



GOVERNMENT OF SAMOA

**Ministry of Women, Community and Social Development****Consultant****Child Care & Protection Policy AND Implementation Plan****TERMS OF REFERENCE**

**Location:** Apia, Samoa.

**Inputs:** 45 working days

**Reports to:** Assistant Chief Executive Officer, Division for Research, Policy, Planning & Information Processing.

**Works with:** The Division for Research, Policy, Planning & Information Processing and Division for Social Development.

**1. Background**

By Cabinet's direction, the Samoa Law Reform Commission (SLRC) initiated a Child Protection project in 2009, which focused on identifying laws dealing with the care and protection of Samoan children, and the extent to which Samoa was compliant to its obligations under the Convention of the Rights of the Child (CRC). A key component of this project was the Child Protection Baseline Survey, conducted by the MWCS D in 2011.

Both the Baseline Survey (2013) and the SLRC Final Child Protection Report (2013) affirmed that the exposure of Samoan children to various risks and danger was a grave reality. The risks were multifaceted and ranged from experiences of abuse

and neglect to commercial exploitation and street vending, as well as issues of delinquency and a lack of access to essential services<sup>1</sup>.

***Key Issue 1: The absence of a comprehensive legislative framework to protect children in Samoa.***

- This has been identified as a major contributing factor<sup>2</sup>, in addition Samoa's CRC Full Legislative Compliance rate is very low at only 18%<sup>3</sup>.
- The need to reinforce and align current legislation that relate to the wellbeing of our children, their families and their community that we may strengthen existing systems so that parents, families and communities are better equipped to **care and protect** their own children, especially those who are identified to be at specific risk or need. These areas of legislation are varied and include health, education, financial, labor and employment, family safety and others.
- The need to strengthen the current legislations related to family and community wellbeing to strengthen the current systems that are in place so that parents, families and communities are better able **respond** to incidences of child neglect, abuse and exploitation utilizing and/or strengthening customary processes.
- The current Draft Child Care & Protection Bill includes references to some new systems and structures that are not currently set up Samoa. The content of the Draft Bill are partially derived from a Western style 'welfare' system and introduces new concepts (such as the standards of care, alternative care of a child other than the parent) that are foreign to the customary structures and systems currently in use in Samoa's communities.
- Although the Bill defines a child, there appears to be no clear description of what constitutes "child in need of care and protection".

***Key Issue 2: The absence of regulatory mechanisms to administer the operation of child care and protection services in Samoa.***

- There are currently practices in Samoa that include the removal of children from their families to be cared for by outside individuals and groups. This is carried out through by order of the courts or by specific NGO's taking in individuals who may self-refer. While these services have evolved to meet an identified need, it is of concern that there are no current regulations or policies governing the NGO

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<sup>1</sup>Samoa Law Reform Commission, Child Protection Legislation Final Report 2013. Apia

<sup>2</sup>MWCSD, 2013. Child protection baseline report for Samoa. UNICEF: Suva

<sup>3</sup>Samoa Law Reform Commission, Child Protection Legislation Final Report 2013. Apia

sector or other individuals who are supporting or caring for children who are considered to be at-risk of neglect, abuse and/or exploitation.

- There are no regulations and case specific policies to guide the delivery of statutory or government-led child care and protection services in Samoa, for instance children placed in the care of MWCSO by direction of the courts
- There is currently draft policy for child protection and care<sup>4</sup> as well as a draft child protection universal framework that is written in Samoan language. The focus of these draft documents are on putting into place a community based child care framework that emphasizes the family as well as the extended family unit as the primary duty bearers for the care and protection of a child below 18 years old. In circumstances where the family has failed as the last resort to provide the basic necessities due to the most extreme circumstances, then Government is obligated to support the care of the child at risk through alternative temporary care with other suitable members of the community, private citizens or NGOs that have been certified to care for children in these situations. One of the key features of the Bill that will be challenging and very new to the way Samoa child care work operates, is the setting up of standards of care which obligates any person, organization that works in the area of child protection to be assessed, approved and granted a child care license (after complying with all required standards of care) before he/she, they can provide alternative care for a child that cannot live with their family or relatives due to reasons of safety and in best interest of the child.
- There are currently processes in place for adoptions of children within families and between different families by means of vae tama or similar customary process in the context of faa Samoa<sup>5</sup>. Where it is proposed that a child is permanently adopted to a family overseas the current process is guided by the Infants Ordinance 1961 and the Infants (Adoptions) Regulations 2006.
- There is a concern that the current regulations that govern the process for international adoption practice may not be promoting customary processes, or utilizing a strength-based approach to support families to care for their own children and that in some cases, preference is unduly given to adopting Samoan children overseas. In many cases this is evident as children have already been

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<sup>4</sup>Child Care Policy, Internal Guide for Identifying and assessing victims of child abuse and neglect, National minimum standards for child care service providers. These documents are sitting with the Research, Policy and Planning Division.

<sup>5</sup>Jennifer Corrin & Lalotoa Mulitalo (2015) Not 'mere window dressing': children's rights and adoption in Samoa, *The Journal of Legal Pluralism and Unofficial Law*, 47:2, 208-225, DOI: 10.1080/07329113.2015.1085767

matched with prospective parents and, guardianship orders granted to alternative carers before any comprehensive and meaningful attempt is made to place a child with their own family members.

***Key Issue 3: The absence of a community based Practice Framework to support families and communities in the care and protection of their children and to respond to incidences of neglect, abuse and exploitation.***

- These practices include informal practices within and between families that don't come to the attention of the authorities as they are fully managed by the families, extended family and communities.
- There are more formal practices that include court orders and self-refer instances to an NGO in Samoa that have come to the attention of the authors and have caused concern in a variety of areas.
- This Issue deals with the fact that there is no formal Practice framework to support families and communities to care and protect their children and to respond to incidences of neglect, abuse and exploitation.
- This is the implementation level of the Child Protection legislation, policy and regulations. The practice of supporting families and communities to care and protection their children, identifying the families and communities in need to targeted and specific support, delivery of this support, and implementation of intervention by the family and community system in response to incidences of neglect, abuse and exploitation.

## **2. General Description of Duties and Tasks**

The consultant is expected to;

1. **Undertake a Literature Review of** existing documents relevant to Child Protection. In addition, review the current Child Care & Protection Bill, draft Child Care and Protection Universal Framework, Draft child care & protection issues paper identify gaps to inform the development of the Child care & protection policy.
2. **Compile Reports to reflect findings from Literary Review of outlined** (and additional documents), Consultations (Government and Community Partners and children). In addition, provide regular reports/update to the Ministry on progress of allocated tasks.

3. **Develop a Child Care & Protection Policy document**, to reflect a multi-sectoral approach to the work on child protection, including both research stakeholders & community views, and relevant international instruments regarding the child protection, including the development of a practice model that responds to the needs of Samoan children and families.
4. **Develop a Child Care & Protection Implementation Plan** as part of the Policy document (both in **Samoan and English** languages)

### 3 Selection Criteria/Qualification /Experience Required for Consultant:

#### Essential

- (a) Demonstrated experience in developing policies and action plans in the social development sector, direct experience in child protection related policies is an advantage
- (b) Post-graduate qualifications in Public policy, Human Rights or related fields.
- (c) Demonstrated experience in human rights, child protection issues, working with vulnerable populations, disability or related areas.
- (d) High level cross cultural adaptability and communication skills in both English and Samoan.
- (e) Superior strategic, analytical and writing skills
- (f) Experience in working in the Samoan local context

#### Desirable

- (g) Knowledge of national, regional and international policy frameworks on children including children with disability inclusive development.
- (h) Knowledge of relevant Samoan legal framework.

### **4. Payment:**

Payment will be transferred upon completion of deliverables as outlined in the following schedule (Refer Budget)

### **3. Proposed Schedule for Consultant**

	Task	Details	No. of working days

1	Literature review	<ul style="list-style-type: none"> <li>• Works with RPPD and SDD to gather and analyze relevant documents including Child Care and Protection Bill 2017, Child Care and Protection Discussion Paper 2017 and other supporting documents</li> </ul>	10
2	Consultations with Stakeholders	<ul style="list-style-type: none"> <li>• In consultation with MWCS D , conduct national consultations with MWCS D staff, NCCRC , NGOs and relevant government ministries</li> <li>• Focus group discussions with NCCRC and relevant community members in Upolu and Savaii.</li> </ul>	10
3	Develop Child Care and Protection Policy and Implementation Plan	<ul style="list-style-type: none"> <li>• Utilize the findings of the Literature review, consultations and draft Child Bill to develop the Policy &amp; Implementation Plan to guide the implementation of a Child Care and Protection proposed legislation</li> <li>• Present the draft policy and plan to the Ministry and stakeholders</li> </ul>	20
4	Reporting	<ul style="list-style-type: none"> <li>• Finalise the policy and supporting documents <ul style="list-style-type: none"> <li>• Conduct reporting sessions to MWCS D and partners</li> </ul> </li> <li>• Report to MWCS D Executive Management endorsement of the final deliverables &amp; NCCRC</li> </ul>	5
	<b>Total Days</b>		45