

Families Commission Amendment Bill

Government Bill

As reported from the Social Services
Committee

Commentary

Recommendation

The Social Services Committee has examined the Families Commission Amendment Bill and recommends by majority that it be passed with the amendments shown.

Introduction

This bill seeks to amend the Families Commission Act 2003 to make a number of changes to the role and operation of the Commission, with the aim of improving decision-making in the social sector.

One member of the Commission would be appointed by the Minister of Social Development as Families Commissioner, while the remaining members would remain members, without being appointed Commissioners as they are at present. The Families Commissioner and members would continue to comprise the board.

The restructure would include the establishment of a Social Science Experts Panel to provide guidance and academic peer review of any research undertaken by or on behalf of the Commission.

The Commission would also be given a new monitoring, evaluation, and research function, which would require it to determine where evidence and research would help decide or achieve Government priorities, and to commission research and manage research contracts, in the social sector.

The Commission would also be required to prepare and publish an annual Families Status Report, which would measure and monitor the well-being of New Zealand families. It would also be given access by the Government Statistician to individual schedules for research or statistical purposes.

Membership of the Social Science Experts Panel

We recommend amending clause 11, new section 18C(1), so that the Social Science Experts Panel would comprise a minimum of four members. The bill as introduced specifies that the panel would have four members charged with providing academic peer review of any research, evaluations, standards, reports, or other publications done or issued by the Commission, and to provide guidance to the Commission.

We recognise that there might be occasions where the range of expertise covered by a four-person panel would not be wide enough to provide peer review and guidance in all the required subject areas. For this reason, we propose that the Panel should be able to appoint additional members if necessary.

Legislation governing the Social Science Experts Panel

We recommend amending clause 11, new section 18C, by inserting a new subsection (5) to provide that clause 14(2) of Schedule 5 of the Crown Entities Act 2004 applies to persons to be appointed to the Social Science Experts Panel, and by inserting new subsection (6) so that clause 15 of Schedule 5 of that Act applies to panel members as if the Panel were a committee appointed by the board under clause 14(1) of that schedule. This would ensure that the Panel would come under appropriate provisions pertaining to appointment and payment of members, conflicts of interest, indemnities, and insurance.

Independence of the Commission

We recommend inserting new clauses 4A and 9A. Clause 5, new section 7(2) of the bill as introduced is intended to clarify the Commission's independence from programmes and interventions that are to be monitored and evaluated. However, we are aware that, because section 7 of the Act specifies the Commission's main functions, there was concern that the Commission's autonomy would be affected.

We therefore recommend deleting clause 5, new section 7(2), while moving the policy intent in that provision to clause 7, new section 8A. Having the reference to the independence of the Commission from providers of programmes in section 7 gave people the idea that this affected the Commission's autonomy. For this reason we consider it would be better placed in new section 8A, which deals specifically with the Commission's monitoring, evaluation, and research function. We expect that this will clear up any confusion about this matter.

We also recommend inserting new clause 4A, which would move the matters currently prescribed in section 17 of the Act to section 6 (Commission established). This would also align the Act with other similar Acts that establish Crown entities, such as the Children's Commissioner Act 2003. The intention is also to make it clear that the autonomy of the Commission, as prescribed in the Crown Entities Act, remains unaffected, meaning the Commission would continue to have regard for government policy only when so directed by the responsible Minister, and would not be required to give effect to it. New clause 9A would repeal section 17 of the Act, as it would no longer be needed.

Monitoring, evaluation, and research function

We also recommend amending clause 7, new section 8A, to correct the misconception that the Commission merely identifies "opportunities" for evaluation and research. The Commission should also be able to identify existing and on-going evidence and research relating to the determination and achievement of the Government's priorities and policies.

Access to statistical schedules

We recommend the deletion of clause 11, section 18D, and the cross-heading, because it is no longer required. In the bill as introduced, section 18D allowed the Government Statistician to provide the Commission with access to individual statistical schedules for research or statistical purposes. Since the bill was referred to us, the Statistics Act 1975 has been amended by the Statistics Amendment Act 2012. This amendment allows the Government Statistician, under certain conditions, to provide any person with access to individual statistical schedules for research or statistical purposes, rendering the proposed amendment unnecessary.

Issues

Two other issues featured in our discussion of the bill. These were how the role and duties of the Families Commissioner would be determined, and the role of the Social Science Experts Panel.

The proposed structure of the Commission would see the title of Commissioner removed from all but one of the members, who would be referred to as the Families Commissioner, with the particulars of this role to be determined by the Commission. Previously, the role of Chief Families Commissioner, which could be seen as equivalent to that of the Families Commissioner under the proposed structure, differed from the role of the other Commissioners in that the Chief Families Commissioner was also the chairperson of the board. Some of us were concerned that the amended Act would not specify any particular duties for the Families Commissioner beyond those also to be undertaken by the members of the Commission. However, most of us agreed that the Commission should be allowed to determine the particular duties of its members, and noted that this approach is common for some existing similar entities.

Some of us were concerned that the Social Science Experts Panel's role, in exercising its academic peer review and guidance function, would be to direct which research and evaluation projects would be commissioned. Our view is that the Commission's independence could be qualified if the Panel, having been appointed on the joint recommendation of the Minister and the Prime Minister's Chief Science Adviser, were to have a role in deciding which projects were to be undertaken. However, most of us are confident that the Panel's

role would be to provide quality assurance, and not to direct the work of the Commission.

New Zealand Labour Party minority view

The New Zealand Labour party believes that the changes proposed to the Commission in this bill continue an agenda to fundamentally alter its nature as an autonomous Crown entity into something close to a government department or ministry. These changes, in our view, compromise the Commission and will limit its independence and ability to advocate effectively for families. Given these changes, Labour stands by its policy of disestablishing the Commission and instead establishing a Ministry for Children to focus on policies and programmes that place children and families at the centre of all policy and ensure their interests are paramount.

The Commission's new roles of managing government contracts and carrying out evaluation of programmes in the social sector are essentially the roles of the Ministry of Social Development. The expertise and funding to undertake these roles are already a central part of the research and evaluation responsibilities of the ministry. These functions are being shifted to the Commission, thereby limiting the tasks the Commission can undertake that emerge from how it sees the interests of families independent of government direction. The ministry will maintain its evaluation capability but limit it to programmes and initiatives only in the state sector. This is a multi-million-dollar programme, while the Commission's focus on evaluation will be limited to a little over \$3 million. Thus we question how serious the Government is about proper evaluation of social-sector programmes. If there is a problem in the evaluation of social-sector programmes, then this is not the way to fix it.

Furthermore, we believe the advocacy function of the Commission will be circumscribed because it will now be required to produce an annual Families Status Report that measures and monitors the well-being of New Zealand families. We believe this is a major function akin to the Social Report produced by the ministry. We believe the cost associated with the scope of this task provided to the select committee by officials is understated. It is probable that the task has been seriously under-scoped, and therefore will be of limited use. To be done well and be usable this task will duplicate the functions

of the ministry and as a result will limit the ability of the Commission to advocate for families effectively in other areas. We believe this is a ministry role and should be retained there. Its transfer to an autonomous Crown entity effectively limits the ability of the Commission to adequately meet its other roles.

The bill alters fundamentally the governance of the Commission. Where currently the Commission is led by a Chief Commissioner and other Commissioners with considerable breadth of experience and expertise in family matters, in future it will be led by a board of between three and seven members. The bill proposes one Families Commissioner whose role is not defined. It is left entirely to the board to define the role in any way it likes.

Officials have explained to the select committee that this is a similar process to like commissions. In fact this is not the case. Like commissions are those led by the Children's Commissioner, the Privacy Commissioner and the Chief Human Rights Commissioner. In each of these commissions the roles are clearly defined. The bill takes a very limited view of the role of the Families Commissioner, and it is surprising it has nothing to say about what that one person on the board with that role will do.

Conventionally commissions of this type are led by the commissioner carrying the designation of that particular commission. This convention establishes clearly in the minds of the public who leads the Commission and who can be called to account for the decisions and pronouncements of the Commission. This is the person (or persons) who command attention when the Commission takes a strong position on a matter affecting families, when government policy or performance is being questioned, and when radically different alternatives are being advocated from the Commission's independent thinking. This is the person with whom the public identify particularly when they need to have their voices heard.

The effective neutering of the position of the Families Commissioner is probably the strongest signal in this bill that the Government is cynical about the Commission and of its intention to morph it effectively into a government department or ministry. This bill effectively destroys the Commission as an independent advocate for families, but it remains in name only to satisfy its coalition agreement.

The New Zealand Labour Party does not support this bill.

New Zealand First minority view

New Zealand First believes that the family unit should be preserved and afforded opportunities to excel, particularly in the case of children. Any initiative that would have the potential to undermine this statement should be reassessed and structured accordingly, so that New Zealand families feel valued, particularly during times of financial uncertainty and hardship.

(Currently, the Commission is governed by a board of Commissioners, who are appointed by the Minister for Social Development. Each appointment is for up to three years with the potential for reappointment. Commissioners work for up to 100 days per year.

At present, there are four Commissioners. However the Families Commission Act 2003 states that no more than seven, and no less than three can be appointed.)

The Families Commission Amendment Bill, through its core, will seek to undermine efforts to protect the family unit and children. The proposed changes will minimise the effectiveness of the Commission by reducing the number of Commissioners from seven to just “the one”. Moreover, changes will simultaneously occur regarding the allocation of funding.

We are opposing the proposed changes because these alterations will produce more harm than good.

Centre of excellence for knowledge about families and whānau

Downsizing the number of Commissioners will not reflect the overall mission statement of the Commission. In fact, it will place all the responsibility on one person rather than sharing the duties between the current Commissioners. Although it may be economically and politically more desirable to minimise the number of Commissioners we currently have, that number should not be pared to just the one.

If we are to truly provide a “centre of excellence for knowledge about families and whānau”, then we ought to rethink these proposals more carefully. Minimising the number of Commissioners will not enable better research capabilities nor will it allow the Commission to carry out its work more effectively. In order to provide a “centre of excellence” there needs to be greater emphasis on how this independent Crown entity will provide knowledge about what New Zealand fam-

ilies and whānau are confronted with and how the Commission may attempt to alleviate these social problems.

To that end, the Commission has a moral obligation to gain greater knowledge and concrete experiences about New Zealand families and whānau. We believe that it is the duty of Parliament to ensure that this obligation is well met and carried out effectively.

Implications for social development

One of the other major changes concerns the development and espousal of a new Social Policy Evaluation and Research Unit (SuPERU), which will receive half of the Commission's budget (over four years). The amount of public expenditure it will receive over four years will amount to \$32.48 million, from this, \$14.2 million will be invested in SuPERU.

The Commission reports directly to the Minister for Social Development, Hon Paula Bennett, who justifies the amount that is being invested into the research unit. However, there is a lack of consideration of the fact that the issues and themes on which the research unit will be focusing are inter-related and cross many social-sector boundaries. Because all social issues are interrelated and may perpetuate other circumstances, it would make more sense for the Ministry of Social Development to use the amount of available funding wisely and with consideration to this fact. For example, the White Paper for Vulnerable Children contains issues and themes that are directly linked to the work that the Commission carries out.

These underlying problems will eventually surface and complicate the work that the Commission administers, especially with one sole Commissioner overseeing the entire body. This will inevitably have dire consequences on the expected outcomes for the Commission, and Parliament will most likely be re-evaluating the work of the Commissioner in the future. These implications can have long-lasting effects detrimental to the future of New Zealand families, especially vulnerable and at-risk families who face many problems.

Social connectedness for greater knowledge and excellence

The proposed changes to the Act focus more on changes to governance and budget allocation rather than the people they seek to represent and assist—New Zealand families and whānau.

Greater emphasis needs to be placed on promoting and carrying out more groundwork that creates better understanding and fosters better outcomes for New Zealand families. Investing half the Families Commission's budget (over four years) in SuPERU will only delay the inevitable; the fact that New Zealand families are already living through all of the issues and themes that their research will conclude with and entail.

New Zealand families are already experiencing economic and social hardship. Changing the governance of the Families Commission and reprioritising its budget will only complicate their lives further with more political barriers to their development. Paying a group of professionals and academics through SuPERU will only emphasise on paper problems that New Zealand families face, rather than research and ground-work needed to work simultaneously and in conjunction with one another.

Minimising the number of Commissioners and reallocating funding for the next four years will only complicate social development goals and the capabilities of the Commission to effectively communicate the realities that New Zealand families confront on a daily basis.

Conclusion

The bill proposes changes that are detrimental to the well-being of New Zealand families and whānau. Reducing the number of Commissioners from seven to one will negatively affect the work that the Commission carries out, and if the complication of the projected budget that will be invested into SuPERU is added, the situation gets disorganised, and issues will inevitably surface regarding accountability.

The Commission reports directly to the Minister for Social Development, which should give it more impetus to paint the most realistic picture of what New Zealand families confront and how they may alleviate these barriers to social development. The Commission also needs to be more pragmatic—having only one Commissioner will not carry this task out effectively, nor will splitting off half the budget to SuPERU.

It is for these reasons New Zealand First opposes the bill.

Appendix

Committee process

The Families Commission Amendment Bill was referred to the committee on 24 July 2012. The closing date for submissions was 15 August 2012. We received and considered eleven submissions from interested groups and individuals, and heard evidence from Professor Sir Peter Gluckman, the Prime Minister's Chief Science Advisor.

We received advice from the Ministry of Social Development.

Committee membership

Peseta Sam Lotu-Iiga (Chairperson)

Jacinda Ardern

Hon Simon Bridges

Melissa Lee

Jan Logie

Le'aufa'mulia Asenati Lole-Taylor

Tim Macindoe

Alfred Ngaro

Dr Rajen Prasad

Mike Sabin

Su'a William Sio

Denise Roche replaced Jan Logie for this item of business.

Families Commission Amendment Bill

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

~~text deleted by a majority~~

Hon Paula Bennett

Families Commission Amendment Bill

Government Bill

Contents

		Page
1	Title	2
2	Commencement	2
Part 1		
Amendments to Families Commission Act 2003		
3	Principal Act	2
4	Section 4 amended (Interpretation)	2
4A	Section 6 amended (Commission established)	2
5	Section 7 replaced (Commission's main function)	2
	7 Commission's main functions	3
6	Section 8 amended (Commission's additional functions)	3
7	New section 8A inserted (Commission's monitoring, evaluation, and research function)	3
	8A Commission's monitoring, evaluation, and research function	4
8	Section 13 amended (Mechanisms for obtaining views of specified groups)	4
9	Cross-heading above section 15 replaced	4
9A	Section 17 repealed (Commission is Crown entity)	4
10	Section 18 amended (Membership of Commission)	4
11	New sections 18A to 18C and cross-heading inserted	5
	18A Families Commissioner	5
<i>Social Science Experts Panel</i>		
	18B Social Science Experts Panel	5

18C	Membership of Social Science Experts Panel	5
Part 2		
Transitional provisions		
12	Transitional provisions relating to members of Commission	6

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Families Commission Amendment Act **2012**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent. 5

Part 1

**Amendments to Families Commission Act
2003**

3 Principal Act

This Part amends the Families Commission Act 2003 (the **principal Act**). 10

4 Section 4 amended (Interpretation)

In section 4, repeal the definition of **Commissioner**.

4A Section 6 amended (Commission established)

In section 6, insert as subsections (2) and (3): 15

“(2) The Commission is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

“(3) The Crown Entities Act 2004 applies to the Commission except to the extent that this Act expressly provides otherwise.” 20

5 Section 7 replaced (Commission’s main function)

Replace section 7 with:

“7 Commission’s main functions

“ The Commission’s main functions are—

“(a) to act as an advocate for the interests of families generally (the **advocacy function**); and

“(b) to ~~provide independent monitoring and evaluation of~~ monitor and evaluate programmes and interventions in the social sector, and provide social science research into key issues, programmes, and interventions across that sector (the **monitoring, evaluation, and research function**).”

~~“(2) To avoid doubt, the reference to independence in **subsection (1)(b)** refers to independence from the providers of the programmes and interventions that are monitored and evaluated.”~~

6 Section 8 amended (Commission’s additional functions)

(1) In the heading to section 8, replace “**additional functions**” with “**advocacy function**”.

(2) In section 8, replace “main function stated in section 7” with “advocacy function”.

(3) After section 8(b), insert:

“(ba) to prepare and publish an annual Families Status Report that measures and monitors the well-being of New Zealand families:”.

(4) In section 8, insert as subsections (2) and (3):

“(2) The advocacy function does not include acting as an advocate for the interests of a particular family or particular families in connection with a particular case or issue.

“(3) In performing its advocacy function, the Commission must identify and have regard to factors that help to maintain or enhance either or both of the following:

“(a) families’ resilience:

“(b) families’ strengths.”

7 New section 8A inserted (Commission’s monitoring, evaluation, and research function)

After section 8, insert:

“8A Commission’s monitoring, evaluation, and research function

“(1) In order to perform its monitoring, evaluation, and research function, the Commission has the following additional functions: 5

“(a) to identify ~~opportunities where~~ evidence and research that will assist in determining or achieving the Government’s policies and priorities in the social sector:

“(b) to commission social science research in the social sector on behalf of the Government and others: 10

“(c) to manage contracts for social science research in the social sector on behalf of the Government and others:

“(d) to set standards and specify best practice for monitoring and evaluating programmes and interventions in the social sector: 15

“(e) to establish and maintain a database of social science research ~~in the social sector~~ undertaken by or on behalf of the Government.

“(2) When monitoring or evaluating programmes and interventions as part of its monitoring, evaluation, and research function, the Commission must act independently of the programmes and interventions being monitored or evaluated.” 20

8 Section 13 amended (Mechanisms for obtaining views of specified groups)

In section 13(1), replace “powers and functions” with “advocacy function and associated powers”. 25

9 Cross-heading above section 15 replaced

Replace the cross-heading above section 15 with:

“Members of Commission”.

9A Section 17 repealed (Commission is Crown entity) 30

Repeal section 17.

10 Section 18 amended (Membership of Commission)

(1) Repeal section 18(2) to (4).

- (2) In section 18(5)(b), replace “Commissioners” with “members”.

11 New sections 18A to ~~18D~~ 18C and cross-heading inserted

After section 18, insert:

“18A Families Commissioner

5

- “(1) The Minister must appoint 1 member to be the Families Commissioner.

- “(2) The functions of the Families Commissioner are as determined by the Commission.

“Social Science Experts Panel

10

“18B Social Science Experts Panel

- “(1) A Social Science Experts Panel is established.

- “(2) The Panel’s function is to provide academic peer review of any research, evaluations, standards, reports, or other publications done or issued by or on behalf of the Commission, and otherwise to provide guidance to the Commission.

15

“18C Membership of Social Science Experts Panel

- “(1) The Social Science Experts Panel comprises a minimum of 4 members.

- “(2) Each member of the Panel must be appointed by the Commission on the joint recommendation of—

“(a) the Minister; and

“(b) the person (if any) appointed as principal adviser to the Prime Minister on science matters or, if there is no such person, the chief executive of the department responsible for science matters.

25

- “(3) The Commission must appoint 1 member of the Panel to be its chairperson.

- “(4) Every member of the Panel may be appointed for a period of up to 3 years and may be reappointed at the expiry of each term of appointment.

30

- “(5) Clause 14(2) of Schedule 5 of the Crown Entities Act 2004 applies with respect to the appointment of a person to the Panel as if the person were to be appointed as a com-

mittee appointed by the board of the Commission under clause 14(1) of that schedule.

- “(6) Clause 15 of Schedule 5 of the Crown Entities Act 2004 applies to each member of the Panel as if he or she were a member of a committee appointed by the board of the Commission under clause 14(1) of that schedule.” 5

“Access to information

~~“18D~~ **Access to statistical information**

- ~~“(1) Despite anything in the Statistics Act 1975, the Government Statistician may disclose individual schedules (as referred to in section 37C of that Act) to the Commission solely for bona fide research or statistical purposes pursuant to the functions of the Commission.”~~ 10
- ~~“(2) Section 37C(2) to (4) of the Statistics Act 1975 apply as if disclosure authorised by this section were disclosure to a government department under section 37C of that Act.”~~ 15

Part 2

Transitional provisions

- 12 Transitional provisions relating to members of Commission** 20
- (1) On the day on which this Act comes into force,—
- (a) the Chief Families Commissioner is renamed the Families Commissioner and holds office as the chairperson of the Commission in accordance with Schedule 5 of the Crown Entities Act 2004; and 25
- (b) the Deputy Chief Families Commissioner (if any) ceases to be called a Commissioner but holds office as the deputy chairperson of the Commission in accordance with Schedule 5 of the Crown Entities Act 2004; and 30
- (c) all other Commissioners cease to be called Commissioners but remain as members of the Commission.
- (2) Except as provided in **subsection (1)**, nothing in that subsection or in any other changes made by this Act affects the terms

Families Commission Amendment Bill

and conditions of appointment of any member of the Commission appointed before this Act comes into force.

Legislative history

28 May 2012
24 July 2012

Introduction (Bill 26-1)
First reading and referral to Social Services
Committee
