



Cabinet Social Wellbeing Committee

Minute of Decision

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Oversight of Oranga Tamariki System and Children and Young People's Commission Acts: Policy Decisions for Regulations

Portfolio Social Development and Employment

On 14 December 2022, the Cabinet Social Wellbeing Committee:

Commencement Dates

- 1 **agreed** that the date of commencement for the Oversight of Oranga Tamariki System Act 2022 and related regulations should be 1 May 2023, and that an Order in Council be drafted to give effect to this;
- 2 **agreed** that the commencement date for the Children and Young People's Commission Act 2022 and related regulations should be 1 July 2023, but that this date be brought forward by Order in Council if the 2023 election is announced as being on or before 1 October 2023;

Reporting requirements

- 3 **agreed** that regulations be developed to specify that when the Monitor is required to notify certain matters under section 55 of the Oversight of Oranga Tamariki System Act 2022, it must notify the Chief Executive of Oranga Tamariki and a constable of the New Zealand Police;
- 4 **agreed** that the above regulation should link to the definition of serious harm in the Oranga Tamariki Act 1989;
- 5 **agreed** that the minimum requirements for the annual report of the Monitor on compliance with National Care Standards should include:
 - 5.1 the number of children and young people in care or custody, the length of time spent in care or custody, and a summary of the reasons why they are in care or custody;
 - 5.2 a profile of the characteristics of children and young people in care or custody, including gender, ethnicity, age, disability, and health needs;
 - 5.3 information on the number of times children and young people in care have had a change of placement including the reasons why;
 - 5.4 information on complaints, including but not limited to numbers of complaints, the procedures followed to resolve these matters, and whether and how the complaints have been addressed;

- 5.5 information on identified incidents of abuse and neglect found to have occurred in care or custody, and the procedures followed to resolve these matters;
 - 5.6 information or results for Māori children and young people, in terms of the level and degree of compliance with National Care Standards, and the impact of this on Māori children and young people, and their whānau;
 - 5.7 identification of areas of good practice as well as areas recommended as a focus for improvement;
 - 5.8 separate information for disabled children and young people, in terms of the level and degree of compliance with National Care Standards regulations;
 - 5.9 the state of the systems of self-monitoring and continuous improvement operated by the Chief Executive of Oranga Tamariki and approved organisations with children and young people in care or custody;
 - 5.10 information on the efficacy of practice by Oranga Tamariki, as required under the Oranga Tamariki Act 1989, to inform persons who have made a report of concern whether the report has been investigated, and whether any further action has been taken;
- 6 **agreed** that the minimum requirements for the new annual report of the Monitor on outcomes for Māori children and young people, and their whānau should include commentary on:
- 6.1 the application of section 7AA of the Oranga Tamariki Act 1989; and outcomes being achieved for Māori children and young people, and their whānau;
 - 6.2 the extent to which practices within the Oranga Tamariki system have regard to mana tamaiti and the whakapapa of Māori children and young people and the whanaungatanga responsibilities of their whānau, hapū, and iwi;
 - 6.3 the measures taken by the Chief Executive of Oranga Tamariki to carry out the duties in subsections (2) and (4) of section 7AA of the Oranga Tamariki Act 1989, including the impact of those measures on improving outcomes for Māori children and young people who come to the attention of the Oranga Tamariki under the Oranga Tamariki Act 1989, and the steps Oranga Tamariki has taken;
 - 6.4 strategic partnerships Oranga Tamariki has with iwi and Māori organisations;
 - 6.5 separate information on Māori disabled children and young people;
 - 6.6 any impact that the above have on the measurable outcomes that have been set to reduce disparities for Māori children and young people;
- 7 **agreed** that the minimum requirements for the Monitor's new three-yearly State of Oranga Tamariki system report include relevant insights from annual reporting as well as commentary on the following matters:
- 7.1 the number of children who have received services or supports under the Oranga Tamariki Act 1989;
 - 7.2 compliance with the Oranga Tamariki Act 1989, the National Care Standards Regulations, and other regulations made under the Oranga Tamariki Act 1989;

- 7.3 the quality and impact of service delivery by Oranga Tamariki or approved organisations;
 - 7.4 the application of section 7AA of the Oranga Tamariki Act 1989; and an assessment of outcomes for tamariki, rangatahi, and their whanau;
 - 7.5 how services and supports provided under the Oranga Tamariki Act 1989 interface with other systems, including the Ombudsman;
 - 7.6 how the system is supporting disabled children and young people, including Māori disabled children and young people, including the provision of reasonable accommodations to ensure inclusive care of disabled children and young people;
 - 7.7 areas of good practice and areas for improvement;
 - 7.8 complaints received by Oranga Tamariki in relation to the duties of the Chief Executive of Oranga Tamariki under the Oranga Tamariki Act 1989, including but not limited to, numbers of complaints, the procedures followed to resolve these matters, and whether and how the complaints have been addressed;
 - 7.9 identified incidents of abuse and neglect found to have occurred in care or custody, and the procedures followed to resolve these matters;
- 8 **agreed** that the timeframe for publication of final reports of the Monitor and any responses to these reports should be 10 working days after an agency response is due;

Relevant agencies

- 9 **agreed** that a regulation be drafted to specify that the following categories constitute a relevant agency for the purpose of endorsing a candidate applying to be a board member of the Children and Young People's Commission (the Commission):
- 9.1 any national organisation which represents Māori, particularly Māori welfare;
 - 9.2 any organisation that has the mandate to represent an iwi;
 - 9.3 any organisation working with or for children and young people, including but not limited to, organisations focused on advocacy for children and young people, and their rights;
 - 9.4 any organisation focused on services and supports for children and young people, including but not limited to, health and wellbeing, and disability services and supports;
 - 9.5 any child- or youth-led organisation;
 - 9.6 any organisation that represents the views and ideas of children and young people, including care-experienced children and young people;
- 10 **invited** the Minister for Social Development and Employment to issue drafting instructions to the Parliamentary Counsel Office to give effect to the decisions in paragraphs 1 to 9;

Codes of Ethics

- 11 **agreed** that regulations are not needed at this stage for the following matters relating to codes of ethics:
- 11.1 to prescribe the content of the respective codes of ethics for the Monitor and the Commission;
 - 11.2 to prescribe the intervals at which the Monitor and the Commission must review their respective codes of ethics;
 - 11.3 to prescribe who the Monitor and the Commission must consult when developing or amending their respective codes of ethics;
- 12 **agreed** that rather than creating a new code of ethics, the Monitor should review its existing code of ethics;
- 13 **noted** that in 2019, Cabinet agreed that in developing their respective codes to support safe and ethical gathering and use of personal information, oversight bodies must, where possible, seek input from ethics specialists and from Māori and consult with the Privacy Commissioner, to ensure the content of the code is appropriate [CAB-19-MIN-0687];
- 14 **agreed** that in addition to the groups previously agreed by Cabinet, the following groups should be consulted when the Commission develops, and when the Monitor or the Commission review, their codes of ethics:
- 14.1 Children and young people;
 - 14.2 Oranga Tamariki;
 - 14.3 community organisations working with or for children and young people, including VOYCE – Whakarongo Mai;
- 15 **agreed** that in addition to the above, the Monitor should consult with the Commission on any amendments to its code of ethics.

Rachel Clarke
Committee Secretary

Present:

Rt Hon Jacinda Ardern
Hon Kelvin Davis
Hon Dr Megan Woods
Hon Chris Hipkins
Hon Carmel Sepuloni (Chair)
Hon Andrew Little
Hon Peeni Henare
Hon Jan Tinetti
Hon Dr Ayesha Verrall
Hon Aupito William Sio
Hon Meka Whaitiri

Officials present from:

Office of the Prime Minister
Office of the Chair
Officials Committee for SWC