

Chair
Cabinet Social Development Committee

ANNUAL PROGRESS REPORT ON THE UNCROC FIVE-YEAR WORK PROGRAMME FOR 2004/2005

Proposal

- 1 This paper provides an annual review of government activity on implementing the United Nations Convention on the Rights of the Child (UNCROC) five-year work programme for 2004-2008. The paper reports progress on work items for 2004/2005 and signals those items that will be progressed in the 2005/2006 financial year.

Executive Summary

- 2 The UNCROC five-year work programme incorporates work that responds to the UN Committee on the Rights of the Child (UN Committee) recommendations issued in September 2003 on New Zealand's implementation of UNCROC, and on the Optional Protocol on Children Involved in Armed Conflict.
- 3 The paper indicates progress made on the UNCROC work programme items for 2004/2005 in the attached table (Appendix 1). Five items are being addressed through on-going departmental activity, four items are being progressed through separate reports and the remaining two items relate to updated information on the Optional Protocols on children involved in armed conflict and on the sale of children.
- 4 The Ministry of Youth Development is investigating the idea of a forum in mid to late 2006 as a mechanism to inform a wider group of non-government organisation stakeholders on progress with the UNCROC five-year work programme. A forum provides opportunities to discuss individual work programme items in more detail, and the feedback from this process could also contribute to government's consultation process for the 2008 periodic report to the UN Committee. The Ministry of Youth Development will develop a proposal for further consideration internally, and then with other relevant agencies.

Background

- 5 New Zealand presented its second periodic report on UNCROC, covering the period June 1999 to September 2000 and was the first country report on the Optional Protocol on Children Involved in Armed Conflict (Optional Protocol Child Soldiers) to the UN Committee in September 2003. The UN Committee released observations and recommendations for improved compliance with both of these instruments in October 2003.
- 6 The Ministry of Youth Development consolidated the UN Committee recommendations into a *Background Audit of Government Activity (Background Audit)* from January 2004, with the aim of identifying where current and new government activity responded to or aligned with UN Committee recommendations. This audit provided the basis for updating the 2004/2005 work programme, and from that work led to an over-arching UNCROC five-year work programme from 2004 to 2008.
- 7 Cabinet approved the UNCROC five-year work programme in August 2004 and agreed to annual reporting to Cabinet on progress with this work programme. The five-year work

programme includes work that government agencies have already undertaken. Some work programme items do not specifically respond to the UN Committee's concluding observations, but have direct relevance. Including these work programme items in the UNCROC five-year work programme enables more efficient monitoring of progress, and also assists with streamlining information for preparing periodic reports [SDC Min (04) 16/8 refers].

Report on progress with 2004/2005 Work Programme Items

- 8 The table in Appendix 1 provides detail on progress made with the 2004/2005 work programme items from the UNCROC five-year work programme. The table also indicates the relevant UN recommendation that each work programme item is aligned to. The work falls into the following four categories:
- work addressed by on-going departmental activity
 - work subjected to separate reporting functions
 - Optional Protocol to the Convention on Children Involved in Armed Conflict
 - Optional Protocol to the Convention on the Sale of Children.

Work addressed by on-going departmental activity

- 9 There are five work items to report on that are integrated into other elements of government's work, and have distinct reporting mechanisms. These work items support the UN Committee's recommendations rather than being a direct response to them. The work items relate to reducing inequalities in social wellbeing, assessing the impact of economic reforms on children, assistance to child abuse victims, child health outcomes and adolescent health outcomes.
- 10 Each of these work programmes has a number of work streams with direct relevance to the UN recommendations. There have been a number of new initiatives progressed, reports published, reviews of work programmes resulting in a re-focus of policy, and these are outlined in Appendix 1. These work programmes will provide us with cumulative information over the five-year period so that we have an overall picture of New Zealand's progress in these areas for the 2008 periodic report.

Work subject to separate reports

- 11 There are four work items on the UNCROC work programme that are subject to separate reports, and where aspects of those work programme items have been completed or have been reported to Cabinet.

Age of Criminal prosecution

- 12 The Ministries of Justice and Social Development provided a progress report in August 2004 that identified the need for a survey of practitioners working with child offenders, and for a legal opinion on possible amendments to the Children, Young Persons, and Their Families Act (1989). Ministers agreed to the survey and legal opinion and a final reporting date of 30 September 2005. The survey and legal opinion have been completed and this information is being analysed. This analysis will inform the final report to Ministers on improving the effectiveness of responses to offending by children, and implications for the minimum age of criminal prosecution.

UNCROC reservation on children unlawfully in New Zealand

- 13 In November 2004 Cabinet agreed to a set of criteria and a timetable for carrying out a review of limitations on access by children unlawfully in New Zealand to publicly funded health and disability, and education services. Cabinet directed the Ministries of Education and Health to report back to Cabinet in April 2005 on the outcome of the reviews. Cabinet considered these reports in May 2005 and deferred them for re-submittal later in 2005 following further consideration by the Ministers of Education and Health.

Test of best interests to inform the placement of young offenders and the UNCROC reservation on age-mixing in prisons

- 14 The report on developing a test of best interest to inform the placement of young female offenders was due to the Ministers of Corrections and Youth Affairs during 2004. The report back to Ministers was deferred because this test was dependent on the Department of Corrections completing its comprehensive review of the Youth Offender Units. The review was completed in October 2004, and the test work is due to be completed in July 2005.
- 15 The Corrections Regulations 2005 came into force in June 2005. The regulations require all prisoners including accused prisoners under the age of 18 years, to be kept apart from prisoners 18 years or older. Mixing under 18 year old prisoners with over 18 year olds may only occur if the Department of Corrections' Chief Executive is satisfied it is in the best interests of the prisoners concerned.
- 16 The Ministry of Foreign Affairs and the Ministry of Youth Development will report to SDC in November 2005 on the next steps to determine removing the reservation on Article 37 (c) of UNCROC and amending the International Covenant on Civil and Political Rights.

UNCROC reservation on minimum age in employment

- 17 The Department of Labour is carrying out an assessment of the steps required to ratify the ILO Convention 138. Government agreed to this assessment before taking any decisions to lift the reservation on Article 32 of UNCROC. The assessment is expected to be completed in early 2006.
- 18 The Department of Labour also has a work programme on addressing child labour issues and it reported to Cabinet on progress with this work programme in August 2004. A review of the child rebate for income tax was part of this work, and the Minister of Revenue has announced that the child tax rebate will increase from April 2006.

A World Fit for Children

- 19 The Ministry of Youth Development is developing a status report in consultation with NGOs that identifies key priority areas from *A World Fit for Children* and provides a reference point for current and planned activity across government that addresses the key priority area, or highlights where there may be gaps. The Ministry of Youth Development will engage with relevant government departments regarding any identified gaps and how these may be addressed. The status report builds on the earlier stock take work carried out by the Ministry of Social Development, and will be updated annually to maintain its currency.

Training on children's rights

- 20 The Ministry of Justice has recently released *The Handbook on the New Zealand Bill of Rights Act 1990*. The Handbook is intended to make the New Zealand Bill of Rights Act 1990 more accessible to the public sector. The Handbook has been designed as a practical resource to assist officials integrate human rights considerations including the rights of children and young people, into policy and practice development. Ministry of Justice officials

have also designed and presented a series of seminars on the Bill of Rights Act that complement the Handbook.

- 21 The Human Rights Commission released the *New Zealand Action Plan for Human Rights* in March 2005, which has a strong focus on children's rights. The Department of Prime Minister and Cabinet in consultation with the Ministry of Justice and other government departments, is currently considering the next steps for Government's response to the Plan.
- 22 The Ministries of Social Development and Youth Development have been discussing ways to support the Office of the Children's Commissioner regarding its statutory training function and development of its UNCROC training programme. The training programme is aimed at government departments and raising their awareness of UNCROC.

Optional Protocol on Children Involved in Armed Conflict

- 23 In September 2003, New Zealand was the first country to report on the Optional Protocol Child Soldiers to the UN Committee. There are two work items to report on. The first relates to amending section 37 of the Defence Act 1990. Section 5 of the Defence Amendment Act 2001 amends section 37 to make it clear that New Zealand Defence Force Personnel under 18 years are not liable for active service and removes the word "overseas".
- 24 Defence Force Orders for Personnel Administration Chapter 2, section 1, paragraph 2.10 has also been amended to make it clear deploying personnel under 18 years of age on active service is prohibited, whether the active service is overseas or within New Zealand. This work is now completed.
- 25 The second work item relates to the UN Committee's general desire for wide public education and training on UNCROC and its Optional Protocols, particularly for professional groups and the military. The New Zealand Defence Force is developing a suitable training module on the provisions and implications of UNCROC and the Optional Protocol. This work will occur over the five-year period of the UNCROC work programme.

Optional Protocol on Convention on the Sale of Children

- 26 New Zealand has signed the Optional Protocol on the Sale of Children but has not yet ratified the Optional Protocol as ratification requires amendment to several pieces of legislation. A number of amendments have already been made, and a further two amendments have come into force this year.
- 27 The Films, Videos and Publications Classification Amendment Act 2005 came into effect on 22 February 2005. Offences and penalties under the Act, and consequential amendments to related legislation will assist compliance with the Optional Protocol requirements regarding child pornography. The Crimes Amendment Act was passed in April 2005 and it implements the necessary legislation to ratify the Optional Protocol requirements regarding child prostitution and sale of children.

Forum on the UNCROC five-year work programme for stakeholders

- 28 In developing this report, the Ministry of Youth Development has worked with the NGO Advisory Group comprising Save the Children Fund, UNICEF, Action for Youth Aotearoa and Office of the Children's Commissioner. As part of their feedback, NGOs have proposed the idea of holding a forum in June or July 2006. This is the mid-point date for New Zealand's 2008 periodic report to the UN Committee on UNCROC.

- 29 The NGO Advisory Group sees the forum as a useful mechanism for informing a wider group of interested stakeholders on progress with the UNCROC five-year programme. The forum could provide an opportunity for stakeholders to discuss individual work items in greater detail with a range of agencies, and to share information and network. Forum feedback could also contribute to Government's consultation process for the 2008 periodic report. The Ministry of Youth Development will develop a proposal for further consideration internally, and then with other relevant agencies.

Work Programme Items to be introduced in 2005/2006

- 30 The following table indicates work programme items to be introduced in the 2005/2006 financial year. It does not include those work items discussed above that may roll over into 2005/2006, or ongoing work items to be reported on annually over the period of the five-year work programme.

	Item	Status	Commencing
1	Reservation: International Covenant on Civil and Reservation to the International Covenant on Civil and Political Rights (ICCPR) on age-mixing in prison Agency: MFAT, MYD, Corrections	Deferred from 2002/2003	2005/2006
2	Reservation: Minimum age in employment Agency: DoL, MYD	Deferred from 2002/2003	2005/2006
3	Corporal punishment (section 59) Agency: MoJ, MYD, MSD	Deferred from 2002/2003	2005/2006
4	Review policy, practice and legislation Agency: MYD, MoJ	Deferred from 2002/2003	2005/2006

Consultation

- 31 The Ministries of Social Development, Economic Development, Justice, Foreign Affairs and Trade, Pacific Island Affairs, Culture and Heritage, Education, Health, and Women's Affairs; the Departments of Prime Minister and Cabinet, Inland Revenue, Child Youth and Family Services, Corrections, Labour, Internal Affairs; Te Puni Kokiri, Treasury, Statistics New Zealand, the New Zealand Police and the New Zealand Defence Force have been consulted in the development of this paper.
- 32 Non-government consultation with Save the Children, UNICEF, Action for Children and Youth Aotearoa and the Office of the Children's Commissioner, occurred during the update of the five-year work programme table.

Financial implications

- 33 There are no financial implications arising from this paper. Future recommendations from policy work associated with the UNCROC work programme may have financial implications.

Human rights implications

- 34 The purpose of the UNCROC work programme is to increase compliance with New Zealand's international and domestic human rights obligations. The proposals in this paper

do not appear to be inconsistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Legislative implications

35 No legislative changes arise from recommendations in this paper.

Regulatory impact and compliance cost statement

36 Not required.

Gender implications

37 There are no gender implications associated with the recommendations of this paper. Any implications arising from work items will be addressed as part of each work item.

Disability perspective

38 Work on individual items within the UNCROC work programme may advance the rights of disabled children. These will be examined as part of each work item.

Publicity

39 Under Article 44 of UNCROC, New Zealand has an obligation to widely disseminate the UNCROC work programme to provide information to the public on issues the Government is attending to with regard to UNCROC, what progress has been made and timeframes for further progress.

40 The Minister of Youth Affairs will annually update and release the UNCROC work programme, via the Ministry of Youth Development's website, and through letters to relevant NGOs.

Recommendations

41 It is recommended that the Committee:

- 1 **note** that in August 2004 Cabinet agreed to a United Nations Convention on the Rights of the Child (UNCROC) five year work programme for 2004 – 2008 and directed the Ministry of Youth Development in consultation with affected agencies, to provide consolidated progress reports on the UNCROC work programme to Cabinet in June of each year
- 2 **note** the progress on work items for the 2004/2005 financial year indicating items that have been completed and implemented or are on track to be completed according to the milestones dates, and those items that are on-going over the period of the five-year work programme
- 3 **note** that there will be four work items introduced in the 2005/2006 financial year regarding reservations to the International Covenant on Civil and Political Rights on age mixing in prisons, and on the minimum age in employment, corporal punishment, and a review of policy, practice and legislation

- 4 **note** that the Ministry of Youth Development is investigating holding a forum as a mechanism for updating a wider group of interested stakeholders on progress with UNCROC five-year programme, and providing for more detailed discussion on individual work items.

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