



**National Council of  
Women of New Zealand**

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5 February 2015

\$15.03

## **Submission to the Law and Order Select Committee on the Policing (Cost Recovery) Amendment Bill**

The National Council of Women of New Zealand (NCWNZ) is an umbrella group representing 288 organisations affiliated at either the national level or to one of our 21 branches. In addition to our organisational membership, about 260 women are individual members of branches. NCWNZ's function is to represent and promote the interests of New Zealand women through research, discussion and action. This submission has been prepared by the NCWNZ Justice and Law Reform Standing Committee and the Parliamentary Watch Committee after consultation with the membership of NCWNZ.

### **Policy**

NCWNZ welcomes the opportunity to submit our members' views on the Policing (Cost Recovery) Amendment Bill (the Bill). NCWNZ policy dates back to 1896. That policy is continually reviewed through consultation with our members. We have always lobbied for the rights of women and their families, in particular for those in low paid jobs who are vulnerable.

### **Current context**

Many professions, such as teaching, are already legally required to have Police vetting before they are able to practice. This requirement has been extended under the Vulnerable Children Act 2014 to cover other workers in the children's workforce. Many of these workers are women, and many work in caring or social services in the public service or not-for-profit sector.

### **Policing (Cost Recovery) Amendment Bill**

#### **General comments**

The Bill proposes to introduce a new regime to enable Police to charge cost recovery fees for the provision of certain services that are currently provided for free. The Bill proposes that Police vetting services should explicitly be one of the services subject to a cost recovery regime. Any

other services would be prescribed through regulations and according to certain criteria set out in the Bill's General policy statement (justifiability, equity, efficiency and transparency).

The majority of NZCWNZ members who provided feedback on the proposal opposed the principle that Police should adopt a "user pays" service of policing. Many considered this to be the "thin end of the wedge" and made the point that moving to a "user pays system" was the antithesis of policing being a public service. One branch of NCWNZ noted that:

"Any user pays system disadvantages those people least able to pay. The direct taxation system should provide for public services, such as policing, is the most equitable one and should remain."

Another branch commented that "Policing as a user-pays service introduces a level of inequality into the service. Those who can afford it will do so; those who can't may well suffer."

Two branches noted the following:

"We accept that there must be budget concerns for Police (on the assumption that this is a time consuming process). However, we are concerned about Police turning into a user-pays organisation – and that this would increase and perhaps escalate according to the economy and wages."

"Very careful consideration should be given to the downstream effect of Police's charges for demand services as this could result in the services not being requested because of the cost. Many members felt that everyone contributes through our taxes to the running of the Police force and that if their costs are rising too much, the Government should make the appropriate financial allocation."

Those members who indicated a level of support for the cost recovery proposal (Clause 4 New Part 4A) were very clear that this should only apply to commercial businesses /profit-making activity. For example, where Police presence is required at a commercial function or event, such as a concert. This sat alongside exemptions (discussed further below).

Clause 4 New Part 4A s.79B(4) exceptions make it clear that user-pays policing would not be applied to police work that is related to criminal offending, criminal investigations, or prosecutions. However, there was considerable concern about the difficulty distinguishing between a public good and a private benefit (one of the stated objectives justifying the policy change in the Bill) and the scope that cost recovery would be extended to – for example:

- Are the Police going to refuse to look for a lost toddler if the parents can't pay for the search?
- What about lost property and good citizenship? The only people who materially gain from this are the individuals involved but there is a massive public good from this service.

- Would it apply to tourists and others who get lost in the bush?
- What about if the Police are called to investigate a possible disturbance at a private property but find that there is nothing untoward?
- What if Police are called to deal with a critical family situation where there is a disabled family member who has, on previous occasions, smashed windows in the family home and the family have needed the Police's assistance to calm the otherwise much-loved and normally well behaved son?
- Will Police charge to run education programmes in places like schools? And give advice about neighbourhood watch?

In addition, having Police vetting as a service that is explicitly stated as being within scope of the cost recovery scheme in the Bill (despite it fitting within three of the statutory policing functions and there being a clear public purpose) is likely to negatively colour later decisions about services that may fall within scope of the cost recovery scheme. There was concern expressed from members that more core policing services would become subject to cost recovery.

#### **Clause 4 New Part 4A s.79B:**

#### **Policing vetting services as a cost recovery demand service**

An overwhelming majority of individual members, branches and organisations that responded opposed the proposal to charge cost recovery for Police vetting services. The majority spoke about the public importance of this public service provided by Police, particularly in respect of vulnerable members of society. Typical comments were:

“This is exactly the type of service that taxes should be paid for. The user-pays model does not align with the essential service of providing police vetting to organisations where elderly, children, and the vulnerable members of society are living, being educated, participating in leisure or sports activities, undergoing health treatment and therapy.”

“The application of fees should not prevent something that is a right or necessity under the law. For example, a person should be able to find out the information held about them without charge. An educational facility or school should be able meet the requirements of the law for vetting – without charge. It is a common good that our children are protected”.

“Vetting is a public good and there is no criteria under which it should be charged for. The purpose is to protect the people who may be receiving services from the people who are being vetted. “

“Voluntary organisations rely on people's honesty when dealing with the organisation's funds or their probity when working with young or intellectually handicapped people. The requirement of a police check is a sensible precaution. Most of those who would be a risk to the organisation would not agree to such a check. If the organisation or the

volunteer had to pay for the check the check might not be undertaken. This puts the organisations and those they work with at an unacceptable risk.”

## **Impact of costs on not-for-profit organisations and individual public sector workers**

Typical concerns were:

“We feel that it will reduce the availability of volunteers, which will adversely impact on vulnerable members of society. If teachers’ vetting is charged for (and we don’t think it should be) then it should be paid for by the Ministry of Education. “

“Police vetting is not just a one-off. It needs to be done every two or three years for it to be a successful instrument in the battle against abuse. Neither can volunteers carry their Police vetting record from one organisation to another. Each organisation one of our members is involved with requires a fresh Police check. This will be very costly if the individual has to foot the bill and will act as a barrier to some volunteers who just won’t be able to afford the cost.”

“The voluntary sector, in particular, will be at risk from this proposal and will need to raise additional funding to meet extra costs.”

“Charitable organisations would be hit particularly hard – an extra expense.”

“This will only add to the financial strain many of these organisations are already under.”

“Many positions in community organisations are either poorly paid or voluntary. These organisations will be expected to use their hard earned, valuable dollars to help finance the Police force instead of the work being used for the actual work of the organisation. This could lead to a police force partially financed by cake stalls”

One branch expressed concerns for privacy if the user-pays aspect becomes an out-sourced service in future – which appeared to them to be a natural progression of this policy.

Members also queried the relative effectiveness of cost recovery a preferred mode for collecting more revenue for police compared to alternatives, such as “clamping down on tax evasion, licensing liquor outlets, pokies and gambling.”

## **Efficiencies in the current service**

NCWNZ members were not unsympathetic to the pressure being placed on current Police resources. However, there was a strong feeling from most members that any shortfall should be met by the Government.

NCWNZ members suggest that rather than increasing income, the same objectives could be achieved through an automated service, thereby reducing Police costs. Considerable work has already been done in this area with the New Zealand Teachers Council (the main users of the

Police vetting service on behalf of teachers) and the New Zealand Police developing a more automated system.

There were clear views from some of our members that technology should advance to the point where a person can access his or her own police file and produce a wholly acceptable version of the dossier for an employer. This could be automated and secure through, for example, personal records being accessed by verified thumb print. In addition, there could be efficiencies through reducing the amount of information collected. One branch noted that:

“Two years ago the Police vetting form was one page. Now it is 3 or 4 pages long. So already these extra pages are taking the Police extra time resulting in extra costs, which it appears that they are now trying to recover from the users of the vetting system. “

### **Clause 4 New Part 4A s.79C:**

#### **Criteria for determining a demand service**

Many members did not respond to the issue of criteria for services becoming demand services, as they had taken a strong position against either cost recovery as a general proposal or in respect of police vetting. For those who did comment, there was concern about the meaning of “justifiability”, adding charitable status of organisations or means testing to the criteria and otherwise exempting certain groups and individuals (see below) from the charges, particularly in respect of Police vetting. One branch recommended:

“Justifiability should also include whether an organisation, business, service or group is legally obliged to make use of a particular policing service. In such cases, the services should not be a charge on the person or organisation which had to request it.”

### **Clause 4 New Part 4A s.79G:**

#### **Exemptions**

Many members noted clear exemptions from any cost recovery scheme. These included:

- Public services;
- Charitable organisations;
- Community enterprises;
- Teachers;
- Volunteers, such as parent helpers at Playcentre, parents helping at school by hearing children’s reading; the “pink lady” volunteers in hospitals, “friends of the Court” volunteers, anyone who is poorly paid, such as teacher aids, nurse aids and aged care workers;
- Unemployed looking for work.

One member made the following comment about volunteers being exempt:

“From my experience, in a number of sporting organisations where volunteer coaches and managers of children’s teams must be vetted, I know that the organisations – already operating on a shoestring budget – could not afford to meet the costs of Police vetting. If the cost is filtered down to the children’s families, I believe this would similarly mean that they cannot afford to participate in the sport. Similarly in the Playcentre organisation and other community-based ECE services, budgets are already very tight, and it may mean exclusion for some families if the cost of police vetting is passed onto the end user in the form of an increased enrolment fee.”

There was opposition noted from members about teachers having to pay the Police vetting fee personally. One branch made the following comment in respect of teachers:

“If teachers’ vetting is charged for (and we don’t think it should be) then it should be paid for by the Ministry of Education.”

A few branches and members recommended that payment should only be for private businesses or commercial enterprises.

## Other issues

There is concern that although Clause 4 New Part 4A s.79D sets out the need for robust consultation, however, Clause 4 New Part 4A s.79D(3) implies that failure to comply with the consultation requirement will not affect the validity of any regulations made. This appears to undermine the effectiveness of public consultation.

It would be useful if legislation could clarify how long a Police check remains valid for.

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