

## **Comments on Family Court Proceedings Reform Bill: Proposed changes to the Family Courts Act and Legal Services Act**

Prepared by WAVES Trust, 15 January 2013

The [Family Court Proceedings Reform Bill](#) proposes changes to the Family Courts Act (FCA) and Legal Services Act (LSA) that are significant and in the case of the FCA sometimes outside the scope that was signalled in the 2011 [Family Court Review Discussion Document](#).

This paper provides a brief overview of the WAVES Trust's concerns about some of the changes to the FCA and LSA proposed in the Bill. Our concerns are based on our experience of the work done by the family violence sector with victims, perpetrators, and their children. For more detail see the word document titled 'Family Courts Act and Legal Services Act' accompanying this paper. That document includes all the changes and the original clauses with our comments and suggestions that we will use for our submission; you are welcome to make use of these for your own submissions.

### **Changes outside the scope of the original Review**

The Bill proposes removing provisions in Section 16B of the FCA (Regulations) that enable the Governor General to define the qualifications of required of persons appointed as Senior Family Court Registrars. Potentially this could lead to the disestablishment of this position which was not discussed in the Family Court Review Discussion Document.

The Bill proposes allowing legal aid only in relation to COCA cases within the proposed new system where a lawyer is able to act for a party in court (i.e. mainly fast track and without notice cases). Such extensive removal of individual rights to legal advice was not signalled in the original review.

### **Changes that do not appear to meet the intention of the Review/Bill**

It is not clear why the FCA should be changed to the Family Disputes (Resolution Methods) Act (section 1 and see also section 2) which places the emphasis on family disputes within legislation that also 'establishes Family Courts' and 'provide[s] for the constitution, jurisdiction, powers and procedures of Family Courts' (new section 3A). Because the Family Courts hear applications across a range of family matters not just family disputes, changing the name of the Family Courts Act in this way seems to be emphasising its role in settling civil matters and overlooking the court's role in child protection and domestic violence.

### **Changes that seem unnecessary**

The Bill proposes new sections 9A and 9B being roles for lawyer for child and lawyers appointed to assist the court. Into these sections the rights of these legal counsel to call or cross-examine witnesses have been transferred from the CYPFA and CSA. The purpose of this change is unclear as is its impact on the activities of lawyers in court. We need to discuss further what, if any, are the implications of these changes.

### **Of particular interest to the Family Violence Sector**

The proposed changes to FCA sections 3D, 12, 16B, raise issues of particular interest to the family violence sector including those working in child protection. Changes to section 7 of the LSA are also concerning for family violence matters. We will discuss these in our consultation meetings on January 22<sup>nd</sup> and 31<sup>st</sup>. Contact Jo Richdale to RSVP: [jo@waves.org.nz](mailto:jo@waves.org.nz).