

Office of the Children's Commissioner feedback - the Productivity Commission: A Fair Chance for All

The Office of the Children's Commissioner (the OCC) represents 1.2 million people in Aotearoa New Zealand under the age of 18, who make up 23 per cent of the total population. Like most New Zealanders, we want every child to grow up knowing they belong with a whānau that has what they need to live their best life.

We advocate for the interests of children and young people, ensure their rights are upheld, monitor places where they can be detained, amplify their voices and ideas, and help government agencies to listen and act on them.

Thank you for the opportunity to submit on the Productivity Commission's (the Commission) report, '*A fair chance for all – Breaking the disadvantage cycle*'.

What the OCC would like to see in the Terms of Reference

1. The OCC would like to see the Commission's Terms of Reference prioritise the wellbeing of children and young people and to identify the barriers to opportunities they, and their whānau need, to live their best lives.¹
2. This inquiry should be underpinned by, and give effect to, Te Tiriti o Waitangi. Te Tiriti is essential to realising and understanding the rights, interests and wellbeing of mokopuna² Māori and their whānau. Article two denotes the rights of Māori to tino rangatiratanga including over lands, homes and treasures. A kōrero with Māori (including hapū and iwi) needs to be initiated to discuss how tangata whenua may wish to be involved from the beginning of the inquiry, not when the project is further along.
3. The inquiry should recognise and embed children's rights as articulated in the United Nations Convention on the Rights of the Child (the Children's

¹ Our approach is shaped by our statutory responsibilities to promote and enhance the rights, interests and wellbeing of mokopuna, and by Te Rautaki, our strategic framework. The three workstream priorities under Te Rautakai are:

- a) Advocating for the elimination of racism in the public sector and advocating *by Māori, for Māori* approaches for mokopuna Māori¹
- b) Prioritising the views of mokopuna and increasing public sector capability to listen and act on them
- c) Advocating for improved mental wellbeing for mokopuna and their whānau.

² Drawing from the wisdom of Te Ao Māori, we have adopted the term mokopuna to describe all children and young people aged under 18 years of age. This acknowledges the special status held by mokopuna in their whānau, hapū and iwi and reflects that in all we do. Referring to the people we advocate for as mokopuna draws them closer to us and reminds us that who they are, and where they come from matters, at every stage of their life

Convention).³ Children's wellbeing can only exist when they have their rights fulfilled including the rights to health, to survival and development, to be free from discrimination, to have their best interests considered, to play, to access and express their religion and culture, and to participate and have their voices heard and considered.

The OCC has four main points of feedback to the Commission

- A true shift in wellbeing requires a system-level approach. This requires an analysis of the system structures and design to ensure equitable access to wellbeing for all. This also requires an analysis of the barriers to wellbeing, including (but not limited to), systemic-discrimination and colonisation.
- The inquiry must fulfill the Crown's obligations under Te Tiriti o Waitangi.
- To understand system drivers of wellbeing, the inquiry must examine the systemic causes of *intergenerational advantage* alongside *disadvantage*.
- Mokopuna should be a central focus of the inquiry.

A true shift in wellbeing requires a system-level approach

4. In its consultation document the Commission has recognised that the system creates inequitable outcomes. The OCC suggests that these inequities are not caused by an operational/outlying fault in the system but are rather 'baked in' to its design.
5. Persistent disadvantage for some is the predictable consequence of a system functioning in the way it was designed to. The current system is designed in a way that creates 'winners and losers'. The disproportional advantage of some individuals (or groups) are a result of the system design, along with the disproportional disadvantage experienced by others.
6. The key focus of the inquiry should be on the changes required to build a resilient system that achieves high wellbeing for all, particularly children. An analysis of persistent disadvantage requires the identification of the systemic barriers preventing some individuals and groups accessing the capabilities they need to live their best lives. This analysis reveals the flaws in the system, rather those of individuals or groups.
7. As we discussed in our meeting on 9 August 2021, having a view that people are "stuck" in persistent disadvantage can mask problems with the system and place

³ <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CRCy.aspx>

an onus on individuals. This framing is unhelpful and should be avoided. As should language around “chance”.

8. If it is accepted that the system design is faulty, then we know targeting interventions towards individual people or individual families will not solve persistent disadvantage. As long as the barriers to wellbeing are in place, whānau will consistently be disadvantaged and the cycle will continue.
9. When we talk about systemic barriers, we mean, (but not limited to): colonisation; institutional, systemic and structural racism; ableism,⁴ intergenerational trauma; inequities in the deliveries of services such as health (including the first 1,000 days) and education; imbalances in the tax and income system; discriminatory contact with the justice system; poverty; and inadequate housing.
10. The Welfare Expert Advisory Group’s report, *Whakamana Tangata – Restoring Dignity to Social Security in New Zealand*,⁵ outlines clearly how the welfare system could be changed to meet the needs of New Zealanders now and in the future. This report is relevant to the aforementioned systemic barriers.
11. The Terms of Reference needs to be re-positioned to make it clear that colonisation is not a thing of the past and to be clear that the Crown is not meeting its obligations under Te Tiriti o Waitangi.

Fulfilling the Crown’s obligations under Te Tiriti o Waitangi

12. Te Tiriti o Waitangi is the crucial starting point to considering children and young people’s rights and wellbeing – including collective wellbeing. Te Tiriti establishes the framework for the co-existence of tino rangatiratanga and kāwanatanga within which the rights of mokopuna Māori must be read.
13. Te Tiriti provides for an equitable, transparent and culturally appropriate way to uphold and implement the rights of tamariki and rangatahi Māori and all children and young people in Aotearoa New Zealand. We encourage the Productivity Commission to draw on the literature and expertise of Māori leaders to better understand the collective nature of te ao Māori values, including mātauranga Māori and strengthen efforts to ensure that tamariki and rangatahi Māori can exercise their rights collectively within their whānau, hapū and iwi.
14. The concept of community is inherent in *He Ara Waiora* and should be explicit in the analysis. The places where people live, work, go to school and play, and the people connected with them in these places have a significant impact on

⁴ Outcomes for disabled people are usually poorer than their counterparts.

⁵ <http://www.weag.govt.nz/weag-report/whakamana-tangata/>

wellbeing. This is both relational and place-based. Looking at place-based community allows a range of indicators to point to wellbeing.

Balancing the approach to look at intergenerational *advantage* and wellbeing

15. An analysis of the system structures required to achieve wellbeing for all demands an understanding of the system drivers of intergenerational *advantage* alongside intergenerational disadvantage.
16. The aim should be to understand what it means to have a system designed and structured to support intergenerational wellbeing for everyone.
17. We support the wellbeing focus in the Terms of Reference. We believe this must be the starting point.
18. The te Ao Māori wellbeing domains in the framework need to have agreed indicators associated with them. For example, material wellbeing should be defined (as it is with material hardship). Then the “problem” is not how to “fix” those in material hardship, and help them to move out of that state, but instead how to ensure material wellbeing is available to all and to identify the barriers to that.

Ensuring mokopuna remain an essential focus group of your inquiry

19. The OCC’s vision is that all mokopuna live their best lives.
20. The greatest impact on population wellbeing can be achieved by addressing the social determinants of wellbeing in the first 1,000 days.
21. Brain development in the first 1,000 days is influenced by the environments pēpi live in and the experiences they have.
22. We need to remove the stressors on whānau that cumulate in the toxic stress that impacts on brain development. Address social determinants such as racism, poverty, housing, discrimination, social connection, culture, and whānau aspirations and dreams for themselves and pēpi.
23. The Southern Initiative’s report *Early Years Challenge: Supporting parents to give tamariki a great start in life* has evidence and stories around the importance of the early years. See:
<https://static1.squarespace.com/static/5cf74c8f2829e20001db724f/t/5d0dc5ae247fa10001df4e30/1568803263111/Early+Years+Challenge>.
24. There is ample evidence in the literature of the socio-economic value of investing in the early years. This includes the positive impacts on educational outcomes, mental wellbeing, family wellbeing, economic growth and social cohesion.

25. To understand how an inquiry, policy, legislation or service delivery affects children or young people we recommend that the Commission undertake a Child Impact Assessment: <https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/resources/child-impact-assessment.html>.
26. The OCC supports the public submission made from the Child Poverty Action Group.⁶

Where should the Commission focus its research effort?

27. We support the Commission undertaking community engagement as part of its research. This ensures that the information shaping the inquiry is outside of the traditional findings which arise from academic or policy streams of research.
28. We encourage previous literature being utilised in the first instance and for any engagement to be undertaken in a way which is in the best interests of those who the Commission talks to. This is to minimise engagement fatigue and prevent disillusionment with the machinery of Government.
29. There is a large body of work in this space to draw on. For example, the Expert Advisory Group on Solutions to Child Poverty.⁷
30. Children and Young People have shared their views of what makes a good life for them, and their whānau, see *What Makes a Good Life*.⁸ This research report supported the development of the Government's Child and Youth Wellbeing Strategy.

Existing voices and resources

31. The OCC has a range of reports which are based on engagements with children, young people and their whānau. See: <https://www.occ.org.nz/listening2kids/what-children-tell-us/>
32. The two *Te Kuku o Te Manawa* reports are the result of a thematic review into the policies, processes and practices of Oranga Tamariki relating to care and protection issues for pēpi Māori aged 0-3 months. These reports present the insights from mums and whānau and a review of existing statistical data and literature. *Te Kuku o Te Manawa: Moe ararā! Haumanutia ngā moemoeā a ngā tūpuna mō te orange o ngā tamariki* stated that to keep pēpi in the care of their whānau, Māori must be recognised as best placed to care for their own. This

⁶ <https://www.productivity.govt.nz/assets/Submission-Documents/a-fair-chance-for-all/Sub-048-Child-Poverty-Action-Group.pdf>

⁷ <https://www.occ.org.nz/publications/reports/final-report-solutions-to-child-poverty-evidence-for-action/>

⁸ <https://www.occ.org.nz/publications/reports/what-makes-a-good-life/>

involves 'by Māori, for Māori' approaches that are enabled by the transfer of power and resources from government to Māori.

33. *Te Kuku o Te Manawa* presented six areas of change, which are also relevant to the Commission's inquiry. Of note are the findings around, treating mums and their whānau with humanity; whānau needing the right support from the right people; pēpi Māori and their whānau are experiencing racism and discrimination; and the system needs to work in partnership with whānau, hapū and iwi so they can exercise tino rangatiratanga. See:
<https://www.occ.org.nz/publications/reports/te-kuku-o-te-manawa/> and
<https://www.occ.org.nz/publications/reports/tktm-report-2/>.
34. For the *What Makes a Good Life?* report the OCC and Oranga Tamariki engaged with over 6,000 children and young people and from what they told us, we identified four key insights about what a good life means, and what we could focus on to improve wellbeing for all children and young people. See:
<https://www.occ.org.nz/publications/reports/what-makes-a-good-life/>.
35. The OCC and Oranga Tamariki spoke to a range of demographics during our engagement for *What Makes a Good Life?* and have published summary follow up reports:
- a. *What Makes a Good Life for Tamariki and Rangatahi Māori?*
<https://www.occ.org.nz/publications/reports/tamariki-rangatahi-maori-summary-report/>
 - b. *What Makes a Good Life? Follow-up report: Views of children and young people in care on wellbeing.*
<https://www.occ.org.nz/publications/reports/views-of-children-and-young-people-in-care/>.
 - c. *What Makes a Good Life for Young Parents?*
<https://www.occ.org.nz/publications/reports/young-parents-summary-report/>.
36. The OCC has done a range of work on Child Poverty. This can be found here:
<https://www.occ.org.nz/our-work/child-poverty/>. Of particular relevance: is The Child Poverty Monitor: <https://www.childpoverty.org.nz/>.
37. In March 2021 the OCC established the Expert Advisory Group (EAG) on Solutions to Child Poverty.
- a. The aim of the EAG was: "*advice [...] that would result in a systemic approach to defining the causes and consequences of child poverty, which drew on the best available local and international evidence, including actions*

taken in similar countries. The advice in this report addresses the specific needs of Māori and Pasifika children. The advice includes short-term actions to reduce child poverty and its effects that are realistic, pragmatic, effective, and takes into consideration current and likely future fiscal constraints. A longer-term strategy for reducing child poverty and its negative effects is also proposed”.

- b. The Expert Advisory Group to Solutions on Child Poverty report, *Solutions to Child Poverty in New Zealand Evidence for Action* can be found here: <https://www.occ.org.nz/assets/Uploads/EAG/Final-report/Final-report-Solutions-to-child-poverty-evidence-for-action.pdf>.
- c. Further work from the EAG and the OCC can be found here: <https://www.occ.org.nz/publications/expert-advisory-group/?start=0>.

38. In our hui we discussed the *Weaving our Strengths* paper. See: <https://inspiringcommunities.org.nz/wp-content/uploads/2019/04/Weaving-our-Strengths-Report-May-2018.pdf>.
39. We encourage that work done takes the Child and Youth Wellbeing Strategy into account. <https://chilyouthwellbeing.govt.nz/>.

Engagement with mokopuna

40. The OCC encourages seeking the views of mokopuna. We have information on our website which may be helpful as a starting point. See: <https://www.occ.org.nz/listening2kids/how-you-engage/>. We can provide further advice if needed.

Additional comments about the Commission's Terms of Reference

41. Page 2: Use of the He Ara Waiora model is at odds with the economic and individualistic framing permeating the rest of the Commission's paper. We suggest starting the paper from the foundation from this framework, which is built on te ao Māori knowledge and perspectives on wellbeing.
42. Pages 5-6: Implies that colonisation and land-dispossession occurred in the past. However, colonisation and breaches of Te Tiriti o Watangi are still pervasive today.
43. Climate change is one of the biggest crisis' facing the world today. This will further exacerbate inequities, particular for our Pacific neighbours. This deserves mention in your inquiry.
44. Disabled people are often locked in cycles of persistent disadvantage and require specific interest in your inquiry.

45. The OCC recently gave feedback to the Treasury on their Living Standards Framework (LSF) development. The work the Treasury is doing is relevant to your inquiry.

- a. The OCC's feedback included that people's day to day lives are in most cases not individually determined but are a result of structural and systemic settings and limitations. The evolution of the LSF provides the Treasury with an opportunity to consult with various groups about what wellbeing means to them so that Government economic advice is inclusive of diversity, is non-discriminatory and prioritises the wellbeing of children and young people.