

# An interview with the Children's Commissioner, Judge Andrew Becroft

Alison Kearney



Recently, Alison Kearney interviewed the New Zealand Children's Commissioner, Judge Andrew Becroft. In this interview, Commissioner Becroft discusses the role and priorities of the Office of the Children's Commissioner, the importance of listening to the voice of young people, and his views in relation to the role of education in meeting the needs of all children, particularly those who experience exclusion and marginalisation from and within school and society.

**Commissioner Becroft. You represent approximately 1.123 million people in Aotearoa New Zealand under the age of 18, which makes up about 23 percent of the general population. This is a very big task. What are the priorities of the Children's Commissioner this year?**

The Office of the Children's Commissioner has four major priorities for the year to June 2019. These are advocating for:

- Improved systems, services and support for mokopuna Māori and their whanau
- Enhanced child well-being
- Encourage Oranga Tamariki in its transformation of the care and protection and youth justice systems, and
- Access to education for all.

In relation to education, the priorities are advocating for:

- Listening to children and taking account of their views at all levels of education
- Improving education systems, services and supports for mokopuna Māori
- Protecting every child's right to attend free full-time education with their peers, and
- Reducing suspensions and exclusions from school and developing an avenue for appeal.

I see school engagement as an absolute priority, and a means of building and developing resilience.

If there was a silver bullet for reducing youth offending and average life outcomes generally - a silver bullet for developing a place where there would be better health outcomes and where neurodevelopmental disorders could be addressed - it would be education and by this I mean mainstream education.

**What are your views about the notion of mainstream education for all?**

I have changed my views over the years. I used to think that a very good alternative parallel education system, properly resourced, was the correct starting point. But I actually think now the correct starting point is to properly resource mainstream education. I think there's been something of a sea change and I see this in the attitude of schools since 2001, when I started as Principal Youth Court Judge. It almost used to be that schools would compete for publicity as to who had excluded the most children and young people, for example for drug use, to give the impression they were a strict and successful school. I think now only do people realise that no schools are exempt from drug issues and that no schools are exempt from the sort of issues that often lead to exclusion. Much more importantly however, school principals and school boards realise the value of retaining young people within the school environment. I think schools are bending over backwards to retain all the students that they can. I applaud this and think it is a terrific move. After all, a problem "relocated" is not a problem solved.

I think that the policy of segregation from mainstream and then aggregating these young people together is not an enduring recipe for long-term success. So, my view now is we've got to resource mainstream for all and keep everyone there that we possibly can. I think that this is one example of where we have dropped the ball on a child-focused, youth-focused policy in New Zealand over the last 30 years. I think the alternative education system has had very limited returns into mainstream, less than 10 percent, and very limited successful

long-term outcomes - with some notable exceptions. There are some alternative education deliverers that do a superb job, but overall the statistics are not encouraging. So, yes, our Office's focus on education is based just on the tremendous worth of education as a builder of resilience, and a provider of the best long-term opportunities.

### **What about resourcing of students with additional needs?**

What I hear time and time again is schools saying they could do so much better if they had more assistance, especially for children with special needs and disabilities. For a long time, the Ministry of Education used to say that schools had enough and if they would balance the budgets, and juggle the accounts appropriately, they would be able to make it work. However, I have come to the view that services and resources for those with special needs and neurodevelopmental disorders have eroded over time. I think these resources are harder to get. I think there needs to be an overhaul of the system so that it properly supports those with special educational needs within mainstream education. Only then will we understand the true need for an alternative education system.

However, as I look back over the last 20 years, the alternative education system, while it has been led by people with enormous enthusiasm, commitment and idealism, it has been woefully under-resourced and under-funded. Also, it has often been delivered in a ramshackle way without sufficiently trained teachers. It has been a classic mismatch of children with the most challenging behaviours having access to the least adequate resources.

### **Listening to the voices of young people is an important focus of the Office of the Children's Commissioner. Can you talk about the notion of consultation with children?**

In the lead up to the Education Amendment Act, we asked the Ministry of Education to undertake specific consultation with children. Their answer was, "We are having focus groups so there'll be some children there". However, we said that we need to hear separately and specifically from children as they will have some great insights and children's views always add quality to the decision making. I was shocked at the lack of enthusiasm to hear from children and young people. You would think that, of all ministries, the Ministry of Education would be the most committed to hearing from children, as the Ministry works with children and young people every day.

An interesting example of the importance of consulting with children about matters that affect them was when Child, Youth and Family was being examined. An expert advisory group of care-experienced young people was put together and they said, for instance, "Why does the State effectively drop us [those in State care] and cut us off at our 17th birthday? All our friends can go overseas or go to further education then can come back from their jobs for Christmas and have a family to go to, but we don't". Because of this, the age went from 18 to 21, with an opt-in to 25. They also said, "If we're removed from our families, if that has to happen, why do you split us up from our siblings?". There had never been a provision for sibling unity in the legislation, but there is now, with effect from 1 July 2019 because of what these children said.

Therefore, there is every reason for us to consult with children. An example of how we undertook the process ourselves at the beginning of this year, along with New Zealand School Trustees Association, was a series called 'Education Matters To Me'. This was an initial 'dipping our foot in the water' with a small group of face-to-face consultations with those who are least engaged, and about 1500 who completed a survey. There were some very clear themes emerging from this and chief of which was that a great teacher can inspire and change lives, and how much we need quality teachers. That's the thing that shone through there, together with the support of good friends and an engaged family. There were a number of other really helpful insights that came through too, that were both positive and negative. The importance of individualised learning; the importance of a teacher taking an interest in a child and young person, especially what is going on out of school - taking interest in their life; making sure they're comfortable in smaller class sizes and well-fed with breakfast and lunches. Those are the sorts of things children told us and it was really interesting to hear. So I think there is a real challenge for the education system to hear more from children.

Some schools, when they are appointing new principals or deputy principals, are having a separate interview process with children and young people. Some Boards of Trustees are inviting two to three students onto the board, not just one, because it's so tough for those students who are there on their own. There is much we can do better to engage children in the system and policy setting, and I think the Ministry of Education is now clearly committed to hearing from children separately, and with the new National Education Learning Priorities, there's a real opportunity to seek children's voices comprehensively.

**One of the education priorities of the Office of the Children’s Commissioner is to see an appeal process for children who have been excluded from school. Can you elaborate on this?**

Yes, we are very keen to see a pilot programme where exclusions can be appealed. Super 15 rugby players who are subject to disciplinary processes get their appeal heard within two weeks, horses and jockeys within a month. We treat horses, jockeys and rugby players better than children in New Zealand. The decision to exclude some children has a significant impact on them, especially children in regional areas where there is only one school. These decisions can have life-changing effects and it is just plain wrong, in principle, that these decisions are effectively immune from any review or appeal process. Also, we are placing virtually supreme power in the hands of an elected board, who may not have been board members for long, with very little prior experience in conducting hearings. We think there should be a series of regional panels around New Zealand that can be convened within a matter of weeks, to have a second look at the decision, and to make recommendations to the Ministry of Education, in particular where extra resources are required, so that is one of our priorities. A pilot is being initiated for the next year by the New Zealand School Trustees Association, and we strongly support it.

**As you know, there’s been a taskforce set up to review Tomorrow’s Schools. What changes would you like to see to the schooling system?**

There are 18 different work streams within the education reforms of which the Independent Taskforce on Tomorrow’s Schools, chaired by Bali Haque, is just one but the most significant. However, one of the key things I hope it will be addressing is the issue of inequity of opportunity and the fact that achievement rates from Decile 1, 2, 3 and 4 schools simply aren’t comparable with achievement rates with the higher decile schools. This is a fundamental question. Personally, I wonder whether complete autonomy for schools passed to elected boards, which come and go, with varying levels of experience, is necessarily the best model with which to run an education system.

That said, I entirely believe in, and support, community and parental input. But we need to know that there is parity of expertise and resources for all schools. I would love to have the Swedish model, where education is, in practice, absolutely free, and where in New Zealand it would be illegal to ask for parental voluntary contributions or donations. In

Sweden, every single school-incurred expense isn’t paid for by the parents, it’s a school expense paid for by the State. We need to have a free education system in New Zealand. It’s wrong that higher decile schools have access to more funding by way of ‘voluntary donations’. In Sweden, every primary and secondary school provides a free, nutritious lunch to a required standard, and for every child there is a universal benefit, and there’s free healthcare. Without compromising its educational focus, and distracting teachers from their primary job, schools could also be used as community hubs for the provision of other services, because it’s such a neutral entry point. I’m excited by that idea.

I chair a Ministerial Advisory Group called the Guardians of the Education Conversation. We’re working hard to get as many responses back to an online survey, and to collate information from the two summits, the many regional fonos for Pasifika and wānanga for Māori, and collating that as best we can. There are some clear messages coming through regarding equity and fairness, about doing better for Māori, about the possibility of Māori being a core subject in primary school, about teacher quality, class sizes, and a curriculum that not only measures achievement, but measures progress relative to the individual child.

We can’t have a system where at present, being Māori, for instance, means that statistically the overall NCEA Level 2 achievement rates are going to be lower than European, irrespective of the decile, so there’s a big issue around equity of opportunity. I think that’s an area we have to address much more clearly. It’s interesting that, when asked, the young people used the word “racism”. We asked an open-ended question about what could be better, and they said, “less racism”. Tragically and sadly that is their daily lived experience in the classroom, and that was sobering for me. I wasn’t expecting it to come through so clearly, admittedly from a small group. However, in the face-to-face consultations especially, where over half were Māori, it was a recurring theme in their life, no doubt much of it subconsciously or unconsciously conveyed by teachers. Despite this, the message they got was, because they were Māori, the expectations for them were lower, and teachers conveyed that subtly and in ways they might never even have thought about.

There are clearly expressed views about education in the community, and I’m genuinely excited to see how the reform process will play out. There is much we can be proud of in our education system, but it seems to me that a lot has to change, given the reality of the statistics. So these are all issues that the Tomorrow’s School Review and the whole education reform process will have to confront.

**Recently, there was some information from the Office of the Children’s Commissioner suggesting it was time to talk about lowering the voting age. What are your thoughts on this?**

I think a real issue we need to consider is whether 16 and 17 year olds should be given the vote. It happens, as I understand it, in Scotland, Austria, Brazil, Argentina, and some other lesser-known countries. I think it’s crucial that children have a voice and a sense of their own agency that would be coupled with civics education in schools. We know that habits formed early in life tend to persist. The 18 to 29 year age group is already the least engaged in general elections with just over a 60 percent voter turnout. This is concerning when you look at long-term involvement with democracy and trust in our institutions. The fact is that the people with the most to gain at the moment, in terms of long-term policies in New Zealand, are the least engaged. Of all the things I have raised, this has caused the most controversy and pushback. But it is worth discussing. I know that the frontal lobe of young people is still developing, and I know that it is an area of risk-taking so that is why it would need to be introduced with a civics programme and with care. I am being told by some that many 16 and 17 year old people wouldn’t vote, and they would be influenced by others. However, many people over 18 don’t vote (40 percent of them), and we are all influenced by others to varying degrees. It is all part of a wider picture of hearing children’s voices - and we don’t do well in New Zealand at hearing children’s voices. I think we see children as potential adults who will have a view, but aren’t fully formed enough to have a view in their own right now.

**What do you think is working well in New Zealand in relation to the well-being and rights of children?**

Of New Zealand’s 1.123 million children, 70 percent do well and some do world-leadingly well. They win athletics competitions overseas; dance competitions in San Francisco; they win bronze medals at Winter Olympics at the age of 16. The great majority of our children do well and that should be a matter of reassurance and some pride. There is, however, 20 percent who struggle with adversity and are in and out of significant disadvantage, and 10 percent who exist in situations of violence and/or disadvantage or relative but genuine poverty. These young people do as bad, if not worse, as any other western-world counterpart that we have. Therefore, I don’t think it’s possible to talk about children as a whole. But we can say that for 70 percent, standards have lifted and they are loved, well looked after, and they prosper

and flourish. I think that this is the starting point - to concede what we have done well with the overwhelming majority of our children, but that we haven’t done nearly so well with the group of 10 percent, and then 20 percent, and that’s not acceptable in a civilised community.

There has been significant progress in many areas but the whole neoliberal economic approach that the western world was seduced into, based on trickle-down economics, and that growth for the country would benefit all, has proved to be elusive. The small group that I talk about, especially the 10 percent (probably 80-100,000) of New Zealand children, aren’t flourishing because there hasn’t been a “trickle down”; they haven’t shared in the benefits. If we talk about an inclusive society, it hasn’t been inclusive for that group and I think everybody’s waking up to that. When you have an ex-Prime Minister, Sir Jim Bolger, saying if he had one regret, it’s that he wished he’d done better for disadvantaged children, we see that people of all ages and political perspectives are realising that. All of us were implicated in developments that meant a small group of children were significantly disadvantaged and the gaps got wider with more marginalisation and stratification.

I also think we’re taking the United Nations convention more seriously. I think we’re using that much more as a touchstone. For too many years it was seen basically as relevant for Third World countries but of limited relevance to New Zealand, because we do so well for most children. I think we’re realising by that absolute universal standards we’re not doing so well for a smaller group. So, how well are we doing? It’s harder to say globally, but it’s easier to say in terms of that percentage breakdown. So it’s not doom and gloom; it’s just that for a country like New Zealand, that once had such a proud reputation in the way that it dealt with families and children, we could do so much better.

**What role do you think teachers play in the rights and well-being of young people?**

I start with the consistent message from children and young people: that great teachers inspire and change lives, and this resonates with all of us. We can all remember teachers who influenced us and set us on track because of a particular influence they might have had, and a particular subject interest that they had. No less than the Prime Minister talks about a teacher she had for three years - Gregor Fountain (his first teaching job), who is now the Principal of Wellington College - as a teacher who really inspired her to think of history, the effect of history and historical trends, and to look at disadvantage

and inequity. She says that this played a large part in her thinking about politics. It just shows you what great teachers can do.

One of the key themes from the current educational survey (Kōrero Mātauranga) was well-being for children. You know this is an easy word to talk about, but it is less easy to define. We have the highest rate of youth suicide in the world, and, for Māori, it's three times higher than non-Māori (10-24 year olds). Many New Zealanders have been touched, at least indirectly, by the tragedy and the absolute devastation of suicide. When you couple that with the second highest rate of reported bullying and very high rates of inter-partner abuse, family violence, and child abuse and neglect, I think that's one of the reasons why the call for student well-being is so important. When you read, as I did, in our Office of the Children's Commissioner survey, that pupils really want to know their teachers care for them and want to understand them, in the context of their own individual lives, that's got to be the starting point to your question about what can teachers do.

There are teachers across all deciles who just have a fantastic influence on children, but I think there is an inarguable need to have some of our best teachers, who feel a sense of calling and vocation, in the lower decile schools where the needs are particularly acute. With all that said, I don't want to give advice, and I'm not a teacher. My hat goes off to the extraordinary work that most teachers do. I do think, as a profession, it's been relatively undervalued in New Zealand. Well before any thought of the proposed strike action by teachers, I've said for years that the importance of teaching as a life-changing profession for our children and young people has historically been undervalued, and it seems teaching is no longer attracting our best and most enthusiastic graduates. All of us would want to see teaching as a highly valued and prized possession, as a magnet profession that attracts our best, because that's what we want for our children.

**Finally, I'd like to ask you what is it that the Children's Commissioner does when he's not the Children's Commissioner? What are your interests and your pastimes?**

Well, you only get one crack at this job, and it totally consumes me and everyone in the office, and we want to give it the absolute best that we can, so it's a job that in a sense can easily take over your life. I have a wife who is a lawyer, and she is in the Learning Support Division at Victoria University. She is very realistic and very good at ensuring that I get good breaks. I have three kids, aged 17, 21

and 23, who have no visible signs of respect for my role or involvement, and clearly want a dad who is engaged in their life, where love, as they tell me, is a four letter word spelt, "T-I-M-E". So there's plenty of encouragement for me to not get too obsessed with the role.

Exercise is important to me, so I used to run but now I fast walk. I walk a lot around Wellington suburbs and the hills of Karori and I also swim. I enjoy reading escapist novels like Jack Reacher, but equally enjoy reading non-fiction, so yes, I try to read a lot. I'm obsessive about every sport apart from horse racing, so if it's sport - I've watched it. If there's live sport anywhere in the world I'm really keen to watch it, and with four Sky Sport channels and ESPN, it's a very ready source of relaxation to the point of distraction. Work-life balance is made easier with Sky TV, or it makes it harder to put work first. We have a holiday home by a lake, and some of the best and most relaxing days are in pursuit of a double-figure pound trout. That's when the mind wanders and some of my best ideas come, when you can't see a single soul anywhere, in a red dinghy, and you're away from the distractions. It's amazing in those situations how the subconscious comes up with ideas and priorities. This is when the people in the office say they're most at-risk, as I come back with all the ideas that come out of literally the blue of the lake.

I love the role of Children's Commissioner. It's a tremendous opportunity and it's a privilege but it comes with a fair bit of anxiety that we should be doing better, and a sense of responsibility that we actually do it.

**Commissioner Becroft, thank you so much for your time.**

## BIOGRAPHY

### Judge Andrew Becroft



Credit photographer, Colin McDiarmid.

Judge Andrew Becroft was appointed the Children's Commissioner for New Zealand for an initial two year period from June 2016. Prior to that he was the Principal Youth Court Judge of New Zealand from 2001 to 2016; and was appointed a District Court Judge in 1996.

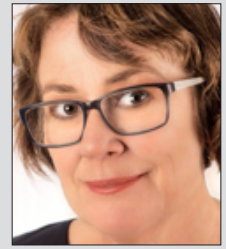
After graduating from Auckland University in 1981 with a BA/LLB (Honours) degree, he practised in Auckland until 1986 when he then assisted with the establishment of the Mangere Community Law Centre and worked there until 1993. He then worked as a criminal barrister in South Auckland until his appointment to the District Court in Whanganui, from 1996.

Commissioner Becroft is a former council member of the Auckland District Law Society and the New Zealand Law Society. He is the Patron of the New Zealand Speak Easy Association Inc., which assists those with various forms of speech impediment, and is the Chairperson of the Board of the Tertiary Students Christian Fellowship (NZ) Inc.

Commissioner Becroft is married with three children, aged 23, 21 and 17.

## INTERVIEWER PROFILE

### Alison Kearney



Dr Alison Kearney is an Associate Professor in the Institute of Education at Massey University, New Zealand, where she coordinates the Masters of Education (Learning & Teaching) and the Specialist Teaching (Learning and Behaviour) Programmes. She is co-director of the Equity through Education Research Centre and a member of the editing team of *Kairaranga*. Prior to taking up her position at Massey University, Alison was a primary school teacher and Guidance and Learning Teacher. Her teaching and research interests include education for equity, children's rights and inclusive education.

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