

**Government response to the Report of Social Services  
Committee into the Inquiry into the identification,  
rehabilitation, and care and protection of child  
offenders**

**Presented to the House of Representatives  
in accordance with Standing Order 249**

## Introduction

The Government has carefully considered the Social Services Committee's Report on the *Inquiry into the identification, rehabilitation, and care and protection of child offenders*.<sup>1</sup> This response to the Select Committee's report is in accordance with Standing Order 248. The Government believes that the Committee's recommendations are timely and highlight issues that are important in order to improve the care and rehabilitation of child offenders.

The Government recognises that issues involving child offenders are complex and the impact of their offending can be serious, both for the children who offend and for the victims of that offending. Effective interventions with child offenders will support them to be nurtured and address the underlying causes of their behaviour. Dealing with child offenders requires a balance between the effective care and protection of each child and ensuring children understand the consequences of their offending. The Government acknowledges that more can be done to improve the care and rehabilitation of child offenders.

The Government takes the safety and welfare of children and the community very seriously. Our strong focus on vulnerable children is based on the vision that *every child thrives, belongs and achieves*. The Family Group Conference (FGC) review is an example of efforts to enhance responses to children who offend.

As part of the Government's Better Public Services work programme there is a target to reduce youth crime by 5 per cent. This is to be achieved by reducing the number of appearances of young people in the Youth Court by 5 per cent.<sup>2</sup> Early identification and effective intervention with child offenders is key to reducing youth crime and recognises the link between repeat victimisation and offending. Many of the actions arising from the Government response to the Child Offenders Inquiry will be addressed within the Youth Crime Action Plan. The Youth Crime Action Plan is being developed to support the Better Public Services goal of reducing youth crime. It will support the related goals of reducing rates of offending and victimisation.

The Select Committee made 31 recommendations to strengthen the response to child offenders. These are grouped into four areas: identifying potential child offenders, effectiveness of rehabilitative programmes, care and protection referral process, and effectiveness of the care and protection model.

The Government response to the recommendations is outlined below. The Government response provides context to the recommendations at the start of each section and areas for further work are highlighted at the end of each section.

## Identifying potential child offenders

The Committee's report emphasised the importance of the early identification of children who offend, or are at risk offending, in order to improve life outcomes. This focus includes preventing children from offending or entering into a pattern of repeat offending and becoming youth or adult offenders. The benefits of early identification are well recognised. Early identification means we are able to intervene early in the life of a child and early in the life of a problem in order to promote positive outcomes for children. Interventions are most likely to be successful and effective if they occur before problem behaviours become entrenched.

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<sup>1</sup> The definition of child offenders used by the Inquiry was children aged 10 to 13 years, as this is the definition in the Children, Young Persons, and Their Family Act 1989.

<sup>2</sup> This measure is still being finalised.

The Government's responses in this section highlight work currently underway on providing early intervention and how these early intervention initiatives will be enhanced in response to the Committee's recommendations.

There is a strong connection between early intervention with child offenders and the Government's focus on vulnerable children. The Government knows the most vulnerable children are victims of abuse and neglect and that there is a strong correlation between child maltreatment and later offending. The solutions that will be outlined in the White Paper on Vulnerable Children will be far reaching and will provide a way forward for better protecting our vulnerable children, including those that re-offend.

The Youth Crime Action Plan, currently in development, will help drive coordinated early responses between and within agencies for children that have begun to offend. Consultation on the Youth Crime Action Plan is currently seeking views on how agencies could better share information to identify children at risk of offending or with care and protection needs who are in contact with the justice system. Once needs are identified the focus will be on coordinated early and effective responses across the social and justice sectors.

#### **Recommendation 1:**

*Requiring Government agencies to focus on the risk and protective factors identified in this report, the importance of effective early intervention, and the need for cross-agency collaboration.*

**Response:** The Government agrees that it is critical for government agencies to focus on risk and protective factors for vulnerable children, particularly as this can reduce the number of children presenting as offenders. We know that children who enter the care and protection or justice systems have poorer long term outcomes than those that do not.

The Government funds a wide range of initiatives to address risk and protective factors for vulnerable children across a number of agencies. These include universal services such as health and education. More targeted interventions include:

- Social Workers in Schools (SWiS) (Vote Social Development)
- support for parenting programmes (Vote Social Development)
- school attendance services that respond to disengaged and truanting children (Vote Education)
- participation in early childhood education as part of getting children on track for success from an early age (Vote Education)
- child health services including WellChild/Tamariki Ora services, child and adolescent mental health services and alcohol and other drug services (Vote Health)
- Gateway Assessment of health and education needs of children entering, or in, the care and protection system (Vote Social Development)
- The Break-Away School Holiday Programme that provides children with an opportunity to attend school holiday programmes at no cost to participants (Vote Social Development)
- Police Youth Development case management programmes (Vote Social Development).

The Government's work on vulnerable children will be particularly important in preventing child offending and addressing the needs of child offenders, as these children often first appear as victims of abuse or neglect. New Zealand research cited in the Green Paper on Vulnerable Children suggests that at any one time 15 per cent of children (or 163,000 children aged under 18 years) are particularly vulnerable. Without significant support and intervention, these children will not thrive, belong or achieve.

The Green Paper for Vulnerable Children presented options to ensure timely coordinated responses to aid early identification and intervention. These are likely to be further developed in the White Paper, due for release in October 2012. Options for timely coordinated responses include increasing:

- mechanisms to regularly assess and monitor children to better protect them from maltreatment and abuse
- information-sharing between professionals at the frontline
- efforts to improve and promote collaboration between professionals and services
- the use of early childhood education centres and schools as sites for the delivery of a wider range of services.

The Government is developing a Youth Crime Action Plan to guide work on reducing child and youth offending and victimisation. Key objectives shaping the development of the plan are to better integrate responses by government agencies and their non-government partners and to intervene earlier with children and young people who offend or are at risk of offending. The Youth Crime Action Plan will have a focus on effective interventions for Māori children and young people who offend. Whanau will also be involved. This focus will help address the significant over representation of Māori in offending statistics.

Police and Child, Youth and Family are focusing more on early intervention, using screening tools to identify wider needs. The Police Youth Offender Risk Screening Tool is used with children who come to Police attention on a second occasion for an incident (such as truancy) or for offending. Child, Youth and Family's Gateway Assessment aims to ensure every child or young person entering care receives an assessment that helps build a complete picture of the child or young person's needs, and sees that they get access to health and education services to address their needs.

The Police Prevention First National Operating Strategy 2012-2015 is about preventing crime and being visible in the community. Children and young people are one of the priority areas outlined in the strategy and the Police Youth Policing Plan 2012-2015 focuses on prevention, early intervention and coordinated responses. Police aim to keep vulnerable children and young people safe and decrease the number entering into, and remaining within, the criminal justice system. Police Youth Education and Youth Development programmes are designed to prevent children and young people from entering the criminal justice system.

#### **Recommendation 2:**

*Requiring child offending intervention and identification programmes to operate to consistent performance standards throughout the country.*

**Response:** The Government agrees that consistent performance standards are useful to ensure that interventions reflect good practice and are delivered consistently. We believe there is now a suite of effective identification tools available to agencies to identify and assess needs for young children at risk of or offending.

Two key tools are the Police Youth Offender Risk Screening Tool (YORST) and Child, Youth and Family the Gateway Assessment<sup>3</sup> which assesses the health and education needs of children entering or in the care and protection system. Other tools include the TRAX wellbeing assessment and Substances and Choices Scale (SACS) tool which provides alcohol and other drug screening. The use of these tools aids in the identification and assessment of appropriate interventions based on the specific needs of each child.

If a child offends or comes to police attention for an incident more than once, Police use YORST to screen for a range of factors in the child's life. These factors can include offending history, peer group, education or employment involvement, drug and alcohol use, care and protection history and family factors. YORST indicates the likelihood (or risk) of the young person re-offending so that appropriate decisions can be made about intervention pathways. An independent evaluation in 2011 showed that YORST was as effective at screening as comparable tools used in other countries.

Police are often initial responders to child offending and report that they divert 90 per cent of child offenders away from the formal justice system. This work is primarily led by Police Youth Aid who work with children beginning to offend, or at risk of offending. YORST is used by Police Youth Aid to screen child offenders at their second offence and/or incident (such as truancy)<sup>4</sup>, or those who have been referred to Child, Youth and Family for care and protection due to serious offending.

For more serious offending, FGCs are held and where necessary the Family Court is involved. There are approximately 300 child offenders a year involved in these high-end FGC processes. The Office of the Chief Social Worker's review of FGCs will ensure they operate to consistent performance standards.

Agency funding agreements for child offender interventions include performance standards. These contracts include reporting processes. Monitoring the effectiveness of interventions, outlined in the response to recommendations 11 and 12, will help identify what interventions are most effective. This information will then inform performance standards.

### **Recommendation 3:**

*Giving youth offending teams a clear mandate to work on individual cases, while retaining their strategic role.*

**Response:** As part of this Government's work to develop a Youth Crime Action Plan (see response to recommendation 1), consideration is being given to the most effective way to bring agencies together at a local level to achieve coordinated case management where appropriate. The role and function of Youth Offending Teams is already being considered and will be factored into this work.

<sup>3</sup> CYF is due to complete the rollout of the Gateway Assessments in December 2012. The consistency of the application of both these tools is being monitored.

<sup>4</sup> YORST was introduced nationwide for Police use in 2010. By 30 June 2011 YORST was being used in 75 per cent of cases where an offender is referred to an FGC. Work is being done to lift the use of the tool to 95 per cent of all FGCs and compliance is being monitored.

**Recommendation 4:**

*Developing protocols to allow the Ministry of Social Development to share information about at risk children with relevant agencies and organisations.*

**Response:** The Government recognises that the timely sharing of information about at risk children is crucial to prevent harm. Information about at risk children is often held by a number of different agencies including the Ministry of Social Development. The White Paper for Vulnerable Children is considering how to effectively and efficiently share information and what information may be required to gain a complete picture of a child's circumstances and needs. The Green Paper for Vulnerable Children suggested that the Government review current legislative provisions regarding information sharing. This is to ensure professionals at the frontline are able to share information about children they work with in order to accurately assess the needs of a child, their family and whānau.

The Government is already working to enhance information sharing. When the Privacy (Information Sharing) Bill is passed into law, it will support better sharing of personal information between government agencies when there is a serious threat to public safety, or the life or health of an individual. This may enhance the ability of Child, Youth and Family to track outcomes for child offenders in its care, something already being done where possible. The Bill will also introduce a new process for approving information sharing agreements. These could be used to further improve interagency information sharing.

Further options for information sharing are currently under active consideration as part of the development of the White Paper for Vulnerable Children and the development of the Youth Crime Action Plan.

**Recommendation 5:**

*Clarifying where the accountability of Governmental agencies for child offenders lies.*

**Response:** The Government acknowledges that further work is required to ensure that all agencies that can contribute to supporting a child offender are involved in a coordinated way at the earliest appropriate point. Cross-agency case management (recommendation 3) could ensure that agencies have full information and work together early, without waiting until offending escalates to a more serious point.

Across the child offender system, agencies have different roles and accountabilities regarding child offending and these are outlined in the Children, Young Person, and Their Families Act 1989 (the Act). Approximately 90 per cent of the incidents of child offending are initially dealt with through warnings or other alternative actions led by Police. If Police have concerns regarding a child's care and protection they will make a referral to Child, Youth and Family or an application to the Family Court when they think a child is in need of care or protection. Frontline Police are also able to arrest a child who has offended.

Child, Youth and Family lead the FGC process or respond when a notification is made regarding non-offending care and protection concerns. Delivering on an FGC plan can involve working with other agencies and providers. The Family Court can also become involved if Police, Child, Youth and Family or an FGC decide this level of intervention is required.

As part of the Fresh Start Youth Justice package,<sup>5</sup> Police appointed 22 designated child case managers to enhance its focus and accountability in relation to child offenders. The child case managers work with families, agencies and community organisations to provide early and targeted interventions for children who offend or are at risk of offending.

The objectives of the Youth Crime Action Plan include addressing issues related to agency accountability, improving how agencies work together and delivering interventions in a timely coordinated way. Another area of focus will be on agency accountability to respond in more effective and relevant ways with Māori children who offend.

#### **Recommendation 6:**

*Considering lower thresholds for intervention, so that at risk children could receive support and intervention before they begin to offend.*

**Response:** The Government agrees early intervention and support in a number of areas can prevent child offending, including retaining children in education or responding to health issues. Some of this Government's other Better Public Service targets are aimed at addressing these, including:

- 98 per cent of children starting school in 2016 having participated in early childhood education
- reducing children experiencing physical abuse by five per cent by 2017.

The Government recognises that severe conduct and behavioural problems in childhood are among the most important predictors of later chronic antisocial behaviour, including crime. The 'Addressing Conduct and Behavioural Problems in Childhood' work stream within the Drivers of Crime programme, focuses on developing initiatives and implementing programmes and services that prevent, treat and manage conduct and behavioural problems in at risk children and young people.

Providing access to appropriate interventions without a child having to become part of the formal justice system is something the Government is interested in. We know that the greater the exposure to the justice system the higher the chance of further offending, when other variables are controlled.

The Green Paper for Vulnerable Children suggested that increasing spending on early intervention as soon as problems become apparent could help quickly return children to being able to achieve good life outcomes. During the development of the White Paper for Vulnerable Children and a possible Vulnerable Children's Action Plan, Government will consider ways in which early intervention and prevention can prevent children becoming vulnerable. The Youth Crime Action Plan will also provide guidance on early intervention opportunities.

#### **Recommendation 7:**

*Considering expanding the eligibility criteria for Social Workers in Schools to make it available to more schools with potential child offenders on their rolls.*

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<sup>5</sup> The Fresh Start reforms, introduced in October 2010, are the most fundamental change to the youth justice system in the last 20 years. Youth Court judges now have more options to deal with offenders, including powers to order mentoring programmes, alcohol and drug rehabilitation, and parenting education, and the ability to impose longer sentences for the most serious offenders. This reform allowed the most serious child offenders to be dealt with in the Youth Court, Funding as part of the package led to the creation of 22 Police Child Case Managers and supported expansion of Police Youth Development programmes.

**Response:** The Government recognises that school staff are often the first to notice when something is not right with a child. Many problems identified are complex and difficult. Qualified social workers are needed to address these issues with children and their families. The Government is in the process of expanding Social Workers in Schools (SWiS) to all decile 1-3 primary schools. There were 285 decile 1-3 schools with SWiS services and 125 SWiS social workers at the start of 2012. The expansion will mean 390 new schools will be able to access SWiS by the end of 2013. The first 95 schools covered by the expansion started receiving services from 50 social workers in term three of 2012.

The Government's work on vulnerable children is also considering the role of schools as sites for the delivery of a wider range of services.

***Part One: Areas for further action regarding identifying child offenders***

As part of the Youth Crime Action Plan, it is proposed that further work be undertaken to:

- target activities and programmes to children who offend, or are at risk of offending earlier
- improve cross-agency information sharing for child offender cases to improve cross-agency wrap around support
- examine how local cross-agency case management would contribute to the response to children who offend
- improve the consistent application of YORST for children who re-offend or come to Police attention on more than one occasion due to offending risk
- consider the roles and accountabilities of agencies for children who offend to ensure that the right agencies are involved at the right time for the right reason and work together early enough to reduce future offending.

## **The effectiveness of rehabilitation programmes**

The Committee reported that it was "pleased that there is a wide range of programmes available, which cater to various cultural groups" (p22). The Committee wanted to see evaluation of the effectiveness of programmes and information on programmes to be more widely available to judges. A key aspect of programme effectiveness highlighted by the Committee was responsiveness to care and protection issues.

The Government's response highlight how Police and Child, Youth and Family are working to better monitor the offending of repeat child and youth offenders. Work underway includes better data sharing and monitoring of outcomes of interventions and providers. There is also a focus on better targeting of interventions to a child's specific needs. To achieve, this Child, Youth and Family maintains information on providers. The timeliness of interventions is important and is dependent on communication between and within agencies.

**Recommendation 8:**

*Ensuring that intervention for child offenders responds to any care and protection issues as well as the offending.*

**Response:** The Government agrees with the recommendation that child offenders' care and protection needs must be responded to, as well as their offending. Police child case managers, Youth Development and Youth Aid staff address the risks and needs of a child by working with their family to ensure all identified risk factors are taken into consideration. Police child case managers identify children at risk of persistent and serious offending early. Then they identify the risks and needs that contribute to these children's offending, and work with the child and their family or whānau to reduce these risks and address needs. Providing follow-up and support to children who have offended and been given 'Alternative Action' by Police is part of their role. This helps provide an additional level of intervention, supplementary to Police Alternative Action, but prior to Family Court involvement.

Police collaborate with Child, Youth and Family in regards to a child or young person's care and protection issues when required. The YORST tool assists Police and other agencies to identify issues that require follow up or referral (see recommendation 3 for more detail on YORST). For example, YORST information is provided to Child, Youth and Family prior to an FGC.

Child offenders are often at the interface of care and protection and justice services. If their offending reaches the point that an FGC is required, it is a care and protection FGC convened by a Child, Youth and Family youth justice FGC coordinator. The FGC considers care and protection concerns as the underlying causes of offending and considers how the child can be held accountable for their offending. Child, Youth and Family is aware of issues that can arise in the interface between their care and protection and justice services and are exploring ways to better connect the responses of these two service arms.

At times, there can be issues with the ability of agencies to respond to child offender needs when other cases take priority. The Youth Crime Action Plan will consider how child offender care and protection interventions can be enhanced, including consideration of a case work approach that will influence front line responses to the diverse issues affecting child offenders (as discussed in recommendation 3). The development of the White Paper on Vulnerable Children will consider how children's needs for care and protection can be best met.

**Recommendation 9:**

*Speeding up the process of referral to rehabilitation programmes so that child offenders could benefit from these programmes sooner and effectively.*

**Response:** The Government agrees that the timeliness of interventions is important. Waiting too long to intervene can have adverse consequences. However, it can take time to gather information to inform decision making in regards to effective interventions for a child, and if necessary their family.

The focus with child offenders is on individualised interventions, wherever possible, within the context of their family. A key part of speeding up referrals to providers is ensuring they are made early in the life of a problem, without agencies, children, or their families having to go through a number of formal processes or more severe or frequent offending before then can access them. Early intervention can include participation in sports or cultural activities, counselling and support to access health or education services. Interventions can also focus on the family.

The Green Paper on Vulnerable Children identified the value of early intervention and this issue is being considered further in the White Paper. The Youth Crime Action Plan will consider ways to improve the timeliness of agency responses and early intervention services.

**Recommendation 10:**

*Establishing and maintaining a national database of the rehabilitative programmes available for child offenders, to provide judges with a comprehensive overview of treatment options for child offenders.*

**Response:** Information about programmes and services available to support child offenders at a local and national level is critical to ensure good decisions are made through FGCs and Court proceedings. The Government will improve the availability of this information and develop an effective way to ensure judges have this information when they need it to support their decision making on the best treatment options for specific child offenders.

Child, Youth and Family maintain a national database of residential rehabilitative programmes. However, most programmes and interventions are localised, non-residential and accessed as part of an FGC Plan.

**Recommendation 11:**

*Requiring all rehabilitation programmes receiving state funding to provide an evaluation of the programme's effectiveness (including cultural perspectives). Taking into account the size of the contracts or programmes may require the support of the relevant funding agency to conduct a robust evaluation.*

**Response:** This Government supports a focus on identifying the effectiveness of interventions for child offenders. Child offenders whose offending is persistent, or serious enough, to warrant formal intervention form a small proportion of youth justice work. For example in 2011 only 337, out of 7423 FGCs convened for reasons of offending, concerned child offenders. The small number, geographical spread and age of child offenders means that it is difficult to measure statistically the effectiveness of child offending programmes by specific providers. However, child offenders have high levels of care and protection needs, which are generally met through individualised plans agreed at an FGC. These plans are designed to strengthen the family's ability to prevent reoffending and help their child get back on track.

A programme of work being led by the Office of the Chief Social Worker is seeking to improve FGC practice, including those convened for reasons of child offending, to ensure better outcomes for children and their families. Child, Youth and Family will be able to monitor the improvements to outcomes for children following the FGC Plans interventions.

Some child offenders, particularly those meeting the revised thresholds for Youth Court intervention<sup>6</sup> will be accessing the rehabilitation programmes available under the Fresh Start reforms. This includes mentoring, alcohol and drug, and parenting orders. The Ministry of Social Development's Centre for Social Research and Evaluation has a programme of work that includes research into the effectiveness of a range of initiatives funded by the Government since 2008, including the Fresh Start reforms. Where such programmes are accessed by children as well as young

<sup>6</sup> Set out in the Children, Young Persons, and Their Families (Youth Courts Jurisdiction and Orders) Amendment Act 2010 and discussed further in section four ( recommendations 26-31).

offenders (aged 14 to 17 years), research findings will be separated out to establish whether such programmes are any less, or more, effective for children. The small numbers of child offenders will limit the ability to make statistically significant conclusions about interventions with them.

Where any new programmes are developed specifically for child offenders the Government is committed to these being based on effective practice research evidence, including cultural perspectives, so that the value for money of any new programmes can be monitored.

#### **Recommendation 12:**

*Conducting a review to gauge the recidivism rates of child offenders who have taken part in rehabilitation programmes, to assess the effectiveness of the various schemes.*

**Response:** The Government is committed to identifying the effectiveness of interventions on reoffending. The Ministry of Social Development through the Centre for Social Research and Evaluation has tracked recidivism rates for 2008 and 2009 and is doing this for the 2010 and 2011 period. Recidivism by children and young people normally occurs within two years of an intervention and, as such, the effectiveness of rehabilitative programmes and interventions will be undertaken on a two-yearly cycle. Any shorter timeframe may indicate an inaccurate level of effectiveness.

To date the Centre for Social Research and Evaluation has examined the offending patterns for 205 children who attended an FGC in 2008 or 2009 due to the history or nature of their offending. Offending patterns were examined for the two years before and after the FGC. An FGC plan can include a range of interventions. Most often it involves case management and sometimes more structured programmes.

It is proposed to repeat this exercise regularly to monitor the offending patterns before and after the FGC and the FGC Plan. This exercise will be repeated using data for 2010 and 2011 FGC attendees at the end of 2013. The results of this analysis will help Child, Youth and Family to monitor the impact of both legislative change and changes to service delivery. This will ensure that the impact of any such changes are understood and delivering the improvements in recidivism sought by the reforms.

The Government will also consider how work on achieving the Better Public Services key result area to reduce youth crime by 5 per cent could include child offenders. Currently justice and social sector agencies are collaborating on a new suite of youth justice performance measures. To reduce youth and adult crime agencies need to work effectively with children who re-offend.

#### **Recommendation 13:**

*Intervention proportionate to the risk a child's environment presents to his or her development and the seriousness of his or her situation, which may or may not be indicated by the seriousness of his or her offending; and examining the risk in a comprehensive assessment.*

**Response:** The Government agrees that effective targeting of intervention is important. Most children who offend do so only once and never come to the attention of Police again. This is why the YORST tool is used following a second offence or incident (such as truancy or Section 48 of the Act). YORST is designed to screen the

needs of a child or young person identified as offending or at risk of offending.<sup>7</sup> In many cases the issues identified by a YORST assessment are addressed by Police making referrals to agencies and their youth development programmes.

Where a decision is made to refer to an FGC, information contained in the YORST is passed on to Child, Youth and Family. Child, Youth and Family have access to a range of specialised screening tools such as the TRAX wellbeing assessment, the Substances and Choices Scale (SACS) tool which provides adolescent alcohol or drug screening and measures outcomes. The issues identified in assessments are used to identify the most appropriate intervention required.

#### **Recommendation 14:**

*That Child, Youth and Family review the offending history of a selected group of offending young people and track their outcomes to get an indication of the success of the interventions they have received and of Child, Youth and Family's case management, and to determine areas for a responsible review of practice and policy.*

**Response:** Since the Committee met, the Ministry of Social Development has continued to work with Police to share data and improve tracking of children and young people receiving youth justice interventions. The Lifetime Offender Seriousness Tool (LOST) and Police occurrence data is being used to report on re-offending outcomes including changes in the frequency and seriousness of offending and post-intervention imprisonment rates.

This information has been used to benchmark historic re-offending data for child offenders and high-end orders such as Supervision with Residence, Supervision with Activity and Supervision orders made during 2008 and 2009. This will enable comparisons to be made with new programmes and orders introduced under the Fresh Start package in 2010. The initial child offender group being analysed are 205 children with FGCs convened under section 247(a) of the Act in 2008 or 2009. However, it is too early to provide complete and comprehensive data or to make judgements on the impact and effectiveness of interventions.

To enhance and further support work with children who offend, Child, Youth and Family has developed a Child Offender Checklist and an Assessment Planning Intervention Review table. A set of practice triggers are also in development to support case work with child offenders. These triggers will guide decision making and assist case planning by social workers. They are an enhancement to Child, Youth and Family practice frameworks and operate in conjunction with the principles of the Act. The practice triggers will be used by social workers, supervisors and FGC coordinators.

#### **Recommendation 15:**

*Ensuring progress is made as soon as possible on sharing information between Child, Youth and Family, the New Zealand Police, the Ministry of Justice, the Ministry of Health, and the Ministry of Education to track the outcomes of those in Child, Youth and Family care.*

**Response:** The Government is committed to collecting robust information on outcomes to help enhance the effectiveness of child offender interventions across government. This is outlined in response to recommendation four which is also about

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<sup>7</sup> See recommendation two for more information on YORST.

information sharing. Development of a fusion centre focused on cross-agency information sharing is currently under discussion.

Police appreciate the use of good intelligence and analysis in informing decision making. Police is also currently undertaking an upgrade of its data system to improve reporting. In the long term the ability to analyse information regarding child and youth offending and victimisation will be improved.

**Part Two: Areas for further work on rehabilitation effectiveness**

As part of the Youth Crime Action Plan, it is proposed that further work be undertaken to:

- examine how the care and protection and youth justice services can be connected to better support children who offend
- focus on evaluation of the effectiveness rehabilitation programmes for children,
- monitor the impact of rehabilitation on the recidivism of child offenders.

## The care and protection referral process

The Committee's report highlighted the need to ensure the timeliness of interventions in order to intervene early in the life of a problem. It recommended simplifying how the Children, Youth Persons, and Their Families Act addresses child offenders, and enhancing assessment and provision of support services.

In response to the recommendations there will be a focus on improving referral practices between agencies with the goal of speeding up referral processes while focusing on better addressing the needs of child offenders.

**Recommendation 16:**

*Considering simplifying the legislation governing child offenders to make it easier for practitioners to apply.*

**Response:** A number of submitters raised concerns about the legislation that governs child offenders. An example used by many submitters was that accessing information about child offender processes in the Act is overly complex due to references being located in many places rather than clustered together. While some professionals are familiar with parts of the Act focused on child offenders, many are less familiar because the small number of child offenders means they rarely use these provisions.

The Government considers there is a need for training and practice guidance on using the child offender provisions within the Act to be provided by agencies to practitioners. Consideration will be given to updating the Child Offender Manual to assist practitioners in the application of the Act. A revision of how child offender provisions in the Act could be grouped together will be considered the next time the Act is revised.

**Recommendation 17:**

*Requiring all children referred into the care and protection system to undergo health and education assessments automatically.*

**Response:** Recognising the need for health and education assessments, the Government provided \$15.3 million over four years in Budget 2011 for Gateway Assessments that build a complete picture of the health and education needs of child or young offenders in the care and protection system. By December 2012, these assessments will be available to children and young people entering care, those already in care and when requested, to support an FGC. Not all children referred to Child, Youth and Family require this level of specialist assessment. Information from the assessments is used to access the right health and educational services.

Further care and protection needs and risk assessments are being developed by the Office of the Chief Social Worker and are scheduled for introduction in December 2012. This will include assessments of the child's education engagement and achievement, and physical and mental health needs.

**Recommendation 18:**

*Ensuring child offenders identified as having mental health issues or drug and alcohol problems are given a high priority for care.*

**Response:** In Budget 2011, the Government committed \$14.5 million funding over four years for Child, Youth and Family to purchase mental health services that are over and above existing Child Adolescent Mental Health Service provision, and other specialist mental health services. This Intensive Clinical Support Service is focused on 0-17 year olds with referrals made jointly by Child, Youth and Family and Child and Adolescent Mental Health Services. It uses a new wrap-around team care approach in the child's own home for children and young people with serious mental health problems and complex social needs. This service fills in gaps in services and ensures children in care, including for justice reasons, receive the mental health support they need.

New on-going funding of \$2 million annually was provided in budget 2012 to expand youth (including older children) alcohol and other drug counselling. One of the reasons for this investment is the link between alcohol abuse and offending. The impact of these investments will be monitored.

Through the TRAX comprehensive assessment of wellbeing and criminogenic need and SACs alcohol and drug assessment tools, Child, Youth and Family youth justice coordinators and social workers make initial screenings and refer children for specialised assessment and support in the health system.

**Recommendation 19:**

*Considering ways of improving the Family Court process to prioritise child offending cases.*

**Response:** Current practices within the Family Court place priority on the most serious matters that are before the Court, including child offending cases. These cases are monitored through judicial conferences as well as registrars' lists to ensure they proceed in a timely way. However, the progress of a case can be dependent on the timing of events outside the Court's control, for example, the holding of an FGC or obtaining a specialist report.

While there are no specific proposals relating to child offenders arising out of the review of the Family Court, a number of the Review's proposals should benefit these cases. For example, improvements by the Government to Family Court processes will reduce delay, which will mean that judges are able to consider child offender cases at an earlier stage.

**Recommendation 20:**

*Streamlining all aspects of the care and protection system and referral process to ensure child offenders are dealt with soon after the offending.*

**Response:** The Government agrees with a focus on early intervention. Responses by frontline Police, Police Youth Aid and child case managers often form the first points of intervention in dealing with child offenders. They work to divert children and young people away from the formal justice system wherever possible.

More serious cases which form a much smaller number of interventions are governed by statutory timeframes and require a greater cross-agency approach. Where delays occur they are usually due to additional background information being required for FGC or Court process. For example, it can take six weeks to get a psychiatric assessment.

Child, Youth and Family are focused on ensuring all cases receive timely responses. Timeliness is supported by agency best practice policies and models.

The Youth Crime Action Plan and White Paper on Vulnerable Children will address intervention and referral points and timely processes.

**Recommendation 21:**

*Requiring departments involved in care and protection proceedings to ensure that delays are never caused by administrative shortcomings or operational contingencies, but only to facilitate best practice and to promote the best outcome for the young person at the centre of proceedings.*

**Response:** The Government supports the intent of this recommendation to provide timely best practice services. At times avoidable delays have occurred. Departments have increased their focus on ensuring the timeliness of interventions and timely provision of information that other agencies require in order to intervene. As part of the Youth Crime Action Plan improved processes for service delivery will be examined.

**Recommendation 22:**

*Requiring that case files be reviewed on completion to determine whether deadlines were met and resolutions of family group conferences and Court hearings were realised; the reasons and justifications for any delay; and how the process could be improved to minimise delays in comparable circumstances.*

**Response:** The Government supports a cross-agency review of cases where thematic issues are identified and addressed, as opposed to individual cases being audited. We know reviewing case files can be very valuable in understanding how practice can be improved. Individual agencies carry out case reviews.

For example, Child, Youth and Family social work supervisors and practice leaders perform case reviews using self-assessment framework guidelines where the quality of practice is examined against a set of standards for each priority area. Based on

the assessment, Child, Youth and Family sites rate their own practice quality, giving local insight into the areas they are good at and those requiring more focus. This in turn informs their year by year action plan and efforts to adopt best practice.

The numbers of child offenders are reasonably small with 337 children in 2011 participating in an FGC due to their offending. This group is generally afforded priority because of the nature of concerns. Given these small numbers this work could be operationalised with practice leaders and senior advisors as part of their regular case review work through Child, Youth and Family's quality assessment tool.

Court hearings are directed to achieving resolution of cases. The Family Court directs action to be carried out within specified timeframes by agencies and professionals in conjunction with the parties. The Court schedules hearings on the basis that these actions will occur as directed. Should this not occur, the hearing will usually be adjourned until all directions are complied with. This can lead to delays in the timeliness of resolving cases.

Currently, the Family Court's ability to record and report the reasons for an adjournment and instances of non-compliance with the court's directions is limited. If this ability were to be enhanced, it would be necessary to clarify the outcomes sought before investigating options as to how to meet them.

The Quality Assurance Team in the Office of the Chief Social Worker will consider including this recommendation as a descriptor in their work programme with the self-assessment and action plan to prevent delays relaying information to the Family Court.

#### **Recommendation 23:**

*Taking steps to ensure that changes of case officer are rare and reasonable, and that due consideration is given to a case officer retaining responsibility for any child or young person who is the subject of proceedings, regardless of a change in position, if continuity of responsibility is in the best interest of that child or young person and retaining the file would not impinge unduly on the efficiency of the department.*

**Response:** Child, Youth and Family have best practice policies and processes in place that wherever practicable support continuity of case management. As part of the development of the Youth Crime Action Plan, Child, Youth and Family are developing a set of internal processes that will support continuity of case management, for example where a youth justice social worker is already working with a young offender and a younger sibling is apprehended, retaining involvement with the family/whānau.

Police Youth Aid workers, Youth Development staff and Police child case managers are also file holders and points of contact for children and their families. Where ever possible this continuity is maintained throughout the engagement process as the strength of a response lies in the strength of the relationship that can form with the child and the family or whānau.

#### **Recommendation 24:**

*That delays in proceedings and processes be a reportable measure in the annual report of Child, Youth and Family.*

**Response:** Child, Youth and Family currently reports on the percentage of Youth Justice FGCs held within statutory timeframes and that FGC Plans are reviewed on time through the Ministry of Social Development's annual report. This reporting enables delays to be identified.

The Committee discussed delays in Family Court process. In this setting a number of agencies are involved so gaining a comprehensive picture of delays is much more difficult. Given the importance to the child of timely justice interventions the Government will explore how information on delays (see recommendation 25) is best captured and reported. This will include assessment of cost and benefits of collecting this information.

**Recommendation 25:**

*That in cases involving children, the timeframes for action be required to reflect a child's concept of time.*

**Response:** This recommendation is already legislated for in the principles set out by the Act (section 5 f) that decisions affecting a child should, wherever practicable, be made and implemented within a timeframe appropriate to the child's sense of time.

Police deal with most cases of child offending. Between initial contact and the decision to arrest, the Police have significant discretion in deciding how to proceed with child offenders or those identified as at risk of offending. All decision making and actions are taken by Police include making sure decisions are implemented within timeframes appropriate to the child's sense of time. Police child case managers work to timeliness guidelines. Police Youth Development Operational Guidelines provide quality standards of best practice case management including timeliness.

Timely processes for the 300-400 children involved in FGCs due to offending are also important. The Office of the Chief Social Worker's review of FGC practices frat report notes that the key to effective FGC work is the preparation done prior to the FGC. This involves working with the family and gathering assessment information from partner agencies, to ensure an effective and agreed Plan results from the FGC. Child, Youth and Family will respond to the findings of the Office of the Chief Social Worker review which will cover child offender FGCs.

The perception of delay between the point of apprehension and the judge having visibility of the case can be created by the FGC preparation process. However, from a child's perspective many things may be happening in the intervening period to address their needs. The internal Child, Youth and Family processes (recommendation 23) will improve continuity of responses where a child or family is already known to Child, Youth and Family.

***Part Three: Areas for further work regarding the care and protection referral process***

As part of the Youth Crime Action Plan, it is proposed that further work be undertaken to:

- consider how processes can reflect a child's concept of timeliness with a focus on avoiding delays at each point following the offending including diversion, family group conferences, court, and completion of specialist reports.

## The effectiveness of the care and protection model

The recommendations in this section are focused on expanding the role and power of the Family Court in relation to child offenders. They include giving the Court more powers and greater ability to hold agencies involved in proceedings to account. There is also a recommendation to review the care and protection model that forms the basis for current practice with child offenders.

The Act gives the Youth Court and the Family Court different roles and powers in relation to child and youth offenders. The Family Court can work with child offenders within their family context through care and protection orders, while the Youth Court has powers that are more prescriptive and time-limited which is suitable for youth offenders. The interests of the child are of paramount importance in the Family Court. This is not the case in the Youth Court, which must balance the young person's needs while also holding them accountable, and recognising the interests of victims.

The Child, Young Persons, and Their Families (Youth Courts Jurisdictions and Orders) Amendment Act 2010 that took effect after the Inquiry commenced created a dual track<sup>8</sup> so that high-end child offender cases can be heard before the Youth Court. There are three instances where the Youth Court has jurisdiction over children:

- where the child is over the age of 10 years, and the offence is murder or manslaughter
- where the child is aged 12 and 13 years, and the offence is one (other than murder or manslaughter) for which the maximum penalty available is or includes imprisonment for life or at least 14 years
- where the child is aged 12 and 13 years and is a previous offender under section 272(1)(a) of the Act and the offence is one (other than murder or manslaughter) for which the maximum penalty available is or includes imprisonment for at least 10 years but less than 14.

These reforms have reduced the need for some of the recommendations made by the Select Committee.

**Recommendation 26:** *Considering allowing cases before the Family Court to be transferred to the Youth Court if the child becomes old enough during the proceedings to be dealt with by the Youth Court, or if the child commits subsequent offences which fall into the Youth Court's jurisdiction.*

**Response:** For a child to reach the Family Court for offending he or she must have met a clear threshold of needing care and protection. The Family Court is best placed to respond to care and protection issues. However, we recognise in the current system responses to child offenders can be protracted and may not reflect the child's concept of time. Work will be undertaken to improve the timeliness of responses to child offenders, this will include a consideration of the FGC and Family Court processes with a view to having matters in the Family Court resolved in a timely manner.

The second matter raised by the Committee is where a young person is involved in concurrent processes within the youth and child offender jurisdictions. This situation

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<sup>8</sup> Proceedings may be commenced as either an application for a declaration that the child is in need of care or protection in the Family Court or by proceedings under the Summary Proceedings Act 1957 in the Youth Court.

is not ideal. This can occur when a young person reoffends while having historic matters open within the Family Court. Ways to potentially 'join up' these process to enhance responses to this offending will be explored.

Currently the Youth Court can deal with the most serious and repeat child offenders. The Fresh Start youth justice reforms that came into effect on 1 October 2010 allowed 12 and 13 year old very serious offenders or serious repeat offenders to have their cases considered in the Youth Court. These 12 and 13 year olds, subject to many checks and balances, can receive Youth Court orders and programmes.

#### **Recommendation 27:**

*Considering requiring more responsibility from agencies involved in Family Court proceedings.*

**Response:** The Family Court's involvement with government and community agencies is one of the significant strengths of the Family Court system. Agencies working together to respond to child offenders are much more likely to yield results. This requires effective involvement from agencies. The FGC review also identified that a legal and policy framework supporting interagency accountability and responsibility for vulnerable children is needed.

The issue of ensuring cross-agency responses to child and youth offending will be considered further within the Youth Crime Action Plan. This work will not be limited to the responsibility and involvement of agencies in Family Court proceedings (although it must be noted that children appearing in the Family Court are likely to have the most complex needs), but will consider how agencies can provide effective intervention and support for child offenders and their family and whānau when appropriate.

A key area for development as part of the Youth Crime Action Plan is to ensure that appropriate cross-agency support and services are available early and when a child offends (see responses to recommendations 1, 5, 22 and 30).

#### **Recommendation 28:**

*Considering giving the Family Court greater powers to compel parents to attend court hearings involving their children.*

**Response:** The Government considers that there are adequate policies in place to compel parents to attend court. We already have a statutory obligation and commitment to ensure that a child's family and whānau participates in the decisions affecting that child. Where appropriate, relationships with a child's family and whānau are maintained and strengthened as set out in section 5(a) of the Act. The Family Court can currently access orders that require parents or guardians to attend counselling or ordering parents before the court within two years of the first hearing so that further action can be taken, as set out in section 83.

We know it is positive when parents or carers are involved in court processes. Child offenders will have the best outcome when their family and whānau are effectively engaged in the entire intervention. However, for some child offenders having a parent present at court may be detrimental to their welfare and care and protection needs. Creating orders compelling parents to attend may inappropriately penalise parents who are unable, as opposed to unwilling, to attend or to support their child.

Furthermore, the drive to compel parents may impact adversely on the relationships that agencies are trying to form with children and their families to find solutions. In these situation there is little value compelling parents before court.

**Recommendation 29:**

*Giving the Family Court similar powers to make supervision orders to those of the Youth Court.*

**Response:** The Government agrees that some serious repeat child offenders are best dealt with using Youth Court orders. Provision was made in the Fresh Start reforms to allow cases involving very serious and repeat serious 12 and 13 year old child offenders to be heard in the Youth Court. There are many checks and balances to this process before child offenders can be seen in the Youth Court, ensuring this provision is only used when necessary.

In addition to this, the Family Court can apply a number of orders to child offenders, including services orders (which direct a child to participate in a service), support orders (which require that a child take part in educational, recreational, instructional, cultural, work or sporting programme), admonishing, assessment, and non-association orders.

However, it is acknowledged that child offenders often have complex needs and we will review how current Family Court orders are being used and their effectiveness. We will also consider the impact of the expansion of the ability of the Youth Court to respond to very serious or serious repeat offending by 12 and 13 year olds. If the review identifies the need for further types of orders within the Family Court this will be considered, bearing in mind the separate roles and objectives of the Family Court and Youth Court.

**Recommendation 30:**

*Undertaking a more thorough, detailed review of the care and protection model to ensure intervention is early and effective.*

**Response:** The Government is committed to ensuring intervention is early and effective. We support this part of the recommendation. This is reflected in the response to many of the Committee's recommendations. Effective early intervention will also be addressed by the Youth Crime Action Plan and the White Paper on Vulnerable Children. The FGC review will enhance the implementation of child offender FGCs that operate within the care and protection model. The parts of the Act focused on child offenders enable an early intervention focus.

Given the wider work on vulnerable children which has the potential to reframe the response with this group it is not considered appropriate to review the care and protection model at this time.

**Recommendation 31:** *Considering introducing a new oversight and accountability order in the Family Court.*

**Response:** Giving the Family Court oversight and accountability orders would be a significant shift from current practice. Children and their families receive support through Police child case managers, Police Youth Aid and Youth Development. Child, Youth and Family use FGC plans to hold children to account and address care and protection needs (see recommendation 8 response). The intention is to focus interventions at these early stages rather than escalating the issue to the Family Court.

The Government does not believe a new oversight and accountability order is required within the Family Court, but we will consider this as part of the development

of the Youth Crime Action Plan. This Plan and The White Paper on Vulnerable Children are considering when and what form interventions with vulnerable children should take.

***Part Four: Areas for further work regarding the effectiveness of the care and protection model***

As part of the Youth Crime Action Plan, it is proposed that further work be undertaken to:

- examine whether the Fresh Start reforms, including the ability to have a dual pathway for 12 and 13 serious and repeat offenders, provides adequate scope to manage high-end child offenders.