

**SUBMISSION BY THE
SOCIAL POLICY EVALUATION AND RESEARCH UNIT**

to the

MINISTRY OF JUSTICE

on

**STRENGTHENING NEW ZEALAND'S LEGISLATIVE
RESPONSE TO FAMILY VIOLENCE – A public
discussion document**

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Introduction

1. The opportunity to contribute to the Ministry of Justice’s public discussion paper on *Strengthening New Zealand’s legislative response to family violence* (the discussion paper) is welcomed by Superu.
2. Superu’s strategic priorities in the family violence area are to grow the quality, relevance and quantity of the evidence base¹ and to facilitate the use of evidence by people working across the family violence sector² so that they can make better decisions to improve the lives of New Zealanders, New Zealand’s communities, families and whānau.
3. Family violence is a serious issue that affects many New Zealanders. It can span multiple relationships and generations. Exposure to family violence during childhood heightens the likely risk of intergenerational violence with girls more likely to become victims and boys more likely to become perpetrators as adults.
4. The direct cost to Government of the wide range of services and programmes that are provided to address family violence is estimated to be around \$1.5 billion per annum. It is important that this investment is based on good evidence about what works to improve outcomes for families impacted by violence.
5. Superu is also involved in the whole-of-government work programme to reduce family and sexual violence. This work is looking to improve the *whole* response system from primary prevention to longer term follow-up responses to family and sexual violence. The review of family violence legislation is part of this broader work programme and has the potential to provide a foundation for a more coherent and integrated system for family violence.
6. However, it is important to remember there are limits to the impact the law can have on the prevalence of family violence. The Australian Law Reform Commission on completing its two-year inquiry into family violence laws in 2011³ repeated the words of a submitter – “*You can have the perfect law but...*”
7. The discussion paper covers a range of issues related to strengthening New Zealand’s legal response to family violence. We have focused our comments around three key themes:
 - guiding principles
 - improving the quality and use of evidence in overall responses to family violence
 - stewardship of the family violence response system.

¹ Publications include: *Beyond Zero Tolerance* (2005), *Attitudes, motivators and behaviours of perpetrators of family violence* (2006), *Risk and Resilience factors for Elder Abuse and Neglect* (2008), *Family Violence Statistics report* (2009), *Family Violence Indicators report* (2013), *Relationship Education in Schools* (2014).

² Since 2011, Superu has responsibility for funding the New Zealand Family Violence Clearinghouse (NZFVC), which is the national centre for the collation and dissemination of research and knowledge on family violence.

³ Australian Law Reform Commission: *Family Violence and Commonwealth Laws—Improving Legal Frameworks* (2012).

Guiding principles

8. There is an opportunity to include principles within the legislation that provide a foundation for policies, services and responses to prevent family violence. We have outlined these in detail below but in summary new principles could:
 - confirm that family violence can be prevented
 - give comparable weight to responses preventing violence from occurring in the first place to responses dealing with the immediate impact of violence through to longer term recovery
 - assert family violence as a violation of human rights
 - promote Kaupapa Māori frameworks in responding to whānau violence
 - emphasise collective, integrated and seamless responses
 - promote effective, evidence-based responses.

Family violence can be prevented but requires a holistic, multi-faceted, multi-sectoral approach

9. Underlying principles which confirm that family violence can be prevented through a public health approach that targets risk factors of violence across all levels (i.e., individual, family community and societal) can provide a foundation for everyone working in the sector.
10. Recent reviews⁴ into family violence have highlighted that no one agency or sector can prevent family violence on their own and family violence will not be reduced *unless* we have effective responses across all levels and sectors of the system.
11. There is increasing evidence that prevention of violence is an achievable goal and a comprehensive, well-designed and evidence-based continuum of responses⁵ when dealing with complex issues such as family violence is required, including:
 - universal interventions that prevent violence from occurring in the first place and specific interventions that target particular at-risk groups (primary)
 - services provide support to victims immediately and hold perpetrators to account and change their behaviour (secondary)
 - longer term responses to help rebuild lives and prevent recurrence (tertiary).
12. In reality, the primary, secondary and tertiary levels are not distinct or mutually exclusive and “it is not always possible to make a clear distinction between them when applying the framework to behaviour that takes place in social and cultural contexts”.⁶
13. Holistic and effective responses need to span all levels and all sectors, including justice, health, education and social.

⁴ Glenn Inquiry (2014). *The People's Report: The People's Inquiry into Addressing Child Abuse and Domestic Violence*. Auckland: The Glenn Inquiry; Herbert, R. and Mackenzie, D. (2014). *The way forward - an Integrated System for Intimate Partner Violence and Child Abuse and Neglect in New Zealand*. Wellington: The Impact Collective.

⁵ Beyond zero tolerance (2005); WHO reports on violence (2002, 2004, 2006, 2010); VicHealth (2009).

⁶ Current Thinking on the primary prevention of violence against women. Ministry of Womens Affairs (2013).

Family violence is a violation of human rights

14. The Human Rights Commission has asserted that family violence remains the greatest human rights issue facing New Zealanders. “It is a fundamental principle that all of us, no matter who we are or where we live should have a life that is free from violence”⁷. This is an opportunity to assert family violence as a violation of human rights within the guiding principles of the legislation.
15. The Ministerial Expert Advisory Group in its 2013 report to the then Minister of Social Development also called for a founding philosophy against which all policy should be set, in particular calling for:

All New Zealanders, irrespective of age, gender, ethnicity, ability, religious beliefs and economic well-being have a right to healthy, respectful and stable relationships free from violence and the threat of violence.

Whatever form it takes, family violence is a fundamental violation of human rights and is unacceptable in any form, in any community and in any culture.

The need for Kaupapa Māori frameworks in responding to Māori

16. Māori, like indigenous populations in other jurisdictions, are over-represented in family violence statistics as both victims and perpetrators⁸.
17. The causes of whānau violence are complex and many have called for Kaupapa Māori conceptual frameworks that include cultural imperatives, for example, whakapapa, tikanga, wairua, tapu, mauri, and mana, which have the potential to inform wellbeing, transform behaviours and provide alternatives to violence. Using these imperatives can guide transformative practices and inform strategies for whānau violence prevention and whānau wellbeing⁹.
18. The E Tu Whānau charter of commitment¹⁰ acknowledges and declares that:

All violence towards whānau is unacceptable within Te Ao Māori, and that such acts of violence are considered a transgression that breach the mana and tapu of the individual, their whānau and their entire whakapapa.

Violence against wāhine and tamariki within whānau is not part of our cultural tradition, and that the actions and solutions that work best for Māori lie within Māori values and practices.

19. If such principles are included within a legislative framework, they will emphasise commitment to respond to the needs of Māori in addressing family violence within Māori populations.

⁷ <https://www.hrc.co.nz/your-rights/social-equality/your-rights/>

⁸ Māori Reference Group for the Taskforce for Action on Violence within Families. *E Tu Whānau-ora: Programme of Action for Addressing Family Violence 2008-2013*. Wellington: Ministry of Social Development; 2009.

⁹ Dobbs, T. & Eruera, T. (2014). Kaupapa Māori wellbeing framework: The basis for whānau violence prevention and intervention. Auckland, New Zealand: New Zealand Family Violence Clearinghouse, University of Auckland.

¹⁰ <http://etuwhanau.org/charter>

Seamless and effective responses

20. The Australian Law Reform Commission in its report into family violence laws¹² outlined four key principles that underpinned their recommendations:
- *Seamlessness*—to ensure that the legal framework is as seamless as possible from the point of view of those who engage with it.
 - *Accessibility*—to facilitate access to legal and other responses to family violence.
 - *Fairness*—to ensure that legal responses to family violence are fair and just, holding those who use family violence accountable for their actions and providing protection to victims.
 - *Effectiveness*—to facilitate effective interventions and support in circumstances of family violence.
21. Accessibility and fairness are already encapsulated within New Zealand's current legislation. Principles of seamlessness (which in the Australian context was the division between State and Federal legislation but within New Zealand could address issues of fragmentation) and effectiveness should also be addressed in any future principles of the legislation.

Seamlessness

22. Recent reviews¹³ have highlighted the fragmented nature of New Zealand's responses to family violence. The principle of seamlessness of response for those who are impacted by violence should underpin any future legislation.
23. People who are affected by family violence often have multiple, inter-connecting and sometimes complex needs. Often, many families are also involved with Child, Youth and Family or the Police and may have parenting disputes before the Family Court or other criminal proceedings before the District Court. They may have dealings with Work and Income or health care services (for alcohol/drug issues or mental health issues). Evidence¹⁴ suggests that integrated and consistent responses will have more sustainable, long-term positive outcomes. It will also increase certainty for those impacted by violence of what they can expect from programmes and services and “the system”.
24. More work may be required to determine how this can be operationalised.
25. The recent Productivity Commission report¹⁵ on “More effective social services” has also highlighted how fragmented the system is because no one has visibility of the system as a whole as social services are funded and delivered by administrative silos (through different agencies, i.e., Health, Justice, Education). It also found that people with complex needs are those for whom the social services system performs poorly.

¹² Australian Law Reform Commission: Family Violence and Commonwealth Laws—Improving Legal Frameworks.

¹³ Family Violence Death Review Committee (2013). *Fourth Annual Report: January 2013 to December 2013*. Wellington: Health Quality and Safety Commission New Zealand.

¹⁴ Murphy, C., & Fanslow, J. (2012). *Building collaborations to eliminate family violence: facilitators, barriers and good practice*. Auckland, New Zealand: New Zealand Family Violence Clearinghouse, The University of Auckland.

¹⁵ New Zealand Productivity Commission Report – More Effective Social Services August 2015.

Effectiveness

26. A specific principle requiring effective responses to family violence may be a useful guide for any new legislation. There is growing emphasis, both within New Zealand¹⁶ and internationally¹⁷, for evidence to be used to inform policies, programmes and services in addressing complex issues. Evidence-informed policy and practice requires evidence to exist, to be used, and to keep pace with new and emerging issues.
27. Access to effective programmes can lead to sustained improvement in outcomes for vulnerable families. A brief overview about how evidence-based practice has been encouraged internationally is discussed below.

Encouraging the use of evidence

28. Superu has a key role in facilitating the use of evidence to help understand the complex social issues facing New Zealand, its families, whānau and communities and to find out about what works to address these issues. A sound evidence base is required to inform and improve initiatives, programmes and services to prevent family violence.
29. Other jurisdictions have used various mechanisms to promote evidence-based delivery of programmes and services. The United States, however, has used legislation to encourage evidence-based programmes and services. There is an opportunity to explore the value of using a legislative approach to promote evidence-based responses in the family violence system. Key considerations include:
- the availability and accessibility of the evidence base
 - agreement of the standards of evidence used to assess effectiveness
 - transparent assessment of programmes and services against agreed standards
 - support for providers to move towards evidence-informed programmes and a learning culture.
30. Superu has a legislative mandate to set standards and specify best practice for monitoring and evaluating programmes and interventions in the social sector. We also provide a database of social science research undertaken by or on behalf of Government.
31. The Productivity Commission report found that government agencies do not know much about what services work well, which do not, and why. This finding is reflected in the recent portfolio analysis conducted by government agencies on funded family violence programmes and services.

¹⁶ Towards better use of evidence in policy formation: a discussion paper. Sir Peter Gluckman, Chief Science Advisor (April 2011).

¹⁷ Lee, S., Aos, S., & Pennucci, A., (2015, *What works and what does not? Benefit-cost findings from WSIPP*. Olympia: Washington State Institute for Public Policy.

32. In the United States, the pressure to demonstrate effectiveness has led many states to use laws to mandate and encourage the use of evidence-based programmes and services. In particular, five different approaches¹⁸ have been identified:
- i) requiring agencies to provide an inventory and categorise funded programmes by their evidence of effectiveness
 - ii) providing incentives for the use of evidence- and research-based programmes
 - iii) restricting funding of programmes shown to be ineffective
 - iv) requiring the use of evidence- or research-based programmes
 - v) dedicating a portion of funding to evidence- or research-based programmes.
33. These approaches have been used to expand successful programmes, strengthen accountability and reduce wasteful spending. The approach chosen is dependent on the policy area to which it is applied and the availability and accessibility of the evidence base.
34. The success of these approaches requires a transparent articulation and **application** of the standards of evidence that are used to make assessments and openness to support providers move towards evidence-informed programmes.
35. In Australia, Communities for Children Facilitating Partners (CFC FPs) have been provided five-year funding in part to allow providers to invest resources strategically using the best available evidence-based practices to get results over time¹⁹. This is similar to some of the initiatives being undertaken by the Ministry of Social Development as part of their Community Investment Strategy. However, the approach chosen by CFC FPs has been to dedicate a portion of their funding to evidence-based programmes. From July 2015, at least 30% of the funding must be used to purchase “high quality evidence-based programmes” as identified by an expert panel. This proportion increases to 50% by July 2017.
36. The work of the expert panel²⁰ is overseen by a steering committee established by the Australian Institute for Families Studies. Many programmes and services that support vulnerable children and their families have not been subject to rigorous evaluation so new and innovative approaches can be trialled using the balance of the funds including appropriate monitoring and evaluation.

¹⁸ Legislating evidence-based policy making. Pew-MacArthur Results First Initiative (March 2015).

¹⁹ Australian Department of Social Services: Communities for Children Facilitating Partner Operational Guidelines. September 2014.

²⁰ The role of the Panel includes:

- providing implementation support and training for organisations in the use of evidence-based programmes and practice
- supporting the development of outcome measures that organisations can use to measure the extent to which they have helped their clients
- providing training and support in the development and evaluation of outcome measures
- supporting organisations to trial and evaluate new approaches, particularly in prevention and early intervention
- conducting research and evaluation activities.

37. A key theme from the Knowledge Exchange Forum²¹ hosted by Superu in September 2014 was the better use of evidence to support family violence responses and programmes. There was a call for the current programmes and services to be mapped to highlight research and evaluation gaps. As part of the whole-of-government family violence work programme, Superu is leading the development of a Research and Evaluation Agenda that aims to identify and prioritise evidence gaps.
38. In its report to Ministers in 2013, the Ministerial Expert Advisory Group²² also made a similar recommendation, but they also recommended a companion piece of work that maps what is working well. It can be said that this is a call for an inventory and assessment against evidence standards. The People's Blueprint²³ from the Glenn Inquiry also called for an investment model that rates the current family violence programmes and services so that investment is directed at programmes and services that are known to work.
39. The Productivity Commission report recommended a design of a system that "learns and innovates". The conclusion from that inquiry is that the current evidence base for system-wide learning is weak and needs to be strengthened. The Productivity Commission has also recommended an expanded role for Superu to undertake an expanded research and evaluation role in the social services system to include system performance.

Effective stewardship for the family violence system

40. The evidence outlined earlier highlights that no one sector alone (whether government, service providers or community) can prevent or address family violence. The Productivity Commission in its report called for the Government to take responsibility for stewardship of the wider social services system - maintaining active oversight of the system as a whole, clearly defining desired outcomes, prompting change when the system underperforms, and identifying barriers to, and opportunities for, beneficial change
41. Given the multi-faceted, intergenerational nature of family violence, there is an opportunity to consider whether to establish a stand-alone body to have active stewardship of the family violence system. Functions for such an agency could include:
- developing an overarching strategy/agenda
 - monitoring and reporting on outcomes and indicators (including implementation of the legislation)
 - promoting a learning culture
 - overseeing a research and evaluation (including data development) strategy
 - disseminating and translating research and evaluation evidence
 - promoting tools and resources for a skilled workforces.

²¹ http://www.superu.govt.nz/sites/default/files/Final_Report_on_Family_Violence_Forum_30_Oct_2014.pdf

²² http://www.beehive.govt.nz/sites/all/files/Report_of_the_Expert_Advisory_Group_on_Family_Violence.pdf

²³ The People's Blueprint - Transforming the way we deal with child abuse and domestic violence in New Zealand. Report of the Glenn Inquiry November 2014.

42. The Glenn Inquiry in its final report also called for the establishment of a stand-alone operational agency to implement, co-ordinate and monitor cross-agency strategy and investment to prevent family violence. They proposed this in response to concerns that family violence responses are uncoordinated, inconsistent and lack an overall comprehensive approach. This finding has been echoed by other recent reviews.
43. A stand-alone body may be one way to take a “whole of system” approach. Currently, the Family Violence Unit based at the Ministry of Social Development tries to co-ordinate the family violence work programme with varied success.
44. However, identifying international examples of successful system stewardship in the family violence sector has been difficult. A fuller exploration may be required if this option were to be considered.

National agenda

45. Much of the literature surrounding legal provisions to prevent violence against women affirms the need to set a national agenda for preventing violence against women and girls. The United Nations Handbook on Legislation on Violence Against Women promotes legislation that mandates the formulation of a national action plan or strategy and institutional mechanisms to monitor and oversee the implementation of any new legislation that reports to Parliament on a regular basis.
46. The intergenerational nature of family violence (including violence against women) requires a national agenda that moves past political boundaries and short-term strategies. The legislation can provide a mechanism where there is mandate for a national agenda to be developed and reviewed at regular intervals (e.g., every five years). Australia’s plan to reduce violence against women and their children covers the period from 2010-2022.
47. Any national agenda that is developed would have a need for a co-ordinating body (whether it is stand-alone or not) to monitor and review progress.

Evidence gaps

48. Many of the recent reviews into family violence have highlighted that many of the services and programmes currently being delivered have not had outcome evaluations to determine their long-term impact or effectiveness²⁴. There are also service gaps in terms of volume and mix, as well as culturally appropriate programmes. There is the need to have a forward-looking approach to determine gaps in our evidence base and address these in a systematic way.

²⁴ Herbert, R. and Mackenzie, D. (2014). *The way forward - an Integrated System for Intimate Partner Violence and Child Abuse and Neglect in New Zealand*. Wellington: The Impact Collective.

49. The Glenn Inquiry report also called for the development of a data development strategy as it is widely acknowledged that New Zealand data²⁵ to monitor trends in family violence needs improvement. New Zealand relies on administrative data sources when only a small proportion of family violence offences are reported to authorities. Many types of family violence are not collected even within administrative sources (e.g., elder abuse and neglect, violence against people with disabilities).

Dissemination and translation of evidence

50. A further consistently raised theme in recent reviews is the dissemination and translation of the existing knowledge to practice. There is concern that we (policy-makers and programme providers) do not always use the best evidence that is available. There has been a consistent call for a mechanism to collate and share evaluation findings to inform programmes and services. Recurring themes and lessons learned from evaluations need to be disseminated widely to effect practice change.

51. There is also the need for specific resources for Māori and Pacific practitioners.

The need for a skilled workforce

52. The discussion paper raises questions about a safe and competent family violence workforce. Recent reviews have highlighted how there are no agreed competencies or standards about the level of skill that is required for those who work in this area. There is little co-ordinated training across the sector. The Family Violence Death Review Committee in its 2014 report warned that “inappropriate response from services can be particularly dangerous”.

53. Workforce development is included in the whole-of-government family violence work programme and is being led by the Ministry of Social Development. The family violence workforce can include a wide range of agencies and professionals – from those who work extensively with those impacted by family violence through to those who may encounter people impacted by family violence through the course of their work.

54. This workforce should be supported by tools and resources that promote safe practice.

²⁵ These issues regarding data quality from administrative sources are covered in greater detail in Superu’s Family Violence Indicators report (2014) and include the consistent use of terminology and a clear description of the variables contained in each data set that allows the extraction of data on family violence, whether the data is representative of the population, collecting a core set of variables, etc. http://www.superu.govt.nz/sites/default/files/family-violence-indicators-2013_1.pdf

In conclusion

The Domestic Violence Act when introduced in 1995 was considered world-leading in its definition of violence, its coverage of the types of “domestic relationships” that could come under the protection of the law, its recognition of the impact of violence on children, and its emphasis on restorative and rehabilitative programmes for those impacted by violence.

In the twenty years since the Act was passed, our knowledge of what works to prevent family violence has improved.

We now have better knowledge of what is needed to lay the foundation for a coherent, integrated and evidence-informed system to respond to family violence.