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# Submission to Health Committee: Pae Ora (Healthy Futures) (Improving Mental Health Outcomes) Amendment Bill

## Introduction

Mana Mokopuna – Children and Young People’s Commission is an Independent Crown Entity with the statutory responsibility to advocate for the rights, interests, participation and well-being of all children and young people (mokopuna) under 18 years old in Aotearoa New Zealand, including young persons aged over 18 but under 25 years old years if they are, or have been, in care or custody.

We advocate for and with mokopuna within the context of their families, whānau, hapū, iwi and communities based on evidence including direct mokopuna experiences and views, the United Nations Convention on the Rights of the Child (the Children’s Convention), Te Tiriti o Waitangi and other international human rights instruments.

As a National Preventive Mechanism under the Optional Protocol to the Convention Against Torture we monitor places where children under 18 are detained, including youth mental health facilities.

Mental health and wellbeing is a significant issue for mokopuna in Aotearoa New Zealand – they continue to tell our Commission this themselves. Mana Mokopuna welcomes the proposed Mental Health and Wellbeing Strategy because it provides a potential mechanism to improve mental health for mokopuna.



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## Executive Summary

1. Mana Mokopuna – Children and Young People’s Commission welcomes the opportunity to submit on the Pae Ora (Healthy Futures) (Improving Mental Health Outcomes) Amendment Bill (the Bill).
2. We **support the general intent of this Bill**, in terms of making the Mental Health and Wellbeing Strategy a legal government mechanism to achieve better mental health outcomes.
3. Our **primary submission is that every Mental Health and Wellbeing Strategy should be required, by law, to include a focus on the particular rights, needs and interests of mokopuna<sup>1</sup> (children and young people)**. This includes addressing the determinants of their mental health and wellbeing. We urge the Health Committee (the Committee) to incorporate this as a recommendation in its report back on the Bill.

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<sup>1</sup> At Mana Mokopuna, we have adopted the term ‘mokopuna’ to describe all children and young people we advocate for. ‘Mokopuna’ brings together ‘moko’ (imprint or tattoo) and ‘puna’ (spring of water). Mokopuna describes that we are descendants, and or grandchildren, and how we need to think across generations for a better present and future. We acknowledge the special status held by mokopuna in their families, whānau, hapū and iwi and reflect that in all we do. Referring to children and young people we advocate for as mokopuna draws them closer to us, and reminds us that who they are, and where they come from, matters for their identity, belonging and well-being at every stage of their lives.

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4. In this submission we also:
    - a. **Suggest** the requirement for a Mental Health and Wellbeing Strategy should also be inserted in s33 of the Pae Ora (Healthy Futures) Act 2022 (the Act).
    - b. **Agree** that Te Hiringa Mahara - Mental Health and Wellbeing Commission should be consulted and included in s35 of the Act.
    - c. **Disagree** that Te Hiringa Mahara should be considered as a health entity like a government department. A health entity is one that provides, directly or indirectly, health services, but Te Hiringa Mahara does not have that role.
  5. Mana Mokopuna requests the opportunity to provide an oral submission to the Committee in alignment with this submission.

## Recommendations

6. **We recommend** the Bill be amended to require every Mental Health and Wellbeing Strategy to include a focus on the particular rights, needs and interests of mokopuna (children and young people).
7. **We recommend** a clause be added to the Bill that inserts the Mental Health and Wellbeing Strategy in to s33 (1)(b) of the Pae Ora (Healthy Futures Act 2022).
8. **We recommend** that clause 4(1) be amended to remove the Mental Health and Wellbeing Commission.

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## A Mental Health and Wellbeing Strategy is needed

9. Including a Mental Health and Wellbeing Strategy in the list of strategies the health system must give effect to, will support better collaboration between government agencies to achieve better mental health and wellbeing outcomes for all.
10. Strengths of having a Mental Health and Wellbeing Strategy include the ability and expectation for cross-government agencies to collaborate on this kaupapa that is of importance for all New Zealanders, including mokopuna. This would enable, for example, a focus on the determinants of good mental wellbeing, namely enhancing the drivers of positive mental wellbeing. Holistic initiatives also play important roles in achieving wellbeing, such as education, employment, housing, sufficient food security, safety, income adequacy and stability to meet one's family needs, support for raising mokopuna, and receiving disability supports.<sup>2</sup>
11. Strategies are as good as the mechanisms that ensure they are implemented. This requires adequate funding, aligned workforce development and capability-building, and measureable outcomes of initiatives identified under a strategy. We consider that including this strategy among other health strategies will help government agencies to focus on mental health and wellbeing more holistically, alongside their work to deliver on the other health strategies.
12. We suggest as well that it would be useful to include this strategy in s33(1)(b) of the Act as one of the key health documents the Minister must determine. This should help to ensure the strategy is supported by concomittent political will to have it implemented.
13. Therefore, **we recommend** adding the Mental Health and Wellbeing Strategy to s33(1)(b) of the Pae Ora (Healthy Futures) Act 2022.

## Ensuring a focus on children and young people within the Strategy

14. Young people report the highest level of unmet need for mental health care of any age group in the population.<sup>3</sup> Therefore, the mental health and wellbeing of our country's mokopuna is a pressing issue in need of attention and action, so that their rights to health can be upheld and promoted.<sup>4</sup>
15. Given the significance of mental health and wellbeing among mokopuna, it is vital that this Bill requires that the Mental Health and Wellbeing Strategy recognises them as a priority population group. The rights, interests, participation and wellbeing of mokopuna in Aotearoa New Zealand must be a paramount consideration of this Bill.<sup>5</sup>
16. Such an approach would be consistent with the Mental Health and Addictions Inquiry's findings outlined in *He Ara Oranga: Report of the Government Inquiry into Mental Health and*

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<sup>2</sup> [Kia Manawanui Aotearoa – Long-term pathway to mental wellbeing \(health.govt.nz\)](https://www.health.govt.nz/our-work/long-term-pathway-to-mental-wellbeing) at page 26.

<sup>3</sup> Ministry of Health, New Zealand Health Survey 2022/23 annual data explorer: "Mental health care indicator: Unmet need for professional help for their mental health in the last 12 months"

<sup>4</sup> [Meeting the mental health needs of young New Zealanders — Office of the Auditor-General New Zealand \(oag.parliament.nz\)](https://www.oag.parliament.nz/our-work/youth-wellbeing-insights-report)  
[Youth Wellbeing Insights Report | Te Hiringa Mahara—Mental Health and Wellbeing Commission \(mhwc.govt.nz\)](https://www.mhwc.govt.nz/our-work/youth-wellbeing-insights-report)

<sup>5</sup> We suggest using the government's Child Rights Impact Assessment tool <https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/resources/child-impact-assessment.html>

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*Addiction*, which highlighted specific population groups who experience wellbeing inequity in relation to mental health and addictions.<sup>6</sup> Taking this approach would also be consistent with the findings and recommendations of the Office of the Auditor General’s recent report, *Meeting the mental health needs of young New Zealanders*.<sup>7</sup> A developmental approach which focuses on prevention and early intervention for children and young people, has been made clear in both the Inquiry’s report, the Auditor-General’s findings, and wider work and research in this space.

17. This Bill should name population groups, including children and young people, and legislate for their views to be considered in the development of every Mental Health and Wellbeing Strategy.<sup>8</sup> Another way to address this could be to include a new clause in the Bill akin to the approach of s13 of the Mental Health and Wellbeing Commission Act 2020, to ensure those developing the strategy have a clear “obligation to have effective means of seeking views” from mokopuna and those around them. This would help to ensure that the voices of people with lived experience of mental health distress and accessing mental health services, families and communities are central to every Mental Health and Wellbeing Strategy aligned with *He Ara Oranga*<sup>9</sup> and *Kia Manawanui Aotearoa*<sup>10</sup>.
18. For example, under clause 7 (the addition of proposed section 46A), we suggest adding more explicit detail on what needs to be in the strategy, including reference to children and young people, and priority population groups such as Māori, Pacific, rainbow and whaikaha, as a specific cohort under proposed s46A(3)(c).
19. Including a clear focus on mokopuna within every Mental Health and Wellbeing Strategy would also assist the government to address inequalities of mental health outcomes for different groups of mokopuna, and prioritise children’s access to affordable, quality, age-appropriate mental health and counselling services in a timely manner. This was a recommendation made to the State of New Zealand by the United Nations Committee on the Rights of the Child in February 2023, under the sixth periodic review of New Zealand’s implementation of the Children’s Convention.<sup>11</sup>
20. More broadly, addressing the 2023 recommendations outlined in the concluding observations of the UN Committee on the Rights of the Child would assist and support a focus on the determinants of child and youth mental health and wellbeing.
21. **We recommend** the Bill be amended to require every Mental Health and Wellbeing Strategy to include a focus on the particular rights, needs and interests of mokopuna (children and young people).

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<sup>6</sup> <https://mentalhealth.inquiry.govt.nz/inquiry-report/he-ara-oranga/>

<sup>7</sup> [Meeting the mental health needs of young New Zealanders — Office of the Auditor-General New Zealand \(oag.parliament.nz\)](https://www.oag.parliament.nz/publications/2023/04/01/Meeting-the-mental-health-needs-of-young-New-Zealanders)

<sup>8</sup> <https://mentalhealth.inquiry.govt.nz/about-the-inquiry/terms-of-reference/>

<sup>9</sup> <https://www.legislation.govt.nz/act/public/2020/0032/latest/whole.html#LMS281181>

<sup>10</sup> [Kia Manawanui Aotearoa – Long-term pathway to mental wellbeing \(health.govt.nz\)](https://www.health.govt.nz/our-work/long-term-pathway-to-mental-wellbeing)

<sup>11</sup> CRC/C/NZL/CO/6, paragraph 32(c)

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## Consult the Mental Health and Wellbeing Commission

22. We agree the Mental Health and Wellbeing Commission should be consulted and included in s35 of the Act.
23. Te Hiringa Mahara – the Mental Health and Wellbeing Commission has a key role to play in this system by monitoring and providing expert advice to health entities and other agencies. This includes making recommendations about what is needed in the mental health and wellbeing system to support people to achieve positive mental health and wellbeing.

## Independence is a cornerstone to effective monitoring functions

24. However, we disagree that Te Hiringa Mahara should be considered a health entity like a government department. A health entity is one that develops, funds or delivers health services, but Te Hiringa Mahara does not have those roles.
25. As an independent Crown entity, the independence of Te Hiringa Mahara is vital to the successful functioning of the mental health and wellbeing system.
26. Agencies with statutory functions to monitor the government must have full independence. This gives assurance to the public that the statutory monitoring function can remain independent of the government. Any agency with a monitoring function can also give advice, collaborate and support government agencies, while also holding them to account.
27. Therefore **we recommend** that clause 4(1) be amended to *remove* the Mental Health and Wellbeing Commission from that list.

## How the strategy will be developed, matters

28. Mana Mokopuna advocates for the current Government and successive future governments to hear from children and young people in the development of policy and legislation that affects their lives. How the strategy is built will impact its implementation. Mokopuna need to be engaged early to ensure the strategy adequately takes into account children under 18 and care-experienced mokopuna aged 18-25, when considering different aspects of the mental health and wellbeing system, given this system directly impacts their lives and rights.<sup>12</sup>
29. Mental health and wellbeing services need to be universally and freely available to mokopuna, at a scale that meets demand in all the places where mokopuna live, learn and play. Engaging with mokopuna is important to find out what works for them, as they are the experts on their lives and experiences. Alongside engaging with mokopuna, engaging with whānau is important given we see and hear mokopuna in the context of their whānau, hapū, iwi and the communities.
30. Mana Mokopuna and its predecessor, the Office of the Children’s Commissioner, have long called for essential mental health and wellbeing service improvements for mokopuna. We reiterate these calls below, given the focus of this Bill:

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<sup>12</sup> [OT-MW-Needs-Assessment\\_final-for-publication\\_Redacted.pdf \(orangatamarikiactionplan.govt.nz\)](#)

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- a. Specific paediatric mental health facilities and services for those under 18, rather than including them in adult services which inadequately accommodate the age and development of the child.
  - b. Where children and young people are detained under the Mental Health Act, they need child-centric and whānau-centric services, and age-mixing must be avoided wherever possible.
  - c. Workforce development from both capacity and capability perspectives is vital to ensure safe mental health spaces and services for mokopuna. This is especially important given the workforce shortages across the health and wellbeing sector, and the ongoing need for priority to be given to ensure that these services and supports are available, adequate and effective for children and young people. This includes honouring Te Tiriti o Waitangi, building cultural capacities, ensuring clinical safety of services, training in child safeguarding, trauma-informed care, specialist mental health care for mokopuna whaikaha, a focus on meeting the needs of mokopuna in or who have been in the Oranga Tamariki system, rainbow awareness, and generally planning a workforce in each specialist area to meet the scale of demand.
31. Section 47 of the Pae Ora (Healthy Futures) Act 2022 states that when preparing a health strategy, the Minister must “consult health entities, individuals, and organisations that the Minister considers are reasonably likely to be affected by the health strategy”. Mana Mokopuna is well placed to provide advice on the development of a Mental Health and Wellbeing Strategy from the perspective of child rights, wellbeing, best interests and participation. Our Chief Children’s Commissioner and our Commission remain ready to provide specialist advice from a children’s rights and wellbeing perspective in this regard.

## Conclusion

32. Mana Mokopuna applauds the general intent of this Bill to establish a Mental Health and Wellbeing Strategy as a legal government mechanism among the health strategies. It is vital to uphold and advance children’s rights, by prioritising and safeguarding their mental health and wellbeing.
33. As law-makers making decisions which will affect mokopuna lives, Select Committees are duty bearers under the United Nations Convention on the Rights of the Child. Our Commission calls on all members of select committees across Parliament, and in this instance individual members of the Health Committee collectively, to carefully and explicitly consider how legislation and policy options affect children’s rights, including their best interests and participation. We encourage the Health Committee to take the opportunity offered by this Bill to safeguard the rights and needs of mokopuna. They are a population group who rarely get opportunities to participate in consultative processes of government, and whose interests can be too often overlooked. However, through proactively taking steps to uphold and promote their rights through legislation and policy, including under the Children’s Convention and Te Tiriti o Waitangi, this can support positive, rights-consistent outcomes for children.

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34. We also encourage the Committee to give thorough consideration to the submission of Te Hiringa Mahara on this Bill, and advocate that the Bill does not undermine that Commission's status as an independent Crown entity.
  35. Finally, we reinforce our willingness, and offer to support government agencies and officials with children's rights and mokopuna-centred advice as the Mental Health and Wellbeing Strategy is being developed, should this Bill proceed.