

# Working Paper no.6: Legislative Mechanisms to Reduce Child Poverty

Expert Advisory Group on  
Solutions to Child Poverty

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## Purpose

1. The central purpose of this Working Paper is to examine the applicability of a legislative framework designed to reduce child poverty in New Zealand and propose recommendations placed within the context of an instructional system incorporating measures, monitoring, strategy and accountability.
2. In this respect, it should be read in conjunction with the following working papers:
  - EAG Working Paper No 1 Defining and measuring child poverty EAG Working Paper No 5: Child Poverty Reduction Targets
  - EAG Working Paper No. 4: Child Poverty – International Approaches and Comparisons
3. This paper has informed the direction and recommendations of the EAG's *Solutions to Child Poverty in New Zealand: Issues and Options Paper for Consultation*. These are preliminary findings, and a final report will be published in December 2012. The findings in this paper do not necessarily represent the individual views of all EAG members.
4. The EAG wish to acknowledge members of the Secretariat for their work on this report.

## Introduction

5. The Expert Advisory Group (EAG) on Solutions to Child Poverty has been asked by the Children's Commissioner to provide advice on short-term and long-term policies to reduce child poverty in New Zealand and mitigate its effects. In order to fulfill this mandate, it is essential for there to be a clear definition of poverty and precise measures for assessing the level of poverty. Without such measures it is impossible to know what the EAG is seeking to reduce. The EAG has developed a set of recommendations concerning the definition and measurement of poverty, together with recommendations covering child poverty-related indicators. The EAG has also developed a recommendation on possible use of targets as one of a number of policy

instruments for reducing child poverty and mitigating its effects.

6. Adding to this institutional system of measures, targets and monitoring, legislation is another possible policy instrument for reducing child poverty.
7. Legislation can be considered the ultimate level of accountability for undertaking an action or achieving a specified result: it is unlawful to do otherwise.
8. New Zealand currently does not have any legislation that is designed with the specific intent of *defining* and *reducing* child poverty. In fact, the term 'child poverty' is notably absent from New Zealand's legislative framework. Indeed, it is very difficult to find examples of such legislation in any other comparable countries, with the United Kingdom being the notable exception. This is perhaps reflective of both the complexity of child poverty (as a social condition and concept) and the political risks involved in setting in place a set of legislative objectives to reduce such poverty that rely on a multiplicity of policy instruments and other factors in order to be achievable.
9. However, despite the complex nature and impacts of child poverty, we consider that specific legislation has the potential to be an effective tool for reducing such poverty in New Zealand. Not only would such legislation elevate the reduction of child poverty as a government policy priority, it would also ensure an enduring political commitment to this objective, as well as parliamentary accountability for outcomes. Bear in mind that it is relatively common for legislation to be enacted to guide policy-making in areas deemed to be of major economic, social, cultural or environmental concern. Child poverty is, without doubt, such an issue.
10. In reaching this position we have considered the following areas, all of which are traversed in this paper:
  - The case for using legislation as a child poverty reduction tool in New Zealand;
  - New Zealand legislative examples;
  - An overview of the Child Poverty Act 2010 (UK) and other measures;
  - A proposed legislative structure and recommendations.

### **The case for New Zealand child poverty legislation**

11. As noted in the introduction to this paper, the United Kingdom appears to be the first jurisdiction to design and enact purpose-built child poverty legislation and even then only very recently. The long-term impact and effectiveness of the British approach is yet to be evaluated.
12. There are a number of factors to consider regarding the use of legislation as a tool to

reduce child poverty. Like any core policy tool, we would consider how effective legislation might be in achieving results in terms of signaling, alignment and focus of policy levers, and accountability.

### Legislation sends a strong signal

13. Signaling intent with legislation gives a strong sense of direction commitment. It would elevate the importance of child poverty. It can also influence or change attitudes and behaviours, depending on the specific elements.
14. While greater statutory emphasis on child poverty could be made through amending existing legislation to provide an explicit emphasis on child poverty reduction, the complex nature of child poverty supports the enactment of specific legislation. This legislation could drive a co-ordinated, sustained commitment across the state sector to reducing the causes, effects and rates of child poverty.
15. Importantly, the enactment of a specific legislative framework also enables a high degree of government priority and focus, public visibility and on-going political accountability.
16. Legislation would also support greater alignment and focus of policy, operational and funding levers. For example, this would align operational activities and budgetary allocations to the agreed priority and enhance policy credibility and certainty, as well as enable policy enforcement (e.g. via specific quantity caps/limits/quotas or quality standards).
17. It also enables the development and implementation of specific institutions and policy mechanisms for reducing child poverty and mitigating its multi-dimensional causes and effects. It also sets in place a child-centred public policy platform, which is crucial if the needs of vulnerable children are to be met in these straitened economic times. As UNICEF have recently noted in *Report Card 10: Measuring child poverty*, which compares child poverty rates in developed nations:

*“In the wake of statistics following the post-2008 economic crises, the child poverty rate has rarely surfaced...yet it is arguable that the child poverty rate is one of the most important of all indicators of a society’s health and well-being. For the here and now, it is a measure of what is happening to some of society’s most vulnerable members. For the years to come, it is a pointer to the well-being and cohesion of society as a whole.”*

*“...Failure to provide this protection brings heavy costs. The biggest price is paid by individual children whose susceptible years of mental and physical growth are placed at risk. But societies also pay a heavy price – in lower returns on educational investments, in reduced skills and productivity, in the increased likelihood of*

*unemployment and welfare dependence, in the higher costs of social protection and judicial systems, and in the loss of social cohesion...the economic argument, in anything but the shortest term, is therefore heavily on the side of preventing children from falling into poverty in the first place.”*

18. Finally, the most compelling argument for using legislation as a tool for reducing child poverty is its effectiveness as an accountability tool. Legislation can be used to specify roles and obligations, and provide tangible measures for assessing performance or progress towards an agreed goal.

### **Not everyone will favour legislation**

19. While there are clear advantages for using legislation in terms of its signaling, alignment and accountability strength, there are also arguments against using this tool.
20. There is a risk that child poverty legislation will be hard pressed to address the broad causative factors relating to child poverty and accordingly will inevitably be frustrated by factors beyond its jurisdiction. Prior to its enactment, some UK commentators noted concern that the Child Poverty Bill’s setting of arbitrary targets could potentially encourage an inordinate policy focus on income redistribution to the detriment of policies which tackle the underlying causes of child poverty (Saunders and Evans, 2009).
21. A 2012 report published by the Joseph Rowntree Foundation provides another context, namely that of the impacts on child poverty and income inequality due to future changes in employment structure and pay patterns. The report concludes that, in order to mitigate the effects of increasing poverty and inequality, the UK government will need to undertake a *“very precise and targeted approach to policy, focusing on households in poverty”*. The report also observed:

*“Given that poverty and inequality measures are typically based on household incomes, governments need to think very carefully about how their distributional objectives relate to labour market policy”*.

22. Furthermore, in a report released in October 2011, the Institute of Fiscal Studies (IFS) raised concerns that the targets contained in the UK’s Child Poverty Act are unrealistic and are only possible through a massive shift in current income redistribution policy, suggesting that the ability of such legislation to succeed is going to be largely determined by core government policies and fiscal settings that are not subject to the Act’s jurisdiction.

*“We have estimated the impact on poverty of the coalition government’s reforms by comparing these central forecasts with a forecast that assumes that none of the*

*reforms announced by the current government is introduced. This comparison suggests that the impact of changes to personal tax and benefit policy announced by this coalition government – including Universal Credit and other changes announced but not yet implemented – is to increase relative child poverty by 200,000 in both 2015-16 and 2020-21, and to increase relative poverty for working-age adults by 200,000 in 2015-16 and 400,000 in 2020-21. The reforms are forecast to increase absolute child poverty by 300,000 in both 2015-16 and 2020-21, and to increase absolute working-age poverty by 300,000 in 2015-16 and 700,000 in 2020-21.”*

23. Against this, it should be noted that the legislative framework being proposed by the EAG, while requiring targets, would not set binding targets. Further, the targets would be set by the government, not as an integral and fixed part of the legislation. Also relevant in this context is the fact that the EAG is proposing a series of child poverty-related indicators (with targets for some of the particular indicators). Hence, the focus of the proposed legislative framework would not be exclusively on matters of income (or even matters of income and material deprivation).

## **Other options for achieving signaling, alignment and accountability goals**

### ***Government priority signaling***

24. Current Government policy priorities are presently well aligned to accommodate a specific policy focus on child poverty. The Prime Minister’s *Results for New Zealanders* policy directive lists five priority areas in which public sector chief executives and Ministers are directed to achieve a number of specific results over a three to five year period.
25. One of these priority areas under the *Results for New Zealanders* framework is *Supporting Vulnerable Children*. This area currently entails four specific objectives: to increase participation in early childhood education; to increase infant immunisation rates; to reduce incidence of rheumatic fever; and to reduce the number of assaults on children. *Results for New Zealanders* notes the link between poverty and rheumatic fever outcomes, as well as the benefits of early childhood education for vulnerable children. It also identifies a link between long-term benefit dependency and a heightened risk of poverty. However, the strategy contains no explicit directive to reduce the numbers of children living in poverty.
26. This raises another policy option – namely, the addition of a new directive under the *Results for New Zealanders* framework to reduce the numbers of children living in poverty. This would set corresponding targets and appoint a responsible Minister and departmental chief executive and would offer an alternative way of according child poverty reduction a high degree of government priority without necessarily requiring new legislation to be passed.

27. However, while this would be a welcome move, on balance our clear preference is for child poverty reduction to be given legislative status. In our view, this would result in a more enduring, entrenched commitment and a much greater degree of public visibility and accountability. Despite the potential associated risks outlined above, we consider that child poverty reduction deserves this level of commitment.

### ***Other possible legislative tools***

28. In 2011, the government released the *Green Paper on Vulnerable Children* (MSD, 2011), and sought public feedback on a number of actions to improve outcomes for vulnerable children. One action included was the option to establish a Children's Act.

29. The *Green Paper* noted that "to achieve best results for vulnerable children, New Zealand needs strong leadership, stability, accountability and long-term commitment. One way for the Government to do this is through legislation." (p.15).

30. The key features of such an Act could:

- Include requirements for a Vulnerable Children's Action Plan
- Include purpose and goals of having such a Plan
- Create cross-agency accountability for implementing the Plan
- Recognise the needs of tangata whenua tamariki and include a process for partnership with iwi, hapu, and other Māori organisations to address those needs
- Create a mandate for regular reporting on progress
- Make specific policy changes
- Make changes to practice.

31. Depending on the scope of the definition of 'vulnerable', poverty could be considered part of the mandate of such an Act.

32. The government held wide consultations on the *Green Paper*, and is currently formulating an official 'White Paper' response. This response is now scheduled for October 2012, so it is not clear at this time whether a Children's Act will be part of this response.

### ***Preferred approach for child poverty legislation in New Zealand***

33. We have identified two possible legislative options. The first is a stand-alone child poverty statute, along the lines of the UK Child Poverty Act 2010. The second is the incorporation of a child poverty legislative framework within a more general Children's Act.

#### ***Option 1 – A specific Child Poverty Act***

34. Our first preference is for the enactment of specific child poverty legislation, for

reasons that are traversed above. In our view, this would provide the most powerful expression of commitment to reducing child poverty that is available to our legislature.

### ***Option 2 – Incorporation within a Children’s Act***

35. The other, potentially more viable option, would be to incorporate child poverty reduction as a priority objective within a more general-purpose Children’s Act. This is a distinct possibility, in light of the Green Paper on Vulnerable Children, which has raised the use of such legislation, together with a Children’s Action Plan, as a potential means of co-ordinating government policies to improve outcomes for vulnerable children. A child poverty reduction strategy would certainly align well with this objective and enhance the priority given to child poverty within a vulnerable children’s policy framework. It could also enhance the ability of such a statute to address the needs of vulnerable children, given that child poverty is a consistent factor in poor health and social outcomes for children.

### ***Recommendation 1:***

*We recommend the enactment of child poverty legislation in order to enable:*

- *a specific legislative mandate for policies and actions designed to reduce child poverty*
- *a high degree of government priority on reducing child poverty within the context of its wider strategic policy objectives, funding priorities and fiscal settings*
- *an enduring, sustained government commitment to reducing child poverty.*

*Such child poverty legislation take either of the following two forms:*

- *Stand-alone legislation, in the form of a Child Poverty Act – our first preference; or in the alternative;*
- *Incorporation of child poverty reduction objectives and measures within a Children’s Act.*

### ***New Zealand legislative examples***

36. The term ‘child poverty’ does not feature as a statutory term in New Zealand’s legislative framework. The statutes concerned with public expenditure and social security, respectively the Public Finance Act 1989 and the Social Security Act 1964, do not contain any statutory principles or objectives that give any express consideration to child poverty.
37. The Public Finance Act 1989 is purely concerned with fiscal management and does not impose any obligation on the Government to pursue policies that ensure certain

minimum socio-economic standards are maintained. It provides, under section 26G, that the Government must set its policy objectives in accordance with the principles of 'responsible fiscal management'. These include the obligation to *"pursue policies that are consistent with a reasonable degree of predictability about the level and stability of tax rates for future years"*.

38. The Public Finance Act 1989 does, however, require the Minister of Finance to present to the House of Representatives a budget policy statement no later than 31 March in each financial year. Section 26M(2)(a) of the Act requires that the budget policy statement:

*"...state the broad strategic priorities by which the Government will be guided in preparing the Budget for that financial year, including—*

*(a) the overarching policy goals that will guide the Government's Budget decisions;"*

39. However, while one would assume that any Government child poverty reduction strategy would qualify as a 'broad strategic priority' or 'over-arching policy goal' and thus be included in a budget policy statement, there is nothing in the Act that would guarantee that outcome.
40. The Social Security Act 1964 has a very different, yet nonetheless equally essential core function, in that it establishes New Zealand's social security system and the welfare benefits that exist within it, such as the domestic purposes benefit, the unemployment benefit and so on. It is therefore crucial legislation in determining baseline income levels.
41. The Social Security Act 1964 does not contain any objective or principle that specifically mentions child poverty, welfare or well-being, although its objectives certainly have the intent of ensuring that parents with dependent children are supported. The Act's primary objectives, as expressed in section 1A are:
- to help people to support themselves and their dependents while not in paid employment;
  - to help people to find or retain paid employment;
  - to help people for whom work may not currently be appropriate because of sickness, injury, disability, or caring responsibilities, to support themselves and their dependents;
  - to enable in certain circumstances the provision of financial support to people to help alleviate hardship.
42. Section 1B of the Social Security Act 1964 establishes the principles that must be applied when functions are carried out under the Act. Those principles, introduced in 2007, are:

- work in paid employment offers the best opportunity for people to achieve social and economic well-being;
  - the priority for people of working age should be to find and retain work;
  - people for whom work may not currently be an appropriate outcome should be assisted to plan for work in the future and develop employment-focused skills;
  - people for whom work is not appropriate should be supported in accordance with this Act.
43. Child and family legislation unsurprisingly contains reference to child well-being and welfare, although again there is no explicit reference to poverty or child poverty in any statute. Interestingly, a key objective under section 4(1)(a) of the Children, Young Persons and their Families Act 1989 is to:
- “promote the well-being of children, young persons, and their families and family groups by establishing and promoting, and assisting in the establishment and promotion, of services and facilities within the community that will advance the well-being of children, young persons, and their families and family groups”.*
44. On its own, this statutory statement could be broadly read as providing a potential legislative basis for establishing services in the community that are concerned with poverty alleviation, although in reality the Children, Young Person and their Families Act’s primary functions concern the governance of the care and protection and youth justice sectors, which leaves little room for community development.

### **An overview of the Child Poverty Act 2010 (UK) and other measures**

45. Further to our principal recommendation to enact child poverty legislation, it is useful to review key aspects of the only example of such legislation: the United Kingdom Child Poverty Act 2010. From this, we can take lessons forward in recommending specific aspects of similar New Zealand legislation.
46. The United Kingdom has taken the step of passing specific child poverty legislation, through the enactment of the Child Poverty Act 2010. Importantly, whilst the origins of the legislation derive from a commitment made by the Blair Labour Government to eradicate child poverty by 2020, it was enacted with unanimous cross-party support during its passage through the British Parliament in 2010.
47. The Child Poverty Act 2010 is therefore a significant legal document, and appears to be without precedent amongst developed countries. At its head, the Act sets out its purpose in very broad terms, namely *“an Act to set targets relating to the eradication of child poverty and to make other provision about child poverty”*. The main substantive functions of the Act are found in Part 1, concerning *National Targets*,

*Strategies and Reports and Part 2, concerning Duties of Local Authorities and Other Local Bodies in England.*

## **Part 1: National Targets, Strategies and Reports**

48. Part 1 sets out the operative aspects of the Act that apply to the UK central government. This includes the setting and defining of targets that the Secretary of State must 'ensure' are met by 2020. The targets are:

- **The relative low income target** (section 3 of the Act) – less than 10 percent of children living in households with an equivalised net income of 60 percent or less of the median equivalised net income in that financial year.
- **The combined low income and material deprivation target** (section 4 of the Act) – less than 5 percent of children living in households with an equivalised net income of 70 percent or less of the median equivalised net income in that financial year and experiencing material deprivation. NOTE: The Act does not define 'material deprivation', but establishes that regulations must be made that specify the circumstances in which a child is considered to be living in material deprivation.
- **The absolute low income target** (section 5 of the Act) – less than 5 percent of children living in households with an equivalised net income of 60 percent or less of the adjusted base amount. The 'adjusted base amount' is defined by the Act as 'the base amount' (median equivalised net income) adjusted to take account of changes in the value of money since the 'base year' (the year commencing 1 April 2010).
- **The persistent poverty target** (section 6 of the Act) – the target percentage (to be defined by regulations made before 2015) of children living in households with an equivalised net income of 60 percent or less of the median equivalised net income in that financial year and for the previous three calendar years.

49. The targets therefore do not set out to achieve the 'eradication of child poverty'; instead, they are aimed at achieving certain baseline levels (which are deemed to be low rates) rather than total elimination. However, the Act does impose an obligation on the UK government to continue to maintain or work towards those baseline levels. If the targets are met in 2020, Schedule 2 of the Act requires the Secretary of State to continue to meet those targets in subsequent years. If the targets are not met by 2020, the Secretary of State is required to pass regulations that set a new date for those targets to be met.

50. The Child Poverty Act 2010 also requires the government to develop child poverty strategies and report to Parliament on progress. Sections 9-13 of the Act require the

Secretary of State, the Scottish Ministers and the ‘relevant Northern Ireland department’ to publish and lay before their respective legislatures a poverty reduction strategy, which must be renewed prior to its expiration. The first UK national child poverty strategy vested under the Act, *A New Approach to Child Poverty*, was launched in 2011 and covers the years 2011-2014.

51. Section 14 requires the Secretary of State to lay an annual report in Parliament on progress in meeting the statutory targets and in implementing the national child poverty strategy.
52. The Act also establishes a Child Poverty Commission (now renamed the Social Mobility and Child Poverty Commission), whose main function is to provide advice that must be considered in the formation of national strategies under the Act, including advice in respect of economic and fiscal circumstances.

## **Part 2: Duties of Local Authorities and Other Local Bodies in England**

53. Part 2 of the Act applies specifically to local authorities and their ‘partner authorities’ (which includes police, health authorities, youth offending teams and primary care trusts) and requires them to enter into co-operative arrangements that work to reduce and mitigate the effects of child poverty in the local authority’s area. In doing so, section 25(1) sets out a definition of ‘child poverty’ to be applied in the context of these Part 2 functions:

*“A child is taken to be living in poverty if the child experiences socio-economic disadvantage and references to child poverty have a corresponding meaning;”*

54. Section 25(3) goes on to provide that a child experiences socio-economic disadvantage for the purposes of Part 2 of the Act, if they live in a household whose income level falls within the ‘relative low income’, ‘absolute low income’ and ‘combined low income’ thresholds vested under sections 3-5 in Part 1 the Act (set out above). The Act’s use of the term ‘*socio-economic disadvantage*’ is therefore linked specifically to income poverty and does not extend to other socio-economic indicators, such as health or educational outcomes for example.
55. Part 2 of the Act also provides that local authorities and partner authorities undertake a collaborative approach through the establishment of ‘*a pooled fund*’ to resource co-operative arrangements that are made. In addition, local authorities must publish a ‘*local child poverty needs assessment*’ and prepare a ‘*joint child poverty strategy*’ that sets out measures the local authority will take to reduce and mitigate child poverty, based on the needs assessment and in consultation with children and their families, and relevant service organisations.

## Child Poverty Act 2010 – concluding comments

56. In summary, the Child Poverty Act 2010 is a sophisticated, innovative piece of legislation that imposes a number of statutory requirements and commitments on both central government and local authorities in its pursuit of the eradication of child poverty. It provides a very useful precedent when considering ways in which legislation can be used both to operationalise child poverty policies and to enable a high level of government commitment and accountability.
57. The Act's focus is very much on reducing income poverty, specifically the numbers of children living in households in the lowest income brackets. It does not have an expressly multi-dimensional focus on improving outcomes in areas such as health or education, although such concerns are contained in the 2011-14 national strategy *A New Approach to Child Poverty*. In many respects, Part 2 of the Act is just as significant as the target-setting Part 1, in that it enables co-ordinated action and the pooling of resources at local, service-delivery levels.
58. The Act's effectiveness in reducing poverty in the UK will gradually be determined over the coming years towards its target date of 2020. The most recent set of Households Below Average Income (HBAI) statistics released by the Department for Work and Pensions in June 2012, indicates that over the last year there has been a small drop in the levels of child poverty from 20 percent to 18 percent (approximately 2.3 million children), a reduction of around 300,000. However, this figure rises to 3.6 million, or 27 percent, when housing costs are included in the income measurement. Nevertheless, this figure is still 200,000 less than the after-housing cost measurement for the previous year.
59. While this downward trend is encouraging, particularly in an era of 'austerity' politics following the global financial crisis, it is too soon to draw any firm conclusions as to the Act's effectiveness in meeting its targets. Indeed, while there was a small drop in the numbers of children in poverty, the relative poverty target for 2011 was missed by approximately 600,000. Economic conditions, taxation and fiscal policy and the level of government investment in social services will inevitably have a central bearing on outcomes. In this context, it is notable that the UK government was subject to criticism by non-government organisations for making no mention of the child poverty targets in its 2011 budget.
60. In addition, the Institute of Fiscal Studies' October 2011 report (see paragraph 22) predicted that child poverty rates in the United Kingdom are set to rise from 2013, with the relative and absolute poverty rates reaching 24 percent and 23 percent respectively. The IFS concluded that this forecast represents "*what might happen to poverty under current government policies and shows that governments cannot rely on higher earnings and employment to reduce relative measures of poverty*". The IFS

noted that the targets could only possibly be met through a radical increase in the extent of income redistribution through the tax and benefit system and suggested that “the government consider whether it would be more productive to set itself realistic targets for child poverty and provide concrete suggestions for how they might be hit.”

### **The Children and Families (Wales) Measure 2010**

61. The Welsh Assembly has also passed legislation that addresses child poverty directly. The Children and Families (Wales) Measure 2010 contains, as part of its overall framework, provisions that set out a number of ‘*broad aims for contributing to the eradication of poverty*’. These are:

- to increase income for households including one or more children with a view to ensuring that, so far as reasonably practicable, there are no households in the relevant income group
- ensuring that, so far as reasonably practicable, children living in households in the relevant income group are not materially deprived
- to promote and facilitate paid employment for parents of children
- to provide parents of children with the skills necessary for paid employment
- to reduce inequalities in educational attainment between children
- to support parenting of children
- to reduce inequalities in health between children and between parents of children (so far as necessary to ensure the well-being of their children)
- to ensure that all children grow up in decent housing
- to ensure that all children grow up in safe and cohesive communities
- to reduce inequalities in participation in cultural, sporting and leisure activities between children and between parents of children (so far as necessary to ensure the well-being of their children)
- to help young persons participate effectively in education and training
- to help young persons take advantage of opportunities for employment
- to help young persons participate effectively and responsibly in the life of their communities.

62. The *Measure 2010* also requires Ministers and local authorities (including children’s service authorities) to prepare and publish child poverty strategies, the objectives of which must be enacted into regulations. The first set of regulations, the Child Poverty Strategy (Wales) Regulations 2011 has set a timeframe of 1 April 2012 - 31 March 2014 for the implementation of the first Welsh government child poverty strategy.

63. The *Measure 2010* also imposes a duty on local authorities to secure free childcare services and allows local authorities to implement free health support and parental support services. The *Measure 2010* also provides that regulations may be passed to require local authorities to provide free health and parental support services.

64. Section 10 of the Child Poverty Act 2010 provides a link between the wider ambit of that Act and the *Measure 2010*, through its requirement that the Secretary of State consult with Welsh Ministers and take into account a Welsh child poverty strategy made under the *Measure 2010* when formulating a UK-wide child poverty strategy.
65. The Welsh legislative framework also notably includes the Rights of Children and Young Peoples Measure, which imposes a duty on Welsh Ministers and the First Minister to have due regard to the rights and obligations in the UN Convention on the Rights of the Child and its Optional Protocols in the strategic and day-to-day functions of the Welsh Assembly Government from May 2014. It also requires Welsh Ministers to develop a 'children's scheme' for the purpose of securing compliance with this duty.

### **A proposed legislative structure and recommendations**

66. Further to our principal recommendation to enact child poverty legislation and lessons from the United Kingdom Child Poverty Act 2010, this section sets out a proposed legislative framework. However, bearing in mind the issues traversed above, the framework is designed so that it could be used as a basis for a stand-alone statute, or incorporated (either in part or in full) into a wider piece of legislation, such as a Children's Act and Children's Action Plan. It could also be adopted as a basis for the formation of policy mechanisms that operate beneath a high-level strategy such as the Prime Minister's Results for New Zealanders.
67. The proposed framework identifies the Minister for Social Development as the Minister principally responsible for its implementation. It also places an obligation on the Minister of Finance in respect of the budgetary process. While we have not made a specific recommendation as such, we consider that there is merit in considering whether child poverty legislation, and children's policy generally, should be overseen by a Minister for Children. The establishment of such a portfolio has been advanced as a means for ensuring that children's interests are represented at the cabinet table. However, of primary importance is that the responsibility for implementing such legislation rests with a senior, high-ranking Cabinet Minister.
68. The framework is set out under three parts:
  - Part 1: Purpose, Definitions, Objectives, Measurements
  - Part 2: Targets, Strategies and Reporting
  - Part 3: Implementation and Co-ordination

## Part 1: Purpose, Definitions, Objectives, Measurements

### *Purposive clause*

69. We recommend that child poverty legislation contain a front-end purposive clause that provides a clear legislative statement of intent regarding both purpose and function. This enhances accountability as it requires interpretation of operative clauses to be measured against both statutory principles and a set of specific aims designed to achieve that purpose.
70. Many New Zealand social services statutes, such as the Education Act 1989 (sections 3 and 8), the Social Security Act 1964 (sections 1A and 1B) and the Children, Young Persons and their Families Act 1989 (sections 4-6) contain front-end purposive clauses. It follows that a legislative mechanism of this significance should follow this tradition.
71. As noted above, the UK Child Poverty Act 2010 does not incorporate any front-end purposive statutory clause, other than a broad statement at the head of the Act. In contrast, the example we have set out below is designed to capture an on-going commitment to poverty reduction (as opposed to the potentially unachievable 'elimination' or "eradication'), through the use of the term 'sustainable', and alleviation of the related negative effects of child poverty, by way of the phrase 'alleviate socio-economic disadvantage'.
72. The broad term 'socio-economic disadvantage' is derived from section 25 of the UK Child Poverty Act 2010. For the purpose of this framework, the term is linked to the more specific Child Poverty Reduction Indicators that are set out in the Measurements/Indicators clause section by way of the aim set out in purpose clause (f) – which is to [establish] indicators for the purpose of alleviating the socio-economic disadvantage of children living in poverty.

### ***Recommendation 2:***

*Child Poverty legislation should establish a clear statutory purpose and set of aims.*

By way of example we recommend the following purpose and aims:

*The purpose of the Act is to:*

- (a) Achieve a sustainable reduction in the numbers and proportion of children living in poverty in New Zealand; and*
- (b) Alleviate the socio-economic disadvantage experienced by children living in poverty in New Zealand.*

*The Act aims to achieve this purpose by:*

- (a) Providing a statutory definition of children living in poverty*
- (b) Setting objectives towards meeting the purpose of the Act*

- (c) *Establishing criteria for the measurement of the numbers and proportion of children living in poverty*
- (d) *Requiring the establishment of periodic targets for reducing the numbers/proportion of children living in poverty*
- (e) *Requiring the government to issue periodic child poverty reduction strategies and reports of progress made towards meeting those targets*
- (f) *Establishing indicators for the purpose of alleviating the socio-economic disadvantage of children living in poverty*
- (g) *Establishing mechanisms for monitoring progress, implementing policies and co-ordinating services.*

### **Definition clause**

73. We consider that child poverty legislation should include a statutory definition of ‘child poverty’ or ‘children living in poverty’ in order to enable further context under which the legislation can be interpreted. It also provides clarity, for regulatory, policy and administrative purposes, about what constitutes ‘child poverty’ in New Zealand.
74. The definition above is based on the recommended definition of ‘child poverty’ discussed in *EAG Working Paper No 5: Child poverty reduction targets*. The definition is framed in such a way that it specifically links poverty to deprivation of income and material resources, while also recognising the broad scope of children’s rights, which under the UN Convention on the Rights of the Child extend to the dimensions of health, education, social security and so on. The example below also provides clarity as to the age parameters of the legislation – namely ‘*all persons aged under 18 years*’, in line with the international definition of a child under Article 1 of the Convention.

### ***Recommendation 3:***

*Child Poverty legislation should include a definition of ‘children living in poverty’.*

By way of example, we recommend the following definition:

*Definition of ‘children living in poverty’:*

*For the purposes of this Act, children living in poverty are defined as all persons aged under 18 years of age who experience deprivation of income and the material resources required for them to develop and thrive, enjoy their rights, achieve their full potential and participate as full and equal members of New Zealand society*

### **Objectives clause**

75. We consider that a clause setting out a set of objectives would help provide a wider legislative mission statement, through the identification of a range of outcomes sought across the various sectors relevant to child well-being. In doing so, it provides a basis upon which a legislative child poverty strategy and related policies can be

mandated.

76. The example below is based on the ‘broad aims’ provisions set out in section 1 of the Children and Families (Wales) Measure 2010 set out above. Amongst New Zealand legislation, Section 5 of the Children, Young Persons and their Families Act 1989 provides an analogous example of an objectives clause against which detailed operative clauses are interpreted and implemented.

***Recommendation 4:***

*Child Poverty legislation should establish a set of overarching policy objectives.*

By way of example, we recommend that this includes the following details:

*A clause setting out the following objectives aimed at reducing the proportion of children living in poverty and alleviating the socio-economic disadvantage they experience:*

- (a) increase the income of households with one or more children with a view to reducing the proportion of children living in poverty*
- (b) reduce the material deprivation of children living in poverty*
- (c) improve educational outcomes for children living in poverty*
- (d) improve health outcomes for children living in poverty*
- (e) enhance social inclusion for children and their families living in poverty*
- (f) ensure that all children grow up in decent housing*
- (g) ensure that all children grow up in safe and cohesive communities*
- (h) enable more cost-effective, co-ordinated service support*
- (i) enable effective community responsiveness*
- (j) that policy measures to reduce and mitigate child poverty have due regard to the requirements of the UN Convention on the Rights of the Child*
- (k) that policy measures to reduce and mitigate child poverty have due regard to the principles of the Treaty of Waitangi.*

**Measurements/Indicators clauses**

77. We consider that it will be important for child poverty legislation to define how child poverty levels are to be measured. Sections 3-6 of the UK Child Poverty Act 2010 provides the clearest example of this, as it sets out the specific measurements against which the Secretary of State’s 2020 targets are drawn. The example set out below also includes a purposive section in order to give these measurements some interpretative context.
78. We also consider that child poverty legislation should go beyond a singular focus on income poverty and include an instrument for measuring progress in the related social sector dimensions of health, education and so on. We refer to *EAG Working Paper*

no.1: *Defining and Measuring Child Poverty and EAG Working Paper no. 5: Child Poverty Reduction Targets* which recommends the development of Child Poverty Related Indicators in order to “capture the full picture of child poverty and its consequences across the life-course”. We consider that vesting the CPRIs (or a similar measurement tool) in legislation would enable a multi-systemic approach to child poverty reduction by requiring the Government to set targets and reports of regular progress in each respective indicator area.

**Recommendation 5:**

*Child Poverty legislation should include child poverty measurements and indicators clauses.*

By way of example, we recommend that this includes the following details:

1. *A purposive clause, establishing annual poverty measurements, for following expressed purposes:*
  - (a) *To provide reliable data for policy purposes, including the setting of targets for reducing child poverty*
  - (b) *To track changes in child poverty rates over time*
  - (c) *To identify the household groupings where children are more likely to be living in poverty*
  - (d) *To evaluate and account for the effectiveness of policy measures to reduce child poverty and alleviate its effects*
  - (e) *To assess the impact of major economic, demographic and social changes on child poverty.*
2. *A clause defining income and related poverty measurements for the purposes of identifying the ‘target income groups’, namely:*
  - (a) *a fixed-line measure*
  - (b) *a moving-line measure*
  - (c) *a material deprivation measure*
  - (d) *a severe poverty measure*
  - (e) *a poverty persistence measure.*
3. *A clause requiring establishment of child-poverty-reduction indicators (CPRIs) under the following heads:*
  - (a) **Education** - *incorporating ECE participation, school-readiness, primary/secondary school achievement and truancy and transition to skills and training*
  - (b) **Health** – *incorporating primary care enrolment, immunisation, Sudden Unexplained Infant Death, disease rates with a social gradient, teen*

- pregnancy; disability and mental health*
- (c) **Socio-economic** – *incorporating housing; number of working family members, family structure, care and protection and social security interventions*
  - (d) **Child quality of life** – *incorporating child participation and views, child social isolation, whānau-community integration.*

## **Part 2: Targets, Strategies, Reporting**

### ***Targets and Strategies***

79. We consider that statutory requirements that the government sets child poverty reduction targets and develops strategies are essential elements of child poverty legislation. Targets and strategies enable a high level of accountability, and thus priority.
80. The example below sets out legislative requirements and processes for the establishment of both short-term (3-year) and long term (10-year) child poverty reduction targets. Unlike the UK Child Poverty Act, it does not specify the targets and accordingly does not bind the Minister to meeting any pre-determined outcomes. This reflects our recommendations contained in *EAG Working Paper No 5: Child Poverty Reduction Targets*.
81. We consider that a requirement for the Minister to set periodic income and CPRI targets and publish those targets, along with the dates upon which they will be measured, ensures Ministerial accountability, whilst providing the Minister with the discretion to set the target levels themselves.
82. Of equal importance is the establishment of a statutory duty upon the Minister to set in place a child poverty reduction strategy which sets out the actions to be taken to enable the targets to be met. This enables a long-term policy framework to be developed, underpinned by statutory accountability.
83. As we have already emphasised, a sustained commitment to child poverty reduction is vital. We consider that this could be realised through a requirement that a new ten-year strategy is produced within one year of the expiry of the previous one. This would also enable a periodic (ten-year) strategy setting that reflects the shifts in economic and social circumstances that are likely to occur over a ten year period.

### ***Recommendation 6:***

*Child Poverty legislation should place an obligation on the Minister for Social Development to set child poverty reduction targets and strategies.*

By way of example, we recommend that this includes the following details:

1. *A clause establishing a requirement that the Minister for Social Development set periodic child poverty reduction targets:*
  - (a) *Short-term child poverty reduction targets, set every three years from the date of commencement*
  - (b) *Long-term child poverty reduction targets, set every ten years from the date of commencement.*
2. *A clause establishing that child poverty reduction targets must be set to:*
  - (a) *Reduce the proportion of children living in each of the target income groups (set out in Part 1 above)*
  - (b) *Achieve specified outcomes in each of the CPRI groups.*
3. *A clause requiring the responsible Minister to publish within one year of the date of commencement of the Act:*
  - (a) *The short-term and long term targets for each of the target income groups*
  - (b) *The short-term and long-term outcomes in each of the CPRI groups*
  - (c) *The specific dates at which the short-term and long-term targets and outcomes are measured*
  - (d) *A ten-year child poverty reduction strategy setting out actions to be undertaken over both the short-term and long-term periods.*
4. *A clause requiring the Minister to publish a new ten-year child poverty reduction strategy prescribing a new set of short-term and long-term child poverty reduction targets and outcomes within one year of the expiry of the preceding strategy.*

### **Reporting Requirements**

84. We consider that child poverty legislation should include requirements upon the Minister to annually report to Parliament on progress made towards meeting the income and CPRI targets and on implementation of the child poverty reduction strategy. We refer to section 14 of the UK Child Poverty Act 2010, which places a similar obligation on the UK Secretary of State.
85. We also consider that the results of the performance in meeting the short and long term targets should be issued in a timely manner, and in the example below we have specified that such reports should be issued no later than six months after the target dates. In addition, we consider that the resulting data should be disaggregated in order to provide the most accurate account of the distribution
86. Furthermore, we consider that, in order to ensure a high degree of visibility regarding allocations to implement the child poverty strategy, there is an express obligation

upon the Minister of Finance to account for how the delivery of the child poverty strategy is to be implemented through the budgetary process, via his or her powers under s26M(2) of the Public Finance Act 1989.

87. Such a provision would also respond, in part, to the 2011 recommendation of the UN Committee on the Rights of the Child that the New Zealand Government develop a child-focused budgetary mechanism that enables the tracking, monitoring and evaluation of impact on allocations aimed at children.

***Recommendation 7:***

*Child Poverty legislation should place annual reporting requirements on the Minister for Social Development and the Minister of Finance*

By way of example, we recommend that this includes the following details:

1. *A clause requiring the Minister to issue the following reports to Parliament concerning child poverty reduction progress:*
  - (a) *An annual report of progress made under the child poverty reduction strategy. The report should provide:*
    - i. *The most recent data on the numbers and proportion of children the target income groups*
    - ii. *The most recent data with respect to the recommended CPRIs;*
    - iii. *A report of progress made towards meeting the short-term and long-term targets in respect of target income groups and meeting the short-term and long-term CPI outcomes*
    - iv. *A report of progress made in implementing actions to be undertaken under the child poverty reduction strategy.*
  - (b) *A report of the results against the short-term targets and outcomes, issued no later than six months after the specified measurement date*
  - (c) *A report of the results against the long-term targets and outcomes, issued no later than six months after the specified measurement date.*
2. *A clause requiring that all data reported in respect of the target income group measurements and the CPRIs is disaggregated into:*
  - (a) *Age*
  - (b) *Ethnicity*
  - (c) *Gender*
  - (d) *Household Size*
  - (e) *Location (using census mesh blocks).*
3. *A clause requiring the Minister of Finance to include child poverty reduction*

*strategy in annual budget policy statement issued for the purposes of his functions under s26M Public Finance Act 1989.*

### **Part 3: Implementation and Co-ordination**

#### ***Implementation, government co-ordination***

88. We consider that the establishment of a high-level co-ordinating mechanism within the state-sector is vital if child poverty legislation is to be successfully implemented, given its cross-sector implications and accountability requirements.
89. The example provided below is based on the Child Services Co-ordination Board set up under the Child Safety and Well-being Act 2005 of Victoria, Australia and aligns with the options for reform outlined in the Green Paper on Vulnerable Children. However, an equivalent entity already exists in the state sector in the form of the Chief Executive Social Sector Forum. Therefore, an alternative option would be to designate implementation duties to that entity instead.
90. In addition, another possible option would be the establishment of an Independent Crown Entity charged with independent advisory or oversight role of the government's efforts in implementing such legislation. This is the model used by the UK Child Poverty Act, through the establishment of a Child Poverty Commission.
91. However, in our view the scale of the task necessitates that co-ordination responsibility should be designated specifically to departments of state. In terms of independent oversight, the Children's Commissioner's functions under s12(f) of the Children's Commission Act 2003 currently provide for monitoring departments of state and Crown instruments. These functions could be extended to include a more specific oversight function in respect of the child poverty strategy.

#### ***Recommendation 8:***

*Child Poverty legislation should establish a high-level co-ordinating mechanism for its implementation.*

92. By way of example, we recommend that this includes the following details:
  1. *A clause establishing Child Poverty Reduction Board (CRPB). The Board is charged with responsibility for the following functions:*
    - (a) *Developing the ten-year child poverty reduction strategy and the policies to be undertaken pursuant to it*
    - (b) *Implementing the policies and actions to be undertaken in the ten-year child poverty reduction strategy*
    - (c) *Developing and annually measuring including the target income group measurements and the CPRIs*

- (d) *Developing co-ordinated cross-sector service delivery policies and procedures at local and regional levels*
  - (e) *Monitoring cross-sector administrative arrangements at local and regional levels*
  - (f) *Facilitating central government involvement and commitment to local area partnerships*
  - (g) *Reviewing and reporting annually to the Minister for Social Development as to the progress and outcomes of the implementation of the child poverty reduction strategy.*
2. *A clause setting out the membership of the CPRB. Membership could include:*
- (a) *Chief Executive of MSD*
  - (b) *Director-General of Health*
  - (c) *Secretary of Education*
  - (d) *Secretary of the Treasury*
  - (e) *Chief Executive of the Department of Prime Minister and Cabinet*
  - (f) *Chief Executive of TPK*
  - (g) *Chief Executive of Pacific Island Affairs*
  - (h) *Chief Statistician*
  - (i) *Secretary of Justice*
  - (j) *Commissioner of Police*
  - (k) *Children’s Commissioner.*

### **Local-level co-ordination**

93. We consider that child poverty legislation has the potential to enable the development of local-area partnerships between central government agencies, local government authorities, community organisations and iwi social service providers. Such partnerships could develop and implement local-area child poverty reduction strategies. This approach could also be expanded to incorporate regional strategies covering large, rural or sparsely populated areas. We refer to our EAG Working Paper no. 19: The role of local strategies to in reducing child poverty.
94. Both the UK Child Poverty Act 2010 and Children and Families (Wales) Measure 2010 place obligations on local authorities to develop local child poverty reduction strategies and co-operative arrangements between service providers. In reflecting that, unlike the UK, our local authorities do not have delegated authority to deliver core social services, the example we have provided below is designed to enable, rather than compel, local government involvement in such partnerships

### ***Recommendation 9:***

*Child Poverty legislation should enable the development of local-area child poverty reduction strategies.*

By way of example, we recommend that this could include the following details:

1. *A purposive clause, setting out statutory statement of intent regarding fostering locally initiated child poverty reduction strategies by local authorities, community organisations, iwi social services that are aligned with the objectives set out in Part 1.*
2. *A clause enabling establishment of local-area partnerships between central government agencies, local authorities, community organisations and iwi social service providers.*
3. *A clause setting out the functions of local area partnerships, which could include:*
  - (a) Fostering the development of local-area child poverty reduction strategies*
  - (b) Establishing collaborative funding pools to support community-led child poverty reduction initiatives*
  - (c) Ensuring participation of children, young people and families in development of local-area child poverty reduction strategies*
  - (d) Monitoring and evaluating progress of local projects and strategies*
  - (e) Reporting to the CPRB regarding progress and outcomes of local-area child poverty reduction strategies.*

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