

April 2010

Whanau Ora—a milestone or a concern?

Earlier this month the Government released the Report of the Taskforce on Whanau-Centred Initiatives—Whanau Ora.

The policy is designed to increase the effectiveness of primary health and social spending for Maori and other families by providing integrated support to vulnerable families. Over time existing services will be reorganised to provide an integrated or “one-stop” service to families. Workers employed by providers of whanau ora services will work with families in need and act as a single point of contact between a family and other government agencies. And providers will be expected to deliver assistance in a way that empowers families as a whole, rather than focussing on individual problems or family members. Although detail of how this will happen is yet to be released, it is hoped that twenty whanau ora organisations will be operating by July.

Whanau Ora may seem, on the face of it, an unlikely programme to come out of this Government, but it is part of the Confidence and Supply agreement between National and the Maori Party. The policy could, however, be seen to be in line with the Government’s ongoing “reshaping” of social services, and their commitment to more effective ways of delivering welfare. And although Maori Party Co-Leader Tariana Turia will be the Minister responsible for Whanau Ora, National will play a “hands-on” role. The Task Force report recommended that Whanau Ora be run by an independent trust, but this has been rejected by the Government. Whanau Ora will remain within the public sector under the oversight of Te Puni Kokiri and a governance group, to be chaired by Turia, has been established to oversee the implementation of the policy. The members of the governance group will be three members of the original Task Force, plus the Chief Executives of the Ministry of Social Development, the Ministry of Health and Te Puni Kokiri.

While no-one would deny that Maori remain at the bottom of almost every social statistic, and most would support initiatives to help our most vulnerable, it is the funding of the programme that is causing the most concern. Although the Government has committed some funding (to be in this year’s Budget) for the administration of the first contracts, Whanau Ora is to be “financially neutral”. This means it will not be funded with “new” money - it will instead be funded by reprioritising existing funding from Vote Health, Vote Social Development and Vote Maori Affairs. In other words, money will be diverted or redirected from existing programmes. And it is estimated that the programme will cost \$1billion over three to four years. In the words of Labour MP Ruth Dyson “these agencies are not awash with cash they can hand over without noticing”.

Whanau Ora has received some support from the voluntary sector. ComVoices, an independent network of tangata whenua, and community and voluntary sector groups has expressed “cautious optimism”. ComVoices has for some time advocated a move towards a holistic funding model for social services and outcomes-based assessment, but until more detail is available “cautious optimism” may be all that can be hoped for.

Many wonder how it is going to work in practice, in particular questions of accountability. Does the scheme add an extra layer of case managers? Who actually has ultimate responsibility? If the first contracts are going to be signed soon and the organisations up and operating in July, will there need to be legislation to provide for these changes? If so, it would have to be rushed through. For example, in cases of child abuse, certain people—social workers and police primarily—have authority to act. The duties and responsibilities cannot be handed over to others without proper statutory authority. Has all this been thought through?

On the other hand, Whanau Ora has been variously described as “one of the most significant milestones in the history of Maori”¹, a “masterstroke for the Maori Party”² and “highly interventionist...the nanny state in drag”³.

Whether it turns out to be any or all of these remains to be seen.

1 Naida Glavish, Chair of Te Runanga o Ngati Whatua. 2 Matt McCarten, New Zealand Herald. 3 John Armstrong, New Zealand Herald.

Parliament

Announced

Private prison proposed

The Government has announced that a new 1000-bed male prison to be built at Wiri (South Auckland) on land owned by the Department of Corrections, will be designed built and operated under a public-private partnership (PPP). The contract will be subject to an open tender process but the Government believes that building a prison through a PPP arrangement will save 10-20% over 25-35 years.

The Minister of Corrections has said that the new prison will be required to operate within the Department of Corrections framework and be subject to the same monitoring and complaint processes as other prisons. The new prison will be operating by 2014.

The announcement has been criticised by Labour, the Greens and the Public Service Association, all believing that prisons should be a responsibility of the state and that private prisons overseas have been expensive and open to abuse.

But it has been welcomed by several Maori leaders, including the Maori Council and the heads of the Manukau and Waipareira Urban Maori Authorities. The latter want to be part of the management of the new prison and have already met with companies likely to be bidding for the prison contract.

The Corrections (Contract Management of Prisons) Act was passed late last year, allowing for the competitive tendering of prison management.

Changes to Legal Aid

The Government has announced in more detail reforms for the provision of legal aid services (these reforms stem from Dame Margaret Bazley's review of the current legal aid system carried out last year). The reforms, which will be implemented over the next two years include

- Requiring legal aid lawyers to demonstrate competency to selection committees.
- Expanding the Public Defence Service (currently just in Auckland) to Wellington, Christchurch and Hamilton. The Public defence Service provides criminal legal services.
- Shifting the functions of the Legal Services Agency into the Ministry of Justice.
- Improving the duty solicitor scheme, including appointing supervisors.
- Introducing consistent standards for all Community Law Centres to ensure all New Zealanders have access to the same level of services.

Welfare working group

As part of its welfare reforms (see below) the Government has announced the establishment of the Working Welfare Group. The Group's general brief is to consider the causes and solutions of long-term welfare dependence and to develop options for a fairer and more sustainable welfare system. In particular the group will look at:

- Ways to reduce benefit dependence.
- How welfare should be funded.
- How to promote independence from benefits for people with ill-health or disability.
- Whether the current benefit structure promotes long-term dependence.

Chairperson, Paula Rebstock, has said the group will consider unemployment insurance schemes, but any scheme would

be in addition to and not instead of a welfare system. Child Poverty Action Group are concerned that this would continue the trend to link welfare programmes - such as KiwiSaver and Working for Families - to paid work, creating an increasing gap between rich and poor.

The Group is expected to report back to the Government in December.

Introduced

Social Assistance (Future Focus) Bill

A Government Bill, this introduces the Government's "Future Focus" welfare reforms announced in March. Pre-election National campaigned on breaking the cycle of welfare dependency and to "ensure a fairer system of social assistance with an unrelenting focus on work".

Changes introduced by the Bill include work-testing for solo parents receiving the DPB once their youngest child turns 6 (requiring parents to look for part-time work of at least 15 hours/week), requiring people receiving the unemployment benefit to reapply every 12 months and to be work-tested, and introducing a part-time work-test for sickness beneficiaries. The Bill also increases the abatement threshold from \$80.00 to \$100.00/week for beneficiaries receiving the invalids benefit and DPB and links benefit increases to increases in CPI (this is the first time this has been legislated for).

Reaction to the welfare reforms has been mixed—opposition parties oppose both the reforms and the Bill—and all Maori Party MP's, other than Tariana Turia, voted against the Bill at first reading. (Under the Maori Party's confidence and supply agreement with National Turia, as Associate Minister for Social Development, is bound by Cabinet collective responsibility within that portfolio).

In addition, the Attorney-General, Chris Finlayson, has advised that clauses of the Bill breach the Bill of Rights. The Social Assistance Bill requires part-time work-testing of parents receiving the DPB once their youngest child is 6, but does not apply this to people receiving the Widow's benefit or the Woman-Alone benefit. This causes discrimination on the prohibited grounds of sex, marital status and family status.

In case you are interested, the Attorney-General's role is an interesting one. He or she is a member of the Government and Cabinet but has a duty to Parliament as a whole to ensure that the operations of the Government are conducted lawfully and constitutionally. This includes a requirement to report to Parliament if any part of any Bill introduced is inconsistent with the Bill of Rights. If there are inconsistencies, as with the Social Assistance Bill, the Government is required to provide a justification for the limits placed on those rights.

The Bill has been referred to select committee for submissions (see page 4).

Electoral Referendum Bill

A Government Bill, this provides the details and framework for the 2011 referendum, which will ask voters if they wish to maintain the current MMP voting system and, if not which alternative system they prefer. The Bill also puts some rules in place for groups or individuals promoting MMP, FPP or any of the referendum options—anyone advertising for or against any of the options must include their name and address with any advertisement, and any person spending over \$12,000 must register with the Electoral Commission. At the time of writing the Bill had yet to be referred to select committee.

Legislation Update

Legislation	Stage and Progress	Impact
Child and Family Protection Bill	Government Bill. Introduced August 2009. Submissions close 1 April. Report due 11 August 2010.	Provides greater protections to children affected by domestic violence.
Crimes (Reasonable Parental Control and Correction) Amendment Bill	Members Bill (John Boscawen—ACT). Introduced 26 August.	Amends section 59 Crimes Act to allow parents to use a “light smack” to correct their children.
Education Amendment Bill	Government Bill. Reported back. Moving through committee stages of House.	Bill to help identify unregistered teachers and reduce compliance costs of Police vetting.
Electoral (Administration) Amendment Bill	Government Bill. Report due 27 April 2010.	Establishes new Electoral Commissions responsible for electoral administration.
Electoral Referendum Bill	Government Bill	Provides framework for 2011 MMP referendum, including spending limits for those campaigning for and against electoral options.
Fair Trading (Soliciting on Behalf of Charities) Bill	Members’ Bill (Amy Adams, National). Submissions closed 19 March. Report due 9 June.	To provide transparency and public accountability to professional fundraisers.
Gambling Amendment Bill (No.2)	Labour Government Bill. Reported back. Second Reading 12 May.	Contains technical amendments to allow original Act (2003) to operate as intended.
Judicial Matters Bill	Labour Government Bill. Passed 18 March. Divided into three Bills in Committee stages (see page 4).	Establishes Office of Judicial Conduct Commissioner to receive complaints about conduct of Judges.
Local Government (Auckland Law Reform) Bill	Government Bill. Submissions closed 12 February. Report due 24 May.	Last of three Bills implementing new local body structure for Auckland.
Mental Health (Compulsory Assessment and Treatment) Amendment Bill	Members’ Bill (Winnie Laban, Labour). Defeated at first reading (see page 4).	Clarifies the rights of families when a family member is being treated under the Mental Health Act.
Patents Bill	Government Bill. Submissions closed. Reported back.	Updates New Zealand’s patents regime.
Public Health Bill	Labour Government Bill. Reported back from select committee. Reinstated.	Revises public health legislation including border protection and quarantine provisions.
Residential Tenancies Amendment Bill	Government Bill. Submissions closed. Reported back.	Reflects significant changes in the rental market since the 1986 Act.
Sale and Supply of Liquor and Liquor Enforcement Bill	Labour Government Bill. Reinstated. Submissions closed. Report was due 10 September, now due 30 June 2010.	Gives communities greater say in liquor licensing decisions, makes it an offence for adults to supply alcohol to minors without parental consent.
Sale of Liquor (Objections to Applications) Amendment Bill	Member’s Bill (George Hawkins). Submissions closed. Report now due 30 June 2010.	Restricts the number of liquor outlets and makes wider provisions for objections to licenses.
Search and Surveillance Bill	Government Bill. Submissions close 18 September. Report due 1 May 2010, now due 29 October.	Widens ranges of offences for which communications can be intercepted.
Sentencing and Parole Reform Bill	Government Bill. Interim report released.	Introduces tougher parole laws. Bill also introduces “three strikes” policy for serious offences.
Social Assistance (Future Focus) Bill	Government Bill. Submissions close 14 May (see page 4).	Introduces the government’s welfare reforms, with focus on breaking welfare dependency and on moving people from welfare benefits to paid work. Introduces work-testing for some DPB and sickness beneficiaries.
Waka Umanga (Maori Corporations) Bill	Labour Government Bill. Reported back from select committee. Reinstated.	Provides for the establishment of new legal entities by tribal groups or Maori associations.

Submissions requested

Social Assistance (Future Focus) Bill

Submissions to the Social Service Committee close 14 May 2010

Foreshore and Seabed consultation

Late last month the Government released a consultation document seeking public feedback on options to replace the Foreshore and Seabed Act 2004. The document sets out the Government's preferred option—to repeal the current Act, to remove Crown ownership and make the foreshore and seabed “public domain”. Under this option the Government believes the principle of public access would be protected, and mechanisms would be put in place for iwi to have their interests recognised. The Maori Party have welcomed National's commitment to repeal the existing Act (review of the Act is part of the Confidence and Supply agreement between National and the Maori Party).

The consultation document and submission form are on the Ministry of Justice website www.justice.govt.nz and submissions close 30 April 2010. The Government is also running a series of hui and public meetings between 9-24 April. Eleven venues, with a hui and a public meeting in each place (a schedule of meetings can also be found on the website)

It has to be said that, like so much that this Government does, seems rushed. The consultation document was not released until 31 March, giving just four weeks for the public to make submissions.

Proposal to ban tobacco retail displays

The Ministry of Health has released a consultation document outlining proposals to ban the display of tobacco products in all retail outlets. A consultation document on similar issues in 2007 received over 500 submissions (both for and against a ban) and in 2009 the Government decided not to proceed with further regulation of tobacco displays. However, following moves by other countries, Associate Minister of Health Tariana Turia wants the issue looked at again.

A copy of the consultation document can be read on the Ministry of Health website www.moh.govt.nz. This will be the only opportunity to comment on the proposals, but the Ministry has contacted people who made submissions on the previous consultation document.

Submissions can be emailed to john_stribling@moh.govt.nz or posted to Ministry of Health, PO Box 5013, Wellington 6145. Submissions close 21 May 2010

Passed

Judicial Matters Bill

This Bill, originally introduced by Labour in June 2008 was divided into three Bills in the Committee stages of the House—the Judicial Conduct Commissioner and Judicial Conduct Panel (Deputy Commissioner and Disposal of Complaints) Amendment Bill, Judicature (Judicial Matters) Amendment Bill and District Court (District Court Judges) Amendment Bill. All three Bills passed in late March. The original purpose of the Bill was to “maintain and enhance public confidence in the judiciary”, and to establish the Office of the Judicial Conduct Commissioner to receive complaints about the conduct of Judges.

And not passed—Mental Health (Compulsory Assessment and Treatment) Amendment Bill

A Members' Bill, introduced by Labour MP Winnie Laban, this clarified the rights of families when a family member is being treated under the Mental Health Act. The Bill was defeated at first reading by the narrowest of margins—62-60. The Bill was supported by Labour, the Greens, the Maori Party, United Future, the Progressives and ACT MP Sir Roger Douglas, but National voted together against the Bill preventing it from progressing to select committee.

News

Aged care review

The Green Party and the Labour Party have begun an inquiry into aged care. Both parties had called for an official cross-party inquiry but this had been turned down by the Government. MPs Sue Kedgley (Greens) and Winnie Laban (Labour) have set a programme of public meetings and will eventually report on recommendations to improve the quality of service delivery to the elderly. The inquiry has already gathered publicity—probably not all of it intended. At Grey Power's annual meeting in Christchurch last week, Senior Citizens' Minister John Carter criticised Grey Power for working with Labour and the Greens, as they should be a politically neutral organisation (to which Grey Power quite sensibly responded they would work with anyone who can help with cuts in services to the elderly), and we learned, in response to a question from the floor, that Bill English cleans the shower at home.

For more information about the inquiry and schedule of meetings see www.greens.org.nz

Employment resource for small business

The Department of Labour has released a series of guides and checklists to help employers with their most common employment problems. The new resource is called “Big 6” and was developed in consultation with employers who identified the six most common employment problems they encountered in running their businesses—health and safety, hiring new employees, pay, holiday and leave, performance management and ending employment relationships. The new resource, particularly aimed at the 97% of New Zealand businesses employing less than 20 staff, can be found at www.dol.govt.nz/big6 and will be regularly updated by the Department of Labour.

Update: Breaks and Infant feeding code released

In 2008, the Labour Government's Employment Relations (Breaks, Infant Feeding and Other Matters) Bill was passed, requiring employers, where reasonable, to provide facilities and breaks for employees wanting to breast-feed or express milk. Last year, the current Government called for submissions on a draft Code of Practice, and the final Code was released last month. The Code is essentially a guide for employers on how to meet their obligations under the Act. The Code can be read on the Department of Labour website www.dol.govt.nz

New Zealand Federation of Voluntary Welfare Organisations

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