

# Risk Assessment and Management of Perpetrators of Sexual Abuse in New Zealand

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[Sexual Offender Treatment, Volume 13 (2018), Issue 1/2]

## Abstract

*New Zealand has seen changes in sexual abuse policy and practice over the last 10 - 15 years that have been driven by social factors, political and policy decisions as well as risk management concerns. The changes to the prevention, assessment and management of sexual abuse in New Zealand have been both challenging and proactive for the criminal justice system; this has been guided by international research and evidence based practice. In recent years there has been an increasing move amongst professionals, practitioners and policy makers starting to think of sexual abuse as a public health and criminal justice issue; although, this has not filtered down to the public and the media yet. This article will look at the current status of sexual abuse policy and practice in the New Zealand, what has changed, its impact and where it is moving in the future.*

*Key words: sexual abuse, public health, policy, risk management, New Zealand*

Sexual Abuse is a major issue that has been growing in the political and public sphere in New Zealand over the last 20 years or so. Generally speaking sexual abuse in the New Zealand is conceptualised as a public protection and risk management issue, with preventing re-offending and offender management being its key components. Over the last 10 years, or so, especially between 2010 & 2011, there has been an increase in the reporting, recording, prosecution and sentencing of perpetrators of sexual abuse in New Zealand. A number of factors have led to the increased reporting including increased public education and awareness on sexual violence; increase in available support services; 2007 Commission of Inquiry into Police Conduct which resulted in significant changes in the way Police train for and handle sexual assault complaints, as well as Police culture; changes to government funding of sexual abuse services and support; changes in the ways in which complainants are able to give evidence in court; and a 2009 government taskforce for action on sexual violence.

Over the same period the introduction of new legalisation including, but not limited to, Extended Supervision Orders (10 year community supervision orders) in 2002 and Public Protection Orders (civil commitment) in 2014 has resulted in an increased volume of perpetrators of sexual abuse in the New Zealand criminal justice system, which is stretching limited resources further. Given this changing context, this piece will not only discuss the current practices in the risk assessment and management of persons who have sexually offended in the New Zealand, but also consider future issues and debates.

## Attitudes to Sexual Abuse

In New Zealand public attitudes towards perpetrators of child sexual abuse are similar to other westernised countries. There is a fear of 'stranger danger', with perpetrators being viewed as

monsters and unlikely to change (Thakker, 2012); therefore the public are punitive and supportive of incarceration. In general, New Zealanders are not well informed, with their views of perpetrators of sexual abuse coming from the popular media (Thakker, 2012), which is often biased and sensationalised. Media reporting of sexual abuse in the country uses deterministic, prerogative and labelling language which reinforces stereotypes (Thakker, 2012), for instance "Convicted paedophile successfully argues for removal from Child Sex Offender Register", "Sexual predator who drugged boy finally admits his offending" & "Pattern of naming and publishing photos of offenders in news stories, Name and shame at every opportunity". Recently there have been high profile public cases that resulted in public concerns about the placement of person's convicted of child sex offences in the community which has resulted in the Department of Corrections (Corrections) having to move these individuals into other placements. These situations highlight the public's attitude towards those who have sexually offended against children, which is typical of the "not in my backyard" approach and community Facebook pages aimed at "keeping our children safe". What this demonstrates is the general public's lack of understanding of the true risk someone convicted of a sex offence against a child poses.

Interestingly, a New Zealand academic, with international colleagues, is starting to change the language that is being used around perpetrators of sexual violence (Willis, Ackerman & Prescott, 2018). Dr Willis argues that we should refer to these individuals not as sexual offenders or sexual predators but rather as individuals who have committed a sexual offence. The change of dialogue and disclosure, it is hoped, will start to change public understandings of sexual abuse and its perpetrators the same way that changing the dialogue around individuals with learning difficulties as well as mental health issues. We are starting to see shifts in the in the academic and practice discourse; however, we are still waiting to see a shift in the public discourse. The use of person centred, first person language is part of a movement to get sexual abuse recognised as a public health issue rather than simply just a criminal justice issue. However, there has been no major government agency, nor smaller based non-government service provider that has attempted any public education initiatives on sexual abuse, the reintegration of people that have committed sexual abuse post-conviction and their risk management.

## **The Reality of Sex Offender Risk Assessment**

In New Zealand risk assessment for people that have committed a sexual offence are commonplace within the Justice system and amongst community based treatment providers. Within the court context there are legal precedents (R V PETA) which set the expected standards of practice (Glazebrook) that practitioners adhere to. The Glazebrook decision set out the guidelines for best practice risk assessment within the criminal justice system, specifically the courts. The Glazebrook decision set out the way in which the judiciary see best practice within the court setting only, with different practice occurring in other fields. Formal risk assessments are undertaken by 'Health Assessors', whom are required to be registered Psychologists and or Psychiatrists. Overall the trend is for evidence based risk assessment to inform offender management and integration. Typically professionals will use empirically based actuarial measures including the static-99R and ASRS-R (NZ Corrections automated static risk measure), STABLE-2007, VRS-SO, PCL, HCR-20v3 as well as Structured Professional Judgement.

When undertaking an assessment for an Extended Supervision or Public Protection orders, there are further factors which an assessor must assess which are detailed in the Parole (Extended Supervision) Amendment Act 2014 and Public Safety Public Protection Orders Act 2014. While the assessor will generally utilise the above approach, some of the areas required for consideration are not based on any empirical risk factors, and instead speak more to those factors which have an inherently 'feel good' factor to them (e.g., a lack of acceptance of responsibility or remorse).

The Department of Corrections has devised its own static risk measure to assist in assessment and risk management decisions. The Automated Sexual offender Recidivism Scale (ASRS), recently updated to the ASRS-R, is a computerised assessment based on the static-99R. Research has shown good long term validity and reliability for the Automated Sexual offender Recidivism Scale (Skelton, Riley, Wales & Vess, 2006).

## **Treatment of People Convicted of a Sexual Abuse**

In New Zealand people convicted of a sexual offence can receive sex offender treatment in prison and/or in the community. In prison, treatment programmes are generally prioritised for higher risk and higher need individuals (Risk-Needs - Responsivity model) (Department of Corrections, 2018a), these usually last 9 months and, as much as possible, are time to coincide with a person's release date or parole board hearing. The prison treatment programmes are mainly Cognitive Behaviour Therapy (CBT) based with some now incorporating the Good Lives model as well. There are two child sex offender treatment programmes, Kia Marama (Department of Corrections, 2018b) and Te Piriti (Nathan, Wilson & Hillman, 2003), which were designed based on William Marshall's treatment programmes. Te Piriti is a bicultural treatment unit and has incorporated tikanga Māori framework (Māori culture, values, customs and etiquette) into its therapeutic programme. Both Te Piriti and Kia Marama run programmes for those with special needs (e.g., low IQ, mental health needs, Asperger's) as required. Corrections also provide a shorter 10 week prison based intervention programme for lower risk individuals. For those individuals who have completed the Kia Marama or Te Piriti treatment programmes, Corrections also run monthly aftercare groups in the community for the remainder of the offender's sentence. For adult sex offenders there are 3 adult orientated treatment programmes.

Community based treatment programmes are provided by non-government organisations. Their client base includes those on community based sentences, those who had short prison terms and need to complete treatment whilst on parole (both Corrections funded), those who have self-referred, and those referred by other agencies (e.g., Oranga Tamariki - Child Services). Community based programs again are generally CBT based and incorporate the Good lives model. There are 3 main providers; STOP (STOP, 2018), WellStop (WellStop, 2018) and Safe Network (Safe Network, 2018), as well as smaller regional providers and kaupapa Maori (working from a Maori world view) service provider such as Korowai Tumanako (Korowai Tumanako, 2018). Some providers will run programmes for online and ID offenders, however this is dependent on numbers and need.

## **Risk Management Systems, Policies, and Practice**

The preferred model for community management of people who have committed sexual offences is based upon the Dynamic Supervision Project (Hanson, Harris, Scott & Helmus, 2007) which rooted in the development of the STABLE-2007. This is the model utilised by both Police and Corrections, as well as many community based providers. Recently there is more of a focus being placed on the Good Lives Model (Willis & Grace, 2008), especially by community based providers, but with Police and Corrections following suit. Until October 2016 all offender management (for those who have committed a child sexual offence) was overseen by Corrections. Since that time Police have also taken on a management responsibility due to the inception of the Child Protection (Child Sex Offender Government Registration) Act 2016. This has resulted in both agencies working in partnership, making data sharing and multi-agency work more straightforward. What this also means is because everything is housed under two partner agencies the training of staff and their

knowledge of offenders and offender management is more streamlined than it would be in a more multi-faceted system. Under the current model when first released and on sentence both agencies are involved in overseeing the management of the person, although Corrections is the lead agency, and once the person has finished their sentence the Police become the lead agency.

Corrections sees itself as a preventive and responsive organisations, that works to manage individuals and prevent re-offending by said individuals; which means that it needs a very clear "what works", individualised approach to risk management. In recent years there has been a big shift to rehabilitation programmes, rather than simply focusing on punishment and control, and programmes looking at upskilling the clientele as well as addressing their problematic behaviour. This is important as one of the biggest exports from New Zealand in recent years is the development and maintenance of the Good Lives Model by Prof Tony Ward and colleagues. The Good lives model focuses on the idea that offenders want to live positive lives but that because of contextual, situational and personal (i.e., emotional, psychological, etc.) issues they are unable to do that (Willis & Grace, 2018). The Good Lives Model has become the cornerstone of the treatment and management of perpetrators of sexual abuse in the western world over the past 15 - 20 years, feeding into notions of risk management, desistance and prevention. The shift in offender management in New Zealand reflects this and enables the individual to recognise that they can change, while giving them the tools to do so. This, interestingly, seems to be reflected in the fact that New Zealand does not use the polygraph in sex offender treatment and management. In addition, the collaboration of corrections and the police in risk management has led the police to become more focused on what works and evidence based in practice. Given that Police have management oversight over individuals (8 yrs, 15 yrs or life) this has encouraged Police Case Managers to view their role from a Good Lives Model/desistance view point. Therefore whilst Corrections is more sentence management focused, Police can be more lifestyle and desistance focused in their long term practice.

The individual is placed at the centre of rehabilitation and reform, rather than the offence being the driving factor. What is generally equated to is that while they are in prison there is a more sentence management focus (especially if inside for a while), with a shift to addressing their problematic behaviour the closer they get to their release date (they time programmes so they coincide with their first parole board hearings). The preventative focus is more easily seen in the community based sentences, especially, with the use of restorative justice and community rehabilitation programmes.

In terms of supervision restriction and orders for offender management in the community New Zealand has a number of these, including;

- Extended Supervision Order (ESO) Parole (Extended Supervision Orders) Amendment Act 2014: Applied for at the end of a person's determinate sentence, an ESO is a community based supervision order, and can be imposed by the courts for up to 10 years, for those deemed high and very high risk. Originally introduced in 2002 this legislation was solely concerned with child sexual offending, the 2014 amendment included all sexual offending and violent offending. Aimed at those who pose a real and ongoing risk of committing serious sexual or violent offences". Those offenders are managed by Department of Corrections for the length of the order.
- Public Protection Order (PPO) (NZ version of civil commitment for the very high and imminent risk) Public Safety (Public Protection Orders) Act 2014: This legislation is New Zealand's version of civil commitment, and included the construction of a specialist 8 bed unit to house the person's placed on this order. Since its inception only 3 offenders have been placed on a PPO, which is reflective of the very small group of offenders that the legislation was intended to capture.

These orders are demonstrative of the social-political climate in NZ, and are indicative of society's feelings towards these individuals. However at the same time, they are also reflective that despite the political influence in the legislation there is recognition of the research in the field and the need to ensure the correct higher risk individuals are targeted. Recently, in October 2016, the New Zealand government introduced a Child Sex Offender Register. This was developed and introduced based upon a socio-political response to a high profile instance of poor information sharing between government agencies in a child protection case. Te Rito Miki (Hartevelt, & Vance, 2012) was found to be using multiple aliases to still teach at schools whilst being on a 10 year ESO, which resulted in a commission of enquiry that had implications for offender management policy and practice. The experiences that resulted in the sex offender register reflects other international experiences as there introduction has been followed, high profile cases, public outcry and/or calls from professionals (Thomas, xxxxx). In New Zealand anyone who commits a qualifying sexual offence against a child can be put on the register for 8, 15 years or life, with the length of time on the register is based on the qualifying offence. The current register (New Zealand Police, 2018) provides legal vehicle to gather information and monitor an offenders whereabouts in the community, however the intent of the register was to keep children safe.

### **3 Purpose**

*The purpose of this Act is to establish a Child Sex Offender Register that will reduce sexual reoffending against child victims, and the risk posed by serious child sex offenders, by -*

- (A) providing government agencies with the information needed to monitor child sex offenders in the community, including after the completion of the sentence; and*
- (B) providing up-to-date information that assists the Police to more rapidly resolve cases of child sexual offending.*

Police have adopted a Risk Management Framework with police case managers specially trained in working with persons who have committed sexual offences and in managing risk. Hence, In New Zealand, the driving force behind the Child Sex Offender Register is to help police and corrections with the management of known sexual offenders in the community, it is not to disclosure information to the public or to name and shame perpetrators; it is therefore a public protection and risk management tool only.

There is no community notification scheme in New Zealand. While Corrections does have an internal community notification of sex offender information policy, it is a stark contrast to international models and policies where the public can have access (e.g., USA). Corrections have senior advisers whose role is to work within communities focusing on the engagement and reintegration of those who have committed a sexual offence and in some cases, based on circumstances, Corrections will notify a community if a person who has offended against a child is released from prison. These decisions are based upon public protection, risk management and community safety. When a decision is made to disclose only limited information is provided to the community (i.e., the offender is not named) stating that there is a person residing within the community that has committed a child sex offence and then the community is provided with information on how to keep themselves and their family members safe. This approach is akin to a public service announcement and reduces the likelihood that offenders (albeit more difficult in smaller communities), as well as their families, being targeted or attacked. Corrections have recently established these positions to aid the placement of offenders in the community. This policy means that those communities can be made aware of potential high risk individuals in their area,

that corrections can continue to safely more them and that these offenders can be appropriately housed in a risk free environment. The safe housing of persons who have committed sexual offences in the community is a real practical challenge for corrections and a high public concern, reinforced by media coverage of the issue (Willis & Grace, 2018); which impacts upon integration, employment and successful community management (Willis & Grace, 2018).

In addition, to these positive intra and inter agency working practices New Zealand has previous used Circles of Support and Accountability with individuals who commit sexual abuse upon their release from prison. Circles of Support and Accountability are no longer supported by Corrections in NZ after the high profile incident where an offender, Philip John Smith, duped a COSA support person to assist him in skipping the country whilst on a 72 hour release in 2015. This resulted in a suspension of any circles in New Zealand that has not been lifted since, and seems unlikely to be lifted any time soon.

## Prevention of Sexual Abuse

Over the last 5 - 10 years in there has there has been a growing understanding of the need for a new preventative approach to sexual abuse New Zealand (Dickson & Willis, 2015). The conversation about the prevention of sexual abuse in New Zealand is rooted in public health and restorative justice (xx ref xxx), with research indicating that professionals are keen for the prevention programmes to develop and be successful (Dickson & Willis, 2015). New Zealand has been at the learning edge of prevention work and practice through programmes like Body Safe (Body Safe, 2018), the Sexual Abuse Prevention Network (Sexual Abuse Prevention Network, 2018), Sexual Abuse Education (Sexual Abuse Education, 2018), and bystander intervention initiatives (Denny et al, 2015). In addition to this, as stated before, New Zealand academics and professionals are leading the way in the use of first person language in sexual abuse and the reframing of the perpetrator, therefore enabling a more realistic conversation about the people versus the acts themselves (Willis, Ackerman & Prescott, 2018; Dickson & Willis, 2015).

## Conclusions

The risk assessment, management, treatment and integration of those who sexually abuse in New Zealand is orientated towards community protection and risk management, based upon proactive, collaborative working. This means that it is integrative and collaborative in nature, with multi-agency working at its core. One of the benefits of being a small country with one Police force and one Corrections department is the ease at which both agencies can work in a collaborative and evidence based manner, which is demonstrated by a number of policies and practices including the child sex offender register and Extended Supervision Order's. The management of these persons is a controversial issue, always in the press, a public concern, a political driver and, therefore, high-profile (often problematic) cases are often focused on rather than the successful daily management of thousands of other cases. This in turn can undermine public support in the system. Therefore we need to empower the criminal justice system to better explain, justify and account for their working practices, and in turn enable us to use this knowledge in better preventing sexual abuse in the first place.

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