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Oral Submissions on the Social Security
(Orphans and Unsupported Children’s Clothing Allowance) Amendment Bill
19 March 2014 to the Social Services Select Committee**

1. Thank you for the opportunity to make these submissions in support of this Bill on behalf of the Grandparents Raising Grandchildren Trust and its members, some of whom are recipients of the Unsupported Child’s Benefit and the Orphans’ Benefit.
2. Our Chair and Founder, Diane Vivian, has outlined the reality of what faces grandparent and kin carers as referred to our research and some of the key statistics and demographics of our members. Considered in the cold light of day, the statistics do not paint a picture of the often held, warm and idyllic vision of what some believe it is like for grandparents and grandchildren living together.
3. By contrast these carers and their charges live daily on “struggle-street,” in extremely difficult financial, emotional, psychological and physically challenging circumstances, where the parents are unable to care for their own children.
4. In my submission the Committee needs to look at the inequities that currently exist in our child welfare and social security system. They are central to the purpose of this Bill which is designed to give UCB/OB recipients more financial support for the children in their care. In my submission this Bill does not go far enough and I wish to explain in brief these anomalies and inequities that arise because of the way our laws treat kin caregivers.
5. The MSD figures at 31/3/13 tell us that 8,614 carers were receiving the Orphan’s Benefit or the Unsupported Child’s Benefit for 12,069 children.
Of those:
 - 8,270 (96%) of the carers were receiving the Unsupported Child’s Benefit
 - 6,073 (70.5%) of carers were aged between 40 and 64
 - 1033 (12%) were 65 and over
 - Almost half are of Maori descent
 - Approximately 50% of carers are grandparents
6. In all cases where the UCB is paid, there has been a **“family breakdown”** sufficient to satisfy the test of eligibility in section 29, that is that:
“the breakdown of a child’s family involves the failure or collapse of the normal family dynamic which results in both parents being unable to fulfil the role of parent to their child.”
7. In many of these cases CYF or the FCT has been involved, or there has been a family crisis that has resulted in the child having to be cared for by someone other than their parents.
In all of these cases the child would be in foster care if it wasn’t for the grandparent or kin/whanau carers stepping in.
6. In many of these cases the ongoing needs of the child/ren in grandparent or kin/whanau care extend far beyond that for which children in normal circumstances would require because of the circumstances leading them into care. For example they may have ongoing physical or mental

disabilities and/or behavioural problems or attachment disorder requiring specialist and professional input at considerable financial cost. Judith Morris¹ If you take a clinical population such as referrals to a Child Youth and Family/Mental Health about 50% of the children have disorganised attachment, referred to as Reactive Attachment Disorder exhibiting trauma responses when suffering overwhelming anxiety. These children that come into care are not normal and well adjusted children. They have considerable issues and needs. Judith Morris goes on to say that “Children with serious attachment problems need skilful nurturing and strategic management of behavioural problems and perhaps also individual psychotherapy – and these elements need to be brought together in an integrated treatment programme.” This is why these children need better resources and financial support and many of them are not getting it.

8. Theoretically there is a means within the law to help these children and their kin carers access the support they need while they are being supported by family. In fact the CYPF Act mandates that and section 13 states

S13• where a child or young person is considered to be in need of care or protection, the principle that, wherever practicable, the necessary assistance and support should be provided to enable the child or young person to be cared for and protected within his or her own family, whanau, hapu, iwi, and family group.

Service and support orders are also theoretically available, but notoriously difficult to access because of the way the system operates in practice. The fact is grandparent and kin carers don't get access to the same level of support as foster carers.

9. Furthermore, once a child is no longer deemed to be in need of care and protection under the CYPF Act - often because they are seen to be no longer at risk now that they are in a safe environment being cared for by their grandparents CYF no longer has jurisdiction under the Act and any means to support the family terminates. They only have the UCB or OB to fall back on. For families that take on their kin in a family crisis informally or through the Care of Children Act 2004, they don't even get a look in.

10. By contrast the child in foster care is able to access not only greater services and financial support in practice from CYF but also the have the special allowances for clothing, school uniforms, costs etc. These two types of carers are doing the same job, but these anomalies that exist in our child welfare and social security system discriminate against kin/whanau carers.

12. This discriminatory effect of the current law, I submit contravenes both section 19 of the Bill of Rights Act 1990 and Article 2 of the United Nations Convention on the Rights of the Child.

13. I don't wish to go over Article 2 here, as it is set out in my written submissions which I am leaving with you; but I do wish to refer to the recent the Court of Appeal decision in **Ministry of Health v Atkinson [2012] NZCA 184** which held that disabled adult children cared for by kin/family carers were being treated differently to non-family carers and materially disadvantaged by virtue of their family status. The Ministry policy that payment to carers providing certain disability support services would only be funded by the Ministry if provided by non-family carers was found by the Court to be discriminatory and in breach of section 19.

14. The Court further held that the Ministry's policy did not constitute a reasonable limit to the right to protection against discrimination in section 19 in this case as it was not a limit that could be demonstrably justified in a free and democratic society.

15. In similar circumstances here, grandparent and kin/whanau carers' inability to access the same level of financial support and allowances as made available to foster carers, is discriminatory causing material disadvantage to the children being raised in grandparent/kin/whanau care.

¹ Judith Morris: *Understanding attachment issues in children affected by breakdown of primary parent relationships, abuse and neglect.* [2009]

16. I challenge the committee to consider is it fair in our society for a child being raised by its grandparent to be denied access to the services and financial support it needs and would receive if it were in foster care, only because it is being raised by a grandparent?
17. I submit that the current inequities that exist in our child welfare and social security system ought to compel the Committee to recommend that this legislation be passed. I further submit that the Committee should go further and recommend legislation aligning the financial support and allowances available to foster carers and UCB/OB carers so that they are equal and fair in all respects.