



### **Women's Health Action Trust**

Women's Health Action is a women's health promotion, information and consumer advisory service. We are a non-government organisation that works with health professionals, policy makers and other not for profit organisations to inform government policy and service delivery for women. Women's Health Action is in its 31<sup>st</sup> year of operation and remains on the forefront of women's health in Aotearoa New Zealand.

We provide evidence-based analysis and advice to health providers, NGOs and DHBs, the Ministry of Health, and other public agencies on women's health (including screening), public health and gender and consumer issues with a focus on reducing inequalities. We have a special focus on breastfeeding promotion and support, women's sexual and reproductive health and rights and body image.

Thank you for the opportunity to provide this feedback. Please contact us for further information if required.

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## Introduction

Women's Health recognises the importance of CAT and other international treaty obligations in protecting the human rights of New Zealanders. Because of our focus on the health of women and girls we have a particular interest in the effects of discrimination, inequity and violence on their health. Based on our research we have made submissions to various select committees and on proposed legislation including Vulnerable Children, Family Violence, Family Court proceedings, Social security, sexual violence and parenting and breastfeeding.

We support and agree with the necessity for the state party to make progress in all areas noted by CAT. In particular, in relation to the incorporation of the convention into domestic law and the training of the judiciary, strengthening of the Independent Police Conduct authority, investigation and recompense for institutional misconduct, the protection of minorities and all vulnerable groups including people with experience of mental illness or other disabilities, young and old people from ill treatment and detailed data collection that is properly disaggregated. However, in making this submission we have chosen to focus on violence against women because this is a significant women's health issue and because of our expertise in this area: Women's Health Action is a member of the Coalition for the Safety of Women and Children and Silent Injustice, a support group for women going through the Family Court to formalise separation from abusive partners. The impact of sexual violence on survivors, families and communities is serious and long-term. Sexual violence is correlated with the majority of deprivation and poor health indicators and it is one of the most costly crimes, to both individuals and society. In 2003 a New Zealand Treasury report estimated the economic costs to the New Zealand economy at \$1.2 billion each year.<sup>1</sup>

We believe that violence against women is encompassed in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in articles 2 and 16 of the convention, and that States are responsible for taking action to prevent violence against women, investigating and responding to individual cases of violence,<sup>2</sup> and identifying and addressing structural causes of violence.

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<sup>1</sup> Roper, T. and Thompson, A, (2006), *Estimating the costs of crime in New Zealand in 2003/04*, New Zealand Treasury Working Paper 06/04.

<sup>2</sup> The Human Rights Law Centre. 2014. *Torture and cruel treatment in Australia: Joint NGO report to the United Nations Committee Against Torture*. <http://alhr.org.au/wp/wp-content/uploads/2014/11/141112-CAT-NGO-Report-Australia.pdf> pg 60

## Violence against women- a gendered crime

Violence<sup>3</sup> can be perpetrated by, or against, anyone but overwhelmingly the sexual assault of adults is perpetrated by men against women. Figures reported to New Zealand Police indicate 99% of adult sexual violence is perpetrated by men. The 2006 Crime and Safety Survey found that approximately 29 percent of women and 9 percent of men experience unwanted and distressing sexual contact over their lifetime.<sup>4</sup> Research evidence has clearly established that it is women and children who are also most often the victims of sexual violence<sup>5</sup>. Population-based estimates of partner abuse suggest that 15 to 35 percent of women are hit or forced to have sex by their partners at least once in their lifetime and the majority of perpetrators of partner violence are men<sup>6</sup>. Approximately 18 percent of New Zealand children experience sexual abuse. The majority of perpetrators of child abuse are male family members and men are more frequently responsible for the most serious forms of child abuse<sup>7</sup>.

Māori women and young women are almost twice as likely to experience sexual violence.<sup>8</sup> Experiencing child sexual abuse for girls also increases the likelihood of re-victimisation in adulthood of both intimate partner violence and sexual violence.<sup>9</sup> According to the Ministry of Social Development's 2008 Social Report, Māori women are three times more at risk of being assaulted or threatened by a partner than the average (eighteen percent compared with six percent for all respondents). These findings are similar to the 1996 New Zealand National Survey of Crime Victims

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<sup>3</sup> The World Health Organisation describes sexual violence as any sexual act, attempt to obtain a sexual act, sexual harassment, or act directed against a person's sexuality, using coercion, by any person regardless of their relationship to the victim, in any setting including but not limited to home or work. Sexual violence can include, rape, the threat of rape, attempted rape, sexual harassment, sexual coercion and sexual contact with force.

<sup>4</sup> Mayhew, P. and Reilly, J., (2009), Ministry of Justice, *The New Zealand Crime and Safety Survey 2006*.

<sup>5</sup> Other forms of violence are also gendered. For example: Ninety percent of partner homicides in Aotearoa New Zealand were committed by men against their female partners or ex-partners. Fanslow J, Kotch, J, Chalmers D. *Partner Homicide in New Zealand, 1978-1987*. Unpublished manuscript.

<sup>6</sup> Tjaden P, Thoennes N. 2000. *Extent, nature and consequences of intimate partner violence: Findings from the National Violence Against Women Survey*. Department of Justice and Centers for Disease Control and Prevention and Fanslow JL., Robinson EM., Crengle S., Perese L. (2007). Prevalence of child sexual abuse reported by a cross-sectional sample of New Zealand women.

<sup>7</sup> See for example [29] Featherstone B. 1996. *Victims or villains? Women who physically abuse their children*, 424-446. In: Fawcett B (ed). *Violence and Gender Relations: Theories and Interventions*. London: Sage. And Cooney C, Baun N. 1997. *Toward An Integrated Framework for Understanding Child Physical Abuse*. *Child Abuse and Neglect* 21(11):1081-94 and Chalk R, King P. *Violence in Families: Assessing Prevention and Treatment Programs*. National Research Council and Institute of Medicine. Washington: National Academy Press and Langdon C. 2001. *Child killing: our grim role of shame*. *Dominion* 16 May 2001: 1-2 and Anderson JC, Martin JL, Mullen PE, Romans S, Herbison P. 1993. *The prevalence of childhood sexual abuse experiences in a community sample of women*. *Journal of the American Academy of Child and Adolescent Psychology* 32:911-19.

<sup>8</sup> Fanslow JL., Robinson EM., Crengle S., Perese L. (2007). Prevalence of child sexual abuse reported by a cross-sectional sample of New Zealand women.

<sup>9</sup> Ministry of Women's Affairs, (2012), *Lightning Does Strike Twice: Preventing Sexual Revictimisation*. A comparable study of boys' experiences of child sexual abuse does not yet exist in New Zealand.

in which 26.9% of Māori women<sup>10</sup> respondents reported that they had experienced one or more types of abuse from a partner and the 2004 domestic violence study which found that lifetime prevalence rates for partner abuse are significantly higher for Māori women than for New Zealand European, Pacific Island and Asian women<sup>11</sup>.

Despite widespread acknowledgement that a considerable problem exists, there is a lack of proper funding for specialist sexual violence support services including 24 hour phone and crisis services and ongoing support services, contracting and reporting arrangements are complex and there are few sustained funding arrangements. There is also a need for services that reflect the diversity of our communities including specialist services for Māori and for minority groups along with training and support for sector workers.

### **The link between violence and health**

The link between the experience of violence and poor health is well established. Studies indicate domestic violence of all kinds is a predictor of both psychological distress and physical illness<sup>12</sup>. This view is supported by the New Zealand Medical Association (NZMA) who have stated that family violence in general is a serious health issue in Aotearoa New Zealand because of the adverse acute and long-term physical, mental and social health consequences and the significant economic cost to the nation.<sup>13</sup> Experience of violence has multiple and complex negative effects on health, many of which can remain even when the person has left the violent situation.

As the Report for the Taskforce For Action on Sexual Violence (2009) notes sexual violence has significant short and long term impacts on the health of victims. Sexual violence affects all areas of life including employment, connection to friends and family, social and cultural connections, and financial status and in particular on mental and physical health. Sexual violence may result in bruises, pain and trauma and infection but may also lead to permanent disability and long term effects

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<sup>10</sup> The high rates of violence Maori women currently experience are rooted in the brutal impact that colonisation inflicted on Maori. Colonisation not only brought a loss of land, population decline, and the distortion of Maori tikanga, but also the imposition of the British patriarchal system on iwi (Mikaere, 1994). This legacy of colonisation continues to be reflected in inequities in health, earnings, unemployment, and education.

<sup>11</sup> Fanslow, J.L. (2004).

<sup>12</sup> Kazantzis, N. Flett, R.A. Long, N.R. Mac Donald, C. & Millar, M. *Domestic violence, Psychological Distress and Physical Illness amongst New Zealand Women: Results form a Community based Study*. NZ Journal of Psychiatry. Vol 29. No 2. 2000.

<sup>13</sup> Hassall I, Fanslow J. *Family Violence in New Zealand: we can do better*. NZMJ 27 January 2006, Vol 119 No 1228 URL : <http://www.nzma.org.nz/journal/119-1228/1830/>.

including infertility, broken teeth, and unwanted pregnancies and not being able to have healthy sexual relationships<sup>14</sup>.

Fear, isolation, and withdrawing from family and community are problems after any form of violence. Significant psychological effects, including serious mental illness are common. Depression, PTSD, suicidality, increased alcohol and drug use, eating and sleeping problems and anxiety are common. These effects are not transitory but for many are lifelong experiences<sup>15</sup>. The effects on children are considerable<sup>16</sup>. Recent research investigating partner violence, including sexual violence, found a connection between partner violence and abuse of children<sup>17</sup>. Child abuse and or witnessing violence between parents may have detrimental effects on children's physical, cognitive, emotional, behavioural and social development. Evidence also suggests that incidence of child abuse and partner abuse is likely to overlap with between 30 and 60 percent of families experiencing both<sup>18</sup><sup>19</sup>. There are also significant economic and social costs including intergenerational health effects<sup>20</sup>.

### **Sexual violence services today**

The importance of sexual violence services in survivor recovery is demonstrated in a 2013 report on the benefits of rape crisis counseling<sup>21</sup>. However, while Treasury estimates indicate that sexual abuse costs the country \$1.2 billion each year, only \$26 million is spent in victim support and a recent stocktake of specialist sexual violence services for survivors<sup>22</sup> identified a number of gaps in the sector including:

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<sup>14</sup> Hager, Debbie .*Domestic violence and mental illness: is there a relationship?* Incite : The Mental Health Journal of New Zealand 2(2) 2003 : 24-34

<sup>15</sup> Hager, Debbie .*Domestic violence and mental illness: is there a relationship?* Incite : The Mental Health Journal of New Zealand 2(2) 2003 : 24-34

<sup>16</sup>See for example, Fergusson D, Lynskey M. *Physical punishment /maltreatment during childhood and adjustment in young adulthood. Child Abuse and Neglect.* 1997; 21:617-30 and Millichamp J, Martin L, Langley J *On the receiving end: young adults describe their parent's use of physical punishment and other disciplinary measures during childhood.* NZ Med J. 2006; 119(1228) URL: <http://www.nzma.org.nz/journal/119-1228/1818/>. and Martin J, Langley J, Millichamp J. *Domestic Violence as witnessed by New Zealand Children.* NZ Med J. 2006;119(1228) URL : <http://www.nzma.org.nz/journal/119-1228/1817>.

<sup>17</sup> Edleson J. 1999. *The overlap between child maltreatment and woman battering.* *Violence Against Women*; 5:134-54.and Mamby, S. Et al. 2010. *The overlap between the witnessing of partner violence with child maltreatment and other victimisations in a nationally representative survey of youth.* *Child abuse and neglect*: 34:734-41.

<sup>18</sup> Edleson J. 1999. *The overlap between child maltreatment and woman battering.* *Violence Against Women*; 5:134-54. And Ross SM. 1996. Risk of physical abuse to children of spouse abusing parents. *Child Abuse and Neglect* 20:589-98.n

<sup>19</sup> Eiskovits Z, Winstok Z, Enosh G. 1998. *Children's Experience of Interparental Violence: A Heuristic Model.* *Children and Youth Services Review* 20(6):547-68.

<sup>20</sup> Taskforce For Action on Sexual Violence (2009).

<sup>21</sup>Westmarland and Alderson (2013). The Health, Mental Health, and Well-Being Benefits of Rape Crisis Counseling. *Journal of Interpersonal Violence* 28(17) 3265–3282.

<sup>22</sup> TOAH-NNEST. 2009. *Tauiwi Responses to Sexual Violence: Mainstream crisis support and recovery and support services and Pacific services.* <http://www.justice.govt.nz/policy/supporting-victims/taskforce-for-action-on-sexual-violence/documents/Stocktake%20and%20Vision%20TOR2%20TOR3%20201109.pdf>

- Only about 70% of the female population,<sup>23</sup> has access to 24/7 specialist crisis support services.
- There is a lack of kaupapa and tikanga Māori services, including crisis response services.
- Counselling services are stretched to their limit and not available in many communities
- In agencies where both crisis and ongoing services are offered, the waiting lists and waiting times for moving from the crisis service to the counselling service are growing
- There are significant gaps in services for male victims, and gaps in provision of services for Pacific communities, other migrants, refugees, GLBTI, and people with disabilities
- The Child Youth and Family change to funding criteria means services are now targeted to parents and children and other survivors are missing out
- Workforce training and development is under resourced and urgently required in many parts of the sector
- The ACC process for obtaining funding on behalf of clients remains lengthy and difficult.
- The process for counsellors trying to register as ACC providers is overly complicated.
- The demand for services continues to increase, leaving agencies with a growing shortfall in funding and therefore a reduced ability to respond.
- New Zealand has never run a national public awareness campaign targeting sexual violence.
- New Zealand has no sexual violence strategy.

In addition services are not universally available. While there is now a national 0800 helpline available for those affected by sexual violence, specialist follow up services are not available nationwide and only 70% of the country has access to crisis response services. Long-term counseling is not free for survivors and support is often not accessible in a variety of ways. Many service providers in smaller parts of the country rely on volunteers and are not staffed to be able to provide a 24 hour service. There is no helpline to support families or communities with those who have acted abusively, or for those people themselves to know where and how to seek help and services face a continual struggle to meet the demand for services within their current budget<sup>24</sup>.

There are also discriminatory elements in regard to government assistance provided to survivors of sexual violence. These include issues such as when accessing help through ACC, the client must prove “mental injury” and there is also a lack of funding for physical conditions caused by sexual violence. Limiting survivors to six free sessions is false economy and can add to the trauma and

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<sup>23</sup> TOAH-NNEST. 2009. *Tauiwi Responses to Sexual Violence: Mainstream crisis support and recovery and support services and Pacific services* <http://www.justice.govt.nz/policy/supporting-victims/taskforce-for-action-on-sexual-violence/documents/Stocktake%20and%20Vision%20TOR2%20TOR3%20201109.pdf>

<sup>24</sup> Wellington Rape Crisis. 2013.

appears discriminatory. The use of any healthcare treatment should always be determined by a need for the treatment. Migrants and refugees have been unable to access appropriate interpreters and people with disabilities may also face barriers in getting help from current sexual violence services which are not resourced to be able to accommodate people with disabilities. For example, the availability of NZSL interpreters is inconsistent, and getting an interpreter of the appropriate gender is sometimes difficult and many services do not make interpreters available. Disabled people who are already receiving disability services funding from ACC may also face confidentiality issues with current service providers if they become victims of sexual violence. In addition, many people with disabilities and gays, lesbians, bisexual, transgender and intersex people already avoid taking things to police due to their previous experiences of discrimination. The type of targeted sexual violence towards them may also be different, or have different implications or effects. Counsellors and police need to have special training to understand these issues.

The Report of the Taskforce for Action on Sexual Violence estimates that about 90% of sexual offences go unreported, and that many sexual offenders continue to offend. Agencies that provide services for offender treatment and harmful sexual behaviour in the main centres have many people on waiting lists and face continued funding difficulties. There are few early intervention services for children and adolescents and few accessible programmes for adults seeking to change their abusive behaviour or being referred from others in the community to address these issues. It is essential that intervention services must be provided for all those affected by sexual violence and those who have engaged in harmful sexual behaviour, and their families and whānau including early intervention services, ongoing support and treatment programmes, support through the criminal justice system and alternative justice processes.

While the sexual violence sector has also developed a range of primary prevention activities and programmes from within a very limited resource base<sup>25</sup> the majority of community agencies report not having the capacity to develop prevention resources and being unable to respond to requests for prevention activities and programmes. The most common sexual violence prevention activity is sexual violence education aimed at providing information about local services; the characteristics, the effect of sexual violence; and processes to deal with disclosures. Raising awareness of sexual violence is also seen as important for communities or groups for whom discussing sexual violence was relatively new (queer communities, male survivors, disabled communities, and some ethnic

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<sup>25</sup> There are twenty-five primary prevention programmes in Aotearoa New Zealand, all but two of which are delivered by community organisations. Most are delivered in a specific city, town or region. Eight programmes are available nationally, but uptake is patchy and dependent on local relationships. Slightly fewer than 26,000 people attended a sexual violence prevention programme in the previous year

minority communities) but there are few resources directed to these areas. Prevention programmes mostly focus on educational settings, targeting teenagers and there are a small number of programmes specific to preventing child sexual abuse. There has been little evaluation of existing programs.

Developing a national sexual violence prevention strategy and a public awareness campaign would help foster collaborative projects and change public attitude. Social marketing campaigns about smoking, drink-driving and mental health have attracted considerable support whereas sexual violence and gendered violence in particular, have yet to receive a similar commitment. Awareness and prevention programmes are also needed throughout the country so people know about effective ways to increase safety and reduce the incidence of sexual violence and also what to do when someone discloses sexual abuse.

#### **Recommendations:**

- Consistent national coordination of sustainable service funding.
- Accessible specialist sexual violence services available 24/7, with the provision of telephone, crisis and long term support. Services must be immediate and not time limited.
- Services must be free and offered through routes that survivors can use with attention to issues such as safety and confidentiality which are particularly relevant in small communities.
- Services need to be provided which are appropriate to the specific needs of Māori, children, youth, male survivors, different Pasifika ethnic communities, other diverse ethnic communities, migrant and refugee groups, people with disabilities, and people with diverse gender and sexuality identities. Services must be available to all communities across the country, including rural communities.
- In order to comply with obligations under the Treaty of Waitangi and international law government must ensure that services are culturally appropriate for Māori and consult with Māori regarding any proposed changes to services.
- Specialist sexual violence services need to be funded to meet the needs of all those affected by sexual violence as well as those who have engaged in harmful sexual behaviour.
- Specialist sexual violence services need to provide support for people as they go through the justice system. This needs to be available to everyone including people with disabilities and those who need interpreters.



- Specific funding should be provided to promote good practice in different areas of specialist sexual violence services and for training, developing and implementing resources, and research.
- A cross-party commitment to a social marketing approach aimed at long-term behaviour change and to promote respectful social norms around gender with particular attention to sexual relating and sexual safety. Prevention programmes and activities must be across the lifespan.
- Appropriate consultation should be carried out with the specialist sexual violence prevention and intervention sector in developing funding criteria and service delivery outcomes for the sector.
- Family Court legislation must have as a priority the safety of women and children and other 'vulnerable people'. The legislation must send clear and unambiguous messages about family violence, including sexual violence, to the court, the police and society that all forms of domestic violence are wrong.
- Ensuring consistent employment policies and training for all government and all children and youth-serving organisations.
- Developing specific public awareness raising campaigns about grooming behaviour which many perpetrators use to gain access to vulnerable children
- Schools based programmes which teach young people how to negotiate consent; how to navigate peer pressure; how to support friends and how to challenge friends who may be causing harm and which allow young men to explore the positive aspects of male peer social norms and challenge negative aspects
- Anti-bullying campaigns which challenge sexual harassment and homophobic abuse, and model respect and challenge negative perceptions and stereotypes
- Information about law and legal rights available for all migrants and refugees coming to New Zealand, should include information about sexual violence
- Comprehensive training of judiciary, public officials, law enforcement personnel and health-service providers
- Training the hospitality sector to intervene in situations likely to lead to sexual violence
- Training and guidelines for journalists in accurate reporting of sexual violence<sup>1</sup>.

## **Protective Orders**

Latest statistics from 2013 show that the number of applications for protection orders have decreased since 2010 while the number of family violence investigations have increased over the same period.<sup>26</sup> Research shows women who have protection orders against violent men experience a range of benefits, including feeling safer and more in control of their lives,<sup>27</sup> however, there are institutional barriers to successfully obtaining protection orders and to treating breaches appropriately.

Barriers to accessing protection orders in Aotearoa New Zealand including financial, and cultural and linguistic. Applications for protection orders are more likely to be successful if applicants have the support of a lawyer,<sup>28</sup> however, the cost of hiring a lawyer can be a barrier for those who do not meet the eligibility criteria of legal aid. Migrant women face additional barriers to protection orders, including language barriers, lack of knowledge of the judicial system, and for non-residents, fear of losing their right to stay in Aotearoa New Zealand if the abuser is their sponsor.<sup>29, 30</sup>

Robertson et al also raise concerns that the threshold for obtaining protection orders without notice has been unnecessarily increased and that applications are determined by judges without speaking to women or their lawyers, and judges do not need to provide reasoning for declining an application, making it difficult for women to appeal decisions.<sup>31</sup>

Furthermore, when protection orders are in place judicial responses to breaches are inconsistent, and judges may excuse or fail to recognise the seriousness of breaches. Statistics from the Family Violence Clearinghouse indicate 74% of breaches of protection orders resulted in conviction and of these, 62% resulted in non-custodial sentences.<sup>32</sup> More could be done to give women reprieve from the experience of ongoing cruel treatment. While an individual infraction may appear minor, such incidents are part of a wider ongoing assault intended to intimidate, and unchecked minor breaches can escalate to serious physical abuse and even homicide.

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<sup>26</sup> New Zealand Family Violence Clearinghouse. 2014. *Data Summary 2: Violence Against Women*. <https://nzfvc.org.nz/sites/nzfvc.org.nz/files/DS2-Violence-Against-Women-2014.pdf>

<sup>27</sup> Towns, A. 2009. *Police Initiated Protection Orders and their Potential Impact on Women A Discussion Document*. Social Policy Journal of New Zealand, Issue 34 <https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/journals-and-magazines/social-policy-journal/spj34/34-police-protection-orders.html>

<sup>28</sup> Women's Refuge. *Protection Orders*. <https://womensrefuge.org.nz/WR/Get-help/Protection-orders.htm>

<sup>29</sup> Robertson, N., et al. 2007. *Living at the Cutting Edge: Women's Experiences of Protection Orders*. Hamilton, New Zealand: University of Waikato.

<sup>30</sup> Towns, A. 2009. *Police Initiated Protection Orders and their Potential Impact on Women A Discussion Document*. Social Policy Journal of New Zealand, Issue 34 <https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/journals-and-magazines/social-policy-journal/spj34/34-police-protection-orders.html>

<sup>31</sup> Robertson, N., et al. 2007. *Living at the Cutting Edge: Women's Experiences of Protection Orders*. Hamilton, New Zealand: University of Waikato.

<sup>32</sup> New Zealand Family Violence Clearinghouse. 2014. *Data Summary 2: Violence Against Women*. <https://nzfvc.org.nz/sites/nzfvc.org.nz/files/DS2-Violence-Against-Women-2014.pdf>

The decline in the number of protection order applications from 2010 coincides with the government introduced Police Safety Orders. These safety orders can be issued where police have reasonable grounds to suspect domestic violence and are intended to avoid delays associated with obtaining protection orders and do not require victims of domestic violence to initiate the order.<sup>33</sup> However, Police Safety Orders should form part of robust and integrated government efforts to eliminate violence against women and not as a cost-effective alternative to investigations and court proceedings.

Since their introduction the number of Police Safety Orders issued has steadily increased along with the number of family violence investigations, however, the percentage of investigations that resulted in at least one offence recorded has decreased.<sup>34</sup> Police Safety Orders should not be used in place of investigations and convictions of violence against women.

**Recommendations:**

- Remove the financial barriers to accessing protection orders by removing or reducing the costs associated with obtaining a protection order, or increasing access to legal aid for protection orders
- Address the cultural barriers to accessing protection orders by encouraging a diverse workforce within the police and courts, ensuring access to interpreters and collaborating with organisations working with ethnic communities to support women affected by violence
- Require judges to account for their decisions on protection orders to encourage greater consistency across judges and courts, and to enable applicants and respondents greater opportunity to understand and, if necessary, appeal decisions
- Ensure breaches of protection orders are consistently treated as a serious offence, sending a clear message that psychological abuse will not be tolerated.
- That the Ministry of Justice provide ongoing training to police on domestic violence, including causes of violence against women and barriers to accessing justice so police better understand the complex reasons for women's decisions around whether or not to engage in court proceedings against abusive partners.
- Broaden the evaluation of Police Safety Orders to include investigation into the impact on victim-initiated protective order applications

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<sup>33</sup> Towns, A. 2009. *Police Initiated Protection Orders and their Potential Impact on Women A Discussion Document*. Social Policy Journal of New Zealand, Issue 34 <https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/journals-and-magazines/social-policy-journal/spj34/34-police-protection-orders.html>

<sup>34</sup> New Zealand Family Violence Clearinghouse. 2014. *Data Summary 2: Violence Against Women*. <https://nzfvc.org.nz/sites/nzfvc.org.nz/files/DS2-Violence-Against-Women-2014.pdf>

## **Protective measures**

In 2014, the government of Aotearoa New Zealand introduced family law reforms which require separating couples to attend mediation (called Family Disputes Resolution) to negotiate the terms of their separation. The reforms are intended to speed up the process, to provide a less adversarial space for separating couples, and to free up the family courts to focus on more serious cases.<sup>35</sup>

While the Family Disputes Resolution providers are not mandated to mediate between couples where abuse has taken place, there are concerns that domestic violence is not adequately screened for and women are put in the position of having to negotiate with their abusers.

International research from England and Wales where similar reforms have been in place for longer highlight a number of issues, including cases of domestic violence being channelled to mediation rather than the family court, poor screening for domestic violence, the link between failed mediation and a history of abuse, and views among practitioners that mediation was appropriate even in cases of domestic violence.<sup>36</sup>

There are concerns that the law reforms are designed to cut costs to the government but will do so at the expense of the most vulnerable groups in the community.

## **Recommendations:**

- That the Ministry of Justice update its web pages on Family Dispute Resolution to make it clear that couples who have experience domestic violence do not attend mediation.
- Require all mediators operating in the Family Disputes Resolution field to demonstrate an understanding of domestic violence to qualify as mediators and attend regular refresher courses on domestic violence.
- Provide funding to evaluate the family law reforms to assess the impact of the reforms on users of Family Dispute Resolutions and the Family Courts, and to assess whether or not the reforms achieve what they intended to.

Thank you again for this opportunity to comment.

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<sup>35</sup> New Zealand Government. 2014. Consideration of reports submitted by States parties under article 19 of the Convention pursuant to the optional reporting procedure, UN Doc CAT/C/NZL/6

<sup>36</sup> Family Violence Clearinghouse. 2014. Concerns raised about family violence and FDR; UK research finds screening practices inadequate. <https://nzfvc.org.nz/?q=node%2F1867>