

Date: 3 March 2017

To: The Parliamentary Select Committee: Social Services

From: Birthright New Zealand

SUBMISSION: Children, Young Persons and Their Families (Oranga Tamariki) Legislation Bill

1. About Birthright New Zealand

Birthright New Zealand is a registered charity. Birthright has been operating in New Zealand as a national organisation for 55 years. We work to strengthen and enrich the lives of children and families. We specialise in working with families led by one person. Our vision is for nurtured, resilient, inspired children and families.

Birthright New Zealand is a charitable trust with 11 affiliate organisations throughout NZ who deliver a variety of social services to children and their families. These organisations work with families with a wide variety of needs. They assess needs, provide social work services, and in some locations, counselling services and early childhood education. We work closely with other community service providers to ensure children and families who need support can access appropriate services.

2. Introduction

This submission does not attempt to provide a detailed clause by clause review or commentary on the proposed legislation. Instead it focusses on particular areas of interest and highlights issues for further consideration. We signal our support for several aspects of the legislation including:

- the extension of the youth justice jurisdiction
- the focus on early intervention as a principle (whilst expressing some concern regarding how this may be interpreted and implemented)
- the focus on a child-centred approach
- the introduction of accountability reporting for delivering outcomes for Māori children and young persons
- the extension of the availability of Family Group Conferences
- more flexibility regarding financial support to respond to the changing needs of children and young persons and their particular care needs
- the sharing of information (provided that this is within a system that includes a recognised best practice approach to security, privacy and confidentiality of information)

3. General Comments

We note that careful consideration needs to be given to the implementation of this legislation to ensure that the intent becomes a reality for children and young persons in New Zealand. In particular we note that the intent of the legislation will only be achieved if the creation and implementation of the new Ministry for Vulnerable Children Oranga Tamariki [MVCOT] includes careful resourcing, planning and review not just within the new Agency but in tandem with community partners to support their role in the changes envisioned.

In this regard, we particularly note the current debate regarding the new Purpose Statement which revises the current Act's Principles and shifts the balance away from placing a child with a member of their family or wider hapū and if that is not possible, then to someone who has the same tribal, racial or cultural background of the child.

There is no disagreement that Māori are disproportionately represented with regard to the number of children in care and within the youth justice system. What is less clear is whether this is as a result of the intentions of the current Act not being fully realised or whether the current Act is insufficient as it stands. We support ongoing consultation with tangata whenua with regard to the change in wording and consideration as to whether this aspect of legislation requires change or whether an operational focus on ensuring systems and practices that support the intent of the Act would achieve the desired outcome.

We welcome the change in the legislation to extend the youth justice jurisdiction to include 17 year olds and the new entitlement for young people transitioning out of care to remain or return to living with a caregiver up to age 21. Again, the importance of practice supporting intent will be crucial to ensure that these young people continue to be supported as they would be in most other family/whanau situations.

4. Specific Comment

4.1. Early Intervention

Birthright New Zealand supports the intent of the early intervention approach to ensure children and young people and their families have access to support readily when it is needed and before escalation of issues. We note the comments made by the Royal Australian and New Zealand College of Psychiatrists in their submission on the proposed legislation and endorse their comments particularly in relation to the importance of “rigorous evidence based methodologies to generate models around potential risk”, and the importance of workforce planning and funding models to support successful implementation of preventative programmes.¹

¹ www.ranzcp.org/Files/Resources/Submissions/2017-02-15-LTR-NZ-RANZCP-re-Children-Young-Persons.aspx

We also support comments made by Social Service Providers Aotearoa² [SSPA] in section 3.3 of their submission regarding the value of family intervention work occurring concurrently when planning for care in order to reduce repeat care placements and ensuring additional pathways for response are available including wider use of Family Group Conferences [FGCs] and options for referral to community providers.

4.2. Extension of the availability of Family Group Conferences

We note that for wider access to FGCs to have the desired impact, this change needs to be accompanied by training to ensure consistency of approach in managing the FGC process throughout New Zealand, and an increase in capacity. We have received comment from several affiliate organisations regarding waitlists for FGCs and inconsistencies in application. There has also been noting of indications of improvement in areas where additional support has been available.

4.3. A child centred approach

We support the intention of the legislation to embed a child centred approach and the amendments to the legislation to ensure children and young peoples' voices are heard. We endorse comments made by SSPA to ensure that any potential barriers are removed and that professional guidance is developed in this area. In particular, we note the need for a shared, multi-sector understanding of what a child centred approach means in reality and consultation on the principles, standards and professional development required to support such an approach.

4.4. Material hardship and financial support

We support the intention of the Bill to enable regulations to be made that ensure financial support is responsive to the changing needs of children and young people and their particular care needs. We note that the implementation of this aspect provides a useful example of the practical application of the child's best interests. Systems and processes within the new Ministry will need to be aligned to ensure that this flexibility is a reality. For example, KPIs for budget holders will need to balance prudent financial management with the potential for over run where this is justified to meet the best interests of a child/children.

We also support the recommendation made by SSPA to include family material circumstances as a significant contributor to child and young person wellbeing.

4.5. Monitoring outcomes

We support the requirement for measurable outcomes to be set for Māori children and young people who come to the attention of the Ministry and public reporting on these measures on an annual basis. We also support SSPA comments made in relation to increased accountability and desirable mechanisms. We note the scale of the changes

² Birthright New Zealand is a member of Social Service Providers Aotearoa

intended through the creation of MVCOT and support ongoing monitoring and review with specific attention being paid to any unintended consequences of the changes to ensure issues are addressed as early as possible.

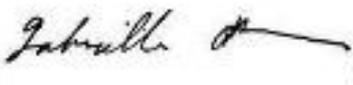
4.6. Information sharing

We support information sharing to ensure the safety of children and note that there is already provision in existing child protection legislation in this regard. We are concerned at the lack of consultation regarding wider information sharing and note the comments made by the Regulatory Impact Analysis Team (RIAT) at the Treasury with regard to the potential risk of such an approach.³

We share the concern expressed by SSPA that the complex interface between the CYPF Act and the Privacy Act does not appear to have been resolved and also note the concerns expressed by the Privacy Commissioner as contained in the Regulatory Impact Statement. We note that the Privacy Commissioner is currently undertaking an inquiry into the recent addition of clauses to contracts between the Ministry of Social Development and NGO providers that require the collection of individual client level data. There appears to be a number of “loose ends” in relation to information sharing and as NGOs will need to navigate any new requirements when the legislation is passed, we ask that the select committee pay particular attention to this aspect of the legislation to ensure it is fit for purpose both in terms of workability but also to ensure that information sharing protocols work to support rather than alienate families from services.

5. Conclusion

Birthright New Zealand is supportive of the intent of the legislation which is aligned with our vision for nurtured, resilient, inspired children and families. To summarise the commentary provided by RIAS team at the Treasury, legislation is only one aspect and the importance of the systems and processes in the new agency along with the other influences on agency and practitioner decision making should not be underestimated. This includes ensuring these changes are accompanied by a focus on professional development and resourcing not just for MVCOT but for the providers who partner with them to achieve the intended outcomes for children and young people.



Gabrielle O'Brien
Chief Executive Officer
Birthright New Zealand

³ Page 21 of Departmental Disclosure Statement, Children Young Persons and Their Families (Oranga Tamariki) Legislation Bill, 8 December 2016.