

# Deepfake Digital Harm and Exploitation Bill


## Submission to the Social Services and Community Select Committee

*“People can do weird things with a photo of a face. Kids’ own faces shouldn’t be online cos [they] don’t fully understand the implications”*

Mokopuna, age 16

### Executive summary

1. Mana Mokopuna<sup>1</sup> supports the intention of the Deepfake Digital Harm and Exploitation Bill (the Bill) to safeguard victims of sexualised deepfakes by criminalising the creation and distribution of deepfakes, and by enabling pathways for redress for victims – including mokopuna (children and young people).
2. Mokopuna under age 18 and all people have the right to safety, dignity, and full participation in digital life without fear of exploitation. Mokopuna have told us the digital world is a core part of their everyday lives. It is a space in their life where they learn, play, socialise, and access support, and they have a deep understanding of the risks, harms, and benefits.<sup>2</sup> Online harm is real, pervasive, and deeply impacts their wellbeing.<sup>3</sup>
3. This Bill contributes to an online system that better upholds children’s rights under the UN Convention on the Rights of the Child and Te Tiriti o Waitangi.
4. We strongly support the amendment to s216N of the Crimes Act defining the ‘subject’ as a person who is or ‘appears to be’ featured, and we urge the Committee to avoid amendments that would narrow this definition or require photorealism or identifiability of the victim.
5. However, the Bill must be strengthened to adequately protect children and young people by raising the age of consent to the sharing of intimate images (as used as a defence) to age 18. This would make the Bill consistent with existing laws relating to age protections against child sexual abuse material and minimum age requirements for producing pornography.



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### Recommendations:

6. Mana Mokopuna recommends amending s22A(2) of the Harmful Digital Communications Act to raise the age from 16 to 18 years because under 18-year-olds should not be deemed to have given consent, in any circumstances, to share intimate images of any kind, noting:
  - child sexual abuse material is defined as posting sexualised images of people younger than 18, and
  - children’s rights are afforded to all children under the age of 18-years without discrimination under Article 2 of the Children’s Convention.

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<sup>1</sup> To learn more about [Mana Mokopuna – Children’s Commissioner](#), see Appendix 1.

<sup>2</sup> Mana Mokopuna (2026). [Children and young people’s perspectives on a safer digital world](#).

<sup>3</sup> Education and Workforce Select Committee final report (2026). [Inquiry into the harm young New Zealanders encounter online, and the roles that Government, business, and society should play in addressing those harms](#).

7. Alongside the above change to this Bill, Mana Mokopuna recommends the following:
  - a) Develop a broader online regulatory framework that places stronger accountability on tech companies and high-risk AI systems.
  - b) Establish a national online e-safety regulator, with responsibilities including upholding the Children’s Convention and Te Tiriti o Waitangi.
  - c) Embed children’s rights and participation in digital policy through resourcing the national online e-safety regulator to engage with mokopuna so decisions on digital policy, regulation and implementation are informed by their experiences and voices.
  - d) Ban nudification tools.<sup>4</sup>
  - e) Adequately fund Netsafe, as the Approved Agency under the Harmful Digital Communications Act (2015) to handle the expected increase in complaints.
  - f) Require and fund Netsafe’s education role to promote citizen’s use of takedown tools, like Stop Non-Consensual Intimate Image Abuse (StopNCII) and Take It Down.
  - g) Scale-up education on digital safety, healthy relationships, sexuality, and affirmative consent both in schools and in wider society so all mokopuna and adults understand the law and risks online.
8. These changes are essential to uphold children’s rights and ensure they can participate safely in digital environments.<sup>5</sup> They also directly reflect the voices of mokopuna in our recently published report *Children and young people’s perspectives on a safer digital world*.<sup>6</sup>

## Evidence of the need for greater protection for mokopuna from deepfake technologies

9. Deepfake image-based sexual abuse is rapidly increasing in Aotearoa New Zealand, particularly affecting mokopuna. Netsafe has received hundreds of complaints, many involving secondary school contexts, showing rangatahi are both targets and participants as these tools become more accessible.
10. Deepfake sexualised imagery is a form of sexual violence. Using AI tools such as face swapping and “nudify” apps, individuals are falsely depicted in sexual contexts. These harms intersect with sextortion, grooming, coercive control, and the creation of child sexual abuse material.<sup>7</sup>
11. Although the ‘fake’ images are digitally created or adapted, the impacts on mokopuna and adults alike are real and severe. Impacts include humiliation, fear, anxiety, and loss of

<sup>4</sup> Carroll & O’Dea Lawyers (2024). [The Criminal Code Amendment \(Deepfake Sexual Material\) Act 2024 – policy reform to strengthen online safety in Australia](#); 1 News (2026). [NZ is criminalising sexualised deepfakes – banning the apps should be next](#).

<sup>5</sup> Mana Mokopuna (2026). [Children and young people’s perspectives on a safer digital world](#); Mana Mokopuna (2026). [Submission on the Year 0 to 10 Draft Curriculum Content – Health & PE](#); Mana Mokopuna (2025). [Submission to Education and Workforce Committee: Inquiry into the harm young New Zealanders encounter online](#); Mana Mokopuna (2025). [Feedback to the Ministry of Education on the draft RSE Framework](#); Mana Mokopuna (2025). [Submission on the Petition of Charlene Whyte \(Social Media\)](#); Mana Mokopuna (2023). [Submission on the Victims of Sexual Violence \(Strengthening Legal Protections\) Legislation Bill](#).

<sup>6</sup> [Publications | Mana Mokopuna](#); *Children and young people’s perspectives on a safer digital world* (2026).

<sup>7</sup>The Light Project (2026). [Equipping communities to navigate new porn landscape](#); The Guardian Australia (2025). [Big tech not stopping online sharing of child abuse images, eSafety commissioner says](#); ECPAT Child Alert (2025) [“I’m just content to them”: Children living through sexual exploitation in Aotearoa New Zealand](#); Classification Office (2025). [Content that crosses the line: Conversations with young people about extremely harmful content online](#).



control over identity and privacy. This reinforces that deepfakes must be treated as sexual violence, not just an AI issue.<sup>8</sup>

12. New Zealand has high reported rates of deepfake victimisation, with rangatahi aged 16–19 experiencing the highest levels.<sup>9 10</sup> These harms often occur in peer settings, where AI tools are used for entertainment or status, often without ethical or legal understanding.<sup>11</sup> Growing accessibility, anonymity, and encrypted sharing mean the true scale of harm is likely to be under-reported. Some jurisdictions are legislating to ban nudification apps.<sup>12</sup>
13. Māori, along with girls, women, takatāpui and rainbow communities, and mokopuna whaikaha, are disproportionately impacted by online harm. Evidence shows Māori experience higher rates of image-based sexual abuse, creating a clear obligation for the Crown to respond in partnership with Māori.<sup>13</sup> Examples of positive partnerships include the NCIF Pou Tangata Online Safety Iwi Leaders Group including Ngā Rangatahi a Iwi. Iwi and rangatahi are taking lead on what online safety looks like for Māori and how to make online spaces safer for tamariki and rangatahi Māori.
14. Mokopuna also face wider online risks, including cyberbullying, privacy breaches, exposure to harmful content, exploitation, and coercion into unhealthy online relationships - further intensified by AI technologies.<sup>14</sup>
15. At the same time, mokopuna are asking for support to navigate digital environments safely. They need age-appropriate learning about their rights, digital privacy, sexuality, and respectful relationships.<sup>15</sup> Strengthening relationship and sexuality education is a critical step to preventing harm and supporting safe decision-making, including online.<sup>16</sup>

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<sup>8</sup> Chloe Cashmore and Sophia Harré (2025). [Addressing the harm from deepfake image-based abuse: A review of the literature.](#)

<sup>9</sup> Chloe Cashmore and Sophia Harré (2025). [Addressing the harm from deepfake image-based abuse: A review of the literature.](#) The Helen Clark Foundation.

<sup>10</sup> Eva de Jong, '“Frightening” Surge in NZ Sextortion with Young People Targeted', NZ Herald; Jong (n 6); eSafety Commissioner (2025); [Deepfake Damage in Schools: How AI-Generated Abuse Is Disrupting Students, Families and School Communities.](#)

<sup>11</sup> Eva de Jong, (2025) [“Frightening” Surge in NZ Sextortion with Young People Targeted](#), NZ Herald; eSafety Commissioner (2025). [Deepfake Damage in Schools: How AI-Generated Abuse Is Disrupting Students, Families and School Communities](#); Chloe Cashmore and Sophia Harré (2025). [Addressing the harm from deepfake image-based abuse: A review of the literature.](#) H. Clark Foundation.

<sup>12</sup> BBC news, 2025 [UK to ban deepfake AI 'nudification' apps.](#)

<sup>13</sup> YouthLaw Aotearoa (2021). [Submission on the Harmful Digital Communications \(Unauthorised Posting of Intimate Visual Recording\) Amendment Bill](#); Dr Karaitiana Taiuru , Taiuru & Associates (2024). [Safeguarding your whānau, iwi, hapū, marae, rōpū or your business from AI-generated deep fakes.](#)

<sup>14</sup> Mana Mokopuna (2026). [Children and young people’s perspectives on a safer digital world](#); Makes Sense and Safe Surfer (2025) [The Digital Sexual Landscape and Children and Young People in Aotearoa New Zealand](#), Cassandra Mudgway and Andrew Lensen. (2026). [Sexualised deepfakes on X are a sign of things to come. NZ law is already way behind.](#)

<sup>15</sup> Beres, M et al. (2020). [Youth healthy and safe relationships: A literature review](#); Classification Office (2025). [Content that crosses the line: Conversations with young people about extremely harmful content online](#); Stuff (2025). [The Government talks a big game about social media, but will there be action?](#); Howell, B. and P. Potgieter (2025). [Navigating the boundaries of digital platform content regulation in New Zealand](#); Radio New Zealand (2025). [Tech giants warn against banning under 16s from social media.](#)

<sup>16</sup> NZ Parliament Health Committee (2013). [Inquiry into improving child health outcomes and preventing child abuse - Vol 1.](#)



16. Mokopuna want adults – including decision-makers, the tech sector, and their schools and whānau – to do more to keep them safe.<sup>17</sup> They also want to be active participants in shaping what will work. This is consistent with their right to participation.
17. Technology is advancing faster than the law.<sup>18</sup> Current legislation is outdated, placing an onus on the victim to prove ‘intent to cause harm’ and offering limited recourse, while platforms lack accountability for preventing or removing harmful content.<sup>19, 20</sup>
18. Yet current legal protections do not provide the level of safety required to uphold their rights in rapidly evolving digital environments.<sup>21</sup>
19. Mokopuna rights apply in online spaces and need to be embedded by design in the digital world. Equally, mokopuna have the right to be part of developing solutions that prevent and address online harm. Involving mokopuna in AI regulation creates better outcomes for all.<sup>22</sup>
20. Solutions are more likely to be effective when they are informed by the rights, lived experiences, and voices of mokopuna. This is because mokopuna are the experts on how the online world works for them, and what will ensure they are safer online. We encourage the Committee to prioritise hearing from, and understanding the views of, mokopuna about this Bill.

### A children’s rights approach to protection from deepfake image-based sexual abuse

21. A children’s rights approach to protection from deepfake image-based sexual abuse and other forms of online harm requires regulation, governance, and technology design that centres the rights and best interests of mokopuna.<sup>23</sup>
22. This extends beyond safety to include age-appropriate services, privacy protections, equity and non-discrimination, meaningful participation, and safeguards against commercial exploitation.
23. It also includes proactive assessment of the impacts of rapidly evolving technologies such as AI, age-verification tools, and algorithmic decision-making; and consideration of how these technologies may reinforce inequities or create new risks.

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<sup>17</sup> Mana Mokopuna (2026). [Children and young people’s perspectives on a safer digital world](#); Education and Workforce Select Committee final report (2026). [Inquiry into the harm young New Zealanders encounter online, and the roles that Government, business, and society should play in addressing those harms](#); The Helen Clark Foundation; YouthLaw Aotearoa (2021). [Submission on the Harmful Digital Communications \(Unauthorised Posting of Intimate Visual Recording\) Amendment Bill](#).

<sup>18</sup> Eva de Jong, (2025) [“Frightening” Surge in NZ Sextortion with Young People Targeted](#), NZ Herald; eSafety Commissioner (2025). [Deepfake Damage in Schools: How AI-Generated Abuse Is Disrupting Students, Families and School Communities](#).

<sup>19</sup> Kaitlyn Yakas-Dance, ‘Legislative Gap Leaves New Zealand Exposed to Deepfakes’, The Law Association (7 March 2024).

<sup>20</sup> [Deepfake Damage in Schools: How AI-Generated Abuse Is Disrupting Students, Families and School Communities](#) | eSafety Commissioner’ (27 June 2025) (‘Deepfake Damage in Schools).

<sup>21</sup> Chloe Cashmore and Sophia Harré (2025). [Addressing the harm from deepfake image-based abuse: A review of the literature](#). The Helen Clark Foundation; 1 News (2026). [NZ is criminalising sexualised deepfakes – banning the apps should be next](#); Carroll & O’Dea Lawyers (2024). [The Criminal Code Amendment \(Deepfake Sexual Material\) Act 2024 – policy reform to strengthen online safety in Australia](#); YouthLaw Aotearoa (2021) [Submission on the Harmful Digital Communications \(Unauthorised Posting of Intimate Visual Recording\) Amendment Bill](#).

<sup>22</sup> Aitken, M. et al, Alan Turing Institute and UNESCO. [How should children’s rights be integrated into AI governance?](#).

<sup>23</sup> [General comment No. 25 \(2021\) on children’s rights in relation to the digital environment](#).



## Upholding children's rights under the Children's Convention

24. As the primary duty-bearer under the Children's Convention, the Government must ensure digital platforms uphold children's rights to safety, privacy, transparency, non-discrimination, and protection from economic exploitation. Decision-making by the Crown should include analysis of implications on the rights of the child of all legislation that will affect children.
25. As a brief example of a child impact assessment<sup>24</sup>, enacting the proposed amendments within this submission will enable to Bill to better align with New Zealand's obligations under the Children's Convention, particularly in relation to the following articles (where we have outlined how this Bill relates to them):<sup>25</sup>
- a) Article 2 - Non-discrimination: these rights should apply to all children under age 18.
  - b) Article 3 - The best interests of the child must guide legislative reform, platform regulation, and support services for victim survivors.
  - c) Article 6 - Life, survival, and development: The State must address risks such as mental distress, suicidality, and harmful design features, with particular care for very young mokopuna during critical developmental stages.
  - d) Articles 8 and 16 – Identity and privacy: Digital environments should support cultural identity, belonging, creativity, and safe handling of personal and identity data. Children's identity should not be exploited, and their personal information must be protected.
  - e) Article 12 – Participation: Mokopuna must be meaningfully involved in shaping regulation that affects them.
  - f) Article 16 – Protection from unlawful interference or attacks on honour or reputation: this extends to special protection during legal processes such that mokopuna under 18 should not be questioned about their 'consent', in cases involving harmful digital communications or intimate visual recordings. (Achieved through our amendment at Recommendation 1.)
  - g) Article 17 – Access to information: Mokopuna must have access to age-appropriate, accurate digital safety, consent, AI, and ethics education, especially amid rising disinformation, misinformation and deepfakes.
  - h) Articles 19, 34, 35, 36 – Rights to be protected from violence, trafficking, coercion, sexual exploitation and abuse. These rights include protection from emerging AI-facilitated harms. Deepfake image-based sexual abuse directly violates these rights.
  - i) Articles 28 & 29 – Education: Quality education that promotes digital literacy, online safety and participation must be provided to all children. Extending education to adults supports children's rights to protection and participation.
  - j) Article 31 – Culture, leisure, and play: Digital spaces must enable safe, creative play, cultural expression, and social connection. Children under 18 should be able to share images with friends and family without risk of them being sexualised and/or 'nudified'.

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<sup>24</sup> We always encourage the government to undertake a full child impact assessment, and a tool is available for this, hosted on MSD website here [Child Impact Assessment Tool - Ministry of Social Development](#).

<sup>25</sup> [General comment No. 25 \(2021\) on children's rights in relation to the digital environment](#).

- k) Article 32 – Protection from economic exploitation: Mokopuna must be safeguarded from digital child labour and data profiling.<sup>26</sup> Deepfake image-based sexual abuse is used to facilitate extortion, and can result in other forms of child exploitation such as a sale of child sexual abuse material.

## Giving effect to Te Tiriti o Waitangi and upholding rights of mokopuna Māori

26. As a signatory to Te Tiriti o Waitangi, the Crown has particular obligations to mokopuna Māori. This Bill proposes to safeguard people from deepfakes. Mana Mokopuna considers that implementation of our other recommendations would enable the structures needed to give effect to Te Tiriti o Waitangi in this context.

- a) Article 1 refers to kāwanatanga, which is about ensuring the Crown upholds good governance, including over the digital environment in a way that respects Māori interests and supports mokopuna Māori to thrive. Crown policies and legislation must address issues around protecting Māori data sovereignty, and maintaining cultural integrity within digital spaces. This bill goes a small step further in creating a regulatory environment that safeguards mokopuna Māori from AI deepfakes.
- b) Article 2 includes tino rangatiratanga, the right of Māori to exercise self-determination over their lives, lands, taonga and resources. In the digital world, this means that mokopuna Māori should have control over how they engage with digital platforms including images and recordings, how their culture and identity are represented, and how their content and personal data are used. In te ao Māori, identity is taonga.
- c) Article 3 of Te Tiriti refers to ngā tikanga kātoa rite tahi which is about ensuring equitable outcomes for Māori. In relation to this bill, Article 3 provides that mokopuna Māori have equal access to digital technology, digital safeguards, educational opportunities for them and their whānau, hapū and iwi, and resources that enable them to thrive. This would include culturally relevant educational materials, support for victim-survivors, and a complaints process that affords respect and equitable outcomes for Māori.

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<sup>26</sup>[The child's right to protection against economic exploitation in the digital world.](#)



## About Mana Mokopuna – Children’s Commissioner

### The Children’s Commissioner is the independent advocate for all children in New Zealand.

Mana Mokopuna – Children’s Commissioner is the independent Crown entity that advocates for the rights, interests, wellbeing and participation of all mokopuna (children and young people) in Aotearoa New Zealand. The Children’s Commissioner is Dr Claire Achmad.

We exist for all mokopuna in New Zealand. We advocate for and with mokopuna, within their whānau and community contexts. We base our work on evidence and research, including the perspectives of mokopuna.

We particularly advocate for mokopuna Māori, and for mokopuna who are experiencing disadvantage. Our work includes monitoring places mokopuna can’t leave, such as care and protection, youth justice, youth mental health, and intellectual disability facilities.

### Our vision is for all mokopuna to live their best lives

Our moemoeā (vision) is ‘Kia kuru pounamu te rongo – All mokopuna live their best lives’. This is a collective vision and challenge for Aotearoa New Zealand.

We focus our advocacy in four areas for all mokopuna:

- 1) a strong start in life
- 2) growing up safe and well
- 3) thriving families and whānau, and
- 4) participating in what matters to me.

### We have a mandate grounded in domestic and international law

Our purpose and functions are set out in the Children’s Commissioner Act 2022. We anchor our work in Te Tiriti o Waitangi, the UN Convention on the Rights of the Child (the Children’s Convention) and other international human rights instruments.

We’re responsible for:

- advocating for the rights of all mokopuna
- putting a strong focus on the rights of mokopuna Māori to support them to thrive within their whānau, hapū, iwi
- amplifying the voices of mokopuna
- promoting the Children’s Convention
- monitoring how the government gives effect to the Children’s Convention, and
- monitoring the rights of mokopuna when they live in places where they can’t leave.

### The term mokopuna recalls their connection to places and people

We use the term mokopuna to describe all children and young people in Aotearoa New Zealand.

Mokopuna combines moko (imprint or tattoo) and puna (spring of water), describing how young people are valued descendants and members of families. Referring to the people we advocate for as mokopuna draws them closer to us. It reminds us that who they are – and where they come from – matters for their sense of identity, belonging and wellbeing.