



Social Security (Fraud Measures and Debt Recovery) Amendment Bill Social Services Committee

The Salvation Army (New Zealand, Fiji and Tonga Territory) Submission

1. BACKGROUND

- 1.1 The Salvation Army is an international Christian church and social services organisation that has worked in New Zealand for over one hundred and thirty years. During this time, The Salvation Army has established a national network of corps (churches), family stores and community ministry delivering essential Christian and social services for New Zealand communities.
- 1.2 We work alongside some of New Zealand's most vulnerable and marginalised individuals and families every day in our spiritual and social services across the country. Therefore this Bill strikes at the heart of our work with these marginalised and vulnerable individuals and families in our society.
- 1.3 This submission has been prepared by The Social Policy and Parliamentary Unit of The Salvation Army. But it has been greatly informed with feedback gained from budgeters, social workers and key social services management staff working at our Community Ministry centres in Whangarei, Royal Oak, Manukau, Tauranga and Wellington (Territorial Headquarters). We acknowledge their feedback and tireless work.
- 1.4 This submission has been approved by Commissioner Donald Bell, the Territorial Commander of The Salvation Army's New Zealand, Fiji and Tonga Territory.

2. THE SALVATION ARMY PERSPECTIVE

- 2.1 The Salvation Army acknowledges the need to pass legislation that limits the instances of benefit fraud in New Zealand. But we submit that there are some aspects of this Bill that requires further clarification and discussion to ensure that the Bill's provisions do not further disadvantage some of the most vulnerable people in our society. Section 3 below will detail our responses to the Seven Main Initiatives of this Bill.
- 2.2 We believe that some of the tone of this Bill and its supporting documents further paints welfare beneficiaries in a negative light in the eyes of other New Zealanders.

2.2.1 For example, the phrase *for those people we know who have previously ripped MSD off* found on page 2 of the *Combatting Welfare Fraud: Main Initiatives* supporting document is unnecessarily inflammatory and will further paint welfare beneficiaries in a negative light, even if they are legitimately receiving a benefit and adhering to its conditions.

2.2.2 Additionally, this focus on welfare beneficiaries, although necessary, should be seen in the wider context of other types of financial fraud and financial issues e.g. tax fraud, the bailout of financial investment firms and their directors, and so on. Any type of financial fraud, particularly when it involves public money, must be stopped. It is fascinating to The Salvation Army that there is a consistent public targeting of reforms and sanctions for welfare beneficiaries. Yet the pursuit and sanctioning of other types of fraud seems to be not as public or comprehensive as the recent raft of welfare reforms in New Zealand.

3. RESPONSES TO SPECIFIC AMENDMENTS TO LEGISLATION

3.1 Initiative One

3.1.1 We are concerned that the proposed sentence of a fine up to \$5000 or 12 months jail for this new offence will place more crippling burdens upon a group of people that are already struggling. It is more likely that the fine sanction will be used more by the Courts for offenders. If this is the case, we submit that more financial burdens will be placed on beneficiaries who are already struggling financially.

3.1.2 The Salvation Army has also recently raised some concerns about some of the debt recovery processes available to creditors, particularly the Order for Examination process enshrined in section 84 A to E of the District Courts Act 1947. We submit many of these debt recovery processes are unfair and weighted in favour of the creditors. If more financial sanctions were imposed via this Bill, then we contend many more people will have to go through these inherently unjust debt recovery processes as paying off debt is balanced with providing for the necessities of life.

3.1.3 We would also argue that the threat of a \$5000 fine or jail term is wholly unnecessary for the enactment of this legislation.

3.1.3.1 The Ministry of Social Development already has mechanisms available to it to recover any money fraudulently paid out to partners. These are alluded to in Initiative Two of the Main Initiatives Briefing Paper. We submit there is no need for another fine under this new relationship fraud offence. There are an increasing number of our clients whose main

creditor is the Government through traffic offences, WINZ overpayments and so on. Adding another fine would only serve to add further burdens to this group of people.

3.1.3.2 Additionally, the proposed jail term sanction seems to be out of sync with the Government's recent rhetoric of protecting vulnerable children. We submit that the potential for a child to lose a parent to jail for this offence is untenable. The effects of children losing parents to jail are well documented. If this Bill proceeds with this jail sanction, then the children will suffer even though it's not their crime, thereby increasing that child's vulnerability. This could be compounded further if partners who have breached this new offence choose imprisonment over fines or repayments simply because they cannot afford to pay this money. If there is a breach of this new offence, then recovering that debt through existing government mechanisms is in our opinion sufficient.

3.1.4 We submit that the asset seizure provision in this Bill requires further clarification. Many of our budgeters are familiar with all-chattels type of security arrangements with several money lenders. We submit that if this Bill passes, then guarantees are needed to ensure basic necessities like beds and fridges are not seized as per many of the other security arrangements currently in the market. Moreover, clarity is necessary so that when assets are seized, that the debt is actually reduced or settled.

3.1.5 We submit that the debt-splitting arrangement is good in principle. But we believe there will be severe ramifications for partners who have been bullied or forced into this fraud from their partner. Making both partners responsible is positive but this will likely place some of these partners at risk of violence or social exclusion from the other partner. We submit that any debt recovery is undertaken in a way that ensures the safety and integrity of both partners, particularly if there is evidence that one partner has been forced to defraud the Government by the other partner.

3.2 Initiative Two

3.2.1 We understand that a range of tools can be implemented in these situations for these clients. However, we submit that the implementation of these tools should not unduly increase the hardship or social marginalisation that these people might be already facing. For example, beneficiaries who have part of their benefit redirected to repay an overpayment or fine might suffer greater hardship with this payment redirection as they will likely have less money to pay for other necessities of life. Furthermore, some beneficiaries

considered 'low-trust clients' might not be able to regularly access the services face-to-face due to financial struggles, disabilities, access to reliable public or private transport, or other health related issues. We believe these clients should not be further disadvantaged regarding any on-going benefits because of issues that limit their access to these services. MSD staff must be aware of the diversity and complexity of these issues and they must ensure these tools are implemented without creating new harm or compounding the hardship these clients and their dependants might already be facing.

3.2.2 We support that those who have made genuine mistakes will not be included in this group. We hope that the staff and systems are adequate enough to identify these types of clients and ensure they do not have to face these new tools. We also submit that the complaints and/or support processes are clear and available to all of these clients. In our experience, some of our clients have felt disempowered and isolated with MSD/WINZ and have not felt confident enough to lodge a complaint or openly discuss their situation. A streamlined complaints and/or support process will ensure all people receiving these benefits are valued and empowered during their time receiving this benefit.

3.3 Initiative Three

3.3.1 We submit that the interagency approach towards eliminating benefit fraud might make political and bureaucratic sense. But in our opinion, this concerted focus on beneficiary fraud over other types of fraud is somewhat misguided. We submit that in this action programme, these government agencies can also collaborate and cooperate with key NGOs in the social services sector to ensure that the goals of this Bill are met, but not at the expense of the dignity, well-being and socio-economic survival of the client. These NGOs could provide other holistic expert knowledge about clients and macro issues without contributing to any MSD/WINZ investigation of that client.

3.4 Initiative Four

3.4.1 No further comment on this initiative.

3.5 Initiative Five

3.5.1 We are very concerned with the tone and details of this Initiative in the Bill. We submit this is an invasive and unconstitutional section of the Bill and we recommend that this Initiative should not pass into law. Regardless of the nature of this Bill, we submit that it is imperative for the Ministry to continue to adhere to the current Code of Conduct under the Social Security Act.

- 3.5.2** We contend that the Ministry's current cache of investigation tools are sufficient and do not need to be amplified. Furthermore, MSD/WINZ currently has the ability to gather information on a client and then, often at a very late point of time, inform the client they are being investigated. This is a sufficient tool.
- 3.5.3** The ability to access information from banks, employers and so on is very concerning and harkens back to policies of yesteryear. For example, this approach will likely harm a client who is receiving job seeker or sole parent support and also working part time. This employment could be jeopardised if they were contacted by Ministry staff to gather info and investigate a client. Also, if the investigation is unsuccessful and there is in fact no fraud, then there is no guarantee the employment could continue, particularly given the Government's recent employment reforms.
- 3.5.4** This area must remain transparent. If MSD/WINZ investigates a person, they should adhere to the Code of Conduct and inform this client. If further materials are needed to complete the investigation, consent could be sought from the client to obtain the other information from third party sources. This process should not impinge on the privacy and well-being, nor should it contribute to any further social marginalisation or stereotyping, of this client in other areas of their life.

3.6 Initiative Six

- 3.6.1** We support the provisions set out in this Initiative. We believe the social services sector can play a role in passing this information on to their clients.
- 3.6.2** We also submit that people who can confirm the beneficiary's relationship status should be someone of high character and a good reputation. Also, any changes to the applications process for benefits should have running alongside them language and other support services to ensure the client can fully understand these provisions.

3.7 Initiative Seven

- 3.7.1** We have previously mentioned some of our concerns around some of the debt recovery mechanisms currently being utilised. We acknowledge that debts must be repaid, but this should not adversely affect the wider well-being of the client and any dependants they might have.
- 3.7.2** We recommend that there is a clear and well-informed definition of what constitutes 'undue hardship' under this Bill. Current debt recovery processes, in our experience, place even more pressure and hardship on people and

families and creates more need for food welfare and other support from the social services agencies.

3.7.3 In our experience, as aforementioned, many of our clients have debts to government departments as their biggest form of debt. Our budgeters have often struggled with negotiating to reduce a beneficiary's debt repayment schedule with government departments they owe money to. We believe the valid debts should be repaid. But too often, clients are foregoing key medication, food or other necessities for them or their families to keep up with repaying a government debt. Adding further penalty charges or imposing threats of further fines or imprisonment will not necessarily make the debt repayment quicker. But these tools will surely create further hardship for these beneficiaries. We recommend that beneficiaries who are legitimately repaying their debts should not suffer further penalties or debt recovery mechanisms. We also recommend that any repayment schedule imposed on a client for their debt repayment should have a wide assessment of that client's holistic well-being and living situation.

3.7.4 Furthermore, the use of Police Asset Recovery teams for asset seizure is contentious. There must be assurances that key assets like fridges, beds and so on are not seized to recover this debt, particularly as it might be unclear what was or was not purchased using the fraudulently obtained money.

3.8 Summary of Key Recommendations

- Removal of the threat of fine up to \$5000 or a 12 month jail term sanctions from this Bill.
- Initiative Five and its related provisions in the Bill should not pass into law.
- A clear definition of what is 'undue influence' under this Bill is vital.

4. CONCLUSION

The Salvation Army supports the need to eliminate benefit fraud from our nation. This Bill goes some way towards achieving this goal.

However, there are several provisions of this Bill that we believe are untenable and should not pass into law. Reducing fraud and recovering debt are viable and important policy objectives. But this should not be achieved at the expense of privacy, a beneficiary's dignity, and the overall survival of this person and their whanau in today's New Zealand.

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