



**MINISTRY OF SOCIAL
DEVELOPMENT**

TE MANATŪ WHAKAHIATO ORA



On 31 January 2017, you emailed the Ministry requesting, under the Official Information Act 1982, the following information:

- *Copies of recommendations on the longstanding policy of reducing benefit rates if beneficiaries do not meet their Child Support Obligations (Section 70A) provided by officials to the Minister and any correspondence, including emails, to or from the Minister that include mention of section 70A (of the Social Security Act 1964) and/ or section 176, 177 and 178 (of the Social Security Legislation Rewrite Bill) from 1 August 2016 to 31 January 2017.*

Please find enclosed the following documents within scope of your request:

- Email, 'Fwd: FYI: AAAP report on Section 70A Sanction', dated 19 January 2017.
- Email, 'FW: Seeking Advice: submissions regarding the New Zealand Government (Section 70A)', dated 18 January 2017.
- Email, 'for your info and filing', dated 24 January 2017.

You will note that some information is withheld from the documents being provided as the information is out of scope of your request. Names of some individuals are withheld under section 9(2)(a) of the Official Information Act in order to protect the privacy of natural persons. The need to protect the privacy of these individuals outweighs any public interest in this information.

Additionally, some information is withheld under section 9(2)(g)(i) of the Act to protect the effective conduct of public affairs through the free and frank expression of opinions. I believe the greater public interest is in the ability of individuals to express opinions in the course of their duty.

The attachment in the email titled, 'for your info and filing' is withheld under section 18(d) of the Official Information Act on the basis that the information requested will soon be publicly available. This information will be published as soon as possible this year.

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter and any attached documents available to the wider public shortly. The Ministry will do this by publishing this letter and attachments on the Ministry of Social Development's website. Your personal details will be deleted and the Ministry will not publish any information that would identify you as the person who requested the information.

If you wish to discuss this response regarding section 70A with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with this response, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Yours sincerely



Sacha O'Dea
General Manager, Working Age Policy

Section 9(2)(a) Privacy of natural persons

Out of scope

Begin forwarded message:

From: 9(2)(a) [redacted]@parliament.govt.nz
To: 9(2)(a) [redacted]@msd.govt.nz
Cc: 9(2)(a) [redacted]@msd.govt.nz, 9(2)(a) [redacted]@msd.govt.nz, "Sacha O'Dea" <9(2)(a) [redacted]@msd.govt.nz>
Subject: FYI: AAAP report on Section 70A Sanction

No action needed, just FYI and for files

From: 9(2)(a) [redacted]@aaap.org.nz
Sent: Wednesday, 18 January 2017 1:53 p.m.
To: Hon Anne Tolley <Anne.Tolley@parliament.govt.nz>
Subject: AAAP report on Section 70A Sanction

Kia ora Hon Anne Tolley,

Attached is a report conducted by AAAP outlining the impacts Section 176,177 and 178 of the Social Security Rewrite Bill (currently section 70A) has on sole mothers and their children.

We are aware that you are still waiting for information on the effectiveness of this policy from MSD, and was wondering if this information has been delivered to you yet?

Ngā mihi,
9(2)(a) [redacted] (AAAP coordinator)



SECTION 70A SANCTION: IMPACT ON
SOLE MOTHERS AND THEIR CHILDREN

AUCKLAND ACTION AGAINST POVERTY

This short report interrogates the impact that section 70A has on sole parents and their children. This report follows from research conducted by various members of Auckland Action Against Poverty.

Sanctions on sole parents increase the hardship of families and in particular impact the children of the households subject to these. Section 176, 177 and 178 of the Social Security Legislation Rewrite Bill, formally section 70A under the current legislation, is a sanction on sole parents who do not name the other parent of their child/ren on the birth certificate. This report outlines what section 70A is, the issues relating to exemptions and the impacts these sanctions have on children and sole parents.

What is Section 70A? Who does it affect?

Section 70A is a sanction on sole parents who have not identified the other parent of their child/ren on the birth certificate. The purpose behind this sanction is to encourage child support payments. The policy imposes a sanction of \$22.28 per week per child, on sole parents who have not named their child/ren's other parent, and therefore results in increased hardship for families. This policy impacts on 18% of sole parent families receiving income support from Work and Income, and affects 17,000 of the poorest children in the country.¹ This policy disproportionately impacts on Māori and women, with 97.7% of people sanctioned being women (13,303), and 52.8% Māori (7,189). This policy therefore targets marginalised groups in New Zealand society.²

Exemptions

Currently, the only way for beneficiaries to get an exemption from the sanction is for them to obtain a letter from a lawyer and to have a meeting with Work and Income (a meeting which invariably takes place in an open plan office). Section 70A of the current Social Security Act outlines the criteria for exemptions. Exemptions apply "if MSD is satisfied that—

- a) there is insufficient evidence available to establish who is in law the other parent; or
- b) the beneficiary is taking active steps to identify who is in law the other parent; or
- c) the beneficiary or any of the beneficiary's children would be at risk of violence if the beneficiary did or took steps to do any of the things referred to in section 176(2); or
- d) the child was conceived as a result of incest or sexual violation; or
- e) there is some other compelling circumstance for the beneficiary's failure or refusal to do any of the things referred to in section 176(2) and in any event

Section 9(2)(a) Privacy of natural persons

¹ [redacted] "Information relating to reductions of the rates of benefits for sole parents under Section 70a of the Social Security Act" (10 May 2016) (Obtained under the Official Information Act 1982 Request to the Ministry of Social Development)

² *ibid*

there is no real likelihood of child support being collected in the foreseeable future from the other parent or the other parent's estate."³

The problems with exemptions

Absence of information

Evidence suggests that information regarding the exemption criteria is often not passed on to people by Work and Income staff. Further, those impacted by these sanctions frequently do not receive formal notification of the decision that the sanction has been applied to them. For example, of the people subject to these sanctions with whom Auckland Action Against Poverty works, many were not initially aware that a sanction had been applied to them, nor that they could be eligible for exemption from that sanction. Withholding this information from people has led to many families falling into unnecessary hardship.

Financial and other barriers

There are also financial and other barriers to sole parents having sanctions removed. In order to get these sanctions removed, sole parents must get a letter from a lawyer. In a report conducted by Community Law Centres o Aotearoa, research shows that barriers for beneficiaries to access legal services include not having the money to pay for private practice lawyers, and not having the knowledge of Community Law Centres. Further, evidence shows that people feel compelled to believe Work and Income has an authority on Welfare Law, although they may be denied basic information about their rights by Work and Income.⁴ Many of the people affected by these sanctions are those already in severe hardship. While there are free legal services available, the costs of transport to get to these appointments can also create a barrier to access.

Revisiting Violence and Trauma

These sanctions have considerable emotional and psychological consequences. There are many reasons why women are unable to identify the father of their child/ren the experience of the organisations which work with families affected by these sanctions, the most common reasons mothers have for not disclosing the name of their child's father include domestic violence, incest and rape.⁵

Of the exemptions in the year to March 2016 over 18% were given because of violence. New Zealand has some of the highest rates of domestic violence in the world, with 1 in 3 women experiencing Intimate Partner Violence (IPV) in the forms of sexual or physical abuse.⁶ Work and Income have specialist staff called Family Violence Response Co-ordinators who can deal

3 Social Security Act 1964, s 70A

4 Kim Morton, Claire Gray, Anne Heins, Sue Carswell. Access to Justice for Beneficiaries a Community Law Response. Access to Justice Report. Canterbury: Community Law Canterbury, 2014

5 Catriona MacLennan. Fear and violence behind decision to keep dad's name secret. New Zealand Herald, 2016. Retrieved from: http://nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11712674

6 Fanslow, J.L. et al. (2011). Sticks, Stones, or Words? Counting the Prevalence of Different Types of Intimate Partner Violence Reported by New Zealand Women. *Journal of Aggression, Maltreatment & Trauma*, 20, 741–759.

with domestic violence in each region, however staff in Work and Income offices are not necessarily trained in assessing family violence and therefore taking necessary steps to ensure victims are not punished. Auckland Action Against Poverty has worked with a number of women who have shared their experiences of intimidation, threats and abuse from the father of their child/ren at the prospect of them naming him. Having to relive these experiences and justify their very real fear of violence, or very traumatic experiences of sexual violence in front of a Case Manager, who often contests the lawyer's letter, further disempowers and victimises these women.

So long as the sanctions exist, for women to get exemptions they will need to provide very personal, often distressing and traumatic, information, most of the time to complete strangers. This includes, but is not limited to, information about the conception of their child/ren, and of coercion and violence. There is so much trauma associated with this sharing of such information that lawyers have told AAAP that women frequently break down in tears when they visit them for a 'legal opinion' for exemptions from the sanctions. Legislation that requires women to disclose and revisit such personal information in order to not be financially penalised is founded upon the punishment of women: women are punished financially or they are punished through the pain of recounting traumatic events.

For these reasons a tweaking of the current legislation that imposes sanctions on sole parents would be insufficient. What is needed is legislation that does not punish sole parents, mothers and children in an attempt to get absent parents to pay child support.

Does Section 70A encourage child support payments? And a general lack of data

From the data that the Ministry of Social Development has made available to AAAP, and the caveats in that data, it is not possible to ascertain whether the current legislation encourages absent parents to pay child support. In a report conducted by Child Poverty Action Group, their attempt to acquire information from the Ministry of Social Development on how many children are impacted by broader sanctions and benefit cuts was denied on the basis that 'the Ministry's data system is unable, to monitor or report on this level of detail.'⁸

As stated by the Inland Revenue Department in an Official Information Request: 'in the year to 31 March 2016 the average annual amount of child support payments per child retained by the Crown was \$1,077.'⁹ This amounts to an average child support payment of \$20.71 per week per child. This is \$1.29 less than the current minimum sanction (\$22), and \$7.29 less than the sanction which is applied after 13 weeks (\$28). There is therefore a discrepancy in the amount being accumulated by IRD in child support payments and the amount being accumulated through sanctions. This means sole parent is being punished disproportionately.

7 Lisa May. Stop the Sanctions Campaign Launch, Grey Lynn Community Centre, 15 Sep 2016.

8 Cited in Donna Wynd. Benefit Sanctions: Children not heard – not seen. (Auckland: Child Poverty Action Group), 2014, p. 6

9 [redacted] "Information relating to child support payments transferred from IRD to Work & Income" (20 June 2016) (Obtained under the Official Information Act 1982 Request to the Ministry of Social Development)

Money, and the flag referendum

The additional amount per year that it may cost for the government to stop the sanctions and to pay full benefits to solo parents and their children is estimated at around \$25 million.¹⁰ Such a figure is very tentative however, and it assumes that absent fathers would continue not to pay child support payments. This amount is also roughly the amount that the flag referendum cost (need to check). In other words, the poorest women and children in New Zealand are effectively paying for the equivalent of a flag referendum to take place every year.

Impact on children

The Ministry of Social Development's research has shown that the majority of sole parent families suffer severe hardship.¹¹ The poorest children in this country are disproportionately found in sole parent households.¹² Child poverty, particularly in the formative years, has long term health impacts.

Children living in deprivation are three times more likely to get sick than high-income households and at greater risk of contracting infectious diseases and preventative illnesses.¹³ Sanctions on sole parents' means less money for the basic necessities to enhance the health outcomes of vulnerable children, and further less money to go to the doctors to prevent further harm. While there is no research which measures the impact of this particular sanction on children, the research explores sanctions such as those imposed on sole parents for not fulfilling work obligations.

The United Nation's Committee on the Rights of the Child recently released a report which stated their concern about the impact of recent welfare reforms and benefit sanctions on the well-being of children.¹⁴ This report criticised the government for their lack of response to the hardship many of New Zealand's most vulnerable children face. While the 2015 Budget acknowledged the need to increase benefits to address child poverty, this did not address the sanctions that continue to place sole parent households in hardship.

Conclusion

If the government is genuinely committed to tackling poverty in New Zealand, it needs to invest in implementing policies that support the poorest people and families in the country.

10 Ministry of Social Development. Departmental Report for the Social Services Committee: Social Security Legislation Rewrite Bill (Ministry of Social Development: Wellington), 2016, p. 21

11 Ministry of Social Development. Sole Parenting in New Zealand: An update on key trends and what helps reduce disadvantage. (Wellington: Centre for Social Research and Evaluation), 2010

12 M.Claire Dale, Mike O'Brien and Susan St John. Left further behind: how policies fail the poorest children in New Zealand. (Auckland: Child Poverty Action Group), 2011

13 Nikki Turner and Innes Asher. Our children, our choice: priorities for policy. Part one: Child poverty and health. (Auckland: Child Poverty Action Group), 2014

14 Committee on the Right of the Child. Concluding observations on the fifth periodic report of New Zealand (September 30, 2016), p. 12.

The vast majority of absent parent want to support their children financially, and it is unfair to punish sole parents and children when this is not the case or when it cannot be achieved safely. Getting rid of Section 70A (section 176,177 and 178 from the Social Security Legislation Rewrite Bill) is an important step to be made towards the alleviation of poverty, particularly amongst women and children, in New Zealand.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Section 9(2)(a) Privacy of natural persons

From: 9(2)(a)
Sent: Wednesday, 18 January 2017 9:55 a.m.
To: 9(2)(a)
Subject: FW: Seeking Advice: submissions regarding the New Zealand Government (Section 70A)

FYI

From: 9(2)(a)
Sent: Wednesday, 18 January 2017 9:49 a.m.
To: 9(2)(a)
Cc: I request (MSD); Sacha O'Dea
Subject: RE: Seeking Advice: submissions regarding the New Zealand Government (Section 70A)

Hi 9(2)(a)

On Monday 12 December, the Ministry for Women advised MSD of a submission to the United Nations calling for the repeal of section 70A. The substance of the submission is that section 70A of the Act, permitting reductions from sole parents' benefit payments for failing to name the other parent of their child, has the practical effect of discriminating against New Zealand women. The submission notes that through the rewrite of the Social Security Act, the Government has the opportunity to address this issue.

Although there is no obligation to respond, the Ministry for Women, in consultation with the Ministry of Foreign Affairs and Trade, proposes that the Government address the concerns raised, mainly due to the standing of New Zealand and given there is a major Women's event taking place at the United Nations in New York, in March 2017.

MSD included an item in the Social Development Update dated Friday 16 December 2016 to inform the Minister of the submission and the proposed process for responding. MSD officials have worked with the Ministry for Women and the Ministry of Foreign Affairs and Trade to develop a draft high-level response for Ministers' consideration. The draft response reiterates the aims of the rewrite and notes that section 70A is a long-standing provision that encourages the establishment of paternity and applications for Child Support. It acknowledges the submissions during the select committee process and notes that the Minister is currently considering advice on section 70A.

This is not in the draft response but the Ministry of Justice has considered section 70A on two occasions and has not identified any inconsistency with the New Zealand Bill of Rights Act 1990 (NZBoRA). Before Government Bills are introduced, the Attorney General brings to the attention of the House any provision that appears to be inconsistent with any of the rights and freedoms contained in NZBoRA. The Attorney General receives advice from the Ministry of Justice (MoJ). The MoJ vetted the Rewrite Bill for compliance with NZBoRA and did not raise any concerns regarding section 70A. Legislative changes were made to section 70A in 2005 providing for an additional \$6 reduction if a client did not comply with their Child Support obligations, or gained an exemption, after 13 weeks. MoJ vetted that Bill and considered that it was consistent with NZBoRA.

Please let me know if you'd like any further information.

Kind regards

9(2)(a)

Policy Manager, Rewrite of the Social Security Act
Social Policy, Ministry of Social Development - Te Manatu Whakahiato Ora

Section 9(2)(a) Privacy of natural persons

From: 9(2)(a) [redacted]@parliament.govt.nz
Sent: Tuesday, 17 January 2017 3:47 p.m.
To: 9(2)(a) [redacted] Justine Cornwall; 9(2)(a) [redacted] Sacha O'Dea
Cc: i_request (MSD); 9(2)(a) [redacted]
Subject: Seeking Advice: submissions regarding the New Zealand Government (Section 70A)
Importance: High

Hello MSD! Happy new year!!

Section 9(2)(g)(i) Free and frank expressions of opinions

Today we received, from Minister Bennett's office, information on two submissions regarding the New Zealand Government, received by the United Nations Commission on the Status of Women (CSW). (See email below)

These two submissions are attached. Of note - the first submission concerns Section 70A.

9(2)(g)(i) [redacted]

Is it possible for MSD to please provide advice on the attached Section 70A submission – and can I please request that any response prepared to support the Government response is provided first to this office for review and feedback.

It looks like the actual Govt response (led by Minister Bennett) is due 31 Jan.. so it would be awesome if this advice could be provided ASAP. Possibly you could indicate a timeframe?

More than happy to discuss so do call as needed, cheers 9(2)(a) [redacted]

9(2)(a) [redacted] Private Secretary, Office of the Hon Anne Tolley
Minister for Social Development, Minister for Children, Minister of Local Government
Parliament Buildings (Wellington) Phone: 9(2)(a) [redacted]

From: 9(2)(a) [redacted]
Sent: Tuesday, 17 January 2017 10:43 a.m.
To: 9(2)(a) [redacted]
Cc: [redacted]
Subject: submissions regarding the New Zealand Government

Kia ora 9(2)(a) [redacted]

I want to notify you that two submissions regarding the New Zealand Government were received by the United Nations Commission on the Status of Women (CSW). Your agencies are aware of this and have been working with the Ministry for Women on our response. The submissions have been made by two NGO's. Any person, NGO or network may lodge submissions to CSW containing information relating to alleged violations of human rights that affect the status of women in any country.

Minister Bennett has agreed to lead the Government's response, and will be seeking your Minister's concurrence to our response. We have relatively tight timeframes, as the response is due 31 January 2017.

Section 9(2)(a) Privacy of natural persons

I have attached the submissions for your reference. [redacted] you will see that the first submission is relevant to your portfolio.

Happy to answer any questions.

Kind regards.

[redacted] Private Secretary (Women) | Office of Hon Paula Bennett

Section 9(2)(a) Privacy of natural persons

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Section 9(2)(a) Privacy of natural persons

From: 9(2)(a)
Sent: Tuesday, 24 January 2017 1:28 p.m.
To: 9(2)(a)
Subject: for your info and filing
Attachments: 20171301 REVISED CSW Communications - draft response.docx

Importance: Low

From: 9(2)(a) @parliament.govt.nz
Sent: Friday, 20 January 2017 4:04 p.m.
To: 9(2)(a)
Cc: Sacha O'Dea
Subject: FYI: Good - submissions regarding the New Zealand Government
Importance: Low

FYI

From: 9(2)(a)
Sent: Friday, 20 January 2017 4:03 p.m.
To: 9(2)(a)
Cc:
Subject: Good - submissions regarding the New Zealand Government
9(2)(a)
Hello as discussed we're comfortable with the proposed response. Thank you.

Section 18(d) Shortly to be publicly released

Thanks again, cheers 9(2)(a)

From: 9(2)(a)
Sent: Friday, 20 January 2017 12:08 p.m.
To: 9(2)(a)
Cc:
Subject: RE: submissions regarding the New Zealand Government

Hello

Please now find attached the draft response from Hon Paula Bennett, which we intend to send to the UN by 31 January.

We ideally need any feedback from you by 4pm this afternoon. Apologies for the tight timeframes.

Please note again that your officials have contributed to, and are comfortable with, the response.

Many thanks

9(2)(a) Private Secretary (Women) | Office of Hon Paula Bennett
7.6 Executive Wing | Parliament Buildings | Private Bag 18041 | Wellington 6160

Section 9(2)(a) Privacy of natural persons

[redacted]@parliament.govt.nz

From: 9(2)(a) [redacted]
Sent: Tuesday, 17 January 2017 10:43 a.m.
To: 9(2)(a) [redacted]
Cc: [redacted]
Subject: submissions regarding the New Zealand Government

Kia ora 9(2)(a) [redacted]

I want to notify you that two submissions regarding the New Zealand Government were received by the United Nations Commission on the Status of Women (CSW). Your agencies are aware of this and have been working with the Ministry for Women on our response. The submissions have been made by two NGO's. Any person, NGO or network may lodge submissions to CSW containing information relating to alleged violations of human rights that affect the status of women in any country.

Minister Bennett has agreed to lead the Government's response, and will be seeking your Minister's concurrence to our response. We have relatively tight timeframes, as the response is due 31 January 2017.

I have attached the submissions for your reference. 9(2)(a) [redacted] you will see that the first submission is relevant to your portfolio.

Happy to answer any questions.

Kind regards.

9(2)(a) [redacted] Private Secretary (Women) | Office of Hon Paula Bennett
7.6 Executive Wing | Parliament Buildings | Private Bag 18041 | Wellington 6160
9(2)(a) [redacted] @parliament.govt.nz

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