

Regulatory Impact Statement

Investing in Children: Intensive Intervention

Ministry of Social Development

26 August 2016

Agency Disclosure Statement

This Regulatory Impact Statement (RIS) has been prepared by the Ministry of Social Development for the purpose of assessing and developing advice relating to early and intensive intervention with vulnerable children and young people.

It provides an analysis of options for intensive intervention provision to enable more timely and appropriate access to services to support children, young people and their families who have significant needs. This supports the Government's proposed new operating model for vulnerable children and young people.

In March 2016, the Government considered the Modernising Child, Youth and Family Expert Panel's final report and agreed major legislative reform is required to give effect to a proposed new operating model. Legislative changes to give effect to the new operating model are being progressed in two stages:

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

The proposals in this RIS are part of the wide-ranging reform included within stage two of reform (Bill No 2). The proposals are expected to be considered by the Cabinet Social Policy Committee (SOC) in September 2016.

This RIS has been undertaken on the basis that legislative reform for intensive intervention is a small component of a wider proposed system transformation. It will be accompanied by significant changes to the operating model for the Ministry of Vulnerable Children, Oranga Tamariki (the new Ministry), which will have an impact on children, young people and their families.

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

- the analysis has been undertaken ahead of detailed design work. This increases the risk of creating unnecessary degrees of flexibility; however, the options considered are enabling provisions, which can be adapted over time
- the cost implications of options have not been analysed as they enable rather than prescribe operational changes and these will depend on future design proposals
- there are gaps in data and evidence, such as the success of care standards internationally and data on Court processes.

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Executive summary

- 1 In March 2016, SOC noted that an overhaul of the care and protection system is required as the current system is overly complex and fragmented, making it difficult for children and families, whānau and caregivers to navigate, and is not meeting the needs of vulnerable children and young people to help them grow into flourishing adults [SOC-16-MIN-022].
- 2 This has led to children and young people, who have been involved in the system, experiencing dramatically worse outcomes than their peers, which continues into adulthood.¹
- 3 In response to these issues, SOC agreed to the establishment of new intensive intervention and care support services as part of a new operating model for vulnerable children and young people [SOC-16-MIN-0023 refers].
- 4 The proposals in this RIS address options for supporting the new role of the new Ministry in early and intensive interventions with a group of children and young people who have a high level of need, falling short of the statutory threshold of “in need of care or protection.”
- 5 The Children, Young Persons and Their Families Act (CYPF Act) establishes the legislative framework for statutory involvement with vulnerable children. It is applied by Child, Youth and Family to only a small proportion of a much larger population of vulnerable children (approximately 20,000).
- 6 Children’s Teams are operating across 10 DHBs areas and at scale will address about half of the vulnerable children population. They provide an early and intensive intervention to a group of vulnerable children and young people who fall short of the statutory threshold for intervention. There are also a range of community and other services, including targeted services that respond to this vulnerable group of children/young people.
- 7 However, problems persist in the system and there is evidence that a number of vulnerable children and young people are missing out. This has resulted in a high level of churn within the system and in children and young people not getting the help they need when they need it.
- 8 Cabinet has called for a major overhaul of the system. While this mostly involves operational change, some legislative change is needed to support and enable the wider change.
- 9 Options to change the CYPF Act to support and enable the Ministry’s new role in intensive intervention have been identified and assessed against key criteria. Some preferred options have been identified where it the issues are important enough to be signalled in legislation.
- 10 The proposals recommended relate to the following:
 - insertion of new principles to guide decision making and the exercise of powers and functions in relation to providing an intensive intervention, care and protection (current section 13 CYPF Act)
 - enabling the new Ministry to respond to concerns about children earlier and in more flexible ways, including by making Family Group Conferences (FGCs) available to children who do not meet the statutory threshold for intervention.
- 11 The overall aim is that they will help provide early opportunities to address concerns about children with the aim of achieving a reduction in numbers of repeat engagements within the system and numbers of children entering care, and ultimately an improvement in life outcomes for children, young people and families.

¹ Modernising Child, Youth and Family Expert Panel. (2016). *Expert Panel Final Report: Investing in New Zealand’s Children and their Families*, p 44-45.

Policy context

Embedding and enacting a child-centred approach

- 12 Government has determined that a far-reaching reform of care and protection and youth justice services is required to achieve better outcomes for vulnerable children through an unequivocally child-centred approach.
- 13 The changes proposed represent a fundamental shift, driving the most significant and comprehensive changes since the CYPF Act was passed.
- 14 Nearly 30 years ago the CYPF Act sought to reset the model from the previous one of professional determination to one with much greater involvement of families in decision making.
- 15 Results, however, have not been as envisaged, with 20 percent of children now known to Child, Youth and Family by age 17, with many cycling through the system from notification to re-notification, statutory care and, in some cases, arrest and entry to the youth justice system.
- 16 Outcomes for children and young people across the system have been poor, at considerable long-term fiscal and social costs, with approximately:
 - 60 percent of children known to care and protection services left school without at least a Level 2 NCEA qualification
 - 20 percent of children known to care and protection were subsequently referred by the Police due to youth offending
 - 70 percent of children with care and protection contact on an benefit for some period by age 21
 - 20 percent of children with care and protection contact received an adult community sentence by age 21
 - 10 percent of children with care and protection contact received an adult custodial sentence by age 21.
- 17 To address this situation Government has endorsed the most far-reaching reforms since the 1989 CYPF Act to embed and enact a much more child-centred and investment approach focused care and protection and youth justice system.

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

- 18 On 30 March 2016, Cabinet Social Policy Committee (SOC) with Power to Act considered the Panel's Final Report [SOC-16-MIN-0024 refers]. It agreed major reform is required for the CYPF Act and related legislation to give effect to a proposed new operating model.
- 19 SOC agreed that the new operating model will be directed at children and young people who are at significant risk of harm now and into the future as a consequence of their family environment and/or their own complex needs [SOC-16-MIN-0022]. It also invited the Minister of Social Development to report back to SOC on a number of issues, including:
 - recommendations for further reform to support the new operating model
 - operational, funding, policy and legislative changes necessary to give effect to any future decisions to amend age settings for the youth justice system
 - other areas for possible legislative change [SOC-16-MIN-0024 refers].
- 20 SOC also invited a report back on possible areas for legislative change [SOC-16-MIN-0024 refers], including:

- establishing a single point of accountability for assessing needs of vulnerable children, young people and families, including those who have significant unmet needs but do not yet require a care and protection or youth justice response
- accountability for meeting the full range of assessed needs for vulnerable children, young people and families requiring intensive intervention
- new and amended provisions to support stable and loving care from the earliest opportunity.

Signalling and driving fundamental and wide-ranging reform

- 21 The CYPF Act 1989 sought to establish a new model of social work, with a much stronger focus on family participation and decision making than under the earlier Children and Young Persons Act 1974.
- 22 It signalled and set the direction of social work action, service delivery and performance monitoring, through legislated principles, objects, duties and powers.
- 23 The principles of the CYPF Act seek to inform and underpin all aspects of practice, just as they do for income support and employment services administration under the amended "work focused principles" of the Social Security Act 1964 (section 1B).
- 24 Alongside setting the practice framework, the Act informs public understanding and expectations of the role of the care and protection system in particular critical decision making regarding if, when and how to report suspected abuse and neglect, the level of harm at which such reporting is expected, and the role of the agency in areas such as prevention and early intervention. Legislative change in a number of jurisdictions has been used to reset these decisions and expectations.
- 25 Significant reform to the nearly 30 year old CYPF Act offers an approach to support and strongly signal to practitioners, organisations, departments and the public that the system has fundamentally changed. In doing so this creates an opportunity to send a clear message and change the behaviour of actors within the care and protection and youth justice system.
- 26 In addition, changes support children and young people who come into contact with the system to better understand their rights and establish reasonable expectations of the service.
- 27 As with the 1989 CYPF Act, the current proposed legislative reforms are taking place contemporaneously with the development of the detailed operating model that sits under the Act.
- 28 With this in mind legislative options seek to direct behavioural change and enable operational development, rather than tightly proscribe practice where this is not seen as necessary to achieve policy intent. Non-legislative options have been considered and are proposed where this best achieves Government's policy intent.
- 29 Proposals in this suite of RIS' have been considered as to whether:
 - the option best supports the policy intent
 - the option provides the strongest signal and greatest support to achieve intent
 - the option provides sufficient flexibility and durability to support the finer detail of the operational model and future developments.

Status quo and problem definition

The Government is seeking to improve the lives of vulnerable children and young people in New Zealand

- 30 Children and young people become vulnerable when their basic safety, emotional, physical, social, cultural and/or developmental needs are not met at home or in the wider community. Vulnerable children are those who are at significant risk of harm now and in the future, as a consequence of their family environment and/or their own complex needs, as well as those who have offended or may offend in the future. They are likely to have poor life outcomes if their needs remain unaddressed.
- 31 CYF is the main statutory agency for vulnerable children. However, due to a number of influences, CYF responds to only a small percentage of vulnerable children and young people.
- 32 Over the last five years, the Government has tried through a number of initiatives to turn the lives of vulnerable children around and has focused on addressing the needs of the group who have a high level of need.
- 33 The Government has undertaken a number of important initiatives including the Vulnerable Children's Act, invested in the development and roll out of Children's Teams and more recently, place-based initiatives. Yet evidence indicates that problems persist for this group of highly vulnerable children and young people and that they are not being well served by the existing system:

*"The unavoidable conclusion is that the wider child protection system, including the relevant legislative settings, is not currently effective at preventing harm, and nor is it adequately addressing the factors that cause children to be re-victimised."*²

The New Zealand child welfare system is currently oriented around immediacy and operates to a high threshold

- 34 The CYPF Act allows children and young people with a broad range of risk factors and needs to enter the statutory system. However, it provides for only a limited range of responses more suited to cases of serious rather than lower level risk – for an investigation to be undertaken and referral to Family Group Conference.
- 35 This has led to a focus within CYF on responding only to children and young people at high risk of harm and to addressing children's immediate safety needs. Children or young people who experience cumulative harm, caused through repeated lower-level maltreatment or neglect or through prolonged exposure to family violence therefore often do not receive a response from the existing statutory system.
- 36 Similarly, future risk of harm to a child or young person related to behavioural issues, truancy, or a family struggling to cope with a child's complex needs is minimised and often not addressed.
- 37 This approach has resulted in churn within the statutory system and in an increasing proportion of the children being referred to CYF each year being children or young people who are already known to the agency.

There is not enough focus on achieving safe, stable and loving care for a child or young person at the earliest opportunity

- 38 CYF can be involved with a family while the child or young person is still at home. The casework goal will be family preservation, however there may well be a risk that the child will require alternative care arrangements in the future because the family cannot achieve necessary changes. Failure to plan for this risk early, and

² Expert Panel Interim Report, page 31.

while working with a family, can contribute to placement instability and consequent disruption to a child's schooling, relationships and connections to community.

- 39 Practice and policy settings have been used to date to encourage early planning for a child's safe and stable care. These have not sent a strong enough signal.

Services are not well coordinated and take a disjointed approach to meeting the needs of children, young people and families

- 40 The system tends to deliver responses to children and young people across functional divides rather than in response to a child's particular needs. For example, if a child or young person is considered in need of care or protection, a family group conference will be held and plan of action agreed with a consequent obligation on the CE to give effect to the plan. A FGC is a family-led process for decision making that is restricted in the CYPF Act to where a social worker forms a belief that a child is in need of care or protection.
- 41 If a child has a high level of need but does not meet the statutory level for intervention a FGC is not available under the CYPF Act to that child even though that child would benefit from a FGC, particularly in terms of enabling wider family involvement in problem solving or generating options for the child's ongoing care. That child is also likely to receive a different type of assessment and become subject to a different engagement and planning process.
- 42 The Vulnerable Children Act 2014 established a framework for strategic cross agency partnerships around vulnerable children. Outside of the FGC process there is no mechanism in legislation by which to achieve an integrated response to vulnerable children and young people at an individual level.
- 43 The system "expects" coordination and integration to be achieved through agencies and entities collaborating and working together but does not provide any mechanism to support joint service provision. Where a number of services are involved with families, the response from the social sector system can often be disjointed and fragmented. In addition, a number of agencies could be dealing with an aspect of a child's vulnerability at any point in time, but be unaware of the involvement of another agency or service, past or present, in the life of the child and their family.
- 44 Even where agencies know others are involved, there is no mechanism like a common plan to help ensure that services are delivered in an integrated way to children and families. For children with complex needs (including disability-related needs) who often require the help of a number of agencies, these problems are particularly acute and can mean they fall through the cracks and experience escalated harm.
- 45 Policy settings and Memoranda of Understanding have been used to try and achieve better coordination of services. However, these have been insufficient to achieve an integrated system approach to responding to children, young people and their families.

Objectives and criteria

- 46 The aim is to address the problems above and support and enable an effective intensive intervention service for a high needs group of children and young people. The Expert Panel's six objectives have also been considered,³ in particular, the objective that children have the earliest opportunity for a loving and stable family.

³ The Expert Panel's final report set out six high-level system objectives for a child-centred system:

- ensuring that children have the earliest opportunity for a loving and stable family
- addressing the full range of needs for each child

- 47 Options to achieve the objectives have been generated and assessed according to whether:
- the option best supports the policy intent
 - the option provides the strongest signal and greatest support to achieve intent
 - the option provides sufficient flexibility and durability to support the finer detail of the operational model and future developments.
- 48 The following additional criteria have also been used to assess options:
- Durability
 - Ease of use (for children and families)
 - Fiscal and operational impact
 - Fairness and equity (particularly, impact on over-representation of Māori)
 - Interaction with other legislative provisions and planned reforms (including UNCROC, Treaty of Waitangi etc)
 - Compatibility with other government objectives.

Objectives and criteria	How these will be assessed
<p>Being child centred; the necessary legislative architecture for the development and provision of timely and intensive intervention to children, young people and their families is in place. This will support them to have their needs met at the earliest opportunity so that they may have a safe, stable and loving family.</p>	<p>The analysis will consider the extent to which options:</p> <ul style="list-style-type: none"> • Support a focus on children’s wellbeing • enable and promote an early response including for child and youth offending and disabled children and their families with complex needs • support a focus on children achieving stable and loving care within their own families, where this is in their best interests • facilitate joined up service responses.
Additional criteria	How these additional criteria will be assessed
<p>Durability</p>	<p>The analysis will consider the extent to which options/proposals are likely to achieve sustained change in the direction sought and:</p> <ul style="list-style-type: none"> • support the long-term transformation required to implement the new operating model for vulnerable children and young people • minimise the risk of restricting options for

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- preventing victimisation of children
 - helping children to heal and recover
 - supporting children to become flourishing adults
 - helping children and young people to take responsibility for their actions and live crime-free lives.

	<p>design work</p> <ul style="list-style-type: none"> • minimise the risk of possible repeal and replacement due to future design work.
Fiscal and operational impact	<p>The analysis will consider the broad financial implications, volumes and types of services required that will impact on operational environments. Detail on specific areas of savings and offset costs has not been completed.</p> <p>The analysis will consider the extent to which the options are likely to enhance practitioners performance and children and families ability to enter and navigate across the service system and will consider operational impacts for practitioners.</p>
Fairness and equity	<p>The analysis will consider the extent to which options positively enhance fairness and equity, including the over-representation of Māori in the system and impact disabled children as a particularly vulnerable group.</p>
Consistency with other legislative provisions and proposed reforms	<p>The analysis will consider consistency with the Treaty of Waitangi and UNCROC, in particular provisions relating to the rights to safety and family (eg articles 8, 29).</p> <p>The analysis will consider how well the options align with other legislative provisions and proposals, eg info-sharing, care, transitions, Youth Justice and accountabilities, principles, as well as Bill No 1, and other provisions of the CYPF Act.</p>
Compatibility with other government objectives	<p>The analysis will consider how well options support wider government objectives (eg Investment approach, Better Public Services Result 4, reducing re-offending and abuse and neglect).</p>

Options and impact analysis

- 49 The impact of the proposals depend to a large degree on the detailed design of the new operating model, which will determine details of future roles, responsibilities, services and investment. This design work has not yet been completed and the proposals are primarily intended to be enabling and supporting. Because of this, detailed analysis of the costs has not been undertaken. Detailed design will need to work through the impacts of particular changes on workforce, staffing requirements and capabilities, service purchase, and processes involved.

UNCROC child impact assessment

- 50 Proposals to support and enable intensive intervention have been assessed against New Zealand's obligations under the United Nations Convention the Rights of the Child (UNCROC).
- 51 They have been assessed as likely to impact positively on the lives of children and young people and their rights under UNCROC. They will do this by facilitating earlier access to support and help and thereby reducing risk of harm and poor life outcomes.
- 52 This promotes children and young people's rights to safety and family life. It will address negative behaviours that affect how the family unit functions on a daily basis where issues such as family violence, parental mental health, drug and alcohol use, negatively impact on the capacity of the parent to care for the child.
- 53 Proposed new principles to guide decision making and actions under the CYPF Act relating to protection and early and intensive intervention will give priority to a child's right to safe, stable and loving care first within their family and if not in their best interests, within another family. The principles protect a child's right to identity and cultural connections and to equality.
- 54 The proposals will also support children and young people's rights to good quality health, right to participate in education and, ultimately, to supports needed to achieve good positive life outcomes.

Options: Principles for the care and protection system

The following table identifies and considers the options and impact of each of the potential non-regulatory and regulatory options for giving effect to the Intensive Intervention service response. Preferred options are in bold)

Option	Features	Impact	Benefits	Issues/Risks
Option 1: Principles to support an early intensive intervention response				
<p>Option 1A:</p> <ul style="list-style-type: none"> no legislation change to the current principles that apply to the exercise of statutory care and protection functions and powers (section 13 of the CYPF Act) provide policy and practice guidance to address early intervention <p><i>(Regulatory option, not preferred)</i></p>	<p>Relies on the existing principles that apply in the exercise of powers/functions relating to protection and care, and on proposed changes to section 5 principles.</p> <p>Only proposals for changes to section 5 principles would be progressed.</p> <p>Practice and policy guidance would specifically address principles to apply for intensive intervention.</p>	<p>Would not impact where protection or care functions/powers are being exercised. This would mean section 13 principles wouldn't apply to intensive intervention. There would be a lack of guidance about how decisions should be made for intensive interventions to children and young people below the statutory care and protection threshold.</p> <p>Could cause confusion to have principles for intensive intervention in practice guidance.</p>	<ul style="list-style-type: none"> <i>Durability</i> – current principles spell out engagement and support for family/whānau and are well known. <i>Consistency with other legislative provisions and proposed reforms</i> – not changing section 13 does not interfere with other reforms. Current principles are compliant with UNCROC. 	<ul style="list-style-type: none"> <i>Being child centred</i> – no change to section 13 risks that there will be insufficient attention given to responding to risk and needs early; particularly, the principle of minimum intervention (section 13(2)(b)(ii)). <i>Durability</i> – parts of section 13 are out of step with the direction recommended by the Expert Panel. <i>Fiscal and operational impact</i> – could cause confusion to have guidance about core principles for intensive intervention in practice guidance. <i>Fairness and equity</i> – if no legislative guidance is given to help decision making for intensive intervention, there is a risk that required support will not be made available to high risk groups including those at risk of offending and disabled children with needs relating to their family environment. <i>Government objectives</i> – unlikely to sufficiently advance social investment focus.
<p>Option 1B:</p> <ul style="list-style-type: none"> amend the current principles that apply to the statutory care and protection functions and powers under the CYPF Act (section 13) <p><i>(Regulatory option, preferred)</i></p>	<p>Revise principles of the CYPF Act to incorporate:</p> <ul style="list-style-type: none"> it is desirable to intervene early to improve the safety and wellbeing of children, young people and their families and to address risk of future harm, including risk that a child or young person may offend or re-offend, or not achieve developmental potential (new principle) where possible, interventions with families should occur with the consent of the child or young person and of his or her parents or guardians or usual caregivers, and should reflect a child's and young person's views and input where a child is at risk of being removed from their family or whānau or usual caregivers, best efforts are made to provide assistance to their parents or guardians, whānau, or usual caregivers to enable them to continue to provide a safe, stable and loving home for their child (new principle) where there are risks that a child's needs may not be able to be met by their usual caregiver, these should be considered and addressed concurrently with interventions to support them to remain with their usual 	<p>These principles interact with section 5 and section 6 of the Act. They are referred to on a daily basis by practitioners when making decisions about the protection and care of children.</p> <p>Section 13 principles are specific and targeted and guide decisions and actions taken under the Act, excluding youth justice. Further changes relate to these principles are outlined in the Care Support RIS.</p> <p>These new principles signal the importance of intervening early to address risk of harm to a child, including risk of offending or re-offending and risk that developmental potential is inhibited. This will help avoid children and young people falling through the gaps as a result of different service thresholds being applied between different services including between the functions of youth justice and care and protection.</p> <p>The principles will help ensure that decisions and actions under the CYPF Act (excluding youth</p>	<ul style="list-style-type: none"> <i>Being child centred</i> – proposal will guide decision making to achieve this objective with positive effects. It will re-orient the system towards working earlier with families and whānau. It will also help establish a focus on achieving safe, stable and loving care for children. <i>Durability</i> – new principles will help application of broader over-arching principles in section 5. A principle around alternative care will reinforce and help give earlier effect to requirement for social work plans in court to address planning for alternative care (sections 130, 29A). <i>Fiscal and operational impact</i> – having principles in section 13 relevant to intensive support will provide more assistance to practitioners to make good decisions for intensive intervention and protection purposes. It will help ensure consistency with the new focus on intervening early to prevent respond to harm and prevent escalation. <i>Fairness and equity</i> – the new principles will promote more responsive practice for Māori 	<ul style="list-style-type: none"> <i>Fiscal and operational impact:</i> the focus on intervening early is likely to have significant fiscal costs that will be fully worked through in service design options. These costs are dependent on the scope and scale of services to be delivered. The proposed principles will guide this early approach. <i>Compatibility with other government objectives:</i> there is a risk that the principle around early intervention to prevent future harm (eg offending, inhibition to development) could lead to undue state intervention in people's lives. However, risk is mitigated by the principle that interventions should wherever possible be done on a consensual basis. It is also mitigated because there are no coercive powers attached to intensive support provided to those under the section 14 threshold.

Option	Features	Impact	Benefits	Issues/Risks
	<p>caregiver (new principle).</p> <p>Levers to intervene on a non-consensual basis under this Act should be exercised only when necessary and when there is no other reasonable way to safeguard and promote a child or young person's safety or well-being. This would replace current section 13(2)(b)(ii) which provides that intervention into family life should be the minimum necessary to ensure a child's or young person's safety and protection.</p>	<p>justice) properly involve children, families and whānau and, as a first step, assist and support families and whānau to nurture and care for their children and young people.</p> <p>These principles will help reduce the instability and disruption a child can experience when a decision is made to remove them from their home, because they require early consideration and planning for the risk that alternative care arrangements may be needed for a child.</p> <p>They will help ensure that decisions and processes are culturally inclusive and responsive and that priority is given to ensuring children's stability within their own families where this is consistent with their best interests.</p>	<p>tamariki and rangatahi; young people who are at risk of offending/re-offending and disabled children/young people.</p> <ul style="list-style-type: none"> • <i>Consistency with other legislative provisions and proposed reforms</i> – changing section 13 principles will work with the existing and proposed changes to the care principles. New principles are fully compliant with UNCROC. • <i>Compatibility with other government objectives</i> – compatible with a social investment approach. 	
Option 2: Responding to concerns about children and young people				
<p>Option 2A:</p> <ul style="list-style-type: none"> • no legislative change • provide stronger guidance about alternative responses <p><i>(Not regulatory, not preferred)</i></p>	<p>The CYPF Act is currently silent about different ways in which to respond to reports of concern. It only specifies that a report of concern is to be investigated and that a referral be made for a FGC where a social worker believes there is a child or young person in need of care or protection. This guides the taking of action only where there is serious risk of harm, and contributes to the high rate of case closure following assessment and to repeat notifications and engagements.</p> <p>Children's Teams currently provide a response to children and young people who do not warrant statutory intervention. Children's Team receive referrals from a range of sources, including CYF.</p> <p>Other mechanisms also operate to respond to concerns including community services and local family violence networks.</p> <p>Policy and practice guidance will direct staff about ways to respond to reports where there is no belief that a child or young person is in need of care or protection.</p>	<p>This option is unlikely to have any significant impact. The current practice approach involves making referrals to community agencies etc where there are concerns about wellbeing not sufficient to meet the operational threshold.</p> <p>The silence in the CYPF Act about alternative courses of action is likely to be a key factor in the high rate of "no further action" (NFA) taken in cases, even after assessment has established that a child or young person has some level of need, or is at risk of harm.</p>	<p>Unlikely to advance current state.</p>	<ul style="list-style-type: none"> • <i>Being child centred</i> - this option does not sufficiently signal an obligation to take positive action, whether through referral and follow up or provision of intensive support when a child presents with a level of need and risk. • <i>Durability</i> – there is likely to continue to be significant variability in range of responses available across NZ. • <i>Fairness and equity</i> – will not help ensure early intervention to work with children and families or more integrated service delivery. • <i>Consistency with other legislative provisions and proposed reforms</i> – inconsistent with an enabling approach and is likely to cut across service design options. • <i>Compatibility with other government objectives</i> - there won't be sufficient inducement in force for social investment to have effect at earliest point.
<p>Option 2B:</p> <ul style="list-style-type: none"> • legislative change to prompt the CE to act to address concerns about a child or young 	<p>Limit the CE's ability to take no further action in relation to a report of concern if in the CE's view the report discloses no identifiable risk of harm, or where appropriate action is already being taken.</p>	<p>The insertion of parameters around a "no further action" response will more clearly signal responsibility on the new Ministry to act early to address risk of harm by setting out optional actions. Without this signalling, status quo will</p>	<ul style="list-style-type: none"> • <i>Being child centred</i> - this option will protect children from falling through system gaps, by holding the CE accountable for those who come to the attention of the new Ministry • <i>Durability</i> – this option will provide some 	<ul style="list-style-type: none"> • <i>Fiscal and operational impact</i> - demand on staff to carry out appropriate assessments could be higher but will yield return in terms of fewer repeat assessment.

Option	Features	Impact	Benefits	Issues/Risks
<p>person where there is an identified risk</p> <p><i>(Regulatory option, preferred option)</i></p> <p>Note: The provision of intensive intervention services will be dealt with through a separate RIS</p>	<p>Legislative change to provisions relating to reporting and acting on wellbeing concerns (current section 15).</p>	<p>apply as per option 2A, with consequent risks.</p>	<p>consistency and clarity about what is required under the new operating model.</p> <ul style="list-style-type: none"> <i>Fiscal and operational impact</i> - this option will assist the workforce with clear signalling for the need to assess what response is needed. <i>Fairness and equity</i> – every child that comes to the attention of the new Ministry will go through the same process. <i>Consistency with other legislative provisions and proposed reforms</i> – flexible and enabling legislation will support service design. In line with child’s rights and UNCROC. 	
<p>Option 2C:</p> <ul style="list-style-type: none"> provide a clear mandate for the CE to address reports of concern and identified needs in multiple ways <p><i>(Legislative change, preferred option)</i></p>	<p>The CE of the new Ministry is empowered to respond to concerns about a child or young person in a number of ways:</p> <ul style="list-style-type: none"> to undertake sufficient inquiries to ascertain a child’s needs and decide response to use one or more of the following pathways: <ul style="list-style-type: none"> referral to a community service universal or targeted service through the existing care and protection provisions a youth justice response FGC. 	<p>The authority for the CE to use different pathways for addressing concerns about a child will be more clearly signalled.</p> <p>The current requirement for a social worker to investigate a report of concern will be replaced and the CE empowered to undertake sufficient inquiries which may include information gathering and assessing a child or young person.</p>	<ul style="list-style-type: none"> <i>Being child centred</i> – gives good effect to this objective. <i>Fiscal and operational impact</i> - this option will assist the workforce with clear authorisation and signalling of both the need for and options around early response. Addresses a core problem that the current legislation is silent on options for the CE other than investigation and statutory intervention via FGC referral. <i>Fairness and equity</i> - the proposal will promote earlier and more diverse interventions which will positively impact for Māori given that over-representation worsens for Māori deeper into the system. <i>Consistency with other legislative provisions and proposed reforms</i> – supports right to early help to prevent harm. Positive alignment. Other jurisdictions provide for a range of early responses in their legislation (eg Western Australia, Scotland, Victoria). Consistent with child centred approach and undertakings under Treaty, CRPD and UNCROC. <i>Compatibility with other government objectives</i> – positive impact. Likely to advance social investment objective and positively impact BPS targets relating to education and crime. 	<ul style="list-style-type: none"> <i>Fiscal and operational impact</i> – staff may find it difficult to decide which pathway to refer a child to but guidance can be provided through policy and via section 5 and 13 principles.
<p>Option 2D:</p> <ul style="list-style-type: none"> allow for FGCs to be held without agreement that a child or young person is in need of care and protection <p><i>(Legislative change,</i></p>	<p>The CE of the new Ministry is empowered to respond to concerns about a child or young person by making a FGC available if the CE reasonably considers that child or young person is likely to benefit from the FGC.</p>	<p>FGCs will be available to a child where concerns about a child do not meet the statutory threshold, but where the CE reasonably considers that a FGC will benefit the child. This will ensure access to good family-based decisions at an early opportunity for children, and will help avoid escalation of matters to the point a family feels they are unable to remain caring for a child. Early use of FGCs is consistent with best practice evidence. This</p>	<ul style="list-style-type: none"> <i>Being child centred</i> – focuses on what the child needs to best be supported <i>Fairness and equity</i> - the proposal will promote earlier and more diverse interventions which will positively impact for Māori given that over-representation worsens for Māori deeper into the system. <i>Consistency with other legislative provisions and proposed reforms</i> – supports right to early help to prevent harm. Consistent with 	<p><i>Fiscal and operational impact</i> – demand for an estimated additional 500 – 2,500 FGCs per annum [section 9(2)(f)(iv) OIA]</p> <p>Estimated demand is based on current use of informal intervention services through CYF [section 9(2)(f)(iv)OIA]</p>

Option	Features	Impact	Benefits	Issues/Risks
<i>preferred option</i>		provision will help circumstances where a family is struggling to maintain care of a child who has special needs at home.	<p>child centred approach and undertakings under UNCROC.</p> <ul style="list-style-type: none"> • <i>Compatibility with other government objectives</i> – positive impact. Likely to advance social investment objective and positively impact BPS targets relating to education and crime. 	

Summary of options and impact analysis

55 Impact analysis ratings are listed below for each of the options. Preferred options have been highlighted.

[--] = Much worse	[-] = Worse	[0] = Neutral	[+] = Better	[++] = Much Better
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Options	Child Centred	Durability	Fiscal & operational impact	Fairness & Equity	Legislative provision (incl UNCROC)	Government objectives
Prevention of offending and early intervention once offending occurs						
Option 1A	-	-	0	-	0	-
Option 1B	++	+	0	++	++	++
Option 2A	0	-	--	0	0	0
Option 2B	++	+	0	+	+	+
Option 2C	++	+	-	++	++	+
Option 2D	++	+	--	++	++	+

Discussion of preferred options

- 56 The combination of the following options is considered the best way in which to achieve legislation that will enable and support the new Ministry to undertake a new intensive intervention role.

Option 1 - Principles to support an early intensive intervention response

- 57 **Option 1B** is preferred as this option will help to reorient the system towards working with children, young people and their families and whānau early to address risk, including risk of re-offending and risk that a child will not meet their developmental potential.
- 58 We have assessed that legislating for new principles is necessary to achieve this re-orientation because the principles are important enough to warrant signalling in legislation. These principles will guide decisions and actions taken under Parts 2, 3, 3A, and sections 341-350. These decisions and actions affect the intimate lives of children, young people and their families and can involve the use of substantial coercive powers causing significant impacts on children and families.
- 59 These principles therefore need to be stated clearly in legislation. This ensures transparency for children, parents and the wider public. It also sets out in a clear and coherent way, government's expectations for practitioners who use the legislation on a day-to-day basis in their work with children, young people and families.
- 60 These principles will be considered and balanced against principles in sections 5 and 6. They will allow sufficient flexibility for professional judgement and consideration of children's, young people's and their families' unique circumstances.
- 61 They are aimed at helping and supporting change in relation to the following issues in the system:
- the need for more focus on intervening earlier
 - placement instability and disruption associated with a lack of early planning
 - the disproportionate representation of Māori and that this worsens through the system
 - disjointed service provision where there are parenting or other family-related concerns for disabled children and/or children and young people who are involved in offending.
- 62 The new principles signal that the right level of support needs to be provided at the earliest point so as to support families, whānau and usual caregivers to nurture and care for their children. This right level of support should reflect the State's best efforts where there is a risk that a child is going to be removed from their family, given the traumatic effects of removing a child, on the child, other children in the family and wider family, hapu and iwi in both the short and long terms. To help establish a seamless focus on achieving safe, stable and loving care for children, early concurrent planning for alternative care will also be required where there is a risk a child may not be able to remain with their family.

Option 2: Responding to concerns about children and young people

- 63 **Option 2C** is preferred option because it addresses the following problems in the legislation:
- the absence of direction and guidance about actions to be taken where a child is at risk, but not to the level of requiring a statutory response which reflects in a high closure rate of cases where there is risk to children and young people

- that the legal framework is oriented around cases of serious harm, which in practice has led to an absence of early action to address concerns and conversely, to requiring escalation of risk before action is taken in the system
 - the lack of scope to respond in flexible ways to concerns about children
- 64 This option will embed a focus on addressing concerns about a child or young at an early stage of contact with the new Ministry and imposes more onus on the Ministry to respond by one or more appropriate actions to the concerns about a child or young person. It ensures flexibility for the CE to respond to concerns it receives by signalling pathways of community services, universal and targeted services alongside the current protection and care pathways. These types of pathways are signalled in legislation of other similar jurisdictions for example, Scotland, Victoria and Western Australia.
- 65 **Option 2D** is preferred option because it opens up the opportunity for FGCs to be used for those who can benefit while not being in the statutory system. Legislation is necessary because access criteria for FGCs is currently restricted by the CYPF Act.
- 66 This will provide early opportunity for families, hapu and iwi and professionals to engage early in the collective process of developing plans to address concerns. This is likely to be particularly important for disabled children and young people whose families may be struggling with their care as a result of parenting or other family-related issues. It is anticipated that children will be more likely to access family-based support and care if wider family and hapu are given the opportunity to be involved early in planning and decisions about a child's support and care.

Financial and operational implications

- 67 The costs of the proposals are highly dependent on detailed service design of the new Ministry role in intensive intervention. All costs estimates are highly indicative at this stage.
- 68 The service will be designed and phased in over time as part of the new operating model and likewise, fiscal costs can be scaled and phased over time.
- 69 The key cost of these legislative proposals will arise from making FGCs available to a broader group of children and young people. The estimated demand is between 500 - 2,500 FGCs per annum. This reflects that the CE will have discretion in any case about whether a FGC should be held or whether other models of family led decision making should be used such as whānau hui or family/whānau agreements.
- 70 The lower volume of 500 assumes the ongoing availability of the full range of informal intervention services. The upper volume of 2,500 reflects the number of CYF informal resolution services or family/whānau agreements.

[section 9(2)(f)(iv) OIA]

Consultation

Expert Panel

- 71 The Expert Panel through an inclusive and evidence based process completed a far reaching review of the systems of support for vulnerable children, young people and families. Through their interim and final reports the Panel completed the high-level design of a new operating model. Proposals in this area were informed by a collaborative process with children, young people, families, caregivers, victims of offending, experts and practitioners from across the system, and an extensive review of local and international research and legislation.

- 72 As part of this process, interviews and workshops were held with a range of young people who had personal experience with CYF, including a number who had spent time in care.

These Proposals

- 73 Within the timeframe available, officials have sought to involve a range of internal and external stakeholders in the development or refinement of the proposals contained within this Regulatory Impact Statement.
- 74 Throughout the development of our proposals for an intensive intervention service, we have engaged with and sought feedback from various stakeholders, including the Ministries of Health, Education and Justice, the Treasury, Te Puni Kōkiri, New Zealand Police, CYF, the Children's Action Plan Directorate, the Office of the Chief Social Worker, and the Office of the Children's Commissioner.
- 75 Feedback has been largely concerned with the role of agencies in planning and implementing the support plan and the responsiveness of the new intensive intervention role to Māori, children and young people at risk of offending or re-offending and disabled children living in families where there are parenting support needs. This feedback was reflected in changes to the proposed section 13 principles and will be further responded to through service design.

Monitoring, evaluation and review

- 76 The legislative changes proposed form part of a large set of reforms to develop a new operating model for responding to vulnerable children, young people and their families.
- 77 The extent to which the new operating model is achieving the full range of objectives sought will be measured through improvements in childhood and adulthood wellbeing indicators. It is intended that the system take an investment approach, as part of which information will be gathered on children, young people and families, their risks of poor outcomes over their lifetimes, and the costs of the services provided to them and their effectiveness in improving short-term and long-term wellbeing.
- 78 The quality of their experience of the system as assessed by vulnerable children and young people, their families, caregivers and victims of youth offending, and perception of the system among the wider New Zealand public, would also be taken into account.