



Human Rights Commission  
Te Kāhui Tika Tangata

# Submission on He taonga te tamaiti : every child a taonga Strategic Plan for Early Learning - Draft for Consultation

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## **Submission of the Human Rights Commission on He taonga te tamaiti Every Child a taonga Strategic plan for early learning 2019-29 - Draft for consultation.**

### **Introduction**

1. The Human Rights Commission (the Commission) welcomes the opportunity to provide feedback to the Ministry of Education on the draft He taonga te tamaiti Every child a taonga Strategic plan for early learning 2019-29 (the Draft Plan). The Commission appreciates the extension of time given to respond to the Draft Plan.
2. The Commission is New Zealand's National Human Rights Institution (NHRI). NHRIs form part of the United Nations human rights system by promoting and monitoring the domestic implementation of international human rights standards.
3. The Commission continues to actively engage with the various components of the education reform workstreams which form the context in which this Strategic Plan is being refreshed. Promoting and protecting the right of disabled children to access an inclusive, quality education on an equal basis with others requires an explicit and unequivocal commitment to inclusive education. As submitted previously, an inclusive education system at all levels (including preschool, primary, secondary, tertiary and vocational) is critical to shifting negative life outcomes for disabled New Zealanders. We need systems and structures that incorporate diversity and the obligation to provide the reasonable accommodations that disabled children require.
4. Complaints received by the Commission and other organisations supporting disabled children and their families/whānau provide clear evidence that too many disabled children and their families/whānau experience discrimination and exclusion when accessing early childhood learning. The Commission's annual report for 2017-18 shows that disability discrimination was one of the most commonly reported complaints to the Commission. Additionally, a significant number of these complaints occur in the education area (which includes early learning centres). Recent complaints from parents received by the Commission include:
  - a parent of a child with autism complained that she was told by her son's kindergarten teacher that he could not return because they could not meet his needs.
  - a parent complained that an ECE provider was refusing to enrol their child in afternoon classes, because of their child's disability.
  - a parent complained that their 5-year-old son with high needs is not able to attend pre-school because, as he does not meet the criteria for support, there is no funding available.

- the parent of a child with a hearing loss, who requires a quiet space to work with professionals to help her develop verbal and pre-literacy skills, complained that their daughter’s Kindergarten had refused to continue to make office space available.
  - the parent of a child who has special needs (Global Development Delay), who turns 5 next month, had asked to be able to keep their son at his childcare centre until the following year. They complained that this request had been declined and they believe this was because of their son’s impairment.
  - a parent of a child who has autism, and has been expelled from his pre-school, complained that the Ministry of Education had repeatedly refused to provide assistance for their son.
5. The Commission welcomes the refresh of the early learning strategic plan which proposes ways to strengthen the provision of early learning with the intention of enabling the aspirations of the curriculum *Te Whāriki – he whāriki mātauranga mo ngā mokopuna o Aotearoa (Te Whāriki)* to be fully realised for all children.<sup>1</sup>
6. We note that *Te Whāriki* was developed as an inclusive curriculum for all children and contains expectations of inclusive and responsive practice that acknowledges diversity. *Te Whāriki* explicitly states that:

*“This curriculum acknowledges that all children have rights to protection and promotion of their health and wellbeing, to equitable access to learning opportunities, to recognition of their language, culture identity and, increasingly, agency in their own lives...A fundamental expectation is that each service will offer a curriculum that recognises these rights and enables the active participation of all children, including those who may need additional learning support.”<sup>2</sup>*

To truly achieve inclusion that meets the needs and aspirations of all children, including disabled children, and their families/whānau the refreshed Plan could be strengthened by ensuring that *Te Whāriki* is accessible to all children as originally envisaged.<sup>3</sup>

7. Whilst acknowledging that the Draft Plan has the potential to strengthen the current provision of early learning for all children, we have identified the following key omissions

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<sup>1</sup> He taonga te tamaiti Every child a taonga; Strategic plan for early learning 2019-2029, p.10

<sup>2</sup> Ministry of Education. (2017). *Te Whariki – He whariki matauranga mo nga mokopuna o Aotearoa: Early Childhood curriculum*. Wellington: Ministry of Education, p. 12

<sup>3</sup> Foster-Cohen, S, H & Van Bysterveldt (2016) Early Childhood Inclusion in Aotearoa New Zealand. *Infants and Young Children, vol 29 No.5 p.214-222*

and areas where we consider the Draft Plan could be strengthened to better recognise and implement the right of disabled children to an inclusive education:

- Inclusive education and disabled students
- A rights-based approach
- Reasonable accommodation

We note that similar concerns have been raised by several children’s rights organisations whose submissions we have had the opportunity to read and which we refer to below.

### **Inclusive education and disabled children**

8. We are concerned at the lack of visibility given to inclusive education and the needs of disabled children within the Draft Plan. Disabled children are a priority group that the current education system is not working well for and whose rights and wellbeing need to be actively promoted and protected.
9. It is now accepted that inclusion is key to achieving the right to education, and that inclusive education is central to achieving high quality education for all learners, including those with disabilities.<sup>4</sup> Strategic plans are aspirational documents which signal key policy commitments. It is concerning that the draft vision for the next 10 years for the early learning system in Aotearoa New Zealand does not include an explicit commitment to early learning settings being inclusive. It is important that references to “all children” and “every child” are understood to include disabled children and that disabled children are able to access high quality inclusive early learning centres on an equal basis to others in the communities where they live.
10. We note that in their submission Save the Children has identified the limited or vague reference to inclusive education or children with disabilities as a critical gap in the Draft Plan’s goals.
11. We recommend that the vision for Draft Plan be amended to read:

“New Zealand’s early learning system enables every child to enjoy a good life, learn and thrive with in high quality, **inclusive** settings that support their identity, language and culture and are valued by parents and whānau.”
12. The Commission supports Save the Children’s recommendation that:

A goal be developed that specifically recognises the right of disabled children to

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<sup>4</sup> Committee on the Rights of Persons with Disabilities, General Comment No 4, Article 24: Right to inclusive education, CRPD/C/GC/4, 2 September 2016

inclusive education and care within all early learning settings.

13. We recommend that explicit reference is made within each of the draft goals to the right of disabled children to inclusive education and what this means in practice.

### **A rights-based approach**

14. The Commission would like to see the Government take a rights-based approach to the development and implementation of this Plan which is intended to inform the provision of early childhood learning for the next ten years in Aotearoa New Zealand. A rights-based approach would include an enhanced focus on the children whose rights and wellbeing need to be actively promoted and protected. This includes disabled children as well as Maori, Pacific, and children from disadvantaged backgrounds.
15. We concur with Save the Children that the Draft Plan provides a valuable opportunity to include the United Nations Convention on the Rights of the Child and explicitly reference articles of the Convention. This will serve to ensure providers, teachers, parents, and policy makers have a good understanding of the Convention and their roles and responsibilities to implement the Convention thereby making child rights real for every child. This would support children not only to be *recognised* as rights holders, but also to be *treated* as rights holders.
16. We recommend the United Nations Convention on the Rights of the Child, the United Nations Convention on the Rights of Persons with Disabilities, Declaration on the Rights of Indigenous Peoples are explicitly referenced in the draft Plan and there is an enhanced focus on all groups of children whose rights and wellbeing need to be actively promoted and protected.

### **Reasonable accommodation**

17. The Commission shares the concerns raised in the IHC's submission that "the current draft of the plan will not create an inclusive early learning system because it does not establish the reasonable accommodations necessary to ensure children with disabilities can enjoy early childhood education on an equal basis with their non-disabled peers."
18. We would also like more work done within each of the draft goals to strongly identify and articulate the reasonable accommodations required to ensure disabled children have equitable access to and outcomes from early learning.

## **Endorsement of submissions and recommendations**

19. The Commission endorses the submission and recommendations from the IHC aimed at ensuring the Plan:
  - a includes transparent links to the Child and Youth Wellbeing Strategy, especially those focus areas related to early childhood and/or disability
  - b is more clearly and transparently aligned with the Disability and Learning Support Action Plan
  - c protects and advances the rights of children with disabilities, particularly their rights to non-discrimination and inclusive education under the United Nations Conventions on the Rights of the Child and on the Rights of Persons with Disabilities.
  - d identifies, within each goal, the reasonable accommodations that ensure children with disabilities have equitable access to and outcomes from early childhood care and education.
20. The Commission endorses the submission and recommendations from CCS Disability Action that the Plan needs to:
  - a acknowledge the discrimination and exclusion disabled children and their families can face in accessing early childhood education alongside a commitment to eliminate this
  - b acknowledge the current issues around waitlists for support and caps (official and unofficial) on the allocation of support alongside a commitment to eliminate these
  - c show evidence that it has considered the work of “A Good Start in Life”
  - d state that disabled children have the right to attend and participate in early childhood education on an equal basis with others, including the right to choose inclusive early childhood education options
  - e include the New Zealand Disability Strategy
  - f guarantee that, as a bare minimum, families with disabled children will have enough learning support to effectively use the full 20 hours of free ECE; and
  - g commit to collect data on the early childhood education participation rates of disabled children.
21. The Commission endorses the submission and recommendations from Save the Children Submission that:
  - a the Government takes a rights-based approach to the development and implementation of the Draft Plan.

- b critical gaps identified in the Plans Goals are addressed.
22. The Commission endorses the submission and recommendations of Dr Bernadette Macartney that the Draft Plan:
- a make a commitment in the plan to identify, measure and remove attitudinal and structural barriers to the participation of disabled children and their families in ECE.
  - b embed inclusive cultures and practices throughout the system through initial teacher education, professional development, mentoring and monitoring.
  - c address the data gaps.
  - d alongside Te Tiriti o Waitangi demonstrate a commitment to other formal state agreements and obligations, including the United Nations Convention on the Rights of Persons with Disabilities, the Convention on the Rights of Children and the Declaration on the Rights of Indigenous Peoples.

### Recommendations

23. In conclusion, the Commission welcomes the Draft Plan and acknowledges its potential to strengthen the provision of early learning for all children. We have identified the following key omissions and areas where we consider the Draft Plan could be strengthened to better recognise and implement the right of disabled children to an inclusive education. Accordingly, the Commission makes the following recommendations:

- a. Implementation of the plan ensures that *Te Whāriki* is accessible to all children, including disabled children, as originally envisaged.
- b. The vision for Draft Plan be amended to read:
  - i. “New Zealand’s early learning system enables every child to enjoy a good life, learn and thrive with in high quality, **inclusive** settings that support their identity, language and culture and are valued by parents and whānau.”
- c. A goal be developed that specifically recognises the right of disabled children to inclusive education and care within all early learning setting.
- d. Explicit reference is made within each of the draft goals to the right of disabled children to inclusive education and what this means in practice.
- e. A rights-based approach to the development and implementation of this Plan is taken, the United Nations Convention on the Rights of the Child, the United Nations Convention on the Rights of Persons with Disabilities and the Declaration on the Rights of Indigenous Peoples are explicitly referenced and

there is an enhanced focus on all groups of children whose rights and wellbeing need to be actively promoted and protected.

- f. More work is done within each of the draft goals to strongly identify and articulate the reasonable accommodations required to ensure disabled children have equitable access to and outcomes from early learning.

24. If you would like further information or would like to discuss any of these points please contact Heather Lear, Disability Rights Advisor [heatherl@hrc.co.nz](mailto:heatherl@hrc.co.nz).