



## Vulnerable Children Bill

A Submission to the Social Services Select Committee

Family Violence Death Review Committee 30 October 2013

### **1. Introduction**

The Family Violence Death Review Committee (FVDRC) thanks the Social Services Select Committee for the opportunity to provide a submission. This submission is made on behalf of the FVDRC and is based on members' collective professional expertise.

We wish to make an oral submission to the Social Services Select Committee.

### **Summary of recommendations**

The FVDRC **recommends**

- That the Vulnerable Children Bill and the Privacy Act be amended to include a presumption of information sharing between agencies where child protection and family violence concerns are present.
- That the Privacy Commissioner develops cross agency guidelines on sharing information in the context of family violence and care and protection. These guidelines need to be applicable to public sector services and non-government organisations.

### **2. Background**

The FVDRC is a statutory committee of the Health Quality & Safety Commission (HQSC) mandated to (1) review and report to the HQSC on family violence deaths, with a view to reducing their number, and to continuous quality improvement through the promotion of on-going quality assurance programmes, and (2) develop strategic plans and methodologies that are designed to reduce family violence morbidity and mortality.

FVDRC members are drawn from a wide range of sectors – primarily justice, health, academic research, and family violence service NGOs – and all share an expertise in family violence.

Due to the FVDRC's focus, which is set by its Terms of Reference, the Committee is most interested in children and adults that are affected by family violence.

### **3. Focus of the FVDRC**

New Zealand has unacceptably high rates of family violence and family violence deaths, including violence against children and women.<sup>1</sup> As the co-occurrence of child abuse and neglect and

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<sup>1</sup> During the period 2000 to 2010, 39 per cent of NZ women reported experiencing physical violence from an intimate partner. This percentage puts New Zealand as the worst affected OECD country. NZ women also suffer from high levels of sexual violence

intimate partner violence is high,<sup>2</sup> the FVDRC believes that these two forms of abuse need to be addressed in an integrated manner – operationally and strategically.

The FVDRC would like to emphasise that addressing family violence against children and women is a critical component, which needs to be integrated into the government's Vulnerable Children work programme.

#### **4. Information sharing**

The key objectives of the Vulnerable Children Bill (the Bill) are to:

- reinforce the need for shared responsibility, and co-ordinated and collaborative action across the government social services sector to better protect vulnerable children; and
- help ensure children are safe with those that work with them; and
- minimise the risk of future harm posed by those who have abused children in the past, including ensuring the safety of children from adults who have previously had a child or young person permanently removed from their care due to abuse or neglect or where the adult has been convicted of the murder, manslaughter, or infanticide of a child or young person in his or her care; and
- enhance the response to children who have already been abused or neglected, to increase their chances of better long-term outcomes.

The FVDRC fully supports these objectives and recognises that, in order to achieve them, there needs to be proactive, responsible and proportionate information sharing between government and non-government services, which, in turn, depends on having proper mechanisms to enable information sharing. This submission from the FVDRC concerns this issue.

##### ***4.1 Presumption for information sharing***

Safe outcomes for children and adults affected by family violence can only occur when services responsibly share information and work in a multi-agency and integrated way. The need for improved cross-sector information sharing responsibilities and infrastructure was the key theme and focus of the recommendations made in the FVDRC's recently released third annual report.

Clause 4 of the Bill identifies that the purpose of subpart 1 is to "ensure that children's agencies work together to improve the wellbeing of vulnerable children."<sup>3</sup> One of the critical factors that is commonly experienced, and negatively impacts on the ability of agencies to work collaboratively and share information, is actual and perceived obstacles to sharing information.<sup>4</sup> It is our experience that when information sharing is considered by front line professionals, the intent of the privacy principles are frequently misunderstood, and sometimes these misinterpretations prevent responsible information sharing. The FVDRC is concerned that with, respect to children and adults at risk from family violence perpetrators, professionals tend to err on the side of privacy. The FVDRC would like to shift this mind-set, so professionals err on the side of safety.

The FVDRC notes that the introduction of the Approved Information Sharing Agreement (AISA) regime brought about by changes to the Privacy Act in 2013<sup>5</sup> may address some of the issues with respect to information sharing. However it is the Committee's perception at the early stage of this legislation that the process to establish an AISA is so resource intensive (both in time and cost) that

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committed by an intimate partner. Of the OECD countries who responded to this question, New Zealand reported a higher rate than any other, with 14 per cent reporting having experienced sexual violence during 2000 and 2010. UN Women. 2011. *Progress of the World's Women: In Pursuit of Justice*, New York: UN Women. <http://www.unwomen.org.nz/?p=538>

<sup>2</sup> The co-occurrence of child physical abuse and IPV is estimated as ranging between 30–66 percent depending upon the study. See Hester M, Pearson C, Harwin N. 2007. *Making an impact: Children and domestic violence: A reader*. London: Jessica Kingsley. Edleson JL. 1999. The overlap between child maltreatment and woman battering. *Violence Against Women* 5(2): 134–54. Humphreys C, Thiara R. 2002. *Routes to Safety: Protection issues facing abused women and children and the role of outreach services*. Bristol: Women's Aid Federation of England. Radford L, Hester M. 2007. *Mothering through domestic violence*. London: Jessica Kingsley Publishers.

<sup>3</sup> New Zealand Government. *Vulnerable Children's Bill* (2013)

<sup>4</sup> Smith, M. *Report to Hon Paula Bennett, Minister for Social Development and Employment: following an inquiry into the serious abuse of a nine year old girl and other matters relating to the welfare, safety and protection of children in New Zealand*. (2011).

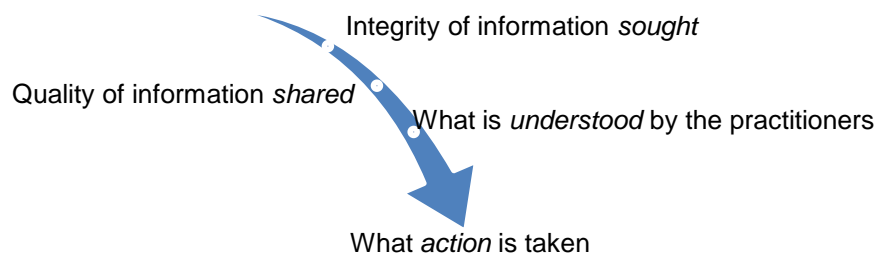
<sup>5</sup> New Zealand Government. Privacy Act <http://www.legislation.govt.nz/act/public/1993/0028/latest/DLM5658600.html>

it prevents most agencies progressing with the application. That being so, the Committee **recommends** that the Vulnerable Children Bill and the Privacy Act be amended to a presumption of information sharing between agencies where child protection and family violence concerns are present (similar to those within New South Wales).<sup>6</sup>

#### 4.2 Information sharing guidance

The FVDRC's qualitative regional death reviews have reinforced that the potential to prevent family violence by sharing information is dependent on what is *sought*, what is *shared*, what is *understood* and what *action* is taken in response to the sharing of information. Information sharing is essentially about communication, who you communicate with, when you communicate, how you communicate, how much information is shared and what is understood by each party from the shared communication.

**Potential to prevent family violence by information sharing is reliant on:**



The FVDRC believes that the current adhoc sharing of information will continue unless professionals have a good understanding of the Privacy Act and any information sharing responsibilities detailed in the Vulnerable Children Bill. Professionals need guidance to help them balance the risk of information sharing with the potential benefits of enhanced safety and protection for victims this might bring.

The FVDRC **recommends** that the Privacy Commissioner develops cross agency guidelines on sharing information in the context of family violence and care and protection. These guidelines need to be applicable to public sector services and non-government organisations. The FVDRC would welcome the opportunity to be part of the consultation process in the development of such guidelines.

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<sup>6</sup> New South Wales. *Child Protection Legislation (Registrable Persons) Amendment Bill*. (2009).