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Dr Smith – sexual violence injures

The National Council of Women of New Zealand (NCWNZ) today received communication from the Minister of ACC, Hon Dr Nick Smith, regarding its request that the clinical pathway be halted and the review undertaken immediately.

The main points raised in the letter from the Minister included the legislated criteria for ACC related assistance for those injured by sex crimes. The claims process, which included the DSM-IV diagnosis, and potential delays to approval arising from the absence of this diagnosis, were also outlined. The Minister did not mention however that prioritising of claims will also be based on whether a claimant is in “paid employment”, or for example, on a benefit or retired.

The Minister also stated that:

“For the independent review of the guidelines to be effective and meaningful, the system needs to have been in place for a period of time. I have determined that six months should be appropriate to see how the new guidelines are working and if changes need to be made.”

“This remains deeply concerning for the National Council of Women of New Zealand,” says Elizabeth Bang, NCWNZ National President. “There is already sufficient evidence presented by the experts in the field that the pathway is faulty and likely to cause harm. While a six month period appears reasonable in political terms; from the perspective of the providers and claimants it simply is not. From NCWNZ’s perspective this is a guaranteed six months of a heightened level of discrimination against women.”

Men and women who have experienced sexual violence would also be insulted by the following statement from the Minister of ACC in his correspondence, that:

“A client making a sensitive claim should be made aware that a diagnosis of mental injury, from a person qualified to make it, is part of a process that is more complicated than an individual decision to undertake therapy.”

The “complicated process” that Dr Smith refers to is the clinical psychologist ticking some boxes that indicate a victim has symptoms of mental illness, e.g. dissociation; a survival tool, and/or Post Traumatic Stress Disorder (PTSD); a condition which can manifest itself over years.

NCWNZ contends that the “individual decision to undertake therapy” is not an uncomplicated process, perhaps akin to deciding what one will wear that day. Private

material gathered from survivors who made the “individual decision” includes the following:

- *A person putting themselves forward for treatment/therapy feels haunted every step of the way. The experience includes: anxiety, sadness, fear, anger, self-loathing, hate, self-pity, badness and many other emotions.*
- *A victim doesn't want to be there, doesn't want to feel the way he or she feels, wishes there was a hole to hide away in, feels lesser than any other living person, wishes it had never happened, and is confused about who should be blamed.*
- *A victim doesn't know who can be trusted, wants to be strong enough to be an “island unto himself”, doesn't know why life seems so tough for him/her, is envious that others haven't had the experience and their lives seem better and they seem superior.*
- *Making the “individual decision” includes will my friends know, will my family know and how might they react.*
- *If the offense was incest, can I function in my job, will I be a good parent. Can I break the cycle?*
- *You cry so much and feel like people can tell that you are “spoilt goods”.*
- *Therapy turns your heavily guarded world upside down, and you have to rebuild. It is complex.*

“We have a situation where ACC requires victims to worsen over time so that the desired number of boxes can be ticked, rather than recognising simply that sexual violence injures people”, says Elizabeth Bang.

“A change to the legislation is required,” says Elizabeth Bang. “The current definition, mental injury which is in practice will be assessed as mental illness doesn't work for people.”

NCWNZ is aware that statistics have been released on the number of claims ACC has approved for treatment via the clinical pathway, versus the number of claims approved same time last year.

“A little more than one third of sexual violence victims have been approved to take this rockier than before pathway to recovery,” says Elizabeth Bang. “As for the rest, you will need to wait till you are fully symptomatic of mental illness and reapply then (given ACC maintains it has not had a decrease in the number of clients presenting for treatment and furnishing claims).”

NCWNZ was interested to read the Royal New Zealand College of General Practitioners' press release supportive of the Clinical Pathway. The Minister of ACC had referenced this press release and attached it to his communication.

“This Press Release is almost a collectible,” says Elizabeth Bang. “We are certainly puzzled as to why the GP's recently pulled their “public stance” off their website. Perhaps it is just a technical glitch seeing as the Minister is quoting it.”

NCWNZ will be making more materials available via its website, ACC action page <http://www.ncwnz.org.nz/acc-changes-to-sexual-abuse-counselling/>. The communication to and from the Minister of ACC will be part of the material posted.

“We are delighted with the response from individual supporters and organisational supporters, who have signed on to this information/education portal,” says Elizabeth Bang.

“While we do not welcome the new year for victims of sexual violence who will all be transferred on to the clinical pathway on 10 January 2010, we do welcome the reopening of all of our branches and their affiliate bodies. We anticipate substantive growth in awareness and support.”

Other communications which will be posted to the site include NCWNZ’s request to the Prime Minister to implement Temporary Special Measures, as mandated under articles 2 and 4 of the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW).

Also, NCWNZ’s official complaint to the Health and Disability Commissioner regarding the breach of the HDC Code of Health and Disability Services Consumers’ Rights, submitted on behalf of Maori Women will be accessible.

NCWNZ intends to submit a similar request to the Maori Party, calling for Temporary Special Measures as part of the Convention on the Elimination of All Forms of Racial Discrimination (CERD) mechanism, for the protection of Maori Women. The Maori Party has signalled its intention to investigate claims of discrimination via the ACC Minister.

A complaint to the Human Rights Tribunal is also being considered, however with the dissolution of the Women’s Action Plan, the only coverage women had, which afforded some prioritising under the New Zealand Action Plan for Human Rights (Priorities for Action 2005—2010), it is less clear if this is a suitable or equipped vehicle for women’s complaints. Also, the timeframe that NCWNZ is looking at for action may not fit with what is needed.

“We too are prepared to submit to a box ticking exercise,” says Elizabeth Bang. “We believe we have demonstrated the most seriousness of this situation to the Government on behalf of women. It certainly is not our desire to bully or harangue; however we are constitutionally bound to “serve the interests of women, children and families.”

“The effects of sexual abuse are wide ranging for the families involved,” says Elizabeth Bang. “Early intervention is essential for the recovery of the abused and in the long term must save treatment costs within ACC and the Health System.”

Further Information:

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