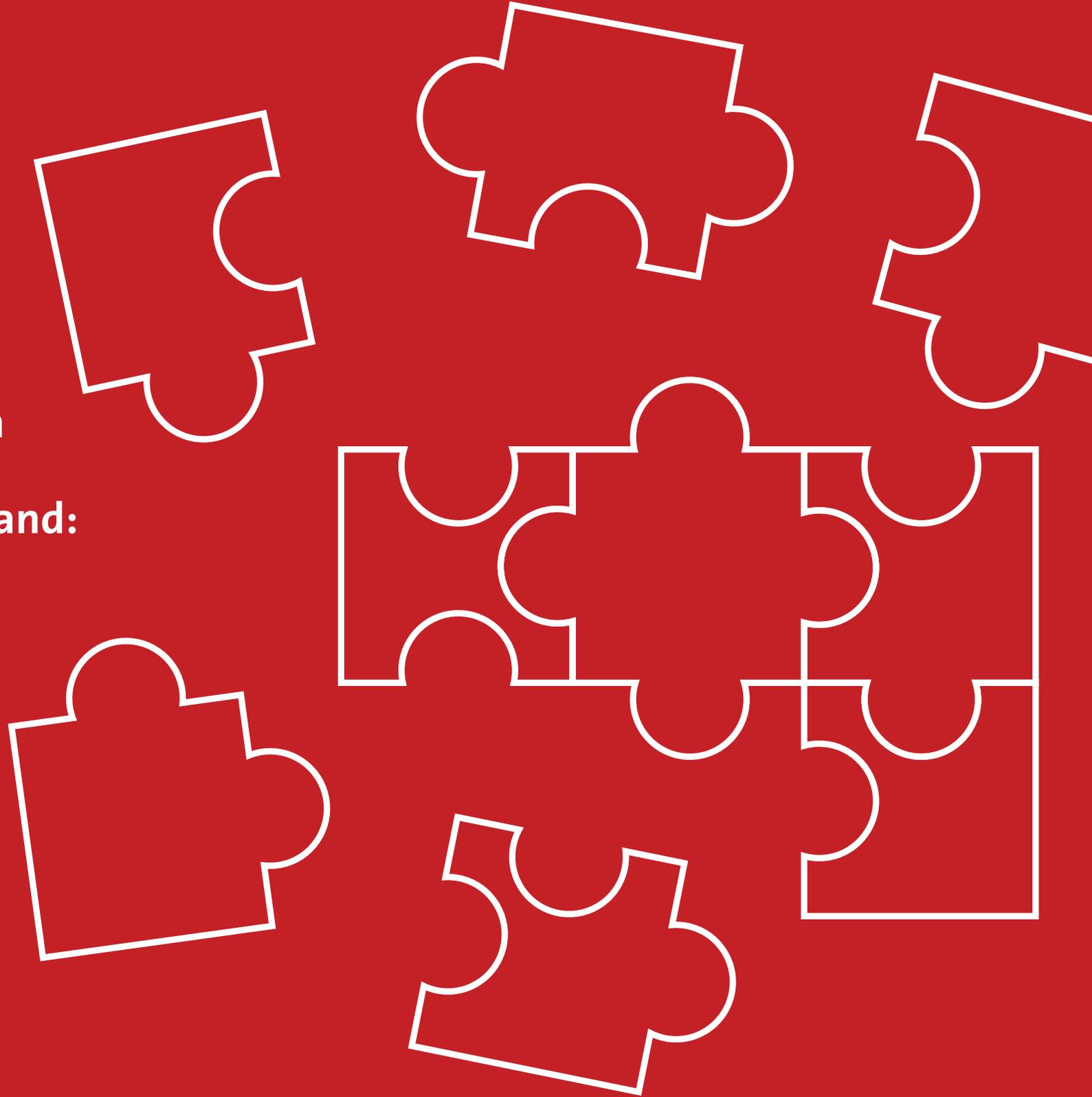


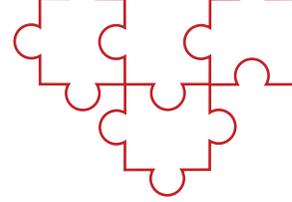
**The child and youth
wellbeing jigsaw in
Aotearoa New Zealand:
five missing pieces**
Some reflections
and challenges





**“TAKE CARE OF OUR
CHILDREN
TAKE CARE OF WHAT THEY
HEAR
TAKE CARE OF WHAT THEY
SEE
TAKE CARE OF WHAT THEY
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FOR HOW THE CHILDREN
GROW
SO WILL BE THE SHAPE OF
AOTEAROA”**





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RUG & CARPETRY CLEANING TREATMENTS

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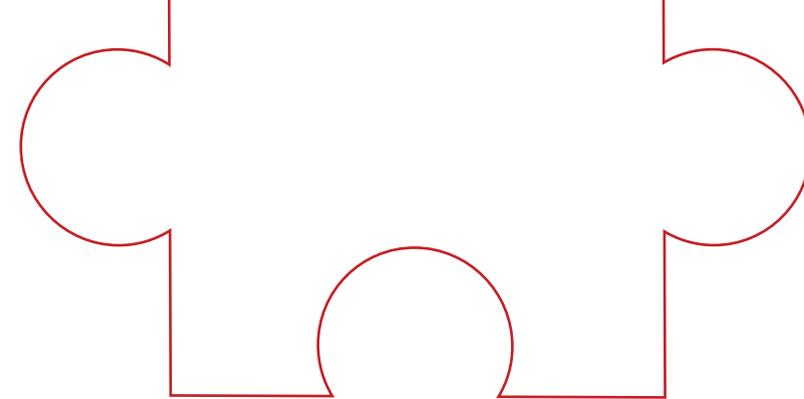
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we'll
take
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Prologue

The biggest jigsaw piece of all: the challenge of Te Tiriti

It is impossible to work in any government service or Crown Entity without being confronted by the daily reality of disproportionate Māori over-representation in virtually all measures of wellbeing.

This is certainly true in our work at the Office of the Children's Commissioner (OCC). Whether I visit a youth justice detention centre, a care and protection home, or an alternative education provider - this stark reality is the same. Addressing this issue is critical for Aotearoa/New Zealand.

When I speak of over-representation of Māori children, I am not referring to all Māori children. Far from it. Most Māori children thrive and flourish and enjoy positive wellbeing. This is an important point to stress. Talk of Māori over-representation can easily lead to negative judgements about Māori children generally.

What I am saying is that when rates of child disadvantage or wellbeing are measured, a cohort of Māori children appear disproportionately in the statistically disadvantaged groups. For instance, when measuring poverty for the year ending June 2020, the percentage of tamariki Māori living in material hardship was 19.5%, compared to 8.9% for European children.

In the first "Missing jigsaw piece – Child and youth wellbeing: is Aotearoa/New Zealand really the best place to be a child" that follows next, I briefly suggest some of the causes. I don't discuss them here.

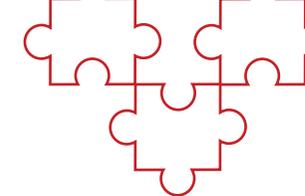
In this short reflection I pose the question about what a crown agency or Independent Crown Entity (such as the OCC) makes of this disproportionality and how Te Tiriti might be implemented. I proceed on the assumption that if it were, there would likely be a radical improvement in these statistics.

This is also not the place for a detailed analysis of Te Tiriti. There are plenty of very good books, articles, and videos that can help us all understand the central constitutional role it must now occupy. I would think that most Pākehā are on a journey of understanding about Te Tiriti. That is certainly the case for me: I am always learning. One recent example will suffice – as follows.

I had thought I had a reasonably good understanding of Article 2 of the Te Tiriti and what it guaranteed to Māori in terms of 'tino rangatiratanga'. However, a recent exposition by the Waitangi Tribunal¹ in its report about Oranga Tamariki (2021), had a big impact on my thinking about wellbeing for tamariki Māori. The Tribunal focussed on Article 2 of the Te Reo Māori version and particularly the word 'kainga'. That Article provides as follows: -

Ko te Kuini o Ingarani ka wakarite ka wakaae ki nga Rangatira ki nga hapu-ki nga tangata katoa o Nu Tirani te tino rangatiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa.... [emphasis added].

1 <https://waitangitribunal.govt.nz/publications-and-resources/waitangi-tribunal-reports/#:~:text=2915,2021>



The Waitangi Tribunal observed that...

“Kāinga as a home, a residence, is much more than simply a place where a whānau may live. In the sense that Tā Pou uses the term, it is the place where cultural identity is formed, nurtured, and sustained...”

Understood in this way, ‘kainga’ includes family and cultural wellbeing. So, for tamariki Māori, it is not a stretch to suggest that Te Tiriti guarantees the right for Māori to develop their own responses and approaches to ensure the wellbeing of their children. At the least, it must mean equitable resource sharing with Māori; it must include ensuring ‘by Māori for Māori approaches’ and prioritisation of tamariki Māori wellbeing by the government.

I must say I had never realised that kāinga was included in Article 2, let alone what concepts that word might be conveying.

For the Waitangi Tribunal, the proper understanding of that word was the basis for establishing that Oranga Tamariki had breached Te Tiriti. By removing a disproportionate number of Māori children, often without notice, and sometimes placing them with families of quite different cultural backgrounds - ‘tino rangatiratanga’ over family and cultural wellbeing for children had been denied.

The underlying and unnerving question for me in July 2016, fresh to this role, was how we could bring Te Tiriti and a Te Ao Māori perspective to our advocacy and monitoring. And, how could our Office challenge those agencies we are required to monitor and investigate, particularly Oranga Tamariki, to do better for mokopuna Māori and to implement Te Tiriti solutions, if we did not attempt to model those principles ourselves?

So, fundamental to my time as Children’s Commissioner has been my own, and the Office’s, so called “Te Tiriti” journey. It is still far from completed.

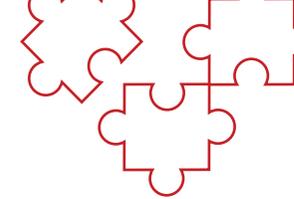
When I first came to the office there was only one staff member who identified as Māori. I wasn’t at all sure what the first step should be.

Initially, I was strongly attracted to the idea of establishing a Māori Advisory Group. It is interesting for me to reflect on why I rejected this idea. I concluded that it would be better to have committed and strong Māori staff inside the office, familiar with our kaupapa, rather than intermittent external advice from busy senior Māori leaders who might not be consistently available to help us move forward. Instead, we prioritised the employment of Māori staff wherever possible.

We also ditched the language, which I had previously assumed was correct, of a “bi-cultural” approach. Many Māori leaders, such as Moana Jackson, urged us instead to adopt the language of a ‘Te Tiriti journey’. It was said to be a much more helpful, substantive, and encompassing phrase. We have done so. And what a ‘journey’ it has been.

The growing number of Māori staff established ‘Te Roopu’ as an effective Māori voice for change within the office and to provide reports to the Senior Management Team. Te Roopu challenged us with the reality that the entire management and governance structure of the office was pākehā. Our Māori staff said they felt shut out.

We concluded that we should appoint a Māori Commissioner for Children. The wording was important. Not a Commissioner for Māori Children, but a genuine co-Commissioner who would bring a clear Māori perspective to all the work and decision making in the office. The government, although very interested, was neither supportive nor opposed to the idea. In the end, it was clear that I would have to make the appointment myself from our existing budget.



As a first step, we appointed a Chief Māori Advisor, Dr Kathie Irwin. She paved the way and helped establish the role description for an Assistant Māori Commissioner for Children. I hasten to add that was not the name that we wanted. But it was the best I could do under the current statutory framework, given that the government was reluctant to approve a separate co-commissioner role or a Deputy Commissioner. Dr Irwin sharpened our thinking. She challenged us with the concept of ‘epistemological racism.’ This referred, in our context, to the assumption that European thinking was superior to Māori knowledge, including ideas about governance and management structures.

Glenis Philip-Barbara was appointed as the Office’s first Assistant Māori Commissioner as from 1 November 2020. Together we have tried to model a co-commissioner approach. Actually, this has been easier in practice than I thought. While it certainly takes a lot of time and give-and-take, the effort is worth it. Our journey was far from finished when my time in the role came to an end.

Can I pay tribute to Glenis who has been fantastic to work with and who has modelled grace, patience, and wisdom in the face of a grey-haired Pākehā man who has much to learn!

Glenis was very clear from the start. In her words,

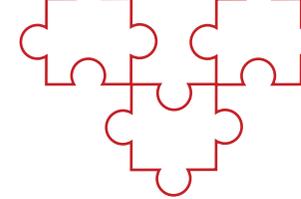
“We have failed for 181 years to properly honour Te Tiriti o Waitangi by allowing colonialism and racism to take root and flourish in this country. Te Tiriti o Waitangi is the founding document of our modern nation, it set out a clear framework for sharing power as equals, Māori and Pākehā. What we’ve seen in 181 years can be best described as racism and colonialism unleashed on the many hapū and whānau of Aotearoa. The outcomes of which have been catastrophic for Māori and are well documented in the disparities we see in every report I’ve noted in this role. Looking at Government today you couldn’t get further away from what Te Tiriti envisaged if you tried.”

This past year has been the first time in my career that I have had the opportunity to experiment, in a small way, with what Te Tiriti intended. I’ve been learning how to share power with Glenis. I can say it’s been both tough and rewarding. I’ve learned so much about what I don’t know and about myself. I’ve seen the tangible difference it makes when matauranga and kaupapa Māori thinking shapes our work. Te Tiriti and its framework for power sharing is a powerful tool to help us reframe our relationships with each other.

To use Glenis’s words again: -

“If we truly want to see mokopuna thrive, safe with their whānau, the best thing Pakeha people in positions of authority can do is make sure Māori have the power, resources and authority to make that happen. Not try and design it, control it or deliver it. So I encourage...Pakeha leaders to take the plunge and learn to let go of and share power with your Te Tiriti partner in a way that makes sense to your organisation or kaupapa. That will take you much closer to the kind of future we want for all our mokopuna than anything we see on the horizon now.”

I admit that although the OCC is an Independent Crown Entity, we are still a ‘kawanatanga’ (government) organisation. Therefore, the OCC cannot enter into a true Te Tiriti relationship from within – as we have tried to do. Both Glenis and I are funded by the Crown and we have assumed joint responsibility for the running of the Office and our policy positions. So, ours is not a situation of the Crown and Māori entering independently into a governance relationship. But given the restrictions of the situation, we are trying in a small and incomplete way to model what a Te Tiriti relationship might look like. And as the Office has grown, we now have 3 out of 8 members of the Wider Management Group who are Māori.



Other government organisations are also experimenting with the same approach. We have had productive discussions with them. Maybe the time has come to look at new structural models for governance and leadership?

Need the current and longstanding model of a single leader, the ‘uber’ chief executive, be the only model? Is there now room for shared, collaborative leadership and governance: leadership involving both Māori and Pākehā. If we are genuinely committed to reducing Māori over-representation, this sort of model will almost certainly enable better decision making, will encourage ‘by Māori for Māori’ approaches, and will ensure that a Māori world view is wired into governance structures.

There is a clear challenge here to the Public Service Commission. Are there some departments, such as Oranga Tamariki, that could benefit from shared Māori/Pākehā leadership and governance? In Missing Jigsaw Piece Number 4, (later) I go further and specifically state: -

“In my view the challenge to lead Oranga Tamariki and bring about radical and transformative change, is beyond one single chief executive. The turnover of eleven acting/full time CEs since 2001 suggests the leadership/governance model is at fault - not the abilities of the CEs. In my view, shared leadership and governance guided by a strong leadership board, reflecting Te Tiriti o Waitangi in its composition, is the way forward – and as a much smaller agency. This is a respectful challenge to the Public Service Commission.”

So, there are some exciting discussions to be had and experiments to be undertaken about Te Tiriti leadership and governance within Aotearoa/New Zealand.

Introduction

Setting the Scene

I remember being interviewed on live radio and asked, a little provocatively, “is there any area of New Zealand life you don’t feel able to comment on?”

I’m not sure it was a particular complimentary question. But the answer then, and now, is that given there are 1.16 million under 18-year-olds in New Zealand who make up 23% of the population, there are very few issues which do not directly or indirectly affect children. In other words, on the very many issues facing our country there will always be implications for children. And, there will always be a children’s perspective to be considered.

The statutory role of the Children’s Commissioner, historically underfunded in New Zealand, is very wide. It has three key statutory functions: -

1. Advocacy for individual children, groups of children, and all New Zealand’s children, with particular regard to promoting the implementation of the United Nations Convention on the Rights of the Child 1989 (the Children’s Convention).
2. Monitoring and assessing the policies and practices of Oranga Tamariki and keeping the relevant legislation under review. Our Office also, by relevant regulations, provides oversight of the grievance process for children and young people in secure residences. There is also a quite separate mandate, as a “National Preventive Mechanism” under the Crimes of Torture Act 1989, to examine the conditions and treatment for young people in places of detention.

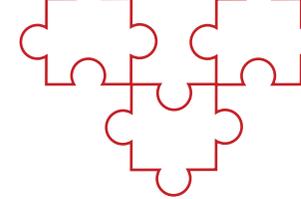
3. Developing ways of consulting with children so that their voices can be factored into the work of the Children’s Commissioner and included in the development of government policy generally.

The Children’s Commissioner also has a little known role as a member of the Advisory Committee on Assisted Reproductive Procedures and Human Reproductive Research - to ensure the interests of children are considered in this very complex area of the law which raises big moral and ethical issues.

As I reflect on these very wide roles, I remember an incident at Whangarei airport. I was stopped by two elderly women. One of them tapped me on the shoulder and said, “You are the Children’s Commissioner, aren’t you young man?” I was both flattered and unsure where the conversation was going! Somewhat hesitantly I said I was, and introduced myself. After a pause, the other woman looked me in the eye and with a steely glance said:

“Keep saying exactly what you are saying for New Zealand’s children. You won’t always get it right, but it needs to be said; and you are saying exactly the sort of things that we would like to say if we could. But we can’t. But you can. And you must keep it up.”

With that they turned and left to catch their plane. I have never forgotten what they said. I owe them a great debt. Whenever I have felt a little worried about whether I should speak out, or have felt my courage dwindling, I have remembered their encouragement: in my role as a statutory watchdog I must ensure that children’s interests are kept at the forefront of debate, discussion and decision-making in New Zealand.



It has been an enormous privilege to occupy the role of Children’s Commissioner. It comes with huge opportunities and with significant responsibility.

It has led me into contact with a great many parts of New Zealand, including some of the most marginalised areas in the country. And it has allowed me to meet with so many children in New Zealand, who have engaged with me, told me their stories, and challenged me. Too often their interests are being relegated or simply overlooked.

I have worked with an enormously dedicated and skilled staff team – overworked, underpaid (sorry!) and surviving often on the smell of the metaphorical oily rag and with unyielding commitment to the kaupapa of the office - that we want every child to live their best life.

There is also a growing, committed and strongly vocal child rights advocacy community. I acknowledge them all, including the Child Rights Alliance (formerly Action for Children and Youth Aotearoa – ACYA), Child Poverty Action Group (CPAG) and JustSpeak - three of many, and thank them for their support.

I have seen the work at first hand the vast number of NGOs, communities, Iwi and Māori organisations whose tireless, often voluntary, work for children and young people make them the real unsung heroes.

And, in Wellington, I have worked with many government officials all of whom want a better New Zealand for our children, but who are sometimes caught up in detrimental policies and practices for children beyond their power to change. I have also interacted with Ministers of the Crown. They have all been attentive and available. I am sure none of them thought they were being elected to make matters worse for children. Quite the contrary. While recognising the tensions inherent in my role with theirs, and while I wish they would sometimes do more, a lot more(!) and more quickly, they have all encouraged me to have the highest ambitions possible for our children – even if that will sometimes cause them public difficulty.

Can I also acknowledge the work of the so called “fourth estate?” Without the interest and hard work of the media the work of an advocate in New Zealand would be very difficult. The journalists I have worked with have been universally fair, respectful, and interested – with very, very few exceptions. I hope that investigative journalism does not die. We need it. It is encouraging that some new and young journalists have been tireless in their commitment to uncovering issues impacting on children.

The work of ensuring our children are protected nurtured and given opportunities to participate is never-ending. Children’s Commissioners come and go. But the work, and the challenges, remain.

In my five short years in this office my eyes have been open to issues that I didn’t know existed, or to my shame, I poorly understood.

As I leave this office, these reflections focus on five inter-related areas of the work of the office of the Children’s Commissioner. These can be found on our website. I’ve entitled them “Five Missing Pieces.” They are five areas where we have been active¹. And for each piece there are five highlighted aspects and final challenges. So, five missing pieces, 25 aspects of my work, and 5 lists of challenges. I have not provided extensive detail. The office has produced reports on all of them, and the detail can be found there. Relevant hyperlinks are provided as we can. This little booklet is just a summary, a collection of speech notes.

Of course, there are many more than five missing pieces. You will think I may have got some of them wrong. And you may be right. But I’ve highlighted those that have challenged me, which stay in my memory, which need discussion and action, and which I think are crucial issues for our country and its children.

1 See our OCC Strategic Priorities over the years: [2021-2024](#), [2018-20](#), [2017](#), [2016](#).

Reflection One

Child and youth wellbeing: is Aotearoa New Zealand really the best place to be a child?

Promoting the interests, and advocating the wellbeing, of our 1.16 million under 18-year olds is at the heart of the Children's Commissioner's role. The question I get asked most often is how are New Zealand's children really doing?

There is no one size fits all response. New Zealand is a great place to be a child for most of our children. But the whole truth is less comfortable. The wellbeing of at least 125,000 children is significantly compromised by serious material hardship. (See Missing Jigsaw Piece 2). This has been well known for some time. For this reason, and because this situation is totally avoidable, we belong on an international roll of shame.

It is impossible to escape the conclusion that in the last 30 years New Zealand had dropped the policy ball when it came to systematically prioritising children. The wellbeing of too many of our children has clearly suffered as inequities have increased markedly. No, we cannot honestly say we are the best place in the world to be a child.

But we could be. We have a world leading Child and Youth Wellbeing Strategy, drawn in part from the voices of children themselves. It is a fantastic start. Launched in 2019, sadly, it is little known. Our challenge is to see this strategy implemented and see its vision turned into flesh.

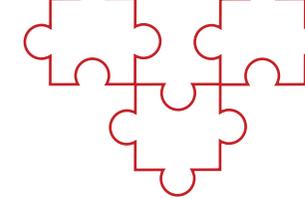
What is wellbeing

Much has been written about wellbeing. It is a complex idea and has become one of the recurring words of our generation. A kind of leitmotif for so much discussion and analysis. For instance, for decades the Oranga Tamariki Act 1989 spoke of the welfare and best interests of the child as being the first and paramount consideration. As from July 2019 'welfare' was replaced with 'wellbeing'. Presumably, wellbeing is considered a deeper, wider and more positive concept than welfare. This little reflection is not the place to embark on a detailed analysis of the idea. [A good starting point can be found on our website](#) which explains the concept, our definition and some deeper issues related to child wellbeing.

Suffice to say, our present working definition of wellbeing is this:

"Wellbeing is a positive state and not simply the absence of negatives. Children experience wellbeing when their family and whānau are connected and united; relationships within and beyond the family and whānau are thriving; family and whānau members support each other; there are opportunities for individual and collective growth; and all members of their family and whānau have their needs met. A community has achieved child wellbeing when all children and their whānau have their rights fulfilled and the conditions are in place to enable all children to participate in society and plan, develop and achieve meaningful lives."

Here are 5 short themes and personal reflections on the challenge of realising wellbeing for children and young people in Aotearoa/New Zealand.



1. There are unacceptably wide and deep inequities in the wellbeing of children in NZ. For some mokopuna Māori, Pasifika and disabled children, in particular, this is profoundly concerning.

The 70/20/10 “rule of thumb”. In most of my speeches over the years as Commissioner, I’ve used this simple and very rough generalisation to describe the inequities baked into our country. It goes like this:

- About 70 percent of our children live in conditions of relative advantage - and are doing pretty well (indeed for some, world leadingly well);
- about 20 percent face one or more challenges and need extra support;
- the remaining about 10 percent face multiple challenges that make life very tough. They are often experiencing intergenerational, chronic, and profound disadvantage which significantly impairs their lives. Comprising at least 125,000 children this group is really struggling with issues ranging from abuse and neglect, chronic/intergenerational marginalisation, material deprivation, and poor health and educational disengagement.

We have found this threefold rule of thumb plays out across many domains measuring children’s lives. I have found it a very useful starting point in discussing how New Zealand children are doing.

I emphasise two things: -

- First, the “10%” do as badly, if not worse, than most comparable OECD countries.

- Second, being in the 10 and 20 percent groups is not a life script for inevitable poor life outcomes – but it does raise the risks considerably. There is what the policy analysts call a social gradient: the poorer the family – the greater risk of bad life outcomes. Equally a child or young person in the 70% group is far from guaranteed positive life outcomes. It is just that the chances of that happening are much greater.

Sadly, the 20% and the 10% groups are populated, disproportionately, by Māori, Pasifika and disabled children.

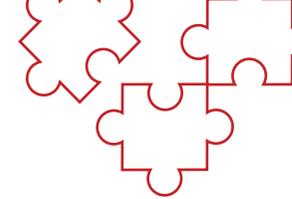
What this means, if we are serious about achieving the vision of Aotearoa/New Zealand being the best place for every child, is that we will need to focus much more on those who are most at risk of missing out.

There is little point in me regurgitating the parade of easily accessible statistics which help us understand the complexities of child and youth wellbeing in New Zealand.

A good starting point is the table showing disproportionate ‘wellbeing rates’ between Māori and non-Māori children, prepared by our office for NZ’s examination before the UN Children’s Committee in 2016. They are little changed in the intervening 5 years. [See letter from the previous Children’s Commissioner, Dr Russell Wills to the United Nations Committee on the Rights of the Child \(2015\), Page 7.](#)

I note just a few. These examples are some of those in which New Zealand has an unacceptably high rate internationally. In terms of how these issues impact on some Māori, Pacific, disabled and rainbow children and young people then the picture is even more stark and unacceptable. This story is not a new one

- *Youth suicide* rates in our country are profoundly concerning. We have one of the highest reported rates in the world. From 2009 to 2018, the difference in rates of suicide between Māori and non-Māori was most notable in the 15–24 years age group. In 2018, the rate for Māori in this group was about 2.1 times that for non-Māori in the same age group. See these two reports: [Rangatahi Suicide Report](#) and [Hauroa Hinengaro](#).



- *Rheumatic fever* is entirely preventable and should not exist in a developed country like New Zealand. The majority of rheumatic fever cases occur in children between 5 and 14 years old, with mokopuna Māori and Pacific having the highest rates. (Māori rates were over 3 times the rate for non-Māori in 2014). A combination of crowded housing conditions and socio-economic deprivation, barriers to primary healthcare access and the subsequent higher likelihood of untreated strep throat infections are important factors leading to higher rates of rheumatic fever among Māori and Pacific peoples. [Source here.](#)
- *Abuse and neglect.* 69% of children in state care identified as Māori; 58% of whom identified as Māori/Pacific. Māori make up about 22% of the under 18 population. The gross disparity speaks for itself. See the Fourth missing jigsaw piece -The child “care and protection” system: only radical transformation will do, particularly for mokopuna Māori.
- *Bullying* is endemic in New Zealand culture, including schools. Indeed, New Zealand has one of the highest rates of school bullying internationally.
 - According to the 2019 ERO report, 46% of primary-school students had been bullied compared to 31% of secondary-age students.
 - According to PISA 2018, 15% of 15-year-old students were ‘frequently bullied’ in the past 12 months. The OECD average is 8%. Thirty five percent of 15 year old students never, or almost never, experienced any bullying behaviours over the last 12 months. The OECD average is 48%. Gender diverse students are the most likely to be bullied.

See the more detailed discussion on bullying later in this reflection.

- *Youth Justice.* The disproportionality for Māori in the youth justice system is declining. That is good news. Nevertheless, about 60% of those appearing in the Youth Court are Māori.

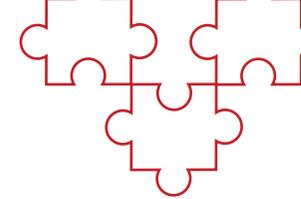
As at 2019, the Youth Court appearance rate for Māori young people was 8.3 times higher than that for ‘European/Other.’ For a far more detailed analysis *see Reflection 5 – The youth justice missing jigsaw piece.*

2. Inequality/child poverty, inconsistent early intervention, and the lethal cocktail of the enduring legacy of colonisation and modern racism are at the heart of this disparity in wellbeing.

- a) *Inequality:* Inequality promotes a higher risk of a poor outcome for children. Poverty doesn’t cause negative outcomes, but the accumulated disadvantages and stress, often toxic stress, arising from poverty can significantly increase the risk of these outcomes. [See the recent Child and Youth Mortality statistics.](#)

See the more detailed analysis *Missing Jigsaw Piece 2, Child poverty: much talk but enough action?* I strongly believe that the biggest single step we could take to improve wellbeing for New Zealand children would be to end child poverty. Presently, children unequally bear the load of poverty in New Zealand. The child poverty statistics are not just numbers in a vacuum. Child poverty spreads its tentacles into all areas of a child’s life and wellbeing. Reduce child poverty and we can just about guarantee improvements in child wellbeing.

- b) *Our early intervention and support programmes must be cast wider and deeper.* We now know that this support should start pre-birth, and that it is vital we give the best support to ensure sound maternal mental health during pregnancy. The Well Child Tamariki Ora series of age-related checks (WCTO) cover only about 89% of New Zealand’s children. The children missed are usually those very children in the deepest disadvantage.



The priority areas for the WCTO review were pēpi, tamariki and whānau Māori, Pacific, disabled, high needs and those in state care. [See here.](#)

We now know the crucial importance of the “first thousand days” of a child’s life. Just google that term to see the burgeoning research. We would do well to ensure government policy matches the emerging science. For instance, our tax settings incentivise return to paid employment as soon as possible after birth – which is just at the time when bonding between a baby and its parents is crucial. We should be incentivising a parent to give as much time as possible to a baby during these pivotal first 1,000 days.

We should also do much better at identifying neuro disabilities for all our children, and at a much earlier stage. See the discussion later in this reflection.

We have world leading longitudinal studies in New Zealand. For instance, the Otago University Study highlights that teaching emotional regulation and impulse control at about the age of three, is one of the most effective tools we could employ to predict positive later life outcomes.

The Canterbury University Child Wellbeing Research Institute has recently demonstrated the importance to wellbeing throughout life of early reading and writing success.

There is so much good scientific learning and research in NZ which, if adopted and turned into practice, could vastly improve child wellbeing.

- c) *The enduring legacy of colonisation and modern-day racism are a lethal cocktail.* Their twin effects are well documented in many studies and need no elaboration here. I used to call it modern day systemic and unconscious bias. I remember speaking at a large conference and was challenged publicly about my use of these terms by a kuia. She said, “Andrew,

I have always thought that unconscious meant that you were horizontal and knocked out. But when you talk about unconscious bias, and what you did as a Judge, you were vertical and wide awake. Why don’t you man up and call it what it is – racism.” I have never forgotten that.

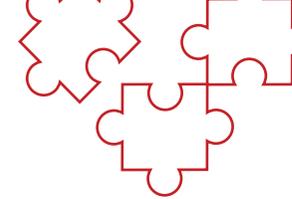
And I have found that children, even without prompting, invariably use the word racism – not discrimination etc. See our Education Matters to me Report, where racism – a description volunteered by children - emerged as one of six key themes in their responses.

Te Tiriti o Waitangi must have implications for the wellbeing of tamariki and mokopuna Māori. At the least, it must mean equitable resource sharing with Māori, ensuring ‘by Māori for Māori approaches’ and prioritisation of tamariki Māori wellbeing by the government.

3. Child and youth mental wellbeing is a crisis.

Concern about the mental health of children and young people has been growing for some years. Generally, I think it is fair to say that youth mental health and wellbeing is declining. In fact, I think this is one of the great emerging issues of our time.

In the recent Youth19 survey, 23% of all young people surveyed reported symptoms of depression. This was an increase from 13 percent in 2012. This was higher for females (29%) and significantly higher for Māori and Pacific females (39% and 37% respectively). Young people who identified as asexual or gender minority were the highest of all with rates of 53% and 57% respectively. The analysis for disabled young people and other groups has yet to be completed. In the open text questions, where young people were invited to express their own views, concerns about emotional and mental health were by far the most common responses.



In 2019/20 654 people died by suicide in New Zealand, a rate of 13.01 deaths per 100,000. The rate is higher for young people (18.69 deaths per 100,000 for 15-19 year olds and 17.77 for 20-24 year olds), with young Māori and young males at particularly high risk. As I have noted, internationally, New Zealand's youth suicide rate is very high.

On top of this, children and young people have been identified as a group at high risk of negative mental health effects from COVID-19. We have yet to see the full impact of COVID-19 on children and young people's mental health.

Despite these grim statistics – and the many individual stories behind the numbers – children and young people are often invisible. For example, children and young people are not well represented in He Ara Oranga, the report of the government inquiry into mental health, or in the COVID-19 response.

We are seeing a sharp increase in mental distress among young people that cannot be explained by an increase in traditional, diagnosable, mental illness. It cannot be solved solely by increasing access to individual mental health treatment services, although this is surely necessary and will come at a cost. There is clear evidence that change and innovation is also needed.

To make a real difference to children and young people's mental wellbeing we need to address the determinants of wellbeing – the broad, structural factors that lie outside the health system such as poverty, housing, employment, colonisation, racism, climate change, social connectedness, and a sense of hope. We also need to ensure we focus on the groups of children and young people facing the biggest mental health inequities.

“There is ample evidence that poverty, particularly as it impacts on children, has significant impacts on poor mental health.”
Shaun Robinson, Chief Executive, Mental Health Foundation.

I think it is fair to conclude in light of all I see and hear, and in talking to young people, that youth mental wellbeing is one of the great emerging issues of our time.

Children need timely services designed and available to meet their mental health needs, and they need the very best preventative responses.

“...there is an urgent need for central government to address critical upstream structural drivers of socioeconomic determinants of mental health and wellbeing.”
Richie Poulton et al 2020

Neurodiversity and neurodevelopmental issues are not diagnosed, supported and addressed on any consistent basis

When it comes to these issues, we 'see through a glass dimly.' History will judge us harshly. Our response to neurodevelopmental disorders and neurodiversity has been too little and always too late. For some reason New Zealand has been asleep at the wheel.

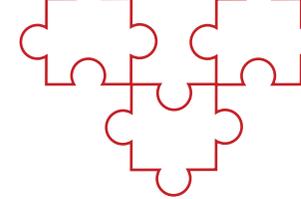
Dyslexia was first “officially” recognised in 2006. That recognition entitled an eligibility to Disability Support Services; similarly, autism in 2012. FASD is still not recognised. [See here.](#)

There is no consistent approach to neurodiversity.
[See here](#) and [here.](#)

Our office receives regular and deep-seated concerns about neurodiversity issues. Whenever I speak on the issue, we receive a flood of calls and emails. These highlight the lack of diagnostic capacity, inadequate support services, inability to access Disability Support Services and the lack of resources within schools which, we are told, make it impossible to retain neurodiverse students within 'mainstream' education

4. A focus on one component of wellbeing – education

When I sat as Principal Youth Court Judge, one of the recurring characteristics of serious young offenders, apart from them being male, was that they were disengaged from education.



It was not that they were truants; they simply weren't part of any secondary school or alternative education program to be a truant from. We had no accurate statistics but anecdotally at least, I would have thought that 80% of those before the Youth Court were effectively already lost to education.

Therefore, from the start of my new role, I was keen to explore how the education system could better deliver to all young people, including those at the margins. I regarded improving engagement in education as a "crime fighting initiative"

In fact, concerns about educational engagement, and issues about education generally, quickly found me. In three different ways: –

1. Our office was already receiving a continuing flow of concerns about all aspects of education. Our child rights line had about 6-700 calls a year and education issues accounted for about a quarter of them.
2. Unknown to me, the Children's Commissioner's Office was already a member of the bullying prevention action group – BPAG. The previous Children's Commissioner, Dr Russell Wills had made bullying prevention a priority.
3. When I had been in the role for about eight months, I was invited to be part of a watchdog group, known as the Guardians of the Education Conversation – appointed by Minister by the Minister of Education, the Honourable Chris Hipkins.

I now discuss those three areas.

1. General concerns about educational engagement.

Engagement in education, of course, is just one aspect of child and youth wellbeing. But it is an extremely important one.

The starting point is that children have an inalienable right to an education. The Children's Convention and the New Zealand education system require that education should develop children to their fullest potential. The system works well for

the majority but does not always deliver so well for students marginalised through racism, poverty, disability and with those with neurodiverse learning styles.

One of our earliest, and I think most effective reports focussed on educational engagement, focussing on the voices and experiences of school students. I found the 6 major themes identified by students extraordinarily revealing. It shaped our work, and I hope much of the work within education generally. [See the full report.](#)

Because of the steady stream of concerns about the education system, this became a hot topic for my time as Commissioner. So much so it was one of our four key strategic priorities. Specifically, to advocate for...

"Access to education for all. We want to ensure the benefits of active engagement and participation in the education system are experienced by equally by all children".

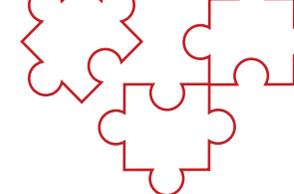
See our strategic priorities: [2018-20](#), [2017](#), [2016](#).

A common concern reported to us is what some have called an emerging "two-tier" state education system. For instance, on October 3, 2021, Stuff reported that

"On average, a student at a decile 10 school has a 61 per cent better chance of obtaining university entrance, a 50 per cent better chance of studying a degree, a 22 per cent better chance of completing school, and a 23 per cent better chance of simply turning up than a student at a decile one school. They show, says Poole, "how genuinely we lack equity".

Other, specific concerns included: -

- high rates of reported bullying
- failure to identify and understand neurodevelopmental issues which emerged during school years, and the need to include all children by providing adequate resources to support them
- the need to improve education systems, services and supports

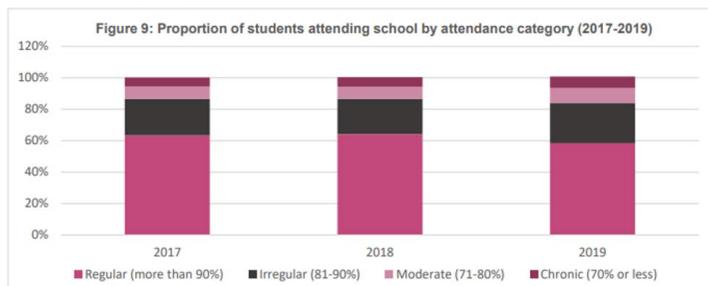


for mokopuna Māori and for Pasifika students

- the lack of any inexpensive and quick process to test the decision by school Boards of Trustees to exclude or expel students
- difficulties for students with disabilities to access mainstream education
- the extent of disengagement from education;
- the high rates of non- attendance. For instance, the annual Child Poverty Indicators Report for the last year noted that in 2019, 59% of students aged 6 -16 attended school regularly -

What are the rates and trends for this child poverty related indicator?

In 2019 59% of students (ages 6-16) attended school regularly. This was down from 64% in 2018, and 63% in 2017.



Source: Attendance Survey 2019, Ministry of Education^d

When looking at the Ministry of Education’s reporting on attendance of all students, a persistent trend of declining regular attendance can be observed from 2015 onwards, with more students falling into the irregular attendance bracket. Small increases can also be observed in the moderate attendance and chronic absence brackets.

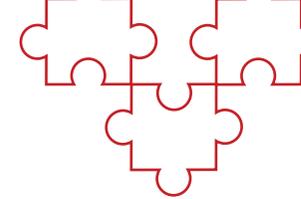
Our office formulated a set of priorities in response, the most important of which were:-

- listening to children and taking account of their views at all levels of education
- improving education systems, services and supports for mokopuna Māori
- protecting every child’s right to attend free full-time education with their peers
- reducing suspensions and exclusions from school, and developing a quick, cheap and effective avenue for appeal

For more detail, [see here](#).

A particular concern is the need to reduce suspensions and exclusions from school (a small group of schools in particular) and instituting an effective avenue for appeal/review. Boards of Trustees exclusion decisions can have drastic, life changing consequences for children, especially those living outside of urban areas where there is little other choice. It is hard to think of any other such significant decision for which there is no meaningful appeal rights. Schools are effectively immune from review – at least any review that will be of immediate benefit. Jockeys, horses, and Super rugby players all have quick and effective appeal rights – usually within 28 days. Practically speaking, excluded children have none.

Together with the New Zealand School Trustees Association, our office developed the infrastructure for a pilot appeal/review system. It was ready to launch. However, at the same time, in late 2019 the Government announced it would introduce a dispute resolution mechanism to resolve and test all significant decisions made by schools and Boards of Trustees that affected children and their whānau/families. We discontinued the pilot. The promised disputes resolution process has not yet been introduced. I remain deeply disappointed.



2. Bullying at school and the Bullying Prevention Action Group (BPAG)

Not surprisingly, bullying prevention is a top priority for the Ministry of Education. Such is the concern that Secretary for Education Iona Holsted, with whom our office has had a constructive relationship, convened BAPG – before my time as Commissioner. Our office has remained an active member. However, progress has been disappointingly slow, in part because of our very devolved system of educational governance in NZ. For instance: -

- According to the 2019 ERO report on Bullying Prevention and Response in New Zealand:
 - Of the secondary and composite schools ERO visited,
 - around one-third were working towards a bullying-free environment to a great extent,
 - a half were to some extent, and,
 - one in five to a limited extent.
 - For primary schools, the picture was slightly better, with
 - nearly two in five working to a great extent,
 - just under 44 percent to some extent, and,
 - one in six to a limited extent.

See two reports from UNICEF [here](#) and [here](#).

I must confess I have changed my mind about how to address bullying. I used to think schools should be compelled to report bullying incidents, to measure it and to tackle it. And to demonstrate that they have an effective anti-bullying programme. That's changed. I've listened and I think I have learned. Of course, every school should have effective processes to respond to bullying which students trust and can access. But I don't think simply clamping down on bullying is the answer.

Bullying is part of a much wider set of issues. Central is the need for students to feel included, valued and respected and the importance of strong and effective leadership on the issue by school principals.

All students should feel safe, respected and included at school. A great way to achieve that, and to prevent and respond effectively to bullying, is to build school cultures which know and respect their students for who they are, and which know and involve their whānau/family.

The Office of the Children's Commissioner and Ministry of Education have recently joined forces to better understand why some primary schools and kura have low rates of bullying.

Instead of thinking about the problem of bullying, we need to flip it on its head and ask how to build a safe, and inclusive school for everyone.

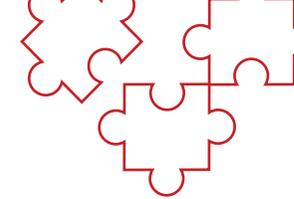
Our own research shows this is the approach that works. And it makes life and school better for everyone when we do.

When we spoke with students, staff and whānau, we learned that valuing the experiences of a diverse range of students and creating a culture of respect between staff and students was key. This included committing to tikanga and te reo Māori in the classroom, and welcoming whānau into the everyday school life.

We found that schools and kura prevented bullying without using specific bullying prevention programmes. Positive, inclusive, safe environments built on strong relationships were effective at preventing bullying. Our report will be released shortly.

3. The National Education Conversation/Kōrero Mātauranga and the resulting educational reforms.

One of my most challenging and interesting experiences as Children's Commissioner was involvement in a Ministerial Advisory Committee the "Guardians of the Education Conservation/Kōrero Mātauranga". Our Guardians Group were



tasked to ensure that the key messages which were collected after numerous national engagements and consultations by the Ministry of Education (involving 43,000 New Zealanders) were reflected in a new approach to education - from early childhood education through to tertiary training.

Reassuringly all the issues emerging during my time as Commissioner, and many more, quickly emerged as of significant concern. For more detail about our role and the key messages we heard, see [The Guardians Ministerial Advisory Group](#).

For more detail about the whole education conservation and the breadth of reforms which resulted, see [New Zealanders asked to help shape education priorities](#).

[See here for the final report](#).

One of our tasks was to formulate a thirty-year vision for education. We framed it as follows: -

Whakamaua te pae tata kia tina – Take hold of your potential so it becomes your reality....

We are descendants of explorers, discoverers and innovators who used their knowledge to traverse distant horizons. Our learning will be inclusive, equitable and connected so we progress and achieve advances for our people and their future journeys and encounters.

Whaia te pae tawhiti kia tata – Explore beyond the distant horizon and draw it near!

The vision is grounded in New Zealanders' aspirations for education – to enable every New Zealander to learn and excel, to help their whānau and communities thrive, and to build a productive and sustainable economy and an open and caring society.

This vision excites me and is a good way to end this discussion.

5. What children and young people told us is the answer to improve their wellbeing – and the resulting Child and Youth Wellbeing Strategy.

Children and young people were quick to tell us the answer about what wellbeing meant for them when we asked them. (They used the term the 'good life' rather than 'wellbeing' so that was the phrase we adopted.) We asked them because for the first time ever in New Zealand legislation, an obligation to consult with children before a policy or law is designed – in this case, the Child and Youth Wellbeing Strategy - was introduced in 2018.

Section 6D of the Children's Act stated that: -

6D Other consultation before strategy adopted or changed

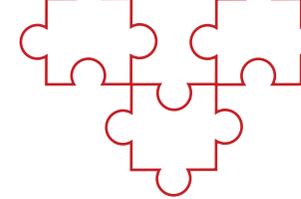
(1) Before adopting a strategy, or changing a strategy adopted, under [section 6](#), the responsible Minister must consult, on the proposed strategy or change to the strategy,

(a) any children, or representatives of children, that the responsible Minister considers appropriate (in order to ensure that children's views on the proposed strategy or change are taken into account); and...

The resulting consultation was a real success, as I think everyone involved, including the Prime Minister, would agree. In fact, she said she read every one of the short postcards written by over 400 young people from diverse backgrounds as to what wellbeing meant to them.

From my point of view there were several stand out messages from the more than 6,000 children who shared their views. See also the more detailed discussion in *Missing Jigsaw Piece 3- Children's rights, participation and voices: its no passing fad!* (at point 3).

As a part of the "What Makes a Good Life?" engagement children and young people about the things they need to live a good life. They spoke about material things such as a home, an education and a safe community, but they wanted more than just a minimum standard of living. They wanted "enough for the basics, plus a little bit more", as one young person described it.



We also heard that acceptance is crucial. Children and young people told us they want to be accepted for who they are, supported in their identity, respected, listened to and believed in. They wanted choices and freedom. They want the important adults in their lives to help them build their confidence, self-esteem and self-worth, so they can realise their hopes and dreams. Accept me for who I am and celebrate my identity. One young person said “To be accepted. To be understood and taken seriously. It’s important because it gives you confidence in your uniqueness.”

What else did we observe? Most children and young people are hopeful, but some are just getting by. Most of the children and young people we spoke with, including those facing significant challenges, were positive that their lives would improve over time. However, some had lost hope that things would get better. These young people were just coping with each day as it came. Of note, those that were less hopeful were more positive when it came to talking about their brothers and sisters. They described the opportunities they would like to see for their siblings in the future, even if they did not have the same sense of hope for themselves.

Children and young people appreciate being listened to. The children and young people we met talked about how they were grateful that we were asking them their opinion, they appreciated being listened to and many said this was the first time they had been asked for their opinion like this. We must uphold their right to participate and have their say in all decisions that affect them. We make better decisions that way. It’s that simple.

We heard that change is needed, family and whānau is crucial, providing the basics is important but not enough on its own and that children and young people have valuable insights. We have also published some summary reports of what we heard from particular cohorts such as young parents, children and young people in state care, disabled children and young people and tamariki and rangatahi Māori.

[See the “What Makes a Good Life?” report here.](#)

So what did we conclude needed to be done?

Government initiatives should reflect children’s aspirations

An overwhelming message we heard was that children and young people want to be accepted, valued and respected. They want their place within their whānau and community to be recognised and respected.

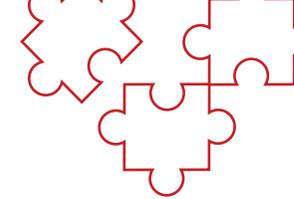
Government initiatives should reflect these aspirations. Initiatives aimed at improving children and young people’s wellbeing sometimes reflect how services are currently delivered, rather than what children and young people have told us about their lives as a whole. Children and young people’s needs do not exist within neatly-defined categories and government strategies should not either. The development of the Child and Youth Wellbeing Strategy is an opportunity to change this.

Adults should listen to children’s views

Listening to children and young people’s views regularly and meaningfully will lead to more effective government policy. Hearing children and young people’s stories and valuing their lived experience is the only way to truly understand their individual circumstances. This report was made possible because the legislation underpinning the Strategy embeds an obligation to listen to children and young people’s views. It has created an opportunity for children to be heard, and future government initiatives should follow suit.

Children and young people deserve more

Being aspirational means being willing to radically reshape the ways children and young people are supported when they say current approaches aren’t working. Efforts to support children and young people will not be effective if the sole focus is on what services and supports need to be delivered. How supports are delivered matters just as much. Services need to accept children and young people for who they are and recognise their critical relationships. Children and young people have told us that they want the basics, plus a little bit more. We think they all deserve a lot more.



The Child and Youth Wellbeing Strategy 2019

The Child and Youth Wellbeing Strategy, resulting in part from this consultation described above, is world leading. It is comprehensive and contains 6 key domains, with over 80 specific working projects and targets. It is a blueprint for substantially improving child and youth wellbeing in New Zealand. Potentially it is our most effective driver for change in improved child wellbeing. It should be at the forefront of all the government's work.

Sadly, it is little known outside government circles. All New Zealanders should be encouraged by it and give it their wholehearted support. Children and young people deserve to have their needs prioritised in the way envisaged by this Strategy.

I urge the government to breathe life into its own strategy – and drive coordinated change for the children of our country who most need it.

[See the Child and Youth Wellbeing Strategy.](#)

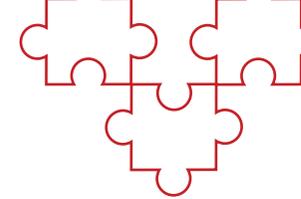
Challenges:

The width and depth of the inequities in child wellbeing is shocking. It need not be this way. Other countries do it better. Addressing inequity is the fundamental starting point to improve child wellbeing. It is that simple. Child wellbeing would significantly improve in a more equal country. Do we have the courage to bring that about by ensuring more income for poor and struggling families?

Imagine a New Zealand where, amongst other things: -

- No children lived in poverty or material hardship
- all Māori, Pacific, and disabled children were respected, included, and thriving
- rheumatic fever was eliminated, childhood diseases much reduced and the 'social gradient' inhibiting children in material hardship was much reduced
- the first thousand days of a child's life was prioritised and supported
- mental wellbeing for all children was positive, children had access to the support they need and governments prioritised the mental health needs of children.
- FASD was recognised and comprehensive support needed, and children with learning needs and neurodevelopmental disabilities were cherished and welcomed for their difference and diversity.
- education was inclusive, safe, aspirational, focused on equity and cooperation rather than competition between schools, and where bullying was much reduced.
- racism was acknowledged and eradicated and children liberated from its weight.

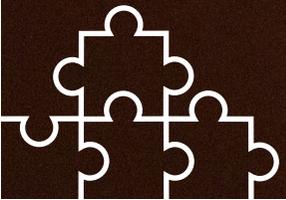
We have a world leading Child and Youth Wellbeing Strategy, lets put it to action. There's no better time than now.

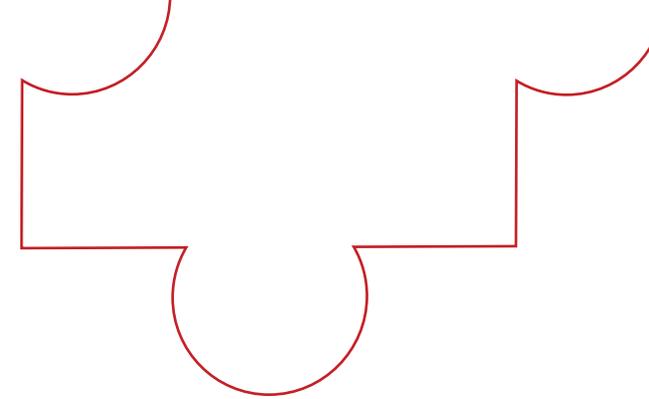


Recommendations

These are small list of recommendations arising from reoccurring issues during my time as Commissioner, which would improve child and youth wellbeing: -

1. Fully implement the Child and Youth Wellbeing Strategy across government, including the COVID-19 response. I urge the government to breath new life into this strategy and drive coordinated change for the children of our country who most need it.
2. Reduce child poverty – as set out in the government’s child poverty reduction targets.
3. Reduce toxic stresses and increase supports for families and whānau in the first 1000 days, support responsive relationships and then support families and whānau to build skills in an environment of reduced stress.
4. Transform the Well Child Tamariki Ora programme to ensure an equitable service for all under 5s that meets the needs of their whānau, including strengthening the B4school check.
5. Ensure all ECE providers use creative ways of teaching emotional regulation and impulse control.
6. Prioritise early reading and writing capability.
7. Ensure primary and secondary schools are equipped with the expertise and funding to assess and support neurodiverse students.
8. Recognise FASD as a neurodisability, which when confirmed by a diagnosis, entitles the child/young person to disability support service eligibility. DSS would need to be expanded to ensure coverage, and specialist services developed.
9. Ensure every young person who needs it can obtain prompt access to mental health services.
10. Urgently develop an appeal/review mechanism for children excluded or expelled from school (and their whanau/ family) to allow a prompt, free and independent ‘second look’ at the decision to ensure consistency of the approach throughout the country.





Challenge Two

Child Poverty: much talk; enough action?

The first big issue that confronted me in my role as Children’s Commissioner was child poverty.

In 2012, my predecessor, Dr Russell Wills, established the Expert Advisory Group on Solutions to Child Poverty (the EAG). Supported by economist and long-time Director of our Strategy, Rights and Advice team, Donna Provoost, who led our work until 2021, [the EAG produced a seminal report](#). As a result, upon appointment, child poverty was the issue I most associated with the Children’s Commissioner’s Office.

I felt a great responsibility to continue this work and advocacy. Of course, ‘child poverty’ is really a shorthand way of referring to deep-seated family/whānau economic and material hardship which has devastating effects on children. I always try to make that clear in my speeches. But I have come to see that the term is a very useful and effective advocacy tool.

On my appointment, the government almost immediately queried whether I would be continuing with the child poverty work: “Might it now be time for NGOs to take up the baton?” I was asked. In terms of constitutional propriety, it was all put very properly. It was made clear it was entirely my decision. But I could see the issue deeply troubled the government.

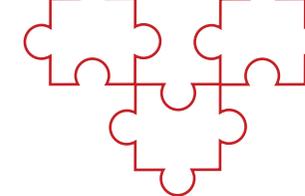
In response, I said that “...all that I had seen in the courts led me to believe that poverty, while not a cause of offending, was certainly associated with it and was a significant risk factor.

Addressing child poverty was one of the reasons I took the job – as a way of hopefully reducing youth offending.” I also said that “...the annual Child Poverty Monitor [commenced as result of recommendations by the EAG] is a three-way partnership between the New Zealand Child and Youth Epidemiology Service at the University of Otago (NZCYES) and the JR McKenzie Trust (who provide the funding under a contractual arrangement). I said I couldn’t see us breaking this three-year contract.” I should emphasise that same government, despite obvious misgivings about this part of our work, significantly increased the funding for the office the next year – the first increase in about five years.

And so began my journey of understanding about child poverty – which still continues. There was much for me to learn and I acknowledge those who have so freely given their time to help, including Donna Provoost of our office; Professor Jonathan Boston (who co-chaired the expert group in 2012); Dr Mavis Duncanson (NZCYES); Bryan Perry from MSD; long-time campaigner Dr Susan St. John from the Child Poverty Action Group (CPAG) and Iain Hines then of the JR McKenzie Trust.

And I thank so many children and young people who have told me very honestly what it is like to live in families/whānau who are really doing it tough.

These reflections are not the place to go into the detail. There is much that has been written on this issue. A good starting point is [our annual Child Poverty Monitor](#).



I am no expert in this field, but the issue of child poverty has got under my skin. The tide seems to be turning. As I travel the country, it's become clear that the wellbeing of children is something that more and more people care about. Whereas a few years ago you'd struggle to get people to believe children were living in poverty in Aotearoa, now people are demanding solutions. Clearly, people are becoming acutely aware of the extent of the problem.

During the 2017 election, both major party leaders, Jacinda Ardern and Bill English were united in their view that child poverty was a key issue. This would have been previously unheard of. Subsequently, Simon Bridges and Prime Minister Jacinda Ardern agreed that child poverty required cross-party, apolitical action. They demonstrated that by the near unanimous enacting of the child poverty reduction legislation. Amen to that. Child poverty should never be a political football.

1. We can measure child poverty.

In 2016, in one of the first live TV interviews I did, I suggested that the Government should set targets to reduce child poverty. When pressed, I said that material hardship should be reduced by 5% during the next year. NGO experts quickly pointed out to me (confidentially, which I appreciated) that my well-meaning target was inside the statistical margin of error and not very helpful!

But the government of the day responded by saying that it was actually impossible to measure child poverty. It was claimed that there are other areas of government activity that can be measured - such as rodent eradication and planting of tree numbers - but not child poverty.

I think it is now agreed that child poverty can be measured. There may be no single measurement. But there is a suite of measurements which, taken together, paint a very clear picture. They are all ways of understanding how children are doing and whether they are having their basic needs met.

In summary, those measurements fall into two kinds: –

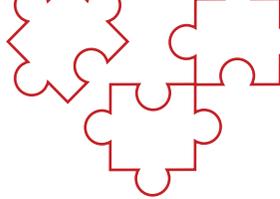
- *income related* measurements. These take the median or middle income in New Zealand and then establish degrees of income-related poverty according to whether the family's income is 60%, 50%, or 40% below the median line.

These percentage figures, in turn, can be calculated using either before housing costs (BHC), or after housing costs (AHC). This is because housing costs are a necessity and have become so high and such a big driver of child poverty. The inclusion of AHCs is a good way of showing the consequences of our high rates of housing costs which originated primarily from our decision to sell off state houses and not build up a bigger stock of social housing. Housing costs have been a very significant long-term driver of child poverty.

Although there can be argument regarding the different degrees of income related poverty – I think the 50% AHC below the median income is the most helpful.

- *material hardship*, using a statistics New Zealand led “door knock” survey. Participants are asked about 17 separate items that would normally be considered essential for a house with children in it to survive. If seven or more of those items are not present over the course of the year it is said that the children in those households experience material hardship. The current number of children experiencing material hardship is 125,000. That is, to use a rugby analogy, Eden Park in Auckland filled up twice over.

It is very difficult to argue against the ‘door knock’ survey which establishes actual material disadvantage. In one sense this is the minimum baseline of child poverty – but with the other measurements the overall picture is much worse, especially now with the pressures on the economy from Covid-19.



A combination of all these measurements is used in NZ’s world-leading Child Poverty Reduction Act. This imposes a duty on the government of the day to report annually on a variety of primary and secondary child poverty measurements. The first two reports have been published. They show the situation is no worse and that there have been slight improvements (ie decreases) in the material hardship numbers. [See here.](#)

All this might be considered rather basic. But for me, it has been helpful to distinguish between income related measurements and actual material hardship. Together, the statistics paint a shockingly unacceptable picture.

It is worth noting that as a result of cross-party discussion when the Child Poverty Reduction Act was enacted, the government of the day is also required to publish annually a further and more subtle set of ‘child poverty related indicators’ as they are called. This is premised on the assumption (in my view correct) that reduction in child poverty numbers should bring about associated reductions in, for instance, poor child health, education and wellbeing statistics. As I have often said “the tentacles of child poverty reach out into all areas of a child’s life”. The whole point of reducing child poverty is to improve child wellbeing generally. So far, it is too early to tell if this is happening. See [here](#) and [here](#).

2. Child poverty did not creep up on us. It happened suddenly with the share market crisis and the response to it – the “mother of all budgets.”

Child poverty was no slow, inexorable, incremental process. It happened suddenly and one could say deliberately. It was a result of a calculated response to the share market crisis in the late 1980s – embodied in the 1991 ‘mother of all budgets.’ Benefits were slashed. Children, in particular children in families surviving on benefits, suffered and bore the brunt.

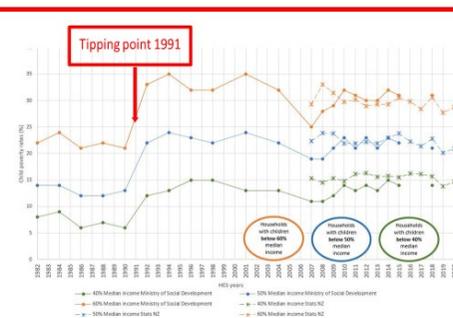
Over the next 30 years: -

- the economy measured by the Gross Domestic Product, grew approximately four fold (\$50 billion to \$200 billion).
- unemployment rates halved from 10% to below 5%.
- wages grew. The average hourly wage has doubled: about \$13 per hour to an all-time high of over \$34 per hour in 2021.
- the real, inflation adjusted benefit and family tax credit income of a parent on sole parent support with two children has dropped by \$50 a week

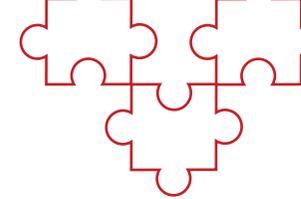
These statistics may be a simplistic approach. The point is benefits have not kept pace with this growth. Increases to benefits have been sporadic and irregular. The relative dollar value of the benefits may be only slightly less than in 1991 but the relativity to overall economic growth has seen the children in homes reliant on a benefit fall way behind. There has been no systemic plan. For instance, benefit levels were not linked to wage growth until this year. See the very comprehensive presentation by Emeritus Professor Innes Asher of the Child Poverty Action Group.

This slide from that presentation showing the historical development of child poverty (using income related measures) says it all. [Source here.](#)

Child poverty estimates (1982-2020) using median disposable household income after housing costs (AHC)



www.stats.govt.nz/methods/child-poverty-statistics-year-ended-june-2020-technical-appendix



Successive governments tolerated the situation. Interestingly, two former Prime Ministers (Sir Jim Bolger and Sir John Key), although pointing to various complexities, said words to the effect that they wished they could have done better for children doing their respective terms. [See a fascinating interview with Sir Jim Bolger by RNZ.](#)

This inequity has become wired into our economy. It must now be considered a matter of economic choice. In one sense, we all bear the responsibility.

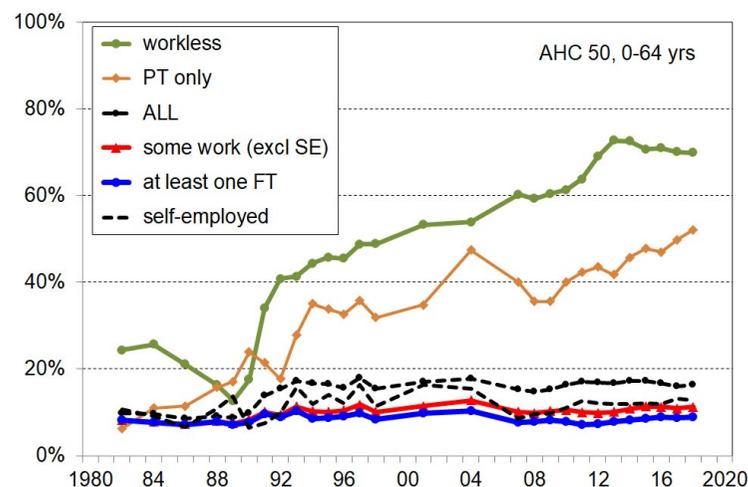
The graph below from the Household Economic Survey is brutal. It tells its own story.

Workless households

Figure 10 shows the IWP rates over a longer timeframe, with comparisons with poverty rates for those in workless households (top line in chart) and those with relatively little total paid work in the household (second from top). The measure used is the fully relative AHC 50% measure.

Figure J.10

Low-income rates for under 65s, by work status of household



The standout feature of Figure J.10 is the difference between the long-run low-income trends for working households and for workless households. For working households the trend in relative poverty (AHC 50) has been reasonably unchanged for the last three decades (8-10%). The rate for workless households has increased from 10-20% to 70% in the same period. Even if the early 1990s are used as the start point (after the benefit cuts), the workless poverty rate has climbed from 40% to 70% while the in-work poverty rate has remained steady at 8-10%.

This means that workless households have been left behind the rest of the population in terms of their ability to ‘participate and belong’, and have been left behind in quite a marked way.

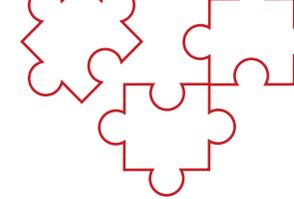
3. The position for many Māori, Pasifika and disabled children is shocking.

The most recent child poverty statistics show that the burden falls disproportionately on Māori, Pasifika and disabled children. This is an intolerable situation – and further drives disadvantage and inequity in so many other areas.

The figures speak for themselves. The percentage of children, by ethnicity, living in households in material hardship show that for

- Pasifika = 26.1%
- Māori = 19.5%
- European = 8.9%
- All children = 11.3%

Using the same measurement, the rate is 20.4% for children living in disabled households, as compared to non-disabled households where the rate is 7.5%.



4. What we did for the over 65s in the 1990s, we could have done for our under 18 year olds – and still could - if we wanted to.

New Zealand is unarguably one of the best places in the world to be an over 65-year-old. Very few countries have such low rates of material hardship for the elderly – perhaps only one or two Scandinavian countries. That may change, as the over-65 population grows and gradually fewer of that population own a mortgage-free house. But for the time being, the situation for the over 65's is very, very good.

That is all because in the 1990s we introduced a system of universal non means-tested superannuation, linked to wage growth. I do not advocate for that to change in any way. It is a sign of a civilised community that we look after our elderly population. Long may it continue. The point is that when we had the opportunity to do it for children in poverty, we didn't. A civilised society should have a similar commitment to those of its children who live in poverty.

The gap between the material hardship rates for the elderly – as low as 3%, and for children – as high as 18% (using equivalised data) is significant. When compared with other countries, these two individual rates may not be out of step separately. What is significant is the gap between them. For instance, when compared with European Union countries, our gap between children and the elderly (6 times higher) is the biggest, by far, of any other EU country. In other words, we have chosen to wire into our economy a policy setting where the elderly are actively supported but children living in poverty are not – at least not nearly to the same degree. In the EU comparable countries – the elderly and children in poverty have more similar material hardship rates. Not in New Zealand. We have been asleep at the wheel for our children.

All of this would be easy to fix. We need not ever have got into this situation. It need not continue. [In 2019, the government appointed Welfare Expert Advisory Group released its report Whakamana Tangata.](#) There were many recommendations to restore dignity to the social security system.

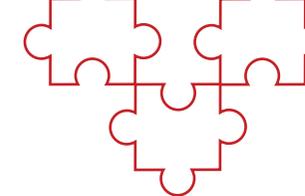
This Report should be regarded as the starting point for equity, fairness, and the basis for reducing child poverty.

5. This Government has done things to combat child poverty which we wouldn't have dreamed about five years ago. But we are not there yet.

When this Government was elected in 2017, it made child poverty reduction a priority. There was much excitement. Indeed, the Prime Minister, as if to emphasise this commitment, appointed herself Minister for Child Poverty Reduction.

And much has been achieved already, most of which we wouldn't have dared to dream about in 2016 when I was appointed. Some highlights include: -

- A Child Poverty Reduction Act was passed in 2018 obliging the government of the day to set targets to reduce child poverty over both 3 years and 10 years. The targets to be set are in respect of defined primary and secondary measurements. The government must report annually on progress. This Act was based, in part, on a suggested draft Bill in the original 2102 EAG Report on solutions to child poverty.
- The goal of halving child poverty in 10 years has been set. This is achievable. We are on track to achieve that goal. Annual reports and child poverty related indicator reports have been published by the Government and are becoming the basis of the statistical landscape.



- Benefits are now ‘index linked’ to wage growth – which we had long campaigned for as the single biggest step to stop children remaining in poverty.
- The world leading Child and Youth Wellbeing Strategy was launched in 2019 which, amongst other things, prioritises child poverty reduction.
- The Working for Families benefit package has been increased several times.
- A ‘Best Start’ weekly \$60 payment was introduced for parents who have a baby born after 1 July 2018 until the child turns one, and thereafter until the baby is aged three if eligibility criteria are met.
- A ‘Winter Energy’ payment for beneficiaries and superannuants of \$31.82 weekly – although not yet confirmed as permanent.
- The current Government removed the Subsequent Child Policy from the Social Security legislation. [See our submission.](#)
- Free school lunch programme for decile 5 schools and below, now reaching over 200,000 children.

So, there has been both talk and action. But has there been enough action? Emeritus Professor Innes Asher summed it up well using the well-known kiwi vernacular: “Yeah Nah.”

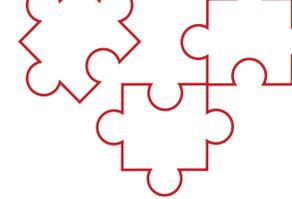
The reality is that we have not reduced child poverty thus far in any significant sense. But that is not to say that some very important steps have not been taken. Neither is to say that we won’t be able to halve child poverty in the next 10 years.

What is clear is that the lack of significant progress so far shows that tinkering and small increases to benefits won’t cut it. Maybe over \$2 billion a year annually will be needed to restore benefits to where they were before the ‘mother of all budgets’. Big and bold steps are required. And Covid-19 can’t be an excuse for doing less; it must be the reason for doing more.

In 2020, this Government obtained a clear majority – unheard of in the MMP era. Many commentators spoke of an opportunity for transformation. Some harked back to the Michael Joseph Savage government – when the welfare state was first established. At that time Savage referred to the welfare reforms as ‘applied Christianity’. The opposition referred to it as ‘applied lunacy.’ Yet the “welfare state” was not subsequently rolled back. Similar courage for children today- namely some very significant benefit increases and “in kind” support for children (eg free transport) - while requiring courage, would likely become permanent. At the least, they would be very difficult to undo in the face of the probable enormous public opposition to any change.

In retrospect, it can be said that the government placed the bar very high in its readiness to reduce child poverty. Consequently, the expectations were very high; perhaps impossibly high? An independent, government-appointed watchdog like me, walks a tightrope between acknowledging the architecture that has been put in place and the progress made, and calling for more and necessary bold and big responses. In the end, I need to have the highest ambitions for our children, especially those living in poverty. Much more is still required.

In all of this it is hard to escape the reality that the tax “take” will need to increase. This is a challenge that all of us, and especially successive governments, will need to grapple with. It won’t be an easy discussion. It is almost an article of faith in New Zealand that there will be no new taxes. It seems the capital gains tax is now forever off the table. So – where will the money come from to fund reducing child poverty if not be an increase in wealth and income tax? I believe many New Zealanders would pay more tax if they knew it was going to children who were in deep disadvantage. We cannot avoid this very controversial reality.

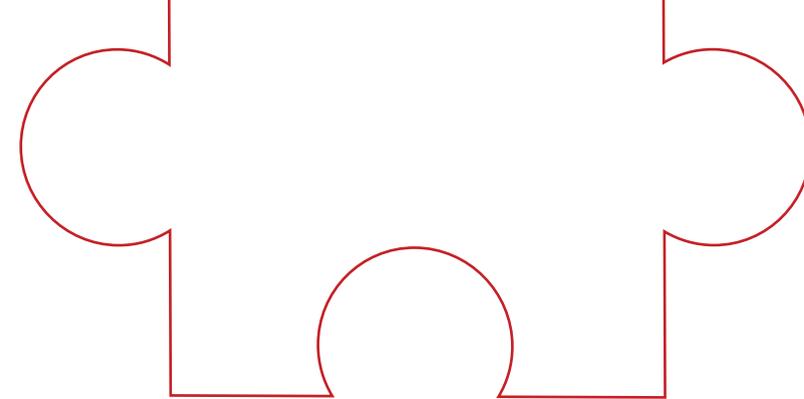


Conclusion

So, what can be done to effect genuine transformation? Here are just a few recommendations: -

- Significantly lift the 'core benefits' rates as recommended by the WEAG. In particular, the WEAG recommended that a significant increase in the Family Tax Credit should be the primary means of attacking child poverty. This is urgent.
- Extend and increase 'in kind' benefits and support that go directly to children. For example, extend the free school lunch programme; extend support for breakfasts in schools programmes; make public transport for children and young people free; make visits to doctors free up to age 18.
- Prioritise social housing. Convert existing stock. Build, build and build. Given that building cannot be 'magicked up' overnight, in the meantime the supply of affordable housing needs to be addressed. Options to regulate rent increases would seem a worthwhile step.
- Abolish the 'In work tax credit' in its present form. We should remove tax credits and benefits that discriminate against children on the basis of their parent's income source. Ensure a sole parent or and caregiver can choose to stay home to look after their child in the first 1000 days if that's what they believe is in their child's best interest. The current "in work tax credit" flies in the face of the importance of parental influence in the early years of a child's life. Single parents, usually mothers, who would otherwise qualify for the IWTC, should be eligible whether on a benefit or not.
- Children in families whose parents separate need to be adequately supported. The current Child Support system does not work for children when their main caregiving parent is on a benefit. A parent in receipt of a child support payment under the liable parent scheme should receive that payment even if they are in receipt of a benefit. It should be 'passed on' from the liable parent. At present the government takes the payment to offset the benefit payment. A working parent is in a different position and receives the payment for the child(ren) direct. Parents who are entitled to child support payment should receive it whether they are getting a benefit or not. Children (of beneficiaries) are penalised and discriminated against under the current system. [See here.](#)





Challenge Three

Recognising children's rights, voices and participation: it's no passing fad

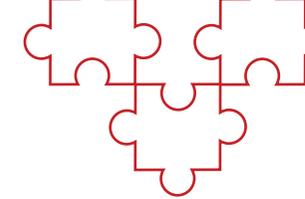
It has been said that there is nothing so irritating as a recent convert. I am a convert to the principle and the practice of encouraging participation by children in all matters that affect them - and factoring their voices into all government and community decision making.

Despite the striking participation of tamariki in all facets of pre-colonial Māori life, we have been strangely reluctant to consider children's views in decision making since. Maybe it is a throwback to the Victorian era when children were seen and not heard. Maybe it is because of a misplaced belief that children are a work in progress: we are preparing them to participate and helping them to develop their voice for use as adults – but they are not ready yet. Whatever the reason, the unfortunate reality is that ensuring children's participation in decision making has not been wired into the DNA of our country.

Our Office has done extensive work to seek the views of children and young people. [You can see what we are hearing from children and young people here.](#)

1. The United Nations Convention on the Rights of the Child 1989 (the Children's Convention) is a powerful road map.

I first read the Children's Convention cover to cover, at 36,000 feet, en route to New Zealand's examination before the UN Children's Committee in Geneva, in September 2016. In fact, I read it three times in a row. I had been Children's Commissioner for only a couple of months. I realised for the first time what a coherent, powerful, and comprehensive document it is. It is a charter of non-negotiable entitlements for all the world's children. It is exactly what I would want, as a minimum, for my own children. I think it should be compulsory reading for all who work with children and all politicians and decision makers.



Three things are worth stressing.

- A. The Children’s Convention is absolutely relevant to New Zealand – although I have been told by senior politicians that it is primarily a document for third world or developing countries. “New Zealand does pretty well for its children” I have been told; “surely the Convention is not really applicable to us, is it?” And even, “I don’t think that some of us (politicians) like being told by the UN what to do.”

With respect, those views are simply not open to us. New Zealand ratified the Children’s Convention on 6 April 1993. It is the most signed international convention in history. Only the USA has not signed it. Its implementation is non-negotiable.

The same conclusions are true for other human rights instruments which apply to children. For example:

- UN Convention on the Rights of Persons with Disabilities (UNCRPD) which New Zealand ratified on 25 September 2008;
- UN Declaration on the Rights of Indigenous Peoples (UNDRIP), which New Zealand endorsed on 24 April 2019.

Both serve to protect, provide for, and enable the participation of all children.

- B. In the language of legal theory, for every right there is as an obligation - a duty- on someone else to ensure the right is upheld. Understood in that way, the Convention is a challenge to the government – but practically to all of us in NZ - to be duty bearers – to uphold basic entitlements for children.

Talk of rights for children puts off many New Zealanders and can draw a negative response. It needn’t. I suppose it conjures up concerns about parents losing their authority, or children suing their parents. This is a groundless fear and is far from the purpose of the Convention which in fact aims to lift the wellbeing of all children.

- C. The Children’s Convention can and must be harmonised with Te Tiriti and an indigenous Māori view of children as mokopuna in the context of their whānau, hāpū and iwi. I think the Convention is misunderstood if it is read purely as a western construct with children seen simply as atomised units. There are opportunities in the Convention to see children as part of a wider collective. In our Aotearoa context, this must reflect and respect a Te Ao Māori perspective. [See our Office’s initial thinking about this.](#)

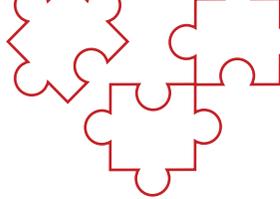
2. The Convention must be incorporated into NZ legislation and implemented more quickly.

There has been observable Government progress in recognising and implementing the Convention since New Zealand’s last examination by the UN Committee on the Rights of the Child in 2016.

Notably, the Convention was included in New Zealand legislation for the first time ever in 2017. Section 5 of the Oranga Tamariki Act (the principles section) provides that any Court or person exercising power under the Act must be guided by the principle that,

- (b) the well-being of a child or young person must be at the centre of decision making that affects that child or young person, and, in particular,—
- (i) the child’s or young person’s rights (including those rights set out in UNCROC and the United Nations Convention on the Rights of Persons with Disabilities) must be respected and upheld....

The precise effect of this provision is arguable. [See our further discussion here.](#)



Section 5(1)(b)(i) should serve as a sharp-edged tool to influence practice under the Act. Whether this change to legislation has shifted practice for individual children in the system is yet to be seen. Until changes to legislation are also reflected in policy, it is my rather sad view that it will have little effect.

Following the example of the Oranga Tamariki Act, I think that all legislation primarily concerned with children should make express reference to their rights, including fully incorporating the Convention.

However, there is clear reluctance to go this far, primarily because it may give justiciable rights to children – the right for children to sue the government if their Convention rights and entitlements are breached. So, while the Government wants to recognise the Convention in legislation, it doesn't want to do so in a way that would make it legally accountable for failure to deliver on Convention obligations.

We know this from the 2018 amendment to the Children's Act 2014 which created an obligation for the government to promulgate a Child and Youth Wellbeing Strategy. However, section 6A, included at the time, was a "dollar each way provision".

6A Strategy and international obligations

- (1) *The strategy is intended to help New Zealand meet its international obligations relating to children.*
- (2) *Those obligations include New Zealand's obligations*

relating to children under the UNCROC and the UNCRPD.
(3) *However, this Part does not, in and of itself, give domestic legal effect to, or implement in New Zealand law, any of those obligations.*

Encouragingly, the Convention is referred to here – with ss(1) and (2) – making clear that the strategy is a means of constituting New Zealand's compliance with its international obligations. But, in subs (3), the Convention is robbed of legal effect. Is it fair to suggest that inclusion of this provision is tantamount to self-incrimination?

Much remains to be done to give life to the Convention.¹ My Office has worked alongside champions in the child rights sector through the Children's Convention Monitoring Group (CMG) which we convene. The role of the CMG is to hold the government to account and to advocate and demonstrate how the Children's Convention can be practically applied to improve children's wellbeing.

See in particular:

[2018 Getting It Right: Building Blocks Report](#)

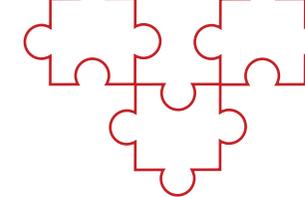
[2019 Getting It Right: Are We Listening? Report](#)

[2021 Getting it right: Children's rights in the COVID-19 response Report](#)

¹ The Office of the Children's Commissioner is responsible for convening the Convention Monitoring Group (CMG), which monitors the Government's implementation of the Children's Convention, its Optional Protocols and the Government's response to recommendations from the UN's Children's Committee. The monitoring group comprises members from the Human Rights Commission, UNICEF New Zealand, Save the Children, and the Child Rights Alliance.

The CMG meets regularly with the now "beefed-up" cross government DCEs group to check on progress with the government's Convention implementation work programme. That there even is such a work programme is a significant step forward. We want it to become more comprehensive.

November 19th 2021 will be a red-letter day. It is the launch of the Child Rights and Wellbeing in Aotearoa Training Hub available for every government department.



3. Children's participation and the expression of their views is their right. The strangely unknown Article 12 of the Children's Convention

Article 12

1. *States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*
2. *For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.*

The Article is direct and plain. Professor Laura Lundy conceptualises it by way of four chronological concepts (see [here](#) and [here](#)):

1. Space

Children must be given safe, inclusive opportunities to form and express their view

2. Voice

Children must be facilitated to express their view – including the right not to express their view

3. Audience

Ensure that views are communicated to someone with the responsibility to listen

4. Influence

The view must be acted upon, as appropriate, including feedback as to the reasons for decisions taken

Our Office worked with Laura to build our own approach to children's participation in the context of Aotearoa.

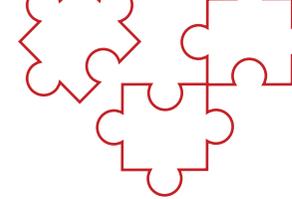
Yet policymakers and those in authority have been reluctant to incorporate children's views into their processes and decisions. Children want to be asked their views and invariably they have much to say.

I always remember a visit to Irongate primary school in Flaxmere, near Hastings, a low decile school with an inspirational principal and staff team. I spent time with a group of year 8 to 9-year-olds, and asked them what the key issues were for them and their whānau? Their answers were forthright and compelling - and they were very similar. The five most common (in no particular order) were:

1. The need for reusable and recyclable plastics.
2. Worries about climate change.
3. More money to buy food for families.
4. Warm and dry houses for families.
5. No more bullying and the need to talk to each other nicely.

Children's views always add value. They don't expect us to do everything they say. But they want to be heard and for us to factor their views into decision making. That is their right.

Minister Tolley, when she was investigating the problems with CYFS as it then was in 2015, established a group of care-experienced children to advise her. Our office put the group together and co-ordinated it. The Minister asked the group what could be done to improve the care system. The young people's response was to question why CYFS ends its support of them on their 17th birthday – why couldn't the support continue for longer, to age 21? They pointed out that their friends had places to go if they were sick, had a relationship break up or needed to come back from tertiary training during school holidays. Why couldn't the same apply to them as care-experienced young people? The Minister was very struck by their views. As a result, the age was increased to 21 with an option to 25.



The group also asked, “If we are removed from our families, why do we have to be separated from our brothers and sisters”? At that point, and quite surprisingly, there wasn’t a statutory principle emphasising sibling unity in the case of a removal. There is now. It is there because children and young people asked for it. Until that time, to my knowledge, it wasn’t even on the radar of the policymakers.

One of the results of this process was that the first Chief Executive of Oranga Tamariki established a new Deputy Secretary Role: Tamariki

Advocate - Voices of Children. I understand that this was a New Zealand first: to have a senior leadership team position in a government ministry which is solely dedicated to ensuring that children’s voices are sought out, heard, and fed into decision making. What an example to other ministries.

Another very promising development was the inclusion in December 2018, for the first time ever in New Zealand legislation, of an obligation to consult with children before a policy or law is designed – in this case, the Child and Youth Wellbeing Strategy.

Section 6D of the Children’s Act put it this way: -

6D Other consultation before strategy adopted or changed

- (1) *Before adopting a strategy, or changing a strategy adopted, under section 6, the responsible Minister must consult, on the proposed strategy or change to the strategy,*
- (a) *any children, or representatives of children, that the responsible Minister considers appropriate (in order to ensure that children’s views on the proposed strategy or change are taken into account); and...*

The resulting consultation was a real success, as I think everyone involved, including the Prime Minister, would agree. In fact, she said she read every one of the short postcards written by over 400 young people from diverse backgrounds as to what wellbeing meant to them.

From my point of view there were three stand out messages from the more than 6,000 children who shared their views.

First, in our preliminary consultation it became clear the word “wellbeing” means little to them. Consequently, we used the term “the good life” under which to summarise their views.

Secondly, the draft thinking in the child and youth well-being strategy, in their view, was too negative: they saw the good life as being the presence of positives – e.g. being loved and nurtured rather than the absence of negatives – e.g. free from abuse and neglect. The resulting strategy is a far more positive document.

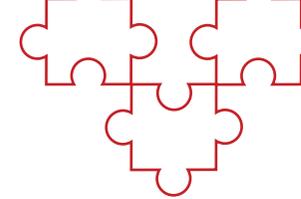
Thirdly, and perhaps most importantly, children were responsible for two additional domains in the Strategy: domain five: – children are accepted, respected and connected; and domain six: - children are involved and empowered. [See here for the full report.](#)

Our Office has consistently made many submissions regarding the need to strengthen legislation in order to allow the voices and views of children to be elevated. [See for instance this submission.](#)

I think one of the most significant engagements we carried out with children during my time as Commissioner was our “Education Matters to Me” series. It still reverberates. [See the full report.](#)

I vividly remember being in a Taihape cafe the day after the report was released. A woman approached me, identified herself as a teacher, and asked, as Children’s Commissioner, how dare I accuse teachers of being racist? (My wife melted into the shadows at this point). I said, “It wasn’t my accusation, it was the consistent voice of children who we interviewed.” I invited her to read the report and to then discuss her concerns? I gave her my phone number and the link to the report. A few days later she called me to say the report was very challenging but constructive and helpful. She said it resulted in all the teaching staff at her school scheduling a meeting to discuss how they could better engage with students in the school, especially those who were marginalised and struggling.

As is invariably the case - children’s voices do effect change!



4. A Child Impact Assessment for all proposed legislation which will affect children.

We have worked hard to ensure that a child impact assessment tool be applied to the development of all legislation. So far this has been voluntary and sporadic. I have lost count of the number of times we have said to Select Committees that if they had considered the relevant Bill from the point of view of children, some of its provisions would have looked very different.

On one memorable, but disappointing, occasion I suggested to a senior politician that the use of such an assessment should be mandatory. I was told that “We already have a plethora of such impact statements – for the elderly, for the disabled, for Māori, and for women – how many more interest groups do you say we have to take account of?”

Eventually I said, “If children are “just another interest group, then shame on us. Children have no vote, no influence yet make up 23% of the population. Without such an instrument, children risk being short-changed.”

This is still my view. The most up-to-date child impact assessment tool will be available online on Friday 19th of November 2021. I believe it should be compulsory for all legislation that directly and indirectly affects children. [See here.](#)

Had the impact statement been used, for instance, at the time of the smoke-free legislation, it might have been that the ban on smoking in vehicles where children are present would have been in place much earlier than last year.

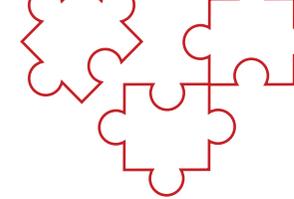
5. The voting age should include 16- and 17-year-olds

As it turns out, this seems to have been my most controversial proposal while Children’s Commissioner. Initially I said that we should have a national conversation about 16- and 17-year-olds voting. In the last year or so that has morphed into becoming my view. [See here.](#)

Many other countries allow voting from the age of 16, including Austria, Brazil, Argentina, and Scotland. This change would best be accompanied by a secondary school civics curriculum. All the evidence shows that voting habits formed early in life lead to lifelong voting. Voting is not compulsory, but those 16 and 17-year-olds who want to vote should be allowed to. Many have well considered views and a keen desire to contribute. If we were in any doubt about that, the recent youth movement calling for urgent action on climate change should surely remove it.

And yes, I am the same judge who recommends elsewhere in this series that 17-year-olds should be included in the youth justice system. I think the distinction can be justified. Sixteen and 17-year-olds who offend, invariably do so spontaneously, and often in the heat of the moment before their brain can catch up or assess the risk they are taking. Paradoxically, those young people are also quite capable of thinking deeply about issues, of writing considered and nuanced English and history essays and completing maths assignments on time, of organising fundraising events, or climate strikes. That is why, if properly prepared, they would be well capable of considered and thoughtful voting.

As young people cannot currently vote, in the lead up to the 2017 General Election, our Office sought the views of children and young people about what is important to them. [See here.](#)



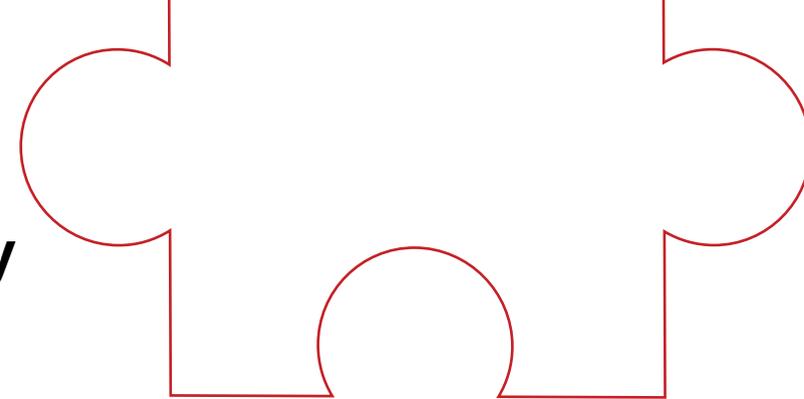
I end with a story. When I first proposed just a national conversation about this issue, a teenage girl came up to me and said, “Are you the guy, that Children’s Commissioner person, who says 16 and 17-year-olds should get a vote?” I said, “That’s me”. She replied, “I am 16 and you’re wrong”. I was bracing for some criticism. In fact, she said “Teenagers like me should get two votes to every vote you grey-haired old men get”. (There was nothing wrong with her eyesight). She continued “We are twice as invested in the future as you: it is our future, and we should have twice the influence that you do.

So, there it is. I say no more.

Challenges

- All legislation affecting children should explicitly incorporate children’s rights, and the Children’s Convention in the context of Te Tiriti o Waitangi, Aotearoa’s founding document.
- The problematic (and in some ways gutless) section 6A(3) of the Children’s Act should be repealed and replaced with wording that makes clear that the section does (rather than does not) give domestic legal effect to the government’s obligations to children under the Children’s Convention.
- The cross-government Children’s Convention implementation plan needs to be more comprehensive and should have Ministerial accountability for its implementation.
- Training about how to apply the Children’s Convention should be provided in all government departments.
- Government departments dealing directly with children e.g. Education and Health must:
 - o establish methods of consulting with children and hearing from them about policies and decisions that affect them
 - o appoint a Deputy Secretary – Children’s Voices, to bring the perspectives of under 18-year-olds to the decision-making table.
- All legislation applying to children should contain an obligation to consult with children, or defined categories of children, before policies/practices about them are finalised.
- The government should strongly recommend that all NGOs, community organisations and businesses that work with and for children, are operating in compliance with the Children’s Convention and should give meaningful effect to children’s participation, in line with Article 12.
- Where legislation provides for decisions to be made about children, for example in the courts, there should be strong requirements reflecting Article 12 of the Children’s Convention.
- A Child Impact Assessment tool should be mandatory for all proposed legislation that will directly or indirectly affect children.
- The voting age should be lowered to include 16- and 17-year-olds, alongside investment in civics education in schools.





Challenge Four

The child “care and protection” system: only radical transformation will do, particularly for mokopuna Māori

A key statutory role for the Children’s Commissioner is to monitor and assess the policies and practices of Oranga Tamariki. Additionally, we are required to keep the provisions of the Oranga Tamariki Act under review¹. We also have the responsibility as “National Preventive Mechanism” under the Crimes of Torture Act to examine the conditions and treatment of children in places of detention.

I can honestly say that I entered this monitoring role with an open mind and a desire to be constructive. However, as a result of our monitoring, the operation of the state’s care and protection system emerged as a profound concern. The Office of the Children’s Commissioner has lost faith in the current system. In my view, any monitor worth its salt would have come to the same conclusion. Conveying this message to the government has been the hardest part of my job.

[See: our State of Care series of reports.](#)

See also: [Reports from OPCAT Monitoring of Oranga Tamariki - places of detention released under the Official Information Act 1982.](#)

1. Lessons from the tragic death of “baby Moko”.

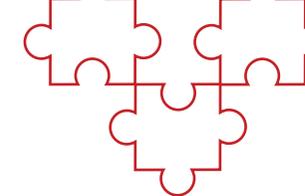
Child abuse in any form, any time, any place is unacceptable. On that there can be no compromise. Children are treasures, taonga. From my own faith perspective, the psalmist in Psalm 127 puts it well: “children are a gift from the Lord; they are a real blessing”. Those with responsibility for them - which may include wider family/whānau - can have no excuse for abuse or neglect. Children deserve our absolute best. No role is more demanding yet more crucial than the care and upbringing of children.

In August 2017 our office was requested by Coroner Wallace Bain to provide evidence at the Inquest of Moko Rangitoheriri who died on August 10, 2015 as a result of violent assaults by a couple entrusted with his care. The sentencing judge observed that while there was a range of reasons why the two caregivers struggled to cope with their circumstances, other families in similar situations did not brutalise and kill the children in their care.

Every Children’s Commissioner since 1989 seems to have been confronted by a sentinel child death. This was ours. Our submission caused the office a lot of soul searching. As we approach this case let’s remember this was a real little boy whose life was tragically ended – and that there is a whānau who is still grieving.

[All our analysis can be found here.](#)

¹ See s13 Children’s Commissioner Act 2004, which lists five specific functions in respect of Oranga Tamariki.



We emphasised, at para [6] that

“Moko was killed by the adults who abused him. The responsibility for his shocking death must lie with them. This must always be the starting point in any discussion. I do not want to minimise the fact that only those who inflicted the violence in this case, could have guaranteed Moko’s safety.

We went on to say

However, on the evidence before this inquest, it is fair to say that considerable responsibility for missing or minimising the indicators of risk for Moko must lie with the agencies who were involved with the family, especially those directly involved with Tania Shailer.

What stood out was that

“there were sufficient “eyes” and “ears” into Moko’s circumstances and care at various stages. Yet the “eyes” did not see, and the “ears” did not hear, nor did they trigger proper investigation about his real condition and risks. I do not intend to attribute blame or make any personal criticisms....

All our more detailed findings and recommendations are set out in our recommendations. We concluded that the death of Moko was preventable.

Here, it is sufficient to emphasise three lessons that stood out. It is a great concern they still require attention and resolution, four years later.

A. Still no core competency framework.

At least three NGOs working with the couple either missed, misinterpreted, or minimised warning signals, or what might be called “red flags”, which should have prompted further investigation into his safety.

We recommended the need for development of a core competency framework: the establishment of a shared set of skills, values and knowledge across the children’s workforce.

My predecessor, Dr Russell Wills, helped prepare this very framework under the auspices of the Children’s Action Plan in 2014 -2016. He has been very explicit in his view: the key to effective prevention and intervention in family situations where there are serious risks of child abuse and neglect, is to ensure that ‘front line practitioners have advanced skills in engaging those families and whānau who find engaging with us difficult’.

This framework has been drafted and consulted on across a wide range of social sector agencies.

Regrettably, it was never implemented. I have not been able to discover what has become of this framework. Presumably it is sitting in an official’s drawer somewhere in Wellington gathering dust.

If it was ‘dusted off, it could be updated in the light of all we have learned since. This must include taking a Te Ao Māori centred approach. It could then be embedded in the education, training, and professional supervision of all who work with children and families across all parts of the children’s workforce.

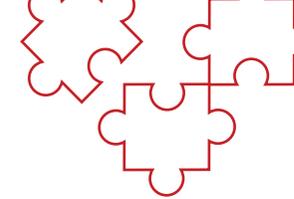
B. Clearer guidance on information sharing still required.

What stood out was the

“lack of case consultation and information sharing across agencies involved with this family and sometimes also between staff carrying out different child or adult centred roles within the same agency. Multiple agencies and professionals held pieces of information which, put together in retrospect, paint a clear and tragic picture of Moko’s final months and days. Had this information been joined up, in a context where agencies were working together, the unanswered questions and associated risks to Moko would have become significantly more evident.

Clear guidance as to information sharing between NGOs is still required. It is controversial area.

2 <https://coronialservices.justice.govt.nz/assets/Documents/Decisions/Moko-Sayviah-RANGITOHHERIRI-CSU-2015-ROT-000302.pdf>



Provision was introduced into the Oranga Tamariki Act in 2019 (ss 65A to 66Q) for sharing between Oranga Tamariki and the Police and prescribing when NGOs must provide information to these two entities and in limited circumstances between NGOs.

However, provisions for fully sharing information between NGOs – the very issue in the Moko case – do not apply until a Code for information sharing comes into force. The Minister for Children has the obligation to develop such a code. Its development has languished – I assume because there are multiple conflicting views and it is considered too difficult an issue to resolve. But for the sake of our children, action is required. Either the requirement for a code is repealed or we grapple with the content of a Code. With respect, what we cannot do is simply ignore the requirement.

C. How to ensure that every child in New Zealand is assessed and supported from birth?

As we observed in our submission to the Coroner’s Report: -

“The question of mandatory assessment of every child born in New Zealand raises significant issues. One of these issues is the expense involved with the majority of children who will be found not to be at risk. Previous Children’s Commissioners, each in different ways, have all proposed that there should be a programme of assessment and monitoring for at least the most vulnerable of our children. For example, in 2006, Cindy Kiro [Children’s Commissioner from 2003 to 2008, now Dame Cindy, the Governor General elect] proposed an integrated framework for children and families, including a centralised information hub where information from child assessments would be stored in one system. This was known as Te Ara Tukutuku Whanaungatanga o nga Tamariki – Weaving Pathways to Wellbeing Framework.”

In my view, there is now an existing mechanism that ought to assist in achieving this same end. That is the Well Child Tamariki Ora programme. It consists of staged, age related assessments for each of the approximately 60,000 children born annually in New Zealand.

The programme only reaches about 89% of children – and misses the very 10% who most need our support and ongoing assistance. These families may be considered ‘hard to reach’ from a central government perspective. Nevertheless, extending the reach of this programme to all New Zealand’s children - and to deepen the assessment beyond health to address social needs – is an urgent priority. Iwi, Māori organisations and NGO agencies have the greatest ability to reach out and gain these families’ trust. They should be given sufficient resources to do this successfully.

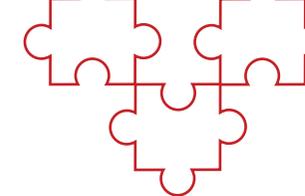
2. Yes, the state has an underlying duty to ensure all its children are safe; but the care and protection system has caused harm to many children, especially mokopuna Māori

In our *Te Kuku o te Manawa* Reports we sought to hear directly from whānau who had experienced contact with the state because of welfare concerns raised about their pēpi. As it happened, the majority of the people we spoke with were mothers.

See [here](#) and [here](#).

Our qualitative study revealed recurring themes arising from state intervention. It is worth noting that all the mothers and whānau agreed that they needed help and assistance and that their pēpi faced risks of some kind. And in about half of the situations we explored, the pēpi were not removed. Nevertheless, there were recurring themes:

- unprofessional and harmful statutory social work practice including lack of transparency and in some cases social work dishonesty.
- rushed decision making and pre-judgment;
- over reliance on without notice removals;



- inadequate support before and after removal; and a failure to work in partnership with whānau, hapū and iwi;
- racism and discrimination – both from some individual social workers and structurally within Oranga Tamariki;
- whānau need the right support from the right people.

All the mothers in our study knew what “good” intervention looked like. That none of them experienced it from the State was a shock to some of us.

The three other independent external reports originating from the Hastings “uplift” – from different perspectives – have all told the same story. This has been echoed most recently with the report of the Ministerial Advisory Group (MAG). There is no argument now, that the system has failed too many children and their whānau/families and that these are disproportionately Māori.

From my vantage point an unstoppable tidal wave of change is underway.

3. There has been an over emphasis on “child rescue” associated with the rhetoric of “permanency” and “home for life,” and too little attention to whānau/family strengthening.

The “child rescue approach” (well discussed on our TKOTM reports) tends to emphasise risk analysis, decisive child-removal and placement away from the whānau/family. Placements are not always within the whānau, hapū or iwi of mokopuna Māori. The “second and subsequent child” provisions in the Oranga Tamariki Act, soon to be substantially repealed, reflect this philosophical approach.

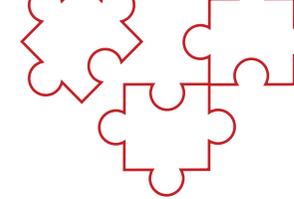
For too long Oranga Tamariki has had insufficient social workers and patchy service delivery. This has inhibited long-term engagement with families and community organisations. As a result, short term, risk averse approaches have predominated. Removals without notice have become more common.

At the same time, there have been insufficient resources and attention to working with families, wider families, community organisations, and, where mokopuna Māori are at risk of removal, with iwi services and Māori organisations. This approach (called “family/whānau strengthening” for short) is time consuming, resource intensive, requires highly developed skills for engaging and working alongside whānau and is best devolved to communities with by Māori, for Māori approaches. Ultimately it is better for mokopuna, whānau and the community. ‘Without notice’ removals, rushed and badly thought out removals generally, and placements away from whānau, hapū and iwi, cause significant long term inter-generational trauma for tamariki and whānau.

Of course – both these approaches are important – child safety and whānau/family strengthening. They are not mutually exclusive. Ideally, investment in whānau/family strengthening delivers child safety within the child’s own whānau and community, as opposed to children being ‘rescued’ by the state, removed from whānau and ‘placed’ into non-kin and stranger care.

The problem is that, perhaps without realising it, Oranga Tamariki headed too strongly towards the child rescue end of the spectrum. Like an aircraft carrier at sea, if the ship’s course is initially even only a few degrees wrong, over time it will become significantly off course. This is what was happening to Oranga Tamariki – in different ways since 1989 – and more so in recent years.

I was often told that Oranga Tamariki needed more time and therefore the OCC should ease up on the criticism and not “destabilise” the organisation while it transformed itself. Actually, more time was precisely what the old Oranga Tamariki did not need. It would only have got more off-course. A much more radical transformative change was required.



I accept and regret that it is easy to vilify social workers in all of this. Some social workers were, and are, outstanding. But, as our reports, and the recent MAG report lays bare, there are insufficient social workers and many of those are inadequately inducted, trained, and supervised. The role of the Chief Social Worker has been seriously devalued. Expertise in care and protection social work at the senior leadership table has been lacking. There has been a managerialist approach. Children are too easily seen as “units” and commodified. Like their colleagues in child protection systems across the western world, front line statutory social workers have been caught up in organisational and systemic trends beyond their control.

One of the casualties in all of this has been the inadequate response by Oranga Tamariki to children (10-13 year olds) with offending behaviour. This group is dealt with on the basis that invariably what lies behind their ‘offending’ are deep seated and unaddressed care and protection needs. However, the system has not been well resourced to deal with them. Too often these children have fallen between the cracks in the care and protection system. This has presented an avoidable but significant challenge to the youth justice system - to which these children too often graduate. See Missing Jigsaw Piece Five

4. *Te Kuku o Te Manawa* concludes that “by Māori for Māori” approaches must be adopted as the ultimate aim – though we can act now to stop harm from occurring.

Our report speaks for itself.

Our overarching recommendation is that to keep pēpi in the care of their whānau, Māori must be recognised as best placed to care for their own. This involves by Māori, for Māori approaches enabled by the transfer of power and resources from government to Māori. (When we say ‘Māori’ in this context, it includes whānau, hapū, iwi and Māori organisations as determined by Māori).

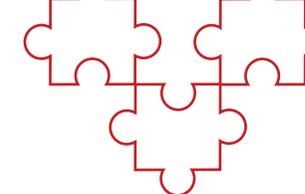
See [here](#) and [here](#).

The approach we recommend is absolutely consistent with Te Tiriti. And it has echoed down the decades since before Pūao-te-Ata-tū in 1989. It is also highlighted in a recent Waitangi Tribunal report from the Waitangi Tribunal. That report pointed out that the use of the word ‘kainga’ in Te Tiriti guaranteed sovereignty for Māori over family life and values: See [here](#), and the discussion on this point in Reflection 1 -Child and youth wellbeing; is NZ the best place to be a child? (at point 2).

In our view mokopuna Māori can be kept safe and at the same time kept within the care of their whānau. It does not have to be one or the other.

I remember sitting outside the whareniui at Reporua Marae, near Ruatoria in November 2020 when Glenis Philip-Barbara was formally “handed over” into the role of Assistant Māori Commissioner for Children. We looked out over the very large crowd under the hot sun with the surf breaking – just below East Cape. Glenis said, “in this group is my whānau: about 150 plus people. When you say whānau Andrew, you think of Mum, Dad and the kids. When I say whānau it is this huge interconnected group of relatives.” She paused and said, “you know we have had to remove kids from the care of some within our whānau. But we do it sensitively, our way, and the children stay within this whānau. And whānau up and down the county are doing that all the time, not the state. All whānau can find whānau members who can provide help and support if parents can’t.”

[See also our submission to the Waitangi Tribunal.](#)



We also recommended improvements for the system now until the transformation we described is achieved. But ultimately these are not destinations on their own. ‘By Māori for Māori’ approaches are the goal. We recommended that Oranga Tamariki and the government act immediately to:-

- stop harm from continuing to occur by urgent changes to social work policy and practice;
- work better with iwi and Māori organisations and to begin a transition pathway to ‘by Māori for Māori’ approaches; and,
- quickly overhaul aspects of current legislation such as s7AA. (Recommendations 2, 3 and 4 of our second TKOTM report.

5. Abuse in care continues! The four care and protection secure “residences”³ and the residence for boys with harmful sexual behaviour, must be abolished.

There is a myth that while abuse in care was serious in the past, it has stopped now. It is argued that we know too much about abusers and their methods, and that our current system checks are too good, to allow abuse to happen now.

The problem is no one can say when it was that the abuse in care stopped. What is the bright line, the date, after which it can be said that abuse stopped? This fallacious assumption is at least partially reflected in the Royal Commission into Abuse in Care being limited to investigating only pre-2000 settings and policies contributing to abuse.

I welcome the decision that Oranga Tamariki made to release regular abuse in care reports. A wide definition of abuse is used – physical abuse, sexual abuse, emotional abuse, and neglect. Also, abuse irrespective of where it occurs is included, even if outside the placement, provided the child is in state care at the time. These reports, published on the Oranga Tamariki website, indicate an abuse rate while in care of between 6-10%. This rate

is likely to be a significant undercount because all the known research suggests that children in care tend not to report abuse until well after it occurs (years after); and the new system of reporting is still being understood by social workers.

Abolition of the four care and protection detention “residences.”

These ‘detention centres’ are for children and young people who have done no wrong and who have not offended against the law. They are for children with the most challenging behaviours who are often from the most violent, traumatic, and disturbed backgrounds.

These residences are an out of date response. They have their origins in the philanthropic poor houses and orphanages of the nineteenth century. They are not fit for purpose. Segregating children with challenging behaviours and aggregating them together is not an enduring solution.

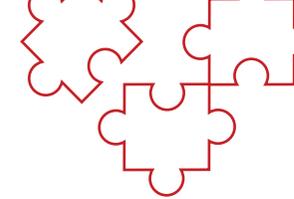
There is a high risk of abuse while in these residences. Many times it is the Mental Health facilities and services which are missing in action; this is where many children in care and protection residences should be supported. Oranga Tamariki is the wrong agency for these children in the first place.

The longer-term solution is investment in professional support for whānau/family much earlier in the life of the child to prevent mental health and behavioural issues escalating to the point where specialist residential care is needed. The short to medium term solution is to establish small, therapeutic homes for up to four children and young people, with expert staff and 24/7 care. These homes must be developed immediately and integrated into local communities where children can see their whānau, attend school and experience day to day life as normally as possible.

I welcome the recently announced decision in October 2021 by the Minister for Children to close all these residences.

The residential centre in Christchurch for boys 12 -16 with harmful sexual behaviour should also be closed. See [here](#) and [here](#).

³ See our [Reports from OPCAT Monitoring of Oranga Tamariki - places of detention](#) released under the Official Information Act 1982.



Challenges

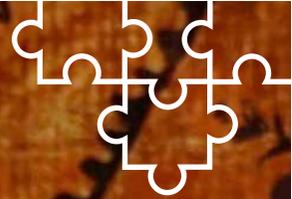
Concerns with the care and protection system have been raised for decades. In my experience all governments, including this one, find it very difficult to accept that its services could, and do, cause harm to children and young people.

Government instincts too quickly revert to protection of their own systems, structures, and staffing - including social workers. They want to build, rather than undermine, public trust in the system – even in the face of evidence suggesting deep systemic failings. I was frequently ‘counselled’ that my public remarks were destabilising the system. I have to say, sadly, that in all these discussions the starting point was not what was best for the children and families/whānau who needed support. If speaking out about their wellbeing and interests ‘destabilised the system’, I will own that. The interests of children might lead to that very consequence.

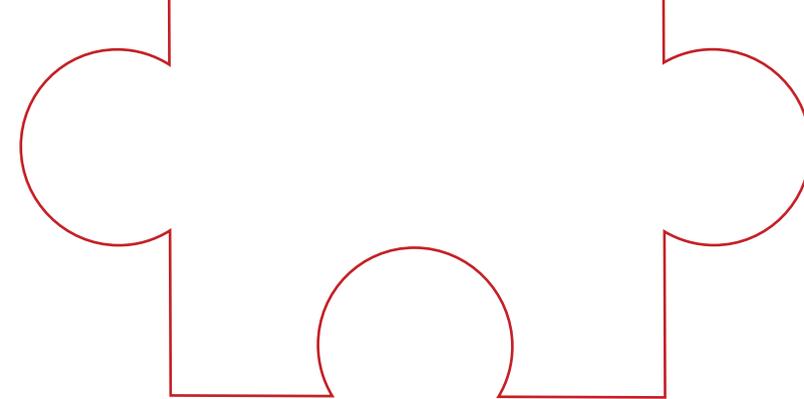
When governments do eventually accept criticisms of child welfare systems, and bow to overwhelming pressure as in this case, I sound a caution. With great respect, governments find it difficult to make the radical forms of transformational change that are needed, despite their optimistic rhetoric. History shows governments end up tinkering. Only incremental change results. Many reports over the decades which have documented the need for transformational change for the old Child Youth and Family Services (and its previous iterations) have met the same fate: after a few years they stall then wither on the vine.

- Consistent with Te Tiriti, and as emphasised by the Waitangi Tribunal, Oranga Tamariki must devolve power and resources to local communities and to Iwi and Māori organisations. “By Māori, for Māori” approaches must be the ultimate aim.
- the government should address all the other recommendations in our Te Kuku o te Manawa Reports.
- As this process unfolds, the role of Oranga Tamariki will shrink. Presumably, its core role will include responsibility for the safety of children in crisis situations. But even then, community and Māori must be actively involved. Removals would look quite different if they were.

- In my view this challenge is beyond one single chief executive. The turnover of eleven acting/full time CEs since 2001 suggests the leadership/governance model is at fault - not the abilities of the CEs. In my view, shared leadership and governance guided by a strong leadership board, reflecting Te Tiriti o Waitangi in its composition, is the way forward – and as a much smaller agency. This is a respectful challenge to the Public Service Commission.
- Finalise and roll out the forgotten draft Core Competency Framework for all organisations working with children. It should include a shared set of skills, values and knowledge across the children’s workforce. The Framework must be Te Ao Māori centred and serve all communities across Aotearoa.
- Provide clearer guidance on information sharing between NGOs and community services working with children. In particular, develop the Code for information sharing as required in the Oranga Tamariki Act, or repeal those provisions. But don’t do nothing.
- Urgently extend the reach of the Well Child Tamariki Ora programme to 100% of all New Zealand’s children 5 and under. And deepen the service beyond health to address social needs.
- Abolish the four care and protection secure residences. They should be replaced by investment in family/whānau strengthening and small family-like staffed homes within local communities. By Māori for Māori approaches should be prioritised. The residence for boys with harmful sexual behaviour in Christchurch should also be closed and replaced with ‘one on one’ community treatment.



Children's
Commission
MINAAKITI TĀTOU TAMARU



Missing Piece Five

Youth justice: some stark injustices need fixing

One of the main reasons I was attracted to the role of Children’s Commissioner was that it would give me a chance to speak about areas of reform and legislative change for the youth justice system, that I was constitutionally prevented from doing as Principal Youth Court Judge.

For this reason, a great early encouragement was the decision by the government in 2017, to include almost all 17-year-olds within the youth justice system. This was something for which our Office, along with many others, had campaigned strongly. If I have done nothing else, my time as Commissioner has been worth it for this alone.

However, there are other areas where change to the youth justice system is urgently needed. The status quo perpetuates injustice. I discuss five youth justice “injustices” next.

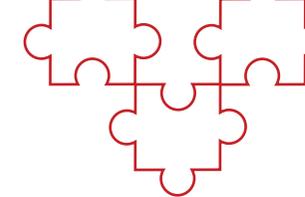
First, I need to stress that I believe in our youth justice system. There is much about the youth justice legislation and policy which was revolutionary for its time in 1989, and which I think is principled, effective and, as many academics would agree, world leading. For instance, there is a twin emphasis on:

- (a) not charging young people wherever possible and using community-based interventions instead; and,
- (b) the use of well-resourced and well-coordinated family group conferences (FGCs) as a key decision-making mechanism for serious offending.

The former is based on the understanding that almost all young people, at a time in their lives when their frontal lobe is still developing, break the law at least once – usually in only minor or moderate ways. However, with good community-based interventions, led by New Zealand’s highly trained and respected Youth Aid police, almost all young people will quickly leave offending behind them.

The FGC is a restorative justice approach in practice. It assumes that families/whānau, together with victims and their supporters (and in the case of rangatahi Māori – with hapū and iwi), can when empowered to do so make highly effective and creative decisions which hold young people accountable and prevent further offending. That is not say that all is well with the FGC process. In some respects, it needs a blood transfusion in the land of its birth. [See our Report.](#)

Unfortunately, this excellent architecture of the system is sometimes misunderstood. In 2020, a Private Members Bill, *the Oranga Tamariki (Youth Justice Demerit Points) Amendment Bill* - later withdrawn - sought to introduce a graduated system of demerit points for all young offenders. Though doubtless well intentioned, it was deeply misguided and could have had devastating consequences for many, including rangatahi Māori, Pacific and disabled young people. It would have destroyed the police discretion to develop tailored, community-based responses to deal with young offenders and replaced it with a paint by numbers approach. [See our Office’s submission against this Bill.](#)



Even more unfortunately, real progress within the youth justice systems frequently goes unnoticed and unreported. For instance, a very significant trend is that over the last ten years, offending rates for children and young people have fallen by 63% and 64% respectively. And the rate of Youth Court appearances has reduced by 68%. The moral panic periodically generated about increasing youth crime is misplaced. [See the more detailed Youth Justice Indicators report.](#)

There are also significant system's failures outside the control of the youth justice system which occur much earlier in a child's life. Everything I saw while I was Principal Youth Court Judge pointed to a lack of early, co-ordinated intervention. This was another reason that attracted me to this role: earlier support for a child would be half the cost of, and twice as effective as, [youth justice interventions](#). I was keen to advocate the crucial importance of addressing issues in a child's life that arise, for instance, in their first thousand days. This is our ultimate crime fighting tool. (See *Missing Jigsaw Piece* No 1.)

The other point to make is that virtually all children under 14 who commit serious offences are already known to child welfare/protection services. That is their most common characteristic. Most of these children "graduate" into the youth justice system, all with a constellation of unmet needs and disadvantage. This becomes a huge, but largely avoidable, challenge for the youth justice system. The serious weaknesses in Oranga Tamariki services for these children and our very poorly resourced "child-offender" system (quite different from our youth justice system) need urgent and radical attention. (See *Missing Jigsaw Piece* No 4.)

Nevertheless, there are five areas of legislation and practice specific to the youth justice system itself, where, I think, reform is urgently needed. Unaddressed, they will perpetuate significant injustice for children and youth people. The legislative suggestions made in respect of each area would "finish the job" started in 1989.

1. The pressing need for "by Māori for Māori" approaches

Some of the big issues facing the youth justice system are the issues facing our whole country (discussed in the *Prologue* and *Missing Pieces 1 and 2*, before).

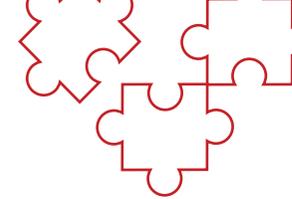
As is well understood, the shadow of poverty; the legacy of colonisation together with modern day racism and systemic bias; abuse and neglect issues; [unidentified neuro developmental disabilities](#); and educational disengagement hang over most young people with serious offending behaviour.

But there is one issue that the youth justice system can and must respond to urgently: Māori disproportionality. Again, "moral panic" or exaggeration must be avoided. First, the good news:

- The number of young Māori aged 14 to 16 who offend and who appeared in the Youth Court (which only deals with the most serious offending) reduced by 41% from 2016/17 to 2019/20. The number fell from 1,375 to 810. In comparison the number for European/Other fell by 33% over the same period - from 438 to 295.
- The Youth Court appearance rate decreased by 47% from 2016/17 to 2019/20 for Māori compared with a 27% reduction for European/Other.

The bad news is that despite a reduction in disparities between Māori and non-Māori, indigenous Māori children and young people still come into conflict with the youth justice system at severely higher rates than any other ethnic group.

- The proportion of Māori children whose offending was serious enough to lead to an FGC or court action was 2.1 times higher than that for European/Other.
- The percentage of young Māori proceeded against who appeared in the Youth Court was 1.8 times higher than that for European/Other.



- The Youth Court appearance rate for Māori young people was 8.3 times higher than that for European/Other.
- The percentage of Māori children and young people remanded in custody was 1.7 times higher than that for European/Other.

As if to emphasise this deeply concerning reality, I well remember visiting the newest of the four youth justice “residences” - Te Maioha o Parekarangi, in Rotorua in 2018 (which is for young people from the whole country). This is a secure detention centre for our most serious young offenders - both on remand and sentenced. Twenty nine of the thirty young people there were Māori. The experience was sobering and not unusual.

It is imperative that innovative, government resourced, Māori-led ‘*by Māori, for Māori*,’ approaches that respond to offending behaviour by rangatahi Māori are promoted.

After all, that was exactly the vision of the original 1989 legislation, at least partially inspired by [Pūao-te-Ata-tū](#), not to say Te Tiriti, which set out a revolutionary vision for dealing with young offenders. For instance, s208(c) of the Act emphasised as a specific youth justice principle...

that any measures for dealing with offending by children or young persons should be designed —

- (i) to strengthen the family, whānau, hapū, iwi, and family group of the child or young person concerned; and*
- (ii) to foster the ability of families, whānau, hapū, iwi, and family groups to develop their own means of dealing with offending by their children and young persons:*

This provision strongly points to “*by Māori, for Māori*” approaches. It was a basis, if one was needed, for the establishment of Ngā Kōti Rangatahi. It should also have provided a basis for the development of a wide range of other “*by Māori for Māori*” approaches within the wider youth justice system. Sadly, the vision of the 1989 Act, which specifically mentioned whānau, hapū and iwi and family groups 28 times,

quickly stalled, and was not realised. Thirty-one years later, we now have a second chance for a revolution with the promised transformation of Oranga Tamariki. We cannot fail a second time.

The rationale and need for “*by Māori, for Māori*” approaches is just as strong in youth justice as it is for care and protection (see Missing Piece 4, before) and the case for this transformative change in our *Te Kuku o te Manawa* reports: [Report One](#) and [Report Two](#).

2. A fully self-contained, standalone, Youth Court.

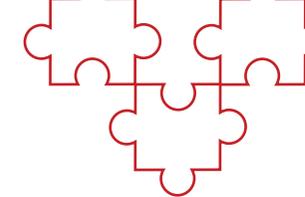
Nothing less should be our vision.

Paradoxically, a small number of charges against young people - the least serious and the most serious - currently must be dealt with in the adult District or High Courts. In terms of the least serious cases (driving related and other offences proceeded with by “infringement” notices which the young person wants to defend), this is a result of muddled thinking and poor drafting in the 1989 legislation. As for the most serious cases (murder and manslaughter), it is the result of inconsistent and overly cautious thinking. Albeit this was before the ratification of the UN Convention on the Rights of the Child.

Also, sentencing for offending where the Youth Court options are considered “clearly inadequate” can be transferred by the Youth Court Judge to the District Court for sentencing - (usually by the same judge, but sitting in the adult jurisdiction where a penalty of imprisonment is available). Similarly, the election of a jury trial necessitates an adult court trial.

These exceptions should not exist. They are not necessary. The Youth Court should be empowered to deal with all offending by under 18-year olds, including jury trials and murder and manslaughter.

All sentencing options should be available to the Youth Court.



(It could be that a small number of Youth Court judges are specifically warranted to conduct murder and manslaughter cases. There are several former crown prosecutors and senior defence lawyers in their ranks who could easily handle the small numbers of these usually high profile cases). But life imprisonment, as currently defined, and the current mandatory minimum parole period, should be abolished. The responses should be individually tailored to the young person, their background and the circumstances of the offending.

I urge strong consideration of this change for which there is precedent. See, for example, Western Australia where there is a model of a standalone Youth Court. Of course, some nuanced policies would need to be addressed. For instance, where a young person was a co-accused with many other adults, an ‘interests of justice’ provision might allow the trial to take place in the adult court. But in such situations the Youth Court protections e.g. name suppression would continue and if a guilty verdict was reached then sentencing of the young person would be returned to the Youth Court.

The youth justice system is far from perfect. But a youth specific approach which retains a full suite of sentencing responses, including imprisonment where necessary, will work better for all under 18-year olds than retaining an adult court approach for some young people.

This step would be better for our communities and our country. The original vision of the 1989 youth justice system would be realised. The circle would be completed.

Part of the necessary reforms for a standalone, universal and fully principled Youth Court system are two jurisdictional amendments. In my view both, discussed below, must now be considered long overdue.

A. Extending the top end age for the Youth Court.

Including most seventeen-year olds in the Youth Justice system in 2017 was the right thing to do. As I said earlier, this goal was the main reason I took this role. However, in 2017, a small list of very serious offences committed by 17 year olds were held back from Youth Court jurisdiction - mainly to assess if the youth justice system and the Court could cope with the feared “influx” of a new 17 year old age cohort. Predictably, the fears failed to materialise. The system managed just fine. We must now complete this second step - always anticipated and very straightforward.

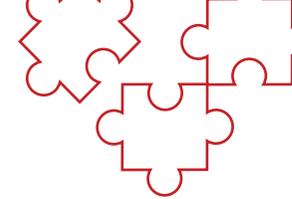
If I could, I would argue strongly that the adult courts should also have the power to transfer some 18- and 19-year olds into the Youth Court where the interests of justice justify it. For example, “developmental lag”, previously unidentified neurodevelopment disability and/or the nature of the offending would all be reasons why the Youth Court would be a better forum to resolve the offending. My hesitancy to advocate for this additional change, is because the age jurisdiction of the Commissioner is under 18, unless the person is in Oranga Tamariki care under section 386AAA of the Act in which case the definition of young person is extended to age of 21.

I do put this forward as a step worth considering for others to take up.

B. Raising the minimum age of criminal responsibility (MACR).

In New Zealand the MACR is 10 – and has been since at least 1961. That, unarguably, is too low. It is out of step with what we know of child development and with the age in many (but by no means all) other countries. It is contrary to strong, recent guidance from the United Nations. [See here.](#)

- The MACR should be 14. [Our Office has a position brief on this matter.](#)

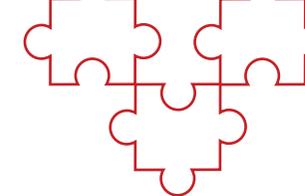


- In practice, the current MACR is actually 12, because 10 and 11 year olds cannot be charged with any offences apart from murder and manslaughter and to my knowledge since at least 1975, no 10 or 11-year-old ever has been. So, it would be a very easy step to urgently legislate for a MACR of 12. It is outrageous this has not been attended to earlier.
- Until 2010, the MACR was 14 in all but a very few cases, because likewise no 12 and 13-year-old could be charged with any offence except murder or manslaughter. (However, an exceedingly small number of 12- and 13-year olds have been charged with these homicide offences in the last 30 years).
- All that changed as result of penal populism. Without any demonstrated need to do so (indeed, with child offender numbers in decline) the newly elected government amended the law as from 1/11/2010 to allow 12- and 13-year olds to be charged in the Youth Court with a small list of very serious offences. A push back provision was included (as a failsafe) allowing the Youth Court to direct that the 12 or 13-year-old be transferred into the care and protection system if the real issues were underlying welfare needs. In the ensuing years since 2010 only a very few 12- and 13-year olds have been charged, and if so, most have been pushed back to the care and protection system.
- In my view, the law change in 2010 has proved unnecessary.
- The only practical problem with a 14 year old MACR is choosing the right and effective response to the behaviour of under 14-year olds which is currently considered criminal offending. If the MACR was 14, such behaviour (which would otherwise have been called offending behaviour) now has to be described and dealt with differently, because logically it can no longer be called criminal.
- In New Zealand, we know that the only current choice is the care and protection system, which considers this behaviour the result of unmet or unresolved welfare needs. I agree with, and understand, this philosophical assumption. However, the problem is that currently the care and protection system is in need of substantial improvement (including closure of the four large secure residences), particularly for Māori – who are over-represented in the care and protection and youth justice systems as it is.
- Therefore, until the care and protection system is transformed, including “*by Māori, for Māori*” approaches, the MACR should be raised to 12 - but only as a first and incomplete step.
- In the meantime, our current system for dealing with children who offend “the child offender system” (and who are not charged in the Youth or adult court, as outlined above), needs urgent improvement. It is not fit for purpose, is poorly resourced, with little interagency co-ordination, and no clear leadership. [See our Office’s report on this issue.](#)

3. Abolish the option to remand a young person to a police cell after first Youth Court appearance (s 238(1)(e) of the Oranga Tamariki Act).

This power, introduced in 1989, is understood to have been a stop gap, last resort, until sufficient facilities for “secure” or “custodial” remand for young people were built or re-purposed. This never eventuated. Thus, by the early 2000s, police cell remands had become a parallel custodial option to CYFS secure residences. Remands of 5-6 days were not uncommon. Good management, and the recent statutory obligation introduced in 2019 for the Youth Court to review police cell remand orders every 24 hours, brought these numbers down. But they ebbed and flowed over the last ten years. In the last year, the numbers of Youth Court police cell remands have become very low. The power is currently virtually defunct.

Now is the perfect time to abolish this provision.



Police cell remands, always in adult police cells, usually in solitary confinement, can quickly lead to mental and emotional harm and the real risk of suicide. At the very least, young people are likely to experience poor hygiene facilities, inadequate food, sometimes round the clock lighting to maintain “line of sight” for the police and limited access to appropriate support. And it is worth noting that at least 70% of young people in police cells are Māori.

Young people who are violent or who may abscond can still be held for short periods in police cells under two other sections of the Act:

- prior to first court appearance (s236(1)); and,
- after court appearance for up to 24 hours to enable transportation etc to a more suitable facility (s242(1)(b)).

I am not proposing that these provisions be changed. [See our Office’s position paper.](#)

4. Phase out and then abolish the use of the four large scale youth justice detention centres.

The four big youth justice residences, Korowai Manaaki (40) in Wiri, Te Maioha o Parekarangi (30) in Rotorua, Te Au rere a te Tonga (30) in Palmerston North and Te Puna Wa o Tuhinapo (40) in Rolleston, totalling 140 beds, demonstrate an outdated and inappropriate model which harks back to the 19th century. (Note, there is an additional new residence for very young offenders, Whakatakapokai, in Weymouth. With 14 beds, this brings the total to 154).

Segregating young people from the mainstream community and aggregating them together in large numbers in a big concrete detention centre is not a recipe for enduring rehabilitation. It increases risks of violence, bullying and abuse. Their attempted justification has a purely (but flawed) cost saving basis.

As residences are ineffective and cause harm – they actually increase cost downstream for the health, education, social welfare and adult corrections systems.

Quite contrary to their original purpose, these residences have become mainly remand centres for young people awaiting finalisation of their cases. Up to 80% of those in the residences can be on remand.

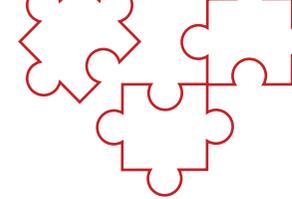
They should be replaced with much smaller, well supervised, and, in some cases, very secure community homes. See two reports from our Office about these residences: [State of Care 2017](#) and [State of Care 2019](#).

Mahuru, a remand initiative developed by Nga Puhi Social Services in Kaikohe, provides community-based 1 on 1 care. It is a good example of a “*by Māori for Māori*” approach. Well supported volunteer family homes in the community are used to provide a stable living environment. Trained youth mentors and youth workers are available 8am-5pm weekdays and in the weekends. It has shown very promising early results. [See our Office’s report on supporting young people with offending behaviours to live in the community.](#)

5. Reform current areas of unacceptable police practice affecting children and young people.

Police urgently need to develop an over-arching specific child and youth strategy.

This would guide a coherent “whole of police approach” to interacting with all children and young people. It should avoid a sometimes inconsistent issue by issue approach. It should also allow for the voices and experiences of children and young people to be heard and factored into policy making.



Discontinue the use of restraint chairs for children in police cells.

Between 2015 and 2020, police strapped 38 young people into restraint chairs in police cells, some more than once. This included two thirteen-year-old tamariki Māori. The real problem is insufficient crisis mental health services for young people. It shouldn't fall on the police to be using outdated, old fashioned, almost draconian restraint chairs. The United Nations has recommended their use be abolished. We must do better.

[See the media story.](#)

Discontinue the use of spit hoods for children in police custody.

The use of spit hoods, with origins in the USA policing and reminiscent of those used at Guantanamo Bay, is profoundly concerning, traumatic for children, unnecessary and utterly unacceptable.

Between 2016-2020 spithoods were used on young people 129 times.

- 53.5% of these incidents were Māori children, including a child aged just nine years old in 2018.
- 15.5% were Pasifika children
- 29.45% were European children

[See the media story.](#)

It is worth noting that following the Royal Commission into the Protection and Detention of Children in the Northern Territory, Australia, there were grave concerns about the use of spithoods. Their use was recently banned in South Australia.

With the advent of Covid-19, there will be understandably greater concerns about police safety. However, the police are now much better protected with PPE, face shields etc., which may make the use of spithoods less easy to justify.

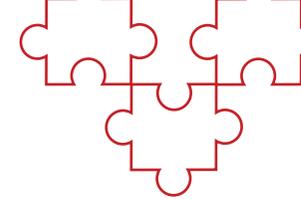
Restrict police practice of specifically photographing children and young people suspected but not charged with any offence.

Concerns were raised in late 2020 about the reported police practice in some areas of taking of photos of individual young people. These were photos – virtual “mug shots” - from close range, in public situations, where it was reported that the young people felt they had no choice but to participate in the process. Properly informed consent was not obtained from the young person nor from their parents/guardians – as is the basis of the current policy.

Photographing for identity purposes is permitted if a young person is in police custody having been detained for committing an offence: (s32 Policing Act 2008). In all other situations, the law seems cloudy. The common law provides a basis for taking photos in public unless there is a reasonable expectation of privacy.

The ethical (and legal) concern here is the ‘request’ for a close-range portrait photo in circumstances where consent is not obtained, and where police powers may be misrepresented. I doubt whether a child is ever capable of truly informed consent in these situations. Informed parental/ guardian consent should be the pre-requisite.

The current law is out of date and not fit for purpose. The whole collection and retention of biometrics by the police - and the entire justice system - needs to properly recognise children as a specific group requiring protections and strict practice guidelines. In the meantime, the police are reviewing current policy settings.



Change police vehicle pursuit practice and policy.

Police should not pursue cars which are reasonably suspected as being driven by children and young people, or in which they are passengers, unless there is imminent risk of death or very serious offending.

To be honest, I have changed my mind on this issue. When I was Principal Youth Court Judge, I thought that every young person who drove away from the police should be pursued. I thought that the law should not be mocked or treated with impunity by young people. They should know there are immediate consequences.

Now, in view of the needless death and injury to children and young people to say nothing of innocent victims, I think it is better for the police to use the brake not the accelerator, and take the heat out of the situation. In my experience in the Youth Court, often young people want the thrill of the chase – that is the whole point. Often too, the original offending is minor to moderate and out of all proportion to the, sometimes deadly, consequences of the pursuit. We know that under pressure, including from the police or their peers, young people engage in reckless behaviour. And children and young people can usually be apprehended and held accountable the next day. The sophistication of modern technology makes this increasingly certain.

As a side note, it is interesting to observe, as is often the case, the way a problem is defined suggests its solution. Police call the issue “fleeing drivers”. Others use “police pursuits.” I think it is the police with the more developed pre-frontal cortex, who should act with adult restraint. By not embarking on, or pulling out of a chase, lives will be saved.

I should also say that the police, and the Independent Police Conduct Authority have treated this matter very seriously. The police have made clear that they are reviewing the research and overseas examples.

Challenges

I strongly support our ‘youth specific’ youth justice system. When practiced well, and when we extract the best from the current visionary legislation, there are the seeds of genius in our system. The youth justice system is nowhere near the serious situation facing the care and protection system. However, action on some festering injustices is long overdue. Legislatively, we need to finish the job started in 1989. Also, some practice issues need prompt attention.

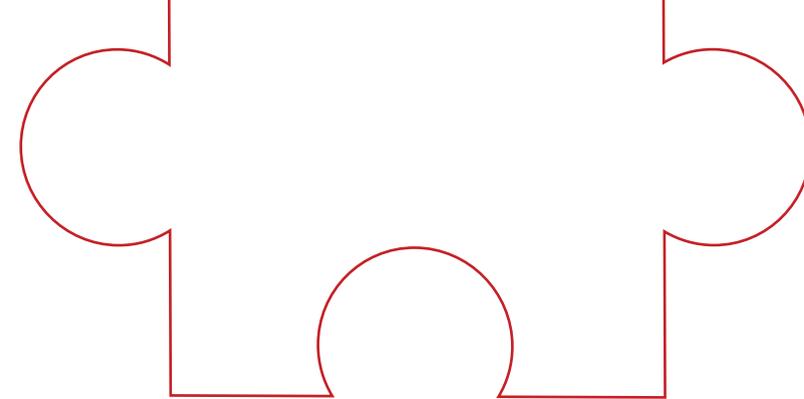
Legislation

- A self-contained, standalone Youth Court must now be fully established, with a MACR of 12 – to become 14 as soon as possible and including all 14- 17 year olds and all offences.
- Abolition of the remand into police cell custody option after first Youth Court appearance.

Policy

- Phased closure, and eventual abolition of all the four current youth justice residences.
- ‘By Māori for Māori’ approaches must be prioritised.
- Police policy and practice when interacting with children needs coherence and specific unjust practices need reforming.





Conclusion

“Take care of our children.

Take care of what they hear, take care of what they see, take care of what they feel.

For how the children grow so will be the shape of Aotearoa”

Dame Whina Cooper

13 September 1975, Te Hāpua.

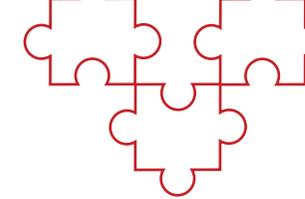
Make no mistake: helping children and young people to grow, flourish and thrive is the work of nation building. Nothing is more important. Whatever our other roles in life, this should be our number one priority.

All of us, in some capacity or another, will encounter children and young people. With that comes a profound responsibility. I vividly remember being challenged by a youth worker at a Judges’ training seminar. (Yes, Judges are well trained.) He said “...when you interact with young people in whatever role, even if you earn the big bucks as a Judge with a robe, please remember, amongst everything else, to provide hope. Young people need hope, they trade in hope - hope that there is a future, a job, security, hope they will be able to live a life of meaning and fulfilment”. We must all provide hope for our children and young people. I think we should be ‘merchants of hope’.

Hope can be provided both individually and systemically. In our individual interactions with a child or young person we put them first and give of ourselves. As Martin Luther King observed, we might not be able to do great things, but we can do small things in a great way”. Whatever our job or relationship with children, we need to set high standards for our encounters with them. Small things done well, add up. And they will make a difference for children.

And there is hope of system changes for children. Despite all the challenges facing our country, currently exacerbated by Covid-19 and the Delta variant, there is hope for a better New Zealand for our children.

Yes, there is significant inequality and inequity. But it can be addressed. A country that is more equal is better for all of us, including children. Reducing income inequality should be regarded as the prime solution for improving child wellbeing. There is hope here. This the conclusion of an important book, ‘The Spirit Level’ (2009). The authors, Richard Wilkinson and Kate Pickett, are epidemiologists by training. Their book investigates the incidence of health and social problems *between* different countries, and the relationship between those problems and income inequalities *within* each country. The range of problems covers many issues including imprisonment, mental health, violence, education, the status of women, and sustainability – and, importantly for our purposes, child wellbeing. They have focused on the 23 richest countries of the world which have populations over three million and which can provide adequate data for comparison.



“The big idea is that what matters in determining mortality and health in a society [and child wellbeing] is less the overall wealth of that society and more how evenly that wealth is distributed. The more equally wealth is distributed, the better the health of that society.” For instance, babies born in the USA (the least equal developed nation apart from Singapore) are twice as likely to die in their first year than babies in Japan (the most equal developed nation).¹

There is hope that if we can address wealth inequality within New Zealand, child wellbeing will increase. It is as simple as that. We would become the best country in the world to be a child.

We can visualise an Aotearoa/ New Zealand, where all our children, including Māori, Pacific and disabled children, were respected, included and thriving; where education was inclusive, safe, aspirational and focused on equity; where mental wellbeing was prioritised and all children had access to the support they needed. A country where FASD was officially recognised and neurodiversity was embraced and where children with learning needs, rather than being seen as a problem, were cherished and welcomed for their difference and diversity; where racism was acknowledged and eradicated and children liberated from its weight.

We have a world-leading Child and Youth Wellbeing Strategy, let's put it to action. There's no better time than now.

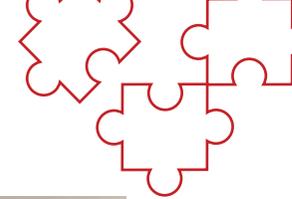
In all of this, the role and function of the office of the Children's Commissioner has never been more important. New Zealand's children need a strong policy focus and fierce advocacy.

I am encouraged that a new Children and Young People's Commission is being developed – explicitly to provide much strengthened and better resourced advocacy. Governance to be provided by an expert and experienced Board. This has exciting possibilities. I hope children will be the better for this new structure.

That part of the current Commissioner's function that monitors the policies and practices of Oranga Tamariki is being lifted and shifted into a significantly better resourced Independent Children's Monitor (ICM). This will enable the services provided to all children in care to be properly monitored as never before. However, I am disappointed that the ICM is not being located with the proposed new Children and Young People's Commission as was originally foreshadowed in 2019. It is now being placed withing ERO and will be led by a single Chief Executive. I worry that the ICM will not be sufficiently independent from government. It will be crucial that it has the power to make strong recommendations for improvement where necessary and has the responsibility to keep the operation and adequacy of the Oranga Tamariki Act 1989 under review – as is the Children's Commissioner's current function. If these functions are not explicitly given to the ICM then they must be clearly assigned to the new Commission. Not to do so may well reduce criticism and embarrassment for the government of the day. But it would short-change children and would be a disaster for children in state care.

As I conclude, I remember the words of a young man over 2,700 years ago, the prophet Micah. His words have been something of a leitmotif for me in this role, and my previous roles. What he said, in answer to the question “what does God require of us?”, was this: -

¹ Summary from <http://www.closingthegap.org.nz/site-map/the-spirit-level/> See 'Closing the Gap; the Income Equality Project, Aotearoa.'



“Act justly, love mercy, and walk humbly with God.”

These words, a threefold challenge, are depicted in an artwork which hangs above my desk in the office of the Children’s Commissioner.

Micah’s challenge is enduring.

In my view, children, as never before, require approaches that are *just* – they require fairness and need inequity and inequality to be corrected.

Showing and embracing *mercy* is not some soft, sugary concept but it is doing our conscientious best to put ourselves in the shoes of others and to understand what life must be like for them. For those families/whānau that are struggling and doing it very tough there is almost a toxic stress which makes good decision- making and consistent stable love for their children, difficult – but not impossible. We need understanding.

And we should do it all with *humility*. None of us have all the answers – and we are not always right. This is good for any Commissioner to remember. And we must always consider others better than ourselves.

The children that I met as Children’s Commissioner remind me of all these three challenges and I will never forget them.

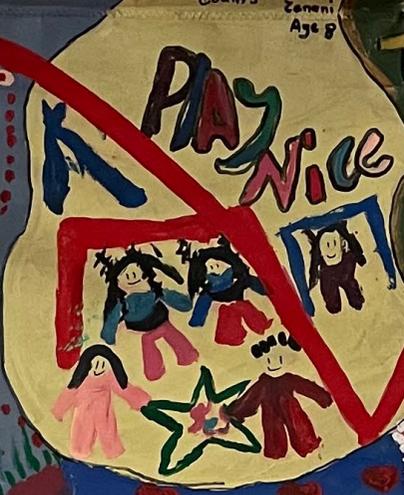
Kia kaha - be strong

Kia maia – be brave and bold

Kia manawanui – be steadfast and committed.



If You
Protect us
WE Will
Protect
You



THINK
of
US
EQUUS

Treat us
how you
Want to
be
treated

Every
Child
Deserves
Human
Rights

Don't
just think
about what
you want.
We need things
too e.g. Love!

Back us
NOT Slop us
for Life

LOVE US
Treat us Well
And We'll LOVE
Our Generation
and Treat them
Well Too
Rebecca Harris 11

Don't cloud
our skies
With your
Greediness
Nina 11 years

WE ARE
WHAT WE ARE
ACCEPT
US!



THERE IS
NO NEED FOR
STARVING KIDS
IN THE WORLD
- FEED US, CLOTHE US
AND WE WILL
DO THE SAME FOR YOU,
ITS THAT EASY!

a child
is part of
the world

we're
not
invisible!

PROTECT
THE
CHILDREN

Saying you
love us is never
as powerful as
showing us!
Eloni 11

patch up the
World with
Love
Alice Hanley 10

HELP
US!

don't
let us
go
hungry
Alice 6

CHILDREN
CAN BE SEEN AND
NOT HEARD! LISTEN
TO US!

Every CHILD
counts! We
are a piece of
ART!!!
... didn't you
notice?
Bonnie

We look
up to you
SO RESPECT
US!
Kiwa 10

Let
US live
Sweetly!
Kiwa 10

Love
ME

We're
only
young
ONCE!

CREATIVE
KIDZ ART CLUB
TE PURU
(THAMES)

WHAT
IS LIFE
WITHOUT
LOVE + CARE?

treat
children
like gold
be
nice to
us, not just
yourself!

Why hog money?
When you die you can't
use it!
So Donate please!
to help kids in
need.

WE ARE
NOT PLASTIC
Tiana 7





MANAAKITIA Ā TĀTOU TAMARIKI

Children's
Commissioner