

Submission to Petitions Committee: On the Petition of VOYCE Whakarongo Mai: Formally recognise UNCROC commitments to children and young people in care

Mana Mokopuna - Children and Young People's Commission

Mana Mokopuna – Children and Young People's Commission is the independent crown entity with statutory responsibility to advocate for the rights, interests, participation and well-being of all children and young people (mokopuna¹) in Aotearoa New Zealand, including care-experienced young people aged 18-25 years.

Mana Mokopuna has a clear mandate and legislative functions under the Children and Young People's Commission Act 2022. This includes submitting on issues through a child and youth-centred lens and advancing and monitoring the implementation of the United Nations Convention on the Rights of the Child (the Children's Convention) by departments of State and other Crown instruments.

Additionally, there are duties on the governing Board to have a strong focus on the rights, interests, and well-being of mokopuna Māori within the context of their whānau, hapū, and iwi to give effect to Te Tiriti o Waitangi (Te Tiriti) and the Treaty of Waitangi (Treaty). While these duties sit with the Board, they directly impact on the operational functioning of Mana Mokopuna to give effect to obligations and rights under Te Tiriti and the Treaty in pursuit of improved outcomes for Māori, specifically mokopuna Māori.



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Executive Summary

1. We thank the Petitions Committee (the Committee) for inviting Mana Mokopuna - Children and Young People's Commission to make this submission. We are grateful for this opportunity to tautoko and the rights of mokopuna atawhai.
2. We acknowledge all mokopuna atawhai, care-experienced tamariki and rangatahi, children and young people, past, present and future. Mana Mokopuna is committed to ensuring that mokopuna atawhai and their participation, experiences and views remain at the centre of this kaupapa.² This is inclusive of the 4,507 mokopuna in care of the State currently.³
3. We acknowledge the collective signatures and the thousands of mokopuna atawhai who have brought this petition forward. As an independent advocate for mokopuna, we often hear diverse voices, stories and life journeys of mokopuna atawhai. We highlight the vast diversity of those with lived experience and those who are currently in care.
4. We continue to call directly on the Government to invest in and support preventative and strengthening efforts and initiatives at the whānau, hapū, iwi and community level so that all mokopuna are safe, well and flourishing in the care of their family and whānau.

¹ Refer to glossary

² At 3.

³ As at 31 March 2024: [2022-23 Quarter 3 Performance Report \(orangataamariki.govt.nz\)](https://www.orangataamariki.govt.nz)

5. Mokopuna should, first and foremost, be cared for by and safe with their whānau, and whānau must be resourced and supported to undertake this crucial caring role for mokopuna. When this is not possible, placement with close or extended whānau or family, leveraging the wider whānau, hapū, and iwi networks for support should be prioritised. When mokopuna are in the care of the State, the State is duty-bound to uphold its duties and obligations under all relevant domestic laws and policies, as well as those it has signed up to under international law.
6. We acknowledge with gratitude Lisa McLaren, Amanda Faauga, and Jake Gibbons, who delivered the oral submission in respect of this petition, on behalf of VOYCE Whakarongo Mai and mokopuna atawhai. Ngā mihi nui ki a koutou.
7. Mana Mokopuna supports the petition of VOYCE Whakarongo Mai. We endorse the evidence set out by VOYCE Whakarongo Mai in its written submission.⁴
8. All children in Aotearoa New Zealand have the right to access the necessary resources to support them to thrive. When children have what they need, they experience greater well-being and can reach their full potential. We urge the Petitions Committee to ensure that all children and young people in State care have the same rights as all other children. It is important to consider the reasons why children and young people enter State care and the specific duties and obligations of the State towards these mokopuna which it must uphold, but which the weight of evidence over decades demonstrates the State has repeatedly failed to comprehensively fulfil.
9. Mana Mokopuna is well-placed to contribute to the Committee's consideration of this petition, given our legislative mandate to advocate for all children and for the rights, interests, wellbeing and outcomes of mokopuna atawhai⁵ up to the age of 25. Our legislative functions also include advocating for the advancement of the application of the United Nations Convention on the Rights of the Child (the Children's Convention) and monitoring the application of the Children's Convention by the Crown.⁶
10. The Chief Children's Commissioner is a designated National Preventive Mechanism (NPM) under the Optional Protocol on the Convention Against Torture (OPCAT).⁷ This role involves monitoring all places where mokopuna are detained in Aotearoa New Zealand, including places of detention under the Oranga Tamariki system.⁸
11. Mana Mokopuna continues to hold the Government accountable for fulfilling its domestic and international legal obligations and duties in relation to all children, including all children in the care of the State. Taking action on the Six Promises outlined in the petition would contribute to upholding these obligations and duties, and would also respond, in part, to the Concluding Observations⁹ and recommendations of the United Nations Committee on the Rights of the Child. This would be a positive way for the State to advance implementation of the Children's Convention.

⁴ Submission in support of the Petition from VOYCE – Whakarongo Mai: Formally recognise UNCROC commitments to children and young people in care.

⁵ Refer to glossary.

⁶ The Children and Young People's Commission Act 2022.

⁷ Crimes of Torture Act 1989

⁸ [Reports | Mana Mokopuna](#)

⁹ Committee on the Rights of the Child. (2023). Concluding observations on the sixth periodic report of New Zealand.

Children's Rights are at the heart of the Petition

12. Mokopuna should **enjoy all their rights at all times and in all circumstances**.¹⁰ We are concerned that mokopuna atawhai continue to report that their rights are not being upheld within the Oranga Tamariki system as detailed by the petition and submissions of VOYCE Whakarongo Mai.¹¹ In our mahi, Mana Mokopuna also hears this regularly from mokopuna who are currently or have recently been in the State Care and Youth Justice system. It is clear that although some mokopuna have a safe and positive experience in care, for far too many, their most basic human rights are often not upheld to the extent that they should be.
13. The United Nations Committee on the Rights of the Child carried out its Sixth Periodic Review of Aotearoa New Zealand 2023. The review monitors how well the State is implementing the Children's Convention. The predecessor of Mana Mokopuna, the Office of the Children's Commissioner, submitted a report as part of this review process¹² that highlighted a number of rights issues relating to State care. These were as follows and remain relevant today:
- 13.1. Restraint and seclusion in secure detention;¹³
 - 13.2. Abuse of mokopuna in State care;¹⁴
 - 13.3. Overrepresentation of mokopuna Māori in care and protection custody;¹⁵ and
 - 13.4. Administration of Youth Justice.¹⁶
14. The Committee on the Rights of the Child issues its remarks and recommendations to the Government¹⁷ as part of the periodic review through a document known as the 'Concluding observations' (COBs). As a States Party to the Children's Convention, Government and State departments have an obligation to implement, monitor and report on the Children's Convention and progress in actioning the recommendations in the COBs. Mokopuna atawhai are identified as a priority concern by the United Nations Committee on the Rights of the Child, particularly in relation to:¹⁸
- 14.1. Violence against children (para. 24)
 - 14.2. Children deprived of a family environment (para. 28)
 - 14.3. Children belonging to minority and indigenous groups (para. 40)
 - 14.4. Administration of child justice (para. 43)
15. These concerns outlined by the UN Committee on the Rights of the Child in 2023 are not new and were also highlighted in 2016 by the Committee on the Rights of the Child during the 5th periodic review of New Zealand.¹⁹
16. Additionally, under the fourth Universal Periodic Review of New Zealand, in 2024 the UN Human Rights Council assessed New Zealand's progress on a broad range of human rights issues. The recommendations of the UPR placed a strong focus on the rights of mokopuna

¹⁰ Convention on the Rights of the Child. Article 2. 1989.

¹¹ VOYCE Whakarongo Mai, Six Promises written submission.

¹² [NZ Children's Commissioner's Report to the UN Committee on the Rights of the Child - 2022 | Mana Mokopuna](#)

¹³ Ibid. Page 27.

¹⁴ Ibid. Page 29.

¹⁵ Ibid. Page 34.

¹⁶ Ibid. Pages 68-75.

¹⁷ At 6.

¹⁸ At 6.

¹⁹ Committee on the Rights of the Child. (2023). Concluding observations on the fifth periodic report of New Zealand.

atawhai. Several of the recommendations focused on children’s rights and the prevention of violence for all children specifically disabled children, care-experienced children and children who belong to minority groups.²⁰

17. We remind the Committee that the Six Promises reflect fundamental rights of **all mokopuna**, including mokopuna atawhai, as guaranteed by New Zealand’s own domestic laws, and the Children’s Convention, as demonstrated by the table below. We also refer in the table to the most recent COBs from the UN Committee on the Rights of the Child as they are relevant to each promise.²¹

18. We trust that the table below will be useful for the Petitions Committee’s reference in relation to how each of the Six Promises map to the Government’s obligations and duties under the Children’s Convention.

VOYCE Six Promises	United Nations Convention on the Rights of the Child ²²	Committee on the Rights of the Child Concluding observations on the sixth periodic report of Aotearoa ²³
<p>Promise One: “You promise to take care of me and make sure I have the things you need, yet:</p> <ul style="list-style-type: none"> • We are experiencing housing insecurity and homelessness far too often. • The Transitions Support Service doesn’t allow all rangatahi to access the support they need. • We are leaving care not set up to survive, let alone thrive. “ 	<p>Children’s Convention:</p> <ul style="list-style-type: none"> • the right to a good standard of living including a safe place to live (Articles 26 and 27) • Best interests of the child (Article 3) • the right to non-discrimination (Article 2) • the rights of children in alternative care to special protection and assistance provided by the state (Article 20) • the right to have views of the child heard, considered and taken seriously. State parties should ensure that they seek mokopuna participation when making decisions (Article 12) • The right of children who have a physical, mental or intellectual disability. The right of their special protections, access and 	<p>Concluding Observations: Paragraph 36(c).</p> <p>(36) “Taking note of the recommendations of the Special Rapporteur on the right to housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context arising from her mission to New Zealand in February 2020, including the development of a human rights-based housing strategy, and recalling targets 1.1, 1.2 and 1.3 of the Sustainable Development Goals, the Committee urges the State party:</p> <p>(c) To specifically address the impact of severe housing deprivation on the health and well-being of children by prioritizing children’s stable access to adequate housing, ensuring it is allocated along fair and transparent criteria, and by increasing its financial commitment to the construction of social housing units and</p>

²⁰ At 6.

²¹ Ibid.

²² Convention on the Rights of the Child. 1989.

²³ At 6.

Promise Two: “**You promise to make sure I have safety and stability in my life, yet:**

- **We are not being provided with stability when we enter care.**
- **We’re not being kept safe when we’re in care, particularly in residences.**
- **Caregivers aren’t consistently assessed before we are placed with them.”**

<p>assistance provided by the state (Article 23)</p>	<p>support for community-led housing initiatives.”</p>
<p>Children’s Convention:</p> <ul style="list-style-type: none"> • Best interests of the child (Article 3) • The right to life, survival and development (Article 6) • The right to a good standard of living (Article 26) • the rights of children in alternative care to special protection and assistance provided by the state (Article 20) • the right to a good standard of living including a safe place to live (Articles 26 and 27) • the right to non-discrimination (Article 2) • the right to be safe from violence and neglect (Article 19) • the right to be protected from torture, inhuman or degrading treatment or punishment (Article 37) • the right to have views of the child heard, considered and taken seriously. State parties should ensure that they seek mokopuna participation when making decisions (Article 12) • The right of children who have a physical, mental or intellectual disability. The right of their special protections, access and assistance provided by the state (Article 23) 	<p>Concluding Observations: Paragraphs 10; 26-29.</p> <p>“(10)(c) Define budgetary lines for all children, with special attention given to those in disadvantaged or vulnerable situations that may require special measures, such as Māori and Pasifika children, children in out-of-family care, and children with disabilities, and make sure that those budgetary lines are protected even in situations of economic crisis, natural disasters or other emergencies.”</p> <p>“(28) Drawing the State party’s attention to the Guidelines for the Alternative Care of Children,²⁴ the Committee urges the State party to:</p> <p>(a) Strongly invest in measures developed and implemented by Māori children and communities to prevent their placement in out-of-home care; limit removal, when it is deemed necessary, to the shortest time possible; provide them with adequate support while in alternative care including access to mental health and therapeutic services and facilitate reintegration into their families and communities.</p> <p>(b) Prevent and reduce the number of children removed from their family environment by providing appropriate assistance and support services to parents and caregivers in the performance of child-rearing responsibilities, including through education, counselling and community-based programmes for parents.</p> <p>(c) Harmonize, make transparent and publicize the criteria, based</p>

²⁴ General Assembly resolution 64/142, annex. Retrieved from: [Guidelines for the Alternative Care of Children: resolution / adopted by the General Assembly | Refworld](#)

	<p>on the needs as well as the best interests of the child, for removing and placing children in alternative care with a view to providing the highest level of protection; (d) Ensure that the need for placement of each child in out-of-home care is always assessed by competent, multidisciplinary teams of professionals, and regularly reviewed, and that children and their families participate in decision-making in order to guarantee an individualized, culturally- and community-sensitive approach;</p> <p>(e) Ensure adequate human, technical and financial resources and continuous capacity building to those exercising responsibilities under the Oranga Tamariki legislation on upholding children’s rights, and particularly, staff members and caregivers of State-run institutions, Family Homes, and foster placements.</p> <p>(f) Facilitate children’s access to the residential complaints process to report instances of harm, neglect, abuse and violence and implement measures to combat retaliation.”</p>
<p>Children’s Convention:</p> <ul style="list-style-type: none"> • the right to non-discrimination (Article 2) • the rights of children in alternative care to special protection and assistance provided by the state (Article 20) • The right to life, survival and development (Article 6) • the right to education (Articles 28 and 29) • the right to have views of the child heard, considered and taken 	<p>Concluding Observations: Paragraphs 15, 28, 31, 37, 43 & 45.</p> <p>“(28)(g) Systematically collect data on the views of children in and out of care on their education, health, and wellbeing, in order to address the context allowing neglect, abuse and mistreatment of children in out-of-home care to occur.”</p> <p>“(31)(c) Promote the acquisition of competencies and skills of children and youth with disabilities in order to enhance their work opportunities including by taking concrete</p>

Promise Three: **“You promise to help me with my education, goals and dreams, yet:**

- **We experience barriers and disruption to education due to being in care.**
- **Alternative education and education in Oranga Tamariki residences are failing us.**

- **We don't have equal access to tertiary education."**

<p>seriously. State parties should ensure that they seek mokopuna participation when making decisions (Article 12)</p> <ul style="list-style-type: none"> • The right of children who have a physical, mental or intellectual disability. The right of their special protections, access and assistance provided by the state (Article 23) 	<p>action to address the reasons behind their non-completion of schooling, and facilitating their transition from school to employment, including by expanding and improving the quality of vocational education and training for children and youth with disabilities.²⁵"</p> <p>"(37)(b) Explicitly incorporate the right to inclusive education into education legislation and policy, also ensuring adequate resourcing of the National Learning Support Network Plan 2030."</p> <p>"(45)(a) Review the Strategic Defence Policy Statement 2018, to explicitly integrate the obligations under the Optional Protocol and the Convention and ensure their provisions are included in the curriculum of Defence Force training academies and as part of the continuing education requirements for personnel in active service"</p>
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Promise Four: **"You promise to support me with healthcare when I need it, yet:**

- **Our health needs are not consistently being met while in care.**
- **Our mental health needs are significantly higher than other young people."**

<p>Children's Convention:</p> <ul style="list-style-type: none"> • the right to non-discrimination (Article 2) • the rights of children in alternative care to special protection and assistance provided by the state (Article 20) • The right to life, survival and development (Article 6) • the right to the best healthcare possible (Article 24) • the right to be supported to heal from harm including abuse or neglect (Article 39) 	<p>Concluding Observations: Paragraphs 15, 32, 35, 36, 39, 42 & 43.</p> <p>"(15) The Committee is deeply concerned that discrimination persists against children in situations of vulnerability, including Māori and Pasifika children, children in out-of-family care and children with disabilities, noting especially their restricted ability to benefit from basic services including education, health, and protection, and to enjoy an adequate standard of living. Its further notes with deep concern their exposure to higher risks of suicide, and of experiencing sexual and domestic violence,</p>
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²⁵ Children with physical disabilities can be over-represented in the residential/institutional care population because of negative social attitudes and discrimination. Refer here: [Evidence-Brief-Complex-Needs.pdf \(orangatamariki.govt.nz\)](https://www.orangatamariki.govt.nz/evidence-brief-complex-needs.pdf)

Promise Five: **“You promise to listen and include me when decisions are made about me, yet:**

- **We can’t participate in decisions about our care when we don’t know our rights.**
- **As a country, we are performing poorly in upholding children’s rights.”**

<ul style="list-style-type: none"> • the right to have views of the child heard, considered and taken seriously. State parties should ensure that they seek mokopuna participation when making decisions (Article 12) • The right of children who have a physical, mental or intellectual disability. The right of their special protections, access and assistance provided by the state (Article 23) 	<p>school bullying, mental distress, homelessness and transient housing situations (non-discrimination). “</p> <p>“(42)(d) Māori children remain disproportionately represented in the youth justice system and are overrepresented among people who died by suicide in closed institutions.”</p> <p>“(43)(c) For the few situations where deprivation of liberty is used as a measure of last resort, continue to strive for full compliance [...], including with regard to access to education and health services, and, for pretrial detention, to ensure that detention is reviewed on a regular basis with a view to its withdrawal.”</p>
<p>Children’s Convention:</p> <ul style="list-style-type: none"> • the right to have your views heard, considered and taken seriously in a way that is appropriate given your age and ability, especially when decisions are being made that affect you (Article 12) • the right to non-discrimination (Article 2) • the rights of children in alternative care to special protection and assistance provided by the state (Article 20) • the right to education (articles 28 and 29) • The right of children who have a physical, mental or intellectual disability. The right of their special protections, access and assistance provided by the state (Article 23) • The right that the Convention is known to all 	<p>Concluding Observations: Paragraphs 19, 40</p> <p>“(19) The Committee recalls its general comment No. 12 (2009), and recommends that the State party:</p> <p>(a) Ensure children’s right to have their views heard in all official decision-making processes relating to children, such as custody cases, child welfare decisions and cases concerning criminal justice, immigration and the environment.”</p> <p>“(40) The Committee recalls its general comment No. 11 (2009) on indigenous children and their rights under the Convention, and urges the State party to:</p> <p>(b) In line with the recent legislative developments strengthen the duties of schools and child protection and youth justice sector decision-makers to recognise and uphold the right to identity of Māori children, systematically ensure that the voices of Māori children are</p>

Promise Six: **“You promise to help me feel confident in who I am, and learn about my whakapapa, culture and language, yet:**

- **Tamariki Māori is too often disconnected from our marae, hapū and iwi.**
- **Takatāpui and rainbow rangatahi are not safe and supported in our identity while in care.”**

<p>children, young people and adults (Article 42)</p>	<p>heard and that their views are considered in decisions that affect them also by strengthening support for organisations promoting and protecting their rights and that of their families.”</p>
<p>Children’s Convention:</p> <ul style="list-style-type: none"> • the right to non-discrimination (Article 2) • the rights of children in alternative care to be looked after properly by people who respect the child’s culture, language and other aspects of their life (Article 20) • the right to identity (Article 7) • the right to Indigenous culture, language and religion (Article 30) • the right to be safe from violence and neglect (Article 19) • the right to have views of the child heard, considered and taken seriously. State parties should ensure that they seek mokopuna participation when making decisions (Article 12) • The right of children who have a physical, mental or intellectual disability. The right of their special protections, access and assistance provided by the state (Article 23) 	<p>Concluding Observations: Paragraphs 15, 40, 43</p> <p>“(40) The Committee recalls its general comment No. 11 (2009) on indigenous children and their rights under the Convention, and urges the State party to:</p> <p>(a) Systematically assess the impact of policies, legislation and government services in addressing the root causes of vulnerability experienced by Māori children and their families, including the higher likelihood of living in deprivation and poverty.”</p> <p>“(43)(e) Develop an effective action plan towards eliminating the disparity in the rates of sentencing, incarceration and survival in detention of Māori children, by addressing the connections between offending and neurodisability, alienation from whanau (family), school and community, substance abuse, family violence, removal into state care and intergenerational issues.”</p>

Considering the context of the Petition is crucial

19. We urge the Committee to consider the broader context of the care system when considering the petition of VOYCE Whakarongo Mai, both historically and in today's context. This includes the colonial roots of the care system and the disproportionate negative, intergenerational impacts it has had on mokopuna Māori in the context of their whānau, hapū and iwi through to the current day.²⁶
20. There are several reports and evidence-bases which provide comprehensive contextual information about the care system in Aotearoa New Zealand. We encourage the Committee to draw on the following, in particular:
 - 20.1. The wealth of evidence produced throughout the Abuse in State Care Royal Commission of Inquiry, which has been informed by the experiences of mokopuna atawhai past and present.²⁷
 - 20.2. The large body of findings and recommendations from the Waitangi Tribunal across multiple inquiries pertaining to child welfare, including, for example, He Pāharakeke, He Rito Whakakīkinga Whāruarua 2021 report²⁸.
 - 20.3. The recent External Rapid Review of Oranga Tamariki Residences²⁹ that was undertaken in response to reports of several instances of serious harm to mokopuna atawhai.³⁰
 - 20.4. The Safety in Care annual series of reports published by Oranga Tamariki which provides data on harm experienced by mokopuna atawhai in care.³¹ We note with concern that the most recent data reports that more mokopuna atawhai have experienced harm in care, and that the number of findings of harm are increasing.³²
 - 20.5. The findings from the Independent Review of the Children's System Response to Abuse regarding the death of 5-year-old Malachi Subecz³³.
 - 20.6. The work of our Predecessor organisation, The Office of Children's Commissioner reports such as Te Kuku O Te Manawa,³⁴ annual State of Care reports, and How we fail children who offend and what to do about it: 'A breakdown across the whole system'.³⁵

²⁶ Office of the Children's Commissioner (2020) [Te Kuku O Te Manawa - Ka puta te riri, ka momori te ngākau, ka heke ngā roimata mo tōku pēpi](#) | Mana Mokopuna; [Te Kuku O Te Manawa - Moe ararā! Hauamanutia ngā moemoeā a ngā tūpuna mō te oranga ngā tamariki](#) | Mana Mokopuna

²⁷ [Reports | Abuse in Care - Royal Commission of Inquiry](#) ; [Other publications | Abuse in Care - Royal Commission of Inquiry](#)

²⁸ [He Pāharakeke, he Rito Whakakīkinga Whāruarua](#) ([justice.govt.nz](#))

²⁹ [Secure-residence-review.pdf](#) ([orangatamariki.govt.nz](#))

³⁰ [Oranga Tamariki review: Agency refers 28 complaints over staff conduct to police](#) | RNZ News; [Secure residences and community homes review](#) | Oranga Tamariki — Ministry for Children

³¹ [Safety of Children in Care](#) | Oranga Tamariki — Ministry for Children

³² [Urgent work needed to ensure all children and young people in state care are safe](#) | Mana Mokopuna

³³ [Independent Review of the Children's System Response to Abuse](#) | Oranga Tamariki — Ministry for Children

³⁴ [Te Kuku O Te Manawa - Ka puta te riri, ka momori te ngākau, ka heke ngā roimata mo tōku pēpi](#) | Mana Mokopuna

³⁵ [Report: How we fail children who offend and what to do about it: 'A breakdown across the whole system'](#) | Borrin Foundation

Mokopuna atawhai – children and young people in care

21. As of 30 June 2023, there were 4,507 mokopuna in care of the State.³⁶ From Aroturuki Tamariki, The Independent Children’s Monitor (Aroturuki Tamariki) latest findings:³⁷
- 21.1. 14 percent are aged under 5 years.
 - 21.2. 24 percent are aged 5 to 9 years.
 - 21.3. 31 percent are aged 10 to 14 years.
 - 21.4. and 31 percent are aged 15 years and over.
 - 21.5. Males make up 57 percent.
 - 21.6. Females make up 43 percent.
 - 21.7. Mokopuna who identify with other genders make up 1 percent.
 - 21.8. 69 percent of mokopuna in care being Māori compared to 27 percent of the general population of mokopuna under 18.
 - 21.9. 28 percent of mokopuna in care having a known disability compared with 11 percent of the general population of mokopuna under 15.
22. There are a number of care arrangements and placements that mokopuna atawhai may experience. As of June 2023:
- 22.1. 39 percent of mokopuna atawhai are in a family/whānau/kin placement.
 - 22.2. Seven percent are in a non-family placement.
 - 22.3. 14 percent are in an in-home placement.
 - 22.4. 10 percent are in an NGO or Iwi Social Services placement.
 - 22.5. Eight percent do not have a recorded placement type.
 - 22.6. Seven percent are in another category placement type.
 - 22.7. Two percent are in residences.
 - 22.8. Two percent are in independent living, and
 - 22.9. One percent are in group homes.³⁸
23. We urge the Committee to consider the individual mokopuna behind this data – their individual rights, interests and wellbeing, and their individual potential and aspirations for their futures.
24. We reiterate the point made by Lisa McLaren in the VOYCE Whakarongo Mai oral submission and urge the Committee to consider the diverse individual experiences of all mokopuna atawhai and their families and whānau which have brought them into care.

³⁶ As at 31 March 2024: 2022-23 Quarter 3 Performance Report (orangatamariki.govt.nz)

³⁷ Experiences of Care report 2022-2023. Aroturuki Tamariki

³⁸ Ibid.

Prioritising rights, interests and wellbeing of mokopuna Māori

25. In addition to the rights of all children under the Children’s Convention, Mana Mokopuna advocates and calls on the Committee to prioritise the rights, interests, and wellbeing of mokopuna Māori in its consideration of the Petition. Taking a children’s rights approach in Aotearoa New Zealand means ensuring the realisation of tangata whenua rights as embodied and affirmed in Te Tiriti o Waitangi for all mokopuna Māori and their whānau.
26. The provision of tino rangatiratanga under Article 2 of Te Tiriti affirms and guarantees Māori self-determination and agency over their taonga (material and non-material). Article 2 also establishes the provision of Crown protection of this Māori self-determination. Mokopuna are taonga who must be protected. By Māori, for Māori leadership and collaboration is essential to realising this provision of self-determination and therefore finding effective care solutions for mokopuna Māori and protection of these taonga.
27. The provision of ngā tikanga katoa rite tahi under Article 3 of Te Tiriti affirms the equal enjoyment of all rights and privileges for all peoples. This provision is expressed through the values of participation, access, options, equality, and equity. These rights are supported by the Children’s Convention, which provides mokopuna (and their whānau) with specific rights that must be upheld and implemented by the Government.
28. Reducing the overrepresentation of mokopuna Māori in child welfare, offending, and youth justice is crucial to improving social justice and equity. While mokopuna Māori are disproportionately represented in care as well as offending statistics, investment and support for culturally appropriate and Māori-led approaches to meet their needs are lacking. Although there are initiatives targeting Māori overrepresentation throughout the criminal justice pipeline, iwi-based, local, community, and Non-Governmental Organisation (NGO) solutions are limited in scale³⁹. To effectively address such flow on impacts, a strategic partnership combining the strengths of both iwi and the Government is required, with an interdependent, kaupapa Māori approach leading the way.

The Oranga Tamariki system

29. We acknowledge the written and oral submissions by the Ministry of Social Development, which set out information about the Oranga Tamariki System.⁴⁰ We also acknowledge that the Committee has invited Oranga Tamariki and Aroturuki Tamariki to make submissions on the Petition, too. Below is a brief overview of the Oranga Tamariki system, insofar as it is relevant to our role and our submission.
30. The Oversight of Oranga Tamariki System Act 2022 established the Oversight of Oranga Tamariki system, comprising Aroturuki Tamariki, the Ombudsman, and Mana Mokopuna.⁴¹
31. Mana Mokopuna has an independent advocacy role within the Oversight of Oranga Tamariki system, including providing support to facilitate the resolution of issues with mokopuna and whānau who are involved with the Oranga Tamariki system.⁴²
32. The Oranga Tamariki System includes numerous government and non-government organisations, many of which Mana Mokopuna interacts with in carrying out our functions

³⁹ I Lambie (2018) It’s never too early, never too late: A discussion paper on preventing youth offending in New Zealand (Office of the Prime Minister’s Chief Science Advisor, Auckland, New Zealand).

⁴⁰ [Corporate Templates - Letter \(www.parliament.nz\)](http://www.parliament.nz)

⁴¹ [Oversight of Oranga Tamariki System Act 2022 No 43 \(as at 01 May 2023\), Public Act – New Zealand Legislation](#)

⁴² The Children and Young People’s Commission Act 2022, s 20.

including providing independent oversight of the Oranga Tamariki system.⁴³ However, we note that legislation does not provide an exhaustive list of agencies comprising the Oranga Tamariki system.

33. The Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018 specify the obligations of Oranga Tamariki in respect of all mokopuna in its care or custody.⁴⁴ These obligations are referred to as the National Care Standards and set out “the standard of care that tamariki and rangatahi need, to be well and do well while they're in care, and the support that caregivers can expect to receive”.⁴⁵
34. The Oranga Tamariki Practice Centre contains a plain language version of the National Care Standards, including references to relevant policies and procedures that should guide Oranga Tamariki practice and decision making in meeting its obligations.⁴⁶
35. Aroturuki Tamariki is responsible for monitoring relevant agencies' compliance with the National Care Standards and publishes reports annually on agency compliance.⁴⁷ Oranga Tamariki also self-monitors in accordance with Part 6 of the National Care Standards.⁴⁸
36. Mana Mokopuna has the role to consider the outcomes of the above monitoring and advocate for the rights of mokopuna atawhai to be met. We raise awareness of the rights of mokopuna under the Children's Convention and monitor its implementation by the Government. We also advocate for inconsistencies with the Children's Convention to be addressed by bringing specific issues to the attention of relevant government agencies and decision-makers.

VOYCE Whakarongo Mai's Petition is calling for existing rights to be met

37. As set out above, it is important to note that the Six Promises set out by VOYCE Whakarongo Mai are not 'nice to haves' or optional. Rather, they capture the basic, minimum standards of care that mokopuna atawhai are entitled to, and agencies are obliged to comply with under Aotearoa New Zealand's domestic law and regulations, and specifically, the Oranga Tamariki (National Care Standards Regulations and related matters) 2018 (the National Care Standards) (as demonstrated by the table below). In effect, the National Care Standards outlines in New Zealand law the rights to which all children in care are entitled to, and these map to the Children's Convention.
38. We acknowledge the work by Oranga Tamariki to address the issues raised by VOYCE Whakarongo Mai.⁴⁹ However, some issues continue to persist due to continued non-compliance with the National Care Standards as seen and heard by mokopuna atawhai.⁵⁰

⁴³ For a detailed overview of the Oranga Tamariki system, please see the diagram on p 5: [Oranga Tamariki BIM 2023](#)

⁴⁴ [Oranga Tamariki \(National Care Standards and Related Matters\) Regulations 2018 \(LI 2018/111\) \(as at 01 May 2023\) – New Zealand Legislation](#)

⁴⁵ [Care standards | Practice Centre | Oranga Tamariki](#)

⁴⁶ Ibid.

⁴⁷ The Oversight of Oranga Tamariki System Act 2022, s 14; Aroturuki Tamariki Experiences of Care annual report series available here: [Reports | Aroturuki Tamariki | Independent Children's Monitor](#)

⁴⁸ [Compliance-Report-against-National-Care-Standards-Regulations-2.pdf \(orangatamariki.govt.nz\)](#)

⁴⁹ A number of improvements were noted by Aroturuki Tamariki in its annual monitoring report: [EOCR-2022-23.pdf \(aroturuki.govt.nz\)](#). We also acknowledge the measurement framework recently developed by Oranga Tamariki to measure its own compliance with the National Care Standards: [Compliance-Report-against-National-Care-Standards-Regulations-2.pdf \(orangatamariki.govt.nz\)](#)

⁵⁰ [EOCR-2022-23.pdf \(aroturuki.govt.nz\)](#); [New report shows work still needed to get the basics right for children in state care | Mana Mokopuna](#)

39. We call for the Committee to respond to the Petition to ensure that the Government actively addresses the daily shortcomings in upholding the rights, interests, and well-being of mokopuna atawhai. Given that mokopuna are at risk of harm due to unmet care standards, as highlighted by VOYCE, it is crucial to implement measures that ensure these standards are consistently met, and all the rights of all mokopuna are experienced all the time.
40. Below for the Committee’s reference, we have provided a table mapping the Six Promises to the relevant National Care Standards:

<p>Promise One: “You promise to take care of me and make sure I have the things you need, yet:</p> <ul style="list-style-type: none"> • We are experiencing housing insecurity and homelessness far too often. • The Transitions Support Service doesn’t allow all rangatahi to access the support they need. • We are leaving care not set up to survive, let alone thrive.” 	<p>Oranga Tamariki (National Care Standards Regulations and related matters) 2018:⁵¹</p> <ul style="list-style-type: none"> • Part One and Part Two – identifying needs and support to meet needs (regs 7-20; regs 30-33) • Part Five – transitions (regs 71-76)
<p>Promise Two: “You promise to make sure I have safety and stability in my life, yet:</p> <ul style="list-style-type: none"> • We are not being provided with stability when we enter care. • We’re not being kept safe when we’re in care, particularly in residences. • Caregivers aren’t consistently assessed before we are placed with them.” 	<ul style="list-style-type: none"> • Part One – assessing needs (reg 10, reg 14) • Part Two – support to meet needs (reg 30) • Part Three – caregiver recruitment and support (reg 46(b) states that a purpose of caregiver assessment is to determine the extent to which a caregiver can provide a “safe, stable and loving home” for mokopuna atawhai) • Part Five – transitions (regs 71-76)
<p>Promise Three: “You promise to help me with my education, goals and dreams, yet:</p> <ul style="list-style-type: none"> • We experience barriers and disruption to education due to being in care. 	<ul style="list-style-type: none"> • Education (regs 36-42)

⁵¹ [Oranga Tamariki \(National Care Standards and Related Matters\) Regulations 2018 \(LI 2018/111\) \(as at 01 May 2023\) – New Zealand Legislation](#)

<ul style="list-style-type: none"> • Alternative education and education in Oranga Tamariki residences are failing us. • We don't have equal access to tertiary education." 	
<p>Promise Four: "You promise to support me with healthcare when I need it, yet:</p> <ul style="list-style-type: none"> • Our health needs are not consistently being met while in care. • Our mental health needs are significantly higher than other young people." 	<ul style="list-style-type: none"> • Healthcare (reg 35; reg 13)
<p>Promise Five: "You promise to listen and include me when decisions are made about me, yet:</p> <ul style="list-style-type: none"> • We can't participate in decisions about our care when we don't know our rights. • As a country, we are performing poorly in upholding children's rights." 	<ul style="list-style-type: none"> • Part Four – supporting children and young persons to express their views and contribute to their care experience (regs 66-70)
<p>Promise Six: "You promise to help me feel confident in who I am, and learn about my whakapapa, culture and language, yet:</p> <ul style="list-style-type: none"> • Tamariki Māori is too often disconnected from our marae, hapū and iwi. • Takatāpui and rainbow rangatahi are not safe and supported in our identity while in care." 	<ul style="list-style-type: none"> • Whānau connections (reg 31) • Culture, belonging and identity (reg 32) • Caregiver support for culture and identity (reg 65)

VOYCE Whakarongo Mai's Recommendations

41. VOYCE Whakarongo Mai has urged the Government to uphold the Six Promises by:

36.1 Ensuring any proposed law or policy is consistent with the intent of the Children's Convention by making the Child Impact Assessment tool a mandatory requirement for the public sector.

36.2 Strengthening the oversight, monitoring and accountability of the care system to meet its own minimum standards and legislated requirements.

36.3 Providing greater investment in independent advocacy to ensure that young people in care have access to the supports they need to express their views as required by legislation.

36.4 Committing to meaningful and ongoing engagement with the care experienced community to authentically co-design sustainable and fit-for-purpose solutions.

42. Below, we have outlined some brief commentary in relation to each of these recommendations.

Child Impact Assessment tool

43. To fulfil its duties as a States Party to the Children’s Convention, the Government needs to ensure that all of its actions give effect to children’s rights. This includes at the policy and legislation development stages, right through to decision-making and service delivery and implementation. It is our view that government needs to do better to ensure that its commitment to the Children’s Convention translates into action at all levels of activity. This needs to include intentionally designing and integrating processes into the policy-making framework to ensure that children and their rights are at the forefront of policy and decision-making.
44. We note that the Ministry of Social Development has developed the Child Impact Assessment Tool for use by policy-makers⁵², and we would like to see a child impact assessment undertaken as part of all policy and legislative development processes, to ensure comprehensive, intentional and meaningful consideration of children and their rights is incorporated into the policy and legislative process. We also call on the Government to ensure that the children’s rights capability of policy-makers and decision-makers across government is invested in and supported to grow, as this will have a positive impact on children’s rights implementation and advancement, including for mokopuna atawhai.
45. Mana Mokopuna currently undertakes consultation with agencies to determine children’s rights impacts of various pieces of mahi, such as the development of policies, legislation and frameworks that will impact on or interface with mokopuna. We provide advice on an independent basis, to hold Government to account for implementing and upholding children’s rights including under the Children’s Convention and Te Tiriti o Waitangi. Usually, we provide this advice at the request or invitation of individual government agencies. Having a requirement for government agencies to consult with Mana Mokopuna on an ongoing basis on issues affecting children and young people, alongside the use of a child impact assessment tool and further developing children’s rights capability at the government official level, would be a powerful combination for helping to implement children’s rights and ensure greater children’s rights accountability.
46. Mana Mokopuna currently undertakes consultation with agencies to determine children’s rights impacts of various pieces of mahi, such as the development of policies and frameworks that impact or interface with mokopuna. We recognise that a standardised Child Impact Assessment process may ensure the outcomes we seek to achieve when advising agencies would be more broad-reaching and consistent.

Strengthening the oversight, monitoring and accountability of the care system

47. We further acknowledge that the Government is implementing changes to the Oversight of Oranga Tamariki system to align with calls from the care-experienced community.⁵³

⁵² [Child Impact Assessment Tool - Ministry of Social Development \(msd.govt.nz\)](https://msd.govt.nz)

⁵³ [Stronger oversight for our most vulnerable children | Beehive.govt.nz](https://beehive.govt.nz)

48. We anticipate the final report of the Abuse in Care Royal Commission of Inquiry will provide further guidance on the strengthening oversight, monitoring and accountability of the care system.
49. It is our strong recommendation that ongoing strengthening the oversight, monitoring and accountability of the care system is fundamental to achieving positive outcomes for mokopuna atawhai. Strong oversight can be both critical and constructive, to support the Oranga Tamariki System to uphold mokopuna rights.

Providing greater investment in independent advocacy, and engagement with the care experienced community to co-design solutions

50. Mana Mokopuna supports independent advocacy for mokopuna atawhai, to support them to know about their rights, and to defend the best interests and well-being of mokopuna atawhai. We acknowledge the mahi of VOYCE in this capacity, and we also note that as an independent crown entity, Mana Mokopuna plays a key role in this regard.
51. Meaningful and ongoing engagement with the care-experienced community is important both to understand impacts of the oranga tamariki system on people's lives, and to provide perspectives that can inform solutions. First and foremost, we advocate for the co-design of solutions that are focused on strengthening and supporting whānau and preventing harm to mokopuna. We believe mokopuna atawhai should be supported to participate authentically in co-designing solutions within the oranga tamariki system. They have unique experiences and expertise to offer and can provide innovative ideas and identify solutions that are sustainable and fit-for-purpose and would work for mokopuna atawhai. Ensuring their participation would result in better policy, service design and operational practices. This is an integral way to support mokopuna atawhai to realise their right to participation as guaranteed under Article 12 of the Children's Convention.

Conclusion

52. The VOYCE Whakarongo Mai petition represents a reflection of mokopuna atawhai lived experiences. While we acknowledge that it does not necessarily capture the experience or perspectives of all mokopuna in care or who have been in care – noting the huge diversity of mokopuna, it does highlight that the services provided to mokopuna atawhai are not always meeting the current National Care Standards, nor its duties and obligations under the Children's Convention. The Government has a clear obligation to deliver the National Care Standards and uphold all rights under the Children's Convention for all mokopuna atawhai and must resource the oranga tamariki system to do so. This includes ensuring investment in whānau, hapū, iwi and community-led approaches and solutions both in the prevention and wider care spaces.
53. Responding positively to this petition, and addressing the issues, would also respond in part to the Concluding Observations from the UN Committee on the Rights of the Child. The Government also has an obligation and duty to address those, as a States Party to the Children's Convention.
54. We implore the Government to fulfil all its duties and obligations to mokopuna atawhai under domestic and international law, and invest in and support whānau, hapū, iwi, communities, the oranga tamariki system, as well as the oversight of oranga tamariki system, to be able to play their respective parts in so that all mokopuna can live their best lives. This is our shared vision; kia kuru pounamu te rongō.

Glossary

Term	Definition
Aroturuki Tamariki	Independent Children's Monitor
Mana Mokopuna	The Children and Young People's Commission
Mokopuna	When we use the kupu 'mokopuna' in our work, we are referring to all children and young people in Aotearoa New Zealand
Mokopuna atawhai	Children and young people in care of the State (or those who have been in care)
Ngā mihi nui ki a koutou	A greeting that acknowledges people, can be translated as 'thank you all very much.'
Oranga Tamariki	Ministry for Children
Rangatahi	Youth, young adult
Tamariki	This translates to children and normally used only in the plural. We must ensure that when using the term children, it always includes Māori. When we are referring to non-Māori children, in the absence of Māori, we use the term children.
Tautoko	support
Te Tiriti o Waitangi	The founding legal document of Aotearoa New Zealand, signed in 1840. It establishes the partnership between Māori and the Crown.
VOYCE Whakarongo Mai	An independent non-government agency that exists to support care-experienced children and young people to be heard. VOYCE stands for "Voice of the Young and Care Experienced"
Whaikaha	To have strength, to have ability, otherly abled, enabled
Whakapapa	Genealogy, lineage, descent.
Whānau	Whānau is often translated as 'family', but its meaning is more complex. It includes physical, emotional, and spiritual dimensions and is based on whakapapa. Whānau can be multi-layered, flexible, and dynamic. Whānau relationships include those with whāngai (foster children) and those who have passed on. There are roles and responsibilities for individuals and for the collective. The structure of whānau can vary from immediate family to much broader collectives. The most important features of whānau that distinguish it from family and other social groupings are

	<p>whakapapa, spirituality, and the responsibility to marae and hapū.</p> <p>Whānau is also used as a metaphor for close friends or associates, intended to be inclusive and build a sense of group unity. Whānau begins with the individual. The relationship between the individual and the whānau is subtle and complex. Individuals have rights of their own, but they exist because of the whānau and have responsibilities to the whānau.</p>
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