

Chair
Cabinet Social Policy Committee

SUBMISSION OF NEW ZEALAND'S FIFTH PERIODIC REPORT UNDER THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

Proposal

- 1 I am seeking approval to submit New Zealand's Fifth Periodic Report (the Report) under the United Nations Convention on the Rights of the Child (UNCROC) to the United Nations Committee on the Rights of the Child (the Committee) by 5 May 2015.

Executive summary

- 2 New Zealand is due to report to the Committee by 5 May 2015 on New Zealand's progress in implementing UNCROC. The Ministry of Social Development has worked with other government agencies to finalise the Report. The Report is attached as Appendix One.
- 3 Cabinet approved the Report for public consultation on 8 December 2014 [CAB Min (14) 39/4]. Public consultation ran from 19 December 2014 until 27 February 2015. A number of key themes emerged from public consultation and the Report has been amended to reflect this.
- 4 The Report has been amended to clarify the New Zealand context, fill gaps in information and increase the use of data throughout the Report.
- 5 The key messages of the Report remain the same. The Government has made substantial progress in improving outcomes for children, implementing the articles of UNCROC and addressing the 2011 Concluding Observations over the reporting period.
- 6 I am seeking Cabinet's approval to submit the Report to the Committee.

Background

- 7 UNCROC is a human rights treaty that sets out a range of civil, political, economic, social and cultural rights for children and young people aged under 18 years.
- 8 New Zealand ratified UNCROC on 6 April 1993, and has subsequently ratified two of the three Optional Protocols to UNCROC.¹ As a State Party to UNCROC, New

¹ New Zealand ratified the Optional Protocol on the Involvement of Children in Armed Conflict on 12 November 2001 and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography on 20 September 2011. New Zealand has not signed or ratified the Optional Protocol on a Communications Procedure.

Zealand is required to report periodically on measures adopted to give effect to the rights contained within UNCROC and on progress made on the enjoyment of those rights by New Zealand children.

9 New Zealand is due to report by 5 May 2015 on the Government's implementation of UNCROC since our last examination before the Committee in February 2011.

The public has been consulted on the Report

10 The Ministry of Social Development undertook public consultation on the Report between 19 December 2014 and 27 February 2015.² The consultation included making the Report available on the Ministry of Social Development's website, along with a summary of the Report and an online survey seeking feedback on Government progress in implementing UNCROC. Interest groups and individuals were invited by email to participate. Public meetings were held in Auckland, Wellington and Christchurch.³ In total 62 submissions were received.⁴

A number of key themes emerged from public consultation

11 Feedback from public consultation highlighted the following issues:

- lack of evaluation of government initiatives for children and accessible data to show the outcomes
- lack of progress towards withdrawing New Zealand's three reservations to UNCROC
- child hardship persists and there is a lack of initiatives targeting the problem
- the Children's Action Plan is not a national plan of action for all children as envisaged by the Committee
- inconsistencies in the definition of 'child' through the use of different age brackets in different statutes
- lack of knowledge of UNCROC amongst government officials and a lack of systematic consideration of UNCROC in policy-making and legislation
- insufficient mechanisms for ensuring the views of children and young people are captured during the policy and legislative process
- little awareness-raising of UNCROC by the Government
- access to adequate education support services for disabled children
- the quality and reach of Early Childhood Education (ECE)
- lack of reform of adoption legislation
- the importance of quality housing to a child's wellbeing
- the Government's response to children in the wake of the Canterbury earthquakes
- the Government's improved emergency response to natural disasters

² The Report was approved for public consultation on 8 December 2014 [CAB Min (14) 39/4].

³ There were approximately 70 attendees in total at the public meetings.

⁴ 26 submissions were received through the online survey and 36 email submissions were received via the UNCROC email address.

- the lack of evidence of outcomes for minority groups, such as children in state care, refugee, migrant, ethnic minority, disabled, gay, bisexual, lesbian and transgender children.

12 A summary of public consultation can be found in Appendix Two.

The Report has been amended in response to public consultation

13 The submissions provided valuable feedback on areas where the Report could be strengthened. This feedback has been addressed by the relevant government agencies and incorporated into the Report where appropriate.

14 The submissions also contained a number of recommendations for the Government to improve its implementation of UNCROC. Some of these points were not able to be addressed in the Report due to the page limit. Some of these issues may be raised through shadow reports from non-government organisations.

The amendments clarify the New Zealand context, fill gaps in information and increase the use of data throughout the Report

The amendments clarify the New Zealand context

15 The introduction has been amended to present a more complete picture of the range of support available to children in New Zealand. New Zealand's work to improve outcomes for children can be viewed across a continuum of services which includes prevention, early intervention, intensive support and statutory intervention.

16 The Report has been amended to clarify the scope and reach of the Vulnerable Children Act 2014 (the Act). Many submitters felt that the targeted nature of the Children's Action Plan was not consistent with its presentation to the Committee as a national plan of action for children. However the Act provides a statutory mechanism for New Zealand governments to set priorities and agree a national plan of action for improving the wellbeing of vulnerable children. The Act enables governments to narrow or widen the scope of vulnerable children's plans, depending on their priorities. This Government's current priorities focus on vulnerable children, as defined in the White Paper for Vulnerable Children and the Children's Action Plan, and in the Better Public Service Result areas.

17 The Report has been amended to acknowledge that the definition of 'child' varies across different legislative contexts to satisfy different policy considerations. The Government has made some progress in this area by:

- exploring the case for raising the age that young people leave state care to 18 as part of the UNCROC Work Programme
- defining a "child" as a person who is under the age of 18 for the purposes of Part 1 of the Vulnerable Children Act 2014.⁵

⁵ Article one of UNCROC requires a child to be defined as "every human being below the age of 18 years unless under the law applicable to the child, majority is obtained earlier".

18 The Report references the international reporting context including a number of recent reports on human rights that have been submitted to the United Nations,⁶ as these reports cover issues raised by UNCROC.

The amendments fill gaps in information

19 The Report has been amended to include updated information on areas that have been high priority for this Government, such as:

- child hardship
- Better Public Service Results
- improving the quality of ECE.

20 The Report has also been amended to fill gaps where there was little or no information, including:

- the relationship between social housing reform and outcomes for children
- the effect of the Canterbury earthquakes on children and the measures the Government put in place immediately following to support families with children
- New Zealand's improved emergency response to a natural disaster
- the effect that Operation Eight⁷ had on the young people involved and remedial measures taken by Police
- paid parental leave
- prevention initiatives for unintentional injury to children
- child witness protections in court
- forced and underage marriage
- Rangitahi and Pasifika Youth Courts
- education initiatives to support children in Tokelau
- partnership schools
- education in rural areas
- climate change
- funding for support services for lesbian, gay, bisexual, transgender and intersex youth.

⁶ These include the Initial Report on the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (submitted to the Committee on 21 July 2014), New Zealand's response to the recommendations made under the Universal Periodic Review (submitted to the United Nations Human Rights Committee on 26 May 2014) and the Sixth Periodic Report under the International Covenant on Civil and Political Rights (submitted to the United Nations Human Rights Committee on 30 April 2015).

⁷ Operation Eight was a Police operation which began in late 2005 as an investigation into alleged paramilitary training camps. It ended on 15 October 2007 with the coordinated arrest of several suspects, the execution of 41 search warrants throughout the country, and the establishment of road blocks at Ruatoki and Taneatua, in an area of particular cultural significance to Tūhoe iwi.

There is increased use of data throughout the Report

21 To meet reporting guidelines more data has been added.⁸ Data has also been integrated into the Report to provide a more cohesive and unified picture of outcomes for children in New Zealand. Areas with additional data are:

- *education*: including student representation in schools, children's access to information and technology at school, the number of children attending special education schools, enrolment of disabled students in higher education, achievement for Māori and Pasifika, the number of international students, teacher-pupil ratios, percentage of qualified ECE teachers, the number of students receiving education in their own languages, attendance at different types of ECE facilities, the percentage of children receiving 20 hours free ECE and the percentage of children experiencing bullying behaviours.
- *health*: including mortality rates by certain illnesses, accidental injury and death of children, smacking of children, obesity amongst children, maternal mortality rates, place of birth, registrations with Lead Maternity Carers, breastfeeding rates amongst Māori women and children's deprivation of necessities in their day-to-day lives.
- *youth justice*: including police apprehensions disaggregated by ethnicity, the number of young people appearing in court and types of sentences received, the number of Youth Justice Family Group conferences involving young Māori and the percentage of legal aid clients under 18 years.
- *special protection measures*: including parents who self-report dealing with frightened or upset children as a result of the Canterbury earthquakes.
- *recreation*: including Out of School Care and Recreation providers and enrolments.

The amendments do not change the key messages of the Report

22 The key messages of the Report remain the same. The Government has made significant progress in improving outcomes for children, implementing the articles of UNCROC and addressing the 2011 Concluding Observations of the Committee over the reporting period (February 2011 to March 2015).

23 The Government's position on child abuse and neglect, child hardship and addressing disparities in outcomes for Māori and non-Māori children remains the same. These are areas where the Government is undertaking substantial work.

24 The Government's position remains the same on withdrawing New Zealand's three reservations to UNCROC, the general measures of implementation, the ages for criminal responsibility and majority, raising the age that young people leave care to 18, the extension of UNCROC to Tokelau and adoption law reform. The Government acknowledges that it has made limited progress in these areas and the reasons for this are outlined in the Report.

⁸ Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44, paragraph 1(b), of the Convention on the Rights of the Child: CRC/C/58/Rev.2 (23 November 2010).

I am seeking approval to submit the attached Report to the Committee

- 25 The Report must be submitted to the Committee by 5 May 2015. I am seeking approval to submit the attached Report to the Committee. I am also seeking approval to make some minor formatting and proof-reading amendments to the Report prior to submission.
- 26 Civil society, including non-government organisations, will then be invited by the Committee to submit shadow reports to the Committee outlining their view of the Government's progress in implementing UNCROC.
- 27 The Committee will advise a date for New Zealand's examination under UNCROC after shadow reports are lodged. The examination will be guided by the information presented in the shadow reports. We expect the examination to be in May 2017.

Consultation

- 28 The attached Report has been developed by the Ministry of Social Development in consultation with the Ministries of Justice, Health, Education, Business Innovation and Employment, Foreign Affairs and Trade, Pacific Island Affairs, Culture and Heritage, Civil Defence and Emergency Management, Transport, Police, Women, Environment, the Departments of Internal Affairs and Corrections, Te Puni Kōkiri, Treasury, Inland Revenue, Statistics New Zealand, New Zealand Defence Force, New Zealand Customs Service, Accident Compensation Corporation, Housing New Zealand Corporation, the Office for Disability Issues, the Office of Ethnic Affairs, and the Families Commission. The Department of the Prime Minister and Cabinet has been informed.
- 29 The Ministry of Social Development has also provided funding to Action for Youth Aotearoa (ACYA) to assist in gathering children and young people's views for a shadow report. ACYA are developing a rights-based framework for consultation in accordance with both UNCROC and the United Nations Convention on the Rights of Persons with Disabilities.

Financial implications

- 30 There are no financial implications for the Government arising from the recommendations in this paper.

Human rights implications

- 31 Reporting to the Committee on the Government's progress to implement UNCROC is consistent with New Zealand's international human rights obligations under Article 44(b) of UNCROC.

Legislative implications

- 32 There are no legislative implications arising from the recommendations in this paper.

Regulatory impact and compliance cost statement

33 A regulatory impact statement is not required.

Gender implications

34 There are no gender implications associated with the recommendations in this paper.

Disability perspective

35 We used the networks of the Office for Disability Issues to publicise the consultation to ensure we heard the views of disabled people and their representative organisations.

36 Following our examination in front of the United Nations Committee on the Rights of Persons with Disabilities, New Zealand received a set of Concluding Observations on 31 October 2014. As some of these Concluding Observations relate to children, we encouraged disabled people and parent groups to comment on the Report.⁹ The Government response to these Concluding Observations is expected to be considered by Cabinet in May 2015.

Publicity

37 This Cabinet paper and the attached Report will be published on the Ministry of Social Development website. It is normal practice to publish Cabinet papers on UNCROC reporting.

Recommendations

38 The Minister for Social Development recommends that the Committee:

- 1 **note** that New Zealand is required to submit its Fifth Periodic Report (the Report) under the United Nations Convention on the Rights of the Child (UNCROC) by 5 May 2015
- 2 **note** that public consultation on the Report was undertaken between 19 December 2014 and 27 February 2015
- 3 **note** the key themes of public consultation as outlined in this Cabinet paper
- 4 **note** that the report has been amended to reflect feedback from the public consultation

⁹ New Zealand has noted Concluding Observations 18 (children with disabilities access to services), 46 (protections for children with disabilities in out-of-home care placements), 56 (access to education and anti-bullying programmes for children with disabilities), and 60 (adequate standard of living for children with disabilities).

- 5 **authorise** the Minister for Social Development to make minor changes to the Report before submission to the United Nations Committee on the Rights of the Child on 5 May 2015
- 6 **agree** to submit the Report to the United Nations Committee on the Rights of the Child on 5 May 2015
- 7 **note** that the Report will be published on both the United Nations and the Ministry of Social Development websites
- 8 **note** that this Cabinet paper will be published on the Ministry of Social Development website.

Hon Anne Tolley
Minister for Social Development

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