

8 December 2024

Submission on Oversight of Oranga Tamariki System Legislation Amendment Bill

To the Social Services and Community Committee,

Te Hiringa Mahara, the Mental Health and Wellbeing Commission (the Commission), welcomes the opportunity to make a submission on the Oversight of Oranga Tamariki System Legislation Amendment Bill.

The Commission was established as an independent Crown entity following the *He Ara Oranga: Report of the Government Inquiry into Mental Health and Addiction*. Our role is to:

- Assess and report on the mental health and wellbeing of people in New Zealand, the factors and approaches that affect them, and make recommendations for improvement.
- Monitor mental health and addiction services and to advocate improvements to those services.
- Advocate for the collective interests of people who experience mental distress or addiction (or both), and the persons (including family and whānau) who support them.

Children in state care are one group identified our legislation as having a greater risk of experiencing poor mental health and wellbeing. It is for this reason we provided a submission on the Oversight of the Oranga Tamariki System and Children and Young People's Commission Bill 2022 (the 2022 Bill) and are providing a further submission on this Bill.

We consider that this submission stands alone, and so do not request the opportunity to share these views with the committee in person. However, if further information is desired, we would be happy to provide it.

Our position

The Commission supports efforts to improve outcomes for children and young people, and so endorses the Bill's changes to strengthen the independent oversight of the Oranga Tamariki system.

We provided a submission to the 2022 Bill and called for the creation of an independent entity to undertake the monitoring functions described in the Bill, rather than a departmental agency. It is good to see that there has been a decision that

aligns with this advice to set up the Independent Children’s Monitor as an independent agency (the Monitor).

It is essential that the Monitor is independent, well-resourced and has sufficient powers to be able to hold the Oranga Tamariki system to account. This is critically important given the high proportion of tamariki and rangatahi Māori involved with Oranga Tamariki, and systemic discrimination experienced by Māori.

While we continue to stand by our position that the monitoring and advocacy functions should be held by one fully independent body, to simplify the ways that young people can raise their concerns and seek support, we welcome the change in this Bill as an improvement on the current arrangements.

We also stand by our earlier statements that the Acts need to ensure the Monitor and Commissioners uphold te Tiriti o Waitangi and have children and young people at the centre. This will be vital to the ongoing improvement in services, supports and outcomes, and addressing the inequities faced by rangatahi and tamariki Māori in particular.

Further strengthening the Bill

In 2022, we suggested that, as a minimum, the Bill should ensure that the Monitor is required to make recommendations for change where necessary. Our organisation’s experience as an independent monitor since then has reinforced this view. In our experience, decision-makers at all levels want advice on the best way to address significant issues – highlighting issues is not enough.

Making recommendations is a function that we have taken time to develop, and which we expect to use more in the future to guide and drive improvement in the systems that support mental health and wellbeing. The same function should be explicitly available to the monitor and advocates for the Oranga Tamariki system. This would be consistent with the Bill’s intent to strengthen both monitoring and advocacy.

To better give effect to the monitor’s objectives (particularly 13(1)c-f), we recommend inclusion of a further function for the independent Monitor, by including in the Bill:

5A *[In the Oversight of Oranga Tamariki System Act 2022] include after 14(2)(c):*

14 (2)(d) making recommendations to improve the effectiveness, efficiency, and adequacy of services or support provided through the Oranga Tamariki system

To better give effect to the Commissioner’s duties and functions (particularly ‘to promote the interests and well-being of children and young people’), we recommend inclusion of a further function for the independent Commissioner, by including in the Bill:

16A [In the Children and Young People's Commission Act 2022] include after 20(h):

20(hA) making recommendations to improve the effectiveness, efficiency, and adequacy of services or support that relates to the rights, interests, or well-being of children and young people

The wording of these functions is based upon that in the Mental Health and Wellbeing Commission Act 2020, as we share many similar duties, objectives and functions as the Monitor and Commissioner.

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Chief Executive