

Summary of meetings held with the Commissioners while in New Zealand

8 – 10 February 2017

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Meeting with Child and Youth Family Auckland Regional Office and Family Group Conferencing (FGC)

Key Points for Youth Justice FGC

- Principle of Youth Justice is to take an approach that is the least restrictive. There is a strong focus on decriminalisation and a shift away from a punitive approach.
- Restorative justice is not explicit in the legislation however, victims are invited to attend. There is approximately 25% involvement with victims in the FGCs. While there is limited take up of victim involvement of those that do take part there is a significant positive impact with victims often shifting from anger and seeking reparation to a focus on achieving the best outcome for the young person.
- Referrals for FGC come via police or the youth court.
- Police only refer if the matter is so serious that they are unable to take alternative action themselves, for example police are able to meet with families and discuss matters to address the youth's offending behaviour without an FGC having to be convened. It is intended that police utilise less formal means to address lower level offending with only more serious or repetitive offenders coming to the FGC.
- It was estimated that 80% of young people that come into contact with the police are dealt with at the police level and do not progress to a FGC or court. Approximately 20% are referred to a FGC with 10% of those ultimately progressing to court.
- Where a matter does go to a FGC the plan is submitted to the court for ongoing monitoring, plans are for 3 to 6 months duration.
- A social worker works with the family and young person to assist in the implementation of the plan.
- Consult meeting occurs prior to contact with the family to determine other agencies that need to be involved in the meeting ie education, health.
- Preparation with the family was emphasised multiple times as being key to the success of a conference. Pre conference meetings occurred to ensure family are aware of the seriousness of the concerns and have time to think about family that should be involved in the conference and strategies/services that they could utilise to assist the young person.
- The pre meetings also help to develop the relationship and trust with the coordinator so the meeting are frank and people are willing to explore issues freely.
- Another critical element for the success of the meeting is to ensure the involvement of a member of the community that the family and young person respect.
- A challenge of the process is the time frames (21 days to convene a FGC and 28 days to hold, if referred by the court there are only 14 days allowed to hold one), the limited amount of time reduces capacity to prepare with the families and victims for the FGC.
- If a young person is able to complete an FGC plan all matters will be discharged without conviction. Staff gave an estimate of young people reducing from 1,000 pa progressing to the adult system to 20 pa.

LEGISLATIVE ASSEMBLY OF THE NT
TABLED DOCUMENTS

1 Committee: Estimates 2017
Paper No: 9.2 Date: 21/6/17
Tabled By: Wakefield
Signed: [Signature]

- Where necessary the costs are met to bring family members and victims to conferences (family has a very wide definition and is not limited to immediate family).

Key Points for Child Protection FGC

- FGC is mandatory and must occur within 28 days of the first hearing.
- An order cannot be made prior to a FGC, where parents refuse to engage a Parenting Order can be issued by the court.
- The focus of the FGC is to obtain very clear risk statement and what behaviours are required to directly address the identified risk factors.
- Staff advised that one of the elements that is not done well yet but is key to good outcomes is describing what a positive family life looks like and what the behaviours look like rather than just ticking the box on completed programs.
- This theme was reiterated with the statement that compliance with a plan does not equate to change, the focus must always be on outcomes and specific behaviours.

Key Points for Kinship Care

- The FGC's within a child protection environment is used to identified potential kinship carers for a child.
- Kinship carer assessments are not standard foster care assessments. The assessment is focused on the risks and needs present for the individual young person and the capacity of the family member to meet their needs and manage the risk. Staff stated however, that a highly risk adverse system prevents kinship placements based on relatively arbitrary policy requirements rather than based on the needs of the young person.
- Balancing support versus dependency with kinship placements was also identified as a challenge, ie if orders are revoked kin carers unwilling to continue to care as they were reliant on the support provided.

Key Points Youth Justice Court

- The legislation requires that all young people have a lawyer or a youth advocate allocated, where possible a cultural match with the lawyer and advocate are made.
- Elders are able to address the families at court, this holds both the young people and families to account culturally.
- Cultural courts provide a very different practical application of the law than a traditional court.

Meeting with Pasifika Youth Court Judge Malosi

- Viewed proceeding.
- Justice Malosi addressed the commission stating that young people are much more open to the courts informality.
- The young person's first language is often used, particularly by the elders when addressing the young person, reinforcing cultural values and expectations.

- The location and format of the court is very influenced by its community for example the proceedings attended by the commission were held in a functioning church due to the strong influence of the church.
- The role of the community and elders in the court provides an opportunity for young people to link with role models, there is a strong focus on the community, family and the young person stepping up to address the needs of the young person, rarely are programs referred to for outside intervention.
- The elders not only provide cultural accountability but also act as a conduit to the broader community to assist in the understanding of the law.

Meeting at Whakatakapokai Care and Protection Residence

- Residence started with a focus on conduct disorder however has primarily become a way of filling the gap for multiple issues that mainstream health, education and disability can't manage. As the complexity of the clients increased interventions at the centre have evolved to meet client needs from behavioural interventions to targeted interventions ie Cognitive Behaviour Therapy. The residence is currently considering Dialectical Behaviour Therapy to improve outcomes for young people with borderline personality disorder and other mental health issues.
- The residence is also currently looking at Larry Bendtro's circles of courage (generosity, belonging, mastery, independence) to help young people develop the skills they need to become productive members of society.
- The residence does not attempt to provide trauma therapy as the environment is not appropriate, rather any interventions are focussed on the young person's coping skills and emotional regulation.
- In recognition of the complexity of the young people over 90% of the workforce at the residence have a tertiary education including psychology, criminology and social work. There is a strong focus to recruit against values, the right staff are essential to achieve the right environment and approach with young people.
- The residence is focused on containment while interventions occur however, all young people are able to go outside the residence for supervised activities. This is required to help integrate young people with the community. However, it keeps with it a significant degree of risk with young people absconding (2 young people had absconded that day).
- The residence is also focused on identifying and where possible reconnecting young people with extended family.
- The time limit at the residence is generally 3 months however, this is considered on a case by case basis, they have had young people there for 2 years.
- When entering the residence all young people have a risk and needs assessment applied as well as a brief Neuro Assessment. There is no expectation of a formal mental health diagnosis, rather interventions are tailored based on the young person's risks and needs. The staff consider that a formal diagnosis will potentially limit the scope of any intervention ie FASD would have a particular intervention applied, however, in doing this practitioner are in danger of losing sight of the need to also address attachment disorder or other trauma issues.

- All staff are provided with external supervision, this is provided to ensure staff are able to undertake genuine practice reflection including and difficulties that they may be having with a specific young person that may be triggering a reaction for them and impact on their engagement with the young person. This is considered important to ensure staff feel professionally safe and can be transparent rather than being concerned that they will be seen as no longer doing a good job.
- The residence access speciality services such as dieticians and occupational therapists to provide additional support to young people.

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Meeting with Judge John Walker

- Youth court is set up informally in a semi-circle around the judges slightly elevated position. At each mention the young person and family attend along with police, social worker, education representative, youth advocate and health (usually mental health).
- It is not unusual for a mental health assessment to be conducted by the health representative at the court.
- The court tries hard to ensure that a child has the same judge each time that they appear, it isn't unusual for a young person to make statements like "my judge said...." this is a reflection of the relationships that develop.
- The legislation requires that youth judges are chosen based on personality, experience and cultural knowledge. Experience alone will not result in a judge being appointed to the youth court.
- All youth judges are provided with specific orientation and training.
- All agencies in attendance at the court provide background reports and updates to the court. While there is no statutory requirement for health or education to attend the court the respective departments have accepted that they have a responsibility to make themselves available.
- Cases are reviewed by the court fortnightly to ensure progress, the young person is not necessarily required to attend each mention.
- Courts have an emphasis on being solution focussed and take into consideration any underlying causes while using a multi-disciplinary approach.
- The court is seeing more young girls in the 14-15 year age bracket and more serious violent offences.
- The court recognises that there are different pathways for boys and girls that lead to offending, this always needs to be considered when hearing a matter and determining the best way forward.
- A summit is being arranged in July due to a significant increase in offending in South Auckland, this will be attended by judges, CEOs etc with a view to being able to make decisions on the day.
- While there has been an increase in police diversion there continues to be a lack of clear risk assessment to identified the risk of future offending, the judge was not convinced that police have the necessary skills to intervene at the diversion stage prevent reoffending.

- A significant challenge for the court at the moment is the lack of beds, currently if beds are not available young people are remanded to police cells, this is reviewed daily by a judge and while it is usually no more than 2 nights, he is aware of young people that have spent up to a week in police cells.

Meeting with Brendan Boyle, CEO of Ministry of Social Development

- There is currently a review in New Zealand that is seeing a lot of historic cases coming forward for compensation. The Ministry is being extremely transparent with a focus on considering the probability of harm having occurred and providing compensation rather than going through a formal court process on each occasion.
- Access to an appropriate education for young people in the system remains a significant challenge.
- Residential care needs significant further development with a focus still on safety and protection rather than providing what is needed for a young person to flourish.
- Ministry of Social Development is currently focussed on developing a framework for social investment and have contracted the Australian company Taylor and Fry who are actuaries to develop an evidence based approach to invest in areas that will reduce future social expense (ie prevention/early intervention). The company is using over 20 years of data to do this and there is an approximate timeframe of 2 years for implementation.
- This research and the developed framework will enable more targeted interventions, for example when looking at the single parent benefit targeted work to reengage single parents in employment has resulted in applications for the benefit being reduced by half. A report will be developed that will demonstrate over the longer term the impact that this type of social investment has in the community.

Meeting with Wellington based Family Group Conferencing

- Youth Justice and Child Protection staff work collaboratively which improves the outcomes for young people.
- Referrals are received from the Youth Aid Police who provide the Family Group Conference with the background of the young person. This background is developed further by the coordinator who contacts family and undertakes an initial home visit. Meeting family in the home rather than at the office is considered critical for establishing a relationship.
- First visit focussed on potential interventions and what family members should be involved. Second visit establishes a date for the conference.
- The conference is a multi-agency with health, education and police involved.
- A key part of the coordinators role is to be well known within the community and to develop relationships with local businesses and key groups. This helps to identify areas of potential trouble, enables transparent communication with the business community and generates significant good will so that the community becomes less reactive to incidents.
- A criticism of the current approach is the legislated timeframes, these timeframes detract from the importance of preparation and building relationships and trust with the family and young person.
- Case loads are 22 per worker.

- Current thoughts are that conferences should move away from being delivered by just child protection and youth justice rather where a young person has a specific identified need ie mental health, health should facilitate the conference if this is the key with as child protection is really only providing the day to day care.
- There are also discussions occurring about schools becoming more of a hub for service delivery by multiple agencies.
- Youth Justice Residences where discussed, there is a shift away from larger residences with New Zealand currently looking to move to a community based cottage set up, no more than 4 young people per residence.
- The current practices of locking young people down or containment is considered to just create another set of difficulties, it is believed that residences should manage young people based on relationships rather than on physical security. However, it was recognised that there will always be a need for some secure residences.

Meeting with Grainne Moss, CEO Vulnerable Families

- Shift of focus to an investment approach that will be essential in informing system improvements.
- Residential services still requires significant work with there still being a primary focus on protection rather than care.
- A positive focus of the new vulnerable children legislation will be the stronger emphasis on maintaining sibling relationships and ensuring all Ministry's hold responsibility for delivering services that meet the needs of young people.
- There is a Chief Social Worker position within the Ministry who has, if needed, the ability to report directly to the Minister rather than through the CEO to ensure young people's needs are being met by the agency.
- The biggest focus for the CEO is developing workforce capability.

Meeting with Children's Commissioner, Andrew Becroft

- Rangatahi court has been very positive in applying a cultural overlay and support to the youth justice system.
- The development of the youth police which including specific police being paid more, specifically trained and highly respected has helped to shift the focus from not formally charging to other interventions. As a result the Youth Police are very good at identifying which young people are likely to progress onto extensive and significant criminal activities and diverting those that are unlikely to do so.
- The Conferences are also considered to be effective due to their focus on more serious and repeat offenders rather than the low level matters. The conferences are very resource intensive so it is appropriate that they are focussed on those young people needing more assistance than just diversion.
- Youth justice residences are primarily remand with some sentenced, the Commissioner was explicit in stating that he did not believe that it was appropriate for young people on remand to mix with those that were sentenced.
- Remanded young people should be in more of a strongly supervised community home setting with no more than 4 young people, locked doors and windows.

- The Commissioner stating that separating young people from mainstream society and accumulating them together in large residences is a recipe for disaster.
- Discussed the difference in NZ and Australia compared with the Scandinavian countries, Commissioner believed that these are not comparable with the Scandinavian countries not having the disenfranchised indigenous population or the level of social disadvantage as NZ and Australia.
- The Commissioner believes that there are errors in determining things like early release. The reality is that someone who does well in a highly structured institutional setting is probably not someone who will do well in mainstream, this does not appear to be considered when evaluating release.
- The Commissioner believes that containment and restraint will to some degree always be needed. These are not easy young people, rather they are often so traumatised that extreme bouts of rage are to be expected and need to be able to be managed in a way that keeps the young person and staff safe.
- Relationship continuity is key, where a young person develops a positive relationship with a worker or carer the system should have the flexibility to enable the staff member to follow the young person irrespective of where they are, or at least be made available when needed.
- Complaint systems are flawed, young people will report minor issues ie cold meals however, do not report serious issues ie physical abuse by a staff member.

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Meeting with Police

- Youth Justice currently includes young people 10-16 years of age, this is being extended to 17 years of age.
- The police approach, with the Youth Aid Police is focused on being child centred and trauma informed. Of the approximately 8,500 police, 249 are Youth Aid Police.
- It is recognised that at least 60% of youth offenders have a neuro disability of some description. This is a challenge in the Conferences as it can be difficult to determine, where there is a disability, if the young person genuinely understands or is just saying what needs to be said to end the conference.
- Youth Aid Police are considered the experts by other police, if a frontline police officer makes an arrest they will immediately contact a Youth Aid Police officer. Youth police are at a higher level and receive higher remuneration. This is reflecting of Youth police having to complete a 2 3 year diploma course in Youth Services in addition to the standard training requirements.
- When the Youth Aid Police were established approximately 5-6 years ago there was an immediate shift in focus from responding and charging to a more prevention focus. A strategy to assist with this is the focus on training supervisors to ensure police entering the system are guided and influenced by senior staff with a prevention focus.
- A lot of effort has been made to ensure that training, including refresher training is accessible to staff in the field this has resulted in a combination of 'class room' training as well as training that is accessible via mobile devices in the field.

- While the shift in focus for police occurred quite quickly and continues to improve, community attitude towards police and the recognition that they can assist in preventing a matter progressing to court has yet to change.
- A barrier that still exists is the reluctance across agencies to share information in relation to a young person, this will be addressed in the legislation.
- The police have also established a Partnerships position, the entire focus of this position is to manage stakeholder relationships in particular businesses that are impacted on by youth crime.
- A challenge that New Zealand police have not resolved is the tension between providing activities for young people to prevent offending associated with boredom while not providing incentives for young people not to go home and for parents not to monitor the whereabouts of young people.
- New Zealand police utilise the Youth Offending Risk Screening Tool (YORST) to help determine responses to young people. This tool has been reviewed 3 times and revised to ensure relevance to the population, the tool measures the potential for recidivism and therefore allows police to target their intervention ie diversion, Family Group Conference or court.
- Police are focused on recruiting new members that will enable a reflection of the demographic of the wider community. While this has not been achieved to date it is a continued focus to increase police capacity to relationship build and strengthen connections to the local community.