



NEW ZEALAND COUNCIL OF TRADE UNIONS
Te Kauae Kaimahi

**Submission of the
New Zealand Council of Trade Unions
Te Kauae Kaimahi**

To the

Law and Order Select Committee

on the

Police (Cost Recovery) Amendment Bill

P O Box 6645

Wellington

February 2015

1. Executive Summary

- 1.1. The CTU opposes this Bill which would enable cost recovery of certain Police services on the grounds that the only service that is being proposed for cost recovery is the Police vetting service.
- 1.2. There should be no charge for Police vetting. Police vetting is well in line with the purposes of the Policing Act and is a primary Police function.
- 1.3. A significant increase in the demand for Police vetting services is expected as a result of safety regulations under the Vulnerable Children Act 2014.
- 1.4. Increased Police vetting is being introduced as a measure to reduce child abuse rates and is indisputably a public good measure. The reduction of child abuse is a specific target (Target 4) of the Better Public Services programmes and Police vetting for the children's workforce is being introduced as a means to achieve this goal.
- 1.5. Cost recovery of Police vetting from other Ministries would negatively impact on the budgets and funding of core public services in health, education and social development and other core services which have a direct responsibility to protect children.
- 1.6. We note the concerns expressed in the Regulatory Impact Statement by some government agencies that cost recovery of Police vetting service may disincentivise its use with consequent effects on the safety of children.
- 1.7. Cost recovery for Police vetting would have major financial impacts on Non-Governmental Organisations, other social sector agencies and the voluntary sector as these agencies and organisations would be expected to pay for the service.
- 1.8. The Proposal to seek cost recovery of Police vetting could easily lead to costs being sought directly from workers and citizens as part of employment checks or application processes.

- 1.9. The Police vetting service should be funded by general taxation. Vote: Police should continue to fund Police vetting, with increases to provide for the expected extra demand from the significant expansion of this service.
- 1.10. The cost discrepancy between what the Australian Police Services – both Federal and State - currently charge for Police vetting services and the estimated cost of the service in New Zealand, as identified in the Regulatory Impact Statement prepared for this Bill, is unexplained.
- 1.11. Police vetting is now a statutory requirement for some professional groups and this will extend to more professional and workers under the Vulnerable Children Act. Any requirement or process that statute requires it to be undertaken – and in this case, where there is a level of compulsion applied - should not then be subject to a cost recovery process.
- 1.12. If a cost recovery model for certain Police services were to be introduced, any requirement for Police checks, that are required under the safety checking regulations must expressly exclude employees, workers, and others, who are being Police vetted by requirements under the Vulnerable Children Act 2014.
- 1.13. We urge the Select Committee to reject applying cost recovery to Police vetting. These procedures are an essential and necessary public good measure to ensure public safety, prevent crime and abuse, provide reassurance and meet Result 4 of the Better Public Service targets to reduce child abuse.

2. Introduction

- 2.1. This submission is made on behalf of the 36 unions affiliated to the New Zealand Council of Trade Unions Te Kauai Kaimahi (CTU). With 325,000 members, the CTU is one of the largest democratic organisations in New Zealand.
- 2.2. The CTU acknowledges Te Tiriti o Waitangi as the founding document of Aotearoa New Zealand and formally acknowledges this through Te Rūnanga o Ngā Kaimahi Māori o Aotearoa (Te Rūnanga) the Māori arm of Te Kauae Kaimahi (CTU) which represents approximately 60,000 Māori workers.
- 2.3. The purpose of this Bill is to enable cost recovery for certain Police services. However, as the Bill itself states, *“at present the only service being considered for cost recovery is the Police vetting service”*.
- 2.4. Increased Police vetting will have major effects on workers, health professionals, public sector departments and other Crown Agencies. The impact goes beyond the public sector and public service agencies and Ministries. It will impact on the non-regulated workforce who work in the core public sector; the contracted-out public funded sector, non-governmental agencies (NGOs) and private sector businesses and practices. All these services will be expected to undertake Police vets for a greatly increased number of staff. Police vetting may have a direct financial impact on workers if they are asked to provide a clear Police vet as part of a job application process.
- 2.5. The CTU and its affiliates have a major stake in this issue. CTU affiliated unions in the core, wider state sector and in the private sector will all be affected by proposed safety checking under the Vulnerable Children Act 2014.
- 2.6. The proposed safety checking regulations, which will be introduced under the Vulnerable Children Act 2014, will greatly increase the demands on the Police vetting service. Given that it is intended to apply cost recovery mechanisms only to Police vetting services, this submission focusses on the introduction of Police vetting as a measure under the Children’s Action Plan.

3. Vulnerable Children Act and Police Vetting

- 3.1. The Policing (Cost Recovery) Amendment Bill has been introduced during the implementation of a large and significant government policy programme – the Children’s Action Plan. The goals and aspirations of this programme to better protect children and reduce the risk and rates of child abuse are fully supported. A central component of the Action Plan is increasing the frequency of Police vetting of regulated professionals. The work under way now on draft safety checking regulations proposes Police vetting for all professional and workers in contact with children in the course of their employment. Police vetting will also be required of students and volunteers who are in contact with children in the course of their academic placements or voluntary activities.
- 3.2. The CTU and affiliated CTU unions have participated actively in analysing the policies and the draft safety checking guidelines and proposed regulations which form part of the Children’s Action Plan. Over the last 12 months, overall, there has been a constructive working relationship between the Ministry of Education, who have led this policy and regulatory work, and the CTU and affiliated unions. All the organisations have worked together, to mutual benefit, to achieve better child safety guidelines and policies that are workable, sensible, fair and comply with principles of natural justice, common law and legislated employment requirements.
- 3.3. Police vetting occurs now for many, if not all health professionals, and is a part of occupational regulatory requirements. The major difference is that the proposed new safety checking regulations will greatly increase the numbers of individuals who will be Police vetted by extending it beyond regulated health professionals and also increase the frequency of checking.
- 3.4. We do not object to the principle of Police vetting though we do have some issues about the extent of this new practice and the value and the scope of its application. But we recognise this is not the concern of this Select Committee and

that workable solutions to those concerns still need to be found between the various Ministries, the regulatory authorities and workforce representatives.

- 3.5. The central question for this Select Committee is who funds the Police vetting service when there is a greatly increased demand on the service.
- 3.6. The argument is being made that the Police vetting service confers a degree of private benefit to the users and that it is appropriate to therefore shift the funding from general taxation to the specific users or beneficiaries of the service.
- 3.7. This argument is incorrect. Any private benefit is small compared to the public benefit and public good nature of the service aimed at preventing child abuse. To the degree it confers private benefit it is hard to see how it differs from any other policing service.
- 3.8. Arguing that the cost of Police vetting should fall on those that benefit from the service is deeply problematic. The vast majority of the children's workforce are going to come back with a clean record so there is no individual or private benefit for them.
- 3.9. A further reason for not ensuing that Police vetting does not have a cost recovery process is that Police vetting under the Vulnerable Children Act 2014 will become a statutory requirement. Any requirement or process that statute requires it be undertaken – and in this case, where there is a level of compulsion applied - should not then be subject to a cost recovery process.
- 3.10. Police vetting of the children's workforce delivers not only a specific public good but is a recognised component in achieving one of the top 10 public service priorities: ensuring New Zealand children are safe and better protected from the risk of abuse.
- 3.11. By introducing a cost recovery process, the Government would increase the costs for government agencies, NGOs and community organisations which must use Police vetting, thereby in effect reducing the budgets for services for which the Government says it wants to improve, in part to address child abuse. The result

will be that, at least in part, the Government will negate its own objectives. The impact will be particularly intense at a time when the Government is also committed to fiscal stringency.

- 3.12. Given that Police vetting service fits easily under the primary functions of the New Zealand Police under section 9 of the Policing Act 2008, particularly to maintain public safety, prevent crime and provide community support and reassurance, there is no justification for seeking cost recovery of the service.
- 3.13. If a cost recovery model for certain Police services were to be introduced, any requirement for Police checks, that are required under the safety checking regulations must expressly exclude employees workers, and others, who are being Police vetted by requirements under the Vulnerable Children Act 2014.
- 3.14. We urge the Select Committee to reject applying cost recovery to Police vetting. These procedures are an essential and necessary public good measure to ensure public safety, prevent crime and abuse, provide reassurance and meet Result 4 of the Better Public Service targets to reduce child abuse.

4. Police Consultation Documents

- 4.1. In 2012, a Consultation Paper (Paper) was released by the Police arguing for certain services to be cost recoverable to improve the services the Police provided. The Consultation Paper stated that *“one service is initially being proposed for cost recovery. This is the Police Vetting service. No further Police Services are being considered at this stage as part of the proposals”* (New Zealand Police, 2012, p. 13).
- 4.2. The Paper set out the problem as the Police having limited or no control over certain aspects of resource allocation and therefore being unable to expand resources. The Paper stated that overseas experience showed that recovering the costs of providing certain services is one way that Police can continue to make available services that represent value for money. It proposed cost recovery of certain Police services on the basis that it would*“free up some Police resources and better ensure funding is focussed on areas that more directly contribute to the*

prevention of crime and to safer communities in New Zealand" (New Zealand Police, 2012, p. 8).

- 4.3. The Paper stated that having cost recovery provision in the Policing Act 2008 would enable a *"formal cost recovery framework to be put in place with appropriate scrutiny for each service considered for cost recovery"* (New Zealand Police, 2012, p. 7).
- 4.4. It stated that an earlier consultation process had found "cautious support" for cost recovery. But this earlier consultation process had only looked at a tightly defined question. Namely: *"Should a new Act allow for costs to be recovered at over and above policing at large public events"*. The cautious response was summarised as: *"strong opposition from some national quarters but cautious support given to the idea by a majority of submitters.* (Police Act Review Team, 2006).
- 4.5. The suggestion that there is some support for cost recovery of Police services does not extend to support for Police vetting. It only referred to cost recovery by the Police for large public events for which there is a better argument of private benefit and ability to pay or find alternatives.
- 4.6. As to what the respondents to the 2012 consultation paper said about cost recovery for Police vetting – not enough is known. There is some information contained in the Regulatory Impact Statement (RIS) about the 2012 submission responses (New Zealand Police, 2013) but it is not specific enough to the issue of Police vetting. Nevertheless the RIS did report that *"a number of submitters"* to the 2012 consultation paper commented that, *"Police should not be able to charge for services provided in the interest of the public good, for example Police services that contribute to the protection of vulnerable people"* (ibid p.10).
- 4.7. Government departments identified major reservations and in some places opposition to the cost recovery model being applied to Police Vetting. The RIS reported that the Ministry of Education considers *"vetting and screening a public good and a preventative service"* and *"there is potential risk that cost recovery will disincentivise the use of screening and vetting in the education sector and*

consequently affect the safety of children” (ibid p.9). Children, Youth and Family Services is “opposed to the introduction of a charge for this service as they consider that vets are done in the public good” (ibid p.9).

- 4.8. Of the 119 submitters who responded on the specific proposal of recovering costs for Police vetting, 9% gave unqualified support, 33% were broadly supportive of the proposal, 27% were mostly opposed and 31% were totally opposed. There was a clear majority opposed to the proposal.
- 4.9. Government policy is greatly increasing the demand on the Police vetting services. For the Government to expect this service to recover its costs from the very agencies the same policies are supposed to be improving is underhand and represents an abdication of the Government’s responsibility to ensure the policy’s significant financial impacts are properly funded.
- 4.10. We support wholeheartedly the goal of ensuring that children are given a higher level of safety and protection but cost recovery of Police vetting is simply transferring costs to government departments, social sector agencies and to organisations and individuals who have no capacity or budget to fund this additional requirement which has been created by Government policy.
- 4.11. The consultation paper noted that Australia Federal Police charge A\$42 for police Check and Victoria A\$34 and NSW A\$52. Volunteers of NGOs are charged reduced rates. The NSW Police force does not provide checks for child-related employment. National Police checks for volunteers working in Commonwealth supported ages care cost A\$15.
- 4.12. The estimated costs of Police Vets in the RIS and the Police Consultation document is set between \$5 -\$7. This is very low compared to the Australian charges. The concern is that the cost is being set low now, but if it were to be implemented would rapidly increase.

5. Police Services – A Public Good

- 5.1. The proposal for cost recovery is justified on the basis that there are some Police services, *“which provide a degree of private benefit to the user(s) of the services. It is considered appropriate to shift funding for these services from general taxation to the specific users or beneficiaries of the service”* (Policing (Cost Recovery) Amendment Bill, 2014, p. 1).
- 5.2. While some services the Police provide may not fit within the category of public good, the Police vetting service is for the benefit of the public and is a public good on the basis that the service is provided on a non-excludable and non-rival basis. By this it is meant that it is non-excludable because the benefits from the provision of the good – in this case Police vetting – cannot be confined to only those who have paid for it. It is non-rival in consumption in that the consumption of the good by one person (or organisation) does not reduce the availability of it for others.
- 5.3. There may be some situations where there are private benefits associated to businesses from services provided by the Police Service – examples are such as a rock concert or some sporting events. Though these could easily have public good elements to them too.
- 5.4. The Consultation Paper itself recognised the public good of Police vetting stating *“that the general public benefit from the Police vetting service in that it contributes to the overall safety of communities”*. It was followed by the non-sequitur: *“Therefore it is more appropriate that the approved agency rather than the general taxpayer funds a service that particular individuals benefit from.”* (New Zealand Police, 2013 p.21)
- 5.5. This is confused logic. On the one hand the Paper recognised that *Police vetting contributes to overall safety* – a public good. But it also states *...“that it is more appropriate that the approved agency rather than the general taxpayer funds a service that particular individual benefit from”*. (New Zealand Police, 2012)

- 5.6. Given that health and education (including early childhood education) and other services are funded by general taxation, this seems to be a clear attempt to cost shift without good reason. The point that cost recovery is justified because particular individuals benefit from the service is equally baffling.
- 5.7. There may be occasions and some services where we could concur that Policing offers a private benefit and that individuals do benefit – but not in this context. There is a much clearer case for a private benefit when police attend an emergency call at a private house, but no-one would suggest there should be a charge for this. The reason is that firstly, the public benefits from a sense of security and from crime investigation, prevention and enforcement, and secondly, where life and limb are at stake, charging is widely accepted to be inappropriate, particularly given that many suffering from it would be unable to pay. There is some individual benefit from Police vetting services to the children who are hopefully better protected by increased Police vetting. Given the requirement to protect children it could be argued the schools, hospitals and other institutions responsible for their care also benefit from the vetting. But given successive Governments' views that the provision of these services is an important public good in itself, worthy of billions of dollars of public funding, it is perverse to then set up systems to transfer other public costs to them.
- 5.8. The benefits from Police vetting are overall public benefits, as the Police acknowledge, which make for a stronger and more secure society. This is further reinforced by the Action Plan to reduce child abuse which will extend Police vetting to cover more people more often, whose very existence implies the recognition of important public good elements. It is simplest both in principle and practice to leave the cost with the Police and continue to fund it by general taxation from the Vote: Police appropriation.
- 5.9. There are also some concerns that there could be direct costs on individuals who apply for jobs and are informed that they are required to provide evidence of a clear Police vet as part of their application process.

6. Conclusion

- 6.1. This Bill is presented as enabling the Police to cost recover for certain Police services. However, the only service where it is proposed to implement cost recovery is for the Police vetting service. The requirements to Police vet for many professional and workers is a statutory requirement. Cost recovery for Police vetting is being proposed at a time when the demands on the Police vetting service will increase. The additional demands on the Police vetting of the workforce come about from the requirements for safety checks under the Vulnerable Children Act 2014.
- 6.2. Police vetting is an essential Police service and is one of the purpose of the Policing Act 2008 and a recognised public good. Cost recovery of Police vetting would transfer costs onto public service departments, impose new costs on NGOs and social service providers. It could potentially, be a cost on individuals. Police vetting has been determined by government to be necessary and therefore must be funded adequately and remain within the Vote: Police appropriation. Additional costs for the service as a result of new statutory requirements must require additional funding.

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