

Regulatory Impact Statement Investing in New Zealand's Children and Families: organisational form to support new operating model

Agency Disclosure Statement

This Regulatory Impact Statement has been prepared by the State Services Commission (SSC) in consultation with the Ministry of Social Development (MSD).

It provides an analysis of options for the organisational form required to give effect to the operating model for investing in New Zealand's children, young people and their families recommended by the Modernising Child Youth and Family Expert Panel (the Expert Panel) and agreed by the Cabinet Social Policy Committee (SOC) [SOC-16-MIN-0023]. The new operating model includes a single point of accountability for ensuring a coherent and complete response for vulnerable children and families.

SOC invited the Ministers of State Services and Social Development to report back with recommendations on organisational form by 4 May 2016.

The analysis does not include non-structural options for improving services and interventions for vulnerable children, young people and their families, such as collective impact models or other collaborative arrangements, because these involve shared accountability rather than a single point of accountability.

The new operating model will result in significant changes to the way that services for vulnerable children and families are delivered, and this will affect individuals and families, as well as staff in the affected agencies. This Regulatory Impact Statement addresses the issue of organisational form for the new operating model. The choice of organisational form for delivering the operating model will have an impact on staff in affected agencies. There is also a need to ensure continuity of service during the period of organisational change. This Regulatory Impact Analysis has been undertaken on this basis.

Establishing a new department will require an Order in Council. Other legislative changes will be required to give effect to the proposed operating model and will be progressed in two stages:

- Stage One will consist of an initial bill to amend the upper age in the definition of a young person for the purposes of the care and protection provisions of the Children, Young Persons, and Their Families Act 1989. A separate Regulatory Impact Statement was prepared for this proposal.
- Stage Two will be a more complex and wide-ranging set of legislative reforms to give effect to the proposed new operating model, including changes to the Vulnerable Children Act 2014 in light of new institutional arrangements.

We note that the bulk of the legislative changes required to give effect to the proposed operating model are included in the second stage of reforms, and will be subject to Regulatory Impact Analysis at that stage as required.

A Regulatory Impact Statement on organisational form was drafted by MSD as part of developing the advice on the operating model considered by SOC in March 2016 [SOC-16-MIN-0023]. This Regulatory Impact Statement draws on the Regulatory Impact Statement prepared by MSD as well as on further analysis undertaken by SSC and MSD to inform advice on organisational form.

Key constraints on the analysis undertaken to date by SSC and MSD include:

- The proposals of the Expert Panel were developed independently and included broad consultation and expert input. The Expert Panel process undertaken did not include specific consultation on the proposals for organisational form with affected agencies.
- Agencies have since had the opportunity to consider the Expert Panel report in more detail. Further work on the impacts on agencies and across the social services system, is planned as part of the future report-backs referred to in this report and in the previous Cabinet decisions made on 30 March 2016.
- Cabinet has agreed many of the key features of the proposed new operating model. These agreed features form the basis for our analysis, that is, we have not considered options that separate statutory and non-statutory functions, apart from the status quo option.
- The functions that are expected to be included in the new operating model have been identified but these will be subject to further analysis and final confirmation in July 2016.
- Detailed work on the potential cost implications of each option has not been undertaken. While it is considered at this stage that the options are likely to be similar in cost, further detailed work needs to be undertaken on the preferred option.
- The agreed new operating model is subject to further detailed design. Our understanding of how the operational implications of the options differ is therefore limited.
- Limited use has been made of evidence and research because the implications of different structural arrangements are highly dependent on the specific circumstances in which they occur. There is evidence available on the implementation of structural reform, and this will be drawn on to inform the implementation of the chosen option.
- Further policy and legislative changes to give effect to the proposed new operating model will be considered by Cabinet later in the year.

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Executive summary

In April 2015, the Minister for Social Development established the Modernising Child, Youth and Family Expert Panel (the Expert Panel) to develop a plan for the modernisation of Child, Youth and Family [SOC Min (15) 2/2].

The Expert Panel has developed a proposal for a new, child-centred operating model with clear accountabilities for meeting the needs of vulnerable children, young people and their families. Current organisational arrangements are unlikely to give effect to the proposed new operating model, as they:

- may not drive both the short and long term changes required to support the new operating model
- do not allow for the concerted focus on children that the proposed new operating model is based on
- do not provide the clear accountability arrangements called for by the Expert Panel.

Eight options for structural reform were considered that could deliver key elements of the new operating model. Six options were combinations of two main public service organisational forms:

- a separate department, or
- a department hosting a departmental agency – a new organisational form enabled by the Better Public Services Reforms.

The status quo and a new Children's Service business unit within the Ministry of Social Development (MSD) were also considered.

Crown entity organisational forms were not considered. Crown entity organisational forms are inappropriate given the coercive nature of the proposed agency's statutory powers.

Non-structural options for improving services and interventions for vulnerable children, young people and their families, such as collective impact models or other collaborative arrangements, were not considered because these involve shared accountability rather than a single point of accountability.

The eight options were assessed for best fit against key objectives and criteria including the status quo. This assessment generated a shortlist of four options for a new children's entity:

1. a new children's entity as a stand-alone department (as recommended by the Expert Panel)
2. a new children's entity as a department hosting one departmental agency – other MSD operations reconfigured as a departmental agency
3. a new children's entity as a departmental agency hosted by MSD
4. a new children's entity as one of two departmental agencies hosted by a new host department (e.g. the strategic and policy functions of MSD reconfigured as a Ministry for Social Sector) – the new children's entity and other MSD operations would both be departmental agencies.

Further rounds of assessment were then undertaken. Officials' assessment is that option 1, a new children's entity as a stand-alone department is the clearest fit with the agreed new

operating model. Options involving a combination of host department and departmental agencies are not recommended for this operating model in view of the significance and scale of the proposed reforms. A stand-alone department:

- provides the clearest signal of the level of transformation envisaged and is considered most likely to engender the leadership and cultural changes required
- best supports the Expert Panel's recommended child-centred approach, as a stand-alone department would have an exclusive focus on children and families
- ensures full consolidation of policy and operational functions relating to vulnerable children under a single chief executive, and thereby facilitates the implementation of the social investment approach for vulnerable children.

Organisational form alone is unlikely to be a strong enabler of the proposed operating model. Furthermore, the strong vertical integration of a stand-alone department has the potential to exacerbate existing barriers to cross-agency work. This is a trade-off evident in all of the options officials considered – all are essentially hierarchically-based organisational forms with structural differences that affect the relative strength and depth of vertical or horizontal integration.

As part of the creation of the new children's entity, there is an opportunity to consider the optimal arrangements for cross-sectoral functions, including the location of strategic social policy functions, as well as the configuration of social sector leadership, and the interface between different governance arrangements for sector collaboration (e.g. the Vulnerable Children's Board and Social Sector Board). This consideration includes the leadership and coordination of social investment approaches, including the future location of the Social Investment Unit, and a possible government chief actuary position. It could also include the most appropriate arrangements for coordinating research and evaluation activity across the social sector.

The establishment of the new children's entity as a stand-alone department will have such significant implications for the rest of MSD that it effectively creates two separate agencies:

- a new children's agency with all (or most of) the functions described in the Expert Panel's report, whose leadership role is in respect of vulnerable children, and
- a reconfigured MSD (a new social sector agency) whose enhanced strategic proposition comes from its existing capabilities and those it is already developing.

The implications of establishing the new children's entity for both agencies will be addressed in the July 2016 report-back to SOC on the functions that should be included in the new department.

On the basis of the analysis of options, it is recommended that a new department is established with responsibility for policy and operational functions relating to vulnerable children.

Background

There are a significant number of children and young people in New Zealand whose basic safety, emotional, physical, social, cultural or development needs are not met at home or in the wider community.

For example:

- it is estimated that around 230,000 children and young people currently under 18 may experience vulnerability at some point during their childhood¹
- data indicates that around 20 per cent of children and young people in any birth cohort are known to Child, Youth and Family by age 17².

Children and young people who have contact with Child, Youth and Family's care and protection and youth justice systems are some of the most vulnerable, as reflected in their disproportionately high likelihood of experiencing certain poor long-term outcomes.

While Government has sought to redesign the service landscape for vulnerable children and their families through the White Paper for Vulnerable Children and the Children's Action Plan, there have been ongoing and significant issues identified with how Child, Youth and Family operates.

In April 2015 the Minister for Social Development established the Modernising Child, Youth and Family Expert Panel (the Expert Panel) to develop a plan for the modernisation of Child, Youth and Family [SOC Min (15) 2/2]. The scope of the Expert Panel, as described in the terms of reference, included the interactions, alignments and responsibilities of Child, Youth and Family, Children's Teams and other relevant services.

On 14 September 2015, Cabinet noted the Expert Panel's Interim Report and noted that the Report signalled the need for a substantial, multi-year programme of transformational, system-wide change in order to deliver on our aspirations for vulnerable children [CAB Min (15) 75]. Cabinet also endorsed a child-centred system and an investment approach for vulnerable children as two of the building blocks for the new operating model [CAB Min (15) 75].

In its final report of December 2015, the Expert Panel identified a number of issues with the performance of the current system, and proposed significant changes to how the State seeks to meet the needs of vulnerable children and young people.

The Expert Panel's proposals involve the introduction of an investment approach to tilt the focus of the system towards children's wellbeing and away from immediate minimisation of risk of harm; and strategic partnership with caregivers, providers and other agencies to agree and work towards shared goals for children. It would involve significant cultural shifts to put children at the centre of the system, legislative and policy change, enhancements to service provision, greater engagement of New Zealanders, significant new investment, as well as significant changes to the operating model of the core agency involved in the system.

¹ This is based on analysis of the 1993 birth cohort. Centre for Social Research and Evaluation. (2012). *Children's Contact with MSD Services*. Wellington: Ministry of Social Development. Note this is a conservative estimate that assumes the same level of need today as the 1993 birth cohort.

² Ibid.

The Expert Panel recommended a new child-centred operating model with clear accountabilities for meeting the needs of vulnerable children and families. The new operating model was agreed by the Cabinet Social Policy Committee (SOC) [SOC-16-MIN-0023]. SOC invited the Ministers of State Services and Social Development to report back with recommendations on organisational form.

The proposals discussed in this Regulatory Impact Statement are part of the first stage of work to be submitted to Cabinet to implement the Expert Panel's proposals.

Objectives

The operating model proposed by the Expert Panel and endorsed by Cabinet aimed to address problems of fragmentation, accountability and focus on vulnerable children. It proposed to significantly extend the range of services provided to vulnerable children and young people, by taking a proactive and life outcomes-focussed approach to meeting their needs.

The key elements of the operating model that were endorsed by Cabinet are:

- Creating a single clear point of accountability and a common purpose across the system
- Creating a child-centred system
- Stronger system and organisational leadership and culture change
- Adopting a formal social investment approach to funding and service provision
- Putting a high degree of specific focus on improving outcomes for Māori children and young people
- Working with Pacific communities to significantly improve outcomes for Pacific children and young people
- Working with strategic partners and engaging all New Zealanders
- Extending the range of services provided and more effective evidence-based service provision
- Funding following the child including the ability to directly purchase
- Explicitly recognising and seeking to remediate the trauma that this group of children and young people may have suffered.

The criteria that were developed for assessing options for organisational form were largely focused on the ability to deliver key aspects of the operating model.

Organisational form alone however, is unlikely to be a strong enabler of the proposed operating model. Structural reform aimed at delivering an operating model focussed on vulnerable children and young people and their families, needs to consider the impact of changes on the wider social services system that also provides wider universal public services and targeted services for other vulnerable populations.

The criteria therefore also considered the trade-offs between delivery of the operating model and the view of potential wider system and sector developments, and their related risks and mitigations. The process of testing the options also considered and tested the extent to which

both the implementation of the operating model and possible directions for the future of the social sector might depend on the form chosen.

The criteria used for the first iteration of testing the options were:

- ability to drive the short and long-term changes required to support the new operating model
- strong, focused leadership in a structure attractive to high quality candidates
- clarity of governance and accountabilities
- focus/prioritisation of vulnerable children
- enabling effective continuation of existing MSD operations.

The major risks, mitigations and trade-offs considered in the second iteration were:

- giving the new agency all the levers it requires versus sector and system cohesion
- focusing the incoming chief executive on the necessary changes to the operating model versus impact and cost of change and disruption on current MSD operations
- experience of implementation of the different form options (proven versus new).

Key elements of form dependency that emerged in the trade-offs discussion were:

- the importance of a dedicated chief executive to the delivery of the new operating model. This is a combination of organisational and career status, “seat at the table” in key cross-agency discussions, direct relationship with/accountability to a Minister, and span of control
- whether a particular form choice for a new children’s entity would set a particular path for the organisation of the wider social sector, including the location of sector leadership functions including the Social Investment Unit.

Status quo

There are multiple agencies and service lines involved in meeting the needs of vulnerable children, young people and families.

- MSD delivers services to children and families:
 - Child, Youth and Family has the statutory responsibility for delivering care and protection and youth justice services
 - Community Investment contracts with non-government providers to deliver a range of early intervention and prevention services and programmes for families
 - MSD also administers the income support system and social housing.
- The Children’s Action Plan Directorate is responsible for implementation of the Children’s Action Plan, including the roll-out of local Children’s Teams across New Zealand.
- The Ministry of Education, schools, early childhood education services and tertiary providers meet the educational needs of vulnerable children, including through both

universal and targeted services to those at risk of poor educational outcomes, and through special education services to children and young people with disabilities.

- The Ministry of Health and District Health Boards provide universal and targeted health and disability services.
- The work of agencies in the justice sector, including the Police and the Department of Corrections, involves contact with vulnerable populations, including families with vulnerable children.
- Te Puni Kōkiri contracts with non-government organisations for the delivery of services for vulnerable families.

There are a range of different governance structures and varying levels of centralisation/devolution of accountability, decision-making, planning and funding. Accountability for outcomes is diffused across a number of agencies.

Provisions for ensuring joint accountability at a system level are included in the Vulnerable Children Act 2014, which requires chief executives from the Ministries of Education, Health, Social Development and Justice, and New Zealand Police to jointly develop and report against a vulnerable children's plan to collectively achieve the Government's priorities for vulnerable children.

The current configuration of social service delivery in New Zealand, including for vulnerable children, is the product of multiple historical factors, including changing Government policies and priorities, shifting conceptualisations of social issues, and an evolving social context. The structural arrangements for policy and operations relating to vulnerable children have developed in a piecemeal fashion, and have not been guided by a cohesive or comprehensive approach to addressing issues relating to vulnerable children.

Problem definition

The Expert Panel found that the current system does not perform well, resulting in poor outcomes for vulnerable children and high costs. The system is fragmented and disjointed, with a lack of clarity about respective roles and responsibilities of agencies, making it difficult for children, families and carers to navigate. The Expert Panel found that agencies do not sufficiently prioritise work with vulnerable children over their general accountability for universal services. Child Youth and Family, as the core agency working with vulnerable children, lacks a clear mandate to direct services from the wider sector towards helping families care for those children. The Expert Panel recommended that there should be more focus on prevention of harm and on providing stability for vulnerable children.

The Expert Panel proposed an ambitious and substantial reform programme that would significantly extend the range of services provided to vulnerable children and young people, by taking a proactive and life outcomes-focussed approach to meeting their needs. This included a new, child-centred operating model with clear accountabilities for meeting the needs of vulnerable children and families.

The operating model includes a single point of accountability for ensuring a coherent and complete response for vulnerable children and families, the introduction of an investment approach to provide a focus on children's wellbeing, an expanded range of services, strong and focussed leadership and more transparent oversight.

The proposed operating model for delivering the reform programme involves bringing together as many of the relevant functions and levers as practical in a single organisation (including statutory and non-statutory interventions, policy leadership and purchasing for the vulnerable children population) to provide a single point of accountability and focussed, more visible leadership.

The operating model functions are expected to include, in the first instance: Child, Youth and Family; the Children's Action Plan Directorate (including the Children's Teams, the Hub and the Vulnerable Kids Information System); the High and Complex Needs Unit in MSD; policy, research, evaluation and legislative functions, and data and analytics capability relating to community, family, care and protection, and youth issues; Child Youth and Family-focussed legal, communications, ministerial services and service design and Community Investment [SOC-16-MIN-0023]. These functions will be subject to further analysis and final confirmation in July 2016.

The problem definition for this Regulatory Impact Statement is to identify the most effective and practical organisational form given the operating model parameters agreed by Cabinet.

Current organisational structures are not optimal to give effect to the proposed new operating model

The underpinnings of the proposed new operating model outlined above require far-reaching, sustained change based on comprehensive redesign of the system.

Currently, no government agency that provides services to vulnerable children takes an exclusively child-centred approach, and agencies have multiple and competing priorities. An agency that has a sole focus on vulnerable children would support a child-centred approach as an organisational priority and would provide clear governance and accountability. While aspects of these proposals could be advanced under current arrangements, there is a risk that progress would be hindered by multiple priorities across service lines, with the result that services for vulnerable children would not be sufficiently prioritised over universal services.

The proposed new operating model would involve significant expansion of the powers, mandate, and breadth of functions of the agency responsible for vulnerable children. Further, it would involve the implementation of the strategic partnership approach, which is a fundamentally different model of working than the primarily in-house delivery that forms the basis of the current care and protection and youth justice systems.

Delivering this level of transformation will be challenging, and needs to be supported by a clear vision and purpose, driven by high-calibre, strong, visible leadership, represented at the highest levels. It will also require clear signalling of the level of change needed. There is a real risk that the constraints imposed by needing to work within existing organisational structures, practices and cultures, and the fragmented character of the current system will inhibit this.

The leadership and culture changes recommended by the Expert Panel are very large in scope. They require a concerted leadership focus on vulnerable children, and a mandate to achieve these changes. An agency dedicated to vulnerable children is likely to be better placed to provide this.

Options and impact analysis

Eight options for structural reform were considered that could help achieve the objectives set out above. Six options were combinations of two main public service organisational forms:

- a separate department, or
- a department hosting a departmental agency – a new organisational form enabled by the Better Public Services Reforms.

The status quo and a new Children's Service business unit within MSD were also considered.

Crown entity organisational forms were not considered. Crown entity organisational forms are inappropriate given the coercive nature of the proposed agency's statutory powers (for example the power to remove a child or young person from their family and place them under the custody of the chief executive, under the Children, Young Persons, and Their Families Act (1989)).

Non-structural options for improving services and interventions for vulnerable children, young people and their families, such as collective impact models or other collaborative arrangements, were not considered because these involve shared accountability rather than a single point of accountability.

With the exception of the status quo option, the following features that are part of the proposed new operating model were common to all options:

- A range of services for vulnerable children currently provided by MSD or in the wider social sector would be brought together within the purview of a single deputy chief executive or chief executive, as this would be necessary in order to give effect to the Expert Panel's proposed operating model. These include:
 - Child, Youth and Family
 - Community Investment (all or some functions)
 - Children's Action Plan Directorate
 - High and Complex Needs Unit.

Children and families would therefore have access to a wider range of services from a single entry point than at present.

- The role of non-government organisations that work with vulnerable children and families are proposed to change significantly due to their role in the strategic partnership approach.
- There is potential for a separate Minister to be established, and for the system to be supported by a newly configured Vulnerable Children's Board, with an independent Chair and independent members to provide the expertise needed for organisational design and transformation, commercial matters, and improving outcomes for Māori; and to provide an ongoing focus on achieving better results for children using an investment approach.
- Other agencies and Crown entities are proposed to have strengthened responsibilities and accountabilities for ensuring availability of effective universal and enhanced services

for vulnerable children, young people and their families. This proposal has legislative and financial implications and will be subject to analysis as part of the second stage of reforms.

- There will be one-off transformation costs, and costs associated with the proposed new operating model, but it is expected that these would be incurred irrespective of which option was progressed. At this stage a need for additional investment in back office functions has not been identified. Further detailed functional analysis work will confirm the exact division of functions between the new department and other agencies and the associated cost impacts.

The eight options were assessed for best fit against the first round criteria:

- ability to drive the short and long-term changes required to support the new operating model
- strong, focused leadership in a structure attractive to high quality candidates
- clarity of governance and accountabilities
- focus/prioritisation of vulnerable children
- enabling effective continuation of existing MSD operations.

Several options were discarded following the initial assessment:

- *Status quo*

While this was the least disruptive option, it was felt that this would not provide a platform for the desired changes in leadership, management and culture, and it would not lead to improvement in accountability, information sharing or integration between different agencies and organisations. It was also felt that it would be difficult to attract a change leader of the right calibre. It was considered that there was a key risk of no change in outcomes.

- *Enhanced business unit in MSD*

While this option had more potential than the status quo, it was considered that the lack of chief executive-level leadership and clarity of accountability and priority envisaged in the proposed operating model would make it difficult to effect the desired level of transformational change.

- *Creation of two new operational departments, or departmental agencies with a high level of autonomy, in addition to a social sector policy ministry*

These options would create more fragmentation within the social services sector and would be highly disruptive, which could distract from other elements of the transformation programme.

This assessment generated a shortlist of four options for a new children's entity:

1. a new children's entity as a stand-alone department (as recommended by the Expert Panel)
2. a new children's entity as a department hosting one departmental agency – other MSD operations reconfigured as a departmental agency
3. a new children's entity as a departmental agency hosted by MSD

4. a new children's entity as one of two departmental agencies hosted by a new host department (e.g. the strategic and policy functions of MSD reconfigured as a Ministry for Social Sector) – the new children's entity and other MSD operations would both be departmental agencies.

The working group undertook further rounds of assessment. Each option's ability to deliver key aspects of the operating model was re-scored against the criteria. Potential trade-offs between delivery of the operating model and wider sector and system direction were also assessed, together with their related risks and mitigations. The working group's overall assessment of the short-listed options is summarised below.

Rating Key (alignment with criteria)
Strong
Moderate
Weak

	NCE as a stand-alone department (NCE and MSD two separate departments with shared corporate services for 2 years)	NCE as a department hosting one departmental agency (remaining MSD operations reconfigured as a departmental agency)	NCE as a departmental agency (hosted by a reconfigured MSD)	NCE as one of two departmental agencies hosted by a new department (e.g. Ministry for Social Sector – NCE and other MSD operations both departmental agencies)
1. Ability to drive changes (short / long term) required to support the new operating model	<ul style="list-style-type: none"> - Provides strong signal and clear ability to drive change, and focus on vulnerable children - Corporate support will minimise distraction from need to establish new department 	<ul style="list-style-type: none"> - Signals importance of vulnerable children - However there is a risk that is distracted by back office functions and host agency role 	<ul style="list-style-type: none"> - Lowest signal regarding the importance of vulnerable children publicly - There is a risk that the wider MSD work programme takes priority over vulnerable children agenda 	<ul style="list-style-type: none"> - Lowest signal regarding the importance of vulnerable children publicly - There is a risk that the wider MSD work programme takes priority over vulnerable children agenda
2. Strong, focused leadership (structure attractive to high quality leadership candidates)	<ul style="list-style-type: none"> - Offers clear roles with clear focus - Will support recruitment of high calibre candidates at CE and 2nd Tier 	<ul style="list-style-type: none"> - NCE CE position likely to support recruitment of high calibre candidates - Dept agency CE and 2nd Tier candidates may be more difficult to source 	<ul style="list-style-type: none"> - MSD CE position likely to attract high calibre candidates - NCE CE position may be less attractive - will not have full control of all levers make changes required by the review but may still be held accountable for delivering the change 	<ul style="list-style-type: none"> - CE positions for departmental agencies may be less attractive than for stand-alone department option - NCE CE in particular will not have full control of all levers to make changes required by the review but may still be held accountable for delivering the change
3. Clarity of Governance & Accountabilities	<ul style="list-style-type: none"> - Clear and direct accountability / governance in a proven organisational form - However, there is potential for greater fragmentation on areas which lack clear ownership and require collaboration (e.g. child poverty), which must be mitigated 	<ul style="list-style-type: none"> - Core functions (strategic direction and financial accountability) are centred in the host agency - Accountabilities not as clear for departmental agency as stand-alone department option - NCE has large span of control for an unproven department form with unclear status 	<ul style="list-style-type: none"> - Core functions (strategic direction and financial accountability) are centred in the host agency - Accountabilities not as clear for departmental agency as stand-alone department option - Effectiveness of working arrangement with host dept CEO is critical to success in an unproven department form 	<ul style="list-style-type: none"> - Core functions (strategic direction and financial accountability) are centred in the host agency - Clear division of operational accountabilities - There is a risk of policy and operations lacking alignment, and departmental agency form is unproven
4. Focus / Prioritisation of Vulnerable Children	<ul style="list-style-type: none"> - NCE has clear focus on Vulnerable Children (sole priority) 	<ul style="list-style-type: none"> - NCE has primary focus on Vulnerable Children - However, there is a risk that their role as host agency will distract from this focus 	<ul style="list-style-type: none"> - NCE does not need to focus on corporate functions (not distracted) - However, host MSD priorities will be much broader - may lead to prioritisation issues in relation to support / specialist services 	<ul style="list-style-type: none"> - Clear operational focus on vulnerable children in NCE departmental agency - However, policy will compete with wider host agency policy priorities
5. Enables continuation of existing MSD operations	<ul style="list-style-type: none"> - Risks to sector strategic oversight - Shifting the full range of capabilities sought into a separate organisation may do real damage to the rest of MSD - Some disruption may occur with any split of corporate functions between Departments 	<ul style="list-style-type: none"> - Keeps capabilities in one organisation - Stewardship of welfare system through DA of host children's agency lacks alignment and priority - Sector leadership role unclear - Considerable disruption to MSD operations from refocusing and reprioritisation of work 	<ul style="list-style-type: none"> - Keeps capabilities in one organisation - Least initial disruption to MSD operations, clearer sector leadership role for host 	<ul style="list-style-type: none"> - Keeps capabilities in one organisation - Issue of policy and operations alignment - Highest risk of disruption from restructure (two new entities, DA form unproven)
Overall Rating	Strong	Medium	Medium	Weak

NCE = new children's entity

Discussion

In summary, it is considered that a stand-alone department for the new childrens' entity is the clearest fit with the agreed new operating model. This mirrors the recommendation of the Expert Panel. Options involving a combination of host department and departmental agencies are not recommended for this operating model, in view of the significance and scale of the proposed reforms.

Options for the new children's entity involving a departmental agency form were considered as a potential way to combine the benefits of:

- the scale, scope and flexibility of a large multi-functional department (i.e. MSD), and
- the greater focus of an autonomous departmental agency and separate Chief Executive directly accountable to a Minister, and
- reduced disruption and fragmentation of capability, and retention of integration between functions currently within MSD.

A departmental agency has its own Chief Executive who is responsible to a Minister for the activities and performance of the departmental agency [CAB Min (12) 16/10 refers]. The intent of the departmental agency form is to enable clearly identifiable operational functions to be undertaken autonomously while working within the framework of a 'host' department's strategic intentions and financial delegations.

However, officials' assessment was that options involving departmental agencies would apply a new and untested organisational form in a complex, large-scale and high-risk environment. It would also involve a range of functions and coercive statutory powers (for example the power to remove a child or young person from their family and place them under the custody of the chief executive, under the Children, Young Persons and Their Families Act (1989)) beyond the design intent for departmental agencies [Cab Min (12) 16/10 refers]. Finally, there are unlikely to be off-setting integration benefits within MSD as the main focus for the new children's entity is improved responsiveness and integration with the Education and Health sectors (including through direct purchase mechanisms).

Preferred option

Assessment concluded that the new children's entity should be established as a stand-alone public service department, being the organisational form that aligns most with the agreed new operating model.

Experience with departments since the late 1980s suggests that, of all the feasible options considered, a stand-alone department is the most likely to provide: a single point of accountability, clear organisational focus and the ability to attract strong leadership at the top.

Description of option

This option would create a new standalone department with its own Minister and chief executive.

It would involve:

- likely consolidation (to be confirmed in a later report to Cabinet) of the following functions (and associated staff and resourcing) from MSD and the social sector:
 - Child, Youth and Family
 - Community Investment (all or some functions)
 - Children’s Action Plan Directorate (including Children’s Teams, the hub and the Vulnerable Kids Information System)
 - the High and Complex Needs Unit
 - policy, research, evaluation and legislative functions, and data and analytics capability relating to community, family, care and protection, and youth issues
 - Child, Youth and Family-focused legal, communications, Ministerial services and service design.
- possible reallocation of funding from other departments where responsibility for existing functions has been transferred to the new department
- possible reallocation of funding from the Ministries of Health and Education, and Work and Income, to enable direct purchasing of services for vulnerable children from these agencies, or other providers if appropriate
- the entire system, including the future new department and other key agencies, being supported by a reconfigured Vulnerable Children’s Board, with an independent Chair and three independent members, to provide an ongoing focus on achieving better results for children using an investment approach.

The core service lines of the new department would be:

- prevention
- intensive intervention
- care support
- youth justice
- transition support.

The department would carry out these functions in a variety of ways using multiple delivery channels, and tailoring these to what is most effective for each type of activity. Increasingly, the department will use strategic partnerships to provide services. The department will also have the ability to directly purchase services for children, and would continue to provide direct delivery of some activities, such as statutory support for care. The department would have the policy and legislative functions associated with the Children, Young Persons, and Their Families Act 1989 and the Vulnerable Children Act 2014.

The department would require access to specialist capabilities from the start, and these would either be transferred from MSD, provided by MSD or be created, including:

- actuarial expertise and tools
- service design

- Ministerial services and communications
- capabilities including analysis, monitoring and evaluation, practice development
- strategic and planning functions such as workforce development, the design and architecture for technology, channels and data governance
- legal services.

Legislative implications

Legislative changes to give effect to the expanded breadth of functions, powers and mandate of the proposed new department under the proposed new operating model will be considered as part of the second stage of legislative reform, and will be subject to separate regulatory impact analysis. This includes any legislative changes required for:

- creating clear accountability for prevention activity, including prevention of youth offending, and strengthening responsibilities and accountabilities for other agencies and Crown entities to ensure availability of effective universal and enhanced services for vulnerable children and families
- establishing a single point of accountability for assessing the 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, and
- establishing a single point of accountability for meeting the full range of assessed needs for vulnerable children, young people and families requiring intensive intervention, including provision of therapeutic services, while ensuring that service provision to vulnerable children and families, particularly health services, remains aligned with services provided to the wider population.

Service implications

The implications associated with the establishment of a new department include:

- potential staff disruption and risks to service continuity. It is proposed that initially administrative and corporate support for the department could be provided by MSD through a service level agreement, including functions such as administration, payroll, IT operations and telecommunications. This would help to minimise transition risks and allow the department to focus on services to children and families/whānau, rather than building corporate services
- significant impacts on MSD, including for its role and purpose in the social sector (MSD, in consultation with SSC and Treasury, will provide the Minister for Social Development with ongoing advice that will cover the role of MSD, corporate services for the new department and specific boundary issues. The Minister will bring any significant issues or decisions that arise to Cabinet).

As discussed in the options table, the preferred option separates policy and operations for vulnerable children from those relating to other relevant parts of the social sector, including the benefit system and social housing. This potentially creates a new administrative silo for vulnerable children. Some of the implications of this are that:

- it may be more difficult for the social investment approach for vulnerable children to be integrated with the approach taken for other parts of the system, including the benefit system and social housing
- more broadly, it may cause issues with consistency and coherency of approach across vulnerable children and other vulnerable populations, and may act as a barrier to a strategic approach to vulnerable New Zealanders generally
- there may be overlaps in the target populations of the new department and MSD, and some families will be interacting with two departments rather than one; some families may be at the margins of the services provided by both agencies
- the new department will intersect with a number of other accountability structures at both national and local levels.

These issues are intended to be addressed by other reforms as part of the proposed new operating model, and should also be addressed by other work underway on social investment. In particular:

- the proposed new operating model is intended to provide greater clarity about accountabilities across the social sector by clarifying and strengthening other agencies' accountabilities around vulnerable children and families
- the role of the proposed reconstituted Vulnerable Children's Board with representation from chief executives across the social sector could help ensure consistency and coherency of strategic approaches towards vulnerable populations.

Cost implications

The implementation of a new operating model will have significant cost implications regardless of the structural option that is chosen to give effect to the operating model. The costs associated with the new operating model are not addressed in this Regulatory Impact Statement.

Detailed work on the potential cost implications of each option has not been undertaken. It is considered at this stage that the options are likely to be similar in cost. However, further detailed work needs to be undertaken to determine the cost implications of the preferred option.

There will be specific costs associated with the appointment and ongoing employment of a Chief Executive and leadership team for a new department, and some additional corporate costs relating to planning and disclosure requirements.

An initial estimate of establishment costs for the new department will be undertaken as part of the July 2016 report back on functional analysis.

At this stage, no other specific costs have been identified that are a direct result of the establishment of a new department. However, further detailed functional analysis needs to be undertaken to confirm the distribution of functions between the new department and other agencies and the associated cost implications. The assumptions that underlie the initial assessment that no additional investment will be needed specifically to support the new department are as follows:

- Some functions will need to be created in the new department. It is expected that this will be funded through a contingency mechanism. As part of the overall contingency fund, there is an allocation for any immediate leadership requirements and building additional specialist capability over time. This could include the cost of the new chief executive and other senior management team positions, and any other staffing changes – these details are yet to be developed. It would also cover any costs associated with new functions that the new department will have as part of its structure that are not currently provided by MSD (eg strategic partnering and market building).
- Where funding for overhead components (eg security, depreciation, property, capital change, finance, human resources, information technology) is transferred to the new department, it is proposed that these will be purchased through a Service Level Agreement for a minimum period of two years. Service Level Agreements could be used to continue to purchase current services for as long as is desirable. The services that would be covered by the Service Level Agreement will be confirmed through further work to be undertaken on functional analysis.
- Where parts of specialist MSD functions (eg policy advice; data, analytics and evidence services; planning, correspondence and monitoring) are being transferred to the new department, it is reasonable to expect some reorganisation of resources and possibly loss of economies of scale. For example, there may be some costs associated with replicating certain roles, or certain types of expertise that are currently held by a limited number of MSD staff, where these are required by both departments. At this stage there is no indication that any additional investment would be required over and above current funding levels. It may be possible to purchase some of these functions from MSD via a Service Level Agreement if desirable, or additional costs could potentially be met through the contingency mechanism if these require new specialist capabilities to be built.

A functional analysis report is to be provided to the Cabinet Social Policy Committee in July 2016 that confirms the final set of functions to be transferred across to the new department.

Where other aspects of the proposed new operating model require legislative amendment, the implications of these proposals will be the subject of further Regulatory Impact Analyses.

Implications for the Ministry of Social Development

The establishment of the new children's entity as a stand-alone department will have such significant implications for the operating model of MSD that it effectively creates two separate agencies:

- a new children's agency with all (or most of) the functions described in the Expert Panel's report, whose leadership role is in respect of vulnerable children,
- a reconfigured MSD (a new social sector agency) whose enhanced strategic proposition comes from its existing capabilities and those it is already developing.

The Expert Panel has proposed that the corporate support services for the new children's agency should be provided by the social sector agency built from the former MSD for a minimum of the first two years of operation. The intention is for these services to be provided at least for the first two years on a similar basis to the current provision. This will be done using a Service Level Agreement. Corporate services provision is a different type of business to MSD's current operations. This may require the new social sector agency to re-think its service model, in terms of both its customer focus and its cost-structure. Currently business

units are levied on a pro-rata basis for all services, rather than on the basis of services provided. When the two agencies are separated and one is providing corporate services for the other the service relationships will be fundamentally different, and how this works will need to be re-thought.

Implications for the wider social services system

The Better Public Services (BPS) reforms were driven by concerns that vertical accountability and the large number of separate agencies had become a significant constraint on the ability to work effectively across boundaries to get better results. The BPS reforms involved the development of specific roles, functions and enabling levers to better manage the State services as a system. Getting better outcomes for vulnerable children involves taking a whole of system approach and includes the wider context within which such children live. This includes interrelationships at individual, family and wider community levels.

The strong vertical integration of a stand-alone department has the potential to exacerbate existing barriers to cross-agency work. This is a trade-off evident in all of the options officials considered – all are essentially hierarchically based organisational forms with structural differences that vary the relative strength and depth of vertical or horizontal integration that can be achieved.

To manage the potential disadvantages of strong vertical integration in the new department, further work needs to be undertaken to explore mitigations and levers in relation to the future role of MSD and the direction of the social sector.

The Expert Panel proposed wider changes to ensure multi-agency buy-in to the direction set by the new children's entity. This included changes to governance arrangements including a reconstituted Vulnerable Children's Board (VCB), legislative changes to individual chief executive and other responsibilities to reinforce a child-centred operating model, and the formal establishment of a government chief actuary.

However, there is uncertainty about how effective these mitigations will be in practice and the wider implications for the sector. The future direction of the wider system is likely to include the following components:

- strengthened leadership of the social sector as a system, to enable, for example, a common view of investment of vulnerable populations as a whole
- a social investment approach embedded across the sector
- sponsoring better use of data and evidence across the sector
- supporting improved decision-making and service innovation
- putting the client at the centre of decision-making and a focus on outcomes.

As part of the creation of the new children's entity, there is an opportunity to consider the optimal arrangements for cross-sectoral functions, including the location of strategic social policy functions, as well as the configuration of social sector leadership, and the interface between different governance arrangements for sector collaboration (e.g. the Vulnerable Children's Board and Social Sector Board).

Consultation

The Expert Panel's high-level design of a new operating model was informed by a collaborative process with children, young people, families, caregivers, victims, experts from across the system, and an extensive review of local and international research. There was no specific consultation on the proposal to establish a new department.

Consultation on organisational form has been limited due to time constraints.

The analysis of options on organisational form was carried out by a cross agency working group that included the State Services Commission, the Ministry of Social Development, and the Treasury.

The draft May 2016 Cabinet Paper has been consulted with the Ministries of Health, Education and Justice; the Ministry of Business, Innovation and Employment; NZ Police; the Department of Corrections, Te Puni Kōkiri, the Ministry for Pacific Peoples and the Treasury. The Department of Prime Minister and Cabinet has been informed.

Members of the former Expert Panel secretariat were involved in the cross-agency working group that considered options for organisational form and the issues covered in the May 2016 Cabinet paper.

The Vulnerable Children's Board, which includes the Chief Executives of the Ministries of Social Development, Health, Education and Justice; Te Puni Kōkiri; the Ministry of Business, Innovation and Employment and NZ Police, have discussed the issues covered in the May 2016 Cabinet paper.

Conclusions and recommendations

On the basis of the analysis of options, it is recommended that a new stand-alone department be established with a single point of accountability for ensuring a coherent and complete response for vulnerable children and families.

Implementation plan

Further analysis will be undertaken to determine the functions to be included in the new operating model for the new children's agency. This is expected to cover what goes where in terms of the current functions, and it will also consider the implementation of the new social sector agency to ensure that:

- there will be no reduction in the standard or continuity of services provided to New Zealanders from those provided by MSD up until 31 March 2017
- the new social sector agency will provide specified corporate services to the vulnerable children's agency for a minimum of two years from 1 April 2017.

The analysis will also need to address how the functions, strategy and structure of the new social sector agency will:

- optimise its contribution to improved outcomes for New Zealanders
- optimise its contribution to the social sector

- enhance the performance of the social sector
- optimise the contribution of the social sector to improved outcomes for New Zealanders
- provide the opportunity for the new social sector agency to exploit future opportunities to enhance its contribution to the performance of the social sector and to improved outcomes for New Zealanders.

The functional analysis report back will therefore need to cover:

- an outline of the core role and functions of both the new children's entity and the new social sector agency including the unique value proposition of each to New Zealanders
- which functions (currently undertaken by the Ministry of Social Development) should be transferred to the new children's entity and which functions should be part of the new social sector agency
- options for names for each of the new agencies (if this is not agreed earlier).

The functional analysis will be reported to Cabinet Social Policy Committee in July 2016.

Next steps for a new department would involve:

- an Order in Council to insert the department's name into Schedule 1 of the State Sector Act
- recruitment of a chief executive to lead the process of establishing the new department, including organisational design, transition and implementation arrangements for the new operating model

A 2 year transition period is envisaged.

Monitoring, evaluation and review

The Transformation Programme will be governed and monitored at multiple levels.

Monitoring at all levels will comprise:

- project/programme progress reviews using an outcomes model
- financial performance
- assessment of risk and issues management
- benefits tracking.

Formal assurance oversight (Internal Audit and Independent Quality Assurance) will be separately undertaken and reported.

These proposals form part of a large set of reforms to develop a new operating model for responding to vulnerable children, young people and their families.

The success of the new system and department will be measured in a variety of ways. Further work will be required by the new department, Treasury and the State Services Commission to build a detailed performance framework, but it is expected to include the following dimensions:

- improved long-term outcomes for those vulnerable children and young people who are at significant risk of harm now or in the future as a consequence of their family environment, and/or their own complex needs; and for children and young people who have offended or may offend in the future
- reduced liability for future social, economic and fiscal costs
- reduction of churn in the number of care placements and stability of care through long-term relationships in safe and loving homes
- reduction in the rate of statutory response due to increased prevention and intensive support for children and families
- reduction of re-abuse and re-victimisation (including in care)
- reduction of re-offending rates for youth offenders
- reduction in the over-representation of Māori children and young people in care and the youth justice system.

The adoption of an investment approach also means that the overall impact of the department can be measured through assessing the reduction in the overall future cost (forward liability) for this group of vulnerable children and young people. The precise measure and associated targets can be determined once the actuarial model is in place.

Given the scale and magnitude of the support needed to establish strong foundations for the operating model for the new children's agency and its ambitious work programme, and due to difficulty predicting the appropriate allocation of strategic capabilities in such a dynamic environment, it is proposed that an assessment of the new department should be undertaken two years after the commencement of the new operating model (early 2019). This would be intended to ensure that the new children's department has all the support needed to operate effectively. The date for assessment could be aligned with the 2-year commitment for MSD to provide corporate services for the new children's entity, with further review points staged thereafter.