

## **GREEN PAPER RESPONSE REVIEW - UNCROC AND OTHER MATTERS**

### **PURPOSE**

This paper looks at reports from nineteen organisations in New Zealand who made submissions to the Green Paper on Vulnerable Children from a Convention on the Rights of the Child (UNCROC) view, the Children's Commissioner's role and other matters.

### **THE GREEN PAPER**

The 32 page paper with 10 pages of References issued by the Minister for Social Development (MSD) is a commitment by Government to look at child related issues. The opening pages leave doubt as to whether the purpose is to address the wellbeing of all New Zealand children or those who are in an undefined "vulnerable" category.

UNCROC Article 1 is implied on page 2 with the definition of children as being those under age 18 but the reality is for instance that Children, Young Persons and their Families Act applies to 16 year olds and not 17 year olds. UNCROC is mentioned on page 3 in two and a half lines, with no quotation of its scope, or mention of the February 2011 Committee Concluding Observations which identify numerous shortcomings in the structure, policy and practices for child wellbeing. It is worth recording that all three Reservations to UNCROC are relevant to vulnerable children on issues of education, detention and work, but they receive no attention.

All six of the other major Human Rights Treaties, not just CRPD, address issues that affect children and in addition the Optional Protocol for Convention against Torture seeks to protect children in detention.

It is surprising and very disappointing that the legislation, powers and work of the Children's Commissioner were ignored.

### **CHILDREN'S COMMISSIONER POSITION STATEMENT AND SUBMISSION**

The Commissioner issued an excellent 11 page Position statement, with seven goals (UNCROC Articles quoted) in October 2011 as the project was launched. The Commissioner's submission, 18 pages, draws heavily on that document. It is disappointing to see there is very little reference in either document to the Concluding Observations, Optional Protocols or on the General Comments issued by the Committee on the Rights of the Child. The Commissioner has obligations under his empowering Act to foster UNCROC. It is noted that the Annual Reports of the Commissioner show much effort goes into the promulgation of the Convention.

### **REVIEW PROCESS**

Through contacts and website searches I identified submissions, primarily from the "child advocate" sector and including three Crown Entities. Appendix 1 gives a summary of the selected submissions. Appendix 2 identifies the submissions seen.

### **GENERAL INFORMATION**

After some initial questions, and challenges, most submissions reviewed appear on websites. The length of submissions ranges from 3 to 38 pages. From a presentation view there are two coloured diagrams, several with figures/tables, with two submissions looking at each question in the Green Paper and giving a response, even if critical of the question posed. References/ Bibliography/footnotes quoted vary from nil to 56 but the inclusion of UNCROC material was generally very poor.

### **UNCROC**

The Convention is mentioned in all but one of submissions, often numerous times but rarely are particular Articles quoted. The Concluding Observations are not always mentioned though occasionally quoted in detail. The removal of Reservations is not seen as pertinent. The Committee's "General Comments" receive scant mention. The two existing Option Protocols to UNCROC have two mentions. The new one on communication does not get a mention, although it is relevant to vulnerable children who are otherwise unable to resolve issues.

### **OTHER HUMAN RIGHTS DOCUMENTS**

The Human Rights Commission mentioned eight Human Rights documents, and otherwise CRPD and ICESCR receive some attention but the other four major Human Rights Treaties do not. There is occasional reference to other material e.g. Universal Declaration of Human Rights, but OPCAT is over looked.

### **CHILDREN'S COMMISSIONER**

The empowering Act is mentioned in two reports and references are made to his Position Statement in twelve reports, and his role in eight submissions. Two submissions raise the issue of the Commissioner reporting directly to Parliament. Generally the Commissioner does not receive adequate consideration

### **LEGISLATION**

There is inherent support for a Children's Act but no clear consensus on its scope especially since particular topics remain contentious.

Legislation that requires review include the Children Young Persons and Families Act (but with some accepting the current status even with the number of amending bills before Parliament), Privacy Act, Education Act, Care of Children Act and the Commissioner's Act although detail is scarce. No one has raised the CYF (Youth Court Jurisdiction and Orders) legislation or the Human Rights Act as being in breach of UNCROC.

### **SUBMISSION FORMAT**

There is much variation in the submission formats. Several keep to the four headings, others ignore some or all of them.

### **ITEMS OF COMMON INTEREST**

*Action Plan:* accepted with a wide range of scope and detail.

*Minister for Children:* Endorsed in seven submissions but no comment on scope or implication

for Children's Commissioner.

*Children's Select Committee:* No interest.

*Children's Impact Assessment:* Support from ten, and differences in application.

*Information Sharing:* receives close attention, with a wide range of comment

*Mandatory Reporting:* while aired in several submissions, not deemed acceptable

*Role of Local Government:* Mentioned in five submissions only

*Voice of Children:* Few address the implications of Article 12 of UNCROC

*Children's Participation:* The Commissioner, Families Commission, SCNZ

*Vulnerability of children:* addressed by thirteen submissions

*Recommendations:* A common feature, but sometimes hard to identify easily.

## **MAORI CHILDREN/FORTHCOMING INQUIRY**

The need to recognise the Treaty of Waitangi is mentioned, often repeatedly, in all but three submissions although no precise detail is provided on the implications for Maori child wellbeing.

During the submission period the Maori Select Committee terms of Reference were issued. Four submissions mentioned this.

As expected the wellbeing, or lack thereof of Maori children receives attention but there is virtually no detailed statistics quoted.

I asked MSD by email to identify Maori organisation submissions, but given their project workload no response has been received.

## **ITEMS OF PARTICULAR INTEREST**

From the submissions I selected items of particular interest and these appear in Appendix 3

## **THE GREEN PAPER REVIEW PROCESS AND WHITE PAPER**

The Ministry of Social Development are yet to give information on their view of the submission process to date, although there is media evidence of over 9,000 responses.

### **Stage 1 Preparation of the White Paper**

Clearly there is need for interested parties to become involved in the preparation of the White Paper. The UNCROC Monitoring Group, co-ordinated by the Children's Commissioner should make a formal approach to MSD. The Children's Commissioner has power under his Act to meet personally with the Prime Minister to ensure appropriate consultation by and with MSD.

Given the complexity of many of the issues the "child advocates" ought to meet together to find common ground and be prepared to argue their case. A start might be to review the Commissioner's seven goals and see if there is unanimity. Another approach may be to agree the high level reporting process to Parliament.

Noted from the Prime Minister's speech 15 March 2012 that targets are to be set for increase of infant immunisation, reduction of rheumatic fever, increase in early childhood education

participation, reduction in the assaults of children, increase in NCEA level 2 qualification from 68% to 85 %. That will influence the White Paper. Child poverty and youth unemployment did not receive a mention.

Some key issues that could be addressed by advocates

- a) Scope of possible Children's legislation and interface with Children's Commissioner Act
- b) Scope of Action Plan, with reporting criteria and time targets
- c) Legislation that needs review with detail
- d) Clarification of the definition of "vulnerability of children"
- d) Consensus on information sharing
- e) Place of UNCROC and other Human Rights Treaties in legislation affecting children
- f) Criteria for supporting a Minister for Children and relationship with Children's Commissioner
- g) Consensus on the Children's Commissioner seven goals
- h) Acceptance of Child Impact Assessments and their application
- i) The obligations of Local Government in child wellbeing
- j) Practical issues associated with Article 12 of UNCROC
- k) Maori, Pasifika, disabled, detained and other interest group contributions

### **Stage 2 Issue of the White Paper**

It is hoped that when the White Paper emerges UNCROC and the role of the Children's Commissioner will receive the attention they deserve, based on concerted efforts by advocates.

The consultation process considered in the White Paper preparation should be evident in the final report.

### **Stage 3 Consultation and response to the White Paper**

It is essential that as a body the "child advocates" study the White Paper through regular meetings, with if necessary working groups and promulgation of the discussions. The submissions to the Green Paper display limited evidence of consensus policy making.

Review of the White Paper should clearly indicate support for UNCROC, familiarity with the CRC Concluding Observations and endorsement of the role of the Children's Commissioner.

### **AUTHORS NOTE**

I am a layman interested in UNCROC, and have been involved in child advocacy on a voluntary basis for 8 years.

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28 March 2012

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### **REFERENCE**

Green Paper for Vulnerable Children

<http://www.childrensactionplan.govt.nz/>

## APPENDIX 1

### RESPONSE WORKSHEET SUMMARY TO GREEN PAPER, UNCROC AND OTHER MATTERS

This summary pulls together the findings from 19 submissions to the Green Paper for Vulnerable children

#### PART A GENERAL

##### SUBMITTER:

**ECPAT, Child Poverty Action Group, Children’s Commissioner, Families Commission, Human Rights Commission, UNICEF, Action for children and Youth Aotearoa, Every Child Counts, IHC, NZCCSS, Barnardos, Jigsaw, Kim Workman, Manaia PHO, Paediatric Society, Plunket, SCNZ, SSPA, YouthLaw**

|  | YES | NO | COMMENT  |
|--|-----|----|--|
| <b>WEBSITE</b>                             | 17  | 2  |  |
| <b>PAGES</b>                               | 19  |    | Range 3-38   |
| <b>GRAPHICS</b>                            | 8   | 11 | Two used colour diagrams, three used tables for answering questions, |
|  |     |    | three had figures/graphs<br>two had coloured covers                  |
| <b>REFERENCES LISTED</b>                   |     |    |  |
| including footnotes/bibliography           | 16  | 3  | Range nil-56   |
| Including UNCROC                           | 7   | 12 | Range nil to one of 12 quotations                                    |
| <b>PART B UNCROC</b>                       |     |    |  |
| Convention                                 | 18  | 1  | One quoted 14 times  |
| Concluding Observations                    | 14  | 5  | One quoted 10 observations   |
| Removal of Reservations                    | 2   | 17 |  |
| Optional Protocols                         | 2   | 17 |  |
| General Comments                           | 2   | 17 | No 11 quoted   |
| <b>PART C OTHER HUMAN RIGHTS DOCUMENTS</b> |     |    | ICESCR, CRPD, DRIP<br>First Call, World Fit,<br>UN violence          |
| <b>PART D CHILDREN’S COMMISSIONER</b>      |     |    |  |
| Children’s Commissioner Act                | 2   | 17 |  |
| Position statement on Green paper          | 12  | 7  | four included ref to 7 goals   |

|  |                |    |  |
|--|----------------|----|--|
| His role   | 8              | 11 |  |
| Reporting directly to Parliament                   | 2              | 17 |  |
| <b>PART E LEGISLATION</b>                          |                |    |  |
| Children's Act                                     | 16             | 3  |  |
| Changes to legislation                             | 9              | 10 | Primarily CYP & F Act but Education, Privacy, Care of Children, Commissioner |
| UNCROC in legislation                              | 3              | 16 |  |
| <b>PART F SUBMISSION FORMAT</b>                    |                |    |  |
| Variable   |                |    |  |
| <b>PART G ITEMS OF COMMON INTEREST</b>             |                |    |  |
| Action Plan children                               | 18             | 1  |  |
| Minister for Children                              | 7              | 12 |  |
| Childrens Select committee                         | 0              | 19 |  |
| Children's Impact Assessment                       | 10             | 9  | Variation in scope   |
| Information sharing                                | 16             | 3  | Wide range of content  |
| Mandatory Reporting required                       | 0              | 19 | some cautious support?   |
| Role of Local Government                           | 5              | 14 |  |
| Voice of the Child                                 | 5              | 14 | Art 12 inference   |
| Children's participation                           | 3              | 16 | Participation in submission  |
| Vulnerability of children                          | 13             | 6  | Wide discussion on meaning   |
| Recommendations                                    | 19             | 0  | Wide range of formats, sometimes difficult to identify                       |
| <b>PART H ITEMS OF PARTICULAR INTEREST</b>         |                |    |  |
| Variable   | See Appendix 3 |    |  |
| <b>PART I MAORI CHILDREN / FORTHCOMING INQUIRY</b> |                |    |  |
| Treaty of Waitangi                                 | 16             | 3  |  |
| Inquiry  | 4              | 15 |  |
| Maori children mentioned                           | 16             | 3  | Specific references rather than whanau/family                                |

**Appendix 2  
Responses to Green Paper for Vulnerable children**

## **Purpose**

This paper seeks to identify website responses to the Green Paper for Vulnerable Children primarily from child advocates and notes others held on file.

ACYA

[http://www.acya.org.nz/site\\_resources/library/Documents/Submissions/ACYA\\_Submission\\_Green\\_Paper\\_on\\_Vulnerable\\_Children\\_2012.doc](http://www.acya.org.nz/site_resources/library/Documents/Submissions/ACYA_Submission_Green_Paper_on_Vulnerable_Children_2012.doc)

BARNARDOS

<http://www.barnardos.org.nz/About/Overview/Media-releases.htm>

CHILD POVERTY ACTION GROUP

<http://www.cpag.org.nz/assets/Submissions/CPAG%20GPVC%20Submission.pdf>

CHILDREN'S COMMISSIONER

[http://www.occ.org.nz/\\_data/assets/pdf\\_file/0004/9364/FINAL\\_Green\\_Paper\\_Childrens\\_Commissioners\\_submission\\_Feb\\_2012.pdf](http://www.occ.org.nz/_data/assets/pdf_file/0004/9364/FINAL_Green_Paper_Childrens_Commissioners_submission_Feb_2012.pdf)

ECPAT

on file

EVERY CHILD COUNTS

[http://www.everychildcounts.org.nz/\\_w/wp-content/uploads/2012/03/ECC-GP-submission-Feb-2012.pdf](http://www.everychildcounts.org.nz/_w/wp-content/uploads/2012/03/ECC-GP-submission-Feb-2012.pdf)

FAMILIES COMMISSION

<http://www.nzfamilies.org.nz/sites/default/files/downloads/submission-green-paper-for-vulnerable-children.pdf>

HUMAN RIGHTS COMMISSION

<http://www.hrc.co.nz/2012/children-consulted-for-submission-on-green-paper-for-vulnerable-children>

IHC

<http://www.ihc.org.nz/campaigns/submissions-to-government/>

JIGSAW

[http://www.jigsaw.org.nz/Site/News\\_and\\_Views/Jigsaw\\_Submission\\_on\\_Green\\_Paper.aspx](http://www.jigsaw.org.nz/Site/News_and_Views/Jigsaw_Submission_on_Green_Paper.aspx)

KIM WORKMAN

<http://www.rethinking.org.nz/Default.aspx?page=3427>

ManaiaPHO  
On file

NZCCSS  
[http://www.nzccss.org.nz/uploads/publications/  
Green%20paper%20submission%20NZCCSS.pdf](http://www.nzccss.org.nz/uploads/publications/Green%20paper%20submission%20NZCCSS.pdf)

PAEDIATRIC SOCIETY  
<http://www.paediatrics.org.nz/index.asp?pageID=2145864761>

Plunket  
<http://plunket.org.nz/what-we-do/advocating-for-the-best-start/submissions-and-upcoming-opportunities/plunket-s-submission-on-the-green-paper-for-vulnerable-children/>

SAVE THE CHILDREN NZ  
<http://www.savethechildren.org.nz/news/newsroom/february-2012/23-02-12>

SSPA  
<http://sspa.org.nz/images/stories/SSPAGPSub.pdf>

UNICEF NZ  
<http://www.unicef.org.nz/greenpapersubmission>

YOUTHLAW  
On file

### **APPENDIX 3 GREEN PAPER SUBMISSIONS: ITEMS OF PARTICULAR INTEREST**

#### **ACYA**

|                               |   |
|-------------------------------|---|
| UCROC view of child wellbeing |   |
| Marmot Review                 | Page 3                                      |
| Ready by 21                   | Page 4                                      |
| UNCROC Monitoring group       | Page 2 ( including previous Advisory Group) |
| Cross Party agreement         | Page 7                                      |

#### ***Barnardos***

Child participation a very strong element  
Cross Party support  
Seven Goals of Children's Commissioner  
Child Help Lines development

### ***Children's Commissioner***

Seven core goals Page 6  
Neglect Page 2 emphasis

### ***CPAG***

Poverty Page 6,ad re- occurring theme  
Rejection of many Questions posed Pages 19 -29  
Agenda for Children Pages 2, 13, 21 shortcomings  
Marmot review Page 6

### ***ECPAT***

Response to sexual exploitation reflecting the specialist nature of ECPAT

### ***Every Child Counts***

Seven goals similar to Commissioner Pages 4 & 5  
Marmot Review Page 7

### ***Families Commission***

Child wellbeing is locked into family wellbeing  
Whanau wellbeing is a paramount issue, see page 7

### ***Human Rights Commissioner***

Agenda for Children page 5 failure  
Bullying page 28-32  
Children's participation & quotations pages 2-6  
Human Rights framework Page 1

### ***IHC***

Specialist response to intellectually disabled children and their families  
Seven goals similar to Commissioner Page 16

### ***Jigsaw***

Whanau given substantial attention  
Maori capability framework  
Weaving Pathways Dr Cindy Kiro page 25

### ***Kim Workman***

Punitive approach to justice and school management for stand downs, expulsions challenged  
Victory Primary School integrated support services page 14

### ***Manaia Public Health Organisation***

Local health care and community responsibility concept  
Child Friendly Cities page 6

**NZCCSS**

Impact of social policies emphasised through a Christian perspective

***Paediatric Society New Zealand***

Child health professionals views

***Plunket***

Provision of health services, parent education and support services with emphasis from birth to age 5

***Save the Children New Zealand***

Part Two Children's Participation, page 7

Save the Children "Child and Youth Council (CYC), page 1

Ministerial Committee on Poverty, page 5

***Social Services Providers Aotearoa***

The theme of social context is strong.

SSPA ran public seminars, 500 attendees with excellent papers

***UNICEF NZ***

The Rights of Children and Young Persons (Wales) Measure Page 5

Cross party accord wanted Page 6

***YouthLaw***

a) Vulnerable Children's Register with outline para 2.3-2.12

b) Drug Court para 2.12, 4.5

c) Independent Education Appeal Authority for review of suspensions and expulsions para 3.7/8

d) Disabled children para 3.13/14