



Human Rights Commission
Te Kāhui Tika Tangata

Submission on the Child Poverty Reduction Bill

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Submission of the Human Rights Commission on the Child Poverty Reduction Bill

Introduction

1. The Human Rights Commission (“the Commission”) welcomes the opportunity to provide this submission on the Child Poverty Reduction Bill (“the Bill”) to Parliament’s Social Services and Community Committee (“the Committee”).
2. The Commission strongly supports the Bill. It implements the first recommendation of the Expert Advisory Group on Solutions to Child Poverty (“EAG”). In its landmark 2012 report¹ the EAG sought:

“enactment of child poverty legislation to ensure the proper and regular measurement of child poverty, the periodic setting of government targets to reduce child poverty, the setting of child poverty-related indicators and targets for selected indicators, and the annual reporting to Parliament of progress towards the achievement of the designated targets by the responsible Minister”
3. The design of the Bill also reflects the recommended approach set out in the EAGs *Working Paper No 6: Legislating to Reduce Child Poverty*². While the EAG was influenced by the target-based model of the UK Child Poverty Act 2010, its approach, which has been directly adopted by the Bill, has two fundamental differences.
4. Firstly, the Bill establishes an ongoing duty upon the Government to periodically set targets and report against them, rather than a duty to meet a specific numerical target by a particular due date. Secondly, the Bill links its implementation into the fiscal mechanisms of government, via a provision that amends the Public Finance Act to require that allocations targeted to reduce child poverty are identified. These two aspects operate together to establish an enduring, sustainable policy and fiscal commitment.
5. The Bill also advances New Zealand’s human rights record as regards child poverty. It responds to recommendations made in recent times by the UN Committee on the Rights of the Child, the UN Committee on Economic, Social and Cultural Rights and the UPR Working Group of the UN Human Rights Council. The Bill’s system of regular target-

¹ EAG, 2012, *Solutions to Child Poverty in New Zealand: Evidence for Action*
<http://www.occ.org.nz/assets/Uploads/EAG/Final-report/Final-report-Solutions-to-child-poverty-evidence-for-action.pdf>

² EAG, 2012, *Working Paper No 6: Legislative Mechanisms to Reduce Child Poverty*,
<http://www.occ.org.nz/assets/Uploads/EAG/Working-papers/No-6-child-poverty-legislative.pdf>

setting, reporting and accountability measures also should progress efforts towards meeting New Zealand's obligation under Target 1 of the UN Sustainable Development Goals to reduce poverty levels by 50% by 2030.³

6. While the Commission is very supportive of the Bill, our submission contains recommendations aimed at more fully implementing the EAGs recommendations and further enhancing the Bill's effectiveness in advancing the rights of socio-economically disadvantaged children and their families.
7. These recommendations can be summarised as follows:
 - a. Strengthen the purpose clauses of the Bill to ensure that the Bill's purpose is expressed in direct and unqualified terms and includes reference to New Zealand's related international human rights obligations.
 - b. Establish an independent monitoring and advisory entity to provide ongoing monitoring, advice and periodic reporting on the implementation of the Bill and the Government Child Well-being Strategy.
 - c. Shift the primary income poverty measure from 50% to 60% of the median household income, in line with current New Zealand policy settings.
 - d. Amend the Public Finance Act to require an assessment of measures and resource allocations that should be prioritised in order to meet the targets set under the Bill.
 - e. Include human rights implementation objectives within the ambit of the Government Child Well-being Strategy and requirements to establish Child Well-being Indicators informed by disaggregated data to monitor its progress, aligned with the UN SDG 2030 targets. A particular focus should also be given to outcomes for population groups who experience disproportionate levels of household income poverty, including Māori and Pasifika children and children with disabilities.

Part 1 of the Bill

8. Part 1 of the Bill sets out its interpretative and purposive provisions. Clause 3 establishes its primary purpose, which is to:

“help achieve a significant and sustained reduction in child poverty in New Zealand by provisions that -

³ <http://www.un.org/sustainabledevelopment/poverty/>

- (a) encourage a focus by government and society on child poverty reduction:
 - (b) facilitate political accountability against published targets:
 - (c) require transparent reporting on levels of child poverty”
9. While clause 3 provides a broad summary of the functional aspects of the Bill, the terms “help achieve” and “encourage a focus” tend to infer a degree of qualification as to its purpose and status. In the Commission’s view, the Bill’s purpose should be stated in more direct terms. This could be done by amending “help achieve” to simply “achieve” and replacing “encourage” with “ensure”. These amendments would strengthen the Bill’s statement of purpose.
10. Clause 3 also provides an opportunity to link the purpose of the Bill to New Zealand’s performance of its obligations under international human rights treaties and instruments. The Bill’s objectives lie squarely within the ambit of both the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the UN Convention on the Rights of the Child (UNCRC).
11. In its last set of Concluding Observations on New Zealand issued in 2016, the UN Committee on the Rights of the Child recommended that the Government implement a “systemic approach” to addressing child poverty that includes enhanced allocations and budgetary measures⁴. Of further note, the UN Committee on Economic, Social and Cultural Rights also very recently recommended that the New Zealand Government make “necessary adjustments” to the Public Finance Act required to meet its obligations under ICESCR⁵ and “accelerate” the enactment of this Bill⁶.
12. Similarly, following its 2014 Universal Periodic Review of New Zealand, the UN Human Rights Council recommended among other things that the Government “take all necessary measures” to tackle child poverty⁷, including establishment of indicators to measure child poverty⁸, consideration of EAG recommendations⁹ and expansion of national action plans to reduce child poverty.¹⁰

⁴ UN Commission on the Rights of the Child, *Concluding Observations on the fifth periodic report of New Zealand*, 21 October 2016, CRC/C/NZL/CO/5, paragraphs 36(a) and (b)

⁵ UN Committee on Economic, Social and Cultural Rights, *Concluding Observations on the Fourth Periodic Report of New Zealand (Advanced Unedited Version)*, adopted at its 63rd session (12-29 March 2018), released 3 April 2018, paragraph 15

⁶ *Ibid* at paragraph 38

⁷ UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: New Zealand*, 7 April 2014, A/HRC/26/3, paragraph 128.61, Recommendation of Malaysia

⁸ *Ibid*, para 128.59, Recommendation of Canada

⁹ *Ibid*, para 128.58, Recommendation of Cape Verde

¹⁰ *Ibid*, para 128.60, Recommendation of Chile

13. Further, as noted above, the Bill's purpose and design makes it an ideal instrument for progressing New Zealand's poverty reduction commitments under the UN SDGs. Indeed, the Prime Minister, in her capacity as Minister for Child Poverty Reduction, has noted that the Bill's long-term ten year targets are, in part, a means of meeting these commitments¹¹.

Recommendation 1:

That clause 3 of the Bill is amended to ensure that its purpose is direct and unqualified; and includes reference to New Zealand's related international human rights obligations. This can be done by:

- a. Amending "help achieve" to simply "achieve";**
- b. Amending clause 3(a) to "ensure" rather than "encourage" a Government focus on child poverty;**
- c. Inserting a new clause 3(d) that includes, as a purposive objective of the Bill, realisation of New Zealand's related international human rights obligations including, but not limited to, those under the UNCRC, ICESCR and the UN SDGs.**

14. Clause 6 provides that the Government Statistician will have a central role in the Bill's operation. As the Bill's Explanatory Note explains, the Government Statistician will both prepare the reports on progress in reducing child poverty and will define the concepts and terms set out in clause 5 (the Bill's interpretation clause) and any concepts and terms that are not included in the Bill but will be required for its operation. These concepts and terms include the "material hardship" and "persistent poverty" categories that are included in the Bill as primary measurements.

15. It is notable that the Bill does not provide for any independent oversight of the Government Statistician's functions, nor independent input or advice regarding any matters relevant to their functions. In this respect, the Bill differs from the approach of the UK Child Poverty Act 2010, which established an independent Child Poverty Commission (later renamed the Social Mobility and Child Poverty Commission) for the purpose of independently monitoring, advising and reporting on progress in reducing child poverty.

¹¹ Office of the Minister for Child Poverty Reduction, *Legislating to Drive Action to Reduce Child Poverty* (for Cabinet Business Committee), 6 December 2017, para 49 <https://www.dpmc.govt.nz/sites/default/files/2018-03/doc-06-cbc-paper-legislating-to-drive-action-to-reduce-child-poverty.pdf>

16. Furthermore, the Bill's amendments of the Vulnerable Children's Act under clause 45 do not provide for any independent monitoring of the Government Strategy to improve child well-being, which itself includes specific child poverty related measures.¹²
17. The Commission considers that an independent monitoring and advisory entity, similar to the Child Poverty Commission established in the UK, ought to be established to ensure that the implementation of the legislation is as robust and well-informed as possible.

Recommendation 2:

In line with the UK model, that the Bill is amended to establish an independent monitoring and advisory entity for the purposes of providing ongoing monitoring, advice and periodic reporting on the implementation of the Bill and the Government Strategy under s 6 of the Children's Act 2014.

Part 2 of the Bill

Measurements and target-setting

18. Clauses 9-20 set out both the primary and supplementary poverty measures. It is notable that the primary income poverty measures are set at 50% of the median household income (both before and after housing costs). The 50% measurement is used by the OECD as their official poverty measure¹³. The 60% measurement by contrast is used by the EU and was adopted in the UK as the primary measure under the UK Child Poverty Act¹⁴. The three-year term and the ten-year term target reporting dates under clause 21 of the Bill directly adopt the EAGs recommended reporting timeframes¹⁵.
19. The 60% threshold has also been used to date as the primary measurement in New Zealand reports on household poverty, including the Child Poverty Monitor and Technical Report and MSDs Household Economic Survey. It was originally validated in New Zealand by research undertaken as part of the New Zealand Poverty Measurement Project in the early 1990s¹⁶ and is the primary threshold recommended by the EAG. To

¹² Clause 45 (new sections 6(1)(c) and 7(2))

¹³ See EAG *Working Paper No 1: Defining and Measuring Child Poverty*, paragraph 39
<http://www.occ.org.nz/assets/Uploads/EAG/Working-papers/No-1-Measuring-child-poverty.pdf>

¹⁴ Child Poverty Act 2010 (UK) sections 3-6

¹⁵ EAG *Working Paper No 6: Legislative Measures to Reduce Child Poverty*, Recommendation 6.1 at p 20

¹⁶ EAG *Working Paper No 1: Defining and Measuring Child Poverty*, paragraph 39

date, the child poverty figures commonly referred to in the public discourse in New Zealand have invariably been based on the 60% threshold. The number of children living in households with income below this threshold was most recently reported as 290,000 or 27% of the child population (aged under 18 years) using a relative, after-housing costs measurement¹⁷.

20. The use of the 50% threshold as the primary threshold has the effect of lowering the overall numbers of children targeted by the Bill. In 2015, 20% of children were calculated to fall into this group using a relative, after-housing costs measurement¹⁸. However, this will not necessarily make the Bill's task any easier, as this group is likely to have the least income mobility and therefore the most entrenched, ongoing experiences of poverty.

21. It is also notable the supplementary poverty measures include the 60% (both before and after housing costs) measurement recommended by the EAG. However, the supplementary measurements will not be subject to the mandatory target setting that the primary measurements are under clauses 21 and 22 of the Bill.

22. As noted above, persistent poverty and material hardship are included as primary measures but are yet to be defined. These categories are currently measured by the Child Poverty Monitor as follows:

- a. *Material Hardship* covers children living in households who are unable to afford 7 or more of 17 everyday essentials and services¹⁹.
- b. *Persistent poverty* covers children living in families whose average income over 7 years is below the income poverty line (defined as 60% of median income after housing costs).²⁰

23. "Severe" material hardship is also included as a supplementary measurement under the Bill. The Child Poverty Monitor does not include such a category but does measure children living in households who are unable to afford 9 or more of 17 everyday essentials and services.²¹

¹⁷ Child Poverty Monitor 2017, <http://www.childpoverty.co.nz/>

¹⁸ MSD, *Household Incomes in New Zealand: Trends in indicators of inequality and hardship 1982 to 2015*, August 2016, Table F7, p 117

¹⁹ <http://www.childpoverty.co.nz/flow-infographics/material-hardship-2016>

²⁰ <http://www.childpoverty.co.nz/flow-infographics/persistent-poverty-2016>

²¹ <http://www.childpoverty.co.nz/flow-infographics/material-hardship-2016>

24. Overall, the Bill takes a comprehensive approach to measuring child poverty and its effects, more so than the UK legislation. However, by choosing a 50% measure as the primary income target it moves away from the 60% measure that has been used as the standard threshold in public policy discourse and debate in New Zealand to date. It also halves the targeted number of children considered, for the purposes of the Bill, to be living in poverty. This decision therefore has important symbolic and political ramifications as to the ‘official’ scale of child poverty in contemporary New Zealand society.
25. It is notable that the UN human rights framework does not specify a particular income measurement for defining child poverty. The UN SDGs, for example, leaves this for countries to determine themselves²².
26. Notwithstanding this, the Commission considers that the 60% threshold should be retained as the primary measure. This ensures congruency with the policy work that has led to the introduction of the Bill and sends a consistent message to the public about the scale of child poverty in New Zealand.

Recommendation 3:

That clauses 10 and 11 of the Bill are amended to shift the primary income poverty measure from 50% to 60% of the relative contemporary median household income (both before and after housing costs).

Amendment to the Public Finance Act

27. As noted above, one of the most significant aspects of the Bill is the amendment to the Public Finance Act under clauses 38 and 39. This links child poverty reporting with the annual budgetary process by requiring a report on child poverty to be included with the supporting information for the main Appropriations Bill. The child poverty report must:
- a. discuss any progress made, in the most recent completed financial year, in reducing child poverty consistent with the Bill's targets
 - b. indicate whether and, if so, to what extent, measures in or related to the Bill will affect child poverty.

²² UN SDG Goal 1, Target: *By 2030, reduce at least by half the proportion of men, women and children of all ages living in poverty in all its dimensions according to national definitions,*
<http://www.un.org/sustainabledevelopment/poverty/>

28. This clause follows the recommendation of *EAG Working Paper No 6* that an amendment be made to the Public Finance Act to require the Minister of Finance to specify, as part of the annual budgetary process, the allocations earmarked for meeting the short-term and long-term child poverty targets.²³
29. This is a development of fundamental importance. Given that government social sector investment is essential for child poverty legislation to succeed in meeting its objectives, it follows that it must include a mechanism that links it to the budgetary process and other fiscal planning and decision-making processes. This also has the necessary effect of elevating the reduction of child poverty to that of a “top-line mission” of government.²⁴
30. The lack of such a mechanism was identified by the EAG as a flaw in the now defunct UK Child Poverty Act’s operative framework. Without such a mechanism it is impossible to track whether the fiscal choices made by the government are being made in a manner consistent with the statutory objectives of the legislation. In the UK, this concern underpinned the UK Social Mobility and Child Poverty Commission’s 2013 recommendation that the Office of Budgetary Responsibility undertake independent assessments of the likely impact of budgetary allocations on child poverty.²⁵
31. Furthermore, such a mechanism conforms with the “due priority” principle under human rights jurisprudence as regards the state’s obligation to allocate maximum available resources towards advancing economic, social and cultural rights.²⁶ This does not mean that a specific share must always be allocated, as assessments of due priority must be context specific.²⁷ However, it does mean that a mechanism for assessing due priority that enables the tracking, monitoring and evaluation of budgetary allocations ought to be implemented. The UN Committee on the Rights of the Child has recommended that the New Zealand Government establish such a mechanism in its 2011 and 2016 Concluding Observations on New Zealand.²⁸

²³ *EAG Working Paper No 6* page 21, Recommendation 7.3

²⁴ See J Hancock, *Legislating to Reduce Child Poverty*, (2014) 8 NZFLRJ 43 at 52

²⁵ Social Mobility and Child Poverty Commission *State of the Nation 2013: social mobility and child poverty in Great Britain* (October 2013) at p 54

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/292231/State_of_the_Nation_2013.pdf

²⁶ OHCHR and the International Budget Partnership, *Realising Human Rights Through Government Budgets*, New York and Geneva, 2017 p 106-107

²⁷ *Ibid* at 107

²⁸ CRC/C/NZL/CO/5, paragraph 9

32. This development is therefore a significant step towards enhancing the realisation of CRC and ICESCR obligations concerning allocation of resources.²⁹ It also reflects the Government's broader objective to develop a budgetary process that includes a focus on developing sustainability and social capital.³⁰

33. However, the Commission considers that the language of clause 39(2)(b) ought to be made more directive. At present it merely requires an indication of what measures may affect child poverty. This should be strengthened to require an assessment of the measures and resources required to meet the Bill's objectives.

Recommendation 4:

That clause 39(2)(b) of the Bill is amended to require that the budgetary report on child poverty included with the Appropriations Bill includes an *assessment of measures and resource allocations requiring priority in order to meet the targets set under the Bill.*

Amendments to the Vulnerable Children's Act

34. The Commission strongly supports the Bill's renaming of the Vulnerable Children's Act to the Children's Act. Together with the renaming of the Ministry of Vulnerable Children to Oranga Tamariki/Ministry of Children, this amendment corresponds with the 2016 recommendation of the UN Committee on the Rights of the Child to avoid the narrow categorisation and potential for stigmatisation brought about by the formal application of the term "vulnerable children".³¹

35. The Commission also strongly supports the implementation of a Government Child Well-being Strategy ('the Strategy') which will complement the implementation of the Bill's child poverty reduction framework. However, the Commission considers that an additional objective should be included regarding the realisation and advancement of children's human rights under the UNCRC and other international human rights treaties – the Strategy provides an ideal mechanism upon which a comprehensive UNCRC

²⁹ ICESCR Article 2.1, UNCRC Article 4

³⁰ See speech of Hon Grant Robertson, Minister of Finance, 13 February 2018 https://www.interest.co.nz/sites/default/files/embedded_images/Speech%20to%20Productivity%20Hub%2C%20Wellington_0.pdf. For related policy development see also Treasury's Higher Living Standard's Framework at <http://www.treasury.govt.nz/abouttreasury/higherlivingstandards>

³¹ CRC/C/NZL/CO/5, paragraph 7(b)

implementation strategy can be developed, per the 2016 recommendation of the UN Committee on the Rights of the Child.³²

36. The development of sector-specific indicators, similar to the Child Poverty Reduction Indicators (CPRIs) recommended by the EAG³³, should be developed to measure progress made under the Strategy³⁴. These also ought to be aligned with the relevant 2030 SDG targets, so that progress can be measured within the terms of New Zealand's international sustainable development obligations.
37. In addition, the Bill should also expressly require that data collected for this purpose is disaggregated to monitor outcomes for vulnerable population groups including, but not limited to, Māori and Pasifika children and children with disabilities. Poverty rates for Māori and Pasifika children are approximately double those of Pākehā/New Zealand European children³⁵. Children with disabilities also experience higher rates of poverty than non-disabled children, as do children with a disabled parent.³⁶
38. In its recent review of New Zealand under the ICESCR, the UN Committee on Economic, Social and Cultural Rights expressed concern at the disproportionate numbers of Māori and Pasifika children and children with disabilities living in households below the relative income poverty line³⁷. The Committee accordingly requested that the New Zealand Government include, in its next periodic report under ICESCR, disaggregated information on progress made in meeting the Strategy's targets.³⁸

Recommendation 5:

That the Bill further amends the Vulnerable Children's Act to:

- a. Provide that an additional objective of the Government strategy is to realise and further advance the rights of children under the United Nations**

³² Ibid paragraph 7(a)

³³ EAG, 2012, *Working Paper No 24: Child Poverty Related Indicators* at <http://www.occ.org.nz/publications/expert-advisory-group/eag-working-paper-no-24-child-poverty-related-indicators/> and EAG, 2012, *Working Paper No 6: Legislative Mechanisms to Reduce Child Poverty* at para 78

³⁴ Clause 7(2)(b) of the Bill currently provides in non-specific terms that the Strategy indicate how outcomes for children in poverty and children with socio-economic disadvantage are measured

³⁵ EAG, 2012 *Solutions to Child Poverty in New Zealand: Evidence for Action* at p 7

³⁶ Ibid at p 8

³⁷ UN Committee on Economic, Social and Cultural Rights, *Concluding Observations on the Fourth Periodic Report of New Zealand (Advanced Unedited Version)*, 3 April 2018, paragraph 37

³⁸ Ibid at paragraph 38

Convention on the Rights of the Child (UNCRC) and other related international human rights treaties and instruments.

- b. Amend s7 to include a requirement that specific child well-being indicators are developed and implemented in order to measure progress in implementing the strategy. These indicators should be aligned with New Zealand's objectives under the 2030 SDG targets. Data collected for this purpose should be disaggregated in order to monitor outcomes for vulnerable population groups including, but not limited to, Māori and Pasifika children and children with disabilities.**