

**Social Security Act  
Rewrite Legislation Bill 2016**



**Submissions**

On behalf of the

**Grandparents Raising Grandchildren Trust New Zealand**

*Te Tautoko i nga Mātua Tupuna, me nga Mokopuna.  
Te Ao mai rano, aianeī, a muri ake nei.  
Supporting grandparents and grandchildren.  
Our past, present and future*



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Secretariat  
Social Services Committee  
Select Committee Services  
Parliament Buildings  
Wellington 6160

**By Online Submission**

Dear Committee Members

**Social Security Act Rewrite Legislation Bill 2016**

- 1.1 Thank you for the opportunity to make these submissions on this Bill on behalf of the Grandparents Raising Grandchildren Trust (GRG) and its members.

**Introduction: GRG - Grandparent and Whanau Care**

- 1.2 GRG supports approximately 6000 members nationally who are either grandparents raising their grandchildren or other whanau raising extended kin children who cannot be raised by their biological parents.
- 1.3 The purpose of GRG is to provide vital support services to full-time grandparent and whanau kin caregivers to help empower them to provide a safe, secure and nurturing

home that protects and promotes the well-being and development of the vulnerable children and young people in their care.

1.4 For the majority of these vulnerable children and young people, they have come into grandparent or whanau care in circumstances where the only alternative is foster care. Our objectives are therefore to:

- (a) Provide support services that empower caregivers to achieve better life-long outcomes for the vulnerable and at-risk children in their care;
- (b) Heighten awareness of the caregivers' and children's need for support;
- (c) Facilitate support from other organisations in the community that can help caregivers;
- (d) Facilitate necessary changes in law and policy to ensure that caregivers receive appropriate support and are enabled to act in the best interests and welfare of the children in their care.

1.5 In about 95% of the GRG member families, the parents of the children are no longer able to care for them because of their substance abuse, mental illness, abuse, violence and/or neglect.

1.6 GRG's experience is that grandparent and whanau caregivers who are properly supported are more effective as caregivers resulting in better longer term outcomes for the children they raise.

1.7 The needs of many of our families are complex however, and in considering this legislation and their access to appropriate levels of financial support we urge the Committee to consider the following real needs and issues these caregivers are grappling with each day:

- Inadequate housing;
- Lack of clothing/basic needs for the children;
- Little or no financial support for the children;
- Loss of, or reduced income due to caregiving needs of the children;
- Children affected by anxiety/attachment disorders, Autism Spectrum disorders and troubling behaviour;
- Coping with the impact of parents' ongoing violence, substance abuse, mental illness;
- Costly, stressful, lengthy and multiple court disputes;
- Stress and time taken up with on-going appointments and therapies with multiple organisations due to the children's complex needs e.g. day-cares and /or schools, special education services, outpatients and health clinics, opticians, hearing specialists, child hood mental health services, immunisations, chronic illnesses, developmental delays, and behaviour issues;

- Isolation and frustration from the loss of their own social life and inability to continue working/volunteering in their previous careers or social circles;
- Fatigue and worry from the physical effort required to care for the children and the lack of sleep.

1.8 Despite these complex challenges, by comparison to children in foster care, international research<sup>1</sup> shows that the long-term outcomes for children is better in grandparent whanau care than in foster care; the outcomes and costs of which are well documented in recent New Zealand reports<sup>2</sup>. In our 2009 study<sup>3</sup>, researcher Jill Worrall noted that:

*“One of the key factors that have emerged in this study is the stability and tenacity of the grandparents, great grandparents and other kin and their dedication to the children. Consequently, the children are beginning to thrive and regain normality in their care. For some children, the care and the love received has given rise to extraordinary achievement against great odds. Although kinship care has its frustrations and is undoubtedly exceedingly demanding for many carers, it is also clear that it can have significant rewards for both the children and those who care for them.”*

1.9 Some of our member caregivers are in receipt of NZ Superannuation payments or other income support benefits when they take on the care of these children. Others are working and either continue to work and if eligible receive Family Tax Credits or supplementary income support. Alternatively, due to the age and/or needs of the children they have to give up their jobs and rely solely on income support. In each case, they are materially affected by the proposed new Social Security Act (SSA) legislation.

1.10 The Government is to be congratulated for taking this initiative to rewrite this legislation that over the past 50 years has become something of a behemoth since its inception in 1964. As the Government has recognised, this legislation in its current state is unwieldy and needs updating to better enable online and electronic communication service delivery systems. In some cases, it is also necessary for policy changes to ensure, among other things, the appropriate financial assistance to alleviate hardship.

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<sup>1</sup> Refer to Literature Review: Grandparents and Whanau/Extended Families Raising Kin Children in Aotearoa/New Zealand – A View Over Time; by Jill Worrall [<http://www.grg.org.nz/What+we+do/Publications/Research/Research+Report+2009+-+A+view+over+time.html>]

<sup>2</sup> State of care 2015: [<http://www.occ.org.nz/assets/Publications/OCC-State-of-Care-2015.pdf>], Expert Panel: Interim Report on Modernising Child Youth and Family: [<https://www.msd.govt.nz/documents/about-msd-and-our-work/work-programmes/cyf-modernisation/interim-report-expert-panel.pdf>]; Characteristics of Children at Greater Risk of Poor Outcomes as Adults: [<http://www.treasury.govt.nz/publications/research-policy/ap/2016/16-01/ap16-01.pdf>]

<sup>3</sup> Ibid note 1

1.11 The proposed changes to the SSA legislation that mainly affect grandparents or other caregivers raising extended whanau children are as follows:

- (a) New sections 42-44 Supported Child Payment: the repeal of sections 28 and 29 (Orphan's and Unsupported Child Benefits)
- (b) New sections 29-32: The change to the settings for Sole Parent Support, so that single people paid the Supported Child Payment for the care of a child under the age of 14 can be paid at a single rate of sole parent support. Further that that dependent child will be taken into account when work obligations are set.
- (c) New section 59, Exceptional Circumstances Benefit: renaming of the Emergency Benefit

1.12 These submissions address the proposed changes referred to in 1.7 (a) to (c) above.

## **2. Proposed Supported Child Payment: Sections 42-44**

2.1 According to the Ministry for Social Development's statistics as at 31 March 2013, 8,614 carers were receiving the Orphan's Benefit or the Unsupported Child's Benefit for 12,069 children. Approximately half of them were grandparents.<sup>4</sup>

2.2 Approximately two-thirds of our members today are recipients of the Unsupported Child's Benefit and it is likely that a similar proportion of new members in future will also be affected by these proposed changes.

2.3 The proposed new sections 42-43 states:

### **42 Supported child's payment: requirements**

- (1) This section applies if a child has no parent who is willing and able to—
  - (a) care for the child; or
  - (b) provide fully for the child's support.
- (2) A person (P) is entitled to a supported child's payment for the child if—
  - (a) P is an eligible caregiver of the child; and
  - (b) either—
    - (i) the child is both resident and present in New Zealand; or
    - (ii) P has been both resident and present in New Zealand for a continuous period of 12 months at any time.

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<sup>4</sup> Sandy Biggs, Work and Income New Zealand, Presentation to 3<sup>rd</sup> National Grandparents Raising Grandchildren Trust NZ Training Conference, 5-6 March 2014.

#### **43 Who is eligible caregiver**

A person (P) is an eligible caregiver if P is—

- (a) aged 18 years or over; and
- (b) not a parent of the child; and
- (c) **likely to be the principal caregiver** of the child **for at least 1 year** from the date of application for the supported child's payment.

#### **44 Supported child's payment to be used for benefit of child**

- (1) The purpose of the supported child's payment is to provide weekly financial support for the cost of caring for a child who is not the caregiver's own.
- (2) A caregiver who is granted a supported child's payment must use the payment for the benefit of the child in respect of whom it was granted, including the child's maintenance and education.

- 2.4 The material change, compared to sections 28 and 29 of the Social Security Act 1964, is the removal of the section 29 requirement to establish entitlement to support **"because of a breakdown in the child's family"**.
- 2.5 This change is significant and we congratulate the Government for removing this requirement from the eligibility criteria. In our experience over the past 17 years, the assessment by Work and Income staff as to a client's eligibility for the Unsupported Child Benefit on the basis of the "family breakdown" test is often wrong, leading to serious hardship and injustices for many families and the vulnerable children and young people to whom they have given a home.
- 2.6 However, the requirement that the caregiver must establish that they are **likely** to be the principal caregiver of the child **for at least 1 year from the date of application** for the supported child's payment, (as is the case for the existing sections 28 and 29 of the Act), will continue to cause serious hardship and injustice for many applicants and in our view, should be removed from this section or alternatively exceptions in certain circumstances should apply.
- 2.7 There are two strands to the injustice this 1-year rule inflicts on grandparent and whanau caregivers in practice:
- 2.8 In the first instance, the requirement to establish the likelihood of being the caregiver for at least 1 year is inequitable and discriminatory. The caregivers that take on the care of someone else's child(ren) for several months' duration but less than 12 months, are denied appropriate financial support whereas if they are foster carers they receive appropriate financial support from the time they assume care.
- 2.9 While it is true that some caregivers may be eligible for the Sole Parent Support or Job-seeker Support and have the child(ren) *included* in their benefit allowance, others must

rely on the Family Tax Credits (if eligible). In the majority of cases, the financial support is substantially less than if the caregiver is a recipient of the Unsupported Child/new Supported Child Payment.

- 2.10 Some caregivers receive no financial support at all for the costs associated with the welfare and care of these children. For example, grandparents aged over 65 years in receipt of National Superannuation payments do not qualify for the Sole Parent or Job-seeker Support payments for which the children can be included as dependents. They must rely solely on Family Tax Credits unless they can establish eligibility for the Supported Child Payment. The 1-year rule in particular causes these applicants' serious hardship.
- 2.11 The impact and costs associated with care are significant, particularly as the grandparents have often down-sized their homes, have little income or financial resources and they may have health and mobility issues of their own. Added to that, more than half of the children in grandparent care have physical disabilities or health issues and/or psychological/trauma/cognitive processing difficulties (e.g. ASD/ADHD/FAS) or mental health issues of their own<sup>5</sup> and they need professional help. Without the active and supportive involvement of Child Youth and Family and other agencies resourced to help them; access to this kind of support is severely limited or non-existent.
- 2.12 In the second instance, while it is accepted that in the simplest of cases the 1-year rule assessment is straightforward; (e.g. where one or both parents are deceased or cannot be found, or one or both suffers a serious long-term disablement rendering them unable to care for their child), in most cases it isn't.
- 2.13 The degree of subjectivity involved in assessing a caregiver's likelihood to be the principal caregiver for at least 12 months is akin to requiring the assessor to have the abilities of a fortune-teller. Arguably they also have about as much chance of being right in their assessment as a fortune-teller.
- 2.14 This is because there are inherent difficulties with the application of this 1-year rule in practice. In our experience there can be so many variables involved, many of which can and most often are, interpreted **against** the caregiver applicant's assertion that they are likely to have the care of the child(ren) beyond 12 months.

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<sup>5</sup> GRG Research Study 2005: "Grandparents and other Relatives Raising Kin Children in Aotearoa/New Zealand." [<http://www.grg.org.nz/What+we+do/Publications/Research/Research+Report+2005.html>] and Research Study 2009: Grandparents and Whanau/Extended Families Raising Kin Children in Aotearoa/New Zealand – A View Over Time; by Jill Worrall [<http://www.grg.org.nz/What+we+do/Publications/Research/Research+Report+2009+-+A+view+over+time.html>]

- 2.15 In other cases, many grandparent caregivers are initially very hopeful that their care arrangement won't extend beyond 12 months and that their son/daughter or 'in-law' will be able to properly care for their child(ren) at some stage in the coming months.
- 2.16 In each case, they are denied the contribution to the immediate cost of meeting the welfare needs of the children. Yet where, for example, a parent is in receipt of Sole Parent Support or another benefit which includes those same children, those entitlements are terminated immediately Work and Income are aware the parent(s) no longer have the children in their care.
- 2.17 In the 2015/16 year, GRG's Field Officer specialising in income support issues has successfully assisted 76 caregivers to be granted the Unsupported Child Benefit in circumstances where they had previously been declined by Work and Income staff, or they have been told not to apply because the Work and Income staff say they wouldn't get it. In the same period 25 cases were finally resolved in which applications for arrears in Unsupported Child payments were made for periods ranging from six months to 15 years.
- 2.18 In all of these cases, the Work and Income staff member's initial assessment as to their eligibility under section 29 was wrong. With the benefit of a retrospective assessment as to the likely duration of care, many cases turned on the 1-year rule being wrongly assessed.
- 2.19 In the following scenarios, the GRG Case Examples illustrate the problems with the 1-year rule in practice. In these examples the caregivers' names have been changed to protect their identities.

## **Scenario 1 – Parents involved in Criminal Justice proceedings or in Prison**

### **GRG Case Example 1**

Joan is 70. She cares for her husband who has had a stroke. They live in a small two-bedroomed home. One of Joan's daughters who had five children was imprisoned for 10 months. The children came to Joan as there was nowhere else for them to go other than foster care. The children's father had left for Australia many years ago. His whereabouts are unknown. She applied for the UCB but was declined. Because her daughter had been sentenced to 10-months imprisonment and would be released on or before that time, the assessment was made that she did not satisfy the 12-month test. The only income this family received during this period was the couple's pension. They couldn't access any other support other than two food parcels.



## **GRG Case Example 2**

Paula is the grandmother of a baby born in prison while the mother was on remand. Child Youth and Family told Paula to get legal custody of the child and to go to Work and Income for assistance.

Work and Income advised her that beyond what information Paula had given them, they wanted "hard evidence" from the police about how long the mother would be in prison and the detail of her crimes. Citing privacy reasons the police would not give that information to Work & Income.

Work and Income waited until the mother came up for sentencing to await the outcome before they would grant Paula the UCB. Sentencing took place eight months after Paula had applied for support and the mother was sentenced to two years.

- 2.20 In each case the application of the 1-year rule simpliciter has resulted in serious hardship for the child(ren) and their elderly caregivers. Even in circumstances where there are good reasons why the child(ren) should not return immediately to the parent's care following release from prison, too often Work and Income staff carrying out the assessment seize upon the certainty of the prison sentence and its duration for a reason to decline or grant the application.
- 2.21 Where does this 1-year rule leave the caregiver trying to feed and clothe these children? In some cases, the children have to move towns or to areas where they require new uniforms for school. These caregivers are denied the access to the School Year Start Up payments or the Establishment Grants to help cover these significant up-front costs. These sorts of scenarios are not uncommon particularly with prison sentences ranging from 3-11 months.

## **Scenario 2: Children placed in grandparent care by CYF via informal whanau agreement**

### **GRG Case Example 3**

Grandmother, Lillian had three grandchildren placed in her care by Child Youth and Family via an informal whanau agreement. A Family Group Conference was being planned to determine, among other things, the longer term care placement for the children. She applied to Work and Income for the UCB following advice from Child Youth and Family. Work and Income declined the application based on their conclusion that they needed to wait on the outcome of the Family Group Conference, even though by this stage Lillian had been caring for the children for eight months already and there was arguably more chance of the children remaining in her care following the Family Group Conference beyond 12 months than there was that the children might return to their parents. The only support this grandmother received was a petrol voucher to attend the Family Group Conference and a couple of food grants from Child Youth and Family.

Eventually the UCB was granted and Lillian continues to have the day to day care of the children.

- 2.22 There are many cases like this where care and protection issues exist and where Child Youth and Family remove them from an abusive situation and look to grandparents to provide the safe care of children instead of placing them in foster care. The following is another common example of what happens, where the grandparents are left with no financial support at the time they resume care of their grandchildren.

#### **GRG Case Example 4**

In a recent case three grandchildren were uplifted by Child Youth and Family and placed in foster care for an interim period of three weeks while they looked for a placement in the family. They contacted the grandparents who agreed to take them into their care. In the interim period the foster carer was already paid the clothing allowance for the three children and the foster care allowance, but when the grandparents took them in they received no financial support. This case is awaiting a family group conference and the grandparents' application for the Unsupported Child Benefit is pending the outcome. In the meantime, the family struggle to feed and clothe these children let alone meet their own welfare needs on their limited income from National Superannuation.

#### **Scenario 3: CYF encourage grandparents to take legal steps to secure guardianship and parenting orders via the Care of Children Act 2004**

- 2.23 Another common scenario and approach by Child Youth and Family is where grandparents are encouraged to take legal steps on their own accord to seek parenting and guardianship orders via the Care of Children Act 2004. In some cases, the "encouragement" by social workers is tantamount to threats where the grandparent is told that if they don't take legal action themselves, their grandchildren will end up in foster care.
- 2.24 For many grandparents the thought of letting their grandchildren go into foster care is beyond their ken and they will do anything to keep the children together and safe in their care, including spending or incurring debts totalling thousands of dollars in legal fees and/or legal aid charges in the process.
- 2.25 This approach by Child Youth and Family is what we call the "sideward shuffle" and it is one that obviates the need for Child Youth and Family to proceed with the formal care and protection process, leaving the grandparents to fend entirely for themselves in extremely challenging circumstances.
- 2.26 Some Child Youth and Family workers provide grandparent caregivers with letters of support for their application for the Unsupported Child Benefit, but experience has shown that Work and Income staff don't accept this as evidence of the likelihood the

care will extend beyond 12 months and they decline the application or suggest waiting for the outcome of the family court process.

### **GRG Case Example 5**

Mary has been raising her two grandchildren for over four months. She was encouraged by Child Youth and Family to seek parenting and guardianship orders. She now has Interim Parenting Orders in respect of the children and is going to Family Court in a couple of months. She applied for the Unsupported Child Benefit but Work and Income have refused to grant it yet as they say there is no guarantee the children will be with Mary for at least 12 months. Work and Income have included the children in her Sole Parent Support and she is receiving Family Tax credits for them. Work and Income say that if she gets final Parenting Orders when she goes to Court they can then grant the Unsupported Child Benefit.

- 2.27 This retrospective approach commonly being taken by Work and Income is contrary to the legislative intent to make a forward assessment as to the likelihood of duration of care but is symptomatic of the problems Work and Income staff have trying to foretell the future.

## **Conclusion and Recommendations**

- 2.28 If a child is placed in foster care and then later returns to their parent's care, the foster carer's board payments for that child cease. There is no good reason why the same approach couldn't apply to a grandparent caregiver if the child returned to their parent's care. In our experience the grandparents and whanau caregivers who step up to the task of providing the full-time day to day care of their grandchildren/kin, even on a temporary basis, do so, not because they naïvely or erroneously think it will benefit them financially, but because they have the safety, welfare and best interests of the children at heart.
- 2.29 Many grandparents would love to see the children returned to their parents and often say this to Work and Income. Denying them appropriate levels of financial support in the first 12 months of what is often a traumatic period for the children and their grandparents simply perpetuates the hardship and trauma these families experience.
- 2.30 In conclusion, it is our submission that if a grandparent or whanau caregiver is providing the full-time day to day care of a grandchild or a child that is not their own in circumstances where the child has no parent who is willing and able to care for them or provide fully for their support; they should be entitled to the Supported Child Payment

immediately. To this end, the requirement to prove a likelihood of care for at least one year should be removed from the proposed section 43 (c) of the new legislation.

2.31 Alternatively, it is submitted that if the Committee is of the view that there are circumstances in which it is necessary to impose the 1-year rule there ought to be exceptions to that rule to take into account circumstances such as the ones illustrated above.

2.32 It is submitted, therefore, that section 43 ought to be amended as follows in italics:

### **Proposed new section 43**

#### **43 Who is eligible caregiver**

A person (**P**) is an eligible caregiver if P is—

(a) aged 18 years or over; and

(b) not a parent of the child; and

(c) **likely to be the principal caregiver** of the child **for at least 1 year** from the date of application for the supported child's payment; or

*(i) is the principal caregiver in accordance with a Family (or High) Court order (including an interim order); or*

*(ii) has agreed to become the principal caregiver following the exercise of any powers, duties or obligations conferred on the Chief Executive (or its representative) in accordance with the Children Young Persons and Their Families Act 1989; or*

*(iii) is the principal caregiver while the child's parent or parents are serving a prison sentence or in prison on remand for a period exceeding four weeks.*

### **Additional Unsupported Child/Orphan's Benefit Entitlements**

2.33 Finally, with respect to the Supported Child Payment, it is noted that the extra entitlements that recipients of the Unsupported Child/Orphan's Benefit are currently entitled to is not included in this proposed legislation. i.e. School Year Start-Up payments the Establishment Grant and Eligibility to apply for extra resources from the Extraordinary Care fund.

2.34 It is submitted that the above payments, in addition to the new clothing allowance (per the Social Security (Clothing Allowances for Orphans and Unsupported Children) Amendment Act 2015) from 1 July 2018 ought to be included in this Bill to better and more adequately support these children's actual needs and bring their financial support more in line with children in foster care.

### **3. New sections 29-32: The change to the settings for Sole Parent Support**

#### **Relevant Sections:**

##### **31 When dependent child may be regarded as applicant's child**

For the purposes of this subpart, MSD may regard a dependent child as being a child of an applicant (**A**), and A as being the mother or father of the child, if—

- (a) the child is being maintained by A and was at any time maintained by A's spouse or partner; or
- (b) a supported child's payment is payable in respect of the child; or
- (c) the child's parents are unwilling to support the child because of circumstances MSD considers exceptional.

##### **126 Persons subject to work-test obligations**

(1) The following persons must comply with section 130 and may be required to do any of the things set out in section 132:

...

- (d) a work-tested sole parent support beneficiary...

##### **143 Regulations may specify categories of exempt persons and grounds for exemption**

Regulations made under section 410 may specify—

- (a) categories of persons who may be exempted from some or all of a work preparation, work test, or other obligation under this Part; and
- (b) the grounds for the grant of an exemption.

##### **144 MSD may grant exemption from work preparation, work test, or other obligation**

(1) A person may apply to MSD for an exemption from some or all of the person's work-preparation obligations, work-test obligations, or other obligations under this Part and MSD may grant the exemption if satisfied that the person qualifies for an exemption under regulations made under section 410.

(2) MSD may grant the exemption for a period set by MSD, and may make the exemption subject to conditions set by MSD.

(3) A person granted an exemption under subsection (1) must notify MSD as soon as practicable of any change in the person's circumstances that may affect the person's entitlement to the exemption.

(4) MSD may from time to time require a person granted an exemption under subsection (1) to attend an interview with an MSD employee or a person on behalf of MSD.

**410 Regulations: specific obligations: work-test obligations, and deferrals of, or exemptions from, specified obligations**

The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:

...

(e) specifying the categories of people who may be granted an exemption under sections 143 and 144 from some or all of their—

...

(i) work-test obligations:

- 3.1 Section 31 (c) is particularly relevant for some sole parenting grandparents and whanau caregivers who are raising someone else's child that is eligible for the Supported Child Payment.
- 3.2 The proposal is a good one as it provides the caregiver with support for their needs while recognizing the special circumstances in which they are caring for someone else's child.
- 3.3 Furthermore, the proposed policy removes the anomaly that currently faces single caregivers on the Job-seeker plus Unsupported Child/Orphan's Benefit to be immediately available for work when they have young children come into their care or they are placed with them by Child Youth and Family following a family breakdown.
- 3.4 However, it will mean that all single caregivers receiving the Sole Parent Support plus Supported Child Payment will still be required to be available for work, when the youngest child in their care turns 3 years of age unless the Ministry for Social Development specifically exempts these caregivers from the work obligations in the regulations anticipated in section 410.
- 3.5 We are concerned that without modification or exceptions (such as for recipients of the Supported Child Payment), the work obligations in practice will result in unintended adverse consequences for many children and their caregivers.
- 3.6 The work obligations also fail to take into account the particular circumstances in which these caregivers are raising these children compared to the general population of single caregivers on Sole Parent Support.
- 3.7 From our two research studies in 2005<sup>6</sup> and 2009<sup>7</sup> and membership of our support groups nationally we estimate that around 70% of the grandparent caregivers are aged

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<sup>6</sup> <http://www.grg.org.nz/What+we+do/Publications/Research/Research+Report+2005.html>

<sup>7</sup> <http://www.grg.org.nz/What+we+do/Publications/Research/Research+Report+2009+-+A+view+over+time.html>

between 55 and 65 years of age. This is the group that we believe will be most negatively affected by this policy proposal if they are single and in receipt of the UCB.

- 3.8 When considering these proposed sections and the work obligations, it needs to be remembered that in all these cases there has been a family breakdown or collapse of the normal family dynamic which results in both parents being unable to fulfil the role of parent to their child. In these circumstances were it not for the grandparent or whanau caregiver stepping in to care for child, there would be no alternative but to place the child in State care.
- 3.9 These children are vulnerable and at-risk children, not just because of the circumstances arising before they go into grandparent or whanau care but because of the confluence of other ongoing factors; primarily:
- a) The physical/psychological disabilities or problems that may exist for the child;
  - b) The difficulties accessing and/or paying for counselling/specialist services or mental health treatment;
  - c) Financial support, financial hardship and socio-economic status of the caregiver;
  - d) The age and health of the caregiver; and
  - e) The age at which the child goes into care.
- 3.10 GRG has commissioned further research into grandparent and whanau caregivers in New Zealand which has been funded by the Lotteries Community Sector Research Fund and is being conducted by Pukeko Research Ltd. The Survey itself was conducted from 5 March to 31 May 2016 and over 1100 grandparent and whanau caregivers took part, representing over 10% of the grandparent caregiver population in New Zealand.<sup>8</sup> This research study is pending<sup>9</sup> with results available later this year at which point we anticipate gaining a clearer picture of the current demographics, issues and challenges for caregivers such as those who will be affected by these proposed legislative changes.
- 3.11 However, we believe it is important that the Committee also understands and takes into account the following factors which are based on our earlier data<sup>10</sup>, findings and experience when considering this proposal. Because requiring them to work when the youngest dependent child turns 3 years materially affects the caregivers' ability to provide these vulnerable children with the kind of stability and security they need:

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<sup>8</sup> Statistics New Zealand: Census 2013 reported 9543 "grandparents in a parental role".

<sup>9</sup> Preliminary findings available in September 2016 and full reporting in October 2016.

<sup>10</sup> Ibid notes 6 and 7

- 3.12 Approximately 80% of grandparent or whanau caregivers are aged 50 or over, with 70% aged between 55 to 65 years of age.
- 3.13 Approximately 40% of caregivers are single caregivers, and the overwhelming majority of them are women.
- 3.14 Unsurprisingly with an aging cohort of caregivers, many report a decline in their physical health as a result of taking on the care of children. What is disturbing however, is that nearly 70% in our 2009 study reported multiple conditions many of which were debilitating, e.g. arthritis, diabetes, hypertension, COPD, macular degeneration and heart conditions being just some of the serious conditions cited.
- 3.15 While we don't know the percentage of caregivers affected by serious health conditions in the 55 to 65-year age group, the health of the caregivers will undoubtedly be a factor for a proportion of these single caregivers required to present or be available for work.
- 3.16 Substance abuse (drugs/alcohol) by one or both parents is among the most common reasons why children are placed in grandparent or whanau care. To varying degrees, mental illness, child abuse, neglect and domestic violence are typically co-morbid factors. The extent to which a child is exposed to and affected by these issues has an ongoing impact on their wellbeing and physical and psychological development.
- 3.17 Children who have experienced this kind of childhood trauma, especially while the brain is hard-wiring (0-3yrs)<sup>11</sup> typically present with difficult behavioural problems leading to significant challenges for their caregivers raising them day to day. This also makes it difficult for caregivers to place young children in day-care in order to find work.
- 3.18 Over half of the children in our earlier studies experienced ongoing psychological problems – with destructive and/or severe violence/aggressive behaviour, attachment, conduct and post-traumatic stress disorder as the most common challenges. ADHD/ADD and Autism spectrum disorders are also common.
- 3.19 Around 85% of children in grandparent or whanau care also presented with a range of other physiological and psychological problems such as asthma (30%), eczema (11.6%), chronic bed-wetting (14%), Foetal Alcohol/Drug Spectrum (10%) and other genetic and/or physiological disorders, most of which don't qualify for any additional financial support.

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<sup>11</sup> [http://www.brainwave.org.nz/wp-content/uploads/wiring\\_brain1.pdf](http://www.brainwave.org.nz/wp-content/uploads/wiring_brain1.pdf)



- 3.20 We also know that psychological and behavioural problems were most common when the children came into care at ages 3-5 (74%), followed by ages 1-2 (62%). The Expert Review Panel's Interim Report into Modernising Child Youth and Family<sup>12</sup> noted that the average age a child goes into State care is at 8 years of age. However, around half of the children in our research were under 3 years when they went into grandparent or whanau care.
- 3.21 This is a particularly important developmental stage in a child's life when attachment is often fragile because of the impact of the abuse and neglect from their parents. These children are the most vulnerable and in need of a stable attachment figure and sense of security in order to have any chance of overcoming their past traumas. Supporting their recovery during the preschool years is critical to their ongoing development and ability to cope with and succeed when they go to school from the age of 5.
- 3.22 Unfortunately, because of these attachment issues and/or psychological/physical disabilities they simply can't cope with a day-care environment and there are limited day-care facilities set up to meet their needs.
- 3.23 Older children and teenagers are also affected by attachment and anxiety issues and increasingly we also see a lot of these children are globally delayed or suffer from varying degrees of cognitive impairment and present with a significantly lower emotional age than their actual chronological age. As a result, their education is challenging. In order to get them tested to assess them for special education purposes they must be evaluated through SPELD or other similar organisations. The cost of these assessments can be around \$1000 or more which is often unaffordable for many grandparent caregivers.
- 3.24 The age at which a child first goes into grandparent or whanau care is therefore relevant to the kind of issues and challenges their caregivers face as identified above, compared to normally adjusted children in the general population. This in turn affects their caregiver's ability to find and participate in paid employment outside the home while leaving the child in day-care or after school care.
- 3.25 Therefore, unless there is additional financial support made available for expert childcare help (and in some cases one-on-one child care/tutoring) when these caregivers must prepare for work and enter the paid workforce when the youngest dependent child attains 3 years of age; it will cause severe stress and hardship for many of these families. It will also lead to further trauma and insecurity for children placed in

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<sup>12</sup> <http://www.msd.govt.nz/documents/about-msd-and-our-work/work-programmes/cyf-modernisation/interim-report-expert-panel.pdf>

day-care at a time (3-5 years) when they aren't ready for that kind of separation from their primary caregiver.

- 3.26 In our view therefore, the recipients of Supported Child Payments ought to be specifically excluded from the work obligations in the legislation if they are in receipt of the Sole Parent Support. Otherwise it fails to put the welfare and needs of the vulnerable children at the centre of focus and risks further perpetuating the kind of negative societal outcomes identified by the Expert Advisory Panel in their Interim Report.<sup>13</sup> It also fails to value the time and effort these caregivers are putting into caring for these vulnerable and at-risk children who would otherwise be in foster care.
- 3.27 Alternatively, a specific exemption in the legislation should apply to Supported Child Payment recipients, to the effect that the requirement to be available for work should not apply if they are over 55 years of age or have dependent children under the age of 5 years, whichever comes first.
- 3.28 The right to seek an exemption from the work requirements should also be available to younger grandparent or whanau caregivers in receipt of the Supported Child Payment in circumstances where the requirement to work or apply for work is likely to cause undue hardship to either the child, caregiver, or other dependent.

#### **4. New section 59: Exceptional Circumstances Benefit**

##### **Relevant Sections**

###### **59 Exceptional circumstances benefit: discretionary grant on ground of hardship**

- (1) MSD may grant an exceptional circumstances benefit **on the ground of hardship** to a person (P)—
- (a) who is unable to earn enough income for P or P's dependants (if any); and
  - (b) who is not entitled to a main benefit under this Act or to New Zealand superannuation or a veteran's pension; and
  - (c) to whom MSD has determined not to grant 1 of the following benefits on ground of hardship: jobseeker support, youth payment, or young parent payment.
- (2) Despite subsection (1)(b), MSD may grant an exceptional circumstances benefit to a person (P) who is entitled to a main benefit under this Act instead of or in substitution for a supported living payment, sole parent support, or jobseeker support.
- (3) The rate of an exceptional circumstances benefit is at the discretion of MSD.

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<sup>13</sup> Ibid note 6.

- (4) However, the rate of an exceptional circumstances benefit must not exceed the rate of the equivalent benefit, that is, the main benefit under this Act that MSD would grant to a person entitled to the benefit in circumstances similar to P's.
- (5) MSD may, on a case by case basis, do either or both of the following:
  - (a) make the grant of an exceptional circumstances benefit subject to any conditions imposed by MSD:
  - (b) impose on P the work-test or work-preparation obligations (and associated sanctions) attached to the equivalent benefit (if MSD is satisfied that P has the capacity to comply with those obligations).

#### **Sections 102-140, 143-144 – Work-test obligations and exemptions**

- 4.1 The exceptional circumstances benefit replaces the emergency benefit, which in some circumstances has historically been granted to grandparent and whanau caregivers where they have not been eligible for any of the other main benefits.
- 4.2 The same concerns regarding the work-test obligations for grandparent and whanau caregiver's vulnerable children apply as those set out in sections 3.1 to 3.28 above.
- 4.3 Section 143 provides the Ministry for Social Development to have the power to grant exemptions to certain categories of people as defined by regulations made in accordance with section 410. However, in the absence of any exemption being made for grandparent or whanau caregivers, there is nothing in this part of the legislation affecting work obligations that gives the Ministry for Social Development the discretion to exempt a person from these work obligations on the grounds that to impose them would inflict undue hardship for the person or any dependents. In our submission such a discretion ought to be included in the legislation itself.

## **5. Conclusion**

- 5.1 In conclusion, we urge the Committee to consider the sacrifices these grandparents and whanau caregivers are making to care for some of New Zealand's most vulnerable and at-risk children and young people. From the minute they agree to put the needs and welfare of these children first before their own needs, their lives are turned completely upside down. Their careers and/or plans for retirement are all shelved and instead they take on immeasurable uncertainty, anxiety, stress, grief and economic hardship.
- 5.2 It is time that grandparent and whanau caregivers are properly recognised for the job they are doing, for without them, the children they are raising would end up in state care resulting in a potentially far greater social cost to our society than the cost of providing adequate financial support for them and their caregivers during their childhood and youth.

5.3 We respectfully seek the Committee's support for our proposals and recommendations for amendment to this proposed new legislation.

6. If the Committee requires any further information or clarification, please do not hesitate to contact **Kate Bundle** on the contact details below.

Yours sincerely,

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