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Committee Secretariat
Justice and Electoral Committee
Parliamentary Buildings
WELLINGTON

Tēnā koutou

Thank you for the opportunity to make a submission on the Domestic Violence Victims' Protection Bill.

Overall, Family Planning strongly supports the Bill, and the intention to expand legal protections for victims of domestic violence. As an organisation that has recently adopted a domestic violence policy for our employees, we support this requirement for all employers and believe it is realistic. In addition to supporting individual victims of domestic violence, the new law will help raise awareness of the issue, and its impact on employees, employers, families and communities. It will help remove the stigma and silence surrounding domestic violence by promoting workplace conversations about these issues and normalise seeking help for domestic violence. We raise some questions about the requirements for making a request, and the timeframes and criteria for refusals.

Family Planning suggests that the Committee consider whether the scope of the Bill might be expanded to be more inclusive of the range of violence and harrasment experienced primarily by women. These other forms of violence can impact employment. For example, a young woman who experiences dating violence or stalking – not violence in a domestic relationship – may also need the legal protections and support proposed in this legislation, such as a variartion in working arrangements. The Bill could be considered in the context of the range of violence being addressed by the cross-sector Ministerial Working Group on Family Violence and Sexual Violence.

Background

Family Planning is New Zealand's largest provider of sexual and reproductive health services and information. We are a non-governmental organisation operating 30 clinics as well as school and community-based services. We offer accredited clinical courses and workshops for doctors, nurses, midwives and other clinicians working in sexual and reproductive health. Our health promotion teams run professional training and education programmes in schools and the community for children and young people, parents, teachers and other professionals.

Family Planning New Zealand is committed to increasing health equity as a strategic priority, with a focus on improving Māori health and wellbeing. To achieve health equity we have made a commitment to:

- prioritise and embed health equity into all areas of our work
- promote equitable access to services and deliver sexual and reproductive health and rights in the areas of highest need
- prioritise services to rangatahi Māori
- advocate for changes that will increase health equity, such as policies and practices to tackle social and economic determinants of ill-health including stigma, racism, disparities in educational achievement, poverty and violence.

Links between domestic violence, sexual and reproductive health and rights

Family Planning is committed to addressing violence and its impact on sexual and reproductive health and wellbeing for our clients and our employees. As a trusted health care organisation, we play an important role supporting people who have experienced violence. Family Planning's formal policies for health practitioners ensure doctors and nurses routinely ask clients about violence so they can offer support and referrals to appropriate services.

There are strong links between the rights of women, violence against women and poor sexual and reproductive health. For example, women who experience violence from an intimate partner are much more likely to have a sexually transmitted infection.¹ A research project featured in *New Zealand Doctor*² reviewed Bay of Plenty DHB electronic patient records retrospectively and found that among women disclosing family violence, "almost 25% had an unplanned pregnancy." New Zealand research found that women experiencing intimate partner violence are more likely to have a partner refuse to wear a condom or prevent them

¹ Hasstedt, K. and Rowan, A. (2016) *Understanding Intimate Partner Violence as a Sexual and Reproductive Health and Rights Issue in the United States*. Guttmacher Policy Review. Vol. 19. Retrieved from: https://www.guttmacher.org/sites/default/files/article_files/gpr1903716_1.pdf.

² Claydon, L. (2015) Family violence affects women's sexual and reproductive health. *NZ Doctor*. 16 December 2015.

from using contraception³. Women who have few choices over when and whether to have a child – which can be the case for women in an abusive relationship – have little control over their health and future.

Domestic violence discrimination as a human rights violation

Family Planning supports domestic violence being added to the prohibited grounds of discrimination under the Human Rights Act 1993. This is a significant acknowledgement of the discrimination some victims of domestic violence face when abuse is disclosed. Ensuring domestic violence is covered under the Human Rights Act will help victims feel confident that breaking the silence of their abuse will not further victimise them through loss of employment, housing or other forms of discrimination.

Domestic violence documents

The Bill requires a victim of domestic violence to provide a domestic violence document to show evidence of domestic violence when making a request for leave or a change in working arrangements.

As previously stated, in 2016 Family Planning New Zealand adopted an employee domestic violence policy. We do not require employees to provide any specific evidence of domestic violence to access support offered through this policy. We believe the requirement to provide a domestic violence document may be a barrier for some victims accessing support.

For some victims, it may be too humiliating or distressing to disclose detailed information – from a police report for example – to an employer. Or a victim may need to access domestic violence leave to initiate proceedings including a visit to the police, a lawyer or a doctor and may not have any of the required documents yet. Other employees may choose not to engage with outside agencies such as the police or support services when addressing domestic violence but may still require time off work or a change in work arrangements to ensure safety.

Family Planning trusts our employees to request support because of domestic violence honestly and appropriately. We expect employees to adhere to the domestic violence policy as they would any other Family Planning employee policy. We believe accessing support for domestic violence should be based on the trust that exists between employers and employees and would recommend removing the domestic violence document requirement.

³ Fanslow et al (2008) Contraceptive use and associations with intimate partner violence among a population-based sample of New Zealand women. *Australian and New Zealand Journal of Obstetrics and Gynaecology*; 48: 83–89. Retrieved from: file:///C:/Users/amyb/Downloads/2008%20Fanslow%20et%20al_IPV&Contraception.pdf.

Privacy considerations

Where victims are required to provide documentation or detailed information about domestic violence to their employer, issues of privacy should be a key consideration. It may be useful for the legislation to include a requirement that employers put in place systems and processes to protect privacy, over and above systems and processes already in place that protect private employee information. Privacy considerations would need to extend beyond human resources, to all areas of the employer operations where information could be potentially shared (eg payroll, scheduling).

Family Planning's domestic violence policy requires that a disclosure of domestic violence not be recorded in an employee's personal files. Information is only shared in the event that there are safety concerns for other employees in the workplace, and it is shared on a need to know basis with the expectation that the information is highly confidential.

Accessibility of domestic violence support from an employer

It will be important that government develops a comprehensive communications strategy and resources so employers are aware of their responsibilities and have systems and processes in place to ensure equitable access to domestic violence leave and variation in working arrangement for all employees.

Employer domestic violence policies should be similar to every other employee policy and should be user-friendly and flexible.

Family Planning appreciates that the Bill accommodates for someone to make a request on behalf of a victim of domestic violence.

Timeframes

Three months seems an extraordinarily long timeframe for an employer response in this context. Victims of domestic violence often reach out for help when the situation has become unbearable, or they are experiencing a crisis. It is important that victims can quickly and easily access support, including a variation in work arrangements.

While the Bill does require an employer to respond as soon as possible, the maximum response time should be days, rather than months. For employers to be able to offer useful support to victims of domestic violence, they need to be able to respond as immediately as is reasonably practicable. The language pertaining to domestic violence leave requiring an employer to respond "as soon as is practicable after receiving a request" could be applied to a request for a change in work arrangements.

Refusals

The Bill includes eight grounds for refusing a request for a variation in working arrangements.

Family Planning finds some of the grounds for refusal too broad. There may be limited legitimate practical reasons why an employer might need to refuse a request, such as *a) an inability to reorganise work among existing staff*. However, refusing because of the potential impact on quality, for example, is so broad that it could be applied in almost any circumstance. Family Planning recommends that the grounds for refusal are reconsidered and made more specific so there is more clarity for employers and employees around legitimate reasons for refusals.

Overall Family Planning supports this ground-breaking legislation. We recommend the following:

- considering expanding the scope of the legislation to cover other forms of violence and harassment outside of domestic relationships
- removing the domestic violence document requirement
- considering including a requirement that employers put in place systems and processes to protect privacy for employees who disclose domestic violence, over and above systems and processes already in place that protect private employee information
- shortening the timeframe for employers to respond to a request for a change in working arrangements
- reconsidering the grounds for refusal to ensure they are clear and specific.

Thank you for the opportunity to comment.

Ngā mihi nui



Jackie Edmond
Chief Executive