

Chair
Cabinet Social Policy Committee

INVESTING IN CHILDREN LEGISLATIVE REFORM: UNDERPINNING THE NEW OPERATING MODEL

TRANSITION TO INDEPENDENCE, FROM 18 TO 21 YEARS OF AGE

Proposal

- 1 This paper seeks agreement to legislative policy proposals to support the establishment of a transition support service to be included in a package of legislative reform, referred to in this paper as Bill No 2.

Executive Summary

- 2 Young people leaving care are among the most vulnerable in New Zealand.¹ Many have had their education disrupted while in care, and aspirations for their success and achievement can be low. For these young people, the transition to independence often comes early, abruptly and with little in the way of a safety net.
- 3 As a result, young people who have left care or a youth justice residential placement frequently experience poorer educational outcomes, are more likely to experience mental health issues, and have had fewer opportunities to develop life skills than their peers. They are more likely to live in unsafe, unstable and poor-quality housing or experience homelessness.
- 4 These issues can combine with and perpetuate one another. The loss of financial, emotional and housing support can create a major barrier to completing education and engaging with employment.
- 5 The Government is leading widespread reforms that will help to address these issues by developing a new operating model. Legislation is required to give effect to these reforms because it will influence the operational, cultural and behavioural changes that are required.
- 6 To this end, I am proposing a series of legislative amendments to the Children, Young Persons, and Their Families Act 1989 (CYPF Act) to strengthen the system that will support vulnerable young people to successfully take up the opportunities of adulthood.
- 7 The proposals cover:
 - new purpose statements and principles to guide decision-making that enable young people to successfully take up the opportunities of adulthood
 - amendments to create a right for a young person to remain, or return to, living with a caregiver up to age 21²
 - amendments to extend existing transition advice and assistance to age 21 for young people leaving care, Court wardship or a youth justice residential placement.³

¹ Modernising Child, Youth and Family Expert Panel. (2016). *Expert Panel Final Report: Investing in New Zealand's Children and their Families*. Wellington.

² Throughout the paper 'up to age 21' is defined as up to the twenty-first birthday.

- 8 These amendments may be strengthened further through proposals on accountabilities due to be considered by Social Policy Committee (SOC) on 12 October 2016, including proposals on whether advice and assistance services are extended to age 25.
- 9 I consider that legislative change is necessary to:
- send a clear signal that young people in care are entitled to continued 'care' and transition services up to age 21
 - ensure that the reforms are durable and can be equitably accessed
 - set a clear expectation for the Ministry for Vulnerable Children, Oranga Tamariki (the new Ministry) to provide this support
 - frame how the new Ministry will provide support to eligible young people.
- 10 These proposed amendments will underpin the transition service and improve outcomes for young people who have left care or the youth justice system.

Background

- 11 Young people leaving care are among the most vulnerable in New Zealand. This is reflected in data on outcomes into early adulthood, where young people leaving care are more likely than their peers to leave school without NCEA Level 2, be in receipt of a benefit, and receive a community or custodial sentence in the adult Corrections system.⁴
- 12 In March 2016, Social Policy Committee agreed to the establishment of a new transitions service as part of a new operating model for vulnerable children and young people [SOC-16-MIN-0023 refers]. This service will involve partnering with caregivers, community groups and agencies to ensure that young people leaving a care arrangement or youth justice residential placement get the care and support they need to grow into flourishing adults.
- 13 SOC also invited a report-back on areas for legislative change required to support the new operating model, including creating a right to remain in, or return to, care for young people aged 18 to 21 inclusive [SOC-16-MIN-0024 refers].
- 14 There will be a further report-back to SOC on 12 October 2016, covering proposals to identify and meet the transition needs of young people up to age 25 and 'community parenting'.

Comment

- 15 This paper outlines proposals for legislative reform to enable the new operating model and the transition support service, to provide effective support for young people transitioning to independence up to age 21.

Problem definition and context

- 16 Young people leaving care or a youth justice residential placement are at risk of poor outcomes. They are likely to have high health needs and insecure or inadequate housing, and are less likely to engage with education and employment than their peers.⁵

³ Currently, section 386A of the CYPF Act allows for assistance to be provided for transition from care to independence up to age 20.

⁴ Modernising Child, Youth and Family Expert Panel. (2016). Expert Panel Final Report: Investing in New Zealand's Children and their Families. Wellington.

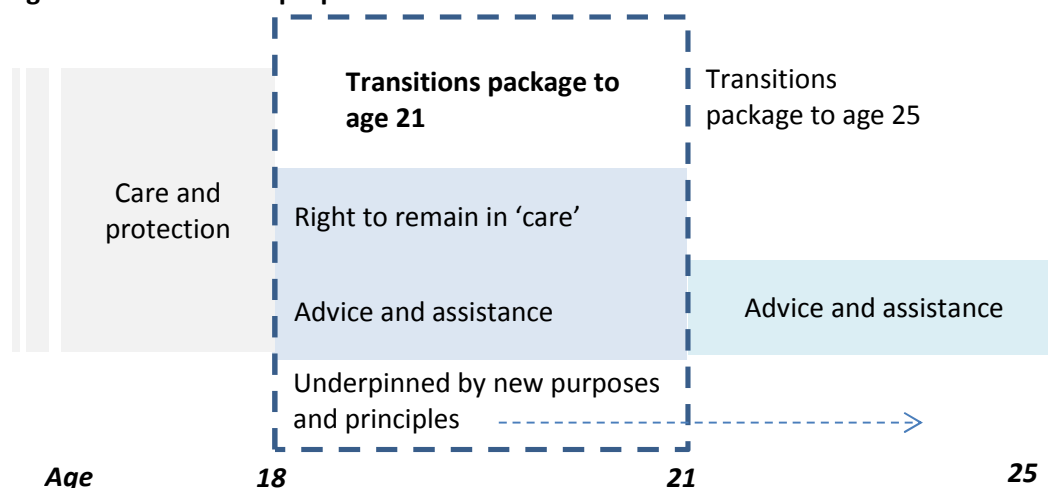
⁵ Ibid.

- 17 While most young people may receive help from their parents well into their twenties, young people leaving care or a youth justice residential placement tend to receive relatively little financial or social support after they leave the placement. Many also suffer from the enduring effects of childhood trauma and are less ready than their peers to live independently.
- 18 Typically, young people in these circumstances have had limited opportunities to take on responsibility and to safely test boundaries, to fail and recover. For these young people, the transition into adulthood often comes early, abruptly and with little in the way of a safety net.
- 19 Young people echoed this in their engagement with the Modernising Child, Youth and Family Expert Panel. They expressed feelings of considerable uncertainty about how they would support themselves when leaving care, and described their experience of struggling to meet essential needs, especially with respect to housing and income.⁶
- 20 The CYPF Act was recently amended by the Children, Young Persons, and Their Families (Vulnerable Children) Amendment Act 2014 to enable the administering department to provide advice and assistance to young people leaving care under section 386A.
- 21 While this amendment goes some way towards improving the system that supports young people to transition to independence, it does not go far enough to address identified issues.

Proposals to underpin transition to independence services

- 22 I propose three areas for legislative change to ensure that young people are effectively supported to transition into young adulthood:
 - new purposes and principles to guide decision-makers
 - creating a right to remain in or return to living with a caregiver
 - advice and assistance for transition to independence.
- 23 These proposals are the first package of reform to underpin the provision of transition services for young people up to age 21.

Figure one: Transition proposals



⁶ They expressed difficulty in navigating health services, managing finances, tasks such as cooking and cleaning, and accessing entitlements (such as financial and accommodation support).

- 24 I intend to submit further proposals to SOC on 12 October 2016 on other reform to enable transition to independence. This will include consideration of whether advice and assistance services are extended to age 25.

New objects and principles to guide decision-makers

- 25 The general objects, principles and duties in Part 1 of the CYPF Act and the care and protection principles in Part 2 provide insufficient guidance for decision makers on issues that are relevant to young people who are transitioning to independence and are not adequate to underpin a new transition support service. They do not provide sufficient guidance on the following issues:
- the young person should increasingly lead decisions about where they live and the supports they need
 - transition occurs over time, and it is normal for a young person to try a range of options and move in and out of independent living
 - opportunities and supports need to be maximised so that the young person has the relationships, networks and resources they need to be successful.
- 26 To address this, I propose that the following policy intent for purposes and principles is incorporated in the CYPF Act so that there is clear guidance for decision-makers on transition to independence to give effect to the following concepts:

Purpose

- enable young people to be ready to thrive as independent young adults, and for preparation for independent living to begin early (**new provision**)
- ensure young people have opportunities to have relationships with caregivers and other trusted adults that endure into adulthood (**new provision**)
- enable young people to access the government and community supports they need to manage challenges and grow and develop as adults (**new provision**)

Principles

- the young person increasingly leads decisions around their transition alongside trusted adults, and is supported to do this (**new principle**)
- the young person's strengths and personal, cultural and care identity are built on and nurtured (**new principle**)
- where appropriate, the relationships between the young person and their family, whānau, hapū, iwi and family group are maintained and strengthened (**revised principle**)
- family, whānau, hapū, iwi and communities are supported to help a young person transition to independence (**new principle**)
- the relationships between the young person and a caregiver, other trusted adults and the wider community are built and maintained, particularly as the young person's circumstances change (**new principle**)
- wherever reasonable and practicable, measures to support a young person will address the full range of the young person's aspirations and needs, including supporting the stability of their education (**new principle**)
- measures to support a young person are proactive and sustained throughout early adulthood, regardless of the decisions the young person makes (**new principle**).

Summary of benefits

- 27 These proposals will provide strong direction in the CYPF Act to ensure that the operating model supports young people to increasingly lead decision-making on matters that are important to them. They will also set expectations that young people receive supports to gradually transition to independence, including from outside the system (such as support from Māori or Pacific communities).

Creating a right to remain in or return to living with a caregiver

- 28 Under section 386A of the CYPF Act, young people who have been in care can be provided with assistance. However, the legislation does not provide a clear entitlement for young people to remain living with a caregiver after the age of 17.⁷ This means many young people do not have the stability and support they need as they move out of care into independence.
- 29 In their engagement with the Expert Panel and the Investing in Children Programme, young people spoke of their pronounced vulnerability when they 'aged' out of care. Some said that they would have wanted to remain in a 'caregiving' arrangement after they were 17 to give them stability and support to be able to manage challenges and take on the many responsibilities of young adulthood.
- 30 To address these issues, I propose to amend the legislation to allow a young person to exercise a right to remain, or return to, living with an existing or former caregiver, or a substitute caregiver if their caregiver is not available, until age 21.⁸ This entitlement would have the following components:
- the young person would receive support to decide whether to continue living with their former caregiver and negotiate an arrangement with them⁹
 - financial assistance to meet the 'necessary costs' of the ongoing living arrangement
 - the caregiver would provide pastoral care¹⁰ for the young person to gradually become more independent
 - the new Ministry would monitor the living arrangement against specific care standards.

Financial assistance to meet 'necessary costs'

- 31 A core component of the right to remain, or return to living with a caregiver is financial assistance to meet the 'necessary costs' of the living arrangement. Necessary costs include food, heating, power and some accommodation costs.
- 32 Currently, these costs are covered by the foster care allowance. If comparable financial assistance is not provided the caregiver would be unlikely to agree to continue the 'care' arrangement.

⁷ The Children, Young Persons, and Their Families (Advocacy, Workforce, and Age Settings) Amendment Bill, which is currently being considered by the Social Services Committee, would raise this age to 18.

⁸ Priority would be given to maintaining the relationship with an existing or former caregiver.

⁹ If the former caregiver did not consent to the young person living with them an alternative living arrangement would be provided.

¹⁰ This includes help with everyday tasks and psychological support.

- 33 I have instructed officials to undertake further work on the shape of financial assistance that is appropriate for young people aged 18-21, including:
- how this is linked to a young person's circumstances eg, what contribution could they reasonably be expected to make to their own accommodation costs
 - **[9(2)(g)(i) Free and frank expression].¹¹**
- 34 **[9(2)(f)(iv) Confidentiality of advice]**
- 35 **[9(2)(f)(iv)]**
- 36 **[9(2)(f)(iv)]**
- 37 **[9(2)(f)(iv)]**
- 38 **[9(2)(f)(iv)]**
- 39 **[9(2)(f)(iv)]**
- 40 I will report back to Cabinet with further advice on how to best target and deliver financial assistance to reflect the circumstances of young people receiving it.

Eligibility criteria

- 41 The young person would be eligible to remain, or return to, living with a caregiver up to age 21 if they had been in the care of the chief executive or an approved provider¹² or placed under the guardianship of the Court (where the chief executive has been appointed as the Court's agent).
- 42 I propose that the minimum time period for a person to be in care and be eligible for the right to remain, or return to, living with a caregiver be set at three months, because this is a 'tipping point.' If a young person is in care for less than three months, this is likely to be temporary and they usually return to their family. If they are in care for more than three months, they stay in care, on average, for at least two years.
- 43 There is little difference between the number of young people affected if the time period is set at three, six or twelve months.¹³
- 44 An eligible young person would also have been in care or guardianship for at least three continuous months after the age of 14 years and nine months, because young people start to make decisions about transition from age 15.¹⁴
- 45 These criteria are consistent with existing eligibility criteria under 386A of the CYPF Act for transition advice and assistance.
- 46 A young person in a youth justice residential placement would not be eligible for this entitlement, unless they were in the care of the chief executive and had been living with a caregiver or approved provider and met other eligibility criteria.

Implementation

¹¹ **[9(2)(g)(i) Free and Frank Expression]**

¹² An approved provider is an iwi or cultural social service, or a or a child and family support service approved under section 396 of the CYPF Act.

¹³ Based on estimates from 2014/15 operational data, 470 young people left care after 3 months, 460 after a minimum of 6 months and 420 after a minimum of twelve months.

¹⁴ The cut off is set at 14 years and nine months (so that a young person can be eligible from their 15th birthday).

- 47 I propose to introduce an empowering provision enabling regulations to be made on detailed policy settings for the right to remain, or return to, living with a caregiver. This will allow for regulations on financial assistance to specify the considerations that would be taken into account on what necessary living costs would be met and in what circumstances.
- 48 I propose that this entitlement be phased so that young people become eligible as they turn 18, from the date of implementation. This would allow time to build up services. This means that those who have already left care would not be eligible, even if they are under 21 years old.
- 49 I have considered non-regulatory options to support a young person to remain living with a caregiver such as operational guidance for the chief executive of the new Ministry under section 386A of the CYPF Act. However, I consider that this does not provide enough certainty to young people that they may be able to remain, or return to, living with a caregiver. There is also potential for inconsistency in decision-making.

Summary of benefits and risks

- 50 The proposals outlined above create a clear entitlement for young people aged 18 to 21 years to remain, or return to, living with their existing or former caregiver. They are aimed at ensuring that vulnerable young people continue to have a secure and stable home with a loving family, which they can use as a source of support to gain more maturity and gradually become independent. Providing this security means that these young people will be more likely to engage with further education and employment.
- 51 Countries with best practice transition services offer this type of arrangement, such as Scotland. Young people can choose to stay or move away and return to their caregiving family, just as young people in most other families are able to do.
- 52 International evidence also suggests that supporting young people to remain living with a caregiver can yield savings in the long-term. For example, the Midwest Study, focusing only on the education impacts of providing extended support for young people in care, modelled that every \$1 spent on foster care beyond 18 years of age returned \$2 of benefits to those young people as a result of increased earnings.¹⁵
- 53 There is a risk that creating this entitlement could create a significant fiscal liability. However, this risk would be mitigated through regulations that prescribe which 'necessary costs' will be met if a young person remains, or returns to, living with a caregiver.

Transition advice and assistance up to age 21

- 54 The CYPF Act was recently amended by the Children, Young Persons, and Their Families (Vulnerable Children) Amendment Act 2014 to enable the administering department to provide advice and assistance to young people leaving care to become independent up to age 20. Section 386A of the CYPF Act sets out the basis for providing transition related advice and assistance to these young people.

¹⁵ Courtney, M. (2015). *Do the Benefits of Extending Foster Care to Age 21 Outweigh the Costs? Evidence from Illinois, Iowa, and Wisconsin*. Wisconsin Family Impact Seminar Number 33.

- 55 I propose that advice and assistance currently available under section 386A of the CYPF Act is extended to age 21. This proposal would complement and reinforce the entitlement to remain in or return to 'care' to age 21. This would ensure that a young person who has chosen to live with a caregiver can receive advice and assistance to gradually become more independent and successfully take up opportunities of young adulthood.
- 56 The current discretion in section 386A for the chief executive of the new Ministry to determine the types and levels of assistance that are provided would be maintained.

Eligibility criteria

- 57 In addition, section 386A does not enable transition advice and assistance to be provided to young people who have been under the guardianship of the Court¹⁶, in a youth justice residential placement or in prison (and who have not spent the minimum specified period of time in care).
- 58 These young people have also been dislocated from their families and communities. They face similar barriers to those who have been in care as they reintegrate with communities and move into young adulthood.
- 59 I propose to extend eligibility for transition advice and assistance to a young person:
- who has been placed with an approved caregiver under the guardianship of the Court (where the chief executive has been appointed as the Court's agent)
 - who has been detained in a residential placement pending determination of proceedings, or in custody under a Supervision with Residence or Activity Order¹⁷
 - who has been under a prison sentence in the adult justice system.¹⁸

Implementation

- 60 I propose to make the following amendments to support implementation:
- introduce an empowering provision to enable regulations to be made on detailed policy settings on the right to remain in or return to living with a caregiver and transition advice and assistance available under section 386A, including in relation to:
 - needs assessment processes
 - services and assistance to be provided to the young person, including financial assistance and how this is tailored to reflect the circumstances of young people receiving it
 - criteria to prescribe other circumstances when transition support may be provided
 - other related policy issues as required
 - introduce a legislative override to the Social Security Act 1964 to make clear that financial assistance, including for young people transitioning from care, should not be considered as income under the Social Security Act.¹⁹

¹⁶ Where the chief executive of the new Ministry has been appointed as the Court's agent. This is known as Court wardship.

¹⁷ This is restricted to a Supervision with Activity Order with a residential placement.

¹⁸ The upper age limit for the youth justice system is being considered in a tranche three Cabinet paper on the CYF legislative reform.

¹⁹ The legislative override to the Social Security Act would ensure that young people who receive other social security entitlements (eg Jobseeker or Independent Circumstances Allowance) are not penalised for receiving additional assistance as a result of being in a supported living arrangement. This would provide transparency and clarity to staff that payments provided would not interact with other assistance.

Summary of benefits and risks

- 61 These proposals would continue the discretion currently available to the chief executive under section 386A to tailor and prioritise services towards need. This is consistent with a social investment approach and reduces the risk of constraining options that can be considered in the design of the transition support service.
- 62 There is international evidence that a full package of transition support (including the right to remain in or return to 'care') is effective and improves the outcomes of young people. For example, a randomised controlled trial of transition services in the United States found that they boosted earnings, increased housing stability and economic wellbeing and improved some health and safety outcomes for care leavers.²⁰
- 63 There is a risk that legislation alone would not embed the operational and behavioural changes that are required to significantly improve outcomes for this group of young people. This risk is mitigated because legislative changes are proposed as one part of a wider reform process to improve the operating model and engage the public and community partners to actively assist young people who are vulnerable.

Consultation

- 64 The Ministries of Education, Health, Women, Pacific Peoples and Justice, the Department of Corrections, the Children's Action Plan Directorate, the New Zealand Police, Te Puni Kōkiri and the Treasury were involved in the preparation on proposals.
- 65 The Department for Prime Minister and Cabinet and State Services Commission have been informed. The Vulnerable Children's Board has provided direction on specific proposals.
- 66 The proposals have been discussed with the Office of the Children's Commissioner, Barnardos, Dingwall Trust, Open Home Foundation, the Principal Family Court and Principal Youth Court Judges, Nicola Atwool and Robin Munford (academics), and members of the Māori Reference Group and the former Youth Advisory Panel who agree with the general policy intent.
- 67 Officials continue to work with the Legislation Design and Advisory Committee on aligning the proposals with the Committee's guidelines.

Treasury comment

68 **[9(2)(g)(i) Free and frank expression]**

69 **[9(2)(g)(i)]**

Next steps

- 70 Ministers will make decisions about service design and funding levels through the development of regulations and Budget processes.
- 71 Legislative proposals would only come into effect once service design has been completed and funding decisions have been made. This would be within two years after Bill No 2 is passed.

Financial Implications

- 72 There are no direct costs associated with proposals to incorporate new purposes and principles in the CYPF Act.

²⁰ Valentine, E., M. Skemer & M. Courtney. (2015). *Becoming Adults: One-year Impact Findings from the Youth Villages Transitional Living Evaluation*. MDRC: New York, USA.

- 73 The final costs associated with the proposals will not be known until the design of the service has been completed and regulations have been developed, which will include consideration of other services already funded by the Government.
- 74 Fiscal allocations will be confirmed through Budget processes and align with decisions on potential reallocation of services and funding into the new Ministry and the investment approach.
- 75 **[9(2)(f)(iv) Confidentiality of advice]**
- 76 **[9(2)(f)(iv)]**
- 77 **[9(2)(f)(iv)]**
- 78 **[9(2)(f)(iv)]**
- 79 **[9(2)(f)(iv)]**
- 80 **[9(2)(f)(iv)]**
- 81 **[9(2)(f)(iv)]**
- 82 **[9(2)(f)(iv)]**

Human Rights

- 83 All proposals in this paper have been assessed against child impact assessment guidelines and align well with New Zealand's obligations under the United Nations Convention on the Rights of the Child.
- 84 Preliminary analysis indicates that proposals, based on age, are prima facie inconsistent with the freedom from discrimination based on age as defined by section 19 of the Bill of Rights Act 1990 (BORA) and section 21(1)(i) of the Human Rights Act 1993.²¹ Those aged over the upper age limits, including young adults who are particularly vulnerable, are not included. However, this prima facie inconsistency may be justified in terms of section 5 of BORA.
- 85 Draft legislation that arises from proposals in this paper will be assessed comprehensively for compliance with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993, and with New Zealand's international obligations.

Legislative Implications

- 86 The proposals in this package of papers will be included in Bill No 2. **[9(2)(f)(ii) Protect collective and individual Ministerial responsibility]**
- 87 Drafting instructions will be issued to the Parliamentary Counsel Office based on Cabinet decisions. I am also seeking authorisation to make any minor technical and administrative changes required to finalise the draft Bill, in consultation with other Ministers as appropriate. Any substantive policy decisions required to finalise draft legislation for inclusion in Bill No 2 will be submitted to Cabinet for decisions.

Regulatory Impact Analysis

- 88 The Regulatory Impact Statement (RIS) for transition to independence is attached.

²¹ Section 19(1) of the New Zealand Bill of Rights Act 1990 affirms that everyone is entitled to be free from discrimination on the grounds set out in section 21 of the Human Rights Act 1993; this includes age (starting at 16). The LAC Guidelines set out that a provision will likely limit the right to freedom from discrimination where it draws a distinction on one of the prohibited grounds of discrimination and the distinction involves a material disadvantage to one or more classes of individuals.

- 89 Treasury's Regulatory Quality Team has reviewed the RIS prepared by the Ministry of Social Development and associated supporting material, and considers that the information and analysis summarised in the RIS meets the quality assurance criteria.
- 90 The RIS sets out a range of both regulatory and non-regulatory options, and sets out trade-offs between options in a clear and comprehensible manner. In many cases the preferred option appears to address the uncertainty as to whether a new agency can be held accountable for its performance without a clear legislative mandate.
- 91 However, as noted, the actual impact of decisions will largely depend on the detailed design of the new arrangements. It will be important in that design work to identify and address factors other than legislative requirements that affect agency and practitioner decision making.

Gender Implications

- 92 The proposals are intended to improve the access of education, employment or training by young people leaving care or a youth justice residential placement. This would have a positive impact on young women, who are more likely than young men to be disengaged with education, employment or training.

Disability Perspective

- 93 Proposals in this paper will help to advance the objectives of the New Zealand Disability Strategy, in particular:
- ensure rights for disabled people (objective 2)
 - foster leadership by disabled people (objective 5)
 - support quality living in the community for disabled people (objective 8).
- 94 Proposals are also consistent with the United Nations Convention on the Rights of Persons with Disabilities.

Publicity

- 95 Any specific public announcements about the introduction of Bill No 2 will be co-ordinated by the Office of the Minister for Social Development.

Recommendations

- 96 It is recommended that the Cabinet Social Policy Committee:
- 1 **note** that, on 30 March 2016, Cabinet Social Policy Committee invited me to report back on possible areas for legislative change to give effect to the new operating model for vulnerable children and young people [SOC-16-MIN-0024]
 - 2 **agree** to amend the Children, Young Persons, and Their Families Act 1989 to incorporate the following policy intent in relation to the purpose and principles for transition to independence, so that young people subject to the Act are able to successfully take up the opportunities of young adulthood:

Purpose

- 2.1 enable young people to be ready to thrive as independent young adults, and preparation for independent living to begin early
- 2.2 ensure young people have opportunities to have relationships with caregivers and other trusted adults that endure into adulthood
- 2.3 enable young people to access the government and community supports they need to manage challenges and grow and develop as adults

Principles

- 2.4 the young person increasingly leads decisions around their transition alongside trusted adults, and is supported to do this
 - 2.5 the young person's strengths and personal, cultural and care identity are built on and nurtured
 - 2.6 where appropriate, the relationships between the young person and their family, whānau, hapu, iwi and family group are maintained and strengthened
 - 2.7 family, whānau, hapu, iwi and communities are supported to help a young person transition to independence
 - 2.8 the relationships between the young person and a caregiver, other trusted adults and the wider community are built and maintained, particularly as the young person's circumstances change
 - 2.9 wherever reasonable and practicable, measures to support a young person will address the full range of the young person's aspirations and needs, including supporting the stability of their education
 - 2.10 measures to support a young person are proactive and sustained throughout early adulthood, regardless of the decisions the young person makes
- 3 note that the exact wording of the purposes and principles will be determined through drafting to give effect to the policy concepts

Creating a right to remain in or return to living with a caregiver

- 4 **agree** to amend the Children, Young Persons, and Their Families Act 1989 to provide an entitlement for an eligible young person to remain, or return to, living with their existing or former caregiver (or a substitute if their caregiver is not available)
- 5 **agree** to amend the Children, Young Persons, and Their Families Act 1989 to specify that the entitlement in recommendation 2 above involves the following components:
 - 5.1 the young person would receive support to decide whether to continue living with their caregiver (or a substitute) and negotiate this arrangement
 - 5.2 financial assistance would be provided to meet the 'necessary costs' of the ongoing living arrangement
 - 5.3 the caregiver would provide pastoral care for the young person to gradually become more independent
 - 5.4 the new agency would monitor the living arrangement against specific care standards.
- 6 **note** that financial assistance would be provided to the young person or the caregiver where this is required to meet the 'necessary costs' of the living arrangement
- 7 **agree** to a report back to Cabinet with further advice on how to best target and deliver financial assistance to reflect the circumstances of young people receiving it

- 8 **agree** that for a young person to be eligible for the entitlement to remain, or return to, living with a caregiver, from 18²² up to their 21st birthday, they will fit at least one of the following criteria:
 - 8.1 have been living in the care of the chief executive or an approved provider (such as an iwi or cultural social service, or a child and family support service) for a continuous period of at least three months after the age of 14 years and nine months, OR
 - 8.2 have been placed with an approved caregiver under the guardianship of the Court (where the chief executive has been appointed as the Court's agent) for a continuous period of at least three months after the age of 14 years and nine months
- 9 **note** that the arrangement in recommendation 5 above would need to be agreed with the caregiver
- 10 **agree** to introduce an empowering provision to enable regulations to be made to cover detailed policy settings for the right to remain, or return to, living with a caregiver, in particular to set policy considerations on what necessary living costs would be met and in what circumstances
- 11 **agree** to phase the implementation of the entitlement to remain, or return to, living with a caregiver so that young people become eligible when they turn 18, and those who have already reached that age when Bill No 2 comes into effect will not be eligible

Transition advice and assistance up to age 21

- 12 **agree** to amend section 386A of the Children, Young Persons, and Their Families Act 1989 to allow transition-related advice and assistance to be provided up to the 21st birthday for those young people who fit at least one of the following criteria:
 - 12.1 have been in the care or custody of the chief executive or an approved provider (such as an iwi or cultural social service, or a child and family support service) for a continuous period of at least three months after the age of 14 years and nine months, OR
 - 12.2 have been placed under the guardianship of the Court (where the chief executive has been appointed as the Court's agent) for a continuous period of at least three months after the age of 14 years and nine months, OR
 - 12.3 have been detained under in a residential placement pending determination of proceedings, or in custody under a Supervision with Residence or Activity Order for a continuous period of at least three months after the age of 14 years and nine months, OR
 - 12.4 have been under a prison sentence in the adult justice system for a continuous period of at least three months between the age of 14 years and nine months and the upper age limit for the youth justice system
- 13 **agree** to introduce an empowering provision to enable regulations to be made on detailed policy settings on the right to remain in or return to living with a caregiver and transition advice and assistance available under section 386A of the Children, Young Persons, and Their Families Act 1989, including in relation to:
 - 13.1 needs assessment processes

²² This age depends on the Children, Young Persons, and Their Families (Advocacy, Workforce, and Age Settings) Amendment Bill being passed into law. If the Bill is not passed into law, the minimum age of eligibility would remain at 17.

- 13.2 services and assistance to be provided to the young person, including financial assistance and how this is tailored to reflect the circumstances of young people receiving it
- 13.3 criteria to prescribe other circumstances when transition support may be provided
- 13.4 other related policy issues as required
- 14 **agree** to introduce a legislative override to the Social Security Act 1964 to clarify that financial assistance, including for young people transitioning from care, should not be considered as income under the Social Security Act
- 15 **[9(2)(f)(iv) Confidentiality of advice]**

Financial implications

- 16 **[9(2)(f)(iv)]**
- 17 **[9(2)(f)(iv)]**
- 18 **note** that detailed service design will need to be completed before more definitive costs can be provided
- 19 **note** that fiscal costs can be scaled to respond to the design of the new operating model and to implement an investment approach
- 20 **note** that final funding decisions will be sought through Budget processes

Legislative implications

- 21 **agree** that the proposals in this paper be included in a second amendment Bill to progress the Modernising Child, Youth and Family reforms.
- 22 **authorise** the Minister for Social Development to issue drafting instructions to the Parliamentary Counsel Office to draft amendments to the Children, Young Persons, and Their Families Act 1989 to give effect to the proposals in recommendations 2 to 11 above
- 23 **authorise** the Minister for Social Development to make any minor technical and administrative changes required to finalise the draft Bill, in consultation with other Ministers as appropriate.

Authorised for lodgement:

Hon Anne Tolley

Minister for Social Development

Appendix One – [9(2)(g)(i) Free and frank expression]