



CHILD  
POVERTY  
ACTION  
GROUP



He Mana tō ia Tamaiti  
Every Child Counts

---

**18<sup>th</sup> Session of the Human Rights Council – Universal Periodic Review**

**UNCROC Monitoring Group**

*Monitoring the Implementation of the United Nations Convention on the Rights of the Child in New Zealand*

---

**17 June 2013**

## **Introduction**

1. This submission is made by the non-government sector group (the UNCROC Monitoring Group) established by the Children's Commissioner in February 2011 to monitor the implementation of the UN Convention on the Rights of the Child (UNCROC)<sup>i</sup>. The UNCROC Monitoring Group includes representation by two independent Crown entities; the Office of the Children's Commissioner and the Human Rights Commission.
2. This submission provides an overview of overall UNCROC progress since the UN Committee on the Rights of the Child (CRC) issued their Concluding Observations on New Zealand on 4 February 2011.

## **Current context**

3. Overall, progress in systematically addressing the 2011 CRC Concluding Observations has been slow. In particular, no formal government response or work plan has been issued to date. However, we acknowledge that the February 2011 Christchurch earthquake was an unprecedented natural disaster that has required the deployment of significant public sector resources.
4. Even so, since 2011 there has been considerable policy focus on children and children's issues. This is encouraging and offers a unique opportunity to achieve improved outcomes for children across a number of areas. However, at the time of writing, the most significant of these policy initiatives, the Children's Action Plan arising from the White Paper on Vulnerable Children, is scheduled for implementation in 2014. Many of its areas of action, including legislation, are currently under development and much of the detail is yet to be publically released.
5. We also consider that the report of the Expert Advisory Group (EAG) on Solutions to Child Poverty released in December 2012 provides an important point of reference for considering this report. The EAG's report, accompanied by 25 working papers, sets out 78 recommendations across a multitude of sectors, all of which are relevant in considering means by which greater implementation of UNCROC can be achieved.

## **Part 1. Implementation**

### **CRC Recommendations/Reservations**

6. In its 2011 Concluding Observations the CRC noted "with regret" that its previous recommendations, issued in 1997 and 2003, were yet to be fully addressed. It accordingly recommended that 'all necessary measures' be taken to implement those recommendations<sup>ii</sup>.
7. As noted in our June 2012 report to the DCE Social Sector Forum, UNCROC Monitoring Group is unaware of any documented response taken by the New Zealand Government in respect of the 2011 Concluding Observations of the CRC, although we acknowledge that information of the UNCROC reporting process and outcomes are publically available on the Ministry of Social Development's website.
8. We are, however, encouraged by indications that the development of an UNCROC Work Programme may fall within the auspices of the implementation of the White Paper on Vulnerable Children. However, we note that there is no express reference to such a work programme in either the White Paper, or the Children's Action Plan Summary of Actions.
9. To our knowledge, the government is yet to take any formal steps since the 2011 Concluding Observations were issued towards removing its general reservation and its specific reservations with regard to Articles 32.2 and 37(c).

### **Legislation**

10. The CRC commented that New Zealand's domestic laws are not yet fully harmonised with UNCROC and accordingly recommended that existing legislation is brought into compliance with UNCROC. The CRC also recommended consideration of all child-related legislation as a priority.

11. Since the 2011 Concluding Observations were issued, there has certainly been a considerable amount of legislation introduced and enacted that impacts upon children's UNCROC rights. For example, the 2012 amendments to the Social Security Act 1964 directly concern both Articles 3.1 (the duty of the state to give primary consideration to the best interests of children in decision-making processes) and Article 26 and 27 (the right of the child to social security and an appropriate standard of living, respectively). The Vulnerable Children's Bill, yet to be introduced at the time of writing, will have a significant bearing on the progress of UNCROC's implementation, given its likely scope.
12. On occasion, issues impacting upon UNCROC compliance have been addressed and rectified at the select committee stage; the Bail Amendment Bill<sup>iii</sup> and the Social Security (Youth Support and Work Focus) Amendment Bill<sup>iv</sup> are particular examples. In addition, our observation is that most Cabinet Papers and Regulatory Impact Statements will contain brief commentary or analysis on UNCROC implications in cases where the proposed legislation clearly affects children.
13. However, there is no regulatory mechanism that requires departments of state or Cabinet to measure a proposed policy or regulation against the state's UNCROC obligations on a systematic basis. Whilst the Office of the Children's Commissioner (OCC) has a statutory function to advance and monitor the application of UNCROC by the state, there is a lack of any corresponding duty upon departments to consult with the OCC for this purpose.

#### Co-ordination/Work Programme

14. The creation of a "coordinating mechanism" within government and the development of a "national plan of action" aimed at implementing UNCROC are key implementation recommendations within the 2011 Concluding Observations. Notably, the CRC made similar recommendations in its 2003 Concluding Observations.
15. While to date there has been no formal move towards developing either a coordinating mechanism or a national plan of action of the type considered by the CRC, we are encouraged by the ongoing development of the engagement process under which this report is furnished and the possibility of an UNCROC work programme arising in the near future, as recently indicated.
16. It is also notable that coordinating mechanisms have been established for the purpose of monitoring the implementation of the UN Convention on the Rights of Persons with Disabilities (UNCRPD)<sup>v</sup>. States Parties who ratify the UNCRPD are obliged to establish such a coordinating mechanism by virtue of Article 33.
17. UNCROC does not contain an equivalent provision to Article 33 of the UNCRPD. However, the concept is clearly a central component of the CRC's interpretation of how implementation of UNCROC ought to be realised. This is evidenced by CRC's 2003 General Comment, which proposed that States Parties establish mechanisms within the machinery of government charged with developing comprehensive strategies for children and coordinating and monitoring the implementation of UNCROC<sup>vi</sup>.

#### Allocations

18. While the 2013 budget has earmarked some additional funding in child-specific areas, research indicates that allocations directed towards children are comparatively low when compared to similar OECD countries<sup>vii</sup>.
19. Measuring the extent and effectiveness of allocations for children is difficult due to the lack of any budgetary mechanism that enables child-orientated allocations to be tracked, their effectiveness monitored and their impact evaluated. The CRC recommended the implementation of such a mechanism in both its 2003 and 2011 Concluding Observations on New Zealand<sup>viii</sup>.
20. We note that the Better Public Services strategy contains targets aimed at improved outcomes for children, such as those aimed at improved ECE participation and immunisation rates and decreasing child assault rates for example. However, we are unaware of any government initiative to create a budgetary exercise that would enable it to specify strategic allocations to implement UNCROC, track this implementation, monitor results and evaluate impact, as recommended by the CRC.

## Part 2. General Principles

### Discrimination – Disparities in outcomes

21. In their 2011 Concluding Observations, the CRC expressed concern at disparities experienced by Maori children and recommended that urgent measures be taken to address this. The CRC also recommended that stronger measures are implemented that benefit children in vulnerable situations and address cases of discrimination against children.
22. While measures have been taken to improve access to services and service design in some sectors, significant disparities remain as regards outcomes for Maori and Pacific children and young people, as reflected by child poverty<sup>ix</sup>, youth unemployment<sup>x</sup>, school expulsion rates<sup>xi</sup> and youth justice prosecution rates<sup>xii</sup>.
23. In July 2012, the Human Rights Commission published a discussion paper *A Fair Go For All? Addressing Structural Discrimination in Public Services* as part of an ongoing project on structural discrimination in public systems and services<sup>xiii</sup>. This involved an analysis of the public education, health and criminal justice systems, as well an examination of structural aspects of the state sector and followed a consultation process with government agencies and the general public.
24. The discussion paper indicates that further work is required to address structural discrimination and reduce disparities. In particular, it found that insufficient, patchy or poor data-collection on ethnicity hampers efforts to address inequalities for particular population groups and reflects a lack of commitment to reduce inequalities between ethnic groups<sup>xiv</sup>.
25. We note, however, the ongoing development and implementation of Whanau Ora and other policies and initiatives such as the introduction of ten marae-based Rangatahi courts and two Pasifika courts in the youth justice system. We also note the undertaking by the Maori Affairs Select Committee in 2012 of an Inquiry on the Determinants of Well-being of Maori Children, the findings of which are yet to be released.
26. We further note that while the Human Rights Act 1993 prohibits discrimination on a number of grounds, it continues to omit protection for children aged under 16 years from age discrimination.

### Children's participation in decision-making

27. Perhaps the most significant reform that directly affects the participation rights of children and young people is the reform of Family Court proceedings that culminated in the introduction of the Family Court Proceedings Reform Bill. The reforms were predicated on an intention to “create a modern, accessible family justice system that is more focused on the needs of children and vulnerable people and is efficient and effective”.<sup>xv</sup> However, cost-saving was a primary factor<sup>xvi</sup> with front-end access to dispute resolution services moving to a user-pays model and restrictions on legal aid eligibility and lawyer for child appointment criteria.
28. The current form of the Bill has given rise to concern that these reforms will reduce the current participation rights of children in Care of Children Act proceedings by restricting the appointment of lawyer for child to cases where issues concerning safety are concerned. We note that the Justice and Electoral Committee has retained this limitation in its report on the Bill released on 4 June 2013.<sup>xvii</sup> This has significant UNCROC compliance implications, particularly in light of the CRC's recommendation that a more systematic approach is implemented to enable greater realisation of children's Article 12 rights.
29. In addition to this primary concern, the current form of the Bill does not provide any requirement that the views of children are included in the proposed Family Dispute Resolution pre-Court compulsory mediation process. Nor is there in place any evaluative framework to measure the impact and effectiveness of the FDR as regards the welfare, rights and best interests of children affected by the process.

### Youth Parliament

30. This year the Youth Parliament will convene In July. The Youth Parliament was first established in 1994 and is held every three to four years. The event is coordinated by the Ministry of Youth Development and promoted as “an opportunity for youth to influence government decision-making as active citizens and have their views heard by key decision-makers and the public”.
31. We consider that the Youth Parliament provides a unique opportunity for young people to contribute to the policy discourse of central government. It is perhaps the only example of a systematic process that enables young people to participate in parliamentary business. However, it falls sort of enabling systematic consideration of children and young people’s views in the formation of law and policy, as recommended by the CRC.
32. We consider that the Youth Parliament potentially provides a mechanism by which its participants can monitor progress made for children and young people in the period from from one Youth Parliament year to another. It is therefore essential that issues affecting children and young people are on its agenda and that its findings are considered as a formal aspect of policy formation by both government officials and parliamentarians. We also consider that the selection process should be as open as practicable, well publicised and not dependent on nomination by a proxy Member of Parliament.

#### Other participation avenues

33. We note that, since its formation, the Auckland Council in consultation with young people established a Foundation Youth Advisory Panel (FYAP) in 2011 to replace the youth councils and forums that were disestablished as a result of the merger of the previous city councils. We also note that the Christchurch rebuilding plan has included a youth consultation component.
34. Other non-government initiatives, such as the Child and Youth Council (CYC) and online Hear Our Voices Values Exchange developed by Save the Children New Zealand provide avenues for children and young people to be heard in the submission processes of policy/legislative initiatives or inquiries.
35. In addition, the Office of the Children’s Commissioner has a statutory function to enable the participation of children and young people in matters affecting them and has undertaken child and youth consultations in respect of the Green Paper on Vulnerable Children and the Expert Advisory Group’s report on Solutions to Child Poverty. The OCC also hosts a Young Persons Advisory Group to inform its advocacy and policy work.

### **Part 3. Civil rights and freedoms**

#### Police detention and apprehension of children and young people

36. The Joint Thematic Review of Young Persons in Police Detention, published by the Independent Police Conduct Authority (IPCA) in 2012 issued 24 recommendations aimed at improving police training and treatment of children of young people in police custody. The review found that data indicates that the numbers of children and young people in detained in police custody are on the rise<sup>xviii</sup>.
37. In addition, the IPCA’s recent report on police conduct during the Operation 8 raids issued a key finding that the lack of police policy regarding planning for and response to children and vulnerable occupants affected by the raids was undesirable<sup>xix</sup>. The IPCA accordingly recommended that the Police review and amend their policy on planning for children and vulnerable people in the police manual chapter, in order to set out standard practical steps to be taken whenever children or vulnerable people are present during the execution of a search warrant.
38. Of further note, the Bail Amendment Bill seeks to broaden the statutory criteria under which a child or young person can be arrested for breach of bail.

#### Search and seizure powers introduced in schools

39. We note with concern the Education and Science Committee’s amendments to the Education Amendment Bill that amended the Bill’s original surrender and retention provisions, in favour of significantly expanded search and seizure powers that school staff may invoke over students, including authorizing the use of strip searches down to undergarments<sup>xx</sup>.

40. We are very concerned that these amendments, which regard fundamental civil liberties of children under the New Zealand Bill of Rights Act 1990 and Article 37(a), have not been subject to the s7 NZBORA process to determine consistency.

#### **Part 4. Family Environment**

##### Abuse and Neglect

41. In its Concluding Observations, the CRC recommended both the establishment of mechanisms to monitor the extent of cases concerning abuse and neglect and workforce development in the form of training for professionals who work with children subject to or exposed to family violence<sup>xxi</sup>.
42. There has been an encouraging response to this recommendation in the form of targeted reductions in child assault rates through the Better Public Services Targets<sup>xxii</sup> and the pending implementation of the Children's Action Plan's workforce strategy for professionals working with children and enhanced monitoring and tracking systems<sup>xxiii</sup>. However, implementation of these aspects of the CAP is scheduled for 2014 and thus we are not in a position to evaluate their efficacy.
43. The CRC also recommended that measures are adopted to strengthen support for victims of violence in legal proceedings.<sup>xxiv</sup> This matter has been subject to a high level of policy focus by the Ministry of Justice, which led to a cabinet paper which examined various options aimed at protecting child witnesses from the traumatic impact associated with providing oral evidence in Court. These included pre-trial hearings to adduce evidence from child witnesses, the use of intermediaries during cross-examination and access to support persons<sup>xxv</sup>. However, the Evidence Amendment Bill scheduled to be submitted to Parliament in 2012 aimed at strengthening protections for child witnesses appears to have stalled.

##### Adoption

44. The CRC also recommended that the government review the adoption system including provision mandating child consent where appropriate<sup>xxvi</sup>. However, progress in modernising New Zealand's adoption system remains stalled. The 2000 Law Commission report recommending modernisation of the New Zealand adoption system remains unaddressed.

#### **Part 5. Basic health and welfare**

##### Welfare

45. We are concerned at the potential impact of the recent welfare reform process upon children, in particular the tougher sanctions regime introduced in the 2012 amendments to the Social Security Act 1964.
46. The introduction of statutory 'social obligations' on beneficiary parents has been coupled with a graduated sanctions regime to address non-performance of these obligations, including reductions in benefit income of up to 50% in some cases. This will undoubtedly have a detrimental impact upon the children of beneficiaries subject to such sanctions and call into question the consistency of the recent welfare reforms with Article 26 and 27 of UNCROC, which establishes the right of the child to both social security and to an adequate standard of living.
47. In addition, the recent amendments to the Social Security Act fail to provide any statutory mechanism to ensure that decisions made under its auspices take into account the rights and best interests of affected children. The Welfare Working Group's recommendation concerning the implementation of a child impact assessment process to assess the impact of welfare reform on children of beneficiaries was not reflected in the resulting legislation.<sup>xxvii</sup>
48. We further note the Expert Advisory Group on Solutions to Child Poverty also recommended inclusion of provision within the s1B list of principles requiring decision-makers to take into account the best interests of the child as a primary consideration when making decisions under the Act that affect children of beneficiaries<sup>xxviii</sup>. However, this very workable proposal has not been incorporated into the

Act's legislative framework.

49. We accordingly recommend that work be commenced towards the implementation of a child impact assessment process or, in the alternative, a best interests clause that mandates explicit consideration of the impact of decision-making on affected children. We consider that this would at least mitigate the potential breaches of Articles 26 and 27 that are possible under the Act's current sanctions regime.
50. Further to this point we note that the UN Committee on Economic, Social and Cultural Rights has recently expressed concern about the retrogressive nature of the reforms and accordingly "*urged [New Zealand] to meet its obligations under the Covenant by ensuring that welfare reforms, including those aimed at reducing long-term welfare dependency, protect the right to social security and to an adequate standard of living in respect of disadvantaged and marginalised individuals and groups*".

### Housing

51. We note that there has been considerable government investment in the Warm Up New Zealand policy, which subsidises the cost of home insulation for property owners. Improvement of New Zealand's housing stock is an essential component in improving health outcomes for children. We are encouraged by the additional funding in the 2013 budget aimed at enabling low-income families to access the Healthy Homes insulation programme.
52. However, the degree to which this policy will benefited children living in poor households is questionable, given that a majority live in private rental accommodation. In addition, recent reforms of Housing New Zealand Corporation procedures have not sought to materially improve access to affordable housing. Poor quality and inadequate housing continues to be reflected in children's hospital admission rates for infectious diseases, especially those such as bronchiectasis (chronic lung damage from recurrent respiratory illnesses) which show a clear socioeconomic gradient<sup>xxix</sup>.
53. We note that the 2013 budget has provided additional funding to extend the income related rent subsidy to community housing providers. We also note that needs assessments will no longer be undertaken by Housing New Zealand and will instead be the responsibility of the Ministry of Social Development.

### Health

54. The CRC recommended that inequalities in children's access to health services be addressed through "*a coordinated approach across all government departments and greater coordination between health policies and those aimed at reducing income inequality and poverty*".<sup>xxx</sup>
55. The implementation of the Children's Action Plan (CAP) provides an opportunity to give partial effect to this recommendation through coordinated service delivery across health sector and social service agencies for the benefit of vulnerable children. However, the CAP is essentially focused on reform of child protection services and does not extend to wider poverty reduction objectives. It does not, on its own, address the CRCs recommendation.
56. However, there has been some progress in other areas such as a focus in the Ministry of Health with improving coordination with antenatal to early postnatal care and significant improvements in immunisation coverage which are to a large extent driven by effective data (the National Immunisation Register) and use of this data. However there are still significant coordination gaps particularly with large numbers of pregnant women, particularly Pasifika women not accessing antenatal care services till very late in pregnancy.
57. There has also been improvement in the cost of access to primary care services for children under six years of age as a result of the government policy introduced on 1 July 2012 to achieve free access to after-hours primary care for children under six years of age. While this has not yet been achieved, we understand that District Health Boards are putting considerable effort into the implementation of this policy.
58. The Childrens' Social Monitor Report continues to annually monitor a range of health outcomes for

children and overall illustrates minimal progress and some deterioration in health outcomes for children from greater poverty over the past few years.

59. In 2012 the report notes that while some positive trends have emerged since 2011, the picture overall remains mixed, with improvements in hospital admissions for some conditions being offset by increases in others, and with marked ethnic inequalities remaining for all of the health indicators reviewed<sup>xxxix</sup>.
60. During 2007–2011, there were still on average 36,409 hospital admissions in children each year for the basket of socioeconomically sensitive medical conditions monitored by the Children’s Social Health Monitor. Hospital admissions for a number of conditions monitored have continued to increase over the past three years. These include acute upper respiratory tract infections and viral infections of unspecified site, skin infections, dermatitis and eczema and some vaccine preventable diseases. Admission rates for socioeconomically sensitive medical conditions remain much higher for Pacific, and then Maori children, than for European/Other children<sup>xxxix</sup>. We do, however, note the additional funding set aside in the 2013 budget to reduce rates of rheumatic fever.

### Adolescent Health

61. The CRC recommended that strengthened efforts are made with regards to the delivery of reproductive health services to young people, including reproductive health education, and that address suicidal behavior.
62. We note that while there has been improvement in costs of accessing primary care for children aged under six years, there has been no progress made in improving access for adolescents – it is notable that the recent primary care business plans do not set out any objective concerning increased access to primary health care by adolescents.
63. Recent data indicates that this is clearly a matter of concern. One in six secondary school students had not seen a doctor or nurse when needed in the last 12 months, with those being less likely to access health care being those from low socioeconomic situations, Female Maori and Pacific students, and those with chronic health problems, those engaging in health risk behaviours or experiencing symptoms of depression<sup>xxxix</sup>.
64. There is suboptimal data available on health services in secondary schools and overall only approximately 10% or so of schools are meeting levels that could be considered sufficient. Delivery of sexual health education is variable around the country, with no strong national focus. Teenage pregnancy rates remain amongst the highest in the developed world<sup>xxxix</sup>.
65. Adolescent suicide trends in NZ remain high compared to comparable OECD countries, with suicide the second most common form of death for young people aged between 15 and 24 years. Suicide rates have been trending downwards and have declined by approximately 38% from the 1995 peak. However, the suicide rate for Maori adolescents remains over 2.5 times that of non-Maori.<sup>xxxix</sup>

## **Part 6. Education, recreation and culture**

### Schools

66. The CRC highlighted the areas of bullying, increased resources towards greater inclusion for disabled and other disadvantaged students, school fees and suspensions/exclusions in its examination of schools in New Zealand<sup>xxxix</sup>. Overall, there has been no significant shift in policy settings concerning these issues since the 2011 Concluding Observations were released. While the recent Education Amendment Act constitutes a significant structural reform of the school sector, it did not attempt to reform any of these areas specifically.
67. There is clearly a high level of concern about the prevalence of bullying in New Zealand schools, particularly amongst children and young people. A comprehensive national policy on bullying in the education sector is yet to be developed and accordingly there is no systematic policy framework in place to reduce bullying, notwithstanding the efforts of individual schools in developing and

implementing their own anti-bullying strategies.

68. It is notable that, in addition to the CRCs recommendation that the government intensify its efforts to address school bullying, the CESCR has also recommended (among other things in this area) that the government systematically collect data on violence and bullying in schools in order to inform policy development. We note that the Human Rights Commission will be undertaking a significant work programme in this area in the period leading up to the 2015 UNCROC periodic report.
69. The legislative and policy settings concerning both school disciplinary procedures under the Education Act 1989 and school fees remain the same. We note the overall suspension and stand-down rates have decreased since 2011. However, suspension rates for Maori and Pasifika students remain unacceptably high and disproportionate<sup>xxxvii</sup>, which gives rise to a need for a fundamental re-evaluation of the current criteria under the Education Act 1989. The impact of partnership schools on suspension rates is unlikely to be significant, given the scale of their implementation. However, we support the Education and Science Committee's amendment of the Education Amendment Bill to ensure that suspension procedures in partnership schools are subject to external scrutiny under the Ombudsmen Act as is the case for state and state integrated schools.
70. We are concerned that policy development following the 2010 Review of Special Education appears to have stalled. Given the vulnerability of this cohort of children and the scope and considerable work undertaken by the Review, we consider that more priority should be given to progressing its recommendations.

#### Early Childhood Education and After school care

71. There is currently significant investment in the development of ECE services and notably increased ECE participation is a priority target under the Better Public Services Targets. However, while this represents progress, current policy falls short of providing universal free provision of ECE as recommended by the CRC.

### **Part 7. Special Protection Measures**

#### Employment of children

72. Little progress has been made in addressing the CRC's recommendations concerning employment of children and young people, with no legislative or regulatory activity since 2011 in these areas. The reservation against Article 32.2 continues to be a significant barrier towards achieving a greater level of compliance in this area.
73. Employment of children continues to be subject to very light regulation in New Zealand and there appears to be little political will to address this issue directly. Children aged under 16 do not have the ability to enforce certain minimum employment standards, such as minimum wage protection, enjoyed by other workers. In addition, health and safety regulations do not provide special protection measures for all workers aged under 18. We note that the CRC has raised concern about New Zealand's policy settings in this regard in both its 2003 and 2011 Concluding Observations<sup>xxxviii</sup>.

#### Care and Protection

74. The White Paper on Vulnerable Children and its ensuing Children's Action Plan will result in significant amendments to the current care and protection regime. This includes the development of a new joined-up services model in the form of regional children's teams. In addition, the establishment of a Vulnerable Kids Information database, increased information sharing enabled by the Privacy Amendment Act 2012, enhanced workforce development and the introduction of special protection measures in the form of Child Abuse Protection Orders (CAPOs)<sup>xxxix</sup>.
75. At the time of writing, the Vulnerable Children's Bill is yet to be introduced. It is therefore premature to comment on the degree to which its enactment will advance UNCROC implementation in the care and protection sector. However, it certainly has the potential to do so through the implementation of the above measures and others such as enhanced statutory transition-from-care provisions.

76. However, a fundamental barrier to UNCROC consistency remains - namely the failure of the Children, Young Persons and their Families Act 1989 to enable care and protection interventions for 17 year olds (other than those few subject to s110 guardianship orders). We are unaware of any plans to increase the Act's upper age limit in order to bring the legislation into line with UNCROC.

### Youth Justice

77. Statistics indicated that youth justice outcomes have improved markedly since 2009, with significantly less prosecutions and cases transferred to the adult courts. In addition, specialist interventions and court models, such as Rangatahi and Pasifika Court and the Intensive Monitoring/care and protection interface innovations.
78. However, we are concerned by the evident disparity between prosecution rates between non-Maori and Maori. This is perhaps in part reflected by the lack of culturally specific diversionary interventions at the pre-Court levels within the youth justice system, in contrast to the significant developments that have occurred within the Youth Court's jurisdiction during that time. In addition, we note that there is currently a lack of transition programmes for young people who are moving off Court FGC plans whose educational, vocational and health needs remain unaddressed at the time of disposition. We recommend that some attention is given to analysing and developing policy that addresses these areas.
79. In addition, despite its recent innovations, the youth justice system remains non-compliant with UNCROC due to the failure of the CYPF Act to extent its jurisdiction to 17 years olds, other than those 17 year olds who appear in respect of an incident that took place prior to their 17<sup>th</sup> birthday. The District Court offers no special protection measures for 17 year olds who appear in that Court. This remains a fundamental inconsistency with UNCROC.

---

<sup>i</sup> Under s12(1)(f) of the Children's Commissioner Act 2003, the Children's Commissioner has a statutory function to advance and monitor the application of the United Nations Convention on the Rights of the Child by departments of State and other Crown instruments

<sup>ii</sup> UN Committee on the Rights of the Child, 56<sup>th</sup> Session, Concluding Observations: New Zealand, CRC/C/NZL/3-4), 4 February 2011, paragraphs 6-7

<sup>iii</sup> Law and Order Committee, Report on Bail Amendment Bill, 9 November 2012, page 3 – concerning restriction of presumption of bail clauses in respect of 17 year old defendants

<sup>iv</sup> Social Services Committee, Report on Social Security (Youth Support and Work Focus) Amendment Bill, 26 July 2012, page 9 – regarding youth payments to young people transitioning from state care

<sup>v</sup> First New Zealand report on implementing the Convention on the Rights of Persons with Disabilities, March 2011, paragraphs 267-274, <http://www.odi.govt.nz/documents/convention/first-report-on-implementation/article-33.html>

<sup>vi</sup> UN Committee on the Rights of the Child, General Comment No. 5 (2003), General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6), paras 37-39

<sup>vii</sup> Infometrics (2011), *1000 Days to Get it Right for Children: The Effectiveness of Public Investment in New Zealand Children*, Every Child Counts, July 2011.

<sup>viii</sup> UN Committee on the Rights of the Child, 56<sup>th</sup> Session, Concluding Observations: New Zealand, CRC/C/NZL/3-4), 4 February 2011, paragraph 17, UN Committee on the Rights of the Child, 34<sup>h</sup> Session, Concluding Observations: New Zealand, CRC/C/15/Add.216), 3 October 2003, paragraph 15

<sup>ix</sup> Ministry of Social Development, Household Incomes in New Zealand: Trends in Indicators of Inequality and Hardship 1982-2011, <http://www.msd.govt.nz/about-msd-and-our-work/publications-resources/monitoring/household-incomes/index.html>

<sup>x</sup> Statistics New Zealand, Youth Not in Employment, Education or Training: September 2011 Quarter (revised 9 February 2012), [http://www.stats.govt.nz/browse\\_for\\_stats/income-and-work/employment\\_and\\_unemployment/NEET-paper.aspx](http://www.stats.govt.nz/browse_for_stats/income-and-work/employment_and_unemployment/NEET-paper.aspx)

<sup>xi</sup> Education Counts, Stand-downs, suspensions, exclusions and expulsions from school: July 2012 <http://www.educationcounts.govt.nz/indicators/main/student-engagement-participation/80346>

<sup>xii</sup> 2011 New Zealand Police Apprehension Data - <http://justspeak.org.nz/what-are-your-odds/> [http://www.stats.govt.nz/tools\\_and\\_services/tools/tablebuilder/recorded-crime-statistics.aspx](http://www.stats.govt.nz/tools_and_services/tools/tablebuilder/recorded-crime-statistics.aspx)

<sup>xiii</sup> <http://www.hrc.co.nz/race-relations/structural-discrimination-a-fair-go-for-all>

<sup>xiv</sup> Human Rights Commission *A Fair Go For All? Addressing Structural Discrimination in Public Services*, July 2012, [http://www.hrc.co.nz/wp-content/uploads/2012/08/HRC-Structural-Report\\_final\\_webV1.pdf](http://www.hrc.co.nz/wp-content/uploads/2012/08/HRC-Structural-Report_final_webV1.pdf), p48

<sup>xv</sup> <http://www.justice.govt.nz/policy/justice-system-improvements/family-court-review/family-court-review-1>

- 
- <sup>xvi</sup> Ministry of Justice, Regulatory Impact Statement: Family Court Proceedings Reform Bill, <http://www.justice.govt.nz/policy/justice-system-improvements/family-court-review/family-court-review-documents/Family%20Court%20review%20RIS%20-July%202012.pdf>, p1
- <sup>xvii</sup> [http://www.parliament.nz/NR/rdonlyres/1D6FC1B7-00AE-4F7B-86A9-7A257699BDE4/271611/DBSCH\\_SCR\\_5867\\_FamilyCourtProceedingsReformBill902.pdf](http://www.parliament.nz/NR/rdonlyres/1D6FC1B7-00AE-4F7B-86A9-7A257699BDE4/271611/DBSCH_SCR_5867_FamilyCourtProceedingsReformBill902.pdf)
- <sup>xviii</sup> <http://www.ipca.govt.nz/Site/media/2012/2012-October-23-Joint-Thematic-Review.aspx>
- <sup>xix</sup> Independent Police Conduct Authority, Operation 8: The report of the Independent Police Conduct Authority, p 60, 82
- <sup>xx</sup> Education and Science Committee, Report on Education Amendment Bill, 12 April 2013, p2-4 [http://www.parliament.nz/NR/rdonlyres/5D239E36-32A4-4887-A674-A959B42197D3/269654/DBSCH\\_SCR\\_5823\\_EducationAmendmentBill772\\_9673\\_3.pdf](http://www.parliament.nz/NR/rdonlyres/5D239E36-32A4-4887-A674-A959B42197D3/269654/DBSCH_SCR_5823_EducationAmendmentBill772_9673_3.pdf)
- <sup>xxi</sup> UN Committee on the Rights of the Child, 56<sup>th</sup> Session, Concluding Observations: New Zealand, CRC/C/NZL/3-4), 4 February 2011, paragraph 35
- <sup>xxii</sup> <http://www.msd.govt.nz/about-msd-and-our-work/work-programmes/better-public-services/index.html>
- <sup>xxiii</sup> <http://www.msd.govt.nz/documents/about-msd-and-our-work/work-programmes/policy-development/white-paper-vulnerable-children/white-paper-for-vulnerable-children-summary-actions-chart.pdf>
- <sup>xxiv</sup> UN Committee on the Rights of the Child, 56<sup>th</sup> Session, Concluding Observations: New Zealand, CRC/C/NZL/3-4), 4 February 2011, paragraph 17
- <sup>xxv</sup> <http://www.justice.govt.nz/policy/justice-system-improvements/child-witnesses-in-the-criminal-courts>
- <sup>xxvi</sup> UN Committee on the Rights of the Child, 56<sup>th</sup> Session, Concluding Observations: New Zealand, CRC/C/NZL/3-4), 4 February 2011, paragraph 33
- <sup>xxvii</sup> Welfare Working Group, Reducing Long Term Benefit Dependency: Recommendations, p30 <http://igps.victoria.ac.nz/WelfareWorkingGroup/Downloads/Final%20Report/WWG-Executive-Summary-Final-Recommendations-22-February-2011.pdf>
- <sup>xxviii</sup> Expert Advisory Group on Solutions to Child Poverty, Solutions to Child Poverty: Evidence for Action, December 2012 p39 [www.occ.org.nz](http://www.occ.org.nz)
- <sup>xxix</sup> The Children's Social Health Monitor 2012 Update, p41, [http://www.nzchildren.co.nz/document\\_downloads/Childrens%20Social%20Health%20Monitor%202012%20Update.pdf](http://www.nzchildren.co.nz/document_downloads/Childrens%20Social%20Health%20Monitor%202012%20Update.pdf)
- <sup>xxx</sup> UN Committee on the Rights of the Child, 56<sup>th</sup> Session, Concluding Observations: New Zealand, CRC/C/NZL/3-4), 4 February 2011, paragraph 17
- <sup>xxxi</sup> The Children's Social Health Monitor 2012 Update, [http://www.nzchildren.co.nz/document\\_downloads/Childrens%20Social%20Health%20Monitor%202012%20Update.pdf](http://www.nzchildren.co.nz/document_downloads/Childrens%20Social%20Health%20Monitor%202012%20Update.pdf)
- <sup>xxxii</sup> *ibid* p41
- <sup>xxxiii</sup> Denny S et al, Journal of Primary Health Care, 2013:5(1): 11-18.
- <sup>xxxiv</sup> Statistics New Zealand, Teenage Fertility in New Zealand, [http://www.stats.govt.nz/browse\\_for\\_stats/population/births/teenage-fertility-in-nz.aspx](http://www.stats.govt.nz/browse_for_stats/population/births/teenage-fertility-in-nz.aspx)
- <sup>xxxv</sup> Ministry of Health, Suicide Facts: Deaths and intentional self-harm hospitalisations 2010, 15 August 2012, <http://www.health.govt.nz/publication/suicide-facts-deaths-and-intentional-self-harm-hospitalisations-2010>
- <sup>xxxvi</sup> UN Committee on the Rights of the Child, 56<sup>th</sup> Session, Concluding Observations: New Zealand, CRC/C/NZL/3-4), 4 February 2011, paragraph 45
- <sup>xxxvii</sup> Education Counts, Stand-downs, suspensions, exclusions and expulsions from school: July 2012 <http://www.educationcounts.govt.nz/indicators/main/student-engagement-participation/80346>
- <sup>xxxviii</sup> UN Committee on the Rights of the Child, 56<sup>th</sup> Session, Concluding Observations: New Zealand, CRC/C/NZL/3-4), 4 February 2011, paragraph 49
- <sup>xxxix</sup> <http://www.msd.govt.nz/documents/about-msd-and-our-work/work-programmes/policy-development/white-paper-vulnerable-children/white-paper-for-vulnerable-children-summary-actions-chart.pdf>