

Regulatory Impact Statement

Investing in Children: Transition to Independence

Ministry of Social Development

23 September 2016

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 basis for a care support service that delivers improved outcomes for vulnerable children and young people. These options support the Government's proposed new operating model for vulnerable children and young people, specifically the establishment of a transition support service.

In March 2016, the Government considered the Modernising Child, Youth and Family Expert Panel's final report and agreed major legislative reform is required to give effect to a proposed new operating model. 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 are part of the wide-ranging reform included within stage two of the reforms. These proposals are expected to be considered by the Cabinet Social Policy Committee (SOC) in September 2016. The proposals in this RIS cover:

- enabling young people to remain in or return to a supported 'care' arrangement up to the age of 21
- providing vulnerable young people with transition advice and assistance up to the age of 21
- providing guidance on decisions made about transition support for young people.

The legislative proposals aim to be enabling so that the development of the new child-centred operating model is not constrained. Further work is required to develop and design the operational model in line with these enabling legislative proposals. This will include developing detailed costings of the wider changes and identifying impacts on the workforce. The key constraints around the analysis presented in this paper are:

- The analysis has been undertaken ahead of detailed design work. This increases the risk of creating unnecessary degrees of flexibility; however, the options considered are enabling provisions, which can be adapted over time.
- Agency consultation has been undertaken on the impacts on Government agencies as part of the development of this RIS, but within limited timeframes.
- A general indication only of the relative scope and magnitude of the options' operational implications has been provided, as this will depend on further detailed design work being undertaken as part of the business case for the new operating model.

- Cost estimates have been provided. Actual costs will depend on future service design proposals.



23 Sep. 16

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Date

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Executive summary

- 1 The proposals discussed in this RIS form part of the far-reaching reform programme proposed by the Government in response to the Modernising Child, Youth and Family Expert Panel's Final Report (the Report).¹ On 30 March 2016, SOC agreed to establish a new operating model for working with vulnerable children, young people and their families and whānau.
- 2 This reform programme will create a new operating model for working with vulnerable children, young people and their families. The new Ministry for Vulnerable Children, Oranga Tamariki (the new Ministry) will be accountable for this operating model.
- 3 One of the key components of the operating model will be a new transition service which will provide proactive and extended support to young people who are leaving or have left care, a youth justice residential placement or an adult custodial sentence.² Detailed work on the design and operation of this service has started.
- 4 SOC has directed a report-back on legislative proposals to implement the new operating model, including legislative changes to support young people transitioning out of care, for inclusion in a second Bill to be introduced in September 2016 [SOC-16-MIN-0024 refers].
- 5 The transition service will connect to other parts of the operating model to ensure that young people start receiving tailored support to prepare them for young adulthood early on in their time in care. Note that legislative amendments to reform care support are addressed in the accompanying Care Support RIS.
- 6 This RIS covers the proposed legislative amendments to underpin the transition service and ensure that young people are supported as they leave care or a youth justice residential placement and move into adulthood. Specifically, it covers proposals to achieve the following:
 - enable young people to remain in or return to a 'care' arrangement from the age of 18 to 21 (their 21st birthday)
 - provide vulnerable young people with transition advice and assistance up to the age of 21
 - provide guidance on decisions made about transition support for young people.
- 7 This RIS addresses options to improve and extend transition supports for young people up to the age of 21. Proposals to extend transition advice and assistance up to the age of 25 will be presented in a further report-back to Cabinet.
- 8 The options discussed in this RIS were assessed against their likely effectiveness in addressing the following objectives:
 - enable young people to be ready to thrive as independent young adults

¹ Expert Panel. (2015). *Final Report: Investing in New Zealand's Children and Their Families*. <https://www.msd.govt.nz/documents/about-msd-and-our-work/work-programmes/investing-in-children/investing-in-children-report.pdf>

² Throughout this RIS, we will use the phrase 'youth justice residential placement' to include young people who have spent time in an adult custodial sentence.

- ensure young people have opportunities to have relationships with caregivers and other trusted adults that endure into adulthood
 - enable young people to access the government and community supports they need to manage challenges and grow and develop as adults.
- 9 The options were also assessed against their:
- compatibility with an investment approach
 - durability
 - ease of application, including clarity for practitioners
 - fiscal and operational impact
 - fairness and equity
 - interaction with other legislative provisions and planned reforms
 - consistency with the principles of the Treaty of Waitangi and other domestic or international obligations, including the United Nations Convention on the Rights of the Child (UNCROC)
 - compatibility with related Government objectives.
- 10 These proposals should be read in the context of other reforms and measures introduced as a response to the Report. That is, these proposals are intended to support and complement a wider suite of policies aimed at improving outcomes for vulnerable young people.
- 11 The legislative proposals set out in this RIS are described at a level of detail so as to not overly constrain the design or implementation of the transition service that has commenced.

The case for legislative change

- 12 The evidence shows that young people leaving care or a youth justice residential placement are at risk of poor outcomes, especially in relation to housing, health (including mental health), education, employment and offending.
- 13 Supporting young people to maintain relationships with their caregiver for a longer period of time has been shown to help mitigate these risks.
- 14 The evidence also shows that providing specialised services to young people transitioning out of care is likely to lead to improvements across a number of outcomes and to provide a positive return on investment.^{3,4,5}

³ Provincial Advocate for Youth (2012). *25 is the New 21: The Costs and Benefits of Providing Extended Care & Maintenance to Ontario Youth in Care Until Age 25*. Author: Toronto, Ontario.

⁴ Courtney, M. (2015). *Do the Benefits of Extending Foster Care to Age 21 Outweigh the Costs? Evidence from Illinois, Iowa, and Wisconsin*. Wisconsin Family Impact Seminar Number 33. <https://www.purdue.edu/hhs/hdfs/fii/wp-content/uploads/2015/10/CourtneyReportChapter.pdf>

⁵ Burley, M., Lee, S. (2010). *Extending foster care to age 21: Measuring costs and benefits in Washington State*. Olympia: Washington State Institute for Public Policy. <http://www.wsipp.wa.gov/pub.asp?docid=10-01-3902>

- 15 The current legislative framework enables the provision of transition support to young people who have been in care or a youth justice residential placement. However, legislative change would help to:
- send a clear signal that young people in care are entitled to continued 'care' and transition services up to 21
 - ensure that the reforms are durable and can be equitably accessed
 - set a clear expectation for the new Ministry to provide this support
 - frame how the new Ministry will provide transition support to eligible young people.
- 16 To complement the proposals in this RIS, a further report-back to Cabinet will consider options to:
- extend the provision of advice and assistance under section 386A to the 25th birthday
 - ensure the needs of eligible young people transitioning into independence are addressed
 - establish 'community parenting' for young people who have left care.⁶

Enabling young people to remain in or return to a care arrangement up to 21 (the 21st birthday)

- 17 Based on our analysis, the preferred option is to establish a legislative entitlement for young people from the age of 18 to 21 (the 21st birthday) to enter a new supported living arrangement with a caregiver or care provider (Option 3). The chief executive (CE) would support and monitor the arrangement and meet 'reasonable costs' that exceed what any young person, caregiver or care provider may otherwise be eligible to receive (through mainstream services such as income support).
- 18 This entitlement would be available to young people who have been living in the care of the CE or an approved provider for a minimum period of time, as well as the small number of young people who have been placed with an approved caregiver under the guardianship of the Court (where the CE has been appointed as the Court's agent).
- 19 This option provides a strong basis for meeting the objectives set out in paragraph 8 above, particularly supporting young people to maintain an enduring relationship with a caregiver or other trusted adult. This option also has other advantages, namely that it:
- provides certainty to young people in care, the new Ministry and the wider system about the ability of the young person to remain living in a stable home and continue their relationships with a caregiving family
 - provides a clear signal to the new Ministry that they have an obligation to support such an arrangement

⁶ 'Community parenting' provides support and opportunities for young people who have been in care.

- increases the likelihood that the young person engages with appropriate support services and accesses education and/or work opportunities
- provides flexibility to specify policy and operational settings (such as through regulations).

Providing vulnerable young people with transition advice and assistance up to the age of 21

- 20 Based on our analysis, the preferred option is to amend the Children, Young Persons, and Their Families Act 1989 (CYPF Act) to expand the coverage of advice and assistance under section 386A to include:
- young people who have been placed with an approved caregiver under the guardianship of the Court (where the CE has been appointed as the Court’s agent)
 - young people who are in the youth justice system and have been detained in a residential placement pending determination of proceedings, or in custody under a Supervision with Residence or Activity Order⁷
 - eligible young people up to the age of 21 years.
- 21 This option could also include the creation of a power to set regulations providing further direction on transition support, including establishing policy settings.
- 22 This option makes a strong contribution to each of the objectives in paragraph 8, particularly the objective of enabling young people to access the government and community supports they need as they move into adulthood.
- 23 This legislative option:
- ensures that transition support is provided to young people further into their young adulthood, and provides them with stability to complete education and access employment
 - ensures that a wider group of young people are eligible to receive equitable access to transition support
 - supports wider Government objectives to increase the number of young adults in education and training
 - embeds the transition support service as a core component of the operating model.

Providing guidance on decisions made about transition support for young people

- 24 Based on our analysis, the preferred option to do this is to create new purposes and principles in the CYPF Act to guide decision-making that enables young people to successfully take up the opportunities of adulthood.

⁷ This would include young people who are in custody under a Supervision with Residence Order, are in a residential placement under a Supervision with Activity Order, or have been under a custodial sentence in the adult justice system for three continuous months between the age of 14 years and the upper age limit for the youth justice system.

- 25 It goes the furthest to meeting each of the objectives and sends a clear signal on considerations that should be made in decisions about transitions to independence.
- 26 This option will ensure that young people are given greater prominence in decision-making about how best to support their transition to independence. It will also support and guide decision-makers in making child-centred decisions about transition support arrangements for young people who are or have been in care.

Implications of options

- 27 While the costs associated with this package of options may be significant, fiscal risk would be mitigated through requiring the CE to provide only such support as is necessary.⁸ Ministers would be able to further influence these costs as secondary policy decisions are made, such as to develop regulations.
- 28 Such an approach will also enable the new Ministry to build delivery capacity internally and externally and modify or adapt service design and funding levels based on an investment approach.
- 29 We would also expect these costs to reduce over time as fewer young people feel the need to access the full range of State-provided transition services. In addition, some young people may require support of higher or lower intensity than others.
- 30 Furthermore, overseas evidence⁹ and the extensive work of the Expert Panel suggests these costs are likely to be off-set by savings achieved as a consequence of avoiding expenditure later in young people's lives through the Corrections, Health and income support systems.

Policy context

Embedding and enacting a child-centred approach

- 31 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.
- 32 The changes proposed represent a fundamental shift, driving the most significant and comprehensive changes since the CYPF Act was passed.
- 33 Nearly 30 years ago, the CYPF Act sought to reset the model from the previous one relying solely on professional determination to one with much greater involvement of families in decision making.
- 34 While the family group conference model introduced by the Act has been recognised internationally, overall outcomes, however, have not been as envisaged. For example 20 per cent 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.
- 35 Long-term outcomes for children and young people across the system have been generally poor, at considerable individual, societal and fiscal cost. Children and

⁸ Necessary costs would only be met for the entitlement to return to or remain in a care arrangement.

⁹ For example see Valentine, E., M. Skemer & M. Courtney (2015). *Becoming Adults: One-year Impact Findings from the Youth Villages Transitional Living Evaluation*. MDRC: New York, USA.

young people who have had care and protection contact are more likely to leave school without a Level 2 NCEA qualification, be referred to Police due to youth offending, and spend time on a benefit or receive an adult community or custodial sentence by the age of 21.

- 36 As the Expert Panel identified, 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.
- 37 To address this situation Government has endorsed the most far-reaching reforms since the 1989 CYPF Act to embed and enact a much more child-centred and investment approach-focused care and protection and youth justice system.

Signalling and driving fundamental and wide-ranging reform

- 38 The CYPF Act 1989 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.
- 39 It signalled and set the direction of social work action, service delivery and performance monitoring, through legislated principles, objects, duties and powers.
- 40 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.
- 41 As well as setting the practice framework, the CYPF Act informs public understanding and expectations of the role of the care and protection system. In particular, it informs 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.
- 42 Significant reform to the 30-year-old CYPF Act offers an opportunity 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 will help to send a clear message and change the behaviour of actors within the care and protection and youth justice system.
- 43 In addition, legislative reform offers an opportunity to clearly articulate that the 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.
- 44 As with the 1989 CYPF Act, the current proposed legislative reforms are taking place contemporaneously with the development of the detailed operating model that sits under the Act.
- 45 With this in mind, legislative options seek to direct behavioural change and enable operational development, rather than tightly prescribe 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.

- 46 The reform programme, including proposals in this RIS, involve significant cultural shifts to put children at the centre of the system, legislative and policy change, enhancements to service provision, greater engagement of New Zealanders and a wide range of partners, new investment, as well as significant changes to the operating model of the core agency involved in the system.
- 47 There are two parts to the reform programme:
- Stage One is the Children, Young Persons, and Their Families (Advocacy, Workforce, and Age Settings) Amendment Bill (Bill No 1). Bill No 1 makes better provision for children's and young persons' participation and views in processes and proceedings under the CYPF Act and enables a wider range of professionals to perform functions under the CYPF Act.
 - Stage Two consists of a more complex and wide-ranging set of legislative reforms to give effect to the proposed new operating model, as part of a second bill amending the CYPF Act (Bill No 2).
- 48 This RIS is part of the second stage of reforms and focuses on the transition service elements of the new operating model.
- 49 Proposals in this suite of RIS' have been considered as to whether:
- the option best supports the policy intent
 - the option provides the strongest signal and greatest support to achieve intent
 - the option provides sufficient flexibility and durability to support the finer detail of the operational model and future developments.

Transition to independence

- 50 SOC has directed a report-back on further changes required to implement the new operating model, for inclusion in a second Bill [SOC-16-MIN-0024 refers]. These include:
- creating a right to remain in or return to care for young people aged 18 to 21 inclusive, including reform of the financial support system for these young adults
 - ensuring that the needs of vulnerable young people exiting care and in transition are identified and met, up to age 25
 - the establishment of 'community parenting'.¹⁰
- 51 This paper considers proposals on the first area, which includes:
- enabling young people to remain in or return to a 'care' arrangement from the age of 18 to 21 (their 21st birthday)

¹⁰ 'Community parenting' provides support and opportunities for young people who have been in care.

- providing vulnerable young people with transition advice and assistance up to the age of 21
 - providing guidance on decisions made about transition support for young people.
- 52 Analysis on ensuring the needs of vulnerable young people exiting care and in transition are met up to the age of 25 and the establishment of 'community parenting' will be considered as part of work in a further report-back to Cabinet.
- 53 We have considered regulatory and non-regulatory options to achieve these proposals. Although elements of the proposals are able to be accommodated within the current legislative framework, purpose-built legislative reform has a number of benefits:
- it would send a clear signal that young people who are or have been in care should be able to receive the support and assistance that other young people of a similar age who live with their families receive
 - it provides recognition that young people in care face barriers specific to their circumstances; these barriers make it difficult to successfully transition into adulthood
 - it imposes a clear obligation on the State to take proactive measures to support the young person. The removal of ambiguity reduces the risk of vulnerable young people falling through the gaps in the system
 - it ensures all young people removed from their families under the CYPF Act are to be treated on an equitable basis
 - it recognises that young people are likely to need different forms of support at different stages as they progress to independence
 - it signals the Government's clear commitment to adhering to international evidence and best practice.
- 54 It is intended that SOC considers the proposals in September 2016. The options identified in this paper have been developed and assessed against these timing parameters.

Status quo and problem definition

Young people transitioning out of care are vulnerable and at high risk of poor outcomes

- 55 Young people who have been in care have spoken of their pronounced sense of vulnerability and unpreparedness as they transitioned to adulthood. Many have had their education disrupted while in care, and aspirations for success and achievement can be low. Typically, young people in care may have limited opportunities to take on responsibility and to safely test boundaries, to fail and recover. For these young people, the transition into adulthood often comes early, abruptly and with little in the way of a safety net.
- 56 The pronounced vulnerability of young people transitioning out of care is reflected in data on outcomes into early adulthood for young people leaving care. For example, among children who were born in 1991, those who had spent time in care were

significantly more likely to be in receipt of a benefit before age 21 and receive a community or custodial sentence in the adult corrections system.¹¹

- 57 Many young people who have spent time in the care system face distinct barriers as they enter adulthood. For example, a young person leaving care may need to manage finding accommodation and paying rent while completing their final year of secondary school. Many may also suffer from the enduring effects of childhood trauma.¹² To compound these issues, while many young people receive assistance from their parents well into their twenties, youth who are leaving care frequently lack a support network and receive little financial or social support.
- 58 As a result, young people who have left care frequently experience poorer educational outcomes, are more likely to experience mental illness, have had fewer opportunities to develop life skills and are less resilient to risk.¹³ They are more likely to live in unsafe, unstable and poor-quality housing or experience homelessness.¹⁴ These issues can combine and perpetuate one another, so that the loss of financial, emotional and housing support creates a major barrier to completing studies.¹⁵
- 59 In addition, a significant number of caregivers caring for a young person end their support once the young person turns 18. The system does not currently create expectations that caregivers should be committed to support a young person as they enter young adulthood and move into independence.

The current legislative framework provides for some support for young people as they transition out of care

- 60 The CYPF Act contains two provisions intended to support young people as they move out of care into independence. These were introduced through amendments to the CYPF Act in 2014:
- Section 140(1)(d) enables the CE to place a young person in the extended care of a specified person for the purpose of assisting the young person to achieve independence. This extended care agreement ends once the young person reaches the age of 17 years.¹⁶

¹¹ Of the roughly one per cent of young people who spent more than three months in CYF care as a 15- or 16-year-old, 90 per cent have spent time on a benefit before age 21 (2.5 times higher than the general population); six in 10 of the young men have a corrections sentence by age 21 (5.5 times higher than the general male population); and 21 per cent have received a custodial sentence (a rate 11.5 times higher than the general male population). These are findings from a new experimental data set and numbers may be revised, refer to: Crichton, S., Templeton, R., Tumen, S., Otta, R., Small, D., Wilson, M., & Rea, D. (2015) *New findings on outcomes for children and young people who have contact with Child, Youth and Family*. Wellington: Ministry of Social Development. Unpublished manuscript.

¹² For example see Valentine, E., M. Skemer & M. Courtney (2015). *Becoming Adults: One-year Impact Findings from the Youth Villages Transitional Living Evaluation*. MDRC: New York, USA.

¹³ Cashmore and Paxman 1996; Stein 2005 as cited in [Ashton, Sarah. \(2014\). The Rights of Children and Young People in State Care. Dingwall Trust.](#)

¹⁴ Expert Panel. (2015). *Modernising Child, Youth and Family Interim Report*.

¹⁵ For example see the Office of the Provincial Advocate for Children and Youth (2012). *Provincial Advocate for Youth. (2012). 25 is the New 21: The Costs and Benefits of Providing Extended Care & Maintenance to Ontario Youth in Care Until Age 25*. Author: Toronto, Ontario.

¹⁶ Under the Children, Young Persons, And Their Families (Advocacy, Workforce, and Age Settings) Amendment Bill that is currently being considered by the Social Services Committee, this age would be raised to 18 years.

- Section 386A includes further measures to assist young people leaving care to achieve independence. This section places a duty on the CE of the Ministry of Social Development or an approved organisation to:
 - consider what advice and assistance a young person in care will need to move into adulthood, and ensure this is provided at a reasonable time before that person leaves care
 - provide any further advice and assistance, after a young person who has left care requests it, that the CE considers necessary to enable that person to achieve independence, up to the age of 20. This includes financial assistance.

61 These provisions came into effect on 1 July 2016 and are currently being implemented by CYF.

62 Other legal protections in the form of guardianship orders are available to young people older than 17 years. These orders relate more to specific enforceable rights and obligations¹⁷, rather than those activities associated with supporting a young person to manage their day to day arrangements and well-being as they become more independent.

The current system includes some mechanisms to deliver services to young people leaving care

63 Young people who are leaving or have left care are currently able to access support from a range of services or organisations. For example:

- The Youth Service provides financial support and assistance for young people to find education, training or work-based learning. It currently provides support to young people aged between 16 and 17, (or 18 if they are a parent).¹⁸ Approximately 10 per cent of young people receiving financial assistance from the Youth Service are in or have been in care.¹⁹
- CYF contracts with providers to deliver transition support services in parts of the country. At present, the services are primarily delivered in Auckland by the Dingwall Trust²⁰ and Youth Horizons Trust.²¹
- Other social service providers, including Whānau Ora and iwi social service providers, deliver services such as supported housing to young people leaving care.

64 In addition, Work and Income provides a specialist transition service for a small number of disabled young people with very high support needs as they prepare to leave school.

¹⁷ Guardianship refers to duties, powers, rights and responsibilities in relation to the upbringing of a child, including important matters affecting the child or young person such as religion, schooling and medical consents. In contrast, custody refers to the day-to-day care of a young person.

¹⁸ Provisions of the Social Security (Extension of Young Persons Services and Remedial Matters) Amendment Act 2016 raise the age of eligibility for Youth Services to 19 year old parents and 18 and 19 year old beneficiaries without children at risk of long-term welfare dependence. These provisions will be brought into force by Order in Council.

¹⁹ iMSD. (2016). *Work and Income Clients Receiving a Main Benefit Aged 19 or Less as at the End of June 2015*. Unpublished administrative data.

²⁰ Through the Launch programme – information available here: <http://www.dingwall.co.nz/what-we-offer/care-to-independence/>

²¹ Through the Ka Awatea programme – information available here: <http://www.youthorizons.org.nz/our-services/view/ka-awatea/>

Other jurisdictions have strengthened their provision of support to young people transitioning out of care

65 A number of jurisdictions comparable to New Zealand have recently amended their legislation to provide extended support to young people leaving care. Broadly, these jurisdictions have enacted two kinds of legislative changes:

- support for young people to remain living in a 'care' arrangement beyond the upper age of care (based on mutual agreement)
- transition support services for young people as they leave care.

66 Appendix A compares the maximum age of Government support for each of the provisions in these jurisdictions.

There is some evidence that transition support services are effective in improving the outcomes of young people leaving care

67 A randomised controlled trial of a comprehensive support service for young people leaving care in the USA found that the services boosted earnings, increased housing stability and economic wellbeing and improved some health and safety outcomes for young people leaving care.²² There is also evidence to suggest that transition support services can improve mental health outcomes for this group.²³

68 Several international cost-benefit analyses have estimated that increased investment in services for youth transitioning from care yields benefits and savings in the long term.²⁴ The Midwest Study, focusing only on the education impacts of providing extended support for young people in care, found that every \$1 spent on foster care beyond 18 years of age returned \$2 of benefits to foster youth as a result of increased earnings.²⁵ A separate Washington State study showed a return on investment from extending support to young people leaving foster care through into tertiary education.²⁶

Problems with current arrangements

69 Although section 386A of the CYPF Act has only been in force for a short time, it has some limitations as it is currently drafted:

- it could be enhanced to provide transition support further into young adulthood
- it does not clearly signal that young people may remain in or return to a 'care' arrangement past the age of 18, or that the new Ministry should support and monitor such an arrangement

²² Valentine, E., M. Skemer & M. Courtney (2015). *Becoming Adults: One-year Impact Findings from the Youth Villages Transitional Living Evaluation*. MDRC: New York, USA.

²³ Garcia, A. R., O'Brien, K., Kim, M., Pecora, P., Harachi, T., Aisenberg, E (2015). Adverse Childhood Experiences and Poor Mental Health Outcomes Among Racially Diverse Foster Care Alumni: Impact of Perceived Agency Helpfulness. *Journal of Child and Family Studies*, 24(11), 3293-3305.

²⁴ Provincial Advocate for Youth (2012). *25 is the New 21: The Costs and Benefits of Providing Extended Care & Maintenance to Ontario Youth in Care Until Age 25*. Author: Toronto, Ontario.

²⁵ Courtney, M. (2015). *Do the Benefits of Extending Foster Care to Age 21 Outweigh the Costs? Evidence from Illinois, Iowa, and Wisconsin*. Wisconsin Family Impact Seminar Number 33. <https://www.purdue.edu/hhs/hdfs/fil/wp-content/uploads/2015/10/CourtneyReportChapter.pdf>

²⁶ Burley, M., Lee, S. (2010). *Extending foster care to age 21: Measuring costs and benefits in Washington State*. Olympia: Washington State Institute for Public Policy. <http://www.wsipp.wa.gov/pub.asp?docid=10-01-3902>

- it does not extend transition support to certain groups of vulnerable young people
- it does not provide clarity for guiding decisions to successfully transition young people to independence.

The legislation could be enhanced to provide transition support further into early adulthood

- 70 Under the current system, there are abrupt cut-off points when the support provided by CYF ends.
- 71 As described above, the current legislation enables a young person to:
- remain in 'formal' care until the age of 17
 - request support after they have left care, until the age of 20 (or for longer to complete an educational qualification).
- 72 These upper age limits do not align the experience of young people leaving care with that of their age-equivalent peers, whose parents might support their children into their twenties to navigate employment, education, or housing matters. Young people in the general population are also staying for longer periods of time within family environments. The 2013 Census showed around one-quarter of young people aged 18 to 24 years (who were not employed full-time) lived with at least one parent.²⁷
- 73 Having held a formal parental role towards young people who have been in care, it may be reasonable to expect the State to continue to provide them with the same support, security, and care that any other young person would expect to receive. As noted previously, there is evidence that providing young people with these supports is likely to lead to improvements in a number of outcomes.
- 74 Providing transition support to young people into their early adulthood aligns with the approach taken in comparable jurisdictions to New Zealand. Appendix A sets out the maximum ages for certain forms of transition support in these jurisdictions.

The legislation does not signal that a young person may remain in 'care' past the age of 17, or that the new Ministry should support such an arrangement

- 75 Young people who were consulted on this work said that having the option to stay in or return to a care arrangement after they had formally 'aged out' of care would have provided them with valuable support and stability.
- 76 Currently, a young person may choose to remain with or return to living with a caregiver after the age of 17 if they wish and the caregiver agrees.²⁸ However, the current legislation does not clearly signal that a young person may enter such an arrangement or that the new Ministry holds responsibilities to support and monitor the arrangement.

²⁷ 2013 QuickStats: About families and Households. Statistics New Zealand p.17: <http://www.stats.govt.nz/Census/2013-census/profile-and-summary-reports/gstats-families-households.aspx>

²⁸ Under the Children, Young Persons, And Their Families (Advocacy, Workforce, and Age Settings) Amendment Bill that is currently being considered by the Social Services Committee, this age would be raised to 18 years.

- 77 While section 386A enables the new Ministry to offer support to such an arrangement up to the age of 20, the CE holds discretion as to whether he or she will provide financial assistance. There is also no imperative for the CE to monitor and support the relationship or find an alternative caregiver if required.
- 78 Support for a young person remaining in a 'care' arrangement under section 386A will usually end once that young person reaches 20 years of age.²⁹ As noted previously, those who have been in care face a number of difficulties and barriers as they transition to adulthood and independence when compared with those who have not been in care. It is likely that they will benefit from access to support for a longer period.
- 79 In addition, the current legislation does not set a clear signal that caregivers should continue to care for or support young people past the age of 18.

The legislation does not extend transition support to certain groups of vulnerable people

Youth justice

- 80 Currently, young people who have been in a youth justice residential placement³⁰ (and who have not spent the minimum specified period of time in care) are not eligible for support as they transition to independence. This creates an issue of equity around the treatment of this group, as many of these young people have also been dislocated from their communities and face similar barriers to those who have been in care as they transition into adulthood.
- 81 Youth justice interventions are time-limited and may finish close to when a young person turns 17. However, the transition needs of this group continue into their twenties, including around education and employment, social and familial re-integration and preventing recidivism. Many young offenders have experienced childhood adversity, including maltreatment, and many have mental health and substance abuse issues. As with young people who have been in care, many may not have access to the social and family networks that provide support to a young person in this vulnerable period.
- 82 Youth justice plans for young offenders do go some way towards addressing these needs, but more can be done to support their transition from youth justice residential placements.

Guardianship of the Court

- 83 There is a small group of young people who have been placed with an approved caregiver under the guardianship of the Court (where the CE has been appointed as the Court's agent). A very small number of young people who meet this criterion are currently not eligible for transition support.
- 84 Overall, young people who have been subject to these guardianship orders are likely to face many of the same barriers in transitioning to independence as those who have been in care. They currently do not receive equitable support to do this.

²⁹ After the young person reaches the age of 20, the legislation does not provide a mandate for the CE to continue the provision of support to that young person.

³⁰ Or an adult custodial sentence.

The purposes and principles of the CYPF Act do not provide clarity for guiding decisions that successfully transition young people to independence

- 85 Part 1 of the CYPF Act contains objects and principles that guide decision-making under the CYPF Act. Section 5 includes general principles that apply across the CYPF Act, and section 13 covers those relating to care and protection.
- 86 The direction provided in Part 1 is not sufficiently clear on the policy intent for transition support and the range of considerations that should be taken into account when making decisions about young people who are preparing to leave or have left care or a youth justice residential placement. This group are young adults and have reached (or are close to reaching) the age of majority. They have distinct needs, which can include safe and stable care, the preservation of key relationships and adequate preparation and resources for moving into independence.
- 87 There is scope to develop new purposes and principles to guide decisions made about this group of young people.

Objectives and criteria

- 88 The Expert Panel’s Final Report sets out six high-level objectives for a child-centred system:
- i. Ensure that children have the earliest opportunity for a loving and stable family
 - ii. Address the full range of needs for each child
 - iii. Prevent harm and re-victimisation of children
 - iv. Help children to heal and recover
 - v. Support children to become flourishing adults
 - vi. Help children and young people to take responsibility for their actions and live crime-free lives.
- 89 The proposals included in this RIS focus primarily on the fifth objective – to support children to become flourishing adults. This paper sets out legislative options to support young people who are leaving care to live more independently and flourish as young adults.
- 90 To reflect this focus, we have identified three primary objectives for this piece of work. As reflected in the criteria below, proposals will be assessed against the extent to which they are likely to meet these three objectives (as well as the Expert Panel’s general intent for the transition service):

Objective	Reason
Enable young people to be ready to thrive as independent young adults.	Young people need to be prepared for adulthood and develop a range of life skills if they are to be able to realise their potential as adults and live more independently. This needs to start early.
Ensure young people have opportunities to have relationships with caregivers and other trusted	Young people have asked for loving and stable relationships with carers and other trusted

adults that endure into adulthood.	adults that last into adulthood.
Enable young people to access the government and community supports they need to manage challenges and grow and develop as adults.	Leaving care is a time of intense change for young people leaving care. They can be highly vulnerable and have a range of needs. They may not have family networks to help them. Many need state and community support to help them to navigate change, take up opportunities and manage setbacks.

Assessment

91 The policy options will be assessed according to the following criteria:

- **Likely effectiveness** – the extent to which the proposals are likely to meet the three objectives identified above, and align with the general intent of the Expert Panel’s Final Report.
- **Compatibility with an investment approach** – the extent to which the proposals are likely to support the implementation of an investment approach for vulnerable children.
- **Durability** – the extent to which proposals are likely to achieve sustained change in the direction sought, without constraining options that can be considered in the design and implementation of the new transition service.
- **Ease of application** – the extent to which proposals are practical, clear, and easy to understand.
- **Fiscal and operational impact** – the extent to which proposals achieve the objectives above while minimising the compliance costs and the operational implications of implementing 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, legislation or planned reforms.
- **Consistency with the principles of the Treaty of Waitangi and other domestic or international obligations** – the extent to which proposals meet New Zealand’s domestic and international obligations, including those specified in the Treaty of Waitangi, UNCROC and the UN Convention on the Rights of Disabled Persons.
- **Compatibility with other Government objectives** - the extent to which proposals support and do not hinder other Government objectives, including Better Public Services targets.

Impact

92 The impact of these proposals depends to a large degree on the detailed design of the new operating model, which will determine details of future roles, responsibilities, services and investment. As this design work has not yet been completed, the proposals are intended to be enabling rather than prescriptive (including where entitlements are proposed). Policy settings on ‘necessary costs’

will be set in regulations. Accordingly, it has not been possible to carry out a detailed analysis of the impacts and costs of each option.

93 The service design process will need to work through the impacts of legislative change on the different individuals, agencies and processes involved.

94 The changes are likely to:

- provide young people with improved access to the supports and services they require to enable them to successfully transition to adulthood
- equip young people with the skills and attributes they require to become more independent
- mean that caregivers and care providers have greater clarity and certainty that they can receive support to keep providing 'care', and are likely to make a greater investment in the relationship with the young person.

95 In addition:

- the CE of the new Ministry will need to ensure that there are sufficient caregivers available to look after young people
- the CE will need to develop clear policies and procedures to support the provision of assistance, including financial assistance, to young people
- the new Ministry and service providers will need to ensure that they have the capability and capacity to provide the appropriate level of support to a young person as they transition to independence.

Impacts for Māori

96 Around six in 10 young people in care are Māori, and six in 10 young people in the youth justice system are Māori.³¹ Overall, Māori whānau, children and young people demonstrate higher indicators of vulnerability than the general population.³² The package of proposals, which strengthen the level and availability of support required to help prepare young Māori as they transition to independence, are likely to be of significant benefit to young Māori and their whānau. The ability to maintain links with their care provider is likely to be of particular importance.

97 Māori organisations and iwi social service providers are also significant providers of care and post-care services for young people. The impacts for these providers are likely to be similar to those for care providers identified above.

Fiscal impacts

98 The options identified in this RIS may contain significant costs. However, we have sought to mitigate fiscal risks as much as possible in options where the CE can hold some discretion over the provision of assistance.

³¹ See p43 and p49 respectively – Expert Panel. (2015). *Final Report: Investing in New Zealand's Children and Their Families*. <https://www.msd.govt.nz/documents/about-msd-and-our-work/work-programmes/investing-in-children/investing-in-children-report.pdf>

³² See p35 - Expert Panel. (2015). *Modernising Child, Youth and Family Interim Report*.

<https://www.msd.govt.nz/documents/about-msd-and-our-work/work-programmes/cyf-modernisation/interim-report-expert-panel.pdf>

- 99 In order to manage costs, assistance will only be provided to cover 'necessary costs'. The CE can still decline to provide such assistance in circumstances where it would be unreasonable to provide support.
- 100 It is also proposed to further manage costs for young people seeking to remain in or return to care by prescribing detailed policy settings to manage fiscal risk and ensure that what support is provided is 'reasonable'.

Implementation

- 101 It is proposed to phase the implementation of the entitlement to remain with or return to living with a caregiver so that young people become eligible when they turn 18, and those who have already attained that age when the entitlement comes into effect will not be eligible.

Legislative proposals

- 102 SOC invited the Minister of Social Development to report back on the following areas for legislative change in relation to transition to independence. The table below lists each of these areas and identifies whether they are being addressed in this RIS or elsewhere.

Recommendation by SOC	Where this is being addressed
Create a right to remain in or return to care up to age 21 inclusive, including financial support for these young adults.	<i>Proposals to achieve this are included in this RIS.</i>
Ensuring the needs of vulnerable young people exiting care and in transition are identified and met up to age 25.	<i>Proposals to achieve this will be considered as part of a further report-back to SOC.</i>
Establish 'community parenting'.	<i>Proposals to achieve this will be considered as part of a further report-back to SOC.</i>

- 103 This RIS therefore includes proposals to create a right to remain in or return to care up to age 21.

Alignment with UNCROC

- 104 We have assessed all options using the UNCROC child impact assessment framework.
- 105 Some of the options do not directly fall under the scope of UNCROC, since UNCROC defines a young person as being under the age of 18. However, we have assessed all options in order to ensure they are consistent with UNCROC's intent.
- 106 We have found all options to be consistent with the intent of UNCROC.

Trade-offs

107 There are trade-offs that need to be considered in the context of these options. These are:

Discretion versus equitable access to support

108 An option that sets consistent eligibility criteria (ie through upper age settings or allowing certain groups to receive support or services) goes the furthest towards ensuring that young people leaving care or a youth justice residential placement have equitable access to support. However, increased consistency means there is likely to be less discretion to tailor solutions to the needs of individuals. This may create less flexibility and less opportunity for innovative or bespoke solutions.

109 Conversely, an option that provides for broad discretion in the provision of support means there is greater opportunity to tailor solutions to individual circumstances. However, there is an increased risk that not all individuals will receive the same type of support they require for their specific needs. This may give rise to perceptions of unfairness or inequity.

Discretion versus fiscal liability

110 An option that provides for the CE to hold broad discretion in the provision of support to young people would help to mitigate potential fiscal liability for the new Ministry. The CE has the ability to provide an appropriate balance between the effectiveness of services and affordability. However, greater discretion may also increase opportunity for highly targeted, bespoke services to be delivered at a higher cost than more standardised "off-the-shelf" arrangements.

111 On the other hand, options that limit or remove the discretion of the CE provide a higher level of financial certainty about the level of costs. This makes it easier for the agency to forecast likely spend. However, this option removes the ability of the CE to limit the availability of services and carries a higher risk of fiscal liability for the new agency in the event of a higher than expected level of demand.

112 Our analysis has identified where different options align with these trade-offs.

113 The following section sets out options for these proposals and our analysis of these options.

Scope

114 This RIS considers options to improve support for young people who have been in care or a youth justice residential placement up to the age of 21.

115 Options to extend and improve support for these young people up to the age of 25 are outside the scope of this RIS and have therefore not been considered in the options analysis. They will be considered in a further report-back to Cabinet.

Table One – enabling 18- to 21-year-olds to remain in or return to a supported living arrangement

The following table identifies and considers the impact of each of the potential options.

Option	Features	Impact	Benefits	Issues/Risks
Non-regulatory options				
<p>Option 1 (enhanced status quo)</p> <p>Set operational guidance to apply to section 386A of the CYPF Act for remaining in care up to 20.</p> <p>Non-regulatory option</p>	<p>A child or young person would have the option of remaining in or returning to a supported living arrangement with a caregiver or care provider, with support for the arrangement provided under section 386A. Current eligibility criteria would continue to apply, so support will usually end for a young person at their 20th birthday.³³</p> <p>Young people who have only spent time in a youth justice residential placement would not be eligible for this support.</p> <p>The CE would continue to have discretion over any support provided to such an arrangement.</p>	<ul style="list-style-type: none"> Young people would have limited certainty that they may be able to remain in or return to a supported living arrangement up to 20. Caregivers and providers would know that they may be able to keep providing 'care' for a young person, with support from the Government, and may modify their behaviour accordingly. Frontline workers and the wider sector are likely to have more certainty about whether care can be extended due to operational provisions. This option would have the smallest operational impact on the new Ministry and the wider system, since it is close to the status quo. 	<ul style="list-style-type: none"> <i>Likely effectiveness</i> – Goes some way to supporting the objective to provide young people in transition with stability and support but only to existing age limits. <i>Compatibility with an investment approach</i> – Some alignment with an investment approach with flexibility to target support if needed. Application of discretion uncertain. <i>Durability</i> – Maintains current levels of flexibility; support provided for the living arrangement could be scaled up or down at the discretion of the CE. <i>Fiscal impact</i> – Costs associated with this option could be rationed or targeted, and could be kept low if required. <i>Consistency with the Treaty of Waitangi, UNCROC and other obligations</i> – This option is likely to see an improvement in outcomes for both young Māori³⁴ leaving care and young adults with disabilities. <i>Compatibility with other Government objectives</i> – May contribute to Better Public Services Results 1, 5, 6, 7 and 8 through improved outcomes related to education, employment and offending. 	<ul style="list-style-type: none"> <i>Likely effectiveness</i> - Does not set a clear entitlement for the supported living arrangement, and does not allow this up to 21. Not clear it would meet all the needs of young people. <i>Durability</i> - Is set at an administrative level and therefore more amenable to change. <i>Operational impact</i> – Unclear because of discretion on how section 386A would be applied in the future. <i>Fairness and equity</i> – May be implemented inconsistently over time and/or across New Zealand. <i>Interaction with other legislation and planned reforms</i> – Current tensions in the interface between this section and the Social Security Act 1964 would not be resolved (specifically, whether financial assistance is treated as income for the purpose of calculating eligibility for other assistance).
Regulatory options				
<p>Option 2</p> <p>Amend section 386A to extend discretion to support a young person remaining in or returning to 'care' until 21. Set operational guidance.</p> <p>Regulatory option</p>	<p>Similar to Option 1 but the 'care' arrangement is available for a longer time period (until the 21st birthday) and to a wider group of people.</p> <p>The CE must assess the need and has discretion over whether the 'care' is extended.</p> <p>Young people who have been in the guardianship of the Court (where the CE has been appointed as the Court's agent) would be eligible to enter the new arrangement.</p>	<ul style="list-style-type: none"> The CE would have a duty to assess and consider what support is provided. Increased certainty for young people, caregivers and providers on what services are available. There would be some uncertainty for social workers and the wider sector about whether continuing 'care' is possible. 	<ul style="list-style-type: none"> <i>Likely effectiveness</i> – Similar to option 1. <i>Compatibility with an investment approach</i> – Similar to option 1. <i>Durability</i> – Less subject to change than Option 1 but similar flexibility. <i>Fiscal impact</i> – Similar to Option 1. <i>Consistency with the Treaty of Waitangi, UNCROC and other obligations</i> – Similar to Option 1. <i>Compatibility with other Government objectives</i> – Similar to Option 1. 	<ul style="list-style-type: none"> <i>Likely effectiveness</i> – As for Option 1. <i>Operational impact</i> – As for Option 1. <i>Fairness and equity</i> – As for Option 1. <i>Interaction with other legislation and planned reforms</i> – As for Option 1.

³³ Support may continue if the young person is receiving financial assistance towards education or training.

Option	Features	Impact	Benefits	Issues/Risks
<p>Option 3</p> <p>Create new entitlement in the CYPF Act for young people to remain in or return to a supported 'care' arrangement until 21.</p> <p>Regulatory option</p> <p>Preferred option</p>	<p>This option would enable a caregiver and a young person from the age of 18 to 21 to enter a new living arrangement with a view towards assisting the young person to transition into independence.</p> <p>There would be an obligation on the CE to:</p> <ul style="list-style-type: none"> monitor this arrangement (against specific standards) provide support to maintain the relationship between the young person and the caregiver meet the 'reasonable costs' of the arrangement. <p>Young people who have only spent time in a youth justice residential placement would not be eligible to enter the new arrangement.</p> <p>A young person living in the new arrangement would also be eligible to receive tailored support (see Table 2).</p>	<ul style="list-style-type: none"> Young people would have the most certainty that they can remain in or return to a supported living arrangement up to 21. Caregivers and care providers would have certainty that they can receive support to keep providing 'care' and are likely to make a greater investment in the relationship with the young person. Frontline workers and the wider sector would know that there is a clear obligation on the Ministry to provide this service. The CE provides 'care' to support the arrangement if the young person requests it. The new Ministry may need to increase the pool of caregivers available and ensure that they receive the support they need to enter the new arrangement. This option is likely to provide the most stability for more young people to enter and stay in in education/employment. 	<ul style="list-style-type: none"> <i>Likely effectiveness</i> – Best of four options as it provides young people in transition with stability and supports them to maintain an enduring relationship with a trusted adult. Creates a clear entitlement for the supported living arrangement. <i>Compatibility with an investment approach</i> – This option is likely to be most aligned as nature of obligation clearer. <i>Durability</i> – Less subject to change than Option 1 but similar flexibility. <i>Fairness and equity</i> – Fairest and most equitable option as entitlement is based on consistent eligibility criteria and brings support to young people who have been in care into line with what a 'reasonable parent' would provide to their child. <i>Interaction with other legislation and planned reforms</i> – Greater alignment with wider objectives to improve the stability and quality of care placements, and for young people to maintain relationships with a caregiver or other trusted adult. <i>Consistency with the Treaty of Waitangi, UNCROC and other obligations</i> – slight enhancement on Option 1 and 2 for reasons set out above. <i>Compatibility with other Government objectives</i> – Potentially provide greater contribution to Better Public Services Results than Options 1 and 2 as it provides the most stability and support for a young person. 	<ul style="list-style-type: none"> <i>Fiscal impact</i> – Costs associated with this option are likely to be higher than Options 1 and 2. Fiscal liability might be managed through requiring the CE to meet only the 'reasonable costs' of the arrangement. Regulations could further specify what could be considered to be reasonable costs. <i>Operational impact</i> – Pool of caregivers who are willing to look after young people would need to be increased.
<p>Option 4</p> <p>Amend section 140(1)(d) of the CYPF Act so that an extended care agreement may be available for young people up to the age of 21 years.</p> <p>Regulatory option</p>	<p><i>Description</i></p> <p>A young person may remain in or return to an extended care arrangement up to the age of 21 for the purpose of transition to independence.</p> <p>The new Ministry would continue to hold care and protection responsibilities towards the young person.</p>	<ul style="list-style-type: none"> Young people would be able to participate to some degree in decision making. Young people would have less certainty and control over this arrangement. The CE may hold care and protection duties towards young person while they prepare to transition to independence. Would have higher impacts on courts and social workers than other options, as this arrangement takes place through the family group conference process. 	<ul style="list-style-type: none"> <i>Likely effectiveness (partially meets)</i> – Similar to Options 1 and 2 but fewer young people are likely to take up this arrangement than in Option 3, because they may not want to remain in 'formal' care. <i>Compatibility with an investment approach</i> – Similar to Options 1 and 2. <i>Durability</i> – Similar to Options 2 and 3. <i>Operational impact</i> – It may align well with other components of the new operating model, such as the care support service. <i>Fairness and equity</i> – Similar to Option 3. <i>Consistency with the Treaty of Waitangi, UNCROC and other obligations</i> – Similar to other options. <i>Compatibility with other Government objectives</i> – Similar to other options (around education, training and employment) but may also contribute to Better Public Services Results 1, 7 and 8. 	<ul style="list-style-type: none"> <i>Fiscal impacts</i> – Similar to Option 3 because the young person would be subject to the care and protection system (including assessment and court costs). <i>Interaction with other legislation and planned reforms</i> – Inconsistent with proposed principles for transition support because the young person does not lead decision-making. <p>Possible issues around how section 140(1)(d) interacts with other parts of the CYPF Act in relation to the processes and supports offered to young adults over 18 years.</p> <p>As with Options 1 to 3 regarding the social security system.</p>

Summary of options and impact analysis

116 Each of the options were considered against the criteria in this RIS. The results are summarised below.

[--] = Much worse	[-] = Worse	[0] = Neutral	[+] = Better	[++] = Much Better
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Options	Likely effectiveness	Durability	Fiscal and operational impact/ ease of application	Fairness and equity	Interaction with other legislative provisions and planned reforms	Other Government objectives, including compatibility with investment approach
Enabling young people to remain in or return to a care arrangement from the age of 18 to 21						
Option 1	+	0	0	0	0	+
Option 2	+	0	0	0	0	+
Option 3	++	0	-	++	+	+
Option 4	+	0	-	+	-	+

Discussion of options – enabling 18- to 21-year-olds to remain in or return to a supported living arrangement

Non-preferred options

117 Option 1 is a non-regulatory option that proposes setting operational guidance to provide direction for young people to remain living with a caregiver after 18 under section 386A of the CYPF Act. Although there is the possibility that operational guidance by itself might address some of the concerns about consistency, particularly as section 386A has been in force for only a short time, amendment is still required to create an entitlement for those aged between 20 and 21 years to remain in or return to care. Operational guidance is also less durable than legislative options as it is more amenable to change at an administrative level.

118 Option 1 is not preferred because:

- it appears inconsistent with the objective of ensuring the young person has access to a stable home and maintains relationships with their caregiver
- there appears to be no clear opportunity for the wishes of the young person or the family to be taken into consideration (although this could be set out in the guidance material)
- there is still potential for inconsistency in decision-making
- it cannot extend support to those between 20 and 21 years of age.

119 Option 2 proposes amending section 386A of the CYPF Act to provide a supported living arrangement for a young person aged 18 to 21, with the CE's approval. Option 2 does extend the age of eligibility to those aged between 20 and 21 years but, as with Option 1, it does not create an entitlement to access supported living arrangements and is reliant on the exercise of discretion. It is also not preferred as it does not address some of the concerns discussed in relation to Option 1.

120 Option 4 proposes amending section 140(1)(d) of the CYPF Act to allow an extended care agreement to be available up to the age of 21 years. Option 4 is not preferred as section 140(1)(d) is designed for a different set of circumstances than that envisaged by the proposal to allow a young person to remain living with a caregiver. Section 140(1)(d) is designed for situations where the CE is making decisions that have a higher level of responsibility and involve full care and protection requirements. This is a stronger regulatory approach than what is required in the situation described above.

Preferred option

121 To enable 18 to 21 year olds to remain in a supported living arrangement with a caregiver or care provider, we recommend **Option 3** – create an entitlement in the CYPF Act for 18 to 21 year olds who have been in care³⁵ to enter a new supported living arrangement with their caregiver or care provider.

122 The CYPF Act would be amended to specify that this entitlement involves:

- supporting an eligible young person to live with their former caregiver or provider (or finding an alternative living arrangement, if needed)³⁶
- meeting the 'necessary costs' of the arrangement
- arranging that pastoral care and services be provided to support the young person to address a wide range of transition needs
- monitoring the arrangement against care standards specific to this situation.

123 Legislative amendment is required to create an entitlement and extend eligibility to that entitlement to those young people aged between 20 and 21 years of age.

124 Setting this entitlement in the legislation would:

- send a clear signal to young people who are able to remain in a supported living arrangement with a former caregiver
- send a clear signal to caregivers that commitment to support a young person through young adulthood is desired
- ensure this entitlement is durable and can be applied equitably
- limit the discretion available to the CE in providing financial assistance for this arrangement

³⁵ Or those who have been placed with an approved caregiver under the guardianship of the court (where the CE has been appointed as the court's agent).

³⁶ For example, the CE would be required to find an alternative living arrangement if the former caregiver or provider did not consent to the young person living with them.

- set a clear mandate for the new Ministry to support and monitor the arrangement.
- 125 The transition service will complement rather than duplicate other services that the young person might be eligible to receive, for example Youth Services. The detail of how transitional services will complement these existing services will be worked out during the service design process.
- 126 Option 3 is unlikely to impact on the ability of those young people eligible to receive any Youth Payment or Young Parent Payment as any person who wishes to remain or return to a care arrangement will not legally be in the care or custody of the CE – rather, it will be a supported living arrangement from which they are free to leave if they wish. On that basis, they still fulfil the criteria for “exceptional circumstances” in section 159 in relation to the Youth Payment and Parent Payment because they have ceased to be in care or custody under the CYPF Act. Financial assistance to support a young person returning to care would only be provided if considered a necessary addition to main benefit payments.
- 127 This option could be combined with Option 6 (see table below) to introduce a legislative override to the Social Security Act 1969 and other related enactments to make it clear that financial assistance under the CYPF Act is not considered as income. This proposal will also ensure that payments made under the Social Security Act 1969 and CYPF Act do not conflict with each other.
- 128 We recommend that Option 3 is progressed because it provides certainty to young people that their relationship with a caregiver or provider could continue. It also:
- provides a strong basis for meeting the desired objectives, particularly supporting young people to maintain enduring relationships with a caregiver or other trusted adult
 - increases the likelihood that the young person engages with appropriate support services and accesses education and/or work opportunities.
- 129 This option is unlikely to address the needs of the small group of young people who have a higher level of need than those preparing to move to independence. Young people assessed with high needs may still not be ‘ready’ to live independently at a later stage. However, the ability to remain with the caregiver - when combined with Option 9, which provides for more proactive support to be provided to a wider group of vulnerable young people (see Table 2) – means this group of young people are more likely to be better equipped to manage their transition to independence.

Financial and operational implications

- 130 We estimate that around 500 young people every year age out of care.³⁷ We would expect the highest demand for transition support and to keep living with a caregiver to be in the first two to three years. However, a smaller group of vulnerable young people may choose to remain in ‘care’ for longer.

³⁷ This is the expected in flow to the service each year, who would require ongoing support from a transition service. It is based on average volumes of young people who have care over the last five years.

- 131 Examples of operating costs for Option 3 are a total of **[Section 9(2)(f)(iv) OIA]** over four years from 2017/18, for young people who have left care and are aged between their 18th and 21st birthday.³⁸
- 132 This indicative cost estimate covers the cost of living with a caregiver based on the foster care allowance (which contributes towards living costs). The estimate includes significant assumptions about uptake and the type of service provided. A list of the key assumptions used to estimate costs is attached as Appendix B.
- 133 Final costs will not be known until the final design of the service has been completed, which will include consideration of other services already funded by the Government. Additional investment may be required to support an increase in the quality and level of interventions.
- 134 We would expect it to take at least three years for the proposal to be fully implemented because the number of caregivers would need to be increased and young people would be progressively encouraged to take up this arrangement.
- 135 Indicative costs do not account for wider savings if outcomes are improved for this group.
- 136 This proposal may lead to a reduction in forward liability to Government by reducing demand for services, especially from the Justice, Health and Work and Income sectors. See paragraph 70 for more information about the evidence for these impacts.
- 137 There will be opportunities for Ministers to further consider the costs of the transition services during the policy development of the regulations that support this proposal. The costs may reduce, depending on the final design package.
- 138 The costs for Options 1 and 2 may be lower than for Option 3 as the provision of services is discretionary, and there is flexibility to manage costs at an individual level. The costs for Option 4 are likely to be higher because of the greater level of intervention.
- 139 Since this option does not provide the CE with discretion to approve the new arrangement, it provides less operational flexibility than the other options. Option 3 is also reliant on the successful implementation of wider system reforms that will see an increase in the number of care providers and an increase in the standard of services provided. The intention is to provide a more intensive level of intervention with a greater therapeutic focus.

³⁸ The costs associated with this option appear significant but the impact is likely to be reduced over time, particularly if a phased implementation process is adopted. Such an approach will also enable the new Ministry to modify or adapt service design and funding levels based on an investment approach. We also expect that the level of demand for services will decrease in the medium to long-term as the impact of other changes is realised.

Table Two – providing vulnerable young people with transition advice and assistance up to 21

The following table identifies and considers the impact of each of the potential non-regulatory and regulatory options to provide vulnerable young people with transition advice and assistance up to the age of 21.

Option	Features	Implications and Impacts	Benefits	Issues/Risks
Non-regulatory options				
<p>Option 5 (enhanced status quo)</p> <p>Use either operational policy or regulations to provide further detail on transition support.</p> <p>Non-regulatory option (or regulatory if creating a regulation-making power)</p>	<p>Section 386A of the CYPF Act could be supported by operational guidance or amended to add a regulation-making power in relation to transition support services for young people aged 18 to 20 (the 20th birthday).</p> <p>Young people who have only spent time in a youth justice residential placement would not be eligible for this support.</p> <p>Young people who have been placed with an approved caregiver under the guardianship of the Court (where the CE has been appointed as the Court’s agent) would also not be eligible.</p>	<ul style="list-style-type: none"> The CE would retain discretion over the provision of advice and assistance. Regulations or operational guidance could specify factors the CE must consider when making this decision. Regulations or operational guidance could be used to specify processes. Young people may receive more consistent transition support. Support is only available until age 20. Frontline workers may have certainty about considerations through operational policy. Likely to have the lowest operational impact on the new Ministry and wider sector, as it is close to the status quo. 	<ul style="list-style-type: none"> <i>Likely effectiveness</i> – Dependent on scope of power and drafting of regulations but likely to go some way towards meeting objectives. <i>Compatibility with an investment approach</i> – Is likely to align well with an investment approach. May retain flexibility to target support if needed.³⁹ <i>Durability</i> – Durable option – adding more detailed policy settings through regulations or operational policy would reduce the risk of constraining options that can be considered in the design of the transition service. <i>Ease of application</i> – Close to the status quo, so relatively easy to implement. Clarity of the proposal will depend on any regulations that are set. <i>Fiscal impact</i> – To be determined when regulations or operational guidelines are set. <i>Fairness and equity</i> – Likely to provide more consistency in implementation. <i>Consistency with the Treaty of Waitangi, UNCROC and other obligations</i> – Dependent on regulations and operational guidance but is likely to improve medium to long-term outcomes for Māori in care. Enhances support for young adults with disabilities to live independently. <i>Compatibility with other Government objectives</i> – Supports young people to move into education, training or employment. This contributes to Better Public Services Results 5 and 6 around boosting skills and employment. 	<ul style="list-style-type: none"> <i>Likely effectiveness</i> – Excludes young people aged 20 and young people who have been in a youth justice residential placement or under certain guardianship orders from receiving support in most cases. <i>Durability</i> – Placing duties on the CE through regulations or operational guidelines would not be as robust or sustainable as placing the duties in primary legislation. <i>Operational impact</i> – Potential inconsistency between guidance and legislation requiring agencies to provide young people with advice and assistance. <i>Interaction with other legislation and planned reforms</i> – Fits well with existing legislative framework. However, inconsistent with proposed principles for transition support [see the accompanying <i>Foundations for a child-centred system</i> RIS], because the young person does not lead decision-making. <i>Compatibility with government objectives</i> – Interaction with other parts of the system, eg the Youth Service, requires further consideration.

³⁹ See footnotes 18, 19 and 20.

Option	Features	Implications and Impacts	Benefits	Issues/Risks
Regulatory options				
<p>Option 6</p> <p>Introduce a legislative override to the Social Security Act 1964 and other related legislation</p> <p>Regulatory option</p> <p>Preferred option</p>	<p>The CYPF Act would include an override to the Social Security Act 1964 and other related legislation to make it clear that financial assistance under the CYPF Act is not income.</p> <p>This option can be combined with any other option.</p>	<ul style="list-style-type: none"> Young people would not have their benefit stopped if they receive assistance to help them transition from care. Staff would be clear that payments provided would not interact with other assistance. 	<ul style="list-style-type: none"> <i>Likely effectiveness</i> – This option will provide transparency and clarity. <i>Ease of application</i> – Similar to Option 5. <i>Fiscal impact</i> – As change confirms status quo, there should be no fiscal impact. <i>Fairness and equity</i> – Similar to Option 5. <i>Interaction with other legislation and planned reforms</i> – Aligns with the current definition of income in the Social Security Act, and makes it clear that it covers all assistance provided under the CYPF Act. 	<ul style="list-style-type: none"> <i>Durability</i> – Including this in primary legislation will mean that it is not easily amendable if new assistance is intended at a later point to interact with benefits as income.
<p>Option 7</p> <p>Extend coverage of the Youth Service to provide a more effective pathway and more intensive support for young people who have been in custody or care of the CE.</p> <p>(Note: the Youth Service is for young people aged 16 or 17 in exceptional circumstances, or 16- to 18-year-old parents)</p> <p>Regulatory option</p>	<p>This option would enhance the focus of the Youth Service on supporting young people leaving care.</p>	<ul style="list-style-type: none"> Many young people who are in care would continue to be referred to the Youth Service. Young people would receive case management from the Youth Service and would have obligations and receive incentives for undertaking certain activities – for example engaging with education, participating in budgeting, and if appropriate, attending parenting programmes. Social workers from the new Ministry, caregivers and other parts of the system would engage with the Youth Service to access support (as they do now). 	<ul style="list-style-type: none"> <i>Likely effectiveness</i> – Similar to Option 5. Eligibility criteria may reduce discretion to target support if needed. <i>Compatibility with an investment approach</i> – Consistent with evidence⁴⁰ about investment in young people to reduce long-term costs. <i>Ease of application</i> – Similar to Option 5. <i>Consistency with the Treaty of Waitangi, UNCROC and other obligations</i> – Scale of benefits likely to be similar to Option 5. <i>Compatibility with other Government objectives</i> – May contribute to Better Public Services Results 1, 5, 6, 7 and 8 through improving outcomes related to education, employment and offending. 	<ul style="list-style-type: none"> <i>Likely effectiveness (partially meets)</i> – May not be sufficient to ensure young people leaving care receive tailored support. Would not support intent for the new Ministry to be the single point of accountability for supporting young people transitioning out of care. <i>Durability</i> – Would constrain options that can be considered in design and implementation. <i>Fiscal impact</i> – Requires further consideration – however, likely to have similar costs to Option 9. <i>Operational impact</i> – May be difficult to ensure the Youth Service connects to and aligns with other components of the operating model for vulnerable children. <i>Fairness and equity</i> – Uncertain without further work. <i>Interaction with other legislative provisions</i> – The Youth Service may not be subject to relevant duties or guidance in the CYPF Act.

⁴⁰ See footnotes 18, 19 and 20.

Option	Features	Implications and Impacts	Benefits	Issues/Risks
<p>Option 8</p> <p>Legislate for a broad transition service based on assessment of a young person's vulnerability.</p> <p>Regulatory option</p>	<p>There would be an assessment of a young person's vulnerability and their needs for transition support. A wide range of services would be offered.</p> <p>The service could be provided to a broad range of young people who have had contact with the health, education, justice or wider care and protection system.</p> <p>This option could include the transfer of the Youth Service and other transition support functions into the standalone transition service.</p>	<ul style="list-style-type: none"> Young people with a broad range of needs and vulnerability may receive support services. The new service would hold a large transition function and would employ or partner with a large number of youth specialists from a range of disciplines. Caregivers and parents may be able to engage with one large agency that addresses a number of needs for young people. 	<ul style="list-style-type: none"> <i>Likely effectiveness</i> – Not as effective as other options for reasons set out in this table but likely to support some of the identified objectives. <i>Compatibility with an investment approach</i> – Likely to be equally compatible as Option 7, depending on policy settings. <i>Fairness and equity</i> – Likely to be fairer and more equitable than other options as services would be more coherent and integrated for young people, and fewer young people would fall through gaps between services. <i>Consistency with Treaty of Waitangi and international obligations</i> – Similar to Options 5 and 6. <i>Compatibility with other Government objectives</i> – An integrated service system may be more likely to contribute to a broad range of government objectives, including Better Public Services Results 1, 5, 6, 7 and 8. 	<ul style="list-style-type: none"> <i>Likely effectiveness (partially meets)</i> – Wider focus may weaken the transition service's ability to tailor services to meet the needs of young people who have left care. <i>Ease of application</i> – Likely to be complex. There may be significant legislative implications. <i>Fiscal impact</i> – Requires further consideration, but likely to have high costs. <i>Operational impact</i> – There may be significant impact on the operation of other agencies. <i>Interaction with other legislation and planned reforms</i> – May not be as consistent with wider reforms as other options, as it would not focus on the desired population and may not be sufficient to ensure support is delivered early and proactively.
<p>Option 9</p> <p>Amend section 386A of the CYPF Act to:</p> <ul style="list-style-type: none"> extend the coverage of advice and assistance under section 386A to the age of 21 expand eligibility for section 386A to include young people who have been in a youth justice residential placement, an adult custodial sentence, or certain guardianship orders. <p>A regulation-making power for section 386A could also be created.</p> <p>Regulatory option</p> <p>Preferred option</p>	<p>Section 386A would be amended so that eligibility for advice and assistance is extended to:</p> <ul style="list-style-type: none"> young people who have spent a minimum period of time in a youth justice residential placement young people serving an adult custodial sentence young people who have spent a minimum period of time with an approved caregiver under the guardianship of the Court (where the CE has been appointed as the Court's agent) eligible young people up to their 21st birthday. <p>Regulations could be developed to specify in more detail how the CE is to exercise discretion around the provision of advice and assistance under section 386A.</p>	<ul style="list-style-type: none"> There would be a clear signal and mandate for the agency to provide advice and assistance to vulnerable young people into early adulthood. A wider group of vulnerable young people would be able to receive advice and assistance under section 386A. The CE would retain discretion around the provision of advice and assistance to young people. Regulations could be used to direct or limit this discretion. Frontline workers would have more certainty about service provision if this is set in regulations. Regulations could provide more certainty to young people leaving care about the types and levels of support they are able to receive. This option would support the direct purchasing of services from partner agencies and organisations. 	<ul style="list-style-type: none"> <i>Likely effectiveness (meets)</i> – Likely to be the most effective of options considered. Ensures that young people receive support and preparation for young adulthood for longer. Extends eligibility for advice and assistance to young people who have been in a youth justice residential placement or under certain guardianship orders. <i>Compatibility with an investment approach</i> – Likely to be equally as compatible as Option 7, depending on regulations. Retaining current levels of discretion means there would be flexibility to target funding in line with an investment approach. <i>Durability</i> – Reasonably flexible because detailed policy settings would be provided in regulations (and would be relatively easy to update). <i>Operational impact</i> – Would provide flexibility for aligning the transition service with other parts of the system. <i>Fairness and equity</i> – More fair and equitable than all other options. <i>Interaction with other legislation and planned reforms</i> – Similar to Option 5. <i>Consistency with the Treaty of Waitangi, UNCROC and other obligations</i> – Given the above considerations, it is likely be more aligned than other options. <i>Compatibility with other Government objectives</i> – Similar to Option 7 but likely not to the same extent as Option 8. 	<ul style="list-style-type: none"> <i>Ease of application</i> – Would require further work to develop policy settings in regulations. <i>Fiscal impact</i> – Likely to have significant costs, as it expands the eligible population for advice and assistance under section 386A. See pp35-37 for costings. <i>Operational impact</i> – Work will need to be done in implementation to align the transition service with other social services and ensure that there is no duplication of services.

Summary of options and impact analysis

140 Each of the options were considered against the criteria in this RIS. The results are summarised below.

[--] = Much worse	[-] = Worse	[0] = Neutral	[+] = Better	[++] = Much Better
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Options	Likely effectiveness	Durability	Fiscal and operational impact/ ease of application	Fairness and equity	Interaction with legislative provision and planned reforms	Other Government objectives, including compatibility with investment approach
The provision of tailored services for young people through to the age of 25 years						
Option 5	+	+	0	+	0	0
Option 6	0	-	0	+	0	0
Option 7	+	+	0	+	0	+
Option 8	0	0	-	++	0	+
Option 9	+	+	-	+	+	+

Discussion of options – providing vulnerable young people with transition advice and assistance up to the age of 21

Non-preferred options

141 Option 5 may be a non-regulatory or a regulatory option. It proposes either setting operational guidance or creating a power to set regulations to give direction on the provision of advice and assistance under section 386A of the CYPF Act. Although there is the possibility that operational guidance or regulation-making power by itself might address some of the concerns about consistency or the ability to tailor support to the needs of young people, legislative amendment is still required. It is needed to extend eligibility to:

- young people who have spent a minimum period of time in a youth justice residential placement
- young people who have been placed with an approved caregiver under the guardianship of the Court (where the CE has been appointed as the Court's agent)
- eligible young people up to the age of 21.

142 Option 7 proposes extending the Youth Service to deliver specialist services to young people who are transitioning out of care. This will require regulatory change to expand the scope of the Youth Service up to age 21. Our analysis shows that this option:

- would not go far enough to support the desired objectives, as it would not be able to deliver the intended focus on supporting young people leaving care to maintain relationships with their trusted adult
- would not meet the intent for the new Ministry to act as the single point of accountability for addressing the material, cultural, health, education, housing, income, and employment needs of children and young people transitioning out of care
- would need to be integrated with other reforms that will see services delivered through one single agency.

143 Option 8 proposes establishing a transition service to cover a broad range of vulnerable young people, including those who have had no prior contact with the new Ministry. This is likely to require regulatory change. Our analysis shows that one advantage of this option is that there is less likelihood that young people will fall through the gaps between services. Young people are also likely to be advantaged by having ready access to a fully integrated range of services.

144 However, Option 8 carries a significant risk that it will be difficult to integrate the full range of services in a coherent way and still ensure young people are able to consistently access services when they are required. The level and/or quality of services may be reduced.

Preferred option

145 To provide vulnerable young people with transition advice and assistance up to the age of 21, we recommend Option 9 – amend section 386A of the CYPF Act to extend the advice and assistance provided to include:

- young people who are in the youth justice system and have been detained in a residential placement or in custody under a Supervision with Residence or Activity Order (a youth justice residential placement)⁴¹
- young people who have been placed with an approved caregiver under the guardianship of the Court (where the CE has been appointed as the Court’s agent)
- eligible young people up to the age of 21 (the 21st birthday).

146 Legislative amendment is required to modify these eligibility criteria.

147 This option could also include creating a regulation-making power on particular issues that relate to a young person’s transition from care to independence.

148 We recommend that Option 9 is progressed because it meets the desired objectives while retaining current levels of discretion and flexibility in the provision of advice

⁴¹ This would include young people who are in custody under a Supervision with Residence Order, are in a residential placement under a Supervision with Activity Order, or have been under a custodial sentence in the adult justice system for three continuous months between the age of 14 years and the upper age limit for the youth justice system.

and assistance to young people. This option would provide the strongest benefits if a full range of services are delivered to meet the young person's needs.

- 149 The transition service will complement rather than duplicate other services that the young person might be eligible to receive. For example, a young person may receive case management or financial support through the Youth Service. The transition service would assess the supports a young person is receiving and would be able to provide additional financial or non-financial supports to meet the young person's needs, if required.
- 150 The detail of how transition services will complement these existing services will be determined during the service design process.
- 151 We also recommend that Option 6 is advanced, as this option is required to support the policy intent of Option 9.
- 152 Option 6 introduces a legislative override to the Social Security Act and other related enactments to make it clear that financial assistance under the CYPF Act is not income. This proposal will also ensure that young people who receive other social security entitlements (Jobseeker or Independent Circumstances Allowance) are not penalised through receiving additional assistance as a result of being in a supported living arrangement.

Financial and operational implications

- 153 Option 9 is likely to be associated with moderate costs, as it would expand the population eligible for support and services.

Examples of operating costs for Option 9 are [**Section 9(2)(f)(iv) OIA**] over four years from 2017/2018. These estimates cover base-level implementation costs over four years and are based on significant assumptions about uptake and the types of services provided.⁴²

- 155 Final costs will not be known until the final design of the service has been completed, which will include consideration of other services already funded by the Government. Additional investment may be required to support an increase in the quality and level of interventions.
- 156 There will be opportunities for Ministers to further consider the costs of the transition services during the policy development of the regulations to support this proposal.
- 157 Option 9 could enable increased funding under an investment approach. With higher funding levels, more benefits may be realised. There is international evidence that a full package of transition support is effective and improves the outcomes of young people who have left care.⁴³
- 158 With higher funding levels, there may be other fiscal benefits due to young people having better mental health outcomes, higher levels of employment and earnings,

⁴² A list of the key assumptions used to estimate costs is attached as Appendix B.

⁴³ For example, for care-experienced young people born in 1991, their estimated justice sector and benefit costs to 35 years of age average \$216,000, compared with \$30,000 for those with no contact with CYF, and \$127,000 for those with a substantiated finding of abuse or neglect but no care exposure. This means that for every young person passing through an effective transition service whose trajectory moves from their ex-care status to one reflecting a child abuse victim (who was not placed in care), there could be average savings of \$89,000 to 35 years of age.

and less exposure to future violence. Evaluations of best practice transition services operating in the USA show a:

- 17 percent increase in earnings from future work, which improves economic wellbeing and increases tax revenue
- 13 percent reduction in mental health problems, which has a positive impact on quality and length of life and reduced costs for primary, emergency and specialist health services
- 30 percent reduction in violent relationships, which reduces costs in the justice and health sectors that respond to sexual and family violence.⁴⁴

159 These proposals may also have intergenerational impacts by preventing the cycle of violence within families and communities. These effects are difficult to quantify but would be significant.

160 Agencies would participate in joint planning and work with the new Ministry to ensure that services are provided and well co-ordinated to avoid duplication. The impact of co-ordinated decision-making is likely to result in better long-term outcomes for the young person.

161 Regulations would provide agencies with the ability to target services according to the needs of the individual young person in conjunction with the young person and their caregiver.

162 Other operational implications and risks will be unclear until service design is completed.

163 There will be costs associated with further transitions proposals, estimates of which will be included in a further report-back to SOC.

⁴⁴ Valentine, E., M. Skemer & M. Courtney (2015). *Becoming Adults: One-year Impact Findings from the Youth Villages Transitional Living Evaluation*. MDRC: New York, USA

Table Three – providing guidance for decisions on transition support

The following table identifies and considers the impact of each of the potential non-regulatory and regulatory options to provide guidance for decisions made about young people who are or have been in care during transition to independence.

Option	Features	Impacts	Benefits	Issues/Risks
Non-regulatory options				
<p>Option 10</p> <p>Update policy settings and practice guidelines to ensure young people have access to the support they need.</p> <p>Non-regulatory option</p>	<p>This option would use policy settings and practice guidelines to provide relevant directions for decision-makers in the process of exercising their discretion.</p>	<ul style="list-style-type: none"> • May create uncertainty for young people and caregivers about eligibility for support. • Unlikely to strengthen commitment to transitional support as no clear legislative direction. 	<ul style="list-style-type: none"> • <i>Likely effectiveness</i> – Provides some assistance to CE and other providers in applying new transitional requirements. • <i>Compatibility with an investment approach</i> – Is likely to align well as it continues to allow CE broad discretion about the extent, degree and type of support required in individual circumstance. • <i>Durability</i> – Is durable as operational guidance will ensure appropriate flexibility, but provide for integrity in decision making. • <i>Operational impact</i> – May provide some increased consistency in decision-making about eligibility. • <i>Interaction with other legislation and planned reforms</i> – Retains flexibility to align with and support other planned reforms. • <i>Compatibility with other Government objectives</i> – Is likely to help increase compatibility of other reforms. 	<ul style="list-style-type: none"> • <i>Likely effectiveness</i> - This option is not likely to result in young people having a greater role in decision making. It is unlikely to sufficiently emphasise the importance to a young person, in the process of moving to independence, of building connections with the wider community, family/whānau, iwi and hapū (where appropriate) and maintaining connections with education. • <i>Durability</i> - is set at an administrative level and therefore more amenable to change. • <i>Fairness and equity</i> – Lack of clarity means that there is an increased risk that outcomes are uncertain.
<p>Option 11</p> <p>Create new purpose statements and principles in the CYPF Act to guide decision-making that enables young people to successfully take up the opportunities of adulthood.</p> <p>Regulatory option</p> <p>Preferred option</p>	<p>Sections 4 and 13 of the CYPF Act will be amended to provide clear guidance that young people are to be supported as they transition to independence.</p>	<ul style="list-style-type: none"> • Young person more likely to have central role in making decisions that affect them. • Decision-makers are likely to take wishes and aspirations of young person more into account in considering what they require in order to successfully transition to independence. • Increased likelihood that young person will build connections with the wider community, family/whānau, iwi and hapū (where appropriate) and maintaining connections with education as they move out of care. 	<ul style="list-style-type: none"> • <i>Likely effectiveness</i> – This option is more likely than Option 10 to ensure that the young person has access to appropriate transitional arrangements. Sends clear signal on desired behaviours. • <i>Durability</i> – More durable than Option 10 – helps to drive sustained behaviour change. • <i>Ease of application and fiscal and operational impact</i> - The updated purposes would support and guide consistency of decisions about transitional arrangements. May provide increased guidance to the establishment of the new transition service under the operating system. • <i>Fairness and equity</i> – Fairer and more equitable than Option 10 (see comments under durability). 	<ul style="list-style-type: none"> • <i>Fiscal and operational impact</i> – There may be some initial uncertainty about role of purposes in applying legislation. This option is likely to require support and guidance for practitioners to implement.

Summary of options and impact analysis

164 Each of the options were considered against the criteria in this RIS. The results are summarised below.

[--] = Much worse	[-] = Worse	[0] = Neutral	[+] = Better	[++] = Much Better
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Options	Likely effectiveness	Durability	Fiscal and operational impact/ ease of application	Fairness and equity	Interaction with legislative provision and planned reforms	Other Government objectives, including compatibility with investment approach
Guidance for decisions on transition support						
Option 10	0	+	+	0	0	0
Option 11	+	+	++	+	+	0

Discussion of options – providing guidance for decisions on transition support

Non-preferred options

165 Option 10 is a non-regulatory option. It proposes setting operational guidance to clarify the importance of the changes to the CYPF Act relating to transitional support. This is not preferred as it does not provide a clear statutory signal of the role that access to transitional support plays in achieving positive and enduring outcomes for young people transitioning out of care, and the importance that such arrangements play in contributing to the success of the legislative reform. Operational guidance is also less durable than legislation, as it is set at an administrative level and therefore is more amenable to change.

Preferred options

166 Option 11 is most likely to achieve the desired objectives because:

- the purposes and principles of the CYPF Act will ensure young people are given greater prominence in decision-making about how best to support their transition to independence
- the purposes and principles will support and guide decision-makers in making child-centred decisions about transitional support arrangements for young people who are or have been in care.

173 Section 4 of the CYPF Act would be amended to provide clear guidance that young people are to be supported as they transition to independence by:

- enabling young people to be ready to thrive as independent young adults, and for preparation for independent living to begin early

- ensuring young people have opportunities to have relationships with caregivers and other trusted adults that endure into adulthood
- enabling young people to access the government and community supports they need to manage challenges and grow and develop as adults.

174 Section 13 of the CYPF Act should be amended to provide clear guidance that young people are to be supported as they transition to independence so that:

- wherever possible, the young person increasingly leads decisions around their transition alongside trusted adults, and is supported to do this
- the young person's strengths and personal, cultural and care identity are built on and nurtured
- where appropriate, the relationships between the young person and their family, whānau, hapū, iwi and family group are maintained and strengthened
- wherever possible, family, whānau, hapū, iwi and communities are supported to help a young person in transition
- wherever possible, the relationships between the young person and a caregiver, other trusted adults and the wider community are built and maintained, particularly as the young person's circumstances change
- measures to support a young person address the full range of that person's aspirations and needs, including supporting the stability of their education
- measures to support a young person are proactive and sustained throughout early adulthood, regardless of the decisions the young person makes.

175 While providing guidance on decisions for transition support could be achieved through operational guidelines, setting this guidance in the legislation would have the advantage of sending a clear signal about considerations that need to be included in decisions made about a young person's transition to independence. It would also ensure this guidance is durable and is able to drive sustained behaviour change.

Consultation

Expert Panel Final Report

175 The Expert Panel's Final Report, which included the first phase of analysis leading to these proposals, was informed by a collaborative process drawing on the views of children, young people, families, caregivers, victims, experts from across the system, and an extensive review of international research.

176 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. When these young people were asked about their experiences moving from care into independence, the key themes that emerged were:

- many young people feel unprepared, stressed and vulnerable when leaving care
- many young people want the option of spending more time in care

- many young people want their care relationships to continue after they leave care
- some young people leaving care do not have a clear plan for their future
- many young people are not given chances to be independent while in care and are not taught skills for independent living
- many young people face difficulties accessing financial and non-financial resources after leaving care.

177 In the workshops and interviews described above, people were not consulted specifically on the proposals in this RIS.

These proposals

178 Throughout the development of the proposals contained in this RIS, we have sought and incorporated feedback from:

- the Ministry of Education
- the Ministry of Health
- the Ministry of Justice
- the Children's Action Plan Directorate
- the Department of Corrections
- the New Zealand Police
- Te Puni Kōkiri
- the Treasury
- the State Services Commission.

179 They broadly supported the policy intent of proposals included in this RIS, which were considered alongside options to extend transition advice and assistance up to the age of 25.⁴⁵ Most of these agencies' feedback was incorporated, especially in relation to maintaining contact with the young person, increasing the scope of eligibility criteria and extending the role of transition support.

180 We also discussed these proposals with a limited group of external stakeholders:

- members of the Youth Advisory Panel
- members of the Māori Reference Group
- Office of the Children's Commissioner (OCC)
- non-governmental organisations
- academics.

181 The direction of proposals was generally supported. Where appropriate, we incorporated their feedback into our analysis of the options.

⁴⁵ Options to extend transition advice and assistance up to the age of 25 will be considered in a further report-back to Cabinet.

Conclusions and recommendations

182 Following our analysis, we recommend the following options:

- Amend the CYPF Act to create an entitlement for young people who have been in the care or custody of the CE to enter a new supported living arrangement with their caregiver or care provider from the age of 18 up to 21 (the 21st birthday).
- Amend the CYPF Act to extend eligibility for advice and assistance under section 386A to the age of 21 and to include young people who have been in a youth justice residential placement, an adult custodial sentence or placed with an approved caregiver under the guardianship of the Court (where the CE has been appointed as the agent of the Court).
- Introduce a legislative override to the Social Security Act 1964 and other related enactments to make it clear that financial assistance under the CYPF Act is not considered income for the purposes of the Social Security Act.
- Create new purposes and principles in the CYPF Act to guide decision-making that enables young people to successfully take up the opportunities of adulthood.

183 Together, these four options will provide a strong basis for the design and implementation of a transition support service for young people leaving care, and for young people to remain living in supported care arrangements up to the age of 21.

Implementation plan

184 These proposals form part of a larger reform to the operating model for responding to vulnerable children and families. This future operating model is being established through a cross-agency Transformation Programme⁴⁶ to implement the proposed changes, operating according to 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.

185 Detailed work on service design is underway. This will be a multi-year process, with the first year focusing on the end-to-end design of the service. Other government agencies and non-governmental organisations will be involved in this process, alongside young people, caregivers, and families and whānau.

186 Funding to meeting additional costs associated with the full business case would be sought in subsequent budgets.

⁴⁶ SOC agreed that the governance arrangements for the Transformation Programme will include: the CE of the Ministry of Social Development who would be responsible for establishing and managing the Transformation Programme; a reconstituted Vulnerable Children's Board who will provide advice on the establishment and management of the programme of work and then provide the Minister for Social Development and the Ministerial Oversight Group with advice on an ongoing basis; and the Ministerial Oversight Group, which would comprise the Minister for Social Development and the Ministers of Finance, Health, Justice, Education, Corrections, Police, Whānau Ora and Māori Development, will oversee and direct the reform process [SOC-16-MIN-0023 refers].

Monitoring, evaluation and review

187 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. Further work will be required with the 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 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.

188 A strategic evaluation plan is currently being developed. This plan will include an outcomes framework and intervention logic, as well as setting out a schedule of evaluations that will take place over the next five years. The schedule will include a full gamut of evaluations, including process and effectiveness evaluations (under an investment approach).

189 The first evaluation is intended to take place in mid-2019.

Appendix A – Maximum age of transition supports in comparable jurisdictions

The table below compares the maximum age of Government support for a young person to remain in a care arrangement, and for a young person leaving care, in jurisdictions similar to New Zealand.

Jurisdiction	Maximum age of support for a young person remaining in a care arrangement	Maximum age of support for young people leaving care
England	21	21 (or 25 if pursuing education or training)
Wales	21 (or later if pursuing education or training)	25
Scotland	21	26
Northern Ireland	21	21
Victoria, Australia	-	21
New South Wales, Australia	-	25
Ontario, Canada	-	21

Appendix B – Assumptions for transition to independence costing

The following table provides the key assumptions used to cost proposals for transition to independence.

The right to remain in or return to living with a caregiver

<i>Assumption</i>	<i>Rationale</i>	<i>Estimate</i>		
The number of young people who leave the care system every year is stable	Based on 2014/15 operational data	500 eligible young people leave care per year		
Most young people will want to leave their caregivers, to live more independently.	The experience of England and several states in the USA			
		Conservative		
		Higher		
		18	19	20
		20%	20%	10%
		30%	30%	15%
The cost of living with a caregiver is based on the foster care allowance (which contributes towards living costs)	Foster care allowance rates for young people aged over 14 years	[Section 9(2)(f)(iv) OIA]		
<ul style="list-style-type: none"> There may be additional administrative costs to undertake assessments of the needs of young people. This cost estimate does not include residential care costs (which would cost more than foster care). However, it is not anticipated that many young people would choose to remain in or return to residential care (based 2014/15 service volumes). 				

Transition advice and assistance

<i>Assumption</i>	<i>Rationale</i>	<i>Figures</i>		
The service coverage for young people leaving the care is extended to twenty year olds Youth justice clients are able to access transition advice and assistance.	Based on 2014/15 operational data	500 twenty year olds become eligible per year 100 eligible young people leave the youth justice system per year		
A proportion of those who leave care will not receive the right to remain services and access this service instead A proportion of youth justice clients will access the service	Demand modelling			
		Care leavers		
		Youth justice leavers		
		18	19	20
		BAU	BAU	20%
		60%	50%	40%
Transition advice and assistance to be provided through a phone based service that includes crisis and case management services.	Average unit cost for CYF call centre	[Section 9(2)(f)(iv) OIA]		