



waves

Waitakere Anti-Violence Essential Services

WAVES Trust

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Social Services Select Committee

Submission on the Vulnerable Children Bill, 2013

Submitted by:

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We wish to speak with the Committee about our submission

WAVES Trust is an interagency family violence network organisation. The membership is primarily government and non-government service providers who work in the area of family violence. There are also members who are not specifically family violence agencies but their work complements or supports efforts to reduce family violence in Waitakere.

We are committed to strengthening the work of those who support and inform victims of family violence and those who hold offenders accountable and support them to make positive changes to their behaviour. WAVES acts to support and resource all member agencies to practice to the highest standards of integrity and professional ethics.

WAVES Trust provides:

- A networking forum to encourage and support statutory and community services to provide integrated and collaborative services to reduce family violence
- Links to other organisations through our Interagency network
- Community advocacy and representation on initiatives that target family violence
- Information about best practice in family violence intervention and support for the implementation of best practice

- Primary prevention, capacity building and education opportunities for those working to reduce family violence
- Contract management of interagency projects and contracts
- Access to current, relevant research Monitoring of community initiatives such as the Waitakere Family Violence Court
- An overview of information deficits and initiation of local research

WAVES Trust is a charitable trust. Governance is vested in the Board chaired by trustee Waitakere Family Court Judge David Mather. There are 5 trustees including David Mather, Penny Hulse (Auckland Council Deputy Mayor), Howard Dawson (Man Alive), Steve Kehoe (NZ Police) and Betty Sio (Pacific Island Safety and Prevention Project).

There are currently three staff members – a Manager, a part-time Coordinator, and an Administrator, as well as one contracted part-time Project Leader.

Background

WAVES Trust is the family violence network organisation for Waitakere, West Auckland. The network is made up of over 55 government and non-government agencies working in the field of family violence. Members include statutory services such as Police, Child Youth and Family, and the Family and Family Violence Courts, as well as NGO services working with victims, perpetrators, their families and children.

WAVES Trust provides services and information to the Waitakere network. For many years now, WAVES has been working with network members to address gaps in service provision to children living with family violence and child maltreatment. These activities have contributed valuable experience and knowledge to our submission.

Family violence is a significant issue for large numbers of children living in New Zealand. At over 50% of police callouts for family violence in Waitakere there are children present at the time of the incident or found to be usually resident in the household. In 2010 WAVES estimated that in Waitakere around 3,500 children live in households subject to police callouts every year. Our research shows that around 1,200 of these children are referred to Child Youth and Family (CYF) by police annually, but only one third of these children will receive further action from CYF.¹ The current resourcing of CYF is limited and the threshold for action is too high for most referrals of children exposed to family violence. Yet family violence is known to significantly and negatively impact on children's physical and mental health, behaviour and development with consequences reaching far into adulthood.²

WAVES has undertaken a two-year research project to investigate the needs of children exposed to family violence and looked at responses to these children by key agencies and schools. The findings of this project indicate a strong need for better coordination between and within government ministries delivering services to children. Some examples where improvement is necessary include:

¹ WAVES Trust, *Children and Family Violence*, <http://www.waves.org.nz/network-services/fact/literature-reviews/> (accessed 29 October 2013).

² Ibid.

- There is no code of conduct or ERO requirement for teachers to act on disclosures of family violence occurring at home
- Assessing the impact of family violence and trauma do not feature in the contracts of Child and Adolescent Mental Health Services
- There is no formal mechanism to communicate relevant information about family violence between the criminal jurisdiction of the District Court and the Family Court
- Fewer than 10% of children covered by protection orders attend a funded support programme

The family violence sector has also had difficulty adopting a child-focus, with many services such as women's refuge (some but not all) remaining 'captured' by adults' issues. WAVES has collaborated with a number of Waitakere services to introduce a more inclusive approach to children affected by family violence. The current Bill is important because government contracts and funding play an important role in improving family violence services' responses to children.

Over the past two years WAVES Trust has engaged extensively with the network over matters relating to children who live with family violence raised in the following consultations initiated by Government agencies and select committees:

- The Green Paper for Vulnerable Children (February 2012)
- WAVES Green Paper submission was incorporated in the UNICEF Briefing Paper (July 2012)
- The Maori Affairs Select Committee's Inquiry into the Determinants of Wellbeing for Maori Children (March 2012)
- The Health Select Committee's Inquiry into Preventing Child Abuse and Improving Children's Health Outcomes (May 2012)
- The Office of the Children's Commissioner's Expert Advisory Group on Child Poverty (October 2012)
- The White Paper for Vulnerable Children and Children's Action Plan (October 2012)

We have also received feedback from our network about the potential impact on children of proposed reviews and legislative changes which we have incorporated in the following submissions to government:

- Proposed Family Court Centralisation (May 2011)
- Bail Review (May 2011)
- Crimes Amendment Bill No.2 (July 2011)
- Victims of Crime Reform Bill (December 2011)
- Family Court Review (February 2012)

Our submission on the current Bill draws upon WAVES project work and the feedback we have received from the network during these various consultations outlined above.

It should be noted that WAVES Trust and the network of family violence services we represent support the views expressed by groups such as UNICEF, the Child Poverty Action Group, and the NZ Council of Christian Social Services who argue for government to take a

wider view than child abuse and focus on the impact of poverty and inequality on children's wellbeing.

Summary:

In general we support the intention of the Bill to ensure that government agencies' are required to support vulnerable children, to improve the safety of services, monitor and regulate the children's workforce, and to ensure that government takes a lead role in determining and setting standards of service provision to children.

In our submission we have not commented on every clause and have focused on the areas of relevance to the family violence sector. We have recommended a number of changes to the Bill that we believe will improve its efficacy for children, improve the relevance of the proposed changes for government agencies and ensure consistency of practice across government and non-government sectors.

Our submission argues that the intention of the *Vulnerable Children Act* may not be realised without insertion of a structure and timeframes for the appointment of a responsible Minister and the initiation of the first vulnerable children's plan.

The current Bill has insufficient reference to the need for cross-party support and input from the children's services and representatives within the community. We have recommended the Bill establish and require the responsible Minister and children's ministers to consult with a cross-party and community reference group, called the Vulnerable Children's Reference Group.

We raise concerns about the possibility that the Vulnerable Children Act may create differing standards of safety and practice between children's services delivered by government and those delivered under government contracts by community agencies. We have suggested matters of relevance to community-based services in vulnerable children's plans should be included in those contracts and ministries should be responsible for ensuring sufficient budgets are available to services to implement these changes.

The Bill in its current form continues the practice of overlooking the standard definition of a young person defined by the UN Convention on the Rights of the Child, which is under 18 years regardless of marital status. We have argued that the definition should be changed to match this convention and that vulnerable children's plans should include review of and correction of this error in other legislation.

Our submission is generally supportive of the proposed increase in screening the children's workforce, however we have recommended that contracting ministries should be responsible for funding community services to meet increased screening costs or provide screening services free of charge. We further suggest that ministries should work to close the information gaps that render screening inefficient or ineffective.

Finally we have given some discussion on the proposed Child Harm Prevention Orders and raised the concern of the family violence sector that the police and courts should use these

as an opportunity to take more responsibility for protecting children and their mothers from violent men who ‘family-hop’ when in the criminal justice system.

Submission:

Part 1: Cross-agency measures

In general we support the intention of this Part of the Bill to define government agencies working with children as children’s agencies and enable a responsible Minister to direct the development of a vulnerable children’s plan. However, we raise the following matters and make recommendations that we believe will help to strengthen government’s response to vulnerable children.

Clause 5:

There is provision in the Bill for consultation beyond the incumbent Prime Minister, appointed responsible Minister and children’s Ministers. WAVES Trust and many other agencies submitted to the Green Paper consultation on the importance of cross-party and cross-sector support for initiatives impacting the lives of children. We believe that a national reference group should be appointed with a mandate to support the responsible Minister and children’s Ministers with information and advice on defining vulnerable children and setting the priorities for a vulnerable children’s plan. This group should consist of members of Parliament who hold children’s portfolios but are not children’s Ministers (i.e. from both sides of the House), representatives from non-government agencies working with children, community and iwi representatives including children’s spokespeople.

WE RECOMMEND:

Insert to Clause 5 the following definition:

Vulnerable children’s reference group means a group of not less than 10 individuals who are not the responsible or children’s Ministers representing members of House of Representatives who hold children’s portfolios, non-government agencies working with children, and community and iwi representatives appointed by the Prime Minister from time to time to support the responsible Minister and children’s Ministers plan government priorities and develop their vulnerable children’s plan.

Clause 7:

The provisions in Subsection 1 do not impose a requirement on government to act to support vulnerable children. The Bill makes no requirement on the Prime Minister to designate a responsible Minister and even when a responsible Minister is appointed the Bill does not require that they initiate a vulnerable children’s plan, stating instead they may do so ‘from time to time’.

The term ‘vulnerable children’ remains undefined within this clause of the Bill which instead leaves the definition open to be set from time to time according to government priorities. Subsection 3 excludes parliament from having responsibility for setting the definition, which reduces the imperative on government to seek cross-party support. During the Green Paper consultation WAVES Trust and a many other agencies submitted concerns about the lack of

clarity around which children government would consider to be vulnerable. Whilst we agree that defining vulnerable children in legislation is inflexible and impractical, we believe that inserting clauses into the Bill requiring government to consult when setting the definition would strengthen government's responsiveness to children.

WE RECOMMEND:

Remove subsection 3 from the Bill.

Insert the following statements into clause 7:

The Prime Minister will appoint a suitable Minister to the position of responsible Minister within six months of the passing of this Bill into legislation and will make reappointments within two months of the position being vacated for whatever reason.

The first responsible Minister will set the government priorities for vulnerable children within six months of being appointed to the role. The responsible Minister will begin facilitating development of the first vulnerable children's plan within one year of the passing of this Bill.

Within six months of appointment to the position of responsible Minister, the appointee will oversee a review of any existing vulnerable children's plan.

In setting the government priorities for vulnerable children, including defining vulnerable children, the responsible Minister and children's Ministers will consult with the vulnerable children's reference group from time to time.

A further insert is needed to set out procedures for frequency of vulnerable children's reference group meetings.

Clause 9:

We have recommended above the development of a vulnerable children's reference group to ensure cross-party and community consultation contributes to setting government priorities and developing vulnerable children's plans. WAVES Trust is concerned that the Bill in its current form limits actions to within government, which has the potential to create significant differences between government-supplied services to children and services supplied by non-government services under contract. We believe that wherever practicable changes to government services promoted by vulnerable children's plans should also be applied to contracted non-government services. Ensuring this goal is achievable would require additions to the Bill which we suggest could rest in Clause 9.

WE RECOMMEND:

Including in Clause 9:

The vulnerable children's plan must set out what actions in the plan must be taken up within non-government services contracts, set timeframes for review of those contracts, and provide additional and reasonable funding to support non-government services to implement required changes.

SubPart 2 — Child Protection Policies

WAVES is pleased to see that Clause 14 extends the requirement to have child protection policies within agencies contracted by government to work with children.

However, this part of the Bill continues to define children and young people as those aged under 17 years and not previously married or in a civil union. We have previously complained in a number of submissions that this definition is inconsistent with the definition of a child in the UN Convention of the Rights of the Child (UNCROC), which New Zealand ratified 20 years ago.

WE RECOMMEND:

The first vulnerable children's plan should include a commitment to reviewing relevant legislation and bringing young person definitions into line with the age promoted by UNCROC: under 18 years regardless of marital status.

We note that Subpart 2 of the Bill does not include a definition of a child protection policy. We suggest this should be remedied to ensure the legislation is robust.

WE RECOMMEND:

Clause 15 subsection 1(b)(i) should be amended to be consistent with UNCROC by stating that a young person is a person under the age of 18 years, and remove subsection 1(b)(ii).

Clause 15 should include a definition of a child protection policy.

This subpart should also require government agencies to provide a budget for contracted agencies to comply with the requirement to implement child protection policies.

SubPart 3 — Children's Worker Safety Checking

We have only comments to make with regard to this subpart of the Bill.

WAVES Trust is generally supportive of the intention to increase the rigour of children's worker screening and to regularly repeat worker screening throughout employment. Our first comment relates to funding for non-government agencies contracted to deliver children's services: increasing the number of types of screen and repeating these across the period of employment will likely increase agencies' compliance costs. As we have argued earlier, it is not an option to allow non-government agencies to deliver services to children which are not subject to the same safety measures as those delivered directly by government agencies.

WE RECOMMEND:

The contracting Ministry should be responsible for funding increased screening costs or provide screening services free of charge.

Whilst we agree that it is impractical to specify the type and nature of screening in legislation, we do have a comment on how ministries should determine the regulations prescribing requirements for safety checks. Screening will only be as effective as the indicators used to identify risk and the repositories of information relevant to risk. The recent case of Pamapuria School teacher James Parker is an example: before being charged with sexual abuse of children in 2012 Parker had no prior convictions, in 2009 a complaint and a warning from the police about his behaviour were not taken seriously by the school principal. The benefit of hindsight shows that regular screening may not have identified Parker as a risk to children if it were identifying only convictions. The police warning went no further than the school, which effectively protected Parker by not addressing his behaviour and not notifying the Teacher's Council. With so many holes in the system concerns about Parker were not acted on and he was free to continue his abuse of boys for more than two years.

WE RECOMMEND:

That ministries should consider what measures should be put in place to close the gaps that reduce the efficacy of screening.

Part 2: Child Harm Prevention Orders

The proposed Child Harm Prevention Orders have been greeted with mixed views within the family violence sector. We provide comments for the Select Committee's consideration below but make no recommendations.

Services working with children traumatised by living with violence at home welcome the opportunity to have an order that would prevent serious and/or serial violent offenders from living with children. The example of Joel Loffley and JJ Lawrence is a case in point. Loffley, it was reported, had moved in with JJ's mother in order to secure a bail address following charges of male assaults female against his previous girlfriend; Loffley admitted a long history of domestic violence in his previous relationships. This practice of 'family-hopping' by violent men within the criminal justice system is well known to family violence services and presents considerable risks for children and their mothers regardless of whether they were the victims of the original offending. Family violence services would welcome the police and courts taking responsibility for assessing whether family violence offenders are fit to be bailed or released to live with children and making use of Child Harm Prevention Orders to curb violent offenders' access to children.

On the other hand, services with experience of the difficulties in obtaining Protection Orders foresee that the Child Harm Prevention Order may not be as effective at protecting children that they would like. In theory Protection Orders can be awarded on the basis of evidence that would not be admissible under the *2006 Evidence Act*, as is also proposed for the new Child Harm Prevention Orders. In practice however, services supporting applicants know that most protection order respondents will be able to defend the application or make an

appeal, raising the level of stress and anxiety associated with obtaining an order and reducing the chances of success. In addition, the low priority given to policing protection order breaches remains a perennial problem for the sector and reducing the efficacy of these orders. We fear it is likely that the Child Harm Prevention Order will be subject to similar impediments making these difficult to obtain and rendering these ineffective at protecting children if resources are not provided to identify and police breaches promptly.

Concluding Comments

WAVES and its network were encouraged by the Green Paper for Vulnerable Children consultation to explore the possibilities for improving the wellbeing of children exposed to family violence.

This Bill represents a small start to the wider vision of enhanced services and support for children. We urge the Select Committee to consider ways to ensure the legislative outcomes of this Bill are robust and enduring, to ensure that government sets priorities which are relevant and timely for vulnerable children and produce substantial improvement in outcomes for those children.

We encourage government to take up the opportunities for cross-ministry action for children that this new legislation will provide and work with non-government services to provide consistent standards of service across both sectors.

We thank you for the opportunity to present this submission.

Tiaria Fletcher

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