

29 October 2012

Secretariat
Social Services Select Committee
Parliament Buildings
WELLINGTON 6011

Dear Sirs,

Submission: Social Security (Benefit Categories and Work Focus) Amendment Bill

We understand that the above bill is now open to submissions from the public. Family Integrity is an informal association of families and individuals from all walks of life who are committed to safeguarding the authority and rights of the family in New Zealand. We have been following the Bill in question with great concern and would like to submit our strenuous opposition to it, especially the 'Social Obligations' contained in clauses 25-27 of the Bill together with the relevant sanctions in clause 44.

The 'Social Obligations' contained in the Bill are, as you know, intended to compel beneficiary parents to choose certain government-approved educational and health facilities for their children.

Social Obligations: Early Childhood Education (ECE)

The first social obligation requires beneficiary parents to ensure that any dependent child aged 3 years or over is enrolled in and attending early childhood education until he or she starts school.

We oppose this social obligation on two grounds.

First, the responsibility to make choices concerning a child's education lies with the child's parents, not with the government. This responsibility and right is given to parents by Almighty God in the law given in Scripture, from which the laws of New Zealand are historically derived. This right is also recognised in the United Nations Declaration of Universal Human Rights, Article 26(3), which states that "Parents have a prior right to choose the kind of education that shall be given to their children." New Zealand is a signatory to this convention and the Human Rights Commission includes home education on its website as one of the legitimate choices available to parents in New Zealand. By seeking to remove from beneficiary parents the right to choose to home educate their preschool children or have them attend a non-approved ECE provider, this 'Social Obligation' constitutes a flagrant breach of human rights.

Second, extensive research shows that ECE benefits only the small number of children who are being neglected at home. We enclose a summary of some of the many studies showing that ECE breaks down family attachments, inhibits the natural development process that only the family can provide, fosters behavioural problems such as aggression and shortened attention span, and inhibits verbal and social development, as well as exploration and discovery. By all standards, an enriching learning environment in the home is far superior to any preschool environment. By compelling beneficiary parents to send their children to ECE, this 'Social Obligation' puts the highest quality ECE out of beneficiaries' reach and prevents their children from getting the best start in life.

Social Obligations: School Attendance

The second social obligation requires beneficiary parents to ensure that any dependent

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child is enrolled in and attending school from age of 5 (or 6) years depending on when the child first starts school, unless the child's parents have been granted an exemption to home educate.

We do note that under existing law, school attendance is compulsory unless a home education exemption has been granted. However, according to a letter (enclosed) received from Minister for Social Development Paula Bennet on 18 October 2012 by Mr Samuel Blight, the Ministry for Social Development will only allow beneficiaries to home educate their children if they can prove that it would be "unreasonable" for their children to attend school on the grounds of serious disability or lack of transport. If the child of a beneficiary is physically or mentally capable of attending school, no exemption to home educate will be granted.

As previously mentioned, it is the parents' responsibility and privilege to choose what kind of education their children will receive. The Ministry's policy forces children who are physically capable of attending school to do so, effectively breaching the parents' right to choose differently.

In addition, decades of research from around the world testify to the overwhelming superiority of home education over traditional schooling methods. We enclose a copy of *The Evidence of the Superiority of Home Education*, a compilation of just some of the evidence available on this subject. By treating home education as a last resort instead of a legitimate educational choice, Ministry's policy blocks beneficiary children from all the manifold benefits of home education, including a high standard of education at a low cost, the ability to build strong family relationships, and the time to invest meaningfully in community life.

Home education is without doubt one of the best and certainly one of the cheapest educational choices available to families today. It is also a legitimate educational choice under New Zealand law and we strongly object to the Ministry's policy, which will subject home educating families to significant hardship, since their decision to home educate often rests upon firm and conscientious decisions. In order to safeguard human rights and prevent discrimination against home educating families, we suggest that a statute be passed preventing the Ministry of Education from withholding an exemption based on any other criteria than those stated in the Education Act 1989. This may easily be achieved, for example, by an amendment to the Education Act 1989, section 21 (1) and other relevant passages, which will alter the reading from "An employee of the Ministry...*may*...exempt the person..." to "An employee of the Ministry...*must*...exempt the person."

Social Obligations: Health Registration and Well Child Checks.

The third and fourth social obligations require beneficiary parents to ensure that any dependent child is enrolled with a primary health care provider and up to date with the core Well Child checks.

It is the parents' responsibility and privilege to make decisions about their child's physical health. This right involves being able to decide when to seek medical attention and from whom, as well as the power to refuse to undergo specific medical treatments such as immunisation.

These requirements further undermine parental authority. Parents who make informed and responsible decisions about health that do not align with the government-approved programme will be subjected to continuous pressure to conform. According to the Ministry for Social Development's Welfare Reform Paper E, Paula Bennett "considered whether to establish an obligation in relation to child immunisation" but decided against it because "immunisation is a medical treatment" and "the decision should remain with parents." However, the paper goes on to state that parents who are undecided about immunisation often allow their children to be immunised after being advised to do so by health care professionals. Ms Bennett concludes, "Immunisation is actively promoted through primary Health Care providers and the Well Child programme." Combined with the Ministry's 95% immunisation goal, this would suggest that Ms Bennett relies on the health obligations to "actively promote" immunisation to the point where the 95% goal is realised.

We believe that if this social obligation is passed, it will result in beneficiary parents being forced to attend Well Child checks so that health providers can lecture them on their responsibility to allow

medical treatments, such as immunisation or chemotherapy, which the parents consider too harmful to risk. We believe that given the political art of incrementalism, this will bring us another step closer to a society in which, once the parents have been forced to attend the Well Child check, they will then be forced to submit their children to medical treatments they believe will be harmful. And most urgently, we believe that this forced attendance and enrollment with health providers will provide CYFS with new opportunities to harass parents whose decisions they don't agree with.

Well-intentioned or not, this is a level of government surveillance which will easily be corrupted.

Sanctions

The sanctions for non-compliance with these social obligations are astonishingly open-ended and harsh. The structure included in the Bill envisions three intensifying sanction levels:

1. Three stages of "support contact" to "encourage compliance" with the obligations,
2. A fifty per cent benefit sanction, and
3. "Intensified case management support."

The "intensified case management support" is defined in Welfare Reform Paper E: "There are operational processes *in place* for clients to be referred to CYF or fraud investigation if they continue on a fifty percent sanction" (emphasis added).

We object to this in the strongest possible terms. Under such a structure, the "three stages of support contact" should be enough to persuade negligent and irresponsible parents to conform with the government programme. Only parents who have made principled and responsible decisions about their children's health and education will have the character to undergo the 50% benefit cut rather than conform. This sanction structure effectively isolates and targets parents of conviction and conscience for CYFS harassment. This sanction structure penalises parents who are willing to make their own decisions and take responsibility for their own families, and rewards negligent, irresponsible parents who are willing to let the state take responsibility for them.

We do not believe that this is an over reaction. There is no option for beneficiary families to opt out of the social obligations at any stage; only increasingly coercive strong-arm tactics to force compliance. The fact that CYFS and fraud investigation involvement is envisioned after the 50% sanction cut shows that the goal is total conformity with the social obligations programme, not a friendly effort to encourage responsible parenting. It is vitally important that these provisions be rejected to safeguard the freedom and family life of parents and children who do not wish to comply with these social obligations.

Human Rights

As we have already mentioned, we believe that these "social obligations" and the sanctions attached to them constitute a breach of the right of a parent to make decisions regarding a child's education.

This right in relation to education is testified by the United Nations Universal Declaration on Human Rights, Article 26(3): "Parents have a prior right to choose the kind of education that shall be given to their children".

It's further mentioned in the International Covenant on Economic, Social and Cultural Rights, Article 13, which requires signatories "to have respect for the liberty of parents...to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions."

According to the New Zealand Human Rights Commission, the government has ratified both these treaties and is "taking progressive steps towards achieving them." Home education is listed as a legitimate educational choice on the Commission's website, available to parents in New Zealand under

Article 26 of the Universal Declaration on Human Rights.

We believe that the social obligations contained in the Bill will breach these rights and international conventions.

Care of Children Act

Under the Care of Children Act 2004, section 16, a child's parents or guardians have the right to make decisions on important matters affecting the child, which include "medical treatment for the child", section 16(2)(c), and "where, and how, the child is to be educated", section 16(2)(d). We note that this section, especially with regard to education, enacts the Universal Declaration on Human Rights, Article 26(3). We ask the Committee to note that this section does not give parents the right to decide "where and how the child is to *attend school*" but "where and how the child is to be *educated*". This section therefore upholds a parent's right to choose a non-school education for his child and means that the social obligations in this bill will be inconsistent with the Care of Children Act.

Coercion

The social obligations will, in the language of the Bill itself, "compel" parents to decide upon certain courses of action. Through social obligations, the government will pressure families into conformity. This is coercive, and we believe it has no place in a free society especially given the presence of so many families who would consider it a matter of conscience to make their own decisions about their children's health and education.

This is a serious concern. We have heard from hundreds of women who are concerned that their way of life will be threatened by this bill, or whose way of life may be threatened in the future if they are forced to go on a benefit. These women are not trying to get a free ride on society's pay check. If they are on the benefit, they are already juggling work test commitments or home businesses as well as satisfying the Ministry of Education that they can teach their children as regularly and well as a registered school. They have made enormous sacrifices to do this and now they are waiting to see whether the government will force their children away from them to the mercies of strangers.

Discrimination

It is discriminatory to remove the human rights of one section of the population based solely upon their employment status. If this is not self-evident, we refer the Committee to section 19 of the Bill of Rights Act which prohibits discrimination on the basis of the Human Rights Act section 21 prohibited grounds, specifically employment status. We do not believe that a father's right to make decisions for the good of his family should end when he loses his job. We do not believe that a mother's right to be with her children, learning at home, should end if she needs to remove herself and her children from an unsafe relationship.

We are aware that the Attorney-General's advice on this bill is that no discrimination is involved in this bill as it is "designed to be beneficial". We respectfully disagree. The bill, however good the intentions behind it, is beneficial neither in fact nor in effect. In fact, the bill is not beneficial because it removes the benefit of choice from parents, as well as the benefits of quality ECE provided in the home. In effect, the bill will cause significant hardship to many responsible and conscientious parents who will be willing to suffer great hardship to retain their freedoms in health and education. The Attorney-General advises that if discrimination is involved, it is justified. We disagree entirely. On what terms is coercion and harassment of responsible parents making legitimate choices, on the basis of their employment status, justified?

Incrementalism

Apart from the fact that it is wrong to strip human rights from one segment of the population, we

believe that once these social obligations are applied to beneficiaries, it will be easy to justify applying them to everyone. If New Zealanders do not wish to lose their own rights, they should not stand quietly by and watch rights being removed from others.

Work Focus

We are concerned that in its narrow focus on work, the Bill refuses to acknowledge the priceless contribution made to society by strong family ties. In a press release dated 12th September 2012, Paula Bennett cited statistics showing that sole parents receive 23% of the costs of welfare. She said, “We can do much better than this, by providing more support to sole parents and others who’ve historically received very little help to get off welfare.”

This makes it clear that her plan to cut welfare spending relies on getting “sole parents”—i.e. single mothers—away from their children and into the workforce, and indeed making it nearly impossible for them to home educate their children. While, many mothers would be happy to work to support their families, the work focus provisions of the Bill makes it difficult for women to choose the full-time job of caring for their children and running a home—a job close to the hearts of many women, even those unfortunate enough to be single mothers receiving a benefit. We have heard from hundreds of women who are concerned that their way of life will be threatened by this bill.

Responsible Parents Targeted

We cannot emphasise enough the damage that this Bill will do to responsible parents in New Zealand. The one-size-fits-all approach taken in the Bill ensures that parents making responsible and conscientious decisions will be forced to choose between giving up deeply-held beliefs, subjecting themselves to escalating CYFS harassment, or navigating seasons of unemployment without financial support. We repeat, only the responsible and conscientious parents will be subjected to the toughest penalties under this Bill.

Vulnerable Children Neglected

Meanwhile the Bill fails to address the problems of families and children at risk. Parents who are willing to neglect their children or to make uninformed decisions based on financial incentives or the path of least resistance will continue to do so with all the rewards offered under the Bill. Absentee fathers who abandon their families to the care of WINZ could be targeted in order to bring down the cost of providing welfare to single mothers, but this area is left unaddressed.

Meanwhile according to the government’s White Paper for Vulnerable Children, between 7 and 10 children per year are killed by a carer; over 200 children are treated in hospital for assault-related injuries; CYF deals with thousands of cases of physical and emotional abuse every year, and as of 30 June 2012, 3,884 children are in out-of-home state care. The Ministry for Social Development’s answer to these figures is a “Supporting Vulnerable Children” policy aimed at producing a 98% early childhood education attendance rate, a 95% immunisation rate, but only a 5% decrease in assaults on children.

According to Ms Bennett, vulnerable children are “the thousands of children who are hurt, neglected, abused, and killed in New Zealand.” How is compulsory ECE and immunisation going to help these children, and why are assaults on children entirely neglected in the Bill? At no point does the Bill address physical abuse of children. We find it difficult to see how a Bill designed to target and harass responsible parents will help the vulnerable children at risk of physical harm and abuse.

Exemptions for ECE

Some have suggested that the social obligation of early childhood education should come with an exemption clause allowing children to be exempted from preschool in the same way that school-age children may be exempted from school attendance.

However allowing exemptions for preschoolers will give no benefit to parents. Existing Ministry policy allows school-age children of beneficiaries to be exempted from school attendance only where it would be “unreasonable” for them to attend school. The Bill provides that preschool children of beneficiaries must attend ECE unless it is “unreasonable” for them to do so. Were exemptions to be made available for preschoolers, the situation would remain the same since the exemptions would only be granted where it would be “unreasonable” for the children to attend preschool. **Preschool exemptions are not a solution to the problems in this bill.**

Recommendations

We applaud the Government’s desire to cut down on benefits. However we do not believe that this should happen at the cost of New Zealanders’ freedoms and rights. We certainly do not believe that beneficiaries’ children should become a pawn in the game of getting them back to work.

We suggest that at the very least, the Social Obligations and attendant sanctions be removed from the bill and that the Ministry should explore new ways to identify and help the truly vulnerable children and reduce public spending on benefits that will not involve coercion and human rights breaches.

We further suggest that the Ministry of Social Development be prevented from pursuing its crusade against home educators. Home educators on the benefit already understand and comply with their work test obligations, coming up with creative ways of fulfilling those obligations (for example, starting home businesses) so they can continue to be with and teach their children. Surely as long as they fulfill their obligations, it is their own business how they raise their children in their free time. Under New Zealand law, the only criteria home educating parents must fulfill is the requirement that their children be taught as least as regularly and well as in a registered school. The MSD policy conflicts with this, adding onerous new requirements and interfering with the Ministry of Education’s decisions, ensuring that only very ill or very isolated children may gain the benefits of home education.

Conclusion

The Social Obligations and attendant sanctions imposed by the new Social Security Bill are unfair, discriminatory, coercive, and breach human rights. It will be a dark day for New Zealand if they are passed and we seek the Select Committee’s assurance that they will do all within their power to prevent this happening.

We would be happy to present our concerns to the Committee in person.

Yours faithfully,
Family Integrity

Barbara Smith
On behalf of the Trustees

Enclosures:

1. Summary of ECE research
2. *The Evidence of the Superiority of Home Education*, ed. Craig Smith
3. Letter from Paula Bennett to Samuel Blight, dated 18 October 2012