

Regulatory Impact Statement

Investing in Children: Foundations for a child-centred system

Ministry of Social Development

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Investing in Children: Foundations for a child-centred system

Regulatory Impact Statement

Agency Disclosure Statement

This Regulatory Impact Statement (RIS) has been prepared by the Ministry of Social Development. It provides an analysis of options to provide the foundations for a child-centred system to support a new operating model. These options support the Government's proposed new operating model for vulnerable children and young people.

In March 2016 Cabinet recommended system-wide changes to establish a new, child-centred operating model for all children [SOC-16-Min-0022 refers], and agreed to a bold and urgent overhaul of the system, including the most far-reaching reforms since the Children, Young Persons and Their Families Act 1989 (the CYPF Act) came into force.

The proposals recommended in this RIS form part of a broader reform of this operating model, and significant proposals on the service design of the new operating model will follow. These proposals aim to provide a strong foundation for the more child-centred approach envisaged by Cabinet.

These proposals are intended to be included within the second stage of reform, as part of a second Bill (Bill No 2) that will amend the CYPF Act that is expected to be introduced into the House in November 2016.

Legislative changes to give effect to the new operating model are being progressed in two stages:

- Stage One: the Children, Young Persons, and Their Families (Advocacy, Workforce, and Age Settings) Amendment Bill (Bill No 1). Bill No 1 was introduced and referred to the Social Services Committee on 15 June 2016.
- Stage Two: consists of a more complex and wide-ranging set of legislative reforms to give effect to the new operating model. These are to be included in a second Bill (Bill No 2) expected to be introduced into the House in November 2016.

The proposals in this RIS cover:

- Updating the objects and general principles of the CYPF Act to be more child-centred
- Further embed children and young people's voices at an individual and a system level through a specific principle of participation
- Establishing a stronger focus on children and young people's rights
- Strengthening the focus on establishing services that promote well-being and improved long-term outcomes of children and young people.

The key constraints around the analysis presented in this paper are:

- The analysis has been undertaken within fairly tight timescales ahead of detailed design work on the system.
- A limited amount of targeted consultation on these specific proposals has been possible in the time available.
- Agency consultation has been undertaken on the impacts on agencies as part of the process of development of this RIS, but this has been done within limited timeframes.

- The RIS provides only a general indication of the relative scope and magnitude of the options’ operational implications, as detailed design work on the broader operating model needs to be completed before we can describe more definitive implications.

Maree Roberts
Associate Deputy Chief Executive Social
Policy
Ministry of Social Development

Date

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Executive summary

1. The proposals discussed in this RIS form part of far reaching reform of care and protection and youth justice services that the Government has determined is required to achieve better outcomes for vulnerable children through a child-centred approach.
2. This programme of work draws its foundation and evidence from the work of Modernising Child, Youth and Family Expert Panel (the Expert Panel). The evidence gathered by the Expert Panel reveals a system:
 - that is not sufficiently child-centred, as evidenced by the experiences of children and young people and their families/whānau, and the poorer long-term outcomes that vulnerable children and young people experience compared to the rest of the population¹
 - in which Māori children and young people are over-represented and experience particularly poor outcomes, and which is failing to adequately respond to safeguard their safety and wellbeing.
3. Cabinet recommended system-wide changes to establish a new, child-centred operating model for all children [SOC-16-Min-0022 refers], and agreed to a bold and urgent overhaul of the system, including the most far-reaching reforms since the CYPF Act came into force.
4. Cabinet has specifically requested a report-back on possible areas of legislative reform, including:
 - new and amended provisions to further embed the voice of children at an individual and systemic level
 - update current provisions to achieve a better focus on children's rights
 - introducing new and amended provisions to support stable and loving care from the earliest opportunity [SOC-16-Min-0024 refers].
5. Cabinet's requested report-back guides the options and analysis contained in this RIS.
6. The CYPF Act is the key piece of legislation guiding and directing the care and protection system. It signals and sets the direction of social work action, service delivery and performance monitoring, through legislated principles, objects, duties and powers.
7. The principles of the CYPF Act inform and underpin all aspects of social work practice and judicial decision-making about matters such as the removal and placement of children. They are a key decision-making tool and social workers refer directly to them to guide decisions around what action is required in each case.
8. The central role these principles play in decision-making strongly suggests that the content of the principles is a significant contributing factor to the current lack of child-centred practice.
9. This suggests that updating the general principles of the CYPF Act to incorporate the elements of a child-centred system, as described by Cabinet, provides an

¹ Modernising Child, Youth and Family Expert Panel Final Report, pages 41-55.

opportunity to influence and change social work practice and judicial decision-making.

10. Legislative change alone will not be sufficient to thoroughly embed the child-centred system sought by Cabinet, but it is an important foundational pillar of this change. Further work is continuing to update and reform the care and protection and youth justice systems at an operational and practice level.
11. The objectives of the options considered in this RIS are to:
 - create a foundation for a more child-centred system and more child-centred decision making by social workers, judges and other practitioners
 - further embed children and young people’s voices at an individual and a system level through a specific principle of participation
 - to establish a stronger focus on children and young people’s rights
 - support the system to deliver improved outcomes for children and young people.
12. Regulatory and non-regulatory options have been identified and analysed. It has been concluded that non-regulatory options are unlikely to deliver the sustained change required alone. These options would not strongly signal to practitioners, organisations, government departments and the public that the system has to fundamentally change.
13. Regulatory options considered in this RIS seek to direct and frame behavioural and cultural change and enable the new system to develop.
14. The preferred options propose to amend the CYPF Act to:
 - update the object/purpose statements and the general principles in section 5 to create a foundation for a more child-centred system, and take a holistic approach to principles across the CYPF Act
 - introduce an additional, separate principle of participation within the general principles in part 1 of the CYPF Act
 - update the CYPF Act to include welfare and interests of the child or young person as a primary consideration in Youth Justice
15. Together these proposals aim to provide a foundation for a system that is more child-centred and able to deliver improved outcomes for vulnerable children, young people and their families. These will inform and drive the operational changes that are needed to create a sustained improvement for vulnerable children, young people and their families.
16. Officials have worked closely with other agencies and stakeholders to develop the legislative proposals. The Youth Advisory Panel were active in contributing to the proposed principles.

Policy context

Embedding and enacting a child-centred approach

17. Government has determined that a far reaching reform of care and protection and youth justice services is required to achieve better outcomes for vulnerable children through an unequivocally child-centred approach.
18. The changes proposed represent a fundamental shift, driving the most significant and comprehensive changes since the CYPF Act was passed.
19. Almost 30 years ago, the CYPF Act sought to reset the model from the previous one of professional determination and judgements to one with much greater involvement of families in decision-making.
20. Results, however, have not been as envisaged. For example 20% of children are now known to Child, Youth and Family (CYF) by age 17, with many cycling through the system from notification to re-notification, statutory care and, in some cases, arrest and entry to the youth justice system.
21. More broadly, there are a significant number of children and young people in New Zealand whose basic safety, emotional, physical, social, cultural or developmental needs are not met at home or in the wider community. For example:
 - it is estimated that approximately 230,000 children and young people currently under 18 may experience vulnerability at some point during their childhood²
 - data indicates that approximately 20% of children and young people in any birth cohort are known to CYF by age 17.³
22. Those children and young people known to CYF or the youth justice system are some of the most vulnerable, as reflected in their disproportionately high likelihood of experiencing poor long-term outcomes. These poor long-term outcomes come at considerable individual, societal and fiscal cost, with approximately:
 - 60% of children known to care and protection services left school without at least a Level 2 NCEA qualification
 - 20% of children known to care and protection were subsequently referred by the Police due to youth offending
 - 70% of children with care and protection contact were on a benefit for some period by age 21
 - 20% of children with care and protection contact received an adult community sentence by age 21
 - 10% of children with care and protection contact received an adult custodial sentence by age 21.

² This is based on analysis of the 1993 birth cohort. Centre for Social Research and Evaluation. (2012). *Children's Contact with MSD Services*. Note this is a conservative estimate that assumes the same level of need today as in the 1993 birth cohort.

³ This is based on analysis of the 1993 birth cohort. Centre for Social Research and Evaluation. (2012). *Children's Contact with MSD Services*.

23. Such issues have led to CYF being reviewed and restructured some 14 times. This has occurred without major legislative reform to support practice and accountability change and, notably, without fundamental improvements for vulnerable children.
24. To address this situation, Government has endorsed the most far-reaching reforms since the CYPF Act to embed and enact a much more child-centred and investment approach focused care and protection and youth justice system.
25. Significant review and amendment of the CYPF Act creates the opportunity to support meaningful practice and change and strongly signal this to those on whom the success or failure of these reforms rest: practitioners, organisations, government departments and the public.

'Investing in New Zealand's Children and their Families': Policy and Legislation

26. On 30 March 2016, Cabinet Social Policy Committee (SOC) agreed that major reform is required to the CYPF Act [SOC-16-MIN-0024 refers], and to give effect to the new operating model proposed in "Investing in New Zealand's Children and their Families Paper One: Operating Model (Paper One)" [SOC-16-SUB-0023 refers].
27. SOC also agreed:
 - that the new operating model will be directed at children and young people who are at significant risk of harm now and into the future as a consequence of their family environment, and/or their own complex needs, and young people who have offended or may offend in the future [SOC-16-MIN-0022 refers]
 - that major reform is required to the CYPF Act and related legislation to give effect to a new operating model and invited the Minister for Social Development report back on areas for possible legislative reform [SOC-16-MIN-0024], including:
 - new and amended provisions to further embed the voice of children at an individual and systemic level
 - to update current provisions to achieve a better focus on children's rights
 - introducing new and amended provisions to support stable and loving care from the earliest opportunity.

Signalling and driving fundamental and wide-ranging reform

28. The CYPF Act sought to establish a new model of social work, with a much stronger focus on family participation and decision-making than under the earlier Children and Young Persons Act 1974.
29. It signalled and set the direction of social work action, service delivery and performance monitoring, through legislated principles, objects, duties and powers.
30. The principles of the CYPF Act seek to inform and underpin all aspects of practice, including judicial decision-making about matters such as the removal and placement of children. This is akin to the way the amended Social Security Act 1964 principles (section 1B) direct the "work focused" operating model for income support and employment services.

31. Alongside the practice framework, the CYPF Act informs public understanding and expectations of the role of the care and protection system in particular critical decision making regarding if, when and how to report suspected abuse and neglect, the level of harm at which such reporting is expected, and the role of the agency in areas such as prevention. Legislative change in a number of comparable jurisdictions has been used to reset these decisions and expectations.
32. Significant reform to the almost thirty year old CYPF Act offers an approach to support and strongly signal to those on whom the success or failure of these reforms rest: practitioners, organisations, departments and the public. In doing so this creates an opportunity to send a clear message and change the behaviour of actors within the care and protection and youth justice system.
33. In addition legislative reform offers an opportunity to clearly articulate that changes occurring support children and young people who come into contact with the system to better understand their rights, have a voice in decisions, and establish reasonable expectations of the service.
34. The current proposed legislative reforms are taking place contemporaneously with the development of the detailed operating model that sits under the CYPF Act.
35. With this in mind legislative options seek to direct behavioural change and enable operational development, rather than tightly proscribe practice where this is not seen as necessary to achieve policy intent. Non-legislative options have been considered and are proposed where this best achieves Government's policy intent.

Status quo and problem definition

The system is not sufficiently child-centred

36. The Expert Panel concluded that the current system does not place children at its centre. This is evidenced by the experiences of children and young people and their families and whānau.
37. The Expert Panel described the current system as one in which vulnerable children and young people experience repeat referrals, high levels of instability and, in some cases, further maltreatment and trauma.⁴
38. The CYPF Act sets out a series of principles at the front of the Act (sections 5 and 6) which are addressed in this RIS. These principles are central to decisions and actions that are taken under the Act by a range of professionals including practitioners and judges in relation to children and young people in highly vulnerable situations. As currently stated they do not adequately signal the importance of what we know now to be central to achieving good outcomes for vulnerable children and young people, including for tamariki and rangatahi Māori.
39. Children and young people in the current system reported high levels of stress, confusion and anxiety, and lack a clear sense of belonging and identity. They can experience pervasive powerlessness, instability, uncertainty, and feel excluded from decisions about their own lives. The inability to have a say or be "heard" leaves children and young people feeling confused, upset and angry.

⁴ Modernising Child, Youth and Family Expert Panel Final Report, pages 41-55

40. The current system takes a disjointed approach to meeting needs, and does not focus on providing the earliest opportunities for a loving and stable family, nor on supporting the connection of children to their cultures and communities.
41. Children and young people in the system are often dealing with the consequences of traumatic experiences, and frequently they do not receive the support they need to deal with this. The system often fails to provide children with the safe and stable home environment they need to address the trauma caused by their previous experiences and support their healing.
42. This is supported by the 2016 State of Care report by the Office of the Children's Commissioner which found that Child Youth and Family (CYF) case management is not sufficiently child-centred, and specifically does not listen sufficiently to the views of children and young people, and is less good at supporting psychological needs and cultural connections.⁵
43. The system does not have adequate settings to require and support children and young people's voices to be heard and taken into account.
44. Children and young people within the current system also experience poorer long-term outcomes as young adults than the rest of the population. They are far more likely to:
 - leave school with few qualifications
 - receive a benefit
 - receive a community or custodial sentence
 - have children that subsequently require CYF intervention
 - experience premature mortality.
45. The system is not sufficiently child-centred, which is one of the key contributors to the poor outcomes experienced by vulnerable children in the system.

Māori children and young people experience worse outcomes and over-representation in the system

46. The Expert Panel highlighted that Māori children and young people are over-represented in the system and experience particularly poor outcomes.
47. Young Māori are disproportionately represented in families with high levels of need and disadvantage and are nearly four times more likely to have a parent who was involved with CYF as a child. There are compounding life course problems, and therefore forward lifetime costs, for Māori children and young people who come into contact with CYF. This is undoubtedly both a factor in, and a result of, the disparity between Māori and non-Māori generally⁶ and unless addressed, the generational cycles are likely to continue.
48. Current preventative services are not effectively reaching these children and young people, and the system is failing to adequately respond to safeguard their safety and wellbeing. In 2014, eight out of every 10 Māori children and young people who were subject to a Report of Concern were already known to CYF, compared to five out of every 10 for non-Māori.

⁵ State of Care, *Office of the Children's Commissioner*, June 2016

⁶ Out of 21 indicators over 57 percent (12 indicators) showed increasing gaps between Māori and non-Māori (Marriot & Sim 2014) pages 23 and 24.

49. The representation of Māori children and young people in the system has progressively worsened. In 2001, Māori made up 45% of the total CYF client group, with 55% in care and 48% in youth justice. By contrast, in 2015 these figures increased to 40% of initial intake inquires, 50% of all investigations and 60% of care and protection cases.
50. Children and young people, when asked by the Expert Panel, spoke most strongly about an overwhelming desire to belong. Cultural identity, although not the sole determinant, formed a strong part of that belonging. When children and young people did not have their need for identity met they were vulnerable to seeking those connections from people or networks that could be harmful.⁷
51. Māori children and young people within the system reported a lack of understanding they sometimes encountered from caregivers and social workers to the importance of their culture. They felt they had to become strong self-advocates to ensure these needs were met. The ability to play this role is not one that many vulnerable children will have.⁸

System-wide changes are needed to establish a more child-centred system

52. There is no one cause of the problems with the current system. It is likely the result of a combination of factors including culture, practice, and legislation.
53. The Expert Panel recommended system-wide changes to establish a new, child-centred operating model that ensures all children and young people grow up in loving and stable families and communities where they can be safe, strong, connected and able to flourish.⁹
54. The need for change was endorsed by SOC in March 2016 [SOC-16-Min-0022 refers]. SOC also agreed that a 'bold and urgent overhaul of the system is required in order to ensure that all children and young people are in loving families and communities where they can be safe, strong, connected and able to flourish.'¹⁰
55. SOC specifically agreed:
 - to the establishment of a new operating model [SOC-16-MIN-0022 refers]
 - that the new operating model will be directed at children and young people who are at significant risk of harm now and into the future as a consequence of their family environment, and/or their own complex needs, and young people who have offended or may offend in the future [SOC-16-MIN-0022 refers]
 - that major reform is required to the CYPF Act and related legislation to give effect to a new operating model and invited a report back on areas for possible legislative reform [SOC-16-MIN-0024], including:
 - introducing new and amended provisions to support stable and loving care from the earliest opportunity
 - new and amended provisions to further embed the voice of children at an individual and systemic level

⁷ A Māori Responsive System, unpublished.

⁸ A Māori Responsive System, unpublished.

⁹ Modernising Child, Youth and Family Expert Panel Final Report, Recommendation 1, page 20

¹⁰ SOC-16-Min-0022, Recommendation 5.

- to update current provisions to achieve a better focus on children’s rights.
56. The Investing in Children (IIC) Programme is currently embarking on the system-wide changes as directed by Cabinet. These changes include developing an operating model to change practice and culture, and considering the need for legislative reform.
 57. This RIS addresses one element of the potential legislative reform, as directed by SOC.

The role of the CYPF Act in the system

58. The CYPF Act sought to establish a new model of social work, with a much stronger focus on family participation and decision-making than under the previous legislation.
59. It signals and sets the direction of social work action, service delivery and performance monitoring, through legislated principles, objects, duties and powers.
60. The CYPF Act works alongside the practice framework to inform public understanding and expectations of the role of the care and protection system. The CYPF Act has a particularly focused role in critical decision making regarding if, when and how to report suspected abuse and neglect, the level of harm at which such reporting is expected, and the role of the agency in areas such as prevention and early intervention.

The role of the objects and general principles of the CYPF Act

61. Part One sets out the objects and general principles of the CYPF Act. These elements provide the legislative foundation for the rest of the Act and for the wider system.
62. The general principles, set out in sections 5 and 6, inform and underpin all aspects of practice, just as they do in the recently amended work focused principles of the Social Security Act 1965. They provide specific guidance for social workers and other practitioners when making decisions under the CYPF Act. These principles work alongside service specific principles (such as those in sections 13 and 208).
63. The general principles are a key decision-making tool. Anecdotally we know that social workers refer directly to sections 5 and 6, using them to guide decisions around what action is required in a specific case. They refer to having a ‘well-thumbed’ copy of the CYPF Act on hand, and many know the principles by rote as a result of using them so frequently.
64. The central role these principles play in decision-making strongly suggest that the content of the current principles is a significant contributing factor to the lack of child-centred practice evidenced above.
65. This suggests that updating the general principles of the CYPF Act to incorporate the elements of a child-centred system, as described by Cabinet and the Expert Panel, is one of the pillars, alongside practice guidance and service design that will contribute to creating the child-centred system that the IIC Programme is working towards.

The current general principles and objects are not sufficiently child-centred

66. The general principles of the CYPF Act currently state that the welfare and interests of the child or young person are paramount, except in those sections of the Act that relate to youth justice (section 6).
67. This principle goes some way towards establishing a child-centred foundation for the CYPF Act. However, the Act provides insufficient detailed guidance as to interests of the child or young person.
68. The principles that are to be applied in the exercise of powers conferred by section 5 of the CYPF Act, provides some indication as to what the interests of the child or young person may be, including:
- the participation of their family, whānau, hapū and iwi in decision-making (s5(a))
 - maintaining and strengthening the relationships between the child or young person and their family, whānau, hapū and iwi (s5(b))
 - considering the impact of decisions on the welfare of the child or young person and the stability of their family, whānau, hapū and iwi (s5(c))
 - considering the wishes of the child or young person (s5(d))
 - making endeavours to obtain the support of the parents/guardians and the child or young person (s5(e))
 - making decisions in an appropriate timeframe (s5(f))
 - adopting a holistic approach to decision-making (s5(g)).
69. These principles speak to some of the elements of a child-centred system identified by SOC, the Expert Panel and the Office of the Children’s Commissioner.¹¹ However, some of the elements that are at the core of a child-centred system are absent from these principles. The general principles are also not framed with the child at the centre of the decision-making process.
70. Specific key elements highlighted as important by SOC and the Expert Panel but currently absent include:
- stable and loving care from the earliest opportunity
 - stability and maintenance of trusted relationships in other areas of life
 - a sense of belonging and connectedness
 - a focus on children’s rights.
71. Practitioners are, therefore, basing their decision-making on a set of principles that do not clearly describe the child-centred system envisaged by SOC and the Expert Panel. This strongly suggests there is a need to update these principles to support practitioners to make decisions based on a child-centred approach.

The voice of the child or young person is not sufficiently strong in the principles

72. The importance of the voice of the child or young person cannot be overstated in a child-centred system.

¹¹ Being child-centred, Office of the Children’s Commissioner, 2015

73. The CYPF Act contains a principle that decision-makers should consider the wishes of the child or young person (s5(d)), however, the Expert Panel's findings highlight that currently children and young people do not feel listened to:
- they saw CYF as holding all the power to make important decisions about their lives, despite what the young people wanted or felt was best for themselves
 - they did not always understand what was happening to them, and their views were not always sought at critical decision-making points
 - the inability to have a say or to be "heard" left young people feeling confused, upset, and sometimes angry.¹²
74. The Expert Panel concluded that existing organisational practices and systems do not give priority to listening to children and young people. These practices and systems, although not completely controlled by the CYPF Act, do take their foundation from the Act. This suggests that the CYPF Act is not placing sufficient emphasis on the importance of children and young people's voices. SOC agreed with this view and requested a report-back on further embedding the voices of children at an individual and systemic level [SOC-16-MIN-0024].
75. In light of the evidence from the Expert Panel, and practitioners use of the general principles when making decisions, suggests that the general principle to consider the wishes of the child or young person is not providing adequate guidance for decision-makers sufficiently.
76. A clearer direction to listen to and take account of the voices of children and young people, and what this actually means in practice, set out in the general principles, is the first step to changing practice. To fully change practice will require a combination of legislative direction, strong practice guidance and policy direction, and training for social workers and other practitioners.

Other jurisdictions have taken child-centred steps

77. A number of other jurisdictions have strengthened their legislation to be more child-centred and to better align with the United Nations Convention on the Rights of the Child (UNCROC).
78. For example, in Scotland, the Children and Young People (Scotland) Act 2014 specifies that Scottish Ministers must "keep under consideration whether there are any steps that they could take which would or might secure better or give further effect in Scotland of the UNCRC requirements" (s1(1)). Additionally the "rights of children" includes the rights and obligations set out in UNCROC (s4(1)).
79. In Australia, many of the individual state legislative instruments take a more explicitly child-centred approach. For example, in Victoria, the Children, Youth and Families Act 2005 (as amended in 2014) states that the best interests of the child must always be paramount and provides a comprehensive list of considerations to take into account. These considerations pick up on many of the themes identified by the Expert Panel, such as the importance of continuity, strengthening important relationships, protecting and promoting cultural connections, the child's views and wishes, and meeting the child's needs. Similar approaches are taken across most other Australian states.

¹² Modernising Child, Youth and Family Expert Panel Final Report, page 51

80. Treating the child or young person with dignity and respect is also a feature of legislation in a number of other jurisdictions, for example, Australia’s Northern Territory highlights the principle of treating the child with respect,¹³ and Quebec in Canada states the necessity of treating the child in a manner that respects their dignity.¹⁴

Objectives

81. The objectives for establishing the foundations for a child-centred system have been developed based on the Expert Panel’s six high-level objectives, and further content in their final report describing a child-centred system.

82. The following objectives have been identified:

- Providing a strong foundation for a child-centred system, as described by the Expert Panel’s six objectives for a child-centred system:
 - Ensuring children have the earliest opportunity for a loving and stable family
 - Addressing the full range of needs for each child
 - Preventing harm and re-victimisation of children
 - Helping children to heal and recover
 - Supporting children to become flourishing adults
 - Helping children and young people to take responsibility for their actions and live crime-free lives
- Further embedding children and young people’s voices at an individual and system level
- Supporting the system to deliver improved outcomes for Māori children and young people
- Increased equity and protections for disabled children and young people
- Establishing a stronger focus on children and young people’s rights, including those rights set out in UNCROC, and United Nations Convention on the Rights of Disabled People (UNCRDP).

83. These objectives will be included as criteria against which the options will be assessed, along with further criteria:

- **Likely effectiveness** - the extent to which the proposals meet the objectives stated above
- **Durability** - the extent to which proposals are likely to achieve sustained change in the direction sought and support the long-term transformation required to implement the new operating model for vulnerable children and young people
- **Practicality** - the extent to which proposals are practical, clear, and easy to understand, including clarity for practitioners

¹³ Care and Protection of Children Act 2007, s9

¹⁴ Children Act 1995, s2.4

- **Fiscal and operational impact** - the extent to which proposals achieve the objectives above while minimising the compliance costs and the operational implications of the proposal
- **Fairness and equity** - the extent to which proposals promote fairness and treat similar cohorts in a consistent way
- **Interaction with other legislation provisions and planned reforms** - the extent to which proposals align with, and do not hinder, relevant legislation or planned reforms
- **Consistency with the principles of the Treaty of Waitangi, UNCROC and other relevant international obligations** - the extent to which proposals meet New Zealand's international obligations
- **Compatibility with other Government objectives (including social investment)** - the extent to which the proposals align with the investment approach.

Alignment with UNCROC

84. We have assessed all options using the UNCROC child impact assessment framework and have found all options to be consistent with the intent of UNCROC.
84. Detailed analysis of the options outlined above is set out in the tables on the following pages:
- Table 1 sets out options and impact analysis for creating a legislative foundation for a more child-centred system
 - Table 2 sets out options and impact analysis for further embedding the voice of children and young people
 - Table 3 sets out options and impact analysis for strengthening the focus on well-being and long-term outcomes of children and young people
 - Table 4 sets out options and impact analysis for promoting the interests and wellbeing of children and young people across the whole system, including youth justice.

Options and impact analysis

85. Each of the options for reform to the foundations of the system within the CYPF Act, were considered across the eight themes/issues being addressed in this RIS. The results are summarised on below.

Table 1: Options and impact analysis for creating a legislative foundation for a more child-centred system

The following table identifies and considers the impact of each of the potential non-regulatory and regulatory options to create a foundation for a more child-centred system through updating the object/purpose statements and general principles of the CYPF Act.

Option	Features	Implications and impacts	Benefits	Issues/Risks
<p>Option 1a – (enhanced status quo)</p> <p>Retain the current object/purpose statements and the general principles in section 5 and the principles in sections 13 and 208.</p> <p>Non-regulatory option (not preferred)</p>	<p>No change to the legislation.</p> <p>Policies and practice guidelines will be used to establish child-centred practice, as occurs now.</p>	<ul style="list-style-type: none"> The need for change and clearer child-centred focus will not be specifically supported 	<ul style="list-style-type: none"> <i>Fiscal and operational impact</i> – does not change the principles that were developed after extensive consultation, and which practitioners are familiar with. <i>Durability</i> – provides flexibility to allow the operating model to evolve. <i>Compatibility with other government objectives including the investment approach</i> – no impact <i>Interaction with other legislation and planned reforms</i> – no impact <i>Consistency with the principles of the Treaty of Waitangi, UNCROC and other relevant international obligations</i> – no impact 	<ul style="list-style-type: none"> <i>Effectiveness in meeting objectives (does not meet)</i> – unlikely to lead to sufficient change to meet the objectives and deliver a more child-centred system. Policy and practice guidelines are currently child-centred in intention, but this has been insufficient to address the issues highlighted by the Expert Panel. <i>Practicality</i> - An increased child-centred approach in policy and practice guidelines could lead to inconsistency between legislation and policy and practice guidelines, in turn leading to confusion for practitioners. <i>Fairness and equity</i> – Inconsistency between legislation and policy and practice guidelines could lead to different interpretations and applications resulting in unequal treatment between individual cases.
<p>Option 1b –</p> <p>Update the object/purpose statements in section 4 and the general principles in section 5 to create a foundation for a more child-centred system, and take a holistic approach to principles across the CYPF Act.</p> <p>Regulatory option</p> <p>Preferred</p>	<p>New purpose statements and new principles will be added in primary legislation where necessary, and the existing object statements and principles will be updated and modernised to create a coherent and cohesive set of purposes and principles to guide decision-making across the CYPF Act.</p> <p>The general and service specific principles will be reviewed and, where necessary, amended to avoid unnecessary repetition and create a coherent tool for practitioners.</p> <p>The general principles (section 5) will be reframed to take the following approach:</p> <ul style="list-style-type: none"> <i>Children and young people first:</i> the child or young person is placed at the centre of decision-making. <i>Children and young people within the family:</i> we know that children and young people are linked to their family and whānau, and that often, strengthening the child or young person and ensuring their wellbeing is enhanced means strengthening and enhancing the wellbeing of their family and whānau. <i>Children and young people within the community:</i> Children and young people, and their families and whānau do not exist in isolation. We are all part of wider networks of whānau, hapū and iwi, local communities and more broadly part of Aotearoa. These connections and their importance to children and young people are also an important consideration when placing the child or young person at the centre of decision-making. 	<ul style="list-style-type: none"> The child will be placed at the centre of decision-making, providing a clear intent that the system is more child-centred. The updated principles will support and guide practitioners (social workers) in making more child-centred decisions. The broader reach of the system proposed by the Panel, including prevention, intensive intervention and transitions, will be embedded into the system, and considered in decision-making. This change will impact on social workers and other practitioners who currently use the general principles in conjunction with other principles in the CYPF Act to guide decision-making. 	<ul style="list-style-type: none"> <i>Effectiveness in meeting objectives (meets)</i> – updated purpose and principles provide the foundation for the more child-centred focus proposed by the Expert Panel and sought by Cabinet. The proposed content allows a child-centred approach to be understood and applied in a manner which is consistent with and meaningful in the New Zealand context. <i>Compatibility with other government objectives including the investment approach</i> – updating the purposes and principles allows guidance that is compatible with the investment approach to be added to the content. <i>Durability</i> – this option allows a set of purpose and principles to be drafted that are coherent and provide a strong system foundation, therefore that are likely to deliver sustained change. <i>Practicality</i> – the coherent and consistent approach achieved through updating the purpose and principles will be easy to use for practitioners. <i>Fairness and equity</i> – the consistent approach supported by a clear and easy to use set of principles supports greater equity in application by practitioners. <i>Consistency with the principles of the Treaty of Waitangi, UNCROC and other relevant international obligations</i> – this option allows for additional content to be added to further ensure consistency between the legislation, UNCROC, and UNCRDP. <i>Interaction with other legislation and planned reforms</i> – no impact 	<ul style="list-style-type: none"> <i>Fiscal and operational impact</i> – this option will result in significant change to the legislation and will therefore require support and guidance for practitioners to implement. However, there will be no specific fiscal impact to implementing these changes. <i>Practicality</i> – the expansion of the general principles may make their application harder by over-complicating decision-making. This could lead to practitioners not taking the full range of matters into consideration when making decisions. There is increased potential for conflict between different principles. This can be mitigated by good training, and the argument that it is too hard should not be a barrier to doing what is needed to improve outcomes for vulnerable children.

Table 2: Options and impact analysis for further embedding the voices of children and young people

The following table identifies and considers the options and impact of each of the potential non-regulatory and regulatory options to further embed the voices of children and young people in individual decision-making .

Option	Features	Implications and impacts	Benefits	Issues/Risks
<p>Option 2a – (enhanced status quo)</p> <p>Retain a principle in the Act (section 5), that the child or young person is listened to and their views taken into account</p> <p>Non-regulatory option (not preferred)</p>	<p>Currently section 5(d) sets out the principle that consideration should be given to the wishes of the child or young person, so far as those wishes can be reasonably ascertained and that those wishes should be given such weight as is appropriate in the circumstances, having regard to the age, maturity, and culture of the child or young person.</p> <p>This principle would be maintained in location and intent. The phrasing may be updated to align more closely with the new duties in the Children, Young Persons, and Their Families (Advocacy, Workforce, and Age Settings) Amendment Bill.</p>	<ul style="list-style-type: none"> The principle to support children and young people’s participation would be one of a number of principles listed in section 5. 	<ul style="list-style-type: none"> <i>Effectiveness in meeting objectives (partially meets)</i> - this option maintains a principle relating to the views/voice of the child or young person within a list of other principles and therefore would provide the minimum necessary to maintain a clear statement in the general principles of the need to listen to and take account of the views of the child or young person. <i>Consistency with Treaty of Waitangi, UNCROC and other relevant international obligations</i> – this option will maintain the current status quo which is consistent with UNCROC. <i>Durability</i> – provides flexibility to allow the operating model to evolve. <i>East of use</i> – no impact <i>Fiscal and operational impact</i> – no impact <i>Fairness and equity</i> – no impact <i>Compatibility with investment approach</i> – no impact <i>Interaction with other legislation and planned reforms</i> – no impact 	<ul style="list-style-type: none"> <i>Effectiveness in meeting objectives (partially meets) and durability</i> – the principle of participation will be one amongst a number of principles in a list and as such is more likely to be balanced against other principles, and the voice of the child or young person is more likely to be balanced against other views. Therefore this is less likely to fully meet the objective of delivering sustained change and establishing a more child-centred system, as children and young people’s participation is a central tenet of this.
<p>Option 2b –</p> <p>Introduce an additional, separate principle of participation within the general principles in part 1 of the CYPF Act</p> <p>Regulatory option</p> <p>Preferred</p>	<p>A new section would be added to Part 1 of the CYPF Act setting out a separate principle of participation. This principle would be framed so as to require that when making any decisions affecting a child or young person, regard must be had to the views of the child or young person, taking into account age, maturity and culture of the child or young person.</p> <p>This principle would sit at the same status as section 5, meaning it would be subject to section 6 and would be one of the principles to be considered by practitioners when making decisions.</p>	<ul style="list-style-type: none"> It will be clear to both practitioners and children and young people of the value placed on their views and their participation. This will lead to greater participation in decision-making processes by children and young people, which in turn is likely to lead to better outcomes and greater satisfaction in their interactions with the system. This principle will need to be clearly aligned with the new duties established in the Children, Young Persons, and Their Families (Advocacy, Workforce, and Age Settings) Amendment Bill (Bill No 1), so as to ensure consistency across the CYPF Act. 	<ul style="list-style-type: none"> <i>Effectiveness in meeting objectives (meets)</i> - this approach clearly recognises the importance of the voice of the child, elevates its status, and more firmly embeds this aspect of child-centred practice. <i>Durability</i> – a separate principle is more likely to achieve sustained change, as it supports a change in perception of the status of the views of the child or young person. <i>Practicality</i> – a separate principle provides a clearly understood statement on the importance of the child or young person’s voice for practitioners, providing clear guidance for application. Consistency with Bill No 1 will also support practicality. <i>Fairness and equity</i> – greater emphasis on participation is likely to result in improved consistency in how children and young people’s views are sought and taken into account which, in turn, is likely to result in improved equity for children and young people. <i>Consistency with Treaty of Waitangi, UNCROC and other relevant international obligations</i> – this option is consistent with UNCROC, and delivers these to a greater degree than option 1 above. <i>Compatibility with investment approach</i> – no impact <i>Interaction with other legislation and planned reforms</i> – no impact 	<ul style="list-style-type: none"> <i>Fiscal and operational impact</i> – Taking greater account of children and young people’s views and voices may require an additional skill set for some practitioners, therefore training may be required to support operationalising this change.

Table 3: Options and impact analysis for providing stronger focus on well-being and long-term outcomes of children and young people

The following table identifies and considers the options and impact of each of the potential non-regulatory and regulatory options to strengthen the focus on social investment approach

Option	Features	Implications and impacts	Benefits	Issues/Risks
<p>Option 3a – (enhanced status quo)</p> <p>No changes to scope of duty in section 7(2)(b)(i).</p> <p>Policies and practice guidelines are used to support social investment approach.</p> <p>Non-regulatory option (not preferred)</p>	<p>Chief executive retains duty to “promote the establishment services (...advance the welfare of children...)”</p>	<ul style="list-style-type: none"> • There is no clear direction for chief executive to advance the social investment approach. • May cause some uncertainty about sustainability of social investment approach. 	<ul style="list-style-type: none"> • <i>Fiscal and operational impact</i> – no changes to the legislation mean that there is unlikely to be any immediate impact • <i>Practicality</i> – no impact • <i>Durability</i> - provides flexibility to allow the operating model to evolve. • <i>Effectiveness at meeting objectives</i> – goes some way to meeting objectives but does not take holistic account of the needs of the child or young person 	<ul style="list-style-type: none"> • <i>Compatibility with other government objectives including the investment approach</i> – this approach is unlikely to achieve a more systematic approach to how government invests in social services. • <i>Durability</i> – this option is unlikely to facilitate sustained change. Practice guidelines which promote social investment and outcomes appear at odds with a welfare approach in legislation and may be source of confusion.
<p>Option 3b –</p> <p>Amend section 7(2)(b)(i) of CYPF Act to clarify scope of duty</p> <p>Regulatory option</p> <p>Preferred</p>	<p>This option would largely leave the general duties in their current form, but makes specific changes to require the Chief executive to “<i>promote the establishment of services that...improve well-being and long-term outcomes for children and young people.</i>”</p>	<ul style="list-style-type: none"> • Provides clearer signal about significance and importance of social investment approach. • Gives CE of new Ministry a mandate to promote social investment model. • Children, young people and families across the service continuum would be more likely to receive a service that is responsive to their situation. 	<ul style="list-style-type: none"> • <i>Effectiveness in meeting objectives (meets)</i> – signals new Ministry’s focus on securing well-being of children, young people and their families and achieving enduring positive change. • <i>Consistency with the Treaty of Waitangi and international obligations/fairness and equity</i> – this may help advance New Zealand’s obligations • <i>Durability</i> – provides an enduring commitment to improving outcomes for children and young people in both short and long-term. • <i>Interaction with other legislative proposals and planned reforms</i> – Is likely to support the new operating model. • <i>Alignment with investment approach</i> – creation of duty provides significant support for the social investment approach. • <i>Fiscal and operational impact</i> – Is likely to ensure investment and services are targeted in the most appropriate areas and provide for greatest cost-savings in long-term. 	<ul style="list-style-type: none"> • <i>Clarity</i> – may not provide sufficient clarity about the new Ministry’s new role. • <i>Fiscal and operational impact</i> – will require practice framework to clarify what this change signals

Table 4: Options and impact analysis for promoting the interests and wellbeing of children and young people across the whole system, including youth justice

The following table identifies and considers the options and impact of each of the potential non-regulatory and regulatory options to promote the interests and wellbeing of children and young people across the whole system, by ensuring they are considered in the youth justice system.

Option	Features	Implications and impacts	Benefits	Issues/Risks
<p>Option 4a – (status quo)</p> <p>The paramountcy of the wellbeing and interests of children and young people does not apply to youth justice (section 6)</p> <p>Non-regulatory option (not preferred)</p>	<p>Currently section 6 states that the welfare and interests of the child or young person are the first and paramount consideration across the CYPF Act, except Parts 4 and 5 and sections 351 to 360 – the sections that address youth justice.</p> <p>This option would retain this status quo</p>	<ul style="list-style-type: none"> There will be a continued lack of direct focus on the wellbeing and interests of children and young people within the youth justice system. 	<ul style="list-style-type: none"> <i>Fiscal and operational impact</i> – No change will be easy to operationalize <i>Compatibility with other government objectives including the investment approach</i> – no impact <i>Durability</i> – no impact <i>Practicality</i> – no impact <i>Interaction with other legislation and planned reforms</i> – no impact 	<ul style="list-style-type: none"> <i>Effectiveness at meeting objectives (does not meet)</i> – The Expert Panel highlighted that the youth justice system is currently not as child-centred as it should be. This option will not address this, and will not deliver the objectives. <i>Fairness and equity</i> – this option will maintain the current inconsistent and unpredictable consideration of the welfare and interests of young people, which results in a lack of fairness and equity. <i>Consistency with the Treaty of Waitangi, UNCROC and other relevant international obligations</i> – this option will not deliver a system that is compatible with UNCROC.
<p>Option 4b -</p> <p>Update CYPF Act to include wellbeing and interests of the child or young person as a primary consideration in Youth Justice</p> <p>Regulatory option</p> <p>Preferred</p>	<p>The CYPF Act will be updated to require the welfare and interests of the child or young person to be a primary consideration within youth justice, while retaining the paramountcy of the child or young person's interests and wellbeing across the rest of the CYPF Act.</p>	<ul style="list-style-type: none"> There will be a greater focus on the wellbeing and interests of children and young people within the youth justice system and which will help address underlying causes of offending. The status of wellbeing and interests as 'a primary consideration' rather than 'the first and paramount consideration' allows a balance to be achieved with the victims' rights and public safety, which will continue to allow the justice system to operate effectively. 	<ul style="list-style-type: none"> <i>Effectiveness at meeting objectives (meets)</i> - this option more clearly enables a more child-centred approach in youth justice, and meets the objectives set. <i>Compatibility with other government objectives including the investment approach</i> – an increased focus on the welfare and interests of this group is likely to support a more rehabilitative approach which in turn is likely to improve long-term outcomes and reduce future liability <i>Durability</i> – this approach creates a balance between the competing factors of the welfare and interests of the child or young person, the rights of the victim and public safety, therefore creating a stronger basis for sustainable change <i>Fairness and equity</i> – this option enables a more consistent consideration of the welfare and interests of children and young people, leading to a fairer and more equitable approach <i>Interaction with other legislation provisions and planned reforms</i> – the balance this option strikes enables the justice system to continue to operate effectively while promoting a more child-centred approach. <i>Compatibility with the Treaty of Waitangi, UNCROC and other relevant international obligations</i> – this option is compatible with UNCROC <i>Practicality</i> – no impact 	<ul style="list-style-type: none"> <i>Fiscal and operational impact</i> – this will be a change and therefore practitioners will require support and guidance to understand how to operationalise this option. <i>Interaction with other legislation provisions and planned reforms</i> – this change could be seen to strengthen wellbeing and interests of a child or young person over those of the victims.
<p>Option 4c –</p> <p>Update section 6 to expand the paramountcy of the child or young person's best interests and wellbeing across the whole CYPF Act, including Youth Justice</p> <p>Regulatory option (not preferred)</p>	<p>Section 6 would be amended to extend the welfare and interests of the child or young person as the first and paramount consideration across the whole CYPF Act, including youth justice.</p>	<ul style="list-style-type: none"> The child or young persons wellbeing and interests would be elevated above all other considerations, including the victims rights and public safety in youth justice. Practitioners in youth justice will place the child or young persons wellbeing and interests first, this will have implications for decisions around punitive measures and outcomes. 	<ul style="list-style-type: none"> <i>Effectiveness at meeting objectives (meets)</i> – this option is consistent with a more child-centred approach in youth justice and meets the objectives set. <i>Compatibility with other government objectives including the investment approach</i> – an increased focus on the welfare and interests of this group is likely to support a more rehabilitative approach which in turn is likely to improve long-term outcomes and reduce future liability <i>Fairness and equity</i> – this option may lead to a more consistent consideration of the wellbeing and interests of children and young people, and is possibly a fairer and more equitable approach <i>Compatibility with the Treaty of Waitangi, UNCROC and other relevant international obligations</i> – this option is compatible with UNCROC 	<ul style="list-style-type: none"> <i>Durability</i> – this option would create a conflict between the paramountcy of the welfare and interests of the child or young person and other relevant considerations in the justice system such as the victims' rights and public safety. This conflict would impact on the ability of this option to deliver sustainable change. <i>Operational impact</i> – this option would be challenging to operationalise and may lead to tensions between the new Ministry and the courts system <i>Interaction with other legislation provisions and planned reforms</i> – this option is not compatible with the direction of the wider justice system and in particular the consideration of the interests of victims and public safety.

Options and impact analysis

86. Each of the options for reforms to the foundations of the system within the CYPF Act, was considered across the eight themes/issues being addressed in this RIS. Impact analysis ratings listed below:

	[--] = Much worse	[-] = Worse	[0] = Neutral	[+] = Better	[++] = Much Better			
Options	Effective ness against objective s	Durability	Practi cality	Fiscal and operation al impact	Fairness and equity	Interaction with other legislation provisions and planned reforms	Consistency with the Treaty of Waitangi, UNCROC and other relevant international obligations	Compatibility with other Government objectives (including social investment)
Creating a legislative foundation for a more child-centred system								
Option 1a	0	0	--	0	--	0	0	0
Option 1b	++	+	+	-	++	0	++	0
Further embedding the voice of children and young people								
Option 2a	+	-	0	0	0	0	+	0
Option 2b	++	++	++	-	0	0	++	0
Strengthening the focus on the well-being and long-term outcomes of children and young people								
Option 3a	--	--	0	0	0	0	0	0
Option 3b	++	+	0	+	0	+	0	++
Promoting the interests and wellbeing of children and young people across the whole system, including youth justice								
Option 4a	-	0	0	0	--	0	0	0
Option 4b	++	++	0	0	++	+	++	++
Option 4c	++	--	-	-	+	--	++	+

Discussion of preferred options

Creating a legislative foundation for a more child-centred system – options 1b

87. It is considered that updating the object/purpose statements and the general principles in section 5 to create a foundation for a more child-centred system, and taking a holistic approach to principles across the CYPF Act, is the most effective option for creating a legislative foundation for a more child-centred system.
88. The CYPF Act plays a significant day-to-day role in social work practice and decision-making. As such it is considered that it is important the CYPF Act provides clear direction as to what a child-centred system for the purposes of decision-making looks like.

89. Updating the objects and principles of the CYPF Act provides social workers and other practitioners with a clear tool to guide decision-making, with clear legislative authority and contained in one document. Using the non-legislative option of only reflecting the elements of a child-centred system not currently captured in the CYPF Act in practice guidance and policy settings will not deliver this. Having some of the essential elements of a child-centred system in legislation and some in practice guidance creates a two-tier system where the legislative elements will take primacy over the non-legislative element. Considering the crucial nature of the elements currently absent from the legislation (eg stable and loving care, stability and maintenance of trusted relationships, a sense of belonging and connectedness, a clear focus on children's rights) this would not only over complicate decision making but would also not deliver the sustainable changes sought.
90. This preferred approach enables the legislation to be updated to create a modern and coherent set of purposes and principles that deliver a foundation for the more child-centred system described by the Expert Panel and endorsed by SOC [SOC-16-MIN-022 refers].

Updating the objects of the CYPF Act

91. The long title and object statement will be updated to a purpose statement to provide greater clarity around the intent of the legislation, setting out the goal and describing the end state rather than the means of achieving that end.
92. The content of the purpose statement will also be updated to allow the intent of a more child-centred system to be incorporated into the legislation in a coherent manner, creating a clear objective for the legislation, in line with the intent of the Expert Panel and SOC. The updated content will add some new purpose statements and retain the intent of the current object statements while modernising and simplifying the language and emphasising the child-centred approach.
93. The purposes of the CYPF Act will be updated as follows, note that proposed new purpose statements are marked, and all other purpose statements are updated versions of current object statements:
 - To ensure children have a safe, stable and loving home from the earliest opportunity **(new purpose statement)**
 - To prevent and respond to children and young people who are suffering or at risk of harm (including to their wellbeing and development), ill-treatment, abuse, neglect, deprivation, and being at risk of offending
 - To promote the provision of services that promote good long-term health, education, economic and social outcomes for children and young people **(new purpose statement)**
 - To protect children and young people who are not safe or whose needs are not being met in their usual caregiving arrangement
 - To support families, whānau, hapu, iwi and usual caregivers to enable them to provide a safe, stable and loving home and meet the needs of their children and young people
 - To strengthen the relationships between children and young people and their family, whānau, hapu and iwi, and particularly between siblings

- To support children and young people who are or have been in care so that they have the best opportunity to successfully transition to adulthood (**new purpose statement**)
- To respond to children and young people who offend in a way that reduces future offending, responds to the rights and interests of the victims of offending, promotes the rights and best interests of children and young people who offend, holds children and young people accountable for their offending and encourages them to accept responsibility for their behaviour
- To provide and co-ordinate services that are:
 - culturally appropriate
 - centred on the wellbeing and interests of children and young people
- To enable and where necessary require co-operation and information-sharing across agencies to enable the purposes of this Act to be achieved.

More child-centred general principles

94. The CYPF Act contains both general principles (sections 5 and 6) and service specific principles (section 13 sets out the principles for care and protection and section 208 sets out the principles for youth justice). The general principles apply across the whole of the CYPF Act (with the exception that section 6 does not apply to youth justice). The service area specific principles work alongside the general principles.
95. The general principles are used to guide both how practitioners make decisions in respect to individual children and what considerations they take into account. When using the general principles to guide decision making practitioners will refer first to section 6, then section 5 and then to any relevant service specific principles.
96. The preferred option to better enable a child-centred system, is to update the intent and framing of the general principles set out in section 5 to support and guide practitioners to take a more child-centred approach to making decisions in respect of individual children, and to provide a child-centred framework for how the system as a whole should operate. To achieve this the section 5 principles will take the following approach:
 - *Children and young people first*: the child or young person is placed at the centre of decision-making
 - *Children and young people within the family*: we know that children and young people are linked to their family and whānau, and that often, strengthening the child or young person and ensuring their wellbeing is enhanced means strengthening and enhancing the wellbeing of their family and whānau
 - *Children and young people within the community*: Children and young people, and their families and whānau do not exist in isolation. We are all part of wider networks of whānau, hāpu and iwi, local communities and more broadly part of Aotearoa. These connections and their importance to children and young people are also an important consideration when placing the child or young person at the centre of decision making.
97. This approach places the interests and wellbeing of the child at the centre of the system while articulating the connectedness of the child or young person to their family/whānau and the various roles the family/whānau and wider community play in enhancing the best interests and wellbeing of the child or young person. This framing

both sets out the intent of the system and provides a clear understanding of what a child-centred system looks like within the specific context of New Zealand.

98. This approach enables principles around prevention, early, and intensive intervention to be introduced, so as to articulate the expanded remit of the new Ministry. This supports an investment approach, providing direction for intervention at population and individual level at an earlier stage than currently exists, providing a greater opportunity to deliver improved life outcomes and reduced impact on youth justice, welfare, housing and other associated government services.
99. It is possible that the addition of a specific focus on children and young people in the principles may be interpreted as lessening the importance of the family and whānau, as currently articulated in section 5. However, the proposed principles do not diminish the role and importance of the family, whānau, hāpu and iwi, instead the framing places them in the context of a child-centred approach reinforcing that the involvement and support of the family, whānau, hāpu and iwi serves only to support and strengthen the child or young person.
100. The current section 5 principles will be updated to cover the following, note that this is a complete list of proposed principles including both new principles (as marked) and updated existing principles (not marked):
 - *Children and young people first*: the child or young person is placed at the centre of decision-making. This means that when making a decision affecting a child or young person:
 - the child or young person and their siblings have a safe, stable and loving home **(new principle)**
 - the child or young person and their siblings are protected from harm
 - the child or young person has a sense of belonging, and their identity is respected and taken into account, including but not limited to their cultural identity, gender identity, sexual orientation, any disability **(new principle)**
 - the child/young person's rights are respected and they are treated with dignity and respect at all times (note: children and young people's rights include those set out in UNCROC, taking into account New Zealand's reservations to UNCROC, and UNCRDP) **(new principle)**
 - the child or young person is supported to achieve their potential **(new principle)**
 - current and risk of future harm to the wellbeing and development of a child or young person and their siblings, including risk of offending, is identified, prevented and responded to at the earliest opportunity **(new principle)**
 - the impact of harm to a child or young person is addressed and steps are taken to ensure their recovery **(new principle)**
 - decisions are made promptly and in a timeframe appropriate to the age and development of the child or young person
 - a holistic approach that sees the child or young person as a whole person and takes into account the elements that make them who they are as a

person, including but not limited their age cultural connections, education, development, and health is adopted

- for disabled children and young people, that the impact of their disability and any disadvantage resulting from that disability is considered and any impact mitigated. **(new principle)**
- *Children and young people within the family:* we know that children and young people are linked to their family and whānau, and that often, strengthening the child or young person and ensuring their wellbeing and capability is enhanced means strengthening and enhancing the wellbeing of their family and whānau. This means that when making a decision affecting a child or young person:
 - it is recognised that the primary responsibility for caring for and nurturing the wellbeing and development of the child lies with their immediate family, whānau or usual caregiver
 - the family, whānau or usual caregiver are strengthened and supported to enable them to care for the child or young person, nurture their wellbeing and development, and reduce the likelihood of harm or offending **(new principle)**
 - wherever possible, the relationship between the child or young person and their family, whānau or usual caregiver is respected, supported and strengthened
 - the relationship between the child or young person and their siblings is respected, supported and strengthened **(new principle)**
 - the family, whānau, hāpu, iwi and usual caregiver have a voice and a role in decisions made about the child or young person.
- *Children and young people within the community:* Children and young people, and their families and whānau do not exist in isolation. We are all part of wider networks of whānau, hāpu and iwi, local communities and more broadly part of New Zealand. These connections and their importance to children and young people are also an important consideration when placing the child or young person at the centre of decision making. This means that when making a decision affecting a child or young person:
 - consideration is given to the significance of the child or young person's wider whānau, hāpu and iwi, and links to whakapapa or their equivalents in the culture of the child or young person **(new principle)**
 - consideration is given to how a decision affects stability of a child or young person including their educational stability and connections to community and local networks, and the impact of disruption to these **(new principle)**
 - informal networks and supports of the child or young person and their family are acknowledged and where practicable, utilised. **(new principle)**

Further embedding the voice of children and young people – option 2b

101. Further embedding the voice of children and young people at an individual and system level is one of the central tenets of a child-centred system, and was highlighted by Cabinet as an area to be considered for possible legislative change [SOC-16-MIN-0024 refers].
102. The preferred option for further embedding the voice of children and young people is to create an additional, separate principle of participation within the general principles in Part 1 of the CYPF Act.
103. The principle of participation would be framed so as to require that when making any decisions affecting a child or young person, regard must be had to the views of the child or young person, in line with the new duties established in Bill No 1.
104. The intent of the principle would be that wherever practicable:
 - when making any decisions affecting a child or young person, the child or young person must be encouraged and assisted to participate, and their views must be listened to and taken into account
 - decisions will clearly state the child or young person’s views and give reasons where that view was not followed
 - all decisions and the reasons for that decision will be explained to the child or young person.¹⁵
105. Changing the legislation to place this principle in a separate section clearly recognises the importance of the voice of the child, elevates its status, and more firmly embeds this aspect of child-centred practice. It also provides clear direction for social workers and other practitioners as to what it means to take the child or young person’s voice into account.
106. There have been numerous attempts to make these changes via practice guidance which have not resulted in the desired outcomes, as evidenced by the Expert Panel’s findings described above in the ‘status quo and problem definition’. It is considered that the clear signal given by the proposed legislative change provides a firmer foundation for achieving this change than solely using practice guidance again. This change will be supported by practice guidance and training.

Strengthening the focus on well-being and long-term outcomes of children and young people – option 3b

108. Section 7 of the CYPF Act sets out the general duties of the CE, and includes such matters as the duty to monitor and advise on the effect of social policies and issues on children and families, promote child abuse awareness and prevention, and promote policies to assist children and families.
109. Legislative amendments are required to provide greater clarity about the role of the new Ministry in the legislation, including establishing the social investment approach of the new operating model, which includes the shift from a social welfare to a social investment model.

¹⁵ The exact language will be developed during the legislative drafting process

- 110. Amending the legislation is required to clarify the scope of the duty, which is not achievable through practice or operational guidance. Legislation also sends a clear and consistent signal about the Government's commitment to the social investment approach, and ensures the changes are durable in the medium to long-term.
- 111. We note that the proposed reform of the objects and principles of the Act to reflect the new operating model will consequentially reform the scope of the duty of the CE to take action to ensure the objects of the Act are attained (section 7(1)).
- 112. To support the social investment approach, it is proposed that the duty of the CE to promote the establishment of services in section 7(2)(b)(i) is amended so that it refers to 'services to improve the long-term outcomes of children and young persons' rather than 'services to advance welfare'. We have not proposed to broaden the range of services referred to in this duty, as further clarity about the resource allocations under the new operating model are needed before the range of services can be confirmed.

Promoting the interests and wellbeing of children and young people across the system, including youth justice – option 4b

- 107. Currently section 6 sets out the principle that the welfare and interests of the child or young person are the first and paramount consideration in all areas of the CYPF Act except Parts 4 and 5 and sections 351 to 360 - the sections relating to youth justice.
- 108. The language used in section 6 will be updated from 'welfare' to 'wellbeing' to signal a more holistic approach to understanding what is in the child or young person's interests, and use language that is more meaningful to practitioners.
- 109. Placing the wellbeing and interests of the child at the centre is the essential foundation of a child-centred system. In addition to making the whole system more child-centred, there is a specific need to be more child-centred in the youth justice system in recognition of the high rate of neurodevelopmental disorders amongst this segment of the population.
- 110. However, making the wellbeing and interests of the child the paramount consideration in youth justice would be problematic given the balancing of interests that must happen in the justice system between the interests of the offender, the victim and the public.
- 111. Therefore, the preferred option is to make the wellbeing and interests of the child a primary (but not paramount) consideration in youth justice, while retaining it as the first and paramount consideration across the rest of the CYPF Act. This will bring the CYPF Act into greater alignment with UNCROC (which provides that the best interests of the child should be a primary consideration in all matters concerning children) but allows the balancing of interests that must happen in the justice system between the interests of the offender, the victim and the public.

Financial and operational implications of preferred options

- 112. The proposals in this paper do not have significant fiscal impacts.

Consultation

Expert Panel Final Report

113. The Expert Panel completed the high-level design of a new operating model, informed by a collaborative process with children, young people, families, caregivers, victims, experts from across the system, and an extensive review of local and international research.
114. As part of this process, interviews and workshops were held with a range of young people who had personal experience with CYF, including a number who had spent time in care. In these interviews and workshops people were not specifically consulted on the proposals in this RIS.
115. Consultation focused on these proposals and did not specifically consider other ways to make the system more child-centred. Consultation did include consideration of non-regulatory options. Information received during the consultation that related to the broader service-design being considered later in the IIC programme will be passed to the relevant groups working on service-design.
116. A range of internal and external stakeholders have been involved in the development of the proposals contained within this RIS. Officials have sought feedback and input throughout the process from the IIC Programme, CYF, the Office of the Chief Social Worker, the Youth Advisory Panel, members of the Expert Panel Māori Reference Group, the Office of Disability Issues, Te Puni Kōkiri, and the Ministry of Health's Disability Support Services.
117. Officials have also received feedback on proposals from the Ministries of Health, Education, Justice, the New Zealand Police, and the Treasury. Targeted consultation was carried out with the Office of the Children's Commissioner, Professor Robyn Munford, School of Social Work, Massey University, and Associate Professor Nicola Atwool, Department of Sociology, Gender and Social Work, University of Otago.
118. Generally all groups and individuals consulted were comfortable with the direction of the proposed changes and supportive of the role of legislative change in delivering the broader system-wide changes.
119. Overall the Youth Advisory Panel supported the proposed principles and considered respecting and protecting their rights as the most important principle. They also emphasised the importance of listening to and taking their views into account, and discussed how to ensure this was done genuinely and the importance of explaining to the child or young person how their views were considered and why the outcome may have differed from their preference.
120. The Police raised concerns about the recommendation to apply the interests and wellbeing of children and young people as a primary consideration in youth justice, and suggest that the current arrangements are sufficient. The current arrangements do not clearly support the consideration of the interests and wellbeing of the child or young person in youth justice and as such are not sufficiently child-centred. Officials are confident that the interests and wellbeing of a child or young person as a primary consideration will not prevent the necessary balancing of interests in the youth justice system, and that the proposed change is positive and child-centred.

Conclusions and recommendations

121. Following consideration of the options analysis, we recommend the following options:

- Update the object/purpose statements and the general principles in section 5 to create a foundation for a more child-centred system, and take a holistic approach to principles across the CYPF Act
- Introduce an additional, separate principle of participation within the general principles in part 1 of the CYPF Act
- Update the CYPF Act to include welfare and interests of the child or young person as a primary consideration in Youth Justice

122. These proposals will combine to provide a clear and strong foundation in the legislation. This will enable the Expert Panel's vision of a child-centred system and support more child-centred practice. The proposals will:

- emphasise the importance of stable and loving care, sense of belonging, maintaining trusted relationships and supporting recovery for all children and young people
- further embed children and young people's voices at an individual and a system level, building on the amendments being considered by the House in Bill 1, through a specific principle of participation
- recognise the responsibilities of families and whānau, and recognise the role of the State in supporting families and whānau to care for their children and young people
- establish a stronger focus on children and young people's rights, including UNCROC, and UNCRPD by specifically referencing them in the section 5 principles.

Implementation plan

123. The proposals form part of broader reform to the operating model for responding to vulnerable children and families. The future operating model is being developed by the Investing in Children Programme and will be further developed and implemented by the new Ministry post 1 April 2016. The process to develop the future operating model is using a robust programme management system that includes reporting and monitoring, decision-making protocols, change control, change management, stakeholder management, risk and issues management, and benefits realisation.

124. Funding to meet the costs associated with the implementation of the future operating model will be sought from the contingency fund, and where necessary in future budgets via the normal budget process.

Monitoring, evaluation and review

125. These proposals form part of a large set of reforms to develop a new operating model for responding to vulnerable children, young people and their families. The success of the new system will be measured in a variety of ways by the agency responsible for the new operating model.

126. Further work will be required with Treasury and the State Services Commission to build a detailed performance framework. On 30 March 2016, SOC noted that the Minister for Social Development expects that the performance management

framework for the operating model will include the following dimensions [SOC-16-MIN-0022 refers]:

- improved long-term outcomes for those vulnerable children and young people
- reduced liability for future social, economic and fiscal costs
- reduction of churn in the number of care placements and stability of care through long-term relationships in safe and loving homes
- reduction in the rate of statutory response due to increased prevention and intensive support for children and families and whānau
- reduction of re-abuse and re-victimisation (including in care)
- reduction of re-offending rates for youth offenders
- reduction in the over-representation of Māori children and young people in care and the youth justice system
- improved outcomes for Pacific children and young people.

127. Work is also being progressed to gather data on the voices and experiences of those the system is designed to serve, starting with children and young people, which could be used to inform monitoring of the system.

128. The adoption of an investment approach also means that the overall impact of the department can be measured through assessing the reduction in the overall future cost (forward liability) for this group of vulnerable children and young people. The precise measure and associated targets can be determined once the actuarial model is in place.