical strain of managing these challenges alongside the complexities of divorce. Furthermore, the discussion also highlights how financial disparities and disagreements about responsibility between the child's parents can significantly impact the lives of SNCs and their families, creating additional stress and instability.

7.4.13 Sub-Theme 4.13: The Role of Communication Between Co-Parents

Parents often face difficulties in deciding on the best treatment for their children when there are conflicting opinions or disagreements, as reported by all the parental respondents. The parenting plan should outline how to approach these disagreements to make the best decision for the child. This sub-theme highlights a gap in cooperative parenting planning and the unresolved issues that can lead to arguments and conflicts.

So, lack of communication. If you do not know who is being appointed, you do not know what the cost is, you do not know what the service is. It is fine to say somebody is an occupational therapist, but if you are not there with your child, you do not experience it. So, it becomes difficult to keep track of medical costs because you are not involved in the decision-making process, and we offered on multiple occasions, you know, to be there because [my ex-wife] is a single parent, and she has had another child. So, we offered to be there to help, to be involved, but we are not privy to that ... it is fine to say you have full parental rights, but you are never really involved in the decision-making ... We found out that he went on Ritalin, I think 3 months after he went on Ritalin. So, that just shows the communication. (SB)

This detailed response provides a father's perspective on the challenges of co-parenting an SNC after divorce. It highlights the impact of poor communication and lack of collaborative decision-making, particularly regarding medical appointments and treatments. The child may experience undue stress, confusion, and inconsistent care due to the lack of a unified plan.

So, even the communication was very bad because we were like fighting, not fighting-fighting, but he left me with unanswered questions. I do not

even know if – Even up to this point, I do not know why he left. So, we could not discuss anything about the parenting, when will be his time to play a role in [our son's] life. So, I cannot say that there was a parenting plan because everything was just left up to me. (NM)

This respondent emphasised the frustration stemming from insufficient communication and a lack of shared decision-making between divorced parents. Implicit in the quotation is a sense of the child's well-being significantly being affected by the parents' poor communication practices and conflicting approaches.

7.5 Theme 5: Parental Responsibilities and Rights

7.5.1 Sub-Theme 5.1: Being a Present Parent

This sub-theme delves into the depth and quality of a parent's involvement in the life of an SNC. It encompasses the various facets of a parent's commitment and active role in supporting and guiding their child's growth and development, especially in the face of unique challenges.

So, how does the parent respond to expert advice? Does the parent focus on the child? You know, and what is the need of the child, or is the parent there to take revenge, you know, and exploit the child, you know, hurt the other parent too and use the child to hurt the other parent? How often does a parent make a point of having contact? It does not matter what a court order says. You know, is he fighting to really spend time with his child or her child? This parent looks like, "I really miss my child. I want to be with this child. I want to be walking with the child on this journey." (MV)

The above-mentioned response highlights aspects such as a parent's responsiveness to expert advice, prioritisation of the child's needs over personal motives, and the effort to

maintain consistent and meaningful contact with their child. It also examines the emotional connection and support a parent provides, highlighting the necessity for parents to be more than just physically present.

As stated by a parent:

... the understanding of the specific emotional needs of the child is important. We need a sensitive and responsive parent to those needs. (SBa)

This response illustrates a genuine investment in the child's well-being, an empathetic understanding of their specific requirements, and a willingness to participate wholeheartedly in their developmental journey. It underscores the importance of a parent's active and emotionally engaged role in nurturing an SNC, transcending beyond mere physical presence to include emotional availability, attentiveness, and dedicated involvement.

Each parent has to show how much they really want to be part of the child's life and part of the child's journey – you know, let us say “healing” – from his diagnosis, his special needs, or just setting him up in life so that he will be a functional adult even though he has got these, you know, special needs. And, how involved is the parent ... (MV)

7.5.2 Sub-Theme 5.2: Ensuring the Physical and Mental Well-Being of Children

This sub-theme revolves around ensuring the physical and mental well-being of children, especially SNCs. It involves appointing secondary caregivers, often family members, to assist children in transitioning to a comfortable living arrangement after divorce. Key points include the absence of mandatory family counselling, parents receiving feedback from caregivers, vague legal guidelines, the emotional toll on parents, and the unequal distribution of caregiving responsibilities, with these responsibilities falling primarily on the mother. Recommendations from respondents included balanced parenting plans, professional

support, and prioritising the child's emotional needs, emphasising love, protection, and nurturing.

For me, in the best interest of the child, for my son, you know, let us not cause separation anxiety, then it is not the best interest of the child. (MV)

This quotation highlights the continued responsibilities parents share, even after divorce, in terms of physical care and decision-making for the child's well-being (such as travel-related decisions). It emphasises the need for clear communication and shared decision-making to ensure the child's safety and best interest.

7.5.3 Sub-Theme 5.3: Children's Need for Social Development and Interaction

The child's need for social development was a key consideration for all respondents. This included the ability to interact with peers, develop friendships, and engage in social activities, which are vital for the child's emotional and psychological development.

Where I have noticed how independent typical children are – or neurotypical children are. They are extremely independent. I am always surprised by, especially, their social skills, how it differs from [my son] ...
(MV)

This comment provides insight into the unique social challenges faced by SNCs. Here, the mother makes a direct comparison between the social development of neurotypical children and her son, highlighting the need for more consistent and guided interventions to support her child's social development within the wider community.

... social skills are so important, and both parents need to come on board and – you know – and even the girlfriend and the boyfriend and the grandparents and the nanny, they must agree on this. (MV)

The quotation underscores the importance of collaborative parenting with clear and consistent social norms to help support the child's progress. These respondents' responses

address the complex interplay between the child's special needs and the necessity for social interaction and development. They recognise social skills as an essential component of healthy development that should be prioritised in the parenting plan and underscore the importance of consistent guidance and expectations from caregivers to optimise social learning for SNCs with their peers outside of the family home.

7.6 Conclusion

Chapter 7 attempts to answer the research question regarding the difficulties and challenges faced by parents of SNCs, emphasising the need for a collaborative, multidisciplinary support network to effectively address the complexities of crafting parenting plans for SNCs from the parents' perspective. These findings largely contributed to the interpretation of the research aims of determining the best practices for the development of parenting plans for SNCs and to develop a comprehensive guideline to assist the courts in making these critical decisions, especially for the vulnerable SNCs.

Chapter 8 Consensus Results of the Delphi Study

8.1 Descriptive Statistics

Consensus obtained from a group of experts using formal methods is considered more reliable than individual opinions and experiences. Consensus methods help to overcome the challenges of gathering opinions from a group, such as a small number of individuals dominating discussions, peer pressure to conform to a particular opinion, or the risk of group biases affecting overall decision-making (Gattrell et al., 2024).

Using the recommendations for data analysis in Delphi studies, as outlined by Khodyakov et al. (2023), one first needs to show measures of central tendency and dispersion, followed by a frequency distribution of responses to each question. Table 8.1 below details two measures of central tendency (i.e., the mean and the mode) along with a measure of dispersion (i.e., the standard deviation; *SD*) of each question. The items were rated on a Likert scale ranging from 1 (strongly disagree) to 5 (strongly agree). It is evident that the respondents strongly agreed that '*Each special needs child's parenting plan needs to be uniquely tailored, reflecting a comprehensive evaluation of their specific developmental, mental, or physical disabilities*' ($\bar{x} = 4,87$; $SD = 0,352$); '*Caregivers need to have a clear understanding of their special needs child's conditions and need to be supported in following the care and support plans developed by professionals*' ($\bar{x} = 4,73$; $SD = 0,458$); and '*Parenting plans need to include specific measures to support special needs children in coping with environmental transitions due to divorce*' ($\bar{x} = 4,73$; $SD = 0,594$). These and other descriptive statistics are shown below.

Table 8.1*Measures of central tendency and dispersion per question*

| Question | Mode | \bar{x} | <i>SD</i> |
|---|----------------|-----------|-----------|
| The current level of governmental support sufficiently addresses the unique needs of special needs children within parenting plans. | 2 | 1.93 | 1.163 |
| The involvement of mental health specialists is critical to developing effective parenting plans for special needs children. | 5 | 4.67 | 1.047 |
| Parenting plans for special needs children adequately facilitate their adjustment to new environments following a divorce. | 2 | 3.07 | 1.163 |
| Single parents of special needs children face significant sacrifices that are recognised and supported in the legal process. | 2 | 2.20 | 0.775 |
| Parenting plans currently in place effectively cater to the case-specific needs of special needs children. | 2 | 2.27 | 0.799 |
| Financial planning and support considerations are adequately addressed in parenting plans for special needs children. | 1 ^a | 2.27 | 1.280 |
| Professional assessment and diagnosis are effectively integrated into parenting plans, ensuring the best outcomes for special needs children. | 2 | 2.07 | 0.594 |
| The process of obtaining governmental support for special needs children's parenting plans is straightforward and free from bureaucratic hurdles. | 1 | 1.87 | 0.915 |
| Parenting plans need to be regularly (approximately every 3 years) revised to align with the evolving needs of special needs children as identified by mental health specialists. | 5 | 4.67 | 0.488 |
| Parenting plans need to include specific measures to support special needs children in coping with environmental transitions due to divorce. | 5 | 4.73 | 0.594 |
| The legal system adequately supports single parents of special needs children in balancing their personal, professional and parenting responsibilities. | 1 | 1.67 | 0.724 |
| Each special needs child's parenting plan needs to be uniquely tailored, reflecting a comprehensive evaluation of their specific developmental, mental or physical disabilities. | 5 | 4.87 | 0.352 |

| Question | Mode | \bar{x} | <i>SD</i> |
|---|------|-----------|-----------|
| Parenting plans need to provide clear guidance on financial responsibilities, ensuring both parents contribute to the additional costs associated with raising a special needs child. | 5 | 4.67 | 0.617 |
| Parenting plans need to be based on the recommendations of qualified professionals who assess and diagnose special needs children. | 5 | 4.53 | 0.834 |
| Governmental support sufficiently addresses the long-term financial, medical, and educational requirements of special needs children within parenting plans. | 1 | 2.00 | 1.134 |
| There is effective collaboration between mental health specialists and legal teams to advocate for the child's best interest in custody and care arrangements. | 2 | 2.53 | 0.743 |
| Divorce-related disruptions to the child's environment need to be minimised in parenting plans through structured and sensitive approaches. | 5 | 4.60 | 0.632 |
| Parenting plans need to take into account the emotional and financial contributions required from both parents, recognising the sacrifices involved. | 5 | 4.67 | 0.488 |
| Parenting plans need to be regularly updated to align with the evolving needs of special needs children, as identified through professional assessments. | 5 | 4.67 | 0.617 |
| The economic challenges faced by primary caregivers of special needs children need to be recognised and mitigated in parenting plans. | 5 | 4.60 | 0.632 |
| Caregivers need to have a clear understanding of their special needs child's conditions and need to be supported in following the care and support plans developed by professionals. | 5 | 4.73 | 0.458 |

^a Multiple modes exist. The smallest value is shown.

Although a standard parenting plan, which merely stipulates time spent with each parent, may bring an initial sense of security and relief to parents, such generic/cookie-cutter agreements usually do a great disservice to families with SNCs (Price, 2012). It is evident that the respondents strongly agreed that “[e]ach special needs child’s parenting plan needs to be uniquely tailored, reflecting a comprehensive evaluation of their specific developmental, mental, or physical disabilities” (\bar{x} = 4.87; SD = 0.352). This sentiment aligns with the findings of Pickar and Kaufman (2015), who recognised that conventional developmentally based custody arrangements may be inappropriate when formulating parenting plans for SNCs, due to the child’s unique symptoms and treatment requirements. Saposnek et al. (2005) proposed that the phrase “best interest of the child” be substituted with “best interest of the child’s special needs” (Saposnek et al., 2005, p. 579).

Garon et al. (2005) emphasised that parenting plans should not be viewed merely as a product of divorce or a standard form outlining a particular time-share arrangement. Rather, the development of parenting plans should be regarded as a means of helping parents reconceptualise their relationship into a working partnership focused on their child’s developmental needs. It can be a timely opportunity for professional intervention and guidance to stabilise family relationships and minimise the negative impacts that divorce often has on children.

Caring for SNCs is a multifaceted endeavour due to the inherent complexities of their conditions, as carers encounter many problems associated with their specialised responsibilities (Moosa-Tayob & Risenga, 2022).

Respondents concurred that carers must possess a comprehensive grasp of their SNC’s problems and require assistance in adhering to the care and support plans created by specialists (\bar{x} = 4.73; SD = 0.458). Carers need extensive programmes to equip them with the knowledge, skills, and support essential for delivering optimal care to SNCs (The

Alzheimer's Society of York, 2018). The physical and psychological anguish experienced by carers due to their caring responsibilities is significantly alleviated when they receive sufficient support (The Alzheimer's Society of York, 2018).

Furthermore, "parenting plans need to include specific measures to support SNCs in coping with environmental transitions due to divorce" ($\bar{x} = 4.73$; $SD = 0.594$). When the family is divided into two separate households, with strained emotions and finances, forcing the family to follow a standard parenting plan rigidly can result in abysmal outcomes. A standard visiting schedule can be particularly unsuitable for an SNC who struggles with transitions.

When only one of the households contains essential equipment, overnight visitations can become an issue. When there are nondisabled children in the family, it may be beneficial to employ a creative visitation schedule where each child gets a regular recurring one-on-one visitation block with each parent. The schedules of the custodial parent and the noncustodial parent should be considered when fashioning the visitation schedule. SNCs often require one or more types of therapy (Babb & Laws, 1997), and the parenting schedule should ensure that the child is reliably taken to all treatment and therapy sessions (Price, 2012).

This aligns with Pickar and Kaufman (2015), who identified specific approaches to enhance the likelihood that a suitable parenting plan can be identified, developed and sustained, as summarised below:

Family law practitioners in all fields should have a foundational understanding of the most prevalent SNCs encountered in family court. They must attain a comprehensive understanding of the specific needs of children pertinent to the cases they are managing. In the absence of immediate access to such knowledge, it is advisable to consult an experienced allied expert. All pertinent information must be disseminated to all parties engaged in the case, including the parents. Furthermore, education ought to encompass information

regarding requisite evidence-based treatments and prevailing disputes around treatment methodologies. The authors (Pickar & Kaufman, 2015) warn that “developmentally appropriate parenting plans” may not be optimal for SNCs, highlighting that the stability provided by residential placement and a consistent routine is more advantageous than a custodial schedule that allows substantial time with both parents. They additionally advise against custodial plans that involve multiple transitions, particularly during hard periods for SNCs, such as school days.

Parenting plans must be based on a thorough evaluation of parenting competencies, encompassing awareness of the specific needs, acceptance of the syndrome or condition, and the willingness and capacity to facilitate the treatment plan.

In divorced families with an SNC, coordination among carers, information exchange, and the establishment of stability in daily routines and structures are crucial. For families in conflict, it may be advantageous to employ a co-parenting counsellor or a parenting coordinator to mitigate disputes before they escalate to the point of requiring judicial intervention. Granting exclusive legal custody for medical and educational decisions to the parent who is more knowledgeable and engaged in the requisite treatment regimens could be advantageous.

A risk assessment model can effectively ascertain an appropriate course of action (Pickar & Kaufman, 2015). The risk of adverse outcomes for children is multifactorial. Certain risks are intrinsic to the condition or syndrome itself (including particular symptoms, severity, and efficacy of established treatment protocols), while others depend more on direct parental competencies (such as the parent’s knowledge of the syndrome and capacity to implement appropriate structure and consequences). Additional risk or protective factors emerge from the dynamics of parent-child relationships (e.g., the parent’s attunement and the child’s receptiveness to parental guidance) or from the interparental relationship (e.g., overall

conflict levels, communication efficacy and willingness, and consensus on a treatment strategy). The child's safety should be prioritised. Certain SNCs are especially vulnerable to self-destructive behaviour or excessive risk-taking (Nicholls et al., 2023).

No parenting strategy should be immutable. Custodial arrangements for SNCs may require more regular reviews than usual. Input from educational, mental health, and medical professionals may yield critical insights necessary for assessing the efficacy of a parenting strategy at a given moment. The child's response to interventions and overall growth may expand or limit custodial options. Any proposed alteration in the custody arrangement or timeshare must be evaluated with sufficient information from parents and, notably, from impartial collateral sources, particularly specialists.

When developing parenting strategies for SNCs, the entire family system should be considered. When parents remarry or acquire new partners, particularly in the presence of stepchildren and additional siblings, the family structure enlarges. Family court specialists ought not to presume the effects of these changes, since they can enhance a child's life rather than merely complicate it. The intricacies of parenting plans may increase, although specialists must evaluate the advantages and difficulties that restructured families present for the SNC.

8.2 Frequency Distributions

The next step, as mentioned by Khodyakov et al. (2023), is to conduct a frequency distribution of responses for each question. Given the 5-point Likert scale inherent in the questions (with 1 representing 'Strongly disagree' and 5 indicating 'Strongly agree'), response categories 1 and 2 (i.e., Disagree) were collapsed, as were response categories 4 (i.e., Agree) and 5. This is in line with the suggestion by the above-mentioned authors, who indicated that "consensus is also determined statistically by calculating the percent of

responses above a certain point, for example, 75% of responses above 7 on a 1–9 scale)” (Khodyakov et al., 2023, p. 6).

Of particular importance in each table is the red, bold font, which denotes the level of agreement among the respondents (percentages of or above 75% indicate consensus). Results revealed that consensus was reached on 15 of the 21 items (Table 8.2).

Table 8.2

The frequency, percentage and consensus decision for each question

| | Frequency | Percent | Decision |
|---|-----------|-------------|--------------------------|
| The current level of governmental support is sufficient for addressing the unique needs of special needs children within parenting plans | | | |
| Strongly disagree / Disagree | 13 | 86,7 | Consensus reached |
| Agree / Strongly agree | 2 | 13,3 | |
| Total | 15 | 100,0 | |
| Involvement of mental health specialists is critical for the effective development of parenting plans for special needs children | | | |
| Strongly disagree / Disagree | 1 | 6,7 | |
| Agree / Strongly agree | 14 | 93,3 | Consensus reached |
| Total | 15 | 100,0 | |
| Parenting plans for special needs children adequately facilitate their adjustment to new environments following a divorce | | | |
| Strongly disagree / Disagree | 7 | 46,7 | Not reached |
| Neutral | 2 | 13,3 | |
| Agree / Strongly agree | 6 | 40,0 | |
| Total | 15 | 100,0 | |
| Single parents of special needs children face significant sacrifices that are well-recognized and supported in the legal process | | | |
| Strongly disagree / Disagree | 11 | 73,3 | Not reached |
| Neutral | 3 | 20,0 | |
| Agree / Strongly agree | 1 | 6,7 | |
| Total | 15 | 100,0 | |
| Parenting plans currently in place effectively cater to the case-specific needs of special needs children | | | |
| Strongly disagree / Disagree | 12 | 80,0 | Consensus reached |
| Neutral | 1 | 6,7 | |
| Agree / Strongly agree | 2 | 13,3 | |
| Total | 15 | 100,0 | |

| | Frequency | Percent | Decision |
|---|-----------|--------------|--------------------------|
| Financial planning and support considerations are adequately addressed in parenting plans for special needs children | | | |
| Strongly disagree / Disagree | 10 | 66,7 | Not reached |
| Neutral | 2 | 13,3 | |
| Agree / Strongly agree | 3 | 20,0 | |
| Total | 15 | 100,0 | |
| Professional assessment and diagnosis are effectively integrated into parenting plans, ensuring the best outcomes for special needs children | | | |
| Strongly disagree / Disagree | 12 | 80,0 | Consensus reached |
| Neutral | 3 | 20,0 | |
| Total | 15 | 100,0 | |
| The process of obtaining governmental support for special needs children's parenting plans is straightforward and free from bureaucratic hurdles | | | |
| Strongly disagree / Disagree | 10 | 66,7 | Not reached |
| Neutral | 5 | 33,3 | |
| Total | 15 | 100,0 | |
| Parenting plans need to be regularly (approximately every 3 years) revised to align with the evolving needs of special needs children as identified by mental health specialists | | | |
| Agree / Strongly agree | 15 | 100,0 | Consensus reached |
| Total | 15 | 100,0 | |
| Parenting plans need to include specific measures to support special needs children in coping with environmental transitions due to divorce | | | |
| Neutral | 1 | 6,7 | |
| Agree / Strongly agree | 14 | 93,3 | Consensus reached |
| Total | 15 | 100,0 | |
| The legal system adequately supports single parents of special needs children in balancing their personal, professional, and parenting responsibilities | | | |
| Strongly disagree / Disagree | 13 | 86,7 | Consensus reached |
| Neutral | 2 | 13,3 | |
| Total | 15 | 100,0 | |
| Each special needs child's parenting plan needs to be uniquely tailored, reflecting a comprehensive evaluation of their specific developmental, mental, or physical disabilities | | | |
| Agree / Strongly agree | 15 | 100,0 | Consensus reached |
| Total | 15 | 100,0 | |
| Parenting plans need to provide clear guidance on financial responsibilities, ensuring both parents contribute to the additional costs associated with raising a special needs child | | | |
| Neutral | 1 | 6,7 | |

| | Frequency | Percent | Decision |
|---|-----------|--------------|--------------------------|
| Agree / Strongly agree | 14 | 93,3 | Consensus reached |
| Total | 15 | 100,0 | |
| Parenting plans need to be based on the recommendations of qualified professionals who assess and diagnose special needs children | | | |
| Strongly disagree / Disagree | 1 | 6,7 | |
| Agree / Strongly agree | 14 | 93,3 | Consensus reached |
| Total | 15 | 100,0 | |
| Governmental support sufficiently addresses the long-term financial, medical, and educational requirements of special needs children within parenting plans | | | |
| Strongly disagree / Disagree | 11 | 73,3 | Not reached |
| Neutral | 3 | 20,0 | |
| Agree / Strongly agree | 1 | 6,7 | |
| Total | 15 | 100,0 | |
| There is effective collaboration between mental health specialists and legal teams to advocate for the child's best interests in custody and care arrangements | | | |
| Strongly disagree / Disagree | 9 | 60,0 | Not reached |
| Neutral | 4 | 26,7 | |
| Agree / Strongly agree | 2 | 13,3 | |
| Total | 15 | 100,0 | |
| Divorce-related disruptions to the child's environment need to be minimised in parenting plans through structured and sensitive approaches | | | |
| Neutral | 1 | 6,7 | |
| Agree / Strongly agree | 14 | 93,3 | Consensus reached |
| Total | 15 | 100,0 | |
| Parenting plans need to take into account the emotional and financial contributions required from both parents, recognizing the sacrifices involved | | | |
| Agree / Strongly agree | 15 | 100,0 | Consensus reached |
| Total | 15 | 100,0 | |
| Parenting plans need to be regularly updated to align with the evolving needs of special needs children, as identified by professional assessments | | | |
| Neutral | 1 | 6,7 | |
| Agree / Strongly agree | 14 | 93,3 | Consensus reached |
| Total | 15 | 100,0 | |
| The economic challenges faced by primary caregivers of special needs children need to be recognized and mitigated in parenting plans | | | |
| Neutral | 1 | 6,7 | |
| Agree / Strongly agree | 14 | 93,3 | Consensus reached |
| Total | 15 | 100,0 | |

| | Frequency | Percent | Decision |
|--|-----------|--------------|--------------------------|
| Caregivers need to have a clear understanding of their special needs child's conditions and need to be supported in following the care and support plans developed by professionals | | | |
| Agree / Strongly agree | 15 | 100,0 | Consensus reached |
| Total | 15 | 100,0 | |

Next, Khodyakov et al. (2023) suggest investigating the stability of responses for each question between rounds using nonparametric tests or measures of dispersion. Given that a measure of dispersion is noted in Table 8.1 above, nonparametric tests were used to ascertain the stability between rounds (i.e., between parents and experts). In particular, independent-samples Mann-Whitney tests were conducted on each item. Results from this analysis revealed that there were no significant differences between the scores of the parents and that of the experts on any question, thereby indicating the stability between the two sets of respondents. These results are shown in Table 8.3 below.

Table 8.3

Independent-Samples Mann-Whitney U Tests Comparing the Distributions of Statements Rated (1-5, With 1 Representing “Strongly Disagree” and 5 Indicating “Strongly Agree”) by Parents and Psycho-Legal Experts Showing the Test Statistic (U), the Standard Error (SE), the Standardised Test Statistic (z), the Asymptotic P-Value (p), and the Decision Regarding the Acceptance of the Null Hypothesis. A P-Value of .050 was Accepted as Significant.

| Null Hypothesis | Test Statistic (U) | Standard Error (SE) | Standardised Test Statistic (z) | p | Decision |
|---|--------------------|---------------------|---------------------------------|-------|-----------------------------|
| The distribution of ‘The current level of governmental support is sufficient for addressing the unique needs of special needs children within parenting plans’ is the same across categories of Parent and Expert | 19.500 | 7.765 | -0.966 | .388 | Retain the null hypothesis. |
| The distribution of ‘Involvement of mental health specialists is critical for the effective development of parenting plans for special needs children’ is the same across categories of Parent and Expert | 33.000 | 5.020 | 1.195 | .529 | Retain the null hypothesis. |
| The distribution of ‘Parenting plans for special needs children adequately facilitate their adjustment to new environments following a divorce’ is the same across categories of Parent and Expert | 24.000 | 7.953 | -0.377 | .776 | Retain the null hypothesis. |
| The distribution of ‘Single parents of special needs children face significant sacrifices that are well-recognized and supported in the legal process’ is the same across categories of Parent and Expert | 27.000 | 7.479 | 0.000 | 1.000 | Retain the null hypothesis. |

| Null Hypothesis | Test Statistic (<i>U</i>) | Standard Error (<i>SE</i>) | Standardised Test Statistic (<i>z</i>) | <i>p</i> | Decision |
|---|--------------------------------|---------------------------------|--|----------|-----------------------------|
| The distribution of 'Parenting plans currently in place effectively cater to the case-specific needs of special needs children' is the same across categories of Parent and Expert | 22.500 | 6.602 | -0.682 | .607 | Retain the null hypothesis. |
| The distribution of 'Financial planning and support considerations are adequately addressed in parenting plans for special needs children' is the same across categories of Parent and Expert | 24.000 | 8.161 | -0.368 | .776 | Retain the null hypothesis. |
| The distribution of 'Professional assessment and diagnosis are effectively integrated into parenting plans, ensuring the best outcomes for special needs children' is the same across categories of Parent and Expert | 24.500 | 7.081 | -0.353 | .776 | Retain the null hypothesis. |
| The distribution of 'The process of obtaining governmental support for special needs children's parenting plans is straightforward and free from bureaucratic hurdles' is the same across categories of Parent and Expert | 26.000 | 7.856 | -0.127 | .955 | Retain the null hypothesis. |
| The distribution of 'Parenting plans need to be regularly (approximately every 3 years) revised to align with the evolving needs of special needs children as identified by mental health specialists' is the same across categories of Parent and Expert | 34.500 | 6.944 | 1.080 | .388 | Retain the null hypothesis. |
| The distribution of 'Parenting plans need to include specific measures to support special needs children in coping with environmental transitions due to divorce' is the same across categories of Parent and Expert | 36.000 | 5.925 | 1.519 | .328 | Retain the null hypothesis. |

| Null Hypothesis | Test Statistic (<i>U</i>) | Standard Error (<i>SE</i>) | Standardised Test Statistic (<i>z</i>) | <i>p</i> | Decision |
|---|--------------------------------|---------------------------------|--|----------|-----------------------------|
| The distribution of ‘The legal system adequately supports single parents of special needs children in balancing their personal, professional, and parenting responsibilities’ is the same across categories of Parent and Expert | 33.000 | 7.757 | 0.773 | .529 | Retain the null hypothesis. |
| The distribution of ‘Each special needs child's parenting plan needs to be uniquely tailored, reflecting a comprehensive evaluation of their specific developmental, mental, or physical disabilities’ is the same across categories of Parent and Expert | 25.500 | 5.007 | -0.300 | .864 | Retain the null hypothesis. |
| The distribution of ‘Parenting plans need to provide clear guidance on financial responsibilities, ensuring both parents contribute to the additional costs associated with raising a special needs child’ is the same across categories of Parent and Expert | 25.000 | 6.573 | -0.304 | .864 | Retain the null hypothesis. |
| The distribution of ‘Parenting plans need to be based on the recommendations of qualified professionals who assess and diagnose special needs children’ is the same across categories of Parent and Expert | 35.000 | 7.036 | 1.137 | .388 | Retain the null hypothesis. |
| The distribution of ‘Governmental support sufficiently addresses the long-term financial, medical, and educational requirements of special needs children within parenting plans’ is the same across categories of Parent and Expert | 20.500 | 8.026 | -0.810 | .456 | Retain the null hypothesis. |
| The distribution of ‘There is effective collaboration between mental health specialists and legal teams to advocate for the child's best interests in custody and care arrangements’ is the same across categories of Parent and Expert | 15.500 | 7.427 | -1.548 | .181 | Retain the null hypothesis. |

| Null Hypothesis | Test Statistic (<i>U</i>) | Standard Error (<i>SE</i>) | Standardised Test Statistic (<i>z</i>) | <i>p</i> | Decision |
|--|--------------------------------|---------------------------------|--|----------|-----------------------------|
| The distribution of 'Divorce-related disruptions to the child's environment need to be minimised in parenting plans through structured and sensitive approaches' is the same across categories of Parent and Expert | 32.500 | 7.036 | 0.782 | .529 | Retain the null hypothesis. |
| The distribution of 'Parenting plans need to take into account the emotional and financial contributions required from both parents, recognizing the sacrifices involved' is the same across categories of Parent and Expert | 19.500 | 6.944 | -1.080 | .388 | Retain the null hypothesis. |
| The distribution of 'Parenting plans need to be regularly updated to align with the evolving needs of special needs children, as identified by professional assessments' is the same across categories of Parent and Expert | 32.000 | 6.573 | 0.761 | .607 | Retain the null hypothesis. |
| The distribution of 'The economic challenges faced by primary caregivers of special needs children need to be recognized and mitigated in parenting plans' is the same across categories of Parent and Expert | 21.000 | 7.036 | -0.853 | .529 | Retain the null hypothesis. |
| The distribution of 'Caregivers need to have a clear understanding of their special needs child's conditions and need to be supported in following the care and support plans developed by professionals' is the same across categories of Parent and Expert | 24.000 | 6.514 | -0.461 | .776 | Retain the null hypothesis. |

8.3 Conclusions

Of the 19 psycho-legal experts and parents invited to the first Delphi round, 15 (79%) participated in the second round of interviews. Agreement was reached on 15 out of 21 statements, underscoring the importance of concrete guidelines for parenting plans for SNCs that will be discussed in the following chapter.

Chapter 9 Guidelines for Parenting Plans for Special Needs Children in South Africa

9.1 Introduction

In South Africa, High Courts, civil regional courts dealing with divorce, and children's courts finalise parenting plans and, as mentioned in earlier chapters of this study, these courts are confronted with an increasing number of families who have SNCs, posing challenges to the psycho-legal professionals involved in the development of parenting plans. Despite recent positive developments concerning SNCs in family law, more attention needs to be given to the distinctive considerations for these children when confronted with the separation and divorce of their parents whom they wholly depend upon (Pickar & Kaufman, 2015), as no legislation currently mandates courts to consider care and contact planning for SNCs (Pickar, 2022).

Even though the best interest criterion demands that courts ensure the well-being of children, the researcher realised that, in practice, both parents and psycho-legal professionals struggle with implementing generic parenting plans. Recognising a need for clearer guidelines for SNCs, this chapter provides guidelines for psycho-legal professionals on developing and implementing parenting plans for SNCs affected by the divorce and separation of their parents.

Despite the significant increase in the number of SNCs entering the family law arena, no outlined national or international guidelines exist to manage care and contact planning effectively to serve the best interest of the SNC.

This research study used an overarching qualitative research approach (Denzin & Lincoln, 2005). The Delphi method was used to collect data to establish a consensus on

guidelines of what psycho-legal experts and parents believe should be considered in developing parenting plans.

Based on the anonymous questions posed to parents and psycho-legal professionals, ten guidelines were established through consensus in the second round of the Delphi study. The definition of legal guidelines will be discussed, and thereafter, the guidelines will be presented.

9.2 Definition of Guidelines

Legal and mental health professionals are required to make decisions in their daily practice. They must evaluate specific conditions, consider the preferences of those involved, and foresee both favourable and unfavourable outcomes. With this knowledge, they must choose a suitable reaction from a range of potential actions to provide their service (Jaeschke et al., 2009). In numerous cases, this intricate procedure proceeds seamlessly and is well within the individual's competencies. Sometimes, the solution is not immediately evident, presenting multiple ostensibly feasible alternatives.

Weisz et al. (2007) identified two primary reasons for establishing guidelines. In the case of the current study, the primary objective was to accelerate the acquisition of competent counsel while reducing expenses. This guidance typically manifests as published materials created by specialists to inform professionals of optimal judgements pertinent to their specific situations (Jaeschke et al., 2009) and is especially relevant to this study. The second rationale was to safeguard the autonomy and reputation of a profession (Weisz et al., 2007).

The literature exhibits uncertainty on the terms "guidelines", "standards", and "policy" (Jaeschke et al., 2009). The distinction between these phrases resides in the requisite attention to the specific document and the degree of operationalisation of the content. Research by the Certified Information Systems Auditor in South Africa (2011) provides insights into these concepts from an institutional viewpoint. The Certified Information

Systems Auditor (2011) defines policies as high-level documents that regulate worker conduct, typically enforced at the managerial level. Standards are established to ensure consistent implementation of policy statements. Standards typically articulate overarching ideals; however, they mandate adherence as dictated by the organisation. The American Psychological Association (2017) indicates that standards primarily emphasise broader concerns, including competence, ethical dilemmas, respect for individuals, confidentiality, privacy rights, informed consent, and proper record-keeping. Conversely, Rosen et al. (2003) characterised guidelines as “systematically compiled and organised knowledge statements to assist practitioners in selecting and utilising the most effective and appropriate interventions for achieving desired outcomes” (p. 209). Guidelines are intended for practical application, are formulated without formally recognised standards, and serve as pioneer roads.

In addition to scope, a significant distinction between guidelines and standards is that guidelines are not always explicitly endorsed by an organisation, but standards are. National organisations, such as the National Association of School Psychologists, typically designate their publications as “standards” (for example, Fagan, 2005), whereas the HPCSA refers to its documents as “guidelines” (for example, the HPCSA ethical guidelines).

Standards are established through endorsement by an organisation, whereas an individual may author guidelines without undergoing peer review. A segment of the procedure by which a guideline may evolve into a standard involves an external consultation and feedback mechanism, followed by eventual acceptance by an organisation. Consequently, guidelines may act as a predecessor to standards by establishing a foundational basis for exploratory work (Certified Information Systems Auditor, 2011) and hopefully, this will also be achieved with the guidelines proposed in this research study.

9.3 Guidelines for Parenting Plans for Special Needs Children

9.3.1 Provide a Clear Financial Plan, including Government Financial Support.

Parenting plans should recognise and mitigate the economic challenges faced by primary caregivers of SNCs. They must clearly outline the financial responsibilities of each parent and ensure that both parents contribute to the additional costs associated with raising an SNC and/or adult dependent.

One of the persistent obstacles faced by many single-parent families is financial hardship (Kotwal & Prabhakar, 2009), which is exacerbated when the parent is responsible for a child with special needs. Research indicates that families of SNCs incur more expenses than typical families (Taderera & Hall, 2017). Raising an SNC is costly, as substantial funds are required for therapies, medical bills, and other services (Resch et al., 2012). Single women raising SNCs frequently encounter problems due to financial hardships (Gottuso, 2016) resulting from the prolonged care of these children without any spousal assistance. Consequently, the literature suggests that single mothers of SNCs face numerous challenges, including managing the family's financial obligations while also caring for their SNC. Respondents articulated that they must prioritise their children's needs at the expense of their own. A significant amount of the family budget is allocated to their children's educational costs, medical treatments, therapies, and other necessities.

Government financial support is of critical importance. Governments should earmark money to implement the Guidelines for the Alternative Care of Children (United Nations, 2009). The Framework and Strategy for Disability and Rehabilitation Services in South Africa (Department of Health, 2015) provides a programme and budget to address barriers to healthcare access, including rehabilitation services, and to ensure accessible, all-inclusive services for children of all ages. Parenting plans should note whether the family will receive any financial assistance from the government towards the SNC's needs. Families that qualify

should apply for a Care Dependency Grant (South African Government, 2025). Furthermore, parents should find out if the government can assist with transport for learners and vocational SNCs (Department of Transport, 2015) to contribute to their education and employment.

9.3.2 Include Mental Health Specialists

Mental health specialists' involvement, which mirrors a well-coordinated clinical multi-disciplinary team, is essential for efficiently formulating parenting strategies for SNCs. Professionals engaging with children and addressing matters related to them must possess the requisite knowledge and skills obtained through interdisciplinary training on children's rights and needs and through direct interaction with children of varying ages in diverse contexts. This guideline echoes the sentiment of legal professionals who stated that the most significant challenge in childcare and custody cases is creating a conducive environment in court to gather evidence and make thoughtful decisions (American Bar Association, 2008).

Additionally, parenting plans should allow parents to access mental health services. Studies have shown that raising SNCs results in adverse family outcomes, increased stress, depression, anxiety, and other negative emotions (Neely-Barnes & Dia, 2008), and single parents of SNCs experience even greater challenges (Kotwal & Prabhakar, 2009). Mothers raising children with intellectual disability tend to experience more depression (Neely-Barnes & Dia, 2008). Another study conducted on the challenges experienced by parents having autistic children revealed that the diagnosis of the SNC tends to impact the family emotionally. Participating mothers reported that they suffered from depression, isolation, feelings of failing as a parent, and significant health problems (Ludlow et al., 2012). The emotional impact experienced by parents in raising their child is immense and varies from individual to individual based on the family's capabilities and resilience. Some of the emotional challenges experienced by single mothers in raising their SNCs included fear and worry about the child's health and future, guilt for not meeting the family needs owing to

work overload, feelings of isolation due to the absence of a spouse who could have shared the burden, absence from social gatherings owing to their child's disability, grief and bereavement over their child's future and the opportunities they miss out on because of their disadvantaged situation.

9.3.3 Cater for Case-Specific Needs

Parenting plans should successfully address the unique needs of SNCs. Each child's disability or condition and its impact on their living arrangements, their dietary requirements, and their need for consistency and routine should be carefully evaluated and clearly stipulated in the parenting plan. The unique requirements of a child with a mental illness, physical or intellectual disabilities, or behavioural issues should be a legally mandated consideration when a court determines custody or formulates a parenting plan following the best interest of the child standard. This guideline supports the Guidelines for Assessing and Determining the Best Interests of the Child (United Nations High Commissioner for Refugees, 2021) that encompass all aspects of the child's welfare and state that the needs, desires, and interests of each child are unique, and therefore, decision-makers need not evaluate all factors in every individual case, nor merely those factors uniformly or attribute them identical significance or meaning.

9.3.4 Include Professional Assessments and Diagnoses

Professional assessments and diagnoses must be effectively integrated into parenting plans, ensuring the best outcomes for SNCs. Parenting plans must be based on the recommendations of qualified professionals who assess and diagnose SNCs. The American Bar Association (2000) published standards relating to trial courts, stating that judges have the "affirmative responsibility" to ensure their decisions are just and based on the facts, endorsing that this guideline has relevance and importance, especially for SNCs, where the court is heavily reliant on professional assessments and diagnoses. This guideline agrees with

the Association of Family and Conciliation Courts parenting plan guidelines (2021) that highlight the importance of evaluators involved in parenting plan evaluations having a broad and specialised knowledge and training in a wide range of topics related to child development, psychopathology, family systems, parenting, parent-child relationships, and family law. Additionally, this guideline is in line with “The Child Custody Evaluation Standards” published by the American Academy of Matrimonial Lawyers (2013), which states that custody evaluators should have at least a master’s degree in a mental health field or a law degree. Those with fewer than 3 years of experience and who have conducted fewer than 20 custody evaluations should be supervised by an experienced evaluator.

9.3.5 Include a Plan for Regular Revisions

Parenting plans need to be regularly (approximately every 3 years) revised to align with the evolving developmental needs of SNCs, as identified by mental health specialists. This guideline is critical for all children, as family circumstances might change due to parents changing employment, relocating, or remarrying. Additionally, SNC’s medical or educational needs may change as they mature, requiring a shift in care and contact arrangements. According to the Association of Family and Conciliation Courts, Ontario chapter guidelines (2021), all parenting plans should be developed with the expectation that they will need to be changed as children’s needs and life circumstances change along the developmental trajectory or when a parent’s life circumstances change due to factors such as health, employment or relocation. They suggest that the initial plan should establish a process for making changes to the schedule or other parts of the parenting plan.

9.3.6 Include Legal Support

The legal system needs to adequately support single parents of SNCs in balancing their personal, professional, and parenting responsibilities. For example, the parenting plan should include respite for the primary caretaker. If parents cannot agree on such a plan,

dispute resolution mechanisms need to be stipulated in the parenting plan. Parenting coordinators need to be appointed to assist parents after the divorce. Furthermore, any dispute involving a child should be addressed in the shortest feasible time to prevent the onset of lasting and potentially irreparable detrimental consequences for the child, following the USA Idaho Bench/Bar Committee report (Mauzerall et al., 1996) that addressed the impact of high-conflict divorce on children. They concluded that the judicial process, even though it is adversarial and conflictual in nature, should not increase the conflict between parents and cause additional harm to children.

9.3.7 Include Measures to Support Environmental Transitions and to minimise divorce-related disruptions

Parenting plans should include measures to facilitate environmental transitions for SNCs, and possibly siblings, to assist them in adapting to changes resulting from divorce. Parenting plans should minimise divorce-related disruptions to the child's environment through structured and sensitive approaches. These may include ensuring consistent routines, such as continuing the child's medical care, therapy sessions, and dietary requirements, agreements to ensure smooth transitions between homes and comfortable communication, and allowing children to maintain important relationships by attending the same schools and activities where possible. According to the Association of Family and Conciliation Courts, Ontario chapter's guidelines, parenting time must accommodate the child's special needs, and it acknowledges that some SNCs face significant challenges with transitions or need especially stable and consistent routines. It reiterates that equal time regimes and frequent transitions may be less appropriate for some SNCs and that it is valuable for both parents to provide care to allow respite for the parent with the primary residence of an SNC (AFFC-O, 2021)

9.3.8 Uniquely Tailor Parenting Plans to Reflect a Comprehensive Assessment of the child's needs

Each SNC's parenting plan must be uniquely tailored, reflecting a comprehensive evaluation of their specific developmental, mental, or physical needs. SNCs may flourish in a structured setting that necessitates consistent and predictable routines and thorough preparation for transitions. Parenting plans should account for SNC's greater need for supervision and professional intervention to ensure they receive the requisite psychiatric, behavioural, and medical assistance. Parenting plans should offer flexibility and anticipate future needs while circumventing the need for court intervention for modification. Canadian law supports individualised plans for children based on the needs of each child in the family and the circumstances of the parents, rather than assuming that equal parenting time is appropriate for all children (AFFC-O, 2021). However, little attention has been paid to the specific application of different evaluative criteria according to special case-based considerations.

9.3.9 Recognise the Sacrifices of Both Parents

Parenting plans need to consider the emotional and financial contributions required from both parents, recognising the sacrifices involved. For example, the parenting plan should include respite for the primary caregiver to alleviate the strain of caring for an SNC by themselves (Broussard et al., 2012; Mugove, 2017). Single parents of SNCs experience overwhelming fatigue from juggling several responsibilities, leaving them no time for self-care. Employed single mothers face significant difficulties in achieving equilibrium between their professional and domestic responsibilities. Their everyday work is impeded by childcare responsibilities, the treatment requirements of their children, and frequent medical appointments (Eisenhower & Blacher, 2006). If the primary caregiver sacrifices their career

to look after the SNC full-time, maintenance for that parent should be continued after the SNC becomes independent.

9.3.10 Consider Each Caregiver's Understanding of the Child's Special Needs

The level of understanding of caregivers (including parents, extended family members, and nannies) of the SNC's conditions should be considered in the development of parenting plans developed by professionals. If one parent is more knowledgeable about the SNC's condition and treatment needs, that parent might be appointed as the primary caretaker. Parents who are not sufficiently knowledgeable about their child's condition should be mandated to receive education on taking care of their SNC. Extended family members and nannies who play an important role in the care of the SNC should be included in the parenting plan. For example, the nanny's salary might be included in the parenting plan.

9.4 Conclusion

This chapter concludes the expert consensus achieved by parents and psycho-legal experts for parenting plan guidelines for SNCs. This consensus was determined based on the thematic analysis of the interview data and the consensus questionnaire. The respondents reached a consensus on 15 aspects, culminating in 10 guidelines for designing parenting plans for SNCs. In conjunction with addressing the aims of this research study, the findings presented in the preceding three chapters are summarised and integrated in the following concluding chapter.

Chapter 10 Conclusion

10.1 Introduction

This chapter describes the general findings of the current study and employs self-reflexivity to ensure transparency in the research process, consistent with similar qualitative studies. The next section will outline the practical implications and limitations of the current research, followed by concluding remarks that provide avenues for future examination.

10.2 Is the Best Interest Criterion Sufficient for Special Needs Children?

The best interest of the child, as delineated in the UNCRC, is a fundamental principle in care and contact evaluations that determines that: “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, or legislative bodies, the best interest of the child shall be a primary consideration.” (United Nations, 1989, Article 3, paragraph 1). The question arises of whether the principle is interpreted and applied sufficiently in cases involving SNCs.

The objective of this Delphi study was to identify optimal practices for formulating parenting plans for SNCs and to create a comprehensive set of guidelines to aid the courts in making critical decisions for these vulnerable children.

It is important to highlight that the care and contact of SNCs present distinctive difficulties for family law practitioners. SNCs experience a variety of disorders with varied complexities and severities (Pickar & Kaufman, 2015). Psycho-legal practitioners responsible for formulating parenting plans for SNCs bear a significant obligation. They must cultivate a foundational understanding of the most prevalent disorders and conditions encountered in the family court arena.

Furthermore, frequently suggested parenting approaches may be unsuitable for SNCs, as the children often operate well below their chronological age and present severe

behavioural issues. Pickar and Kaufman (2015) advocated for a systematic analysis of risk and protective factors to guide timeshare arrangements and decisions for this vulnerable demographic and advised that psycho-legal experts need to consider the following factors when formulating parenting plans: the child's safety; the disorder's severity; parental (and additional carers') commitment and availability to seek medical, educational, and therapeutic services; parental attunement and insight regarding the issue; and the distinct parenting skills of each parent. Psycho-legal experts must recognise that raising an SNC frequently necessitates more parental availability and specialist parenting competencies, and that inadequate parental collaboration and elevated inter-parental conflict are substantial risk factors for adverse outcomes in these children. Collaboration among carers, such as the dissemination of knowledge and the implementation of consistent daily routines and structures, was emphasised by the respondents as particularly vital. Criteria used to evaluate the SNC's best interest, albeit not exhaustive, is predominantly centred upon the parents. The psychological well-being and mental health of the children are conspicuously absent from this list, as well as from the elements typically considered by South African courts (Uys, 2023).

Families of SNCs are likely to encounter numerous obstacles that require attention during the care and contact planning phase. The significant rise in the number of children impacted by divorce has garnered heightened focus on this issue; nonetheless, the unique requirements of SNCs continue to be a matter of concern. SNCs face an increased risk of negative emotions and consequences during and after divorce compared to their peers (Mermelstein et al., 2016). Parenting plans for this vulnerable population must address their multifaceted clinical circumstances, emphasising the necessity for consistency and stability, offering monitoring, assessing the risks and benefits of different residential plans, and ensuring a flexible, positive, and future-oriented strategy. Parenting plans should also guide

the diagnosis and treatment of the child's condition (e.g., assessments, medication, medical procedures, physical therapy, occupational therapy, and psychotherapy). They should specify the providers of medical and related services and identify the most suitable educational setting for the SNC (e.g., mainstream classes, with or without facilitators; special needs schooling; home schooling/tutoring; or a combination of the above).

Despite numerous papers providing guidelines for care and contact evaluations (Gould & Stahl, 2000; Pickar, 2022) concerning children impacted by divorce, SNCs are still overlooked, as there are no established national or international guidelines to formulate parenting plans that prioritise the best interests of these children.

This research study emphasises that South Africa urgently requires comprehensive psycho-legal guidelines for the formulation and execution of parenting plans for SNCs whose parents are separating or divorcing. A detailed and thorough guideline must be established to serve the best interests of SNCs. This study emphasises that a child's special needs must be a requisite consideration in care and contact planning and the formulation of a parenting plan. Neglecting to consider the special needs of a child will result in a worse prognosis for that child, which is untenable in a democracy that prioritises equitable justice for all citizens.

This research study aimed to rectify this disparity and provide guidelines to support this vulnerable population. This aim was accomplished by conducting qualitative research based on two rounds of interviews conducted with psycho-legal professionals and parents of SNCs to enhance the services provided by mental health professionals and the legal system for South African SNCs.

10.3 Conclusions of Round One of the Delphi Research Method

The following conclusions were drawn from the thematic analysis combining both the psycho-legal experts' and parents' responses.

10.3.1 Theme 1: Defining Special Needs

The first organising theme, defining special needs, is constructed from five sub-themes, namely physical disabilities, NDDs, characteristics outside of the norm, mental and intellectual disabilities, and specific learning disorders. The explosive growth in the number of SNCs entering the legal arena underscores the importance of a clear definition of what constitutes “special needs”. Both legal and mental health professionals agreed on the importance of having a clear understanding of what special needs entail when developing appropriate parenting plans.

10.3.2 Theme 2: The Challenges Faced by Divorced Parents of Special Needs Children in South Africa

The second theme explored the profound challenges and obstacles encountered by parents and families raising SNCs. Respondents shared their emotional journeys of acceptance after the diagnosis was made and shed light on the struggles faced in assisting their child with schoolwork, dealing with attention disparities among siblings, seeking governmental support, accessing specialised treatment, and coping with uninvolved and non-compliant co-parents. Moreover, respondents shared the turbulence within households affected by these challenges, including the implications of divorce, their children’s adjustment to new environments, and the children’s reactions to their parents’ divorce. Financial contributions from co-parents were highlighted as a sensitive issue, as well as single-parent access to mental health support. Additionally, respondents shared their challenges regarding the significant sacrifices made by single parents as well as the legal complexities that may arise, such as court interventions and care and contact planning.

10.3.3 Theme 3: The Essential Support Network – Incorporating Advice From Professionals in the Parenting Plan

All respondents drew attention to the crucial role of the consultation network in the development of their parenting plans. According to the respondents, a multidisciplinary team involving caregivers and family members collaborating with mental health specialists, physiotherapists, medical specialists, and legal experts, such as family advocates and mediators, is integral to understanding and addressing the mental and emotional needs of the child. They highlighted that incorporating a team with diverse qualifications, backgrounds, and expertise provides a holistic understanding of the child's mental and emotional health, making parenting plans more appropriate and feasible to implement daily. All respondents expressed a need for legal and psychological synergy where legal processes align with psychological insights to ensure the child's best interest is met both legally and emotionally.

Respondents from the psycho-legal fraternity, as well as the parents, accentuated the importance of assessments and diagnoses of the child's needs as the foundation of effective care and support plans. Respondents gave feedback that legal professionals play a pivotal role in ensuring that the rights and best interests of these children are upheld during legal proceedings such as divorce or custody disputes.

Respondents reflected on the significance of an inclusive family support system in caring for SNCs. They highlighted the roles and responsibilities of extended family members in providing essential respite care, emotional support, and stability in the child's life. This support extends beyond routine caregiving to encompass involvement in decision-making processes, participation in the child's developmental activities, and contribution to their overall well-being.

Respondents also mentioned the role of nannies, au-pairs, day-care workers, and other caregiving professionals who provide essential support to SNCs and reflected on their

contributions to managing the daily care needs of these children, facilitating communication, ensuring a stable environment, and providing respite for parents from the ongoing care and supervision of their SNCs, particularly when the family is navigating the challenges of a separation or divorce. Furthermore, they underscored the importance of including caregivers in the development of parenting plans. They acknowledged the need for their collateral interviews in various legal and therapeutic settings to advocate for the child's best interest.

10.3.4 Theme 4: Developing Parenting Plans for Special Needs Children

The fourth theme articulated the intricacies of crafting a tailored parenting plan that meets the unique requirements of an SNC. Respondents shared the importance of having a formal parenting plan, noting that the process of establishing one requires a comprehensive approach, addressing various aspects of parenting and considering case-specific needs.

They highlighted the significance of ensuring the child's access to various therapies and involving children in decisions regarding their care and development. It is important to acknowledge that hearing a child's voice and preferences is not automatically equivalent to giving them decision-making capacity. Psychologists need to assist the courts in evaluating the mental age and maturity of the child compared to their chronological age. Respondents acknowledged that the law does not provide specific guidelines for every scenario and advocated for tailor-made approaches. They requested a focus on the best interest of the child by considering their life history and current situation, and involving medical and counselling professionals to understand their needs better.

Respondents also expressed the need for specific programmes or training for individuals who develop parenting plans for SNCs, emphasising the importance of specialised knowledge and skills in handling various disabilities. Most legal experts are not trained as mental health specialists (Frost & Beck, 2016). Respondents supported the need for training in recognising common mental health conditions and how certain diagnoses may

impact parenting. Having a general understanding of conditions commonly seen in the legal arena can assist legal professionals with decision-making and accessing referral pathways to mental health professionals.

Psycho-legal experts and parents recommended that parenting plans should be revised and updated, stating that adjustments to parenting plans for SNCs are infrequent and that significant changes in family circumstances, such as the death of parents, necessitate a review of the arrangements. Respondents highlighted the importance of professional assessments and diagnoses and valued therapists' input, which need to be considered not only when parenting plans are developed, but also when they are reviewed, as their professional assessments can indicate whether changes in the plan are warranted based on the child's evolving needs.

Respondents also stated that SNCs require a stable environment and a specialised approach involving mental health and education professionals for their education.

Parent respondents indicated that they have learned how to take care of their SNCs either through self-study or by attending training classes. They voiced that they are knowledgeable and attuned to their child's reactions, are familiar with their special needs, and know what input and ongoing observations to provide professionals to enable their SNCs to function optimally. Parents should ideally be informed and supported regarding their children's special needs through parenting support groups, and must be included and consulted during the development of the customised parenting plan.

Both parents and psycho-legal respondents shared their perspectives on the importance and complexities of ensuring that children, especially those with special needs, receive appropriate therapeutic support during and after family law proceedings.

Furthermore, respondents articulated their opinion that children need to be included in the formulation and modification of parenting plans. They reflected on the importance of considering the child's perspective in decisions affecting their life. However, parents

mentioned the child's age as a factor in deciding their involvement. They suggested that, as children reach an age where they can articulate their views, they should be allowed to contribute to discussions about their care and living arrangements. The UNCRC (1989) created an awareness of listening to children's preferences about decisions that influence them directly. There is a shared understanding of the difficulties with involving children with communication barriers, such as ASD or intellectual disability, in legal processes. From a clinical perspective, it is important to differentiate between the chronological age of a child and the mental age or emotional maturity of the child. All respondents recognised the need for alternative methods to understand these children's needs. When SNCs do not have the requisite level of language or intellectual ability to express their needs, they should be allowed to express their views through non-verbal communication, such as their behaviour (Lundy, 2007), which in turn needs to be clinically interpreted.

In this study, respondents further expressed the need for specific programmes or training for individuals who work with SNCs, emphasising the importance of specialised knowledge and skills in handling various disabilities.

Respondents also agreed that SNCs adapt better when rules and routines are followed consistently. They mentioned that, in the best interest of the child, the parenting plan should include strict rules and responsibilities for the parents to follow to ensure that the child has a consistent and supportive environment to develop and thrive in.

Respondents shared the intricacies regarding time-sharing arrangements. For families of SNCs, respondents reiterated that time-sharing extends beyond visitation, encompassing periods when the non-primary parent assumes caregiving responsibilities to provide the primary parent with respite from the constant care required by their child or adult dependent. This arrangement depends on the working hours and capabilities of both parents. Even though Article 28 of the Convention on the Rights of Persons with Disabilities requires states

to support caregivers by offering respite care (United Nations, 2006), respite care remains inadequate, particularly in low- and middle-income countries such as South Africa (WHO & World Bank, 2011).

Pickar and Kaufman (2015) contended that a systematic analysis of risk and protective factors needs to guide timeshare arrangements. The safety of the child, the severity of the disorder, and parental commitment to engage with and commit to medical, educational, and therapeutic services need to be considered. These considerations are especially crucial in children with severe forms of ADHD, ASD or MDD who may be at risk for self-destructive or impulsive behaviour.

Parents' attunement and insight into their child's diagnostic difficulties and parenting skills should also guide time-sharing arrangements. For example, while psycho-legal professionals, in the current study, appreciated research findings that children generally adjust better when they have continued access and substantial time with both parents (Meyer et al, 2017; Steinbach & Augustijn, 2021), parents with SNCs often face challenges with regards to time, resources, and ability to provide interventions and structure. Reliance upon traditional time-share models used with typical children may not be suitable for SNCs. For example, children with ASD or ADHD often require sameness in environments, and this often goes beyond merely the sameness of routine. Even if the routines in the two homes are similar, the child on the spectrum may experience extreme stress from transitioning between different environments (Rappaport et al., 2016).

Respondents highlighted that the integration of maintenance (financial support) in parenting plans can be challenging. The Office of the Family Advocate holds jurisdiction over cases involving children aged 0 to 18 years. In divorce cases involving dependent children, the obligation may extend beyond 18 years, particularly for SNCs who may remain adult dependents due to their conditions, which hinder their ability to enter the workforce or

live independently. Consequently, it might be necessary to establish a trust during the divorce proceedings. Price (2010) highlighted the necessity of addressing the financial aspects of special needs cases. This includes immediate financial concerns such as special diets, assistive devices, medication, therapies, operations/medical procedures and respite care, alongside the heightened financial burdens resulting from divorce and ongoing financial matters like estate and trust planning. In cases of divorce, arrangements for continued care and contact for children with disabilities can be effectively addressed. The inclusion of paid carers in parenting plans was also noted, with considerations such as the caregiver's salary and medical expenses, as well as any additional learning support or tutor fees. The provision of financial support for children with disabilities in divorce proceedings is intricate, often necessitating the appointment of a curator to oversee personal, legal, and financial affairs. Legal experts recommended that parenting plans include distinct provisions for SNCs, separate from general maintenance clauses. SNCs have greater and more prolonged financial requirements compared to their peers, necessitating comprehensive financial planning within parenting plans. A call was made for increased government assistance and legal provisions to address the financial needs of SNCs. Respondents indicated the importance of long-term financial planning, which encompasses provisions in parents' wills and the potential necessity for a curator or administrator once the child attains chronological adulthood. In 2007, Section 17 of the Children's Act reduced the age of majority from 21 years to 18 years. This decision aligned South African law with international human rights standards, which define the end of childhood at 18 years (De Jong, 2022). This situation has multiple implications for young dependent adults aged 18 to 20, as it subjects them to contractual liability. The statute of limitations may apply, requiring them to initiate and defend legal actions in their own name. Another challenge faced by individuals aged 18 to 20, whose parents are undergoing divorce, is the necessity of being joined as parties in the divorce proceedings to pursue maintenance

claims. This situation presents considerable challenges for SNCs, who frequently continue to rely on their parents for financial support beyond the age of 18 due to their disability.

The role of communication between co-parents was also highlighted. Often, parents struggle to agree on the diagnosis provided by health professionals and the best treatment option for the child. Respondents shared that parenting plans do not outline how to approach these disagreements to make the best decision for the children. They highlighted that the lack of discussions or agreements regarding shared parenting responsibilities reveals a gap in cooperative parenting planning, which can lead to unresolved issues and arguments. It is, therefore, recommended that parents attend parenting skills sessions during divorce proceedings. The appointment of a parenting coordinator can also ensure that parents use appropriate communication mechanisms.

10.3.5 Theme 5: Awareness of the Best Interest of the Special Needs Child

This theme addresses the concept of the “best interest of the child” within legal processes and psycho-legal practices, encapsulating the discrepancies between legal interpretations and the actual needs of the child. Respondents noted that the best interest principle is often vague and subject to interpretation, sometimes being manipulated to serve specific agendas. The focus should rather be on understanding and addressing the child’s emotional, physical, and familial needs holistically, rather than just the legal requirements. The respondents acknowledged that the legal system may not always align with the child’s best interest. Respondents suggested that mental health professionals bridge this gap by focussing on the child’s mental and emotional health, overall well-being, stability of their environment, school performance, bond with their parents, routine, comfort with caregivers, and response to changes in their environment, especially for children with conditions like ASD. The principle should not be used loosely or as a tool to achieve a certain outcome.

They recommended an integrated approach where legal and psycho-legal practitioners work together to ensure that the child's best interest is truly being served.

It was also evident that not all parents involved in divorce proceedings had a clear understanding of the concept of the best interest of the child, which can impact how effectively it is considered and applied in these cases. The need for a broader and more practical interpretation of the best interest of the child was stressed, supporting Saposnek et al.'s call "to replace the best interest of the child with the enhanced standard of the best interest of the special needs child" (Saposnek et al., 2005, p. 579).

The best interest of the child criterion appears to be a golden thread of parenting plans. The American "Holley Factors" – a set of criteria established in the 1976 Texas Supreme Court case, *Holley v. Adams* – are used to determine the best interest of the child in care and custody planning. These factors consider the desires of the child, the emotional and physical needs of the child now and in the future, the emotional and physical danger (of one parent) to the child now and in the future, the parental abilities of individuals seeking custody, the programmes available to assist the parents, the plans for the child by these individuals, the stability of both parties' homes, and any acts or omissions of a parent (or excuses for these acts or omissions) that may indicate that the existing parent-child relationship is not a proper one.

Several sources describe guidelines on parenting plan evaluations for typical children. Article 3 of the UN Convention on the Rights of the Child states the importance of using the "best interest of the child" standard in all decision-making concerning children. As a fundamental principle, it guides the implementation of other rights, and it is the most cited Article of the Convention by judicial decision-makers. In most cases, existing guidelines are the product of the Delphi method, where experts forming a panel in the field of care and contact planning reached consensus (Sormunen, 2021; Shang, 2023).

10.3.6 Theme 6: Parental Responsibilities and Rights

Firstly, this theme highlighted the importance of being a present parent and explored the depth and quality of a parent's involvement in the life of an SNC. Parental respondents expressed aspects such as a parent's responsiveness to expert advice, prioritisation of the child's needs over personal motives, and the effort to maintain consistent, meaningful contact with their SNC. It also examined the emotional connection and support a parent provides, highlighting the necessity for parents to be more than just physically present.

Secondly, this theme reflected on ensuring the physical and mental well-being of SNCs. Respondents suggested appointing alternative caregivers, often family members, to assist children in transitioning to a comfortable living arrangement during and after divorce. Key points included the absence of mandatory family counselling, the importance of parents receiving feedback from paid caregivers, vague legal guidelines, the emotional toll on parents, and the unequal distribution of caregiving responsibilities, which usually primarily fall on the mother. Respondents made recommendations involving balanced parenting plans, professional support, and prioritising the child's emotional needs, emphasising love, affection, protection, and nurturing.

Thirdly, respondents focused on their children's needs for social development, such as interaction with peers, friendships, and engagement in social activities, which are vital for the child's emotional and psychological development. This social engagement needed to be sensitive to allow the SNC to relate to typical peers.

10.4 Self-Reflexivity of the Researcher

This study was situated within an interpretive paradigm, which prioritises rich sensory data above causation (Terre Blanche & Durrheim, 2002), providing greater flexibility compared to positivist ontology, as it explores how respondents formulated their social

experiences and manufactured meaning. This approach was appropriate for examining this intricate subject, facilitating the investigation of processes that are distinctive, idiosyncratic, and context-dependent (Lincoln and Guba, 1985).

However, there is a risk that a stance of personal interpretations and unhelpful subjectivity can skew the findings, requiring a reflexive stance to ensure the credibility, trustworthiness, and ethics of research through the self-examination of the researcher's perspective on the studied phenomenon (Berger, 2015, p. 229). Reflexivity is a critical thinking approach that seeks to elucidate the contexts influencing the research process and the resulting knowledge (Lazard & McAvoy, 2020, p. 160).

To address this risk, I reflected on my ideals, beliefs, preferences, background, and knowledge before the research commenced. A significant decision in this study was to choose a qualitative research design, utilising interviews as the method for data collection. I highly regard the individual's perspective and believe it is essential to listen to "the voices from the field" (Trotter-Mathison et al., 2010).

My self-reflexivity encompassed numerous aspects emphasised by Finlay (2002a, b) and King et al. (2010). Due to this self-reflexive practice, I must be upfront about my identity, since it influences the current study endeavour (Morrow, 2005). I am a South African clinical psychologist practising in South Africa, who is involved in psycho-legal assessments in the family law arena. I am, therefore, concurrently situated within the population I am examining.

Being an "insider" conferred numerous advantages, mostly because I felt personally committed to my studies. Secondly, my familiarity with the terminology and some of the terrain traversed by the respondents significantly facilitated my comprehension of their perspectives. It enabled me to formulate pertinent follow-up questions to enhance the dialogue throughout the interview. Thirdly, I am accustomed to conducting interviews

regarding individuals' experiences in a conversational style, which made me comfortable with the data collection process. My background as a psychologist gave me several advantages, such as empathetic response, intercultural awareness, knowledge, and abilities, as well as reflexivity (Nelson et al., 2013).

Gergen (2015, p. 63) advocated for social science researchers to select projects aligned with their values and to abandon the empiricist notion of maintaining a "dispassionate distance" from the subject, because all research outcomes represent a world shaped by human construction. No aspect of the world or reality is independent of an individual's perspective.

I possess a profound affinity with the current study, as care and custody assessments have been the focus of my professional career for over two decades. Engaging in the study and practice of psychology, particularly in the field of psycho-legal assessments, transcends my professional responsibilities; it permeates my personal life. Moreover, in questioning colleagues during the two rounds, I cannot assert that I can set aside my personal experiences as a psychotherapist (Gergen, 2015).

Nevertheless, the drawbacks of being an insider must not be disregarded. To conduct productive interviews within a research environment, the researcher needs to see respondents as authorities on their own experiences (Roulston et al., 2003). Moreover, researchers must be attentive to scrutinising their histories, assumptions, and ideals, while acknowledging that their stance will inevitably encompass inconsistencies (Kanuha, 2000). Corbin Dwyer and Buckle (2009) critiqued the insider/outsider dichotomy, contending that a defined insider remains an outsider to the unique experiences of a single individual, despite apparent similarity. They suggested a dialectical approach that facilitates the retention of the intricacies of parallels and differences (Corbin Dwyer & Buckle, 2009, p. 60).

I also reflexively evaluated the viewpoints of others, encompassing the perspectives and backgrounds of the people with whom I have been collaborating. Qualitative research

cannot ensure that experts' perspectives are accurate or valid, nor can the methodologies I utilised be said to provide absolute precision or validity, contrary to the assertions of quantitative researchers. Qualitative research, in sharp contrast, does not claim to provide definitive certainty to the reader; instead, it values humility and respects diverse subjectivities.

A further key aspect of critical reflection pertains to the selection of research respondents. To effectively address the research aim, two groups of professionals with expertise in care and contact issues were chosen. The mental health professional respondents comprised social workers, clinical psychologists, educational psychologists, and counselling psychologists involved in psycho-legal work to enhance the overall perspective. The legal expert respondents comprised family advocates and attorneys proficient in the field of family law.

A third cohort of research respondents comprised divorced or separated parents of SNCs. It was important to be aware that parents, frequently driven by a desire to attain a semblance of control over challenging situations, may experience feelings of loss or heightened protectiveness towards a child they perceive as delicate or vulnerable to injury or harm. They may conduct thorough research, seek consultations, and participate in support groups, making them experts on their child's condition through experience. Throughout the process, it was essential to remain reflexive that the parent, as an expert, perceived themselves as the singularly educated individual and authority in addressing the needs of their SNC. The inclusion of parents as respondents can therefore be considered a notable strength of this study.

The study initially aimed to involve co-parental couples to gauge how both parents navigate not only the difficult experience of raising their SNC but also the challenges of separation and divorce. Unfortunately, recruitment proved nearly unattainable, with only two

co-parental couples expressing a willingness to engage, underscoring the intensified pressures on the co-parenting dynamic and corroborating established research indicating that raising an SNC can significantly jeopardise a marriage or partnership, leading to elevated rates of separation and divorce (Beresford, 1994; Davis & Carter, 2008; Keller & Honig, 2004; Wymbs et al., 2008). This dynamic became evident during the respondent recruitment process and confirmed the need for adequate care and contact planning to prevent unfavourable outcomes in children because of inadequate parental collaboration and elevated interparental conflict. This also confirmed the need for guidelines to assist parents in improving effective communication, clearly defining and acknowledging parental roles, and ensuring continuous information exchange between parents and among multidisciplinary team members involved in the care of SNCs to protect children affected by separation and divorce.

An additional aspect that deserves contemplation and introspection is the application of the Delphi technique. The advantages of this method are its methodical approach and regulated feedback, which guarantee the attainment of conclusions and consensus with a high degree of accuracy. This strategy minimises prejudice in group consensus by treating each voice equally, without incurring additional costs or time. Respondents reached consensus on 15 statements after two rounds. However, it is important to remain reflexive that this research study's interpretations are heavily reliant on the knowledge of the respondents.

10.5 Implications for Practice – Clinical Guidelines to Ensure the Special Needs of Children are Met

To remedy the care and contact challenges faced by SNCs and to address the aims of this research study, the following ten guidelines were developed:

Table 10.1

Ten Guidelines for Preparing Parenting Plans for Special Needs Children (SNCs) developed from consensus reached by respondents after two rounds of the Delphi method.

| | Guideline | Justification for Inclusion |
|---|--|---|
| 1 | Provide a clear financial plan, including government financial support. | Of the respondents, 93.3% agreed that parenting plans should recognise and mitigate the economic challenges faced by primary caregivers of SNCs. Similar to Price (2010), the respondents noted that there are additional costs involved in raising an SNC that are often aggravated by divorce, such as when the primary caregiver has to return to full-time employment and employ a caregiver. Parenting plans need to provide clear guidance on financial responsibilities, ensuring both parents contribute to these additional costs. A 93.3% consensus was reached that clear financial guidance should be included in the parenting plans of SNCs. Furthermore, of the respondents, 86.7% agreed that government financial support is currently insufficient to address the unique needs of SNCs. |
| 2 | Include mental health specialists. | Mental health specialists' involvement is essential for the efficient formulation of parenting strategies for SNCs, as stated by 93.3% of respondents. Saposnek et al. (2005) advocated for healthcare specialists to participate in co-parenting discussions to ensure the children's needs are met, as they are familiar with specific conditions and SNC's needs, which legal professionals do not always understand. |
| 3 | Cater for case-specific needs. | Parenting plans should successfully address the unique needs of SNCs. Of the respondents, 80% agreed with researchers (Saposnek et al., 2005; Price, 2010) who have advocated for individualised parenting plans. Since each SNC's condition and circumstances differ, no single approach will be suitable for all cases. For example, a child diagnosed with ASD might struggle with transitioning between two households. |
| 4 | Include professional assessments and diagnoses as the basis of the parenting plan. | Most (80%) respondents agreed that current parenting plans do not effectively integrate professional assessments and diagnoses. Parenting plans need to be based on the recommendations of qualified professionals who assess and diagnose SNCs, as agreed by 93.3% of respondents. |
| 5 | Include a plan for regular revision. | Respondents reached a 100% consensus that parenting plans need to be regularly (approximately every 3 years) revised to align with the evolving needs of SNCs as identified by mental health specialists. |
| 6 | Include legal support. | Of the respondents, 86.7% agreed that the legal system does not adequately support single parents of SNCs in balancing their personal, professional, and parenting responsibilities. For example, the parenting plan should include respite care. The |

| Guideline | Justification for Inclusion |
|--|--|
| | Children’s Act (38/2005) obliges parents to seek the assistance of a family advocate, social worker, or psychologist. It also prescribes appointing a mediator to reach an agreement regarding pertinent issues affecting the SNC in the parenting plan. |
| 7 Include measures to support environmental transitions and to minimise divorce-related disruptions. | Parenting plans should incorporate measures to facilitate SNCs in adapting to environmental transitions resulting from divorce, as highlighted by 93.3% of respondents. This crucial guideline aligns with The White Paper on the Rights of Persons with Disabilities Implementation Matrix (Department of Social Development, 2015), which asserts that access to healthcare services must be enhanced for all individuals with disabilities. The White Paper also suggests improved transport to access healthcare services and affordable assistive devices and support. It also assists children after divorce by ensuring that SNCs are not further disadvantaged by separation and divorce, guarantees SNCs’ access to necessary support services, and promotes inclusive practices to ensure their well-being and participation in family life, regardless of their living arrangements after the divorce. It also advocates for proper consideration of SNCs’ needs in care and contact arrangements, as well as access to appropriate therapy or educational support to alleviate the impact of separation and divorce. |
| 8 Uniquely tailor plans to reflect a comprehensive assessment of the child’s special needs. | A 100% consensus was reached that each SNC’s parenting plan needs to be uniquely tailored, reflecting a comprehensive evaluation of their specific developmental, mental, or physical disabilities. |
| 9 Recognise the sacrifices of both parents. | Parenting plans need to consider the emotional and financial contributions required from both parents, recognising the sacrifices involved, as pointed out by 100% of respondents. |
| 10 Consider each caregiver's understanding of the child’s special needs. | Caregivers should have a clear understanding of their SNC’s conditions. Their knowledge of their SNC needs to be supported, evaluated, and documented by the professionals developing the care and support plans, as agreed by 100% of respondents. Caregivers’ level of acceptance and understanding of the SNC's condition could determine visitation schedules or could necessitate compulsory education or training for the caregiver. |

These ten guidelines aim to support authorities and hold decision-makers accountable for safeguarding the best interests of SNCs. They further seek to facilitate the interpretation and implementation of legal and other regulations pertinent to SNC’s rights. The objective of the current research study is to enhance the execution of these guidelines and to efficiently,

appropriately, and thoroughly ascertain the child's best interest. Several psycho-legal respondents advocated for fundamental training to facilitate a more multidisciplinary collaboration across various professions, enhancing their capacity to support SNCs within the legal context. Additionally, the guidelines aim to encourage an interdisciplinary approach to decision-making. This approach pertains to all matters, with a specific emphasis on ascertaining the best interest of the SNC.

By implementing these guidelines, all professionals engaged with children will enhance their ability to uphold the "best interest of the special needs child" norm by articulating the rationale behind their actions to promote the child's well-being. The implementation of these guidelines is especially beneficial in the family law context, resulting from the collaboration between psycho-legal professionals and parents and their integrated approach to practical problems.

10.6 Limitations

Despite efforts to ensure that responses represent all races and genders, the final respondent group, while it included an equal number of female and male respondents, largely consisted of white psycho-legal professionals and parents. Although their contributions were valuable, a more diverse demographic could provide further insights.

Anonymity, while a strength of the Delphi method, also has drawbacks, including possible diminished ownership of ideas (Iqbal & Pison-Young, 2009). Methodological limitations encompass challenges in generalising results to a broader population of experts due to sample size (Hartman & Jugdev, 1998; Schmidt et al., 2001), and the specific agendas or geographical and cultural contexts of the respondents (Niederman et al., 1991; Hsu & Sandford, 2007).

Another potential limitation of the study was that, despite the existence of practice guidelines within the psycho-legal arena, these guidelines often lack the recognition they

warrant in everyday practice. Many practitioners seem to apply practice guidelines without reflecting on their origins or the underlying needs they address. This results in varying degrees of adherence to recommendations, potentially fostering apathy among practitioners regarding the significance or relevance of these papers in their profession. These guidelines may hold intrinsic importance; nonetheless, their usefulness is contingent upon the willingness of individuals and legal systems to adopt them.

10.7 Recommendations for Future Research

Several parent respondents emphasised that children's voices should be heard in decisions that impact them. Considering this, further exploration studies could integrate the voices of SNCs and their siblings when conducting care and contact planning.

In terms of future research, the guidelines developed in the present study serve as a starting point for further development and refinement. As guidelines are living documents, it is recommended that the guidelines developed in this study be updated periodically to reflect advances in knowledge and practice.

10.8 Conclusion

Numerous studies indicate the absence of parenting guidelines for SNCs (Sadiki, 2022), but none offer solutions. The purpose of this research was to determine best practices for the development of parenting plans for SNCs and to develop a comprehensive guideline to assist the courts in making these critical decisions, especially for vulnerable SNCs.

To achieve this, the researcher examined what experts in this field believed were important psycho-legal and ethical considerations when assisting the courts in developing parenting plans for SNCs and reviewed the experiences of South African families with SNCs affected by divorce by conducting two rounds of the Delphi method.

This thesis not only demonstrated that care and custody planning and parenting plans for SNCs are fraught with challenges and dilemmas but also highlighted the importance of

specific guidelines to assist the court and SNCs. This study provides ten guidelines that can aid the court in making determinations regarding this vulnerable population, facilitating post-separation and divorce adjustment, ultimately leading to reduced psychological issues and improved well-being for these families. Respondents reached a 100% consensus on four particular aspects, and these can be considered the key contributions of this research study. Firstly, this research underscored that each SNC's parenting plan needs to be uniquely tailored, reflecting a comprehensive evaluation of their specific developmental, mental, or physical disabilities. Secondly, it highlighted that parenting plans need to be revised regularly (approximately every 3 years) to align with the evolving needs of SNCs as identified by mental health specialists. Thirdly, it drew attention to the fact that parenting plans need to consider the emotional and financial contributions required from both parents, recognising the sacrifices involved in raising an SNC. Fourthly, it accentuated that caregivers need to have a clear understanding of their SNC's condition/s and need to be actively supported in following the care and support plans developed by professionals.

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ANNEXURE A: INFORMATION LETTER

Advice from the Oracle: The structuring of parenting plans for special needs children in South Africa – from conflict to consensus.

I would like to invite you to take part in a research study. Before you decide, you need to understand why the research is being done and what it would involve for you. Please take time to read the following information carefully. Ask questions if anything you read is not clear or if you would like more information. Take time to decide whether to take part.

The Principal Researcher is Ms L Stanton (MA, Clinical Psychology from the University of Stellenbosch), who is currently registered for a PhD at Unisa. Her email address is lstantonpsychology@gmail.com and her student number is 10331751.

You are invited to voluntarily participate in a research study on Advice from the Oracle: The structuring of parenting plans for special needs children in South Africa – from conflict to consensus.

Due to the lack of guidance and standardisation of parenting plans for children with special needs, this current research study aims to answer the following research questions:

- What are the important psycho-legal and ethical considerations of experts when they assist the courts in developing parenting plans for children with special needs?
- What are the experiences of families with “special needs children” affected by divorce?

The aims of this research are, firstly, to determine best practices for the development of parenting plans for children with special needs; and secondly, to develop a comprehensive protocol and guideline to assist the courts in making these very important decisions, especially for the vulnerable child with special needs.

Your participation in the study will consist of two individual interviews of approximately one hour each. The sessions will be scheduled at a time and location that will be convenient for you and will ensure participant confidentiality. Interviews will be recorded, and adherence to the Protection of Personal Information Act 4 of 2013 will be ensured. Anonymity will also be ensured, and the data collected will not have any identifiers associated with it.

You have been identified as a potential research participant by either the legal or mental health fraternity who practise in the field of mediation and family law, and are considered to be an expert in this field. Separated or divorced parents of special needs children, who have been involved in parenting plan development, have also been invited to participate in this study. You have been selected as you are considered to be knowledgeable on and experienced in the topic, and you would be able to contribute to a satisfactory diversity of perspectives on the topic under investigation.

Participation is completely voluntary, and you have the right to refuse participation, refuse any question and withdraw at any time without any consequence whatsoever.

It is important to note that the research is benevolent and that there is no foreseeable risk in becoming part of the proposed research study.

Hard copies of the transcribed audio recordings will be stored by the researcher for a period of 5 years in a locked filing cabinet at the researcher's practice for possible future academic use and will be destroyed when the period has lapsed. It will be password-protected and will comply with the POPI Act and the Health Professions Council of South Africa's ethics guidelines.

The dissemination of the final research product consists of submitting my dissertation for degree purposes.

THANK YOU

ANNEXURE B: INFORMED CONSENT FORM

Consent form: A study on parenting plans for special needs children in South Africa

Participant Identification Number:

Name of researcher: Ms Lenmarie Stanton

1. I confirm that I have read the information letter (dated) for the above study. I have had the opportunity to consider the information, ask questions, and have had these answered satisfactorily.
2. I understand that my participation is voluntary and that I am free to withdraw at any time.
3. I understand that anonymised data collected during the study may be looked at by the professional transcriber. I give permission for these individuals to have access to my records.
4. I understand that all interviews may be recorded and transcribed, but that these will not contain my name or any other identifiable information. I give permission for interviews to be recorded.
5. I understand that some comments I make may be included in a report on the study, but these will be completely anonymous.
6. I agree to take part in the above study.
7. I show my consent by signing this document.

Participant's name

Date

Signature

Researcher's name

Date

Signature

ANNEXURE C: INTERVIEW GUIDE FOR PROFESSIONALS

This study is going to ask you to share your experience with parenting plans and special needs children.

1. How would you define a special needs child?
2. What recognised training and experience do you have regarding parenting plans?
3. What training and experience would you recommend for professionals who need to assist in the drafting of parenting plans?
4. In what ways would an education programme on special needs children be important for the professionals involved in primary residency and contact arrangement evaluations? What should be covered in such a programme?
5. Given that developing parenting plans is difficult, what procedure do you generally follow to ensure that the best interest of the child is adhered to?
6. What guidelines would you like to see implemented by the appropriate authority?
7. Please share your views on the “best interest of the child” legal criteria as contained in Section 28 of The Bill of Rights of 1996.
8. In what ways are the legal criteria in harmony with the child’s best psychological interests, or not in harmony?
9. What are the essential parental responsibilities and rights that should inform the parenting plan?
10. What are the essential responsibilities and rights of the special needs child that should inform the parenting plan? How do these change as the special needs child matures?
11. Which professionals, as a minimum, should be involved in drafting parenting plans?
12. Which other professionals need to be involved when certain needs are present?
13. Can you give me an example (without disclosing identities) of special needs children you have had to assist after a divorce or separation?

14. May commonly recommended parenting plans be appropriate for many special needs children? If yes, why/if no, why not?
15. What risk factors and protective factors should be considered to inform timesharing arrangements?
16. What demands do special needs children place on parents and families in terms of time and financial resources?
17. According to your experience, what are the emotional consequences of parenting a special needs child?
18. What are the professional services that should be consulted by parents who have special needs children and that should also be considered in the development of parenting plans?
19. How do you determine if parents are equipped to deal with a special needs child?
20. How do you determine/assess if parents are capable of parenting a special needs child and meeting their child's emotional and intellectual needs?
21. What do you foresee would be the impact of separation or divorce on the child with special needs?
22. What criteria do you consider when determining the capabilities of parents?
23. Parents often disagree about the degree of impairment of their child. How do you determine if a child is used as a pawn in the divorce process?
24. What measures to address and resolve disputes should be included in a parenting plan?
25. What are the practical difficulties of parenting a special needs child?
26. Considering that many special needs children remain dependent, does a parenting plan mature? Should the parenting plan be revised? If not, do you think it needs to be automatically updated?

27. Considering settlement agreements, how does the law provide for long-term financial provision for vulnerable adults?
28. Parents of special needs children often face the dilemma of education and decide to homeschool their special needs child. What financial provisions should be made for this issue in a parenting plan? One parent often has to stop formal employment due to the needs of their child. How do you think the parenting needs should be addressed to provide financially for a parent who cannot be formally employed?
29. What medical expenses of a special needs child need to be considered in developing a parenting plan?
30. Given the medical needs, how does (or could) a parenting plan provide for the medical expenses?
31. What do you consider the challenges a special needs child faces during a divorce?
32. What would you appreciate from the legal fraternity to consider in the development of parenting plans?
33. What would you appreciate from the treating therapists to consider in the development of parenting plans?
34. How would a psychologist assist you in developing your parenting plans?
35. If a parent had to give up their career to take care of a special needs child, how should the parenting plan take account of the financial implications?
36. If a former spouse no longer works, what considerations need to be made?
37. How do parenting plans need to be adjusted for families where there is a special needs sibling and another sibling without special needs?
38. Should the special needs child be included in developing and finalising a parenting plan? On what basis should they be included? How would you recognise that they could and should participate?

39. What aspects should the legal profession and psychologists consider for inclusion in the parenting plan for children with special needs?
40. If you could comment on the training or curriculum for professionals dealing with parenting plans for special needs children, what, for you, should be emphasised in the training?
41. This study asked you to share your experience with parenting plans and special needs children. Is there anything that we have not covered that you would like to share or elaborate upon?

ANNEXURE D: INTERVIEW GUIDE FOR PARENTS

This study is going to ask you to share your experience with parenting plans and special needs children.

1. How would you define a special needs child?
2. What training and experience would you recommend for professionals who need to assist in the drafting of parenting plans?
3. In what ways would an education programme on special needs children be important for the professionals involved in primary residency and contact arrangement evaluations? What should be covered in such a programme?
4. In what ways would you like to see parenting plan guidelines implemented by the appropriate authority?
5. Please share your views on the “best interest of the child” legal criteria as contained in Section 28 of The Bill of Rights of 1996.
6. Are the legal criteria in harmony with the child’s best psychological interests?
7. What are the essential parental responsibilities and rights that should inform the parenting plan?
8. What are the essential responsibilities and rights of the special needs child that should inform the parenting plan? How do these change as the special needs child matures?
9. Which professionals, as a minimum, should be involved in drafting parenting plans?
10. Which other professionals need to be involved when certain needs are present?
11. Would commonly recommended parenting plans be appropriate for many special needs children? If yes, why/if no, why not?
12. What risk factors and protective factors should be considered to inform timesharing arrangements?

13. What demands do special needs children place on parents and families in terms of time and financial resources?
14. According to your experience, what are the emotional consequences of parenting a special needs child?
15. What are the professional services that should be consulted by parents who have special needs children and that should also be considered in the development of parenting plans?
16. Tell me about your experience with parenting plans and special needs children.
17. What do you foresee would be the impact of separation or divorce on the child with special needs?
18. What criteria should be considered when determining the parenting capabilities of parents?
19. Parents often disagree about the degree of impairment of their child. How could one determine if a child is used as a pawn in the divorce process?
20. What measures should be included in a parenting plan to address and resolve disputes?
21. What are the practical difficulties of parenting a special needs child?
22. Considering that many special needs children remain dependent, does a parenting plan mature? Should the parenting plan be revised? If not, do you think it needs to be automatically updated?
23. Parents of special needs children often face the dilemma of education and decide to homeschool their special needs child. What financial provisions should be made about this issue in a parenting plan? One parent often has to stop formal employment due to the needs of their child. How do you think the parenting plan needs to provide financially for a parent who cannot be formally employed?

24. What medical expenses of a special needs child need to be considered in developing a parenting plan?
25. Given the medical needs, how does (or could) a parenting plan provide for the medical expenses?
26. When did you realise your child fell under the umbrella of a special needs child?
27. What do you consider the challenges a special needs child faces during divorce?
28. What would you appreciate from the legal fraternity to consider in the development of parenting plans?
29. What would you appreciate from the treating therapists to consider in the development of parenting plans?
30. How would a psychologist or social worker assist you in developing your parenting plans?
31. If you had to give up your career to take care of your special needs child, how should the parenting plan consider the financial implications thereof?
32. If a former spouse no longer works, what considerations need to be made?
33. How do parenting plans need to be adjusted for families where there is a special needs sibling and another sibling without special needs?
34. Should the special needs child be included in developing and finalising a parenting plan? On what basis should they be included? How would you recognise that they could and should participate?
35. What aspects should the legal profession and psychologists consider for inclusion in the parenting plan for children with special needs?
36. This study asked you to share your experience with parenting plans and special needs children. Is there anything that we have not covered that you would like to share or elaborate upon?

**ANNEXURE E: L. STANTON PARENTING PLAN EVALUATION SURVEY -
ROUND 2**

Thank you for your participation in my PhD research study titled "Advice from the Oracle: The Structuring of Parenting Plans for Special Needs Children in South Africa – from Conflict to Consensus."

As you are aware, the aims of this research are, firstly, to determine best practices for the development of parenting plans for children with special needs; and secondly, to develop a comprehensive protocol and guideline to assist the courts in making these very important decisions, especially in regard to vulnerable children with special needs.

Your participation in the first round of this study has been analysed, and it will be appreciated if you can further assist by answering the 21 questions below. Your responses will be recorded and adherence to the Protection of Personal Information Act 4 of 2013 will be ensured. Anonymity will also be ensured, and the data collected will not have any identifiers associated with it. This survey is to be completed and submitted before 9 June 2024. If you have trouble submitting this form, **download a Word Document** to fill out and email it to **lstantonpsychology@gmail.com**

Parenting Plan Evaluation Survey:

Please read the following statements and indicate in the block the number that best represents your level of agreement with each statement.

Strongly Disagree

1 - SD

Disagree

2 - D

Neutral

3 - N

Agree

4 - A

Strongly Agree

5 - SA

There are 21 questions in this survey. All of them are required. After completion, please click submit and your survey will be emailed.

Please indicate by selecting your answers below. After every individual question, also please indicate the priority level pertaining to the question, from 1 - 10 by selecting the dropdown list. (1 = Low Priority to 10 = High Priority).

- Step 1 - Questions Nr. 1 to Nr. 7
- Step 2 - Questions Nr. 8 to Nr. 14
- Step 3 - Questions Nr. 15 to Nr. 21

| | 1 SD | 2 D | 3 N | 4 A | 5 SA | Priority level (from 1-10) |
|--|---------|--------|--------|--------|---------|----------------------------|
| 1. The current level of governmental support is sufficient for addressing the unique needs of special needs children within parenting plans. | | | | | | |
| 2. Involvement of mental health specialists is critical for the effective development of parenting plans for special needs children. | | | | | | |
| 3. Parenting plans for special needs children adequately facilitate their adjustment to new environments following a divorce. | | | | | | |
| 4. Single parents of special needs children face significant sacrifices that are well-recognised and supported in the legal process. | | | | | | |
| 5. Parenting plans currently in place effectively cater to the case-specific needs of special needs children. | | | | | | |
| 6. Financial planning and support considerations are adequately addressed in parenting plans for special needs children. | | | | | | |

| | 1 SD | 2 D | 3 N | 4 A | 5 SA | Priority level (from 1-10) |
|---|---------|--------|--------|--------|---------|----------------------------|
| 7. Professional assessment and diagnosis are effectively integrated into parenting plans, ensuring the best outcomes for special needs children. | | | | | | |
| 8. The process of obtaining governmental support for special needs children's parenting plans is straightforward and free from bureaucratic hurdles. | | | | | | |
| 9. Parenting plans need to be regularly (approximately every 3 years) revised to align with the evolving needs of special needs children as identified by mental health specialists. | | | | | | |
| 10. Parenting plans need to include specific measures to support special needs children in coping with environmental transitions due to divorce. | | | | | | |
| 11. The legal system adequately supports single parents of special needs children in balancing their personal, professional, and parenting responsibilities. | | | | | | |
| 12. Each special needs child's parenting plan needs to be uniquely tailored, reflecting a comprehensive evaluation of their specific developmental, mental, or physical disabilities. | | | | | | |
| 13. Parenting plans need to provide clear guidance on financial responsibilities, ensuring both parents contribute to the additional costs associated with raising a special needs child. | | | | | | |
| 14. Parenting plans need to be based on the recommendations of qualified professionals who assess and diagnose special needs children. | | | | | | |

| | 1 SD | 2 D | 3 N | 4 A | 5 SA | Priority level (from 1-10) |
|--|---------|--------|--------|--------|---------|----------------------------|
| 15. Governmental support sufficiently addresses the long-term financial, medical, and educational requirements of special needs children within parenting plans. | | | | | | |
| 16. There is effective collaboration between mental health specialists and legal teams to advocate for the child's best interests in custody and care arrangements. | | | | | | |
| 17. Divorce-related disruptions to the child's environment need to be minimised in parenting plans through structured and sensitive approaches. | | | | | | |
| 18. Parenting plans need to take into account the emotional and financial contributions required from both parents, recognising the sacrifices involved. | | | | | | |
| 19. Parenting plans need to be regularly updated to align with the evolving needs of special needs children, as identified by professional assessments. | | | | | | |
| 20. The economic challenges faced by primary caregivers of special needs children need to be recognised and mitigated in parenting plans. | | | | | | |
| 21. Caregivers need to have a clear understanding of their special needs child's conditions and need to be supported in following the care and support plans developed by professionals. | | | | | | |

ANNEXURE F: ETHICS APPROVAL



COLLEGE OF HUMAN SCIENCES RESEARCH ETHICS REVIEW COMMITTEE

27 February 2023

Dear Ms Lenmarié Stanton

| |
|---|
| <p>NHREC Registration # : Rec-240816-052 CREC Reference # : 10331751_CREC_CHS_2023</p> |
|---|

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| <p>Decision: Ethics Approval from 27 February 2023 to 27 February 2024</p> |
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Researcher(s) Name: Ms. L. Stanton
Contact details: 10331751@mylife.unisa.ac.za
Supervisor(s) Name: Prof. C. Laidlaw
Contact details: laidlc@unisa.ac.za

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| <p>Title: ADVICE FROM THE ORACLE: THE STRUCTURING OF PARENTING PLANS FOR SPECIAL NEEDS CHILDREN IN SOUTH AFRICA – FROM CONFLICT TO CONSENSUS</p> |
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Degree Purpose: PHD

Thank you for the application for research ethics clearance by the Unisa College of Human Science Ethics Committee. Ethics approval is granted for one year.

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| <p>The <i>low risk application</i> was reviewed by College of Human Sciences Research Ethics Committee, in compliance with the Unisa Policy on Research Ethics and the Standard Operating Procedure on Research Ethics Risk Assessment.</p> |
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The proposed research may now commence with the provisions that:

1. The researcher(s) will ensure that the research project adheres to the values and principles expressed in the UNISA Policy on Research Ethics.
2. Any adverse circumstance arising in the undertaking of the research project that is relevant to the ethicality of the study should be communicated in writing to the College Ethics Review Committee.
3. The researcher(s) will conduct the study according to the methods and procedures set out in the approved application.



**ANNEXURE G: NON-DISCLOSURE FORM FOR PROFESSIONAL
TRANSCRIBER**

15 July 2025

To whom it may concern:

I hereby confirm that I was responsible for transcribing all audio recordings for Lenmarie Stanton (Department of Psychology) at UNISA.

I, Elisabeth L. O'Connor, agree to hold any information contained in any audio recordings or documents related to this study by Lenmarie Stanton in confidence, as well as regarding individuals and institutions involved in the research study.

I understand that violating this agreement would constitute a serious and unethical infringement on the informant's right to privacy.

Sincerely,



Elisabeth L. O'Connor
Transcriber

ANNEXURE H: NON-DISCLOSURE FORM FOR CO-CODER

16 July 2025

To whom it may concern:

I hereby confirm that I acted as co-coder for Lenmarie Stanton (Department of Psychology) at UNISA.

I, Monique van der Walt, agree to hold any information contained in any transcripts or other documents related to this study by Lenmarie Stanton in confidence, as well as any information regarding individuals and institutions involved in the research study.

I understand that violating this agreement would constitute a serious and unethical infringement on the informant's right to privacy.

Sincerely,



Monique van der Walt
Co-coder