# Section One: UNCROC child impact assessment – best practice guideline

When New Zealand ratified the United Nations Convention on the Rights of the Child in 1993, we agreed to promote and protect the rights of children and young people. One way to do this is to have the best interests of the child as a primary consideration in all actions concerning children.

This document will assist you in considering the impact on children of any policy or legislation proposals you are developing. Everyone in the public sector who is involved in the development of policies and legislation should use it.

The guideline is to be used in the development of any pieces of policy or legislation. The author of the proposal should step through the four questions below and attempt to provide answers to each of the suggested topic headings. This will help to inform their thinking and should be reflected in the final advice. For smaller projects and shorter pieces of work, the guideline is designed to broadly ensure consideration of the impacts on children occurs.

Further information can be found in the attached **Background Information** document.

## Question One – What impact does the decision (including options and recommendations) have on children?

How could the proposal impact on these areas in children’s lives:

* family and whānau
* community
* education
* home/housing
* health
* income/basic needs.[[1]](#footnote-1)

The list above is not exhaustive and any other relevant areas should also be discussed.[[2]](#footnote-2)

When considering the answer to this question, be sure to consider:

* Where any **negative effects or unintended consequences** are established (from your answers to the questions below), provide some **potential mitigations** for them. Alternatively, please explain why the **proposal is required regardless** of the negative effects or unintended consequences.
* Where **positive impacts** of the proposal are identified, they should be highlighted.
* Are there relevant **examples/case studies**?

### Will the proposal have an impact on a family or whānau unit? (Article 8, UNCROC)

* All children need stable, nurturing parents/caregivers and families or whānau. Positive attachments between children and their mother/father or caregivers can help children to feel protected, nurtured, valued and loved.
* Article 8 of UNCROC recognises the right of a child to the preservation of their identity, which includes their nationality, name and family relationships. This is a prerequisite for normal development.
* If the proposal has an impact on a family or whānau unit, in what way(s)? For example:
  + Will it affect the dynamic of the family or whānau unit?
  + Will it support or hinder the ability of parents/caregivers to nurture their children?
  + Will it affect how the family or whānau unit functions on a daily/weekly/yearly basis?
  + Will any children in that family or whānau unit be directly or indirectly affected by the proposal? If so, how – positively or negatively?
  + In particular, does it affect the identity of the child or their sense of belonging?

### Will the proposal have an impact on the community? (Article 31, UNCROC)

* Children and young people grow up within communities. Flourishing communities provide safe environments that support families and the development and growth of children and young people.
* Safe communities also provide amenities such as policing and public transport, and they facilitate connections between people.
* Article 31 recognises the right of children to rest and leisure, to engage in play and recreational activities appropriate to their age and to participate freely in cultural life and the arts.
* If the proposal does impact on the community, in what way(s)? For example:
  + Will it reduce access to services within the community?
  + Will it affect a child’s right to leisure and recreation?
  + Will it affect an entire community or a segment of it?
  + Does the proposal directly or indirectly affect any children living in that community? If so, how – positively or negatively?

### Will the proposal affect a parent’s income? (Articles 26 and 27, UNCROC)

* Children often miss out on the things they need because the family income is low and parents have to make tough budgeting choices.
* Article 26 recognises that every child should benefit from social security and where appropriate, the benefits should be granted to those having responsibility for the maintenance of the child; taking into account the resources of the child and the persons taking care of them.
* Article 27 says parents of children have the primary responsibility, within their abilities and financial capacities, to secure the conditions of living necessary for the child’s development. States are required to assist parents where it is possible and appropriate.
* Could the proposal affect a parent’s income or their ability to use their resources to meet their child’s basic needs? If so, is there a possibility that this will have a positive or negative flow-on effect to any children or young people?

### Will the proposal have an impact on a child’s ability to learn and/or their right to an education? (Articles 28 and 29, UNCROC)

* Education is a key factor in a child’s development. School helps to prepare a child for their future and equip them with the skills and knowledge they will need to thrive as adults. This preparedness relates to employment in the longer term, as well as to gaining skills and fulfilling their potential in the short to medium term.
* Children who grow up in poverty are more likely to do poorly at school as they are more likely to go to school hungry, move house and school multiple times and live in overcrowded houses with inadequate space to do homework. Schools can offer safe and convenient community hubs where children’s services, such as health and social services, can be provided.
* Article 28 recognises the right of children to education, with a view to achieving this right progressively and on the basis of equal opportunity. Article 29 states that children’s education should develop them to their full potential.
* Does the proposal affect the provision of education in any way?
* Does the proposal result in different levels of access or standard of educational services?

### Will the proposal affect a child’s health and/or development? (Articles 6 and 24, UNCROC)

* A child’s health and wellbeing is important to their development and life progress. A healthy start in life underpins positive long-term outcomes. Children with congenital health issues and those with suboptimal health can be at risk of poor outcomes if they do not have access to healthcare early in life.
* There is also a strong relationship between poverty and poor health for reasons such as poor housing and barriers to accessing healthcare.
* Article 6 requires states to ensure the survival and development of children to the maximum extent possible.
* Article 24 recognises that children should experience the highest attainable standard of health and that states should ensure no child is deprived of their right to access healthcare services.
* Could the proposal affect a child’s access to healthcare?
* Could the proposal affect a child’s mental, physical or emotional health? If so, how – positively or negatively?

### Will the proposal affect a child’s right to a safe and accessible environment and surroundings? (Article 27, UNCROC)

* Housing quality is particularly important for babies and pre-schoolers as they spend the majority of their time at home. Especially since, in New Zealand, more accidents and injuries occur in the home than elsewhere.[[3]](#footnote-3)
* A child’s environment and surroundings are essential to their overall wellbeing, including the health and safety within their home (for example, heating, ventilation and barriers to falling), and also their wider environment, including things such as water quality, pollution and access to safe play areas and recreational activities.
* Article 27 recognises the right of children to a standard of living which is adequate for the child’s physical, mental, spiritual, moral and social development.
* Could the proposal affect a child’s home? If so, how – positively or negatively?
* Could the proposal impact stability of a child’s home? If so, how – positively or negatively?
* Could the proposal affect a child’s environment or standard of living?
* Is the child’s environment accessible?

### General (that is, for all categories where appropriate):

* Could the proposal affect children either now or in the future? If so, positively or negatively?
* Could the proposal burden future generations inequitably?
* Is there a way to mitigate any negative effects that may occur?

## Question Two – Will there be differential impacts on certain groups of children?

This question is designed to consider how the proposal will affect disadvantage faced by the various groups of children affected by the proposal. For example, the proposal may be targeted to a specific group of children. Therefore, consideration of how the proposal could negatively impact on the children who are not targeted and potential negative impacts on children of focus because they are targeted.

* Consider the **impacts on the groups most relevant to the proposal you are working on**, for example:
  + children of different age groups
  + Māori and Pasifika
  + migrant/refugee
  + those rurally isolated
  + those socially isolated in urban areas
  + children in sole parent families or in different family structures, sizes and types
  + children in care / youth justice system
  + children with disabilities
  + gender identity and sexuality diverse young people; for example, lesbian, gay, bisexual, transgender, questioning
  + children of parents with certain characteristics; for example, parents with disabilities or parents in prison.
* Examples of how you might apply this guidance are as follows:
  + Children of parents in prison – New public transport routes could consider their proximity to prisons to enable children and young people to visit their parents if they are in prison.
  + SuperGold Cards – Turning SuperGold cards into smart cards might help grandparents who have custody of their grandchildren to meet their needs by ensuring they have transport to accompany them to school.
* How would the proposal impact on **disadvantage** faced by these groups?
* Where the proposal targets a specific group of children, is there a **rationale for a group of children being targeted** over other groups?
* Are there **unintended consequences** for the children being targeted or those left out? (For example, stigma or perception of unfair advantage)
* Where **positive impacts** of the proposal are identified, they should be highlighted.
* Where any **negative effects or unintended consequences** are established (from your answers to the above questions), provide some **potential mitigations** for them. Alternatively, explain why the **proposal is required regardless** of the accepted trade-offs.

## Question Three – What do children say?

A key part of considering the impacts of policies and legislation on children involves **seeking input directly from the children** themselves.

It is important to determine whether or not children have already been asked about your policy proposal, either during the course of a previous policy decision, by another agency or by academics/researchers. If they have been, you may be able to access resources which outline what children said at the time.

There are **organisations that can provide advice** on engaging well with children, namely:

* the Office of the Children's Commissioner
* UNICEF New Zealand
* Save the Children New Zealand
* Ministry of Youth Development
* Ministry of Education
* Office for Disability Issues
* Ministry for Vulnerable Children, Oranga Tamariki.

Some examples of when children have been consulted with include:

* <http://www.occ.org.nz/listening2kids/how-we-engage-with-children/#vulnerable>
* <http://www.occ.org.nz/assets/Uploads/EAG/Consultation/Our-views-matter.pdf>
* <http://savethechildren.org.nz/assets/520/Save%20the%20Children%20New%20Zealand%20-%20Green%20Paper%20submission.pdf>.

## Question Four – What happens after you have completed your policy assessment?

The analysis from this guideline should be used to inform your proposal:

* Where positive impacts have been identified, they should be highlighted.
* Where negative impacts have been identified, they should be noted, along with, where possible, mitigations for those negative impacts.

Where it is necessary for the proposal to proceed in spite of the negative impacts or unintended consequences, the reasons for this should be explained, so there is an explicit understanding of the trade-offs.

## Who can provide assistance?

When completing the impact assessment, it may be appropriate and helpful to seek assistance from external agencies, both for any necessary information, but also to seek their views.

Examples of some of these agencies include:

* the Office of the Children’s Commissioner
* Ministries of Education, Justice and Health
* Te Puni Kōkiri
* Child, Family, Community and Youth Policy, Ministry of Social Development
* Ministry of Youth Development.[[4]](#footnote-4)

# Section Two: Background Information

## Purpose of the guideline

### Why should child impacts be considered?

Rigorous analysis of the actual and/or likely impacts of any proposed options is a necessary criterion for quality policy work. This analysis, in addition to the evidence base, helps the decision-maker choose their preferred option. Rigorous analysis of proposed options should include consideration of the impacts on various groups, including children.

A child rights impact assessment (CRIA) helps to target thought and analysis to ensure our policies and legislation are child-centred. Using CRIAs across all government sectors could lead to more transparency and accountability of decision-making to stakeholders and the wider public.

Article 3 of the United Nations Convention on the Rights of the Child (UNCROC)[[5]](#footnote-5) says that “in all actions concerning children … the best interests of the child shall be a primary consideration.” *General comment No. 14 (2013)*[[6]](#footnote-6) says States are under an obligation to take all necessary, deliberate and concrete measures for the full implementation of this right.

In order to fulfil Article 3, the General Comment suggests using CRIAs to ensure the child’s best interests are a primary consideration. A CRIA helps to make sure children are considered in government decision-making and that their rights, interests and views are taken into account. If CRIAs become common practice, they would promote policy coherence and a more consistent approach to children’s human rights.

The General Comment does not prescribe what a CRIA should include or how it should be set out, other than at a minimum, UNCROC and the Optional Protocols to it should be used as a framework. The guideline, therefore, is one interpretation of what a CRIA should involve.

Using a CRIA also allows those doing cost-benefit analyses for policies and legislation to explain how investing in children will provide maximum value in the long-term. They may consider the effects on children into the future, to determine the true potential benefits from investments made in the present day. Alternatively, further investments may be necessary to mitigate negative impacts. A CRIA enables a thorough analysis of impacts on children to be undertaken and makes clear any trade-offs being considered.

**The child impacts being sought in the guideline align with the outcomes in the Vulnerable Children Act 2014**

The child impacts being sought, and the outcomes in section 6 of the Vulnerable Children Act 2014,[[7]](#footnote-7) describe the outcomes needed to ensure that all children and young people grow into flourishing adults. The impacts being sought in the guideline align with those in the Act, as follows:

|  |  |
| --- | --- |
| ***Vulnerable Children Act 2014*** | ***Child Impact Assessment being sought*** |
| Protecting vulnerable children from abuse and neglect | Safe, healthy environment  Safe, healthy homes |
| Improving their physical and mental health, and cultural and emotional wellbeing | Access to health services |
| Improving their education, training and participation in recreation and cultural activities | Supportive community and play  Education that develops the child |

|  |  |
| --- | --- |
| Strengthening their connection to their families, whānau, hapū and iwi, or other culturally recognised family group | Sense of belonging  Stable, nurturing family |
| Increasing their participation in decision-making about them and their contribution to society | Sense of belonging |
| Improving their social and economic wellbeing | Adequate income to meet needs |

### Why the guideline has been developed

UNCROC is an international treaty aiming to protect and promote the rights of children and young people. It contains the full range of human rights, including civil, cultural, economic, political and social rights. When New Zealand ratified UNCROC in 1993, we agreed to meet the measures in UNCROC within our available resources. New Zealand wants to do our best to protect, respect and fulfil children’s human rights.

In February 2011, the United Nations Committee on the Rights of the Child recommended, as part of its Concluding Observations, that New Zealand should do more to consider the views of the child at all levels of decision-making.

In response, the Ministry of Social Development developed an UNCROC work programme that was approved by Cabinet. The work programme includes:

* obtaining the views of children in policy and legislation development processes
* considering the impacts of policy and legislation on children.

The child impact assessment: best practice guideline is the result of these work programme items and the desire to do the best we can for the children of New Zealand.

A significant amount of work has been done internationally over the last ten years on developing and applying human rights impact assessments within corporate and government sectors. Human rights implications must be considered as part of progressing any large policy or legislative project (Cabinet Manual, paragraph 7.60(b)).[[8]](#footnote-8) CRIAs are a subset of human rights impact assessments in that they consider the human rights impacts on the specific population group of children.

Human rights impact assessments, for example, are instruments that measure the likely or potential impact on human rights of programmes, policies, projects or interventions. Their purpose is to maximise positive effects and prevent or mitigate negative effects on rights.

There is no agreed single instrument in use for assessing the impacts on human rights as many toolkits have been developed to guide impact assessment. The guideline is different because:

* it is designed to be used to consider the impacts specifically on children
* it sets general parameters to assess these impacts, but does not contain an exhaustive list of things to consider
* compared to human rights impact assessments, which are typically based in human rights law, the guideline is based on international treaties and our aspirations for children in New Zealand.

### Who should use the guideline and how should they use it?

The child impact assessment: best practice guideline has been designed for people in the public sector who are developing policies and legislation.

The guideline provides the necessary guidance to effectively consider child impacts. It is a voluntary process, but it is still important to use the guideline to ensure children are considered in policy and legislation development. Considering the impacts on children will result in better formulated and implemented policy that will have an impact in the present, but is also future-focused.

The questions are intended to “guide” thinking to focus on children. Each question may not be relevant for every proposal being worked on. However, the aim is to consider areas where children are sometimes unintentionally negatively affected by policy decisions to help those writing proposals to identify and mitigate these unintended consequences.

### For what pieces of work should the guideline be used?

The guideline can be used in the development of any pieces of policy and legislation. The author of the proposal should step through the four questions and attempt to provide “answers” to each of the suggested topic headings under that question. The suggested topics are an indication of the main areas where children could be, and are, affected by policy proposals.

However, for smaller projects and shorter pieces of work, the guideline is designed to broadly ensure consideration of the impacts on children occurs without having to consider each of the four questions and their sub-questions.

When your proposal is not relevant to children, or does not appear to be relevant to children, you should still run through the questions. This does not have to be done in detail, but going through the four questions may prompt your analysis and you may realise that your proposal does impact on children, either directly or indirectly.

### When should the guideline be completed?

The guideline can be used at all stages of a policy cycle or project development process.

You should ideally first use the guideline at the problem definition stage of the policy cycle and at the start-up of a project. This ensures that the process begins with child-centred thinking which will ideally continue throughout the life of the work.

Further stages when the guideline can be used include:

* assisting with the identification and scoping of policy issues
* helping maintain stakeholder relationships
* during project planning and design
* for assessment of policy options
* assisting with generation of a recommendation
* helping prepare a fully informed and reasoned Regulatory Impact Statement
* providing Cabinet advice on human rights implications.

## The approach in the guideline

There are a range of approaches taken internationally to assess the impacts of policies on children. These range from a list of questions through to a legislative requirement to complete a child impact report on draft Acts. These mechanisms exist because there is general consensus that considering child impacts during the policy and legislative processes should be standard practice.

The Office of the Children’s Commissioner (OCC) has released guidance on being child-centred.[[9]](#footnote-9) The child impact assessment: best practice guideline complements the OCC’s guidance and provides a practical means to help policy makers reflect a child focus in their work.

### The process involves the following steps:

* Setting the scope of the assessment  
  Involves considering the level of the assessment that will be undertaken based on the size and nature of the policy or project intervention you are working on and the range and level of stakeholder interest. This can either be in written form or merely turning your mind to whether an in-depth assessment is necessary or not.
* Undertaking the assessment  
  Consideration of the four key questions. This includes analysis of how to promote and enhance any positive impacts that are identified, as well thinking of effective means to mitigate any identified negative impacts.
* Monitoring and evaluation  
  This occurs at two levels: (a) making clear the ways in which the policy development was influenced by the child impact assessment process; and (b) assessing the impact of the policy itself, once operational.

The first level refers to evaluating whether recommendations from the guideline were accepted and brought about any change in the policy. By documenting this information, it enables lessons from the process to be learnt and shared.

The second level will show whether or not the potential impacts of the policy are those that were anticipated by the assessment. This should be a fluid process that allows for intervention at various points of the implementation and a policy review process that may result in positive change for the target group.

## There are four key questions to consider

### Question One – What impact does the decision (including options and recommendations) have on children?

The purpose of this question is to help ascertain how the proposal could affect children. This may be a direct result of the proposal or an unintended or indirect consequence of it.

This requires considering how the proposal could impact on a number of specific areas in children’s lives; for example, family and whānau, community, income to have their basic needs met, education, health, home and environment. The list is not exhaustive and any other areas considered to be relevant should also be discussed. Considering both the positive and negative impacts of each area can help to identify possible expansions into other areas and may indicate the need to adjust the proposal or to propose mitigating measures.

### Question Two – Will there be differential impacts on certain groups of children?

Article 2 of UNCROC says that all the rights guaranteed by UNCROC must be available to all children without discrimination of any kind. The purpose of this question is to help determine how the proposal could affect specific groups of children and ensure Article 2 is fulfilled.

After having considered how various groups of children are affected by the proposal, there needs to be some thought about how the proposal will affect disadvantage faced by the groups; that is, will the proposal have a positive impact on them or could it potentially make their situation worse? The proposal may be targeted to a specific group of children. As well as the rationale for why a specific group of children has been targeted, there also needs to be discussion about how the proposal could potentially negatively impact children targeted or not targeted.

### Question Three – What do children say?

A key part of considering the impacts of policies and legislation on children involves seeking input directly from the children themselves. This should be done in a meaningful and considered way that ensures a positive and well-supported youth participation experience for the child or young person.

The OCC has advice available on how to consult children and young people. Listening2Kids[[10]](#footnote-10) provides examples of different engagement methods and has planning guides to help set up the process.

### Question Four – What happens after you have completed your policy assessment?

The analysis from this guideline should be used to inform your thinking and should be reflected in the advice you provide on your proposal. Positive impacts should be identified and highlighted; and negative impacts should be identified with mitigations, where possible.

Where it is necessary for the proposal to proceed in spite of the negative impacts or unintended consequences, the reasons for this should be explained, so there is an explicit understanding of the trade-offs.

1. Where relevant, each area has the corresponding UNCROC Article or Articles which refer to the topic noted in brackets. The text of these Articles can be found at this link: <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>. [↑](#footnote-ref-1)
2. Guidance on the needs of children at different stages of development may be useful for the following areas. Further information can be found here: <http://www.occ.org.nz/assets/Uploads/G2K/G2K-What-kids-needweb.pdf>. [↑](#footnote-ref-2)
3. <http://www.acc.co.nz/preventing-injuries/at-home/index.htm?ref=footer>. [↑](#footnote-ref-3)
4. Reports of consultation with young people the Ministry of Youth Development has undertaken can be found here: <http://myd.govt.nz/resources-and-reports/youth-voices-consultation-reports/index.html>. [↑](#footnote-ref-4)
5. The full text of UNCROC can be found at this website: <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>. [↑](#footnote-ref-5)
6. General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1); <http://www2.ohchr.org/English/bodies/crc/docs/GC/CRC_C_GC_14_ENG.pdf>. [↑](#footnote-ref-6)
7. <http://www.legislation.govt.nz/act/public/2014/0040/latest/whole.html#DLM5501640>. [↑](#footnote-ref-7)
8. <http://cabinetmanual.cabinetoffice.govt.nz/files/manual.pdf>. [↑](#footnote-ref-8)
9. <http://www.occ.org.nz/assets/Publications/Being-Child-Centred.pdf>. [↑](#footnote-ref-9)
10. <http://www.occ.org.nz/listening2kids/> [↑](#footnote-ref-10)