



**METHODIST  
ALLIANCE** AOTEAROA  
NGA PURAPURA WETERIANA

# Submission on the Children, Young Persons and Their Families (Oranga Tamariki) Legislation Bill

3 March 2017



## **Methodist Alliance Submission**

# **Children, Young Persons and their Families (Oranga Tamariki) Legislation Bill**

### **1. Who we are**

The Methodist Alliance is a formal alliance of all Methodist Missions, parish and community based social services and Trusts. This grouping constitutes a major provider of a range of services for children, young people and their families.

The Methodist Alliance brings together a number of large social service providers such as Lifewise in Auckland, Wesley Community Action in Wellington, Christchurch Methodist Mission as well as local community services provided by individual parishes. It includes new social service organisations, for example, Siaola Vahefonua Methodist Mission, Tongan, Samoan and Fijian Synods within the Church and Te Taha Māori.

The Methodist Alliance is grounded in a commitment to Te Tiriti o Waitangi and the bi-cultural journey of the Methodist Church of New Zealand - Te Hāhi Weteriana o Aotearoa, where Te Taha Māori and Tauwi work in partnership.

### **2. Overview**

This submission offers a threefold response by the Methodist Alliance to the Children, Young Persons and their Families (Oranga Tamariki) Legislation Bill.

First, we note that there is a great deal in the Bill that the Methodist Alliance supports, particularly the expansion of scope in support for young people, the significance given to making the chief executive responsive to the Treaty of Waitangi, and the focus on giving increased voice and participation to children and young people.

Secondly, we are concerned that some aspects of the Bill critically undermine these positive developments, specifically around the involvement of families, whānau, hapū, and iwi in the care of their children and young people. We suggest that commitment to the Treaty, together with an evidence-based approach to policy, offer a clear way forward in addressing this involvement.

Finally, we observe that the increased scope of work proposed by the Bill will require significant increases in resourcing to be effective.

### **3. Positive developments**

The Methodist Alliance supports the majority of changes in the Bill in so far as these reflect developments in practice in the field of care and protection. In particular, we welcome:

- amendments to the duties of the chief executive in the CYPF Act to provide for a practical commitment to the principles of the Treaty of Waitangi
- the extension of provisions for the support of young people to remain with a caregiver up to age

21 and to receive some forms of assistance up to age 25, as well as the extension of the youth justice jurisdiction to include 17-year-olds

- the provision for regulations to be made establishing independent mechanisms to review the chief executive’s response to complaints
- the introduction of a new principle of child and young person participation that recognises the importance of the voice of the child and young person
- the promotion of a holistic approach to understanding what is in the interests of the child or young person by replacing “welfare” with “well-being” and by taking into account “the elements that make them who they are as a person (including, but not limited to, their age, cultural connections, education, development, and health)”
- increased recognition of the rights of young people with disabilities.

## 4. Our concerns

### 4.1 Involvement of families, whānau, hapū, and iwi

We are concerned that while provisions in the Bill articulate support for the principles of the Treaty of Waitangi, and for the involvement of families, whānau, hapū, and iwi in the care and protection of children and young people, nevertheless, key aspects of the Bill critically undermine these proposals.

*Section 7A(b)*, on the duties of the chief executive, states that:

the policies, practices, and services of the department must have regard to the mana and whakapapa of Māori children and young persons and the whanaungatanga responsibilities of their whānau, hapū, and iwi.

*Section 5*, however, states in *5b(iii)*:

*whenever possible*, the relationship between the child or young person and their family, whānau, and usual caregiver is respected, supported, and strengthened (our emphasis);

and in *5b(v)*:

their family, whānau, hapū, iwi, and usual caregiver *can* participate in decisions made about the child or young person (our emphasis):

*Section 13(2)(c)* states:

where a child or young person is at risk of being removed from their immediate family, whānau, or usual caregivers, the child’s or young person’s usual caregivers, family, whānau, hapū, iwi, and family group should, *unless it is unreasonable or impracticable in the circumstances*, be assisted to enable them to provide a safe, stable, and loving home to the child or young person in accordance with whakapapa and whanaungatanga (our emphasis).

These clauses in Sections 5 and 13 represent a crucial weakening of the language around the involvement of family, whānau, hapū and iwi in the care of their children.

In addition, further weakening occurs when these clauses are read in conjunction with *Section 4(c)*, in which a purpose of the legislation is stated as:

ensuring that children and young persons who come to the attention of the department have a safe, stable, and loving home *from the earliest opportunity* (our emphasis).

We acknowledge that there is often a tension between children's developmental timeframes and allowing family/whānau/hapū to arrive at safe solutions that they can sustain. Excellent resourcing is required to achieve the best results for the child within their family/whānau both in the short term and the long term.

The Methodist Alliance is concerned that the clauses cited above allow for this tension to be ignored rather than addressed.

We believe that this approach is not consistent with a commitment to the Treaty of Waitangi. Moreover, it is not supported by a body of research which finds that the removal of the child from family/whānau at the earliest opportunity is likely to result in poor long term outcomes for that child. This is well illustrated in the research that connects care, homelessness and lack of engagement with family/whānau.

#### *4.1.1 Research evidence*

The importance of family continuity and involvement for children has been widely explored in the research literature. Biological family involvement has been found to be critical for children in care (McClung, 2007; Worrall, 2007). Research has established that children who have contact with their parents have better outcomes than those who do not (Worrall, 1996; Frasch and Berrick, 2000 as cited in CYF, 2003).

Being removed from one's biological family is associated with disruption, confusion and a sense of abandonment (Ayasse, 1995). Additionally, evidence suggests that the transient nature of foster care can be harmful for children. Interviews with adults formerly in foster care found that moving between placements was remembered as a series of significant losses, which "imprinted negative emotional scars, particularly in the area of trusting people and building and maintaining relationships" (Unrau, Seita & Putney, 2008). This suggests that, where possible, children should remain with their biological family. When this is not possible, the need for inclusion of biological families in the lives of children is recognised by the Therapeutic Foster Care Model (McClung, 2007).

The experience of members of the Methodist Alliance is in line with this research evidence. We see a clear link between care experiences and homelessness. Disconnection from family/whānau/hapū is a common story for homeless young people many of whom have come out of care seeking reconnection with family members. When this fails, they end up on the streets. Many older people on the street also have had care experiences. A disproportionate number of these people are Māori and want to reconnect with hapū and iwi. All of this pain could be avoided if we worked with whole families, supported whānau to do well, and recognised the driving need people have to be in loving families. Working with Māori whānau to do their best with their own children is the ultimate preventative work.

We therefore support the call from Māori leaders and social workers in relation to this Bill, for whānau to be at the table at all stages and to engage in transformative practices that are rooted within tangata whenua.<sup>1</sup>

As a Church with a considerable Pacific population, the concern of the Methodist Alliance extends to ensuring that children of all ethnicities are supported to grow up within their culture and have all possible engagement with their families.

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<sup>1</sup> <http://nzccss.org.nz/news/2016/10/whats-name-ministry-oranga-tamariki/>

#### **4.2 Removal of subsequent child(ren)**

We are concerned that the new Section 14, and amended Section 18, regarding the removal of subsequent children, should allow for this action only after parents have been involved in intensive and appropriate support that comprehensively addresses the underlying issues that have led to them struggling to care for their child(ren).

We have a particular concern that in these cases the onus is on parents to demonstrate to the satisfaction of the chief executive or the court that they meet the requirements of section 18(A). It is beyond the financial reach of most parents to afford a full parenting assessment in order to be able to demonstrate their ability to care for a child. Rather, obtaining a professional parenting assessment should remain the responsibility of the State.

#### **4.3 Youth justice**

Finally, we are concerned that the Bill allows for 17 year olds charged with certain offenses to be transferred to the adult court. We support access to the Youth Court for *all* 17 year olds charged with offenses, and we also support provision for some 18-20 year olds to be brought back into the youth justice system in cases where the adult justice system is inappropriate.

Additionally, we support the proposal by JustSpeak for the abolition of the use of police cells for children and young people once they have appeared in court.

### **5. Increased scope**

We note the considerably increased scope proposed by the Bill, particularly the extension of the age range of young people affected by its provisions. The effectiveness of this expansion will rest heavily on excellent resourcing, including appropriate training of those involved.

### **6. References**

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## **7. Contact Details**

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## **8. Request to Speak to Submission**

The Methodist Alliance requests to speak to this Submission.