

To the Justice Committee,

Re: Victims of Sexual Violence (Strengthening Legal Protections) Legislation Bill

About us

Aviva is a family and sexual violence charity established over 50 years ago. Our vision is a violence-free Aotearoa. Until then, we work to support people to overcome its effects and make families and communities safer. We work with people of all ages, genders and experiences of violence. It is only by breaking the cycles of abuse and trauma, which have plagued generations, that we will create safe futures for tamariki, in a world where all children can reach their potential.

Since being established in 1973, we have worked with over 43,000 people. In the last five years alone, we have worked with more than 8,000 individuals/whānau, of whom 16% were tamariki. Since establishing our specialist services for survivors of sexual violence in 2014, we have supported over 4000 of such clients, and our referral numbers have increased each year, now accounting for around 40% of all whai ora.

Our position

Aviva supports this Bill.

The correlation between Aviva's two core services, Family Violence and Sexual Violence continues to show us that there is incredible intersection between the two areas of harm, greatly affected community wide. Our interaction with all from within the community offers us insight and data to support the critical need to ensure that legislation provides those who have experienced violence (victims) absolute surety as they journey through what can be a long and arduous process.

Clause 1: We wholeheartedly agree that children under the age of 12 years should never be asked if they consented to sexual activity and nor should they be asked if they enjoyed the sexual activity. It is known that the body can respond to certain touch or activity and, therefore, this line of questioning has a high risk of deepening and further embedding the trauma for children. We therefore support the increase of the maximum period of imprisonment for sexual abuse of a child under 12 from 14 years to 20 years.

However, we would like to offer additional thoughts for consideration please.

- I. We think that the bill should go further. Adult survivors of childhood sexual abuse should, likewise, never be asked if they consented to or enjoyed the abuse they experienced as children. We would also like to see this same protection extended to all people that have been sexually violated, regardless of age, as asking such questions leverages rape myths and perpetuates a culture of sexual violence and entitlement.
- II. We suggest that the age of consent (currently 16 years) be what it says: the age of consent. Under the age of 16 years a person should not be viewed as consenting.

- III. Based on research conducted in 2021ⁱ we would ask that the legislation consider the potential risks associated with simply asking a young person if they “consented”. We would ask that the legislation take into consideration asking tamariki or rangatahi if they have been sexually assaulted. Their ability to understand what this means within a strict legal perspective would be minimal and we advise some caution around how that information is gathered and determined, and the ‘admission’ that consent was given or understood. For both rangatahi and tamariki, the choice and ability to feed into the systemic processes are marred with misunderstanding, restricted timeframes and jargon to name a few of the barriers.

Clause 2: We support the complainant of sexual offences having greater autonomy over their own name suppression. Current legislation can be further disempowering and in causing victims to feel silenced, imposes a stigma which is not theirs to carry.

However, we stress that for an informed choice to be made that information must be made available in such a way that it is easily understandable by the complainant. Legislation should reflect this necessity. Further, we suggest that the committee consider, at this time or in future, extending the right of name suppression to survivors of family violence as well.

In summary

The amendments offered in this bill align well with Aviva’s kaupapa to eradicate violence, specifically, in this case, sexual violence. They are both child centred and victim centred. We highlight the importance of legislation which enables victims to make informed choices, through access to clear, age appropriate, information. We also urge that the bill extend its protections to all mokopuna aged up to 16 years old.

Our agreement for the amendments echoes others within our sector and are strongly influenced by our engagement in this sector over the last 50+ years and the need for our mokopuna to be heard in any consideration of legislative change.

ⁱ We undertook a research project in 2021 ‘*Doing Better by Our Rangatahi*,’ which highlighted (among other things):

- the need for further education and empowerment of youth to better understand sexual harm and consent;
- improved access to discreet, online environs for support services specifically for youth.

Our definition of Sexual harm and Consent suggests ‘*a comprehensive term that includes any forced or inappropriate sexual activity. Sexual Harm includes a situation where sexual contact is made, with or without penetration that occurs*

because of physical force or psychological coercion or without consent, including situations in which the victim would be unable to consent because of intoxication, inability to understand the consequences of their actions, misperceptions because of age, and/or other incapacities.'

The findings recognised 'Young People who experience sexual harm can be found in every level of society, every gender and ethnicity, and require individualised care, support and advice to enable long term healing and recovery. The uniqueness recognised within the development growth of rangatahi causes us to ensure that their voices are heard within our court systems, whilst keeping them safe from further harm, victimisation or discrimination, all of which can be variable in their visibility and response.'

Again, from the report, 'our social services, health and justice systems can be challenging for young people to navigate and at times can lead to additional stress. Collaborative and wrap around support from government and non-government sector agencies with a specific youth focus that works in a timely and comprehensive fashion is required.'