

Submission to: Social Services Committee

Social Security (Benefit Categories and Work Focus) Amendment Bill

Introduction

1. Thank you for the opportunity to provide this submission on the Social Security (Benefit Categories and Work Focus) Amendment Bill (hereafter referred to as 'the Bill').
2. As the Children's Commissioner, I have the statutory responsibility to ensure that children's and young people's rights, interests and welfare are upheld. This includes advancing and monitoring the application of the UN Convention on the Rights of the Child (UNCROC) by departments of State and other Crown instruments¹. The Children's Commissioner's Act 2003 outlines the independence of my role and the functions and responsibilities of the Commissioner. I make this submission with those responsibilities in mind.
3. This Bill, which had its first reading on 20 September 2012, represents the second legislative step in implementing the Welfare Working Group's report of 22 February 2011, *Reducing Long-Term Welfare Dependency: Recommendations*, which constituted the outcome of the most wide-ranging review of New Zealand's social security system since the 1972 Royal Commission of Inquiry into Social Security.
4. The Bill is therefore part of a package of fundamental shifts in the benefit system, intending to encourage and support beneficiaries move into paid work. These changes are proposed as a means of: reducing benefit dependency; ensuring the benefit system is work focused; taking an investment approach that focuses resources where they will be most effective; and, reinforcing social norms and improving social outcomes.
5. I agree that many of the proposals have the potential to make a positive impact on the children whose parents are receiving a benefit, for example:
 - getting parents into employment can reduce the negative outcomes associated with child poverty
 - having families enroll their children with primary health care, undertake core Well Child checks, enroll and attend school, and enroll and attend early childhood education (ECE) can reduce the risks of children having poor life outcomes.
6. The challenge is delivering the policy and legislative intentions in a way that is supportive and enabling, so that work and achieving good outcomes for children

¹ Children's Commissioner Act 2003, section 12(1)(f)

are viewed as the positive activities that are part of parenting and normal life, not as a punishment. A further challenge is implementing the policies in a way that does not have unintended consequences for children in the families involved. Implementation is important and must be done in such a way that the wellbeing of children is paramount importance.

7. The following submission outlines my position and recommendations to the Select Committee. I will focus on the potential impact of these amendments on children of affected beneficiaries.

Child-centred welfare policy

8. Benefits are not just for the individual recipients – benefit payments are “*to help people to support themselves and their dependents while not in paid employment*” (Section 1A(a)(i) of the Act). This means they are part of the total family income that, in many cases, is required to support children in the households.
9. I want all New Zealand families to have enough income to meet the basic needs of their children. In most families, parents’ employment earnings along with various supplements (e.g. Working for Families tax credits) make up that income. In families where there are inadequate or no employment earnings, income support is required. These are low-income families, and the children are at a high risk of growing up in poverty
10. Low family income is an important factor in poor child outcomes: family income has a causal effect on children’s education outcomes, behavioural and health outcomes, and that the effect is strongest during early childhood.² Ministry of Social Development data shows that about 25 percent of 0 – 4 year olds have a parent on a main income benefit. This indicates that any increased investment should particularly focus on younger children. The evidence also shows that family income has a stronger causal effect on outcomes for children in poorer families, suggesting a more equitable redistribution of income can achieve better overall outcomes for children. Getting the welfare system performing well for children, together with support for parental employment, ECE and child care, are critical to improving outcomes for children in low income households and poverty.³
11. My Expert Advisory Group on Solutions to Child Poverty have, among other things, been looking at ways that welfare settings can reduce child poverty. Some suggestions on how to achieve this can be found in the initial report and detailed working papers produced by the Expert Advisory Group.⁴

² See for example: OECD, *Doing Better for Children*, 2011; Adema, Willem and Peter Whiteford (2007), “What Works Best in Reducing Child Poverty: A Benefit or Work Strategy?” OECD Social, Employment and Migration Working Papers, DELSA/ELSA/WD/SEM(2007)6; Duncan, G. (2006), “Income and Child Well-Being”, 2005 Geary Lecture, The Economic and Social Research Institute, Dublin.

³ Ballantyne, Suzie; Simon Chapple, David C. Maré and Jason Timmins. 2004 “Triggering Movements Into and Out of Child Poverty: A Comparative Study of New Zealand, Britain and West Germany,” *Social Policy Journal of New Zealand*, 22(July 2004).

⁴ See www.occ.org.nz for *Solutions to Child Poverty in New Zealand: Issues and Options Paper* and background Working Papers.

12. Child-centred welfare policy puts the needs of the children first, and typically incorporates many of the following intentions:⁵
- lift children out of poverty when poverty has the most damaging consequences
 - protect children during recessions as well as when the labour market is strong
 - maintain strong parental labour market attachment
 - support poverty exit through parental work where this is reasonable (dependent on the child age and care needs)
 - minimise disincentives to work and create positive incentives for paid work
 - minimise disincentives for people to partner
 - be simple, for both families with children and for administration
 - be fiscally responsible.
13. No one system will match all criteria perfectly, so inevitably there will be trade-offs between these objectives.
14. I am pleased that many of these attributes can be seen in the package of proposals included in the Bill. I believe that the Bill should be strengthened to further recognize the needs of the children in the families receiving income support. The benefit payments are clearly intended to provide for these children, and the wellbeing of these children must be a focus.
15. The New Zealand Government ratified UNCROC in 1993 and, in doing so, agreed to bring New Zealand's laws and policies into line with its provisions and principles. Government's obligations under UNCROC should therefore be a fundamental consideration of this Bill. There is no question that reform of New Zealand's current social security system will have an impact on the well-being of our most vulnerable children. The Government's obligations under UNCROC in respect of these children should therefore be a fundamental concern throughout the reform process, from legislation through to implementation.

Comments on the Proposed Bill

Overall objectives

16. The only substantive amendment the Bill made to the purpose and principles provisions of the principal 1964 Act (section 1A and section 1B) is to expand the criteria of s1A(d) in order to introduce the imposition of social obligations on parents and financial and budgetary management obligations on young people who receive benefits as key aspects of the legislative framework. It is notable that the principal Act does not currently contain any provision that ensures that decisions give consideration to children's welfare.
17. I am firmly of the view that all decisions made through the social security system that directly or indirectly impact upon a child or children, should be required to formally consider their welfare and best interests as a primary consideration, consistent with the government's obligations under Article 3.1 of the UNCROC. In

⁵ Expert Advisory Group, *Working Paper no.10: Reforms to the Tax, Benefit and Active Employment System to Reduce Child Poverty*, Children's Commissioner, August 2012, p5.

the context of the multitude of new administrative procedures and sanctions that this Bill seeks to introduce, protection of children's welfare and best interests must be a matter of first principle.

18. With this concern in mind, I recommend that the Bill make an additional amendment to section 1B of the Act, to require that any person exercising a duty or function under that Act must give primary consideration to the welfare and best interests of any child or children who may be directly or indirectly affected by the exercise of that duty or function.

Recommendation 1:

Amend section 1B of the Social Security Act 1964 to introduce a new subsection 1B(e) as follows:

1B Principles

Every person exercising or performing a function, duty or power under this Act must have regard to the following general principles:

(e) That primary consideration is given to the welfare and best interests of any child or children who may be directly or indirectly affected by the exercise of that duty or function

19. In addition, I am of the view that purposive section 1A should also be expanded to introduce an obligation on the state towards assisting families to achieve good outcomes for their children in the areas of health and education. At present, the Bill's social obligations are imposed upon the beneficiary by the state, without the balancing obligation upon the state to support beneficiaries achieve better outcomes in these areas.

Recommendation 2:

Amend section 1A of the Social Security Act 1964 to introduce a new section 1A(a)(iv) as follows:

1A Purpose

The purpose of this Act is—

(a) to enable the provision of financial and other support as appropriate—

(i) to help people to support themselves and their dependents while not in paid employment; and

(ii) to help people to find or retain paid employment; and

(iii) to help people for whom work may not currently be appropriate because of sickness, injury, disability, or caring responsibilities, to support themselves and their dependants:

(iv) to help children, young people and their families achieve improved health and education outcomes

20. A further way to ensure a child-centred policy focus is by having appropriate oversight of the implementation process and the impact on children. The new Board supervising Work and Income performance offers this opportunity. However, despite the fact that one of the main benefits targeted for reform is the Domestic Purposes Benefit (DPB), with the intention of improving outcomes for poor and vulnerable children, there is no Board expertise in the area of child well-being and development. Possible positive and negative impacts on children of welfare reform were identified by the Welfare Working Group as important, and as a consequence it would seem entirely sensible to have an expert voice in the child area represented on the Board.
21. I believe that having additional over-sight of Work and Income by someone with these skills at a Board level is necessary to ensure the appropriate concentration on children's needs in this reform and ensure the implementation of the legislation and policy does not have unintended consequences on the children involved.

Recommendation 3:

Add a member to the Work and Income Board who has expertise in child well-being and development issues.

Benefit categories and assessing a person's work ability

22. I agree that, in most cases, supporting parents into paid employment will be the best way to improve the life outcomes for children. However, some parents face additional challenges in securing and maintaining employment, This includes sole parents, parents with a disability, or parents of a child with a disability or additional care needs.
23. I would like assurance the assessment for a person's work ability will take into consideration the welfare and best interests of any children involved, and that no children will be disadvantaged by the re-categorisation of their care giver and subsequent work ability assessment.

Social obligations

24. I agree that having families to enroll their children with a Primary Health Organisation, undertake core Well Child checks, enroll and attend school, and enroll and attend ECE will contribute to reducing the risks of children having poor life outcomes. However, I believe better results will be achieved by delivering the policy and legislative intentions in a way that is supportive and enabling, not as a punishment.
25. I suggest in the implementation phase that the social obligations are re-framed so that they are viewed as the positive parenting activities and part of normal life that they are for most families, including beneficiaries. Approached this way, families would be rewarded for positive compliance, similar to the incentive system in the youth welfare package that rewarded youth for completing parenting programmes and budget advice training. As well, as introducing incentives, the sanctions should be staged so that non-monetary sanctions such as compulsion to attend a parenting programme are introduced prior any reduction to the benefit levels.

Recommendation 4:

Explore incentives to positively reward beneficiary parents for complying with the stated social obligations, and non-monetary sanctions that could be undertaken prior to monetary sanctions being pursued.

26. There is further challenge is implementing the policies a way that does not have unintended consequences for children in the families involved. For example, I would like to have some assurance that no parent will be obligated to enroll their child in an ECE service that did not meet their family needs.

Sanctions that adversely impact children in the family

27. I am concerned that a number of the proposals in the Bill include sanctions of removal of benefit. Where there are children in the family, the sanction would be up to 50% of the benefit.
28. Benefit sanctions where children are involved should be explicitly avoided unless their effects on children can be completely mitigated by other complementary policies. I believe that other measures should be put in place so that no child is disadvantaged because of a sanction on their caregiver.

Recommendation 5:

A detailed set of policy measures should be developed to support any child in a family where benefit sanctions occur, so that the welfare and best interests of the child is protected.

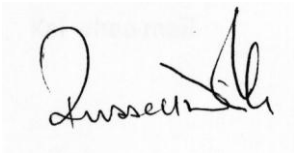
29. Further, the Minister, myself, and the public should have assurances that the implementation of the proposals in this Bill will not have unintended consequences and result in harm to children. The impact of the Bill on children, with public reporting of such things as number of children whose parents had a benefit cut, should be required by the Act. I can provide further advice on a child impact assessment tool to support this monitoring.

Recommendation 6:

A monitoring and reporting requirement, including public reporting of the impact on children, be included in the Act.

Conclusion

30. Thank you for your consideration of my submission. I would appreciate the opportunity to appear before the Select Committee. If you require further information, please contact my Principal Advisor, Donna Provoost, at 04 470 8713 or d.provoost@occ.org.nz.

A handwritten signature in black ink, appearing to read 'Russell Wills', with a stylized flourish at the end.

Dr Russell Wills
Children's Commissioner

Date: 1 November 2012