

Managing Sex Offenders in the Community
A SAFER WAY

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EXECUTIVE SUMMARY

New Zealanders are very concerned about how sex offenders are managed in their communities. A number of high profile cases, where offenders have returned to poorly prepared communities, have exposed the extent of those public anxieties.

At present there is a range of responses to sex offending and sex offenders in New Zealand. While local expertise is developing, there is no co-ordinated strategy, and little common understanding of purpose between service providers and statutory agencies. This means that poorly-managed sex offenders continue to live in our communities – and New Zealand children are unnecessarily at risk of being sexually abused.

The model of managing sex offenders adopted by the United Kingdom provides a blue print for improving the way in which sex offenders are managed in New Zealand. The British model is based on some key principles, which are:

- a universal commitment to preventing re-offending
- recognition of the special nature of sex offending, and the particular response required
- the need for multi-agency collaboration

These principles have led to the introduction of specialist legislation. New laws require compulsory registration of all sex offenders for a period, which is calculated on an assessment of their ongoing risk to the community. All relevant agencies, under the leadership of the Police, work together on safety plans for paroled or supervised offenders. In addition, special orders that impose tight controls on the offender can be sought from the Court. This co-ordinated response is more efficient, and more importantly it has increased public safety significantly.

The New Zealand situation requires:

- Public Education
- Specialist training for decision-makers
- The appointment of a Lead Agency responsible for developing protocols and practices for multi-agency risk management
- Sex-offender legislation
- Co-ordination and collaboration in treatment
- Improved supervision of sex offenders
- The development of Risk Identification tools
- Special housing for sex offenders

All of these facets are essential components of a comprehensive strategy. The legislative changes required are significant, and decisions in other areas need to be made at a political level. Many changes, however, could be implemented cost effectively – and delivered through the existing networks of voluntary and statutory agencies, which are currently involved with sex offenders.

INTRODUCTION

A number of high profile cases have revealed how concerned New Zealanders have become about the management of sex offenders. Communities know very little about sex offenders, or how they think and operate. What is known is that they do terrible things to children. Police statistics reveal that in 1998 there were 1299 prosecutions for sexual assaults on children younger than sixteen. This resulted in 681 convictions. Because some of those offenders were convicted for a number of offences, a conservative estimate suggests that at least 200 sex offenders were convicted in that one year.

Whether the New Zealand public like it or not, sex offenders live in their communities - and they will continue to do so. Society will never ever be able to send sex offenders off to an island, where they have no contact with children. Hating and fearing sex offenders is not an answer in itself. So, New Zealanders must learn how to manage sex offenders effectively.

THE NEW ZEALAND SYSTEM

It is only in the past 15 years that New Zealanders have come to understand the extent and impact of child sexual abuse. In those 15 years some excellent work has been done here, to bring the issue to public attention. There has been:

- Research
- The development of social work and medical investigation of sexual abuse
- The development of treatment programmes in prisons and the community
- More treatment programmes for adolescent offenders
- Important therapeutic work with victims and their families.

There are problems with our approach however. Most of the major developments have been victim-focused – and in particular child-focused. We have responded to the pain of the most vulnerable, without addressing the needs and of the sex offender. More pertinently, we have not addressed the issue of how to prevent further abuse by those convicted. To do so, is to deal with half the problem. While there has been good will between agencies working to stop child sexual abuse, there has been limited communication in the interests of managing sex offenders. The reality is that New Zealand children will continue to be sexually abused if sex offenders are not managed properly.

The existing processes in responding to child sexual abuse can be summarised as follows:

1. Investigation of allegation of child sexual abuse

Child Youth and Family, with the Police, investigate an allegation of sexual abuse, and is responsible for securing the safety of the child. This will typically involve interviews with the alleged victim and family members. The child may spend some time in care while matters are resolved – and in the most difficult cases Child, Youth and Family may need to find a long-term placement for the child or young person. Child, Youth and Family will also organise any therapy and treatment required by the victim. These services are normally contracted out to private providers, and funded by ACC.

The Police deal with the alleged sex offender. They determine whether there is enough evidence to lay charges, and are responsible for prosecuting the offender.

2. Conviction and Sentence

This is the responsibility of the Court. The Police bring charges on behalf of the Crown, and the alleged offender has their own legal representation.

Guilt is determined by the Judge and/ or jury, and the offender is sentenced to a custodial or non-custodial sentence. The Community Probation Service monitors non-custodial sentences, and provides supervision for offenders once they are released from prison.

3. Sex-offender treatment

This is provided to some motivated offenders who receive custodial and non-custodial sentences. In the prisons treatment is provided by staff, and in the community it is normally provided by specialists under contract.

New Zealand has established high-standard treatment programmes. There are three large community-based programmes in Auckland (SAFE), Wellington (STOP) and Christchurch (STOP). There are smaller programmes in Hamilton (STEPS) and Nelson (STOP). In addition, there are two effective prison programmes in Auckland (Te Piriti) and Christchurch (Kia Marama).

4. Cessation of case management

Once the offender has been released from prison and/ or completed their treatment, involvement with statutory and treatment agencies finishes.

What society effectively says to offenders at this point is “you’ve committed the crime *and* done the time”. We assume that sex offending is like other crimes. What the approach misses for sex offenders and violent offenders, is that it does not recognise the compulsivity of sex offending nor – importantly – the high cost and impact of the sexual assault of children. This process can see a paedophile convicted, punished, possibly treated and dismissed within two years. Prison may punish the offender but it does not stop re-offending.

We know that the treatment of sex offenders lowers recidivism. New Zealand studies estimate recidivism of sex offenders – in the short-term after treatment – to be less than 10 percent. What is not known, is how long the positive impact of treatment lasts. In addition, professionals have yet to figure out how to allocate limited treatment resources accurately. There are no effective measures in use, which determine who is more likely to re-offend on release, or even who should be a priority for limited treatment resources.

People are working hard to attempt to lower the risk of the offender – but there are some gaps in the New Zealand approach. These are self-evident when the New Zealand and British systems are compared.

THE BRITISH SYSTEM

Late last century, one or two very disturbing cases of child sexual assault shocked the British public. One case – where four previously convicted sex offenders abducted, raped and murdered a young boy – was particularly gruesome. One of the offenders was later murdered in prison, and another released into the community. The public reaction was so powerful, that within days of his release the offender fled to the Police station for protection. As a consequence, he has been in prison voluntarily ever since.

This public outrage, combined with increased professional understanding of the risks sex offenders pose, means that in Britain sex offenders are now managed more closely than other offenders are. This required a number of changes to policy, legislation and practice, and they were implemented within a very short period time.

Guiding Principles

The key to the changes is a set of guiding principles, which provide a context for British policy, legislation and practice. These principles are:

1. The impact of violent and sexual crimes is particularly traumatic, and the public require special protection from sex offenders.
2. Public safety takes precedence over sexual offender rights, particularly in relation to confidentiality.
3. Crime prevention is a priority.
4. Sex offenders cannot be cured. They can only choose to manage their own behaviour under controlled conditions.
5. All agencies involved must work together to maximise safety.

Legislation

There has been significant legislative reform, addressing sex offending in Britain, over the last ten years. This legislation covers the issues of parole, registration and open-ended sentencing.

In 1991 the Criminal Justice Act determined that all parolees, including sex offenders, spend a minimum of a year on parole – whatever the length of their sentence. This means that even those convicted sex offenders, who are still in denial, would be subject to a period of supervision and management following their release from prison.

In addition, the Sex Offenders Act 1997 required all convicted sex offenders to register with the Police. This Act also determined the Police's lead role in managing risk and preventing re-offending. The registration process for sex offenders is a simple one, where the names and addresses of the offender are registered with the local Police. It does not include the more contentious practice of Community Notification.

The most recent legislative change is the Crime and Disorder Act 1998, which provides for extended periods of post-release supervision for sex offenders. The Act also introduced sex offender orders, which help the Police manage sex offenders in the community. These orders are made on application to the Court, and are used to impose a range of directives considered necessary to increase public safety.

Registration and the special orders can last up to ten years. The level of assessed risk of re-offending determines how long. If there is any breach of the order – which can even include an offender *preparing* to re-offend – the Police can refer the matter back to Court, which may in turn order the offender back to prison. This means that the Police do not have to wait until a sexual assault occurs before they can apprehend a sex offender.

Practice

Legislation determines that there is collective commitment by all professionals to reduce sex offending. This is embodied in the Multi-Agency Risk Panels (MARPs), which are convened by the Police and bring together all relevant professionals to assess risk, and devise and review safety plans for offenders. These panels are used for high-risk offenders. However, the concept of interagency communication and collaboration is practiced around all sex offenders.

It is like Strengthening Families applied to sex offenders, but MARPs have the weight of legislation behind them. At MARP meetings tasks are allocated, such as monitoring responsibilities, housing, education and treatment needs.

The Multi Agency Risk Panel can include:

- Probation Service workers
- Police
- Child Welfare services
- Mental Health services
- Quality Assurance Unit
- Prison staff
- Clergy
- Housing Officer
- Prison staff
- Any others who may contribute to managing the offender in the community

The Police are legislated to manage this process for all offenders. When a convicted offender is released into the community, the Police go to their home, take their photo and collect information about their appearance, criminal history, associates, modus operandi and other agencies working with the offender. This information provides the basis for Police monitoring. The Police will continue to add other relevant information to this file, as long as the offender is on the Sex Offender Register.

The Probation Service also has specialist staff who work with sex offenders. Groups of probation officers work in small teams providing community-based treatment. These programmes are similar to those here, although they are not as comprehensive. These specialists are also available as consultants to other probation officers supervising the offenders, on a day to day basis.

In addition, the Probation Service administers specialist risk estimation tools for assessing the likelihood of re-offending. Risk assessment is carried out at all points where decisions are made. This information guides the judiciary in sentencing, and is also used when the offender is released into the community to direct case management. While they still require some development, these risk estimation tools also help allocate resources according to need.

STRATEGY FOR CHANGE IN NEW ZEALAND

The British model provides a framework for improving the way sex offenders are managed in New Zealand. Many improvements can be made within short timeframes, with little or no additional resourcing. It is difficult to prioritise the changes required, because each component of the British system is an essential part of a comprehensive strategy.

Among the following recommendations, there are a number that can be implemented immediately with little or no additional resourcing. Others will take some consideration and research, but they are also critical components.

1. Legislation

Legislation is needed to create the apparatus for this new model of working, and to determine who will lead this area of crime prevention. In the first instance, this requires a collective commitment to a common set of principles that prioritise the rights of children.

Additional sentencing provisions, which provide much more than just punishment, must also be considered. An offender's participation in treatment programmes – in prison or the community – must be acknowledged, as well as any period passed without re-offending. This can be tracked through registration or special orders, which are formulated once the degree of risk the offender poses – after they are released from custody – has been assessed. New Zealand must consider legislation that requires the registration of sex offenders, open-ended sentencing, special orders and minimum parole periods.

This type of reform is significant. The **Justice Department** could oversee the development of the legislation, which would obviously need to include a call for submissions from all parties and the general public.

2. Public Education

The public must be given information about how to make children safe, when sex offenders live in the community. Giving information about who offends, why they offend and what helps them to stop offending, helps demystify sexual offending and abates public panic and fear. Caregivers, teachers, professionals and anyone else who has intensive contact with children, need to know what practical steps they can take to protect children – and where they can get help.

This task fits neatly into the parameters of the role of **Child, Youth and Family**, which has a statutory responsibility to increase public awareness of child abuse. This

could involve a special information campaign, and the development of posters, booklets and possibly help-lines.

Public fear of crime is a real issue. Communities are sometimes unnecessarily anxious, and this can result in reactionary demands for punitive responses – which cannot prevent this type of crime. Public education about what action is being taken to prevent crime, and information about how sex offenders operate should help alleviate some of those public fears. The public effectively become part of this prevention plan.

3. **Specialist Training for Decision-makers**

In the process of conviction, sentencing, parole and supervision there are a number of key decisions, which affect the management of sex offenders. Given the high likelihood of re-offending and the associated costs, it is critical that all of those charged with making decisions about the punishment, release, supervision and general management of sex offenders, have the information they need.

Specialist training should be made available for the **judiciary, crown prosecutors, parole board members** and of course **probation officers**, who are advising the courts and managing offenders on release. Cost-effective training could be provided within in a very short period of time.

4. **Nomination of Lead Agency**

A co-ordinated response to sex offending requires a lead agency responsible for ensuring the integrity and development of policies and procedures. In Britain the lead agency is the **Police**. This is a possibility in New Zealand but the **Community Probation Service (CPS)** could equally assume this role. While there are resourcing issues for all agencies contributing to the management of sex offenders, this is especially true for the nominated lead agency.

The lead agency would need to ensure that:

- all offenders on a community based sentence or parole are assessed in terms of their likelihood to re-offend
- management plans are created
- all agencies involved in the plan are clear about their respective roles
- tasks and responsibilities are completed
- regular case reviews take place

Because this is a crime prevention, child protection, public education and offender management issue, the decision about who leads sex offender management is political.

1. **Protocols and Practices for Multi-Agency Risk Management**

The lead agency would be responsible for ensuring that policies are designed, that maximise public safety when offenders live freely in the community. Addressing the disclosure, management and exchange of information about offenders is a priority. So far we have tended to over-emphasise offenders rights to privacy, and in the process we have compromised children's safety.

2. **Collaboration in Treatment Responses**

Even though professional networks are emerging between community-based and prison treatment programmes in New Zealand, there are no clinical links between the two programme types. The existing contract-for-service mechanism tends to segment services that are not in competition with one another.

This could be resolved by introducing policies – which would be implemented by the **Department of Corrections** – that direct communication and collaboration between programmes. This might mean, for example, that a treatment programme provided in prison is complemented by community and family reintegration work, provided by a community-based programme.

3. **Improved Supervision of Sex Offenders**

Managing sex offenders who are subject to community-based sentences or are on parole, is a specialist task. This supervision requires:

- an understanding of the triggers to sex offending
- consideration of community safety
- co-ordination of all facets of the offender's treatment plan.

Specialist training to nominated **probation officers** will increase community confidence and safety. This training could be provided immediately by local expert trainers.

1. **Risk Identification**

At present all treatment programmes are provided on the basis that the offender meets the particular criteria of that programme. There is very little assessment by the referring agent – usually the Community Probation Service – of any individual treatment needs, particularly related to sex offending. Treatment tends to be provided generically, and on a first come first serve basis. High-risk offenders and those most

likely to benefit from treatment do not receive any priority. There is effectively no accurate targeting of existing resources for treatment.

New Zealand needs risk-assessment tools for sex offenders. These tools can inform us about sentencing, treatment provision, and management in the community and child safety issues. The Community Probation Service is developing risk assessment measures for offenders, but they do not include consideration of the special nature of sex offending. Risk assessment models, which specifically address sex offending, have been developed overseas – and they should be imported and adapted.

2. **Housing Needs**

There are no existing residences for sex offenders in the community, who are on supervision or parole. Offenders tend to live in the normal range of residential situations: like privately owned homes, rented accommodation, boarding houses, and caravan parks. And those not in community treatment will often return to live with families which include vulnerable victims. Even with treatment, poorly thought-out living situations can increase the risk of re-offending.

Offenders who have been released from prison, or are serving a community-based sentence, or need to move out of their home for the safety of victims, need supervised hostel accommodation. This type of accommodation would be transitional, and would allow time for permanent, safe plans to be developed. Residents would be required to pay board.

While it may be difficult to find the right location for such housing, it is a safer option than allowing sex offenders to live in communities with no supervision or controls. **Housing New Zealand** or **local councils** could assume responsibility for the provision of this housing, which could then be managed by the **Community Probation Service**.

SUMMARY

We are all concerned about sex offending against New Zealand children. We know too well about the tragic immediate and long-term outcomes for this most vulnerable group of children and young people. The issue is also extremely costly for a society, which must deal with the fall-out of sexual abuse. Until recently our priority has been to tend to the pain of young victims. This has been entirely appropriate, but we now need to broaden the scope of our vision. We need to pursue preventive strategies more aggressively, and this means that we must learn how to manage those sex offenders who live in our communities.

There are a number changes and initiatives that can be introduced in New Zealand, to manage sex offenders and protect children from sexual abuse. Some can be effected immediately, while others require more consideration and planning. What these changes require of all of those who work in the interest of child protection and crime prevention, is a common understanding of the impact of sexual abuse. We must also be prepared to work in a concerted, co-operative way so that we maximise existing resources.

STRATEGY FOR IMPLEMENTATION

1. Public Education

- **Stage 1**

Design, publication and distribution of an information booklet.
Design, publication and distribution of posters.

- **Stage 2**

Radio and television advertisements.

- **Stage 3**

Public and professional education training/workshops.

Time-frame: Design and delivery over the next two years.

1. Expert Training for Decision-makers

- Design and delivery of a three-hour training package on the effective management of sex offenders.
- One generic package suitable for the Judiciary, Parole Boards, and Community Probation Service.

Time-frame: Immediate delivery

1. Lead Agency Nominated

Policy advice.

Time-frame: Within three – six months

2. Protocols and Practices for Multi-Agency Risk Management

Multi-agency involvement and consultation in the development of written protocols and practices.

Time-frame: Six months

3. Legislation

- Analysis and investigation of need.
- Consultation.
- Writing and usual processing of legislation.

Time-frame: Within two years

1. Collaboration in Treatment Responses

Meetings between community-based and prison treatment providers for the development of written protocols and practices between the two sectors.

Time-frame: Within three months

2. Improved Supervision of Sex Offenders

- Design and delivery of one-day training package.
- One delivery per CPS Area.

Time-frame: Within six months

1. Risk Identification

Assessment, development and implementation of a risk assessment tool to aid the management of sex offenders, and more effectively target resources.

Time-frame: Twelve months

2. Housing Needs

- Identify actual housing needs of those convicted and living in the community.
- Establish hostels and engage and train supervisory staff.

Time-frame: Twelve months

ALISON THOM

Alison Thom (Nga Puhī, Ngati Wai) is a qualified social worker and manager. She has worked in social services – particularly care and protection – for sixteen years. Alison is especially interested in the development of effective social services for Maori, and raising awareness about how to prevent child abuse and neglect.

Alison began her career as a Maori Affairs Community Services Trainee, and has since worked as a Social Worker, Social Work Trainer, Practice Consultant, and Manager with the Department of Child, Youth and Family Services. Alison has also worked as a Senior Policy Advisor with the Department of Social Welfare, and a researcher at the Office of the Commissioner for Children.

Alison is a past Director of SAFE Network in Auckland, a community-based treatment programme for adult and adolescent sex offenders. SAFE also works with the families and support systems of sex offenders in treatment, and provides education and training for professionals working with sex offenders.