

# Submission to the Governance and Administration Select Committee on the Public Service Legislation Bill



January 2020



**Kia eke ai te hunga taitamariki  
ki ngā rangi tūhāhā**

## Executive Summary

1. As Aotearoa's national children's charitable NGO, Barnardos is well-placed to provide a civil society social services perspective to the Committee's deliberations on the Public Service Legislation Bill. In particular, the issues we raise connect to the Bill's potential impact on the wider social service sector beyond government, and on individuals, children, families, whānau and communities.
2. Barnardos supports the broad aims of the Bill. In particular, we welcome government agencies having more flexibility to work collaboratively across areas which have complex, entrenched and often intergenerational roots, such as family poverty and family violence.
3. Barnardos observes that the Bill could have potentially significant consequences for the people of Aotearoa that government serves, and for civil society, in particular the NGO social service providers that government contracts to deliver outcomes.
4. Barnardos recommends that the Governance and Administration Committee further consider some key aspects of and relating to the Bill, namely:
  - The Crown's relationship with Māori;
  - Creating public value in both the 'people facing' and the 'Crown facing' roles of the public service;
  - The public service as 'system stewards'; and
  - The reality that change in the public sector has a flow-on effect to the wider social service system.

These aspects form the main substance of this submission.

5. We encourage the Committee to consider the steps that will need to be taken to implement any eventual final legislation governing the public service, to ensure that appropriate opportunities are created for the NGO social service sector to effectively collaborate and partner with government for the benefit of Aotearoa's children, families and whānau.

## Introduction and background

1. This submission outlines Barnardos' feedback to the Governance and Administration Committee (the Committee) on the Public Service Legislation Bill (the Bill).
2. Barnardos is New Zealand's national children's charitable NGO. Barnardos has been delivering crucial and effective services to children, young people and their families and whānau in Aotearoa New Zealand in partnership with the New Zealand government for almost 50 years. Barnardos delivers services independently and through contracts with Oranga Tamariki, the Ministry of Social Development, the Ministry of Justice, the Ministry of Education and District Health Boards. Today, we are implementing three key strategies, working in the following ways:
  - Delivering direct social services to children and their families and whānau through Barnardos Child and Family Services;
  - Supporting positive outcomes in children's early years through Barnardos Early Learning centre and home based options; and

- Advocating for the needs, rights and wellbeing of children in Aotearoa New Zealand through our systemic advocacy, influencing systems-level change for children and tamariki.
3. Barnardos observes that the Bill could have potentially significant consequences for the people of Aotearoa in the way their public services are delivered and for service providers in Aotearoa New Zealand. Given this, we note that not enough time has been given for stakeholders and the wider public to consider the Bill and form a well-researched and well-tested response.
  4. However, it is Barnardos' intention with this submission to bring a civil society social services perspective to the Committee's deliberations on the Bill. Rather than making specific recommendations on the content and wording of the Bill, our submission is intended to raise in the minds of Committee members some key questions and considerations that arise in relation to the Bill's impact on the wider social service sector, and on individuals, families, whānau and communities. We believe that a civil society perspective is a critical lens that must be included in the Committee's consideration of this Bill, especially given the landmark nature of this legislation.
  5. Barnardos would like the opportunity to speak to our submission. We can be contacted at the details on the final page of this submission.

### Barnardos supports the broad aims of the Public Service Legislation Bill

6. Barnardos support the key aims of this Bill, namely: to clearly establish a purpose, set of guiding principles and values for the public service; support the Crown in its relationships with Māori; create flexible options for collaboration within the public service; support interoperability within and protections for the public sector workforce; and to strengthen leadership and provide for a systems-level and future focus. These aims are important for a legislative framework that underpins a public service that has the mandate, the culture and the capacity to create public value across all its levels and functions, and most importantly for the people it serves.
7. We support the provision of more flexibility for government agencies to work collaboratively across areas such as child wellbeing (one of the Government's stated Budget 2020 priorities<sup>1</sup>), which have complex, entrenched and often intergenerational causes and effects. In our work every day, Barnardos sees first-hand the reality that many of the challenges negatively affecting the lives of the most disadvantaged and marginalised children and young people do not exist in isolation. Moreover, they cannot be addressed effectively in isolation. Taking a holistic and systems-level approach to issues such as family poverty and child wellbeing will help to ensure investment in initiatives and policies that will make a tangible difference in children's and families' lives.

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<sup>1</sup> Budget Policy Statement 2020: <https://www.budget.govt.nz/budget/2020/bps/index.htm>. The focus of the Child Wellbeing priority is to reduce child poverty and improve child wellbeing.

Barnardos recommends that the Committee consider some aspects of the Bill further

*The Crown's relationships with Māori*

8. Barnardos is pleased to see the inclusion of subpart 3 of the Bill regarding the Crown's relationships with Māori, which was absent from the State Sector Act 1988. However, Barnardos submits that further consideration must be given to whether clause 12 goes far enough to protect the Crown-Māori relationship. Whilst we are pleased to see that clause 12(2)(a) affirms the responsibilities of various parties to maintain the capability of the public service to engage with Māori and understand Māori perspectives, we believe that the Committee should consider extending these responsibilities to include upholding the values, beliefs and tikanga of Māori and the principles contained in Te Tiriti o Waitangi.<sup>2</sup>
9. Clause 12 is also noticeably silent about the duties of the Commissioner, public service chief executives, interdepartmental executive boards and the boards of interdepartmental ventures in their relationships with iwi, hapū and kaupapa Māori organisations delivering state-funded services. We suggest that this is a significant oversight. The strengthening of the relationship between the Crown and Māori will be enhanced by the Crown acknowledging the importance of the principle of rangatiratanga for Māori and upholding their right to be self-determining, and contracting obligations should reflect this principle.

*Creating public value in both the 'people facing' and the 'Crown facing' roles of the public service*

10. From the perspective we have as an organisation operating within both the service delivery and the systems-level advocacy spaces, Barnardos sees the need for support for collaboration and innovation across all levels of the public service, from its 'Crown facing' functions (for example providing policy advice to a Minister) to its 'people facing' functions (for example the provision of social housing). The Bill formalises several joint-operational approaches at a high-level which have the potential to create real public value in the 'Crown facing' functions of the public service. These approaches aim to support a systems-level approach to tackling complex issues through the effective and joined-up investment of resources across portfolios. We see this as being particularly beneficial in the social issues space. Some of these approaches, such as interdepartmental ventures, also hold the potential to create positive change in the experience of individuals, families and whānau in their interactions with Government at the service delivery level.<sup>3</sup>
11. However, it is important to acknowledge that much of the less-formal collaboration happening in the public service already is happening from the 'bottom-up'. Although it is clear from the Bill how greater collaboration will be achieved at the higher levels of the public service, we do not believe that the Bill is clear about how collaboration within the 'people facing' functions of the public service will be supported to meet the needs of individuals and their families and whānau. We do not think it is necessary for support for innovation and

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<sup>2</sup> These principles, as expressed by the New Zealand Courts and the Waitangi Tribunal, include the principles of: partnership; reciprocity; mutual benefit; the duty to act honourably and in good faith; the duty to make informed decisions; active protection and redress. Source:

<https://waitangitribunal.govt.nz/assets/Documents/Publications/WT-Principles-of-the-Treaty-of-Waitangi-as-expressed-by-the-Courts-and-the-Waitangi-Tribunal.pdf>

<sup>3</sup> State Services Commission, *Impact report on the State Sector Act Reform*, at 142-145:

<https://ssc.govt.nz/assets/Legacy/resources/Impact-Statement-State-Sector-Act-Reform.pdf>

collaboration in response to individual needs at the service delivery level to be included in the Bill in the form of formal operational structures. However, the Bill presents an opportunity to create the settings in which frontline service providers are empowered to work outside of traditional systems to meet the needs of individuals, families and whānau facing complex and multiple challenges.

12. Barnardos believes that the principles in clause 10 must be focussed on the people that the government serves, in order to set the foundations for a culture in which public servants are encouraged to seek the best possible outcomes for individuals, families and whānau. Evidence shows that setting strong foundational principles is key to encouraging front-line staff to take an outcomes-focussed and client-centred approach, and to encourage collaboration and innovation in service delivery to meet the needs of clients.<sup>4</sup> Barnardos is supportive of the principles included in clause 10 of the Bill. However, we are concerned that the principles do not reflect the fact that any public intervention should be grounded in the need to achieve positive social and economic outcomes for the people who are ultimately the 'end-users' of government.<sup>5</sup> Although clause 11 establishes the 'spirit of service to the community', it is not clear what this means or how this will be upheld in practice and at the various levels of the system.
13. Strong foundational principles also require mechanisms to ensure that they are consistently being 'given life' at every level of the system. To ensure that the new principles, values and purpose are guiding the behaviour and practices of public servants, Barnardos believes that an effective and independent feedback mechanism must be created. This could be achieved through systematically and independently surveying frontline public services staff to understand their views on the extent to which they perceive their agency adheres to the proposed principles and values; about how effectively their agency organises its resources; maintains organisational health and capability; and meets the new public service principles and values.
14. Alongside this, Barnardos suggests that feedback should also be systematically sought from the individuals, families and whānau who are the recipients of government services, to survey whether they felt that the service they received adhered to the stated principles and values of the public service. We believe that this data should be sourced by an independent agency to ensure people in New Zealand are able to provide full and honest feedback. Ultimately, building in mechanisms for independent feedback of this kind should help to ensure continuous improvement of the public service and its various components.

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<sup>4</sup> Institute of Policy Studies, *Better Connected Services for Kiwis*, (Victoria University of Wellington, 2008): [https://www.wgtn.ac.nz/sog/researchcentres/egovt/research-projects/research-2007/research-2008/Connected\\_Services\\_ver\\_10.pdf](https://www.wgtn.ac.nz/sog/researchcentres/egovt/research-projects/research-2007/research-2008/Connected_Services_ver_10.pdf)

<sup>5</sup> Evans, M. & Scott, C. (2012). *National and international perspectives on enhancing strategic policy capability*, Scoping Report, ANZSOG, Melbourne: <https://www.anzsog.edu.au/preview-documents/research-output/5013-national-and-international-perspectives-on-enhancing-strategic-policy-capability/file?aid=4331&return=aHR0cHM6Ly93d3cuYW56c29nLmVkdS5hdS9yZXNvdXJjZS1saWJyYXJ5L3Jlc2VhcmNoL2VuaGFuY2luZy1zdHJhdGVnaWVtcG9saWN5LWNhcGFiaWxpdkHk=>

*The public service as 'system stewards'*

15. Barnardos believes that social service providers and partners have a key part to play in delivering on the principles, purpose and broad aims of this Bill, in particular:
- to enable successive governments to develop and implement their policies;
  - to deliver high-quality and efficient public services;
  - to support the government to pursue the long-term public interest; and
  - to facilitate active citizenship.
16. Current relationships between government and social service providers are largely transactional, often based on the contracting or outsourcing of services that sit within government entities. However, it is Barnardos' experience that within the social service sector, many NGOs are already operating to 'bridge the gaps' between government entities, and facilitating access to services for clients with multiple and complex needs across a range of agencies. We believe that any approaches to complex, entrenched and intergenerational issues such as family poverty and child wellbeing must recognise that NGOs are already actively involved in these spaces, and that much of the necessary expertise, knowledge and relationships needed to tackle these issues sits within the NGO sector.<sup>6</sup>
17. Barnardos suggests that the stewardship role of a modern and adaptive public service is wider than the definition contained in the Bill in clause 10(1)(e). We see this role as encompassing stewardship of the system of service delivery in New Zealand as a whole, which includes NGO's, iwi and private sector organisations delivering social services beyond and in partnership with the public service. This role can be described as including the duty to "create the conditions of trust in which interacting agents within the system are able to adapt towards socially desirable outcomes".<sup>7</sup>
18. Further consultation with social service providers in the development of relationship models could perhaps explore how the public service could refocus relationships with other social services in line with the move away from transactional relationships that this Bill seems to represent.<sup>8</sup> An approach that encourages experimentation across the public and NGO sectors at local levels for local problems and that captures the benefits of locally generated knowledge and resources to make sustainable change is desirable.<sup>9</sup>

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<sup>6</sup> Eppel, E., Provoost, D. & Karacaoglu, G. (2018) *From Complexity to Collaboration: Creating the New Zealand we want for ourselves, and enabling future generations to do the same for themselves*, Institute for Governance and Policy Studies, Victoria University of Wellington: <https://www.occ.org.nz/assets/WP18-01-Complexity-to-collaboration.pdf>

<sup>7</sup> Ibid, at 6.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

*Change in the public sector has a flow-on effect to the wider social service system*

19. Considering the interconnected and interdependent nature of the public service and the wider social service system, the flow-on effects of state sector reform to the NGO sector and the delivery of its services must be a part of the wider conversation. For example, any changes to the public service workforce and pay equity issues could have potentially significant effects on the NGO sector and civil society.<sup>10</sup> Barnardos is supportive of the workforce and pay equity provisions in this Bill. However, we envisage that unless a broader, 'system stewardship' view of the public service is taken, changes within the public service workforce may well have negative unintended consequences on the broader social services workforce.
20. A prime example of this is the current pay equity claim by the PSA against five NGO social service providers (including Barnardos). The recently settled pay equity claim for Oranga Tamariki social workers is having a significant impact on the NGOs contracted by and working alongside Oranga Tamariki to deliver services to children and whānau. The existing wage gap between Oranga Tamariki social workers and NGO social workers has grown to 30-40% as a kick-on effect of the settlement. Such a disparity not only affects the ability of the NGO sector to function effectively, but has potential flow-on effects to the ability of the government to deliver public services which NGOs are contracted to deliver.
21. Barnardos also notes that it is critical to understand what the new joint-operational agreements will mean for the contracting of services by NGOs and particularly what this new way of working will mean for those NGOs currently delivering services. The Bill indicates a move away from a transactional, 'quasi-market' approach to the public service, to a more long-term, norm driven approach promoting greater collaboration within the public service to provide services. Barnardos welcomes this, however, we note that the way that the NGO sector's relationship with the government currently operates is largely transactional, based on the contracting of services that sit with state sector entities.<sup>11</sup> Though Barnardos is supportive of the aims of this Bill, we urge careful consideration and sufficient consultation around the potential flow-on effects of any changes in the public service to social service providers operating alongside and in partnership with it.

## Concluding comments

22. Barnardos urges the Committee to consider this important Bill through the broader perspective as raised in this submission.
23. We believe that the NGO social sector must be included in work that flows out of the eventual final legislation. This will help to ensure that the implications of the legislation for the wider sector will be able to be appropriately addressed through partnership and collaboration, beyond the public service itself. In doing so, the public service and civil society will be able to work together at the systems-level and at the service delivery level to deliver the best value and outcomes for people in Aotearoa New Zealand. In this regard, we urge the Committee

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<sup>10</sup> See discussion in MartinJenkins, *Social Service System: The Funding Gap and How to Bridge It*, 2019, p.52ff: [https://www.sspa.org.nz/images/Social\\_Service\\_System - The Funding Gap and How to Bridge It - FULL REPORT FINAL.pdf](https://www.sspa.org.nz/images/Social_Service_System_-_The_Funding_Gap_and_How_to_Bridge_It_-_FULL_REPORT_FINAL.pdf)

<sup>11</sup> Ibid, pp.27-28.

and government to give attention to the recommendations set out at pages 90-92 of the MartinJenkins report *Social Service System: The Funding Gap and How to Bridge It*, 2019.

24. As outlined in this submission, Barnardos believes that taking a broader view in relation to this Bill this will help support this legislation to set the architecture for a public service that can best serve Aotearoa's children, individuals, families, whānau and communities.

### Contact details for anything relating to this submission

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