



## Children, Young Persons, and Their Families (Advocacy, Workforce, and Age Settings) Amendment Bill

### Social Services Committee

### The Salvation Army New Zealand Fiji and Tonga Territory Submission

#### BACKGROUND

1. The Salvation Army is an international Christian and social services organisation that has worked in New Zealand for over one hundred and thirty years. The Army provides a wide-range of practical social, community and faith-based services, particularly for those who are suffering, facing injustice or those who have been forgotten and marginalised by mainstream society.
2. We have over 90 Community Ministry centres and Churches (Corps) across the nation, serving local families and communities. We are passionately committed to our communities as we aim to fulfil our mission of caring for people, transforming lives and reforming society through God in Christ by the Holy Spirit's power<sup>1</sup>.
3. This submission has been prepared by the Social Policy and Parliamentary Unit of The Salvation Army. This Unit works towards the eradication of poverty by encouraging policies and practices that strengthen the social framework of New Zealand.
4. This submission has been approved by Commissioner Robert Donaldson of The Salvation Army's New Zealand, Fiji and Tonga Territory.

#### THE SALVATION ARMY PERSPECTIVE

5. The Salvation Army **supports** the intention of this Bill and the aim of the wider reform being carried out by the Ministry of Social Development which asks the question **"How can we transform the lives of our vulnerable children once and for all?"** The Salvation Army believes that this is an essential challenge, as it acknowledges that there can be (and have been) multiple reviews and yet very little tangible change for the children that the system seeks to protect and support.
6. The Salvation Army is heartened that there is now cross-party consensus that the current system is not working, given that the reality of life for some children in care is that they are

<sup>1</sup> <http://www.salvationarmy.org.nz/our-community/mission/>

harmed the longer they are in it. Children in care tend to be some of the most vulnerable in our society and this vulnerability can continue into adulthood with higher rates of poverty, youth offending, imprisonment, mental health challenges, addiction and abuse.

7. The Salvation Army also believes that the above vulnerabilities must also be recognised alongside the special personhood of children and the acknowledgement of their unique voice and desire to be part of shaping their own lives. Past “CYFs kids” have stories of both extraordinary trauma and extraordinary resilience. The Salvation Army advocates for New Zealand’s obligations to the UN Convention on the Rights of the Child to be significantly more embedded in New Zealand legislation so that the rights of children are a priority in our legislative framework, especially when they are in the care of the state.
8. In addition to our comments on specific legislative amendments under this Bill, The Salvation Army has sought to recommend the following additional principles for children in care and the reform that is taking place:
  - a. **Children in care require certainty, stability and permanency;**
  - b. **Children’s development must be promoted (taking into account his or her age and stage of development);**
  - c. **Children in care require equity;**
  - d. **Adequate provision for the new service and resourcing professionals is essential to achieve a child-centred approach;**
  - e. **The youth justice age must also be raised in tandem with the care and protection age;**
  - f. **Children’s welfare, rights and advocacy should not exist in legislative and ministerial portfolio silos or be subject to cost cutting measures.**

## GENERAL COMMENTS

### *Additional relevant principles*

1. Currently sections 5 and 13 of the CYPF Act expands on what principles are to be taken into account in determining what is in the best interests and welfare of a child. The Salvation Army submits that the following principles should be either added in as new principles to the Act or existing principles are strengthened to take more explicit account of such priorities:
2. **Children in care require certainty, stability and permanency**
  - a) The Salvation Army is concerned at the current reality for many children in care who are re-traumatised by the constant change of placements and staff that work with them. By the age of eight, children in care will have experienced on average seven to eight placement changes<sup>2</sup>. Currently there appears to be little evidence of accountability or a cap on when such a number is inappropriate, or acknowledgement of when such

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<sup>2</sup> Expert Panel Final Report: Investing in New Zealand’s Children and their Families, December 2015, page 43 (from an analysis carried out on CYF data in 2014)

upheaval actually perpetuates a child’s trauma. Children and young people who experience unstable care arrangements are also at much higher risk of perpetuating the intergenerational cycle of disadvantage when they have their own children.

**b) The Salvation Army recommends that stability and certainty are incorporated as additional key principles in the new system. This could include better monitoring and accountability responsibilities on the number of placements that a child receives under CYFS, and the number of professionals that work directly with them.**

**3. The need to promote the child’s development (taking into account his or her age and stage of development).**

- a. Currently the CYPFs Act takes into account a child’s “sense of time” and promotes that a child should be given an “opportunity to develop a significant psychological attachment to the person in whose care the child or young person is placed”.
- b. However the Act is arguably still outdated from current multi-disciplinary developmental research into child development and flourishing (such as attachment theory) which has introduced a more nuanced understanding of, and investigation into, childhood. The account acknowledges how each child uniquely influences, and is influenced by, their genetics and environment that they live in, but also seeks to understand how children’s exercise of their agency and participation impacts on their development and well-being.
- c. Such a principle would require the new Agency at a top tier level to train those making decisions on behalf of the child so that they have a nuanced understanding of child development to contribute making the best possible decision for a child, and how they communicate with them.

***Equity for children in care***

- 9. The best interests of children need to be at the forefront of any decisions regarding changes to CYFs and the care and protection system. Children do not live in a vacuum from their living environment or wider society – as acknowledged by the current CYPFs Act which enshrines the principle that decisions affecting a child or young person should be made by adopting a holistic approach to a child’s welfare.<sup>3</sup>
- 10. The Salvation Army submits that it is vital that our new care and protection system equitably and realistically meets the needs of kin and nonkin caregivers (including better financial support) when a placement is made. There is a wide spectrum of contact with CYFs, and the status and nature of caregivers can be equally broad. This consequently produces a variety of different supports depending on caregiver status (e.g. foster carers versus kin caregivers). However The Salvation Army believes that a child-centred approach would begin with the welfare of the child and the support that they need that is unique to their situation.

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<sup>3</sup> Section 5(g).

11. Children separated from a parent/s, or living in unstable, unsafe, unhealthy families require an extraordinary level of care and support. Secondly, many children are being raised by caregivers who, themselves, have limited resources that are stretched beyond capacity by the addition of a new family member. Current benefit entitlement levels are insufficient because they only recognise basic, not extraordinary need, and many working families are on low, insecure incomes.
12. The families that The Salvation Army works with are often working hard to support multiple children, some raising children of extended family members on extremely limited resources, but doing the best that they can. However the reality is for these families on very low incomes is that often the essentials such as housing, heating and power and food are in themselves a challenge to cover, which does not leave any extra for costs such as school uniforms, recreational and cultural activities for children, or basic health and education supports that can be necessary for children who have experienced previous trauma (such as counselling or psychotherapy). It is also common for our working families to be working hard in very long, variable shifts for very little pay, which can leave minimal time to provide the children in their care with the extra support they may need. All these things contribute to the welfare of a child and providing them with a safe, secure and happy home.
13. The Salvation Army has recently raised its concerns about our current social welfare system in our submission on the Social Security Legislation Rewrite Bill. A particular focus of our submission was around the increasing conditionality which has crept into welfare legislation over the past five or six years. This conditionality is demonstrated both by the ever growing list of obligations on the part of recipients of benefits and by the quite onerous sanctions which might be applied against people who fail to meet these obligations regardless of how trivial they are, such as missing an appointment because of a sick child. These sanctions disproportionately and unfairly affect children. Radio New Zealand reported that in 2014/15 23,066 benefit cuts were imposed on caregivers with dependent children, leaving an estimated 2000 children sanctioned, and at least 13 families with six or more children losing up to half of their benefit.<sup>4</sup>
14. **The Salvation Army is aware that this Bill deals with CYPFs Act matters only, however we wish to raise these issues because we believe it is vital that child welfare is not viewed in legislative and ministerial portfolio silos. This is particularly essential given that child welfare is the driving force behind this significant review. Children in contact or in the care of CYFs are disproportionately affected by social equity issues that contribute to a whole picture of their well-being for significant periods of their lives, which is of concern to the Government's current investment approach.**

### ***Adequate provision for the new service***

15. The Salvation Army also hopes that the new CYFS service will provide adequate funding to meet children and young people's needs who are living onsite in facilities run by CYFs. The Office of the Children's Commissioner in its *State of Care* report concluded that "operational

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<sup>4</sup> <http://www.radionz.co.nz/news/national/279597/thousands-of-children-hit-by-benefit-sanctions>

budgets for C&P sites are so tight that it is very difficult to get funding for services that some consider are basic health, education and recreation supports”.<sup>5</sup>

16. They found the most commonly unmet needs for children and young people were for the following:<sup>6</sup>
  - a. Support for children and young people to deal with the impact of previous trauma and develop their ability to self-regulate their emotions via either counselling or psychotherapy.
  - b. Support for children and young people with particular learning needs to receive the education tuition or teacher aide support they need.
  - c. Support for children and young people with disabilities to receive timely wrap-around care and services needed to sustain them in their placements.
  
17. **The Salvation Army submits that to make the new system “more responsive” to the needs of vulnerable children then it must be adequately resourced. The Salvation Army particularly hopes that the amendment in this Bill that allows enabling a broader range of professionals to perform a wider set of functions under the CYPF Act “to help identify and meet the needs of vulnerable children and young persons” will be met with sufficient funding. This will be required to target quality professionals, and to provide sufficient ongoing professional development and reasonable caseloads to work effectively with children in care.**

## **SPECIFIC RESPONSES TO AMENDMENT**

### ***Extending the provisions of the statutory care and protection system to 17-year-olds***

#### **4. Clause 4: Section 2 amended (Interpretation)**

5. The Salvation Army **supports** this clause that amends section 2(1)(a) to make the definition of a young person in the CYPF Act to include 17-year-olds, for care and protection purposes. This change brings the CYPF Act into closer alignment with the United Nations Convention on the Rights of the Child, which applies to everyone under 18 years. We note however that whilst a cut off age must be set in some form, this can be a somewhat arbitrary cut-off for vulnerable young people over the age of 18 who still need support.
  
6. The Government announced in June that “Work continues on offering some of kind of transition support to these young people up to the age of 25”<sup>7</sup> – we hope this will be carried out in practice given that young people transitioning out of state care can be the most vulnerable of our society with less societal and familial links. New Zealand as a country has a comparatively low cut-off age to other countries, including Australia and the United Kingdom.

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<sup>5</sup> At 21.

<sup>6</sup> At 21.

<sup>7</sup> <https://www.beehive.govt.nz/release/bill-heralds-start-major-care-and-protection-reforms>

## 7. Amending the cut-off age of youth justice to 18

8. Earlier this year The Salvation Army joined with 26 organisations and 5 independent experts from across the youth, justice and disability sectors to call on the Government to raise the age of youth justice in Aotearoa. This collective believes that when we treat children and young people as adults in our justice system we create more social harm. We throw away the potential of these young people and create more offending in our communities. Over 90% of under 20s who spend time in prison are re-convicted within 2 years. Yet our world leading youth justice system offers an alternative route for young people with significantly better recidivism outcomes, the ability to divert them from a life of crime, and the opportunity to build a safer more resilient society.
9. In addition to compelling pragmatic and social factors, raising the care and protection age in this Bill without concurrently raising the youth justice is **illogical** and keeps New Zealand out of sync with its obligations under the UNCROC. Improving compliance with the UNCROC on one half of the system but not the other is creating a piecemeal and inconsistent system.
10. **The Salvation Army therefore strongly recommends that the Select Committee amend section 2(1)(b) to include the definition of a young person to include 17-year-olds in the youth justice system under Parts 4 and 5 of the CYPF Act.**

### ***Embedding the views of children and young persons at a systemic and an individual level***

#### **11. Clause 8: Section 11 Replaced:**

12. The Salvation Army supports the provision that seeks to embed the views of children and young persons at a systemic and an individual level. This somewhat updates the CYPF Act 1989 to better reflect New Zealand's international obligations as a signatory to the UN Convention on the Rights of the Child, particularly article 12.
13. The importance of this right and its relation to the other rights has been supported by growing research and practice that suggests that children cope better with the effects of separation if they have been consulted, and that children's involvement in decision-making is linked to better mental health outcomes.<sup>8</sup>
14. The Salvation Army notes that this needs to happen at multiple layers of the care and protection framework beyond the more "official" proceedings of the Family Court and FGCs, so that a child centred focus is interweaved into all forms of practice at all levels.

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<sup>8</sup> Family Court Review Expert Reference Group *Reference Group Report to the Ministry of Justice on Family Court Review* (April 2012) at 31.

## **Social workers**

15. A “practice level” opportunity for child centred practice and hearing their views comes from the vital role of social workers. In the Children’s Commissioner State of Care Report 2016, comments from children and young people highlighted that, as the chief interface between the child or young person and CYFs, the social worker plays a **critical role** in determining whether the child has a positive or negative experience in the care and protection and youth justice systems. A key finding of the report found that children and young people want to belong, be listened to, and be supported by social workers.
16. Currently it is a concern for some of our Salvation Army social workers that CYFs social worker reports and regular checks on a child’s well-being in a placement do not always happen consistently in a manner that gets a holistic and full understanding of how a child is doing in a placement. Feedback from some of our social workers is as follows:
  - a. Gateway assessments are not always carried out consistently in practice;
  - b. Social worker check-ins on placements are not carried out as regularly as they should be;
  - c. When check-ins on placements do happen, there are instances where they are sometimes only carried out verbally over the phone by a social worker with the caregiver, which leaves no room for the child’s views or for CYFs to gain a full unbiased perspective on the child’s well-being in their placement.
17. The Salvation Army acknowledges that many CYFs social workers are committed and passionate individuals who do their best for the children that they are assigned to, however their high case loads and lack of ongoing professional training and education can prevent the adequate performance of child centred practice.
18. CYFs 2014 workload and casework review identified the need for social workers to spend more time with children and young people.<sup>9</sup> It is only though more time spent with a family and with a child young person that a social worker can get a full understanding of the unique challenges, risks and opportunities that they face and what their view is – this can take time to build a relationship and trust, especially if a child has experienced multiple different social workers over their time in care.
19. **The Salvation Army therefore submits that it is essential that social workers under the new system are adequately trained, supervised and have reasonable caseloads in order for the new system to embed the views of children and young persons at a systemic and an individual level.**

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<sup>9</sup> *State of Care* report at 20.

## ***Supporting the establishment of independent advocacy services***

### **20. Section 7 amended (Duties of chief executive)**

21. The Salvation Army **supports** the establishment of independent advocacy services, with a particular focus on children and young persons in care, through a new duty imposed on the chief executive of the department administering the Act.
22. However the Salvation Army wishes to note some **inconsistency** in approach with regards to advocacy services for children, particularly in Family Court matters. The recent reforms to the Family Court reduced the role of lawyer for child in multiple stages of the Care of Children Act process, and removed the provision for a child’s voice completely in the new mandatory Family Dispute Resolution service. Yet this process often overlaps with the CYPFs Act, particularly if carers of children under the Guardianship of CYFs later seek guardianship of the children in their care.
23. The Salvation Army believes that this is an unfortunate reflection of a piecemeal approach to the welfare of children in legislative reform. The original impetus for the Family Court reform was that Care of Children Act costs would be “reduced in a way that does not compromise a child-centred approach to reform, and that it was ensured that “the Family Court is sustainable, efficient, cost effective and responsive to those children and vulnerable adults who need access to its services.”<sup>10</sup> Yet as indicated above, some of the final results of the legislative reforms unfortunately reflected a compromise of a child centred approach in order to cut costs.
- 24. Similar language of “child centred” reforms is being used in the current context. The Salvation Army recommends that any future advocacy service recognises the interdependent and inter-related nature of children’s lives and rights, and that a sufficiently child-centred approach is not sacrificed to cost cutting.**

## **CONCLUSION**

25. The Salvation Army **supports** the intention of this Bill and the aim of the wider reform to **transform the lives of our vulnerable children once and for all**. The Salvation Army hopes that the unique personhood, development and voice of children is recognised in these reforms and that the professionals and agencies working with them are adequately resourced to give them time, care, understanding, equity and stability.
26. The Salvation Army is also concerned at the current fractured and inconsistent approach to the welfare and rights of children, including their equity and wellbeing in wider society, their inclusion in the youth justice system, and their voice in associated proceedings in the Family Court. The Salvation Army hopes therefore that a children’s rights and welfare approach is taken across government and its agencies in order to avoid conflicting policy objectives and to truly achieve a child-centred approach in the current reform.

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<sup>10</sup> Ministry of Justice *Reviewing the Family Court: A Public Consultation Paper* (20 September 2011), at 7.