

SUBMISSION ON CARE OF CHILDREN BILL

The Child Poverty Action Group (CPAG) welcomes the replacement of the Guardianship Act of 1968 with the Care of Children Bill. In particular, we support the new emphasis on the rights of children and we wholeheartedly agree that “the welfare and best interests of the child must be the first and paramount consideration.”

We are also pleased that the Bill is designed to improve New Zealand’s compliance with international obligations such as those under UNCROC, and recognises the diversity of family arrangements that exist for the care of children.

CPAG feels that it would be easier for the Bill to uphold these guiding principles if the following points were taken into consideration:

Clause 5 – Child’s views

It is good that the Court is taking the child’s view into account, and safeguards must be in place to ensure that what the Court hears is truly the child’s view. Children are often vulnerable to manipulation by parents who can be scared and stressed themselves, or who can sometimes even be using their children to “get back” at their ex-partner, without taking into account “the welfare and best interests of the child”. The effects of such manipulation need to be acknowledged and mitigated by the Bill. Mention should be made that:

- a) steps need to be taken to ensure children are in possession of full information regarding how a decision would affect themselves before they give their views; and
- b) the Court needs to emphasise to all parties the importance of not putting children under pressure or stress by trying unduly to influence or sway their views.

Clause 6 – Lawyer to act for child

CPAG would expect the Crown to pay for any court-appointed lawyer acting on behalf of a child in relation to this Bill.

Clause 14 – Guardianship defined

The definition of the “duties, powers, rights, and responsibilities that a parent of the child has in relation to the upbringing of the child”—and by extension the definition of guardianship—has to be further refined and clarified. For example, “providing day-to-day care for the child” is used as an example of a role of a parent, and yet, not all parents play this role in their children’s lives. Does this guardianship definition mean that the guardian (unless they’re a testamentary guardian) is merely allowed to provide day-to-day care for the child or must do so? In other words, is this a right or a responsibility?

Clause 15 – Further examples of guardianship

“Further examples” are not enough to make the definition of guardianship clear, unless examples which are missing can be extrapolated from those which are present. That is not the case with the Bill in its current state.

A related issue is that of who is responsible for adequately financing a child’s upbringing. This issue also has implications for any amendments to, or replacement of, the Child Support Act. The Child Poverty Action Group looks forward to making submissions on such a change in the near future.