

Under the Inquiries Act 2013
In the matter of the Royal Commission into Historical Abuse in State Care and in
the Care of Faith-based Institutions

Oranga Tamariki—Ministry for Children Response to Notice to Produce No. 418

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Oranga Tamariki—Ministry for Children

Response to Notice to Produce No. 418

1. Introduction

- 1.1 This response has been prepared in answer to the questions issued by the Royal Commission at Schedule A of its Notice to Produce No. 418 (**Notice**) addressed to both the Ministry of Social Development | Te Manatū Whakahiato Ora (**MSD**) and Oranga Tamariki—Ministry for Children (**Oranga Tamariki**).

Approach to this Notice

- 1.2 The Notice was issued jointly to MSD and Oranga Tamariki. Both ministries have identified those questions in the Notice that are applicable to its particular functions. In Oranga Tamariki's case, that is the majority of the questions in the Notice. Notwithstanding the breadth and depth of the questions set out in the Notice, Oranga Tamariki has been mindful of the guidance received from the Royal Commission to provide responses that are high level and focused on key themes and issues in the periods covered by the Notice.¹ Accordingly, Oranga Tamariki has sought to answer the questions in the Notice taking a high level rather than granular approach.
- 1.3 The response to this notice is broken down into two sections:
- Section one – covers high level general information about the reviews, inquiries, reports and lessons learned by Oranga Tamariki from 1988 through to the present day
 - Section two – provides more specific responses to the questions asked in the notice issued.
- 1.4 Many of the documents referred to in this response are publicly available and accordingly Oranga Tamariki provides them by way of hyperlinks as footnote references. To the extent that there are documents which are not publicly available then Oranga Tamariki separately provides those to the Royal Commission.
- 1.5 Oranga Tamariki was established as a new Ministry on 1 April 2017. Functions now carried out by Oranga Tamariki were previously carried out by MSD, and by other predecessor agencies prior to that.

¹ Letter from Rachael Schmidt-McCleave to the Royal Commission, 27 April 2022.

SECTION ONE: REVIEWS AND INQUIRIES – KEY SOURCES OF LESSONS LEARNED BY ORANGA TAMARIKI

- 1.1 The Notice seeks answers to questions about lessons that have been learned by the state care and protection system across a range of subjects. Extensive amendments to policy, practice and legislation have been made since 1950 to the present day in the functions carried out by Oranga Tamariki and its predecessors. Most recently, in September 2021, the Minister for Children announced a new direction for Oranga Tamariki,² including a Future Direction Plan to shift the Ministry to two key roles:
- a. **A high-performing, highly-trusted statutory care and protection and youth justice agency** that works in an integrated way with other agencies and communities, including supporting the social work workforce.
 - b. **An enabler and coordinator for Māori and communities**, to empower them to put in place the support, the solutions and the services they know will work for their people to prevent tamariki coming to the agency's attention.
- 1.2 The Future Direction Plan is informed by:
- a. the findings of the Oranga Tamariki Ministerial Advisory Board report, *Hipokingia ki te Kahu Aroha Hipokingia ki te Katoa Te Kahu Aroha*, September 2021 [**Te Kahu Aroha**];³
 - b. the feedback of iwi, hapū, whānau and organisations who the Ministerial Advisory Board engaged with in the development of the above report;
 - c. the findings and recommendation from the Waitangi Tribunal report (Wai 2915) *He Pāharakeke, He Rito Whakakīkinga Whāruarua* [**He Pāharakeke**];⁴
 - d. a number of additional contemporary and historical reviews and inquiries; and
 - e. the voices of young people through the Oranga Tamariki Youth Advisory Group who provide care-experienced perspectives and contributions on the design and implementation of Oranga Tamariki policies, practices and services. The group is currently the most direct and ongoing internal system for Oranga Tamariki to gain rangatahi voices and views.⁵
- 1.3 These inquiries and reports include many of the key documents that articulate the lessons learned by Oranga Tamariki and predecessors, and so are introduced in the section below and then referred to throughout the response to the Notice.

² Submission to the Cabinet Social Wellbeing Committee, "Direction for Oranga Tamariki" (12 August 2021) [**Direction for Oranga Tamariki**]
<https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Information-releases/Cabinet-papers/OT-Ministerial-Advisory-Board/Direction-for-Oranga-Tamariki-August-2021.pdf>

³ Oranga Tamariki Ministerial Advisory Board "*Hipokingia ki te Kahu Aroha Hipokingia ki te Katoa*. The initial report of the Oranga Tamariki Ministerial Advisory Board" (July 2021)
<https://www.beehive.govt.nz/sites/default/files/2021-09/SWRB082-OT-Report-FA-ENG-WEB.PDF> and <https://www.beehive.govt.nz/sites/default/files/2021-09/SWRB082-OT-Report-FA-TRM-WEB.PDF>

⁴ Report of the Waitangi Tribunal, Wai 1915 "**He Pāharakeke, he Rito Whakakīkinga Whāruarua**: Oranga Tamariki Urgent Inquiry" (April 2021)
https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_171027305/He%20Paharakeke%20W.pdf

⁵ Oranga Tamariki—Ministry for Children "Youth Advisory Group Terms of Reference" (17 July 2020) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/News/2020/Applications-open-for-Youth-Advisory-Group/YAG-Terms-of-Reference.pdf>

- 1.4 Oranga Tamariki is currently implementing the **Future Direction Plan**⁶ and the Oranga Tamariki Ministerial Advisory Board provides independent assurance to the Minister for Children on the Ministry's progress. Information about Te Kahu Aroha and the Future Direction Plan is further detailed later in the introduction section.

Historical reviews into Oranga Tamariki pre-2019

Pūao-te-Ata-tū (day break): The Report of the Ministerial Advisory Committee on a Māori Perspective for the Department of Social Welfare (September 1988)⁷

- 1.5 In 1985, the Minister of Social Welfare established a Ministerial Advisory Committee on a Māori perspective for the Department of Social Welfare.⁸ The Minister tasked the Committee with advising on “the most appropriate means to achieve the goal of an approach which would meet the needs of Māori in policy, planning and service delivery in the Department of Social Welfare”.
- 1.6 The Committee reported back to the Minister on 1 July 1986, and then in 1988 its seminal report, *Pūao-te-Ata-tū (day break) [Pūao-te-Ata-tū]*, was publicly released. In summary, the Committee, chaired by John Rangihau, approached its task from a Māori perspective, based on the experiences of Māori, captured at 65 hui across the country. The Committee found that the Department had failed to protect the interests of Māori in line with its Treaty of Waitangi | Te Tiriti o Waitangi obligations and had fundamentally misunderstood the place of the child in Māori society and its relationship with whānau, hapū and iwi.
- 1.7 *Pūao-te-Ata-tū* made 13 recommendations for change. *Pūao-te-Ata-tū* sought the incorporation of Māori values, cultures and beliefs in all policies and outlined a regional approach to the sharing of resources in power. At the heart of the report was the need to ensure that the place of tamariki Māori within whānau, hapū and iwi was upheld and protected.
- 1.8 The key recommendations the Committee included:
- a. In terms of guiding principles and objectives for the Department (and across the Government):
 - i. A social policy objective be endorsed by the Government for the development of social welfare policy; to attack all forms of cultural racism in New Zealand that result in the values and lifestyle of the dominant group being regarded as superior to those of other groups, especially Māori.⁹
 - ii. An operational objective be endorsed by the Government to attack and eliminate deprivation by equitably allocating resources, sharing power, ensuring legislation recognises the values of all cultural groups, especially Māori, and working to harness the potential of all people (especially Māori) to advance.
 - b. In terms of “deficiencies in law and practice”:

⁶ Oranga Tamariki—Ministry for Children “Future Direction Action Plan” (September 2021) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/News/2021/MAB-report-action-plan-release/OT-Future-Direction-Action-Plan.pdf>

⁷ Department of Social Welfare: Māori Perspective Advisory Committee, “*Pūao-te-Ata-tū* (day break): The Report of the Ministerial Advisory Committee on a Māori Perspective for the Department of Social Welfare” (SW 470, September 1988) <https://www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/archive/1988-puaoteatatu.pdf>

⁸ The Committee was chaired by John Te Rangi-Aniwaniwa, Emarina Manuel, Donna Marie Tai Tokerau Hall, Hori Brennan, Peter Wilson Boag, Dr Tamati Muturangi Reedy, Secretary of the Department of Māori Affairs (represented by Neville McClutchie Baker), and John Waldron Grant Director-General of the Department of Social Welfare.

⁹ *Pūao-te-Ata-tū* at 9

- i. That the Children and Young Persons Act 1974 be reviewed having regard to a number of relevant principles:¹⁰
 - In consideration of the welfare of a Māori child, regard must be had to the desirability of maintaining the child within the child's hapū.
 - That the whānau/hapū/iwi must be consulted and may be heard in the appropriate court on the placement of a Māori child.
 - That court officers, social workers and others dealing with a Māori child should be required to make inquiries as to the child's heritage and family links.
 - That the process of law must enable the kinds of skills and experience required for dealing with Māori children and young person's hapū members to be demonstrated, understood and constantly applied. This will require appropriate training mechanisms for all people involved with regard to customary cultural preferences and current Māori circumstances and aspirations.
 - That prior to any sentence or determination of a placement, the relevant court should, where practicable, consult, and be seen to be consulting with, members of the child's hapū or with persons active in tribal affairs with a sound knowledge of the hapū concerned.
 - That the child or the child's family should be empowered to select a "Kai tiaki" or members of the hapū with a right to speak for them.
 - That authority should be given for the diversion of negative forms of expenditure towards programmes for positive Māori development through tribal authorities; these programmes to be aimed at improving Māori community service to the care of children and the relief of parents under stress.
- c. In terms of institutions:¹¹
 - i. Management committees drawn from local communities be established for each social welfare institution.
 - ii. Each committee should consist of up to nine people appointed to represent the community, including on the nomination of the Māori tribal authorities, and one member to represent the Director-General of Social Welfare and one to represent the Secretary of Māori Affairs.
 - iii. As a priority, the committees should address the question of alternative community care utilising the extended family.
- d. In terms of Maatua Whangai:¹²
 - i. The Maatua Whangai programme should return to its original focus of nurturing children within the family group.
 - ii. Additional funding should be allocated by the Department to the programme for board payments and grants to tribal trusts for tribal authorities to strengthen whānau/hapū/iwi development.

¹⁰ *Pūao-te-Ata-tū* at 10-11

¹¹ *Pūao-te-Ata-tū* at 11-12

¹² *Pūao-te-Ata-tū* at 12

- iii. That programmes should be monitored for suitability of placement and quality of care.
 - e. In terms of recruitment and staffing:¹³
 - i. Job descriptions should acknowledge requirements necessary for the officer to relate to, in particular, the needs of Māori and Māori community.
 - ii. Interviews panels should include a person knowledgeable in Māoritanga.
 - iii. The Department should provide additional training programmes to develop understanding and awareness of Māori and cultural issues among staff; and additional training positions be established for training in Māoritanga.
 - f. Finally, in terms of training, the Department, in consultation with the Department of Māori Affairs, identify suitable people to institute training programmes to provide a Māori perspective for training courses more directly related to the needs of the Māori.¹⁴
- 1.9 Following *Pūao-te-Ata-tū*, a number of changes to legislation were made including the enactment of the Children, Young Persons, and their Families Act 1989. The importance of tamariki Māori to whānau, hapū and iwi was reinforced in this Act. The Children, Young Persons and their Families Act 1989 introduced a number of legislative changes, including:
- a. a framework for the family group conference approach;
 - b. provision for iwi social services to deliver care and protection services;
 - c. the creation of the Unsupported Child's Benefit, which allows payments to be made to whānau carers looking after children outside the state care system.
- 1.10 The Children, Young Persons and their Families Act 1989 also contributed to the closure of a number of institutions (youth residences) in the early 1990s and a refocusing of their purpose and use.
- 1.11 In addition to legislative changes, the government released specific strategies for supporting Māori, such as the Department of Social Welfare's *Te Punga: Our Bicultural Strategy for the Nineties* in 1994,¹⁵ and the Department of Child, Youth and Family Services' *Te Pounamu Māori strategy* in 2001.¹⁶

Reviews between 2000 to 2014

- 1.12 Despite the intent of legislative and policy changes described above, issues across the care, protection, and youth justice system continue to be identified, including Māori continuing to face widespread disparities, and a number of reviews of the care and protection system were conducted between 2000 and 2014, including:
- a. **A review of Child, Youth and Family Services (CYFS)** (2000) by Judge Brown¹⁷. This review found Child, Youth and Family had failed to

¹³ *Pūao-te-Ata-tū* at 12-13

¹⁴ *Pūao-te-Ata-tū* at 13

¹⁵ Department of Social Welfare "*Te Punga O Matahaura – Our Bicultural Strategy for the Nineties*" (Wellington, 1994) <https://www.mcquinnessinstitute.org/wp-content/uploads/2021/04/242.-Te-Punga-Our-Bicultural-Strategy-for-the-Nineties.pdf>

¹⁶ Child, Youth and Family "*Te Pounamu manaaki tamariki, manaaki whānau*" (Wellington, 2001) <https://www.mcquinnessinstitute.org/wp-content/uploads/2021/04/242.-Te-Punga-Our-Bicultural-Strategy-for-the-Nineties.pdf>

¹⁷ Michael Brown Report to Hon Steve Maharey, Minister of Social Services and Employment: "Care and Protection is about adult behaviour, The Ministerial Review of the Department of Child, Youth and Family Services" (December 2000)

fully deliver on the intent of *Pūao-te-Ata-tū*. This led to the announcement of the New Directions plan (in 2001) to advance the wellbeing of families and their children.¹⁸

- b. **The Baseline Review** (2003) – Report of the Department of Child, Youth and Family Services: First Principles Baseline Review.¹⁹ The report recommended that the role, functions and outcomes of Child, Youth and Family be clarified and measures be taken to address the department's approach to service delivery, cross-agency collaboration and corporate functions.
- c. **The Mel Smith Report** (2011) – Report to the Minister of Social Development and Employment following an Inquiry into the Serious Abuse of a Nine Year old Girl and Other Matters Relating to the Welfare, Safety and Protection of Children in New Zealand.²⁰ The report focused on the systemic failings of 25 government agencies to prevent the ongoing abuse of the nine year old and recommended a number of changes. These were mainly in relation to the quality of practice provided by Child, Youth and Family practitioners, better information sharing practices between agencies and improved relationships between Child, Youth and Family and schools.
- d. **The Broad Report** (2013) – Review of Child, Youth and Family Complaints System: A Report to the Minister of Social Development.²¹ This report found failings with the Child, Youth and Family complaints process and recommended greater funding of independent oversight mechanisms.
- e. **The Qualitative Review of Social Worker Caseloads, Casework and Workload Management** (2014).²² This was an internal report completed by Child, Youth and Family. The report recommended reclarifying the core purpose of Child, Youth and Family, with social workers prioritising those in greatest need, enabling them to have greater decision-making as well as a range of proactive measures to address caseloads management and workforce development.

Final Report of the Expert Advisory Panel on Modernising Child, Youth and Family (Expert Advisory Panel Report) (2015)

- 1.13 In 2015, the Minister for Social Development, Hon Anne Tolley established an Expert Advisory Panel in response to concerns that the care and protection system was not meeting the needs of vulnerable children and their whānau. The

<https://www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/archive/2000-care-and-protection-is-about-adult-behaviour.pdf>

¹⁸ Office of the New Zealand Government “New directions for Child, Youth and Family 2/6” (13 June 2001) <https://www.beehive.govt.nz/feature/new-directions-child-youth-and-family-26>

¹⁹ Ministry of Social Development “Report of the Department of Child, Youth and Family Services: First Principles Baseline Review” (2003). Summarised in <https://www.beehive.govt.nz/release/cyf-baseline-review-findings-released>

²⁰ Mel Smith Report to Hon Paula Bennett, Minister for Social Development and Employment “Following an Inquiry into the Serious Abuse of a Nine Year Old Girl and Other Matters Relating to the Welfare, Safety and Protection of Children in New Zealand” (31 March 2011). https://www.beehive.govt.nz/sites/default/files/Smith_report.pdf

²¹ Howard Broad “Review of Child, Youth and Family Complaints System – A Report to the Minister of Social Development” (Wellington, 2013). <https://www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/corporate/review-of-cyf-complaints-system/review-of-child-youth-and-family-complaints-system-june-2013.pdf>

²² Office of the Chief Social Worker “**Workload and Casework Review**: Qualitative Review of Social Worker Caseload, Casework and Workload Management” (2014). <https://www.socialserviceworkforce.org/system/files/resource/files/workload-and-casework-review.pdf>

review included insights from families, front-line staff, the voices of vulnerable children and young people throughout its reflections and design processes.

- 1.14 The goal of the report was explained as:
- This report sets out a globally leading blueprint for a transformation of care, protection and youth justice practices. It is an exciting but feasible vision. It will enable children to be happy and grow into thriving adults, whilst reducing the social problems and associated costs that affect so many when we fail to love and protect them. In order to deliver on this vision it will take courage, leadership and commitment from all of New Zealand.
- 1.15 The Expert Advisory Panel produced a Report [**EAP Report**]²³ in 2015 which provided a detailed and comprehensive analysis of the current issues facing the system for vulnerable children. The system proposed in the EAP Report was shaped by advice from a Youth Advisory Panel made up of young people with experience of Child, Youth and Family services, a Māori Reference Group which provided advice and expertise on the circumstances of vulnerable Māori children, and a Practice Reference Group which provided critical advice and expertise relating to the most effective practices and services for vulnerable children and their families.
- 1.16 The EAP Report recommended an overhaul of the system and an expansion of the operating model to focus on:
- a. prevention of harm through early intervention;
 - b. intensive intervention when concerns escalate;
 - c. care support when children are unable to live with their birth families;
 - d. youth justice services for young people who offend; and
 - e. transition support for young people entering adulthood.
- 1.17 The EAP Report identified opportunities for Māori and the Crown to work together to transform the social sector. Proposals included taking a strategic partnering approach with iwi and Māori organisations to provide services and support to tamariki, rangatahi and whānau Māori, making better use of the natural attributes of these organisations and communities to serve the needs of vulnerable Māori children, young people and their whānau. To achieve this, the report outlined that the government must remove the hurdles, including administrative and legislative barriers, which prevent iwi and Māori organisations from being effectively involved in the social sector.²⁴
- 1.18 The Government response to the report resulted in substantive changes to the Oranga Tamariki Act, which came into effect between 2016 and 2019. Changes included raising the age for tamariki to remain in care from 17 to 18, new duties on the Chief Executive with respect to Te Tiriti o Waitangi | the Treaty of Waitangi

²³ Modernising Child, Youth and Family Expert Panel “Expert Panel Final Report: Investing in New Zealand’s Children and their Families” (Wellington, December 2015) at 3 <https://www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/corporate/expert-panel-cyf/investing-in-children-report.pdf>

²⁴ More information about the EAP Report can be found at: Ministry of Social Development “Investing in New Zealand’s Children and Their Families: Final Report of the Expert Panel on Modernising Child Youth and Family” <https://www.msd.govt.nz/about-msd-and-our-work/work-programmes/investing-in-children/eap-report.html>; Ministry of Social Development “Investing in Children Programme” <https://www.msd.govt.nz/about-msd-and-our-work/work-programmes/investing-in-children/index.html>; and Ministry of Social Development “Investing in New Zealand’s Children and Their Families” <https://www.msd.govt.nz/about-msd-and-our-work/work-programmes/investing-in-children/new-childrens-agency-established.html>

(known as section 7AA), an emphasis on wellbeing, prevention and early response, the introduction of transition support for rangatahi leaving care, the development of National Care Standards and strengthened information sharing provisions.²⁵ These changes resulted in substantial new practice policy, guidance and practice tools most of which took effect from 1 July 2019 onwards.

Reviews into the care and protection system from 2019 onwards

- 1.19 In May 2019, the attempted removal of a pēpi Māori from a mother's care in Hastings by Oranga Tamariki attracted significant public scrutiny and criticism. This event also led to several reviews and inquiries which have extensively inquired into all facets of the current care and protection system, including Oranga Tamariki legislation, policies and practice. The reviews broadly focused on:
- a. how pēpi enter the care and protection system; and
 - b. how Māori are impacted by the care and protection system.
- 1.20 The reviews and inquiries into Oranga Tamariki following the attempted removal of a pēpi include the following:²⁶
- a. The Hawke's Bay Practice Review, November 2019;
 - b. *Ko te Wā Whakawhiti* – the Māori-led inquiry (Whānau Ora Commissioning Agency), February 2020;
 - c. *Te Kuku o te Manawa* – the Office of the Children's Commissioner Report, November 2020;
 - d. *He Take Kōhukihuki* – Ombudsman Investigation, August 2020; and
 - e. The Waitangi Tribunal urgent inquiry (Wai 2915), *He Pāharakeke, He Rito Whakakīkinga Whāruarua*, April 2021.

These reviews and inquiries are further summarised below.

The Hawke's Bay Practice Review, November 2019²⁷

- 1.21 Oranga Tamariki released the findings of the Hawke's Bay Practice Review in November 2019 and made immediate changes to ensure greater scrutiny on how children are taken into care and to strengthen how the Ministry works with others. The Hawke's Bay Practice Review found that:
- a. safety concerns for the baby meant Oranga Tamariki were right to get involved, but that it made mistakes in how it worked with the whānau and other partners;
 - b. Oranga Tamariki did not try hard enough to build good relationships with whānau members;
 - c. Oranga Tamariki did not explore options to place the baby with wider family;
 - d. too much reliance was placed on historical information about the whānau instead of their current situation; and
 - e. the systems in place to check decisions did not work.

²⁵ Oranga Tamariki—Ministry for Children Practice Centre "Information sharing"
<https://practice.orangatamariki.govt.nz/core-practice/information-sharing/>

²⁶ Oranga Tamariki—Ministry for Children "Reviews and inquiries" (4 May 2022)
<https://www.orangatamariki.govt.nz/about-us/performance-and-monitoring/reviews-and-inquiries/>

²⁷ Oranga Tamariki Professional Practice Group "Practice Review into the Hastings Case" [**Hawke's Bay Practice Review**] (5 November 2019)
<https://www.orangatamariki.govt.nz/assets/Uploads/About-us/News/2019/Practice-Review/Hawkes-Bay-Practice-Review.pdf>

- 1.22 Oranga Tamariki accepted all the findings and recommendations and apologised to the whānau at the heart of the case. It also made immediate changes to practice to strengthen how it works with others. These included:
- a. providing the right planning and support for parents and whānau at the earliest opportunity;
 - b. making sure whānau are more involved – unless there is a clear need to protect a child from immediate and imminent danger, all custody applications are made ‘on notice’, so whānau know what’s happening and are involved in the court’s decision;
 - c. better training and greater supervision for family group conferences;
 - d. when staff need to act fast to keep a child safe, every section 78 ‘without notice’ application will go through additional checks to ensure it is the right action.
- 1.23 Oranga Tamariki has subsequently seen a practice change with a substantial reduction in section 78 orders taken for yet to be born and newborn pēpi. This change is equally attributable to the reviews listed above in paragraph 1.23. The number of situations in which a section 78 custody order was sought in order to achieve safety has continued to reduce since 2017. While pēpi Māori continue to be overrepresented in section 78 orders this is steadily declining, with the percentage of section 78 orders for pēpi Māori reducing from 70 percent in 2017 to 48 percent in 2021.²⁸

Ko te Wā Whakawhiti: It’s time for change – the Māori-led inquiry (Whānau Ora Commissioning Agency), February 2020²⁹

- 1.24 *Ko te Wā Whakawhiti* was a significant and comprehensive report focusing on historical and current cases of state removal of tamariki Māori from their whānau.
- 1.25 The key themes, messages and findings of the report are:
- a. whānau want 'by Māori, with Māori, for Māori' services and solutions, with an emphasis on the need for these services and solutions to be collectively, and locally, driven;
 - b. a stronger commitment to Te Tiriti o Waitangi | the Treaty of Waitangi is needed;
 - c. whānau need better, more robust support and adequate funding from the government to thrive as whānau, best demonstrated through whānau-centred wrap-around support – some of the whānau interviewed in the inquiry noted Māori service providers were better positioned to give them the support they needed; and
 - d. hapū and iwi connections to whānau are critical for supporting whānau to thrive.
- 1.26 The report highlighted that is important to note that positive change towards better outcomes for tamariki Māori and whānau Māori is a multi-layered process and requires attention to short, medium and long-term actions in order to support robust and transformative change. The ultimate vision of what whānau want are comprehensive, wrap-around ‘by Māori, with Māori, for Māori’ services that are designed from the true lived experiences of whānau, and which offer long term solutions for all tamariki and their whānau to flourish.

²⁸ Oranga Tamariki—Ministry for Children “Second report on section 78 custody orders for unborn and new-born pēpi” (March 2022) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Performance-and-monitoring/Ombudsman-reports/Report-s78-pepi-review-FINAL-March-22.pdf>

²⁹ Whānau Ora Commissioning Agency “**Ko te Wā Whakawhiti** | It’s Time For Change: a Māori inquiry into Oranga Tamariki” (February 2020) <https://whanauora.nz/wp-content/uploads/2021/06/OT-REVIEW-REPORT.pdf>

- 1.27 The review recommended several action points acknowledging that while whānau still need to connect with the Oranga Tamariki system as it currently stands, there is an immediate and urgent need to address how whānau can be best supported to navigate the issues they currently face. Many of the actions identified by the Māori-led review align with work Oranga Tamariki already has underway.
- 1.28 Oranga Tamariki published its response to the review in August 2020.³⁰
- 1.29 Some of the actions identified by the review are about broader systemic change, and these changes are being considered in a range of fora, including by the Oranga Tamariki Ministerial Advisory Board, and the work underway to develop the Oranga Tamariki strategic direction.

Te Kuku o te Manawa: Moe Ararā! Haumanutia ngā moemoeā a ngā tupuna mō te oranga o ngā tamariki – the Office of the Children’s Commissioner Report, November 2020³¹

- 1.30 Following events in Hastings in May 2019, the Children’s Commissioner announced a review to answer the question: ‘What needs to change to enable pēpi Māori aged 0–3 months to remain in the care of their whānau in situations where Oranga Tamariki is notified of care and protection concerns?’
- 1.31 The Children’s Commissioner released the first part of the review in June 2020 [***Te Kuku o te Manawa part 1***].³² This was primarily based on interviews with mothers and whānau of 13 pēpi across 10 iwi, who have come into contact with the statutory care and protection system.
- 1.32 The report noted that it:³³
- a. ...has shared insights into what needs to change to allow pēpi Māori 0-3 months to remain in the care of their whānau in situations where Oranga Tamariki have been notified of care and protection concerns.
 - b. Through the analysis of these lived experiences of mums and whānau and the consideration of multiple strands of evidence, including consideration of Te Tiriti o Waitangi | the Treaty of Waitangi, an analysis of statistics, and a summary of legislation and policy, rights and literature, we have identified six areas for change where further investigation is required.
 - c. The findings of this report have informed the questions for the second stage of the review. The second stage of the review, currently underway, has been informed by what we have heard from further interviews with whānau, Oranga Tamariki social workers and employees within regions and at the national level, community social workers, non-government organisations, iwi social services, and health professionals including midwives and Well Child Tamariki Ora nurses.

³⁰ Oranga Tamariki—Ministry for Children “Response to Ko Te Wā Whakawhiti: It’s Time for Change” (6 August 2020) <https://www.orangatamariki.govt.nz/about-us/news/response-to-ko-te-wa-whakawhiti-its-time-for-change/>

³¹ Office of the Children’s Commissioner “Te Kuku O Te Manawa – Ka puta te riri, ka momori te ngākau, ka heke ngā roimata mo tōku pēpi” (8 June 2020) <https://www.childrenandyoungpeople.org.nz/publications/reports/te-kuku-o-te-manawa/>

³² Office of the Children’s Commissioner “Te Kuku O Te Manawa – Ka puta te riri, ka momori te ngākau, ka heke ngā roimata mo tōku pēpi: A review of what needs to change to enable pēpi Māori aged 0-3 months to remain in the care of their whānau in situations where Oranga Tamariki—Ministry for Children is notified of care and protection concerns. Report one of two” (June 2020) <https://www.childrenandyoungpeople.org.nz/documents/33/TKTM-JUNE2020-Final-print.pdf>

³³ *Te Kuku o te Manawa* part 1, at pages 42-72

- 1.33 The Children’s Commissioner released the final (second) report on 20 November 2020 [*Te Kuku o te Manawa part 2*].³⁴
- 1.34 To complete this series of reports, the authors gathered evidence – by interviewing more parents and whānau as well as midwives, community support people, and Oranga Tamariki staff. They also looked further at what the data can (and cannot) inform about the experiences and outcomes of pēpi in the statutory care and protection system; and conducted an environmental scan of relevant rangahau and mātauranga Māori to provide a te ao Māori perspective. The authors also looked at what immediate changes to statutory social work practice and legislation are necessary to support better outcomes for pēpi and their whānau, and considered the broader context to inform the recommendations for this report.
- 1.35 The key findings and conclusions of the second report included: ³⁵
- a. There is a need for immediate actions to provide concurrent improvements to how the system better supports tamariki and their whānau. These bottom up, immediate changes should mesh with and support the longer-term transfer of resources and power to enable by Māori, for Māori approaches. Immediate improvements to stop harm now include:
 - urgent changes to social work policy and practice to improve the experience for pēpi and whānau
 - increases to the resourcing for iwi and Māori organisations to enable them to provide the services and supports whānau need to successfully care for their pēpi
 - improvements to how the current system works with Māori, including changes to guiding legislation, contracting, data collection and working with other agencies.
 - b. These changes will contribute to the much-needed improvements in the standard and delivery of statutory social work services while paving the way for the transition to the by Māori, for Māori approaches.
- 1.36 There were four recommendations made by the second report.³⁶ The majority of the recommendations are guiding and informing the strategic direction of Oranga Tamariki – including the Future Direction Plan – and/or wider Government approaches. The recommendations are supporting the work that is underway, and planned, in response to the Future Direction Plan and the Ministry’s shift to locally-led, regionally-supported and centrally-enabled ways of working.
- 1.37 In response to the recommendations, Oranga Tamariki has also reviewed and updated its hui-a-whānau and assessment policy and guidance, with a particular focus on the use of safety planning when balancing historical concerns with current information. Oranga Tamariki continues working with the New Zealand Police on a policy that provides, guidance, steps and key information for when a child is being brought into care.

³⁴ Office of the Children’s Commissioner “Te Kuku o te Manawa: Moe Ararā! Haumanutia ngā moemoeā a ngā tupuna mō te oranga o ngā tamariki” (20 November 2020) <https://www.childrenandyoungpeople.org.nz/documents/22/Te-Kuku-O-Te-Manawa-Report-2-OCC.pdf>

³⁵ *Te Kuku o te Manawa part 2*, at 103 to 112

³⁶ *Te Kuku o te Manawa part 2*, at 107 to 112.

He Take Kōhukihuki | A Matter of Urgency – Ombudsman Investigation, August 2020³⁷

- 1.38 The Chief Ombudsman investigated the following two areas of practice when a new-born baby is removed from their parents, whānau or other caregivers:
- a. decision making around applying to the Family Court for a without notice interim custody order, including the evidence used by Oranga Tamariki to seek this order; and
 - b. practices around the removal of a baby when an order is granted – including looking at how Oranga Tamariki works with other parties involved, such as district health boards, iwi and Police.
- 1.39 The Chief Ombudsman released the outcome of his investigation on 6 August 2020. The Ombudsman recommended that Oranga Tamariki report quarterly on its progress in addressing the recommendations.
- 1.40 The Chief Ombudsman identified that the content of the Ministry’s overall operating policies and guidance, effective during the period covered by the investigation, were generally adequate and reflective of the objects and principles of the Act. However, some gaps in the Ministry’s policies and guidance were identified.
- 1.41 The Chief Ombudsman made a several recommendations in the investigation, all of the recommendations were accepted.
- 1.42 The Ministry reported to the Chief Ombudsman quarterly on progress on delivery of the recommendations through until August 2021. The quarterly reports are publicly available.³⁸
- 1.43 Oranga Tamariki has made several changes to the way it works, including:
- a. Updating and strengthening its Intake and Early Assessment, Breastfeeding, and Family Group Conference policies and guidance.
 - b. Implementing an internal process to track and maintain visibility over the number of tamariki who enter care under a section 78 (without notice) order.
 - c. Introducing a site assurance process for Reports of Concern relating to newborn/unborn pēpi to ensure safety and wellbeing concerns are identified and addressed promptly.
 - d. Developing a framework for monthly auditing and analysing of case files for newborn/unborn pēpi entering care under a section 78 order.
 - e. The first report detailing the findings from the section 78 case file analysis was published on the Oranga Tamariki website in August 2021.³⁹ Insights from the case file analysis will be used to continuously inform and strengthen practice in this area

³⁷ Peter Boshier, Chief Ombudsman “**He Take Kōhukihuki** | A Matter of Urgency: Investigation Report into policies, practices and procedures for the removal of newborn pēpi by Oranga Tamariki—Ministry for Children” (6 August 2020)

<https://www.ombudsman.parliament.nz/sites/default/files/2021-11/He%20Take%20K%C5%8Dhukihuki%20-%20A%20Matter%20of%20Urgency.pdf> and <https://www.ombudsman.parliament.nz/sites/default/files/2021-11/He%20Take%20Kohukihuki%20Whakapuakitanga%20me%20Whakarapopotanga.pdf>

³⁸ Oranga Tamariki—Ministry for Children “**Ombudsman reports**” (7 September 2021) <https://www.orangatamariki.govt.nz/about-us/performance-and-monitoring/ombudsman-quarterly-reports/>

³⁹ Oranga Tamariki—Ministry for Children “**Fourth Quarterly Report to the Ombudsman: He Take Kōhukihuki Recommendations – Oranga Tamariki Work Programme**” (18 August 2021) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Performance-and-monitoring/Ombudsman-reports/4th-Ombudsman-Quarterly-Report-August-2021.pdf>

- f. As mentioned in paragraph 1.26 there is a second annual report on section 78 custody orders for newborn and unborn pēpi.
- 1.44 While formal reporting against the recommendations is no longer a requirement, we continue to keep the Ombudsman’s Office updated on progress against the recommendations.
- 1.45 A number of the recommendations are also guiding and informing the strategic direction of Oranga Tamariki – including the Future Direction Plan – and/or wider Government approaches. The recommendations are supporting the work that is underway, and planned, in response to the Future Direction Plan and the Ministry’s shift to locally-led, regionally-supported and centrally-enabled ways of working.

The Waitangi Tribunal urgent inquiry (Wai 2915) He Pāharakeke, He Rito Whakakīkinga Whāruarua, April 2021⁴⁰

- 1.46 The Waitangi Tribunal urgent inquiry into the consistency of Oranga Tamariki policies and practice with Te Tiriti o Waitangi | the Treaty of Waitangi considered the following three key questions with a particular focus from 2015 to present:
 - a. Why has there been such a significant and consistent disparity between the number of tamariki Māori and non-Māori children being taken into state care under the auspices of Oranga Tamariki and its predecessors?
 - b. To what extent will the legislative policy and practise changes introduced since 2017, and currently being implemented, change this disparity for the better?
 - c. What (if any) additional changes to Crown legislation, policy or practice might be required in order to secure outcomes consistent with Te Tiriti o Waitangi | the Treaty of Waitangi and its principles?
- 1.47 The Waitangi Tribunal core finding was that through the operation of the care and protection system over many years there has been a direct and sustained breach of the article II guarantee in Te Tiriti o Waitangi of “tino rangatiratanga over kāinga.” The Tribunal interprets “kāinga” expansively, as extending to a guarantee of cultural continuity and the right to organise and live as Māori, including fundamentally the right to care for and raise the next generation. The Tribunal articulates this fundamental breach by reference to various Treaty principles established in earlier Tribunal jurisprudence, including partnership, active protection, options and equity.
- 1.48 The Waitangi Tribunal accepted that there was a role for Oranga Tamariki to protect children, stating that:⁴¹

“We accept without hesitation that all children have the right to be protected from abuse and harm, and that the State has a legitimate function, backed by its coercive powers to provide that protection where necessary.”
- 1.49 The Tribunal recommended that an independent Māori Transition Authority be created to lead a transformation of the care and protection system. The purpose of this new authority would be to identify the changes needed to eliminate the need for state care of tamariki Māori, including where appropriate the transfer of powers, functions and responsibilities currently performed by Oranga Tamariki. The Tribunal emphasised the need for a Māori-led process of transformation, which the Tribunal considered would represent a “genuine partnership” approach. While supportive of calls for a “by Māori for Māori” approach, the Tribunal

⁴⁰ He Pāharakeke

⁴¹ Letter to the Honourable Kelvin Davis and the Honourable Willie Jackson from Judge Michael Doogan, enclosing *He Pāharakeke* at xvi.

cautioned against immediate or sudden change, and seemed to envisage, at least in the interim, an ongoing but increasingly residual role for the state.⁴²

- 1.50 It is noted that for the Waitangi Tribunal hearing, Oranga Tamariki commissioned a report into how the findings of *Pūao-te-Ata-tū* had been implemented. The conclusion was that it was initially implemented, but its key reforms were wound back over time.
- 1.51 The findings from the Waitangi Tribunal's final report are guiding and informing the strategic direction of Oranga Tamariki – including the Future Direction Plan – and/or wider Government approaches. The recommendations are supporting the work that is underway, and planned, in response to the Future Direction Plan and the Ministry's shift to locally-led, regionally-supported and centrally-enabled ways of working.

Other, more recent, reviews into the care and protection system

Oranga Tamariki Ministerial Advisory Board – Hipokingia ki te Kahu Aroha Hipokingia ki te Katoa Te Kahu Aroha – September 2020

- 1.52 The Minister for Children established the Oranga Tamariki Ministerial Advisory Board⁴³ to provide independent advice and assurance on the work of Oranga Tamariki. It is an independent, Māori led board which provides independent advice and assurance to the Minister for Children across the following areas of Oranga Tamariki:⁴⁴
- a. relationships with families, whānau, hapū, iwi, and Māori;
 - b. professional social work practices; and
 - c. organisational culture.
- 1.53 In undertaking its work, the Ministerial Advisory Board engaged extensively with iwi authorities, marae, providers, Government agencies or individuals, with over 70 hui across the country. Members reviewed dozens of reports and thousands of pages of documents and undertook significant data analysis. They also gathered insights from visits to 22 sites, a care residence, a youth justice facility and 12 virtual social worker clinics with frontline Oranga Tamariki staff.
- 1.54 The Ministerial Advisory Board delivered its first report, *Te Kahu Aroha* in 2021. The three overarching recommendations include:
- a. Māori and community collectives must be strengthened, restored, and empowered to lead prevention of harm for children, rangatahi and their whānau.
 - b. The purpose of Oranga Tamariki must be clarified, and the mana of core social work function rebuilt and properly supported.
 - c. A National Oranga Tamariki Governance Board should be established to oversee the diversity and depth of changes needed.
- 1.55 The Minister for Children accepted all the recommendations and asked Oranga Tamariki to progress the work needed to address them. The Minister also sought Cabinet endorsement of the Future Direction Plan in response to the report and other reviews and asked the Oranga Tamariki Ministerial Advisory Board to provide assurance on Oranga Tamariki progress against the Future Direction Plan and its alignment with *Te Kahu Aroha*.

⁴² Waitangi Tribunal "Tribunal releases report on Oranga Tamariki"

<https://waitangitribunal.govt.nz/news/tribunal-releases-report-on-oranga-tamariki/>

⁴³ Oranga Tamariki—Ministry for Children "Oranga Tamariki Ministerial Advisory Board" (5 November 2021) <https://www.orangatamariki.govt.nz/about-us/information-releases/cabinet-papers/oranga-tamariki-ministerial-advisory-board/>

⁴⁴ Direction for Oranga Tamariki.

- 1.56 To support the Board in their independent advice and assurance role, Oranga Tamariki provides the Board and the Minister with Quarterly Reporting on progress against the Future Direction Plan.
- 1.57 The Oranga Tamariki Ministerial Advisory Board Phase 2 work programme includes a focus on disability issues, care, and youth justice.

Oranga Tamariki response to reviews – Future Direction Plan

- 1.58 The Oranga Tamariki Future Direction Plan details a set of actions that paves the way for the long term-shifts to bring to life the full spirit and intent of *Te Kahu Aroha*, and respond to the intent of the Waitangi Tribunal's report and other reviews since 2019. In August 2021, an action plan was agreed to the future direction of Oranga Tamariki for the next two to five years. This plan was designed to address a number of recommendations made by the Oranga Tamariki Ministerial Advisory Board. The Future Direction Plan is designed to achieve better outcomes for children and whānau, empower staff to excel, enable local approaches and lead across the system.⁴⁵
- 1.59 The five areas of focus in the Future Direction Plan are:
- a. **Organisational blueprint** – to support and deliver transformation, Oranga Tamariki needs a structure that aligns functions to best effect, has clear accountabilities, reduces duplication, and supports joined-up approaches across functions that need to work together.
 - b. **People and Culture** – the long-term success of transformation hinges on the creation of a culture that acts as an accelerator of positive change.
 - c. **Relationships, Partnering and Decision-Making** – to put tamariki and whānau at the centre of the system, Oranga Tamariki will build required levels of trust and capability, alignment, and transparency to achieve authentic and genuine partnership and participation, including the participation of tamariki and rangatahi.
 - d. **Social work practice** – Oranga Tamariki will enhance the mana of social workers across both the agency and the wider care and protection sector so we can better support tamariki, rangatahi and whānau needs.
 - e. **Data, Evidence and Insights** – Oranga Tamariki will ensure robust data, research and information flows that support ongoing transformation. This includes ensuring that our understanding of how tamariki are experiencing care is current, accurate and equitable.
- 1.60 Actions within the Future Direction Plan will increasingly enable Oranga Tamariki to fulfil its identified dual role which, as previously mentioned is to be a highly trusted, high performing statutory social work agency and to be an enabler for Māori and communities as they lead responses which prevent tamariki coming into care.
- 1.61 Oranga Tamariki is making a fundamental shift in our approach to social work practice. At the heart of this shift are the relationships Oranga Tamariki builds with the tamariki, whānau, communities and partners it works with, their rights and Oranga Tamariki's obligations to them. The shift is built on an understanding of tamariki in the context of their whakapapa, with oranga as the frame.
- 1.62 This approach will have a much stronger emphasis on partnered practice, where the knowledge and skills of kaimahi in iwi, Māori and community organisations is recognised and valued, and collaborative ways of working are encouraged. There is a direct relationship between this practice shift and work underway to enable greater community leadership in the way the needs of tamariki and whānau are understood and responded to.

⁴⁵ Future Directions Plan at [21].

- 1.63 The foundations for this shift are primarily set out in the Social Work Practice area of the Future Direction Plan, including the introduction of a new Practice Framework and associated practice models and tools for social work practitioners. This also includes 'Intake and Assessment' work to ensure the community are involved at the first point that concerns emerge about te tamaiti.
- 1.64 Actions in other areas of the Future Direction Plan relating to professional development and cultural capability, alongside aligned kaimahi ora and workforce strategies are also critical to enable Oranga Tamariki practitioners to be able to make these shifts in their practice consistently. For example, the cultural competency programme, Te Hāpai Ō, together with the Practice Shift will build a more culturally responsive and sensitive workforce who understand tamariki in the context of a Māori world view.
- 1.65 Te Hāpai Ō will support the creation of an environment together where Te Ao Māori is embraced, understood, and applied within Oranga Tamariki workplaces. The aim is that all Oranga Tamariki staff will be encouraged to complete learning, designed in partnership with our partners, New Zealand's leading Māori tertiary Wānanga.
- 1.66 Other actions include significant improvements to practice regarding Section 78 (Oranga Tamariki Act 1989) 'with' and 'without notice' orders and work underway to re-design the feedback and complaints system.
- 1.67 Oranga Tamariki also has a specific programme of work in place, called Enabling Communities, to realise its role in supporting and enabling Māori and community led prevention. Over time, resources are expected to transition to Māori and communities to increasingly lead those aspects of the care and protection system in line with their aspirations. Many of these approaches are expected to prevent tamariki from coming into state care by better meeting the needs of tamariki and whānau in enduring ways, within their own communities.
- 1.68 As part of the Enabling Communities approach, Oranga Tamariki is progressing work with several communities to develop regional plans, as recommended by the Oranga Tamariki Ministerial Advisory Board in their report Te Kahu Aroha. The objective is to empower, equip, and support communities to develop and deliver the services their communities and whānau need for sustained wellbeing. This includes building momentum in the work the Ministry already has underway to support community led approaches across the motu, accelerating good work already happening, and building or strengthening relationships elsewhere to transition to a new way of working.
- 1.69 The dual roles envisaged in the Future Direction Plan are complementary and are intended to improve the experiences of tamariki who are either in care or are at risk of entering Oranga Tamariki care. As Oranga Tamariki works to realign investment and governance to devolve and transfer resources to communities, it is also important that the workforce capability is developed in tandem so as to create a future where the needs of tamariki are solved by communities, in closer proximity to whānau. There is also work being done to embed and monitor the National Care Standards to supplement the Future Direction Plan.
- 1.70 For completeness, the Future Direction Plan is not representative of all work the Crown has underway to transform the care and protection system. There are also important initiatives underway that, while not directly in scope of the Future Direction Plan, help build the foundations for the wider system change and contribute towards the success of the plan itself. These include:
- a. work in wider the disability sector;
 - b. a Pacifica strategy;
 - c. the Youth Justice and care residences work programme; and
 - d. the ongoing work programme of the Oranga Tamariki Ministerial Advisory Board;

Strategic Intentions Report 2021-2025⁴⁶

- 1.71 Oranga Tamariki published its Strategic Intentions Report 2021-2025 setting out the fundamental shifts Oranga Tamariki will take to transform and transition to a new operating model aligned to its dual role as an enabler of communities and Māori, and a high-performing care and protection, and youth justice agency. The report emphasises some of the key changes in approach for the agency including:
- a. **A focus on listening to the voices of whānau, children, and young people;**
 - b. **Focusing on quality practice** – through models that support whānau decision making; supervision which strengthens social work judgement, accountability, and wellbeing; understanding the quality of practice with tamariki and whānau; and a new framework to guide practice;
 - c. **Continuing the focus on National Care Standards** – a key shift to improve the quality of care for children and young people by moving to smaller, less institutional, and therapeutic environments connected to children’s and young people’s communities, instead of the previously larger residential environments;
 - d. **Focusing on prevention** – enabling communities to put in place the support, the solutions, and the services they know will work for tamariki and their whānau to prevent tamariki coming to Oranga Tamariki attention;
 - e. **Shifting to locally led, centrally enabled way of working:**
 - i. Locally led means decision-making happens as close as possible to and with tamariki, rangatahi, and whānau. This means that over time there will be a move to a way of working where decision-making is led by and resources are shared with communities. There will need to be a balance between local responses and national consistency.
 - ii. Being centrally enabled will bring national alignment across what is happening in different areas, help coordinate a national system including calling for action from other agencies, and ensure cost efficiencies for services and functions that should be provided nationally.

Other responses to the recent reports, inquiries, and reviews

- 1.72 Aside from the Future Direction Plan, Oranga Tamariki has a number of other programmes of work underway reflecting lessons it has learned following recent reports, inquiries, and reviews. This work includes the Enabling Communities, programme entering into Strategic Partnership Agreements with iwi and/or Māori organisations, the Oranga Tamariki Practice Shift, and the Oranga Tamariki Action Plan prepared in accordance with the Children’s Act 2014.
- 1.73 These changes are accompanied by Oranga Tamariki publishing reports in accordance with section 7AA of the Oranga Tamariki Act. The work undertaken by Oranga Tamariki in relation to section 7AA is explained in response to the section of this response answering question 5 (Te Tiriti o Waitangi | The Treaty of Waitangi).⁴⁷

Strategic Partnership Agreements

- 1.74 Oranga Tamariki has Strategic Partnership Agreements with 9 Iwi and/or Māori organisations and another two in active negotiation. The Ministry also continues

⁴⁶ Oranga Tamariki—Ministry for Children “Strategic Intentions 2021-2015”
<https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Corporate-reports/Strategic-intentions/Strategic-intentions-2021-2025.pdf>

⁴⁷ [3.3] at 39

to build on the good work identified by the Waitangi Tribunal with Strategic Partners such as Ngāi Tūhoe and the Māori Women's Welfare League in Blenheim and developing further partnerships. Oranga Tamariki has recently refreshed the Strategic Partnership Agreement with Te Rūnanga o Ngāi Tahu with investment of \$25.9m across three years for the Whānau as First Navigators programme. A programme designed to be iwi-led and focused on whānau and preventing tamariki from coming into state care.

Oranga Tamariki Action Plan⁴⁸

- 1.75 The Children's Act 2014 requires chief executives of children's agencies to produce an Oranga Tamariki Action Plan to set out how they will work together to improve the wellbeing of the core population of interest to Oranga Tamariki.⁴⁹ Sitting beneath the Child and Youth Wellbeing Strategy, it sets out the steps that chief executives will take to work together to improve outcomes for the core populations of interest to Oranga Tamariki.⁵⁰ The initial focus of the plan will be on tamariki in care.
- 1.76 The Oranga Tamariki Action Plan will be a critical enabler for advancing a shared accountability and monitoring framework across children's agencies to improve the wellbeing of the priority populations and prevent the need for a statutory response. As highlighted in the Board's report, *Te Kahu Aroha*, the responsibility for improving the wellbeing of children and whānau and preventing the need for children to come into care sits with a range of government agencies and requires a collective approach.
- 1.77 The Oranga Tamariki Action Plan will also assist Oranga Tamariki social workers, site managers and regional managers in conversations with partner agencies to ensure that the tamariki, rangatahi and whānau they are working with can access the services and supports they need.

Concluding comment on reviews and inquiries processes

- 1.78 Following the extensive reviews and inquiries into the care and protection system, the direction for Oranga Tamariki over the next two to five years has been developed and endorsed by Cabinet. This direction brings together a consolidated and visible action plan for the agency (the Future Direction Plan), informed by the findings of the Oranga Tamariki Ministerial Advisory Board report, the findings and recommendation from the Waitangi Tribunal report and findings and recommendations from previous reviews and inquiries.
- 1.79 The intention is that this Future Direction Plan will build on system changes that are already underway to address the historical and contemporary concerns about the care and protection system.

Oranga Tamariki Practice

National Care Standards

- 1.80 The Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018 (**National Care Standards**) set out the standard of care every child and young person needs to do well and be well, and the support all caregivers can expect to receive when caring for tamariki. They came into effect on 1 July 2019.

⁴⁸ Future Direction Plan

⁴⁹ Children's Act 2014, ss 7D-13.

⁵⁰ These are the children and young people with the greatest needs. This includes children who have early risk factors for future involvement in the statutory care, protection, and youth justice systems, along with those who are already receiving assistance through Oranga Tamariki or who are subject to a custody or other order. There are nearly 120,000 children and young people in this cohort. The Strategy can be found here: <https://www.childyouthwellbeing.govt.nz/sites/default/files/2019-08/child-youth-wellbeing-strategy-2019.pdf>

- 1.81 The standards are guided by six parts to ensure best practice, these are:
- Part One: Needs assessments, plans, visits, and collection of information about children and young people.
 - Part Two: Support to address child's or young person's needs.
 - Part Three: Caregiver and care placement assessment and support.
 - Part Four: Supporting children and young people to express their views and contribute to their care experience.
 - Part Five: Supporting children and young people during care transitions.
 - Part Six: Monitoring and reporting on compliance with these regulations.
- 1.82 The National Care Standards include a child-friendly Statement of Rights to ensure every child and young person in care understands what they are entitled to, and knows how to speak up or make a complaint.
- 1.83 They were developed in consultation with stakeholders, including with children and young people in care, caregivers, caregiver social workers, approved care providers, iwi providers non-government organisations and government agencies.⁵¹
- 1.84 There are three key practice requirements set out on the Practice Centre in order to give effect to the Care Standards. These are:
- a. **Needs Assessment**⁵² – Using the Tuituia assessment tool, a holistic needs assessment is undertaken that reflects the views of the tamariki and their whānau and address the areas set out in the care standards
 - b. **All About Me Plan**⁵³ – This plan is developed with the child, their family and those caring for them and sets out the steps to address the needs and aspirations of the child in line with the areas identified in the assessment
 - c. **Caregiver Support plan**⁵⁴ – This is an individualised plan which sets out the support that will be provided to the caregiver and their family to meet the needs of the child they are caring for.

Practice Standards

- 1.85 Oranga Tamariki has developed a set of **Practice Standards**⁵⁵ which describe the benchmark for practice when working with tamariki and whānau. The standards include the requirement to see and engage tamariki and their whānau, work closely in partnership with others, create assessment and plans, ensure safety and wellbeing, use professional supervision and keep accurate records. A specific practice standard, *Whakamana te Tamaiti*,⁵⁶ requires practice that

⁵¹ Oranga Tamariki—Ministry for Children “National Care Standards and Related Matters Regulations” (V2. updated October 2021) <https://www.orangatamariki.govt.nz/assets/Uploads/Working-with-children/Information-for-providers/Partnered-Care/What-is-Partnered-Care/National-Care-Standards-regulation-booklet.pdf>

⁵² Oranga Tamariki—Ministry for Children Practice Centre “Assessing the needs of tamariki in care” (1 July 2019) <https://practice.orangatamariki.govt.nz/our-work/assessment-and-planning/assessments/conducting-an-assessment/assessing-the-needs-of-tamariki-in-care/>

⁵³ Oranga Tamariki—Ministry for Children Practice Centre “All About Me Plan” (14 March 2022) <https://practice.orangatamariki.govt.nz/policy/all-about-me-plan/>

⁵⁴ Oranga Tamariki—Ministry for Children Practice Centre “Caregiver support plan” (10 March 2020) <https://practice.orangatamariki.govt.nz/our-work/care/caregivers/support-for-caregivers/caregiver-support-plan/>

⁵⁵ Oranga Tamariki—Ministry for Children Practice Centre “Practice standards” <https://practice.orangatamariki.govt.nz/practice-approach/practice-standards/>.

empowers tamariki Māori. These are considered core practice requirements for all kaimahi.

Practice Framework

- 1.86 Since 2019, Oranga Tamariki has undertaken a practice shift, a paradigmatic shift centred in Te Ao Māori, which is being applied for all tamariki and whānau who engage with Oranga Tamariki. The practice shift draws on other knowledge bases only when they can show evidence of benefit for tamariki and whānau Māori and understands tamariki in the context of whakapapa, framed by oranga.
- 1.87 This paradigmatic shift underpins the practice shift, in which tamariki are understood in the context of whakapapa and whānau. At the heart of this shift are the relationships Oranga Tamariki builds with the tamariki, whānau, communities and partners it works with, recognising that the oranga of tamariki is realised within the collective oranga of whānau, hapū and iwi. This includes developing or strengthening Māori-specific practice roles, such as Kairaranga-ā-whānau, Māori Practice Leads, and others. Oranga Tamariki also has iwi-led family group conferences, and partnered-delivery of family group conferences.
- 1.88 Oranga Tamariki expects practice is undertaken by its workforce in a way that is complementary and can occur collaboratively with our iwi and Māori partners.
- 1.89 The practice shift recognises the significance of Te Tiriti o Waitangi | the Treaty of Waitangi for framing a practice relationship between the Crown and Māori. As a Crown agency, Oranga Tamariki is obliged to uphold all principles of Te Tiriti o Waitangi | the Treaty of Waitangi to ensure the wellbeing and tino rangatiratanga of whānau, hapū and iwi. This is reflected by five core components of the practice shift paradigm, being that: Te Ao Māori is valuable knowledge; the significance of history; valuing narratives as cultural identity; Māori concepts of wellbeing; and principled practice. Oranga Tamariki includes guidance within its Practice Centre demonstrating a commitment to Te Tiriti o Waitangi | the Treaty of Waitangi which is contained within its practice standard of *Whakamana te tamaiti: Practice empowering tamariki Māori*.
- 1.90 In 2021, Oranga Tamariki introduced a new Practice Framework to enable the practice shift and progressively imbed the shift in practice. At its core, the new framework will support working in ways that recognise and value the inherent mana of those Oranga Tamariki works with. It will support an understanding of tamariki as being intrinsically and irrevocably connected to their whānau and whakapapa as foundational to wellbeing, and a Te Ao Māori informed framing of oranga as an outcome of the practice of Oranga Tamariki.
- 1.91 Within the Oranga Tamariki Practice Framework there is a strong focus on putting the rights of tamariki and whānau and the obligations that Oranga Tamariki has to them at the centre of its mahi. There is also a focus on the skills, knowledge and approaches necessary to build trusted relationships with tamariki and whānau, work collaboratively with partners, and to take a more holistic view of tamariki and whānau oranga.
- 1.92 The Practice Framework assists kaimahi to work collaboratively with whānau and community to support decision making that meets the needs of tamariki, preventing escalation into the statutory system wherever possible and

⁵⁶ Oranga Tamariki—Ministry for Children Practice Centre Whakamana te tamaiti: Practice empowering tamariki Māori (8 November 2017) <https://practice.orangatamariki.govt.nz/practice-approach/practice-standards/whakamana-te-tamaiti-practice-empowering-tamariki-maori/>; and Oranga Tamariki—Ministry for Children Practice Centre Whakamana te tamaiti: Practice empowering tamariki Māori (8 November 2017) <https://practice.orangatamariki.govt.nz/practice-approach/practice-standards/whakamana-te-tamaiti-practice-empowering-tamariki-maori/whakamana-te-tamaiti-practice-empowering-tamariki-maori-guidance/>

maintaining the rights of tamariki and whānau when tamariki do come into the system.

- 1.93 Relationships are at the heart of the practice shift. There is also a focus on the skills, knowledge, and approaches necessary to build trusted relationships with tamariki and whānau, work collaboratively with partners, and to take a more holistic view of tamariki and whānau oranga.
- 1.94 The new Practice Framework, and models and tools, will guide Oranga Tamariki practitioners on how to apply the paradigmatic shift in the context of their practice. For practitioners working in the care and protection context, this means:
- a. understanding tamariki/mokopuna within the context of their whakapapa;
 - b. recognising that the oranga of tamariki/mokopuna is realised within the collective oranga of whānau, hapū and iwi;
 - c. undertaking practice which is complementary to and can occur collaboratively with our iwi and Māori partners; and
 - d. responding effectively to tamariki/mokopuna and whānau in inclusive, relational and restorative ways.
- 1.95 The framework is built around five components of a mana-enhancing paradigm for practice. These components are strongly aligned with the six Te Arawhiti core competency areas for people working in the public sector: understanding and supporting the Māori-Crown relationship; understanding racial equity and institutional racism; understanding New Zealand history and Te Tiriti o Waitangi | the Treaty of Waitangi; having knowledge of Te Ao Māori and Tauīwi worldviews; understanding tikanga/kawa; and Te reo Māori.
- 1.96 The practice is framed by oranga, taking a holistic and inclusive view of oranga for all tamariki/mokopuna, rangatahi and whānau. Oranga Tamariki recognises that oranga is different for all whānau and within whānau; that it ebbs and flows over a lifetime; and that Oranga Tamariki will respond to harmful impact on oranga in ways that restorative and relational. Through the dimension of Waiora, it includes the environmental wellbeing for all tamariki/mokopuna, rangatahi and whānau and their lived experiences, including tāngata whaikaha, tāngata whai ora, gender perspectives, multi-cultural whānau, whānau belonging to takatāpui and LGBTQIA+ communities or combinations of these.
- 1.97 Oranga Tamariki is now moving into the next stage of this work. This is to develop more detailed models, tools, guidance and resources that staff will use in their everyday practise. These will draw from a Te ao Māori description of oranga in the context of Oranga Tamariki's work.

Practice Centre

- 1.98 The Practice Centre is a repository of all Oranga Tamariki social work practice guidance.⁵⁷ It contains social work policy, policy, and guidance. It also includes frameworks, models, and practice standards.
- 1.99 It is a resource for Oranga Tamariki practitioners for guidance in their work with tamariki and their whānau or family, including:
- COVID-19 resources;
 - practice for working effectively with Māori;
 - Te Toka Tumoana (further detailed below);
 - practice for working with Pacific peoples: Va'aifetū (further detailed below);

⁵⁷ Oranga Tamariki—Ministry for Children Practice Centre
<https://practice.orangatamariki.govt.nz/>

- practice notes;
 - care standards;
 - assessment and planning: Tuituia (further detailed below);
 - national contact centre links; and
 - youth justice resources.
- 1.100 Below, the practices for working effectively with Māori (Te Toka Tūmoana) and Pacific People (Va'aifetū), care standards and assessment and planning tools (Tuituia) are explained in more detail as they are referred to in answers to multiple questions.
- 1.101 In addition, further detailed is provided on the case management system used by Oranga Tamariki as well as an explanation of the Oranga Tamariki Evidence Centre.

A principled practice framework for Māori – Te Toka Tūmoana ⁵⁸

- 1.102 *Te Toka Tūmoana* is the indigenous and bicultural principled practice framework use by Oranga Tamariki. It describes the principles that guide practitioners, managers and leaders through all work with tamariki and whānau Māori. It represents practicing centred in Māori values and principles.
- 1.103 This framework has been in use since 2016 and work is underway to adapt it to an applied model of practice embedded within the new Practice Framework to make it clearer to staff how it can be applied in day-to-day practice.
- 1.104 Oranga Tamariki uses *Te Toka Tūmoana* throughout its practice when working with tamariki and whānau Māori, including as part of the assessment process. It must be used alongside existing practice standards and tools; and its application must be evidenced in Oranga Tamariki case records.⁵⁹ It applies to all tamariki with whom Oranga Tamariki work, from intake to case closure.
- 1.105 There are three overarching principles of *Te Toka Tūmoana* are: Tiaki mokopuna; Mana ahua ake o te mokopuna; Te Ahureitanga.
- 1.106 The eight guiding principles of *Te Toka Tūmoana* are: Tikanga; Te Reo Māori; Whakamanawa; Wairuatanga; Kaitiakitanga; Whakapapa; Manaakitanga; and Rangatiratanga.
- 1.107 Oranga Tamariki uses the principles of *Te Toka Tūmoana* in conjunction with the Oranga Tamariki practice standards to guide work with tamariki and whānau Māori. This is further described in the Practice Centre.⁶⁰
- 1.108 *Te Toka Tūmoana* and the Practice Framework support specific approaches when working with tamariki and whānau Māori including:
- a. *Whānau searching*:⁶¹ in order to identify the right people to participate and be involved in whānau decision-making about tamariki wellbeing.
 - b. *Whakapapa research*:⁶² expanding on whānau searching to identify and verify whakapapa links, particularly to hapū and iwi

⁵⁸ Te Toka Tūmoana is a distinctive rocky reef formation protruding out of the ocean, often used as a marker to navigate safely into and out of a harbour.

Oranga Tamariki—Ministry for Children Practice Centre Working with Māori: **Te Toka Tūmoana** (1 April 2019) <https://practice.orangatamariki.govt.nz/practice-approach/working-with-maori-te-toka-tumoana/>

⁵⁹ Oranga Tamariki—Ministry for Children Practice Centre “Assessment” (14 March 2022) <https://practice.orangatamariki.govt.nz/policy/assessment/>

⁶⁰ Oranga Tamariki—Ministry for Children Practice Centre “Kia ora. Welcome to the Practice Centre” <https://practice.orangatamariki.govt.nz/>

⁶¹ Oranga Tamariki—Ministry for Children Practice Centre “Whānau searching” (11 November 2019) <https://practice.orangatamariki.govt.nz/core-practice/working-with-maori/how-to-work-effectively-with-maori/whānau-searching/>

- c. *Hui a whānau*:⁶³ whānau gatherings to support decision making held based on Māori tikanga and protocols
- d. *The involvement of kairaranga-a-whānau*:⁶⁴ a specialist role working alongside Oranga Tamariki social work staff to support increased engagement with whānau Māori.

A principled practice for working with Pacific peoples: *Va'aifetū*⁶⁵

- 1.109 *Va'aifetū* (guardians and guardianship of stars) is the Oranga Tamariki cultural-practice tool that informs practice design, review, and workforce support to serve the needs of Pacific children and their families. It supports quality practice with Pacific children and young people and helps Oranga Tamariki to work effectively with children and families of the different Pacific nations. It promotes and emphasises practice that is conducted with: cultural humility; dignity; emotional intelligence; diversity of thought; and respect for difference.
- 1.110 This framework has been in use since 2016 and work is underway to adapt it to an applied model of practice embedded within the new Practice Framework to make it clearer to staff how it can be applied in day-to-day practice.
- 1.111 *Va'aifetū* must be used throughout practice when working with families of the different Pacific groups alongside existing practice standards and tools and must be evidenced in Oranga Tamariki's case records.
- 1.112 As the Practice Centre explains, the overall framework of *Va'aifetū* is based on the following engagement principles:
 - a. *Guardianship*: This is the encompassing principle of the framework and involves the understanding of care of and responsibility for people.
 - b. *Child's best interests*: The child's best interest is the purpose of intervention and the paramount consideration.
 - c. *Dignity*: This includes an understanding that the child's dignity will be protected. This includes respect for the child's self-defined cultural, gender, sexual, spiritual and social identity.
 - d. *Humility*: In relation to a child, it is recognised that showing humility to the child elevates her/him, and conveys genuine commitment and respect for her/his voice, dignity and potential.
 - e. *Spirituality*: In relation to a child, traditional Pacific cultures believe that a child is a gift from the God and therefore sacred. The child is the bond between families, the connection between the past, the present and what could be. Neglect or violation of this sacredness has spiritual implications for those associated with the child.

⁶² Oranga Tamariki—Ministry for Children Practice Centre “Whakapapa research” (11 November 2019) <https://practice.orangatamariki.govt.nz/core-practice/working-with-maori/how-to-work-effectively-with-maori/whakapapa-research/>

⁶³ Oranga Tamariki—Ministry for Children Practice Centre “Hui ā-whānau” (11 November 2019) <https://practice.orangatamariki.govt.nz/core-practice/working-with-maori/how-to-work-effectively-with-maori/hui-a-whānau/>

⁶⁴ Oranga Tamariki—Ministry for Children Practice Centre Kairaranga ā-whānau (17 December 2019) <https://practice.orangatamariki.govt.nz/core-practice/working-with-maori/how-to-work-effectively-with-maori/kairaranga-a-whānau/>

⁶⁵ *Va'aifetū* is a Samoan metaphorical term that is derived from the words 'va'ai' which means to take care of, look, see, observe, consider; and 'fetu' which means star or stars. *Va'aifetū* is about the guardianship of people — their light, intelligence, wisdom, aspirations, strengths and potential. The stars are the children, families and practitioners.
Oranga Tamariki—Ministry for Children Practice Centre “Working with Pacific peoples: **Va'aifetū**” (1 July 2019) <https://practice.orangatamariki.govt.nz/practice-approach/working-with-pacific-peoples-vaifetuu/>

- f. *Responsibility*: in relation to a child, traditional Pacific cultures believe that a child is a gift from the God and therefore sacred. The child is the bond between families, the connection between the past, the present and what could be. Neglect or violation of this sacredness has spiritual implications for those associated with the child.
 - g. *Relationships*: in relation to a child, the Pacific child has a fundamental right to belong with people who will love, protect, defend, and nurture her/him.
- 1.113 These principles are then applied within the unique context of the values, beliefs and traditions of each distinct Island Nation. Within the Practice Centre, Oranga Tamariki has specific guidance addressing different Pacific cultures, including includes working with Cook Islands Māori, Fijian and Fijian Indian, I-Kiribati, Niuean, and Samoan.
- 1.114 As noted earlier, Oranga Tamariki is developing further work in relation to its Pacific strategy, including work reflecting Pacific people’s principles designed to keep Pacific children safe and connected with their communities through a series of targeted objectives designed to meet that purpose.

The Tuituia framework, tools and domains⁶⁶

- 1.115 Tuituia is the assessment tool used by Oranga Tamariki for tamariki. Tuituia is the single assessment tool for the tamariki that Oranga Tamariki works with. A decision has been made to replace Tuituia with a more simplified, oranga-oriented assessment tool.
- 1.116 The Tuituia offers a holistic view of the mokopuna by assessing; Mokopuna ora — their holistic wellbeing; Kaitiaki mokopuna — their caregiver’s capacity to nurture their wellbeing and Te ao hurihuri — the whānau, social, cultural and environmental influences surrounding them.
- 1.117 It has three parts: the framework which guides assessment activity and contains multiple domains to look across when assessing the mokopuna,⁶⁷ the recording tool⁶⁸ and the Tuituia report (a written record of an assessment).
- 1.118 Work is underway to align our assessment approach with the new Practice Framework and over time, Oranga Tamariki expects to replace Tuituia with assessment tools aligned with the oranga framed approach to practice.

Case Management System – CYRAS

- 1.119 CYRAS (Care and Protection, Youth Justice, Residential and Adoption Services) is the primary case management system for Oranga Tamariki. It provides for all Care and Protection, Youth Justice, Residential and Adoption Services (CYRAS) case recording.
- 1.120 CYRAS is primarily used by front-line social workers and assists social workers in managing and coordinating their work with families and whānau, by providing its users with the ability to:
- a. record and view actions taken in relation to individual clients or to all clients in a case;
 - b. identify relationships between clients;

⁶⁶ Oranga Tamariki—Ministry for Children Practice Centre “**What is Tuituia**” (1 April 2019) <https://practice.orangatamariki.govt.nz/core-practice/practice-tools/the-tuituia-framework-and-tools/the-tuituia-framework-and-domains/#what-is-tuituia>

⁶⁷ Oranga Tamariki—Ministry for Children Practice Centre “The Tuituia framework and domains” (1 April 2019) <https://practice.orangatamariki.govt.nz/core-practice/practice-tools/the-tuituia-framework-and-tools/the-tuituia-framework-and-domains/>

⁶⁸ Oranga Tamariki—Ministry for Children Practice Centre “Using the Tuituia recording tool” (1 April 2019) <https://practice.orangatamariki.govt.nz/core-practice/practice-tools/the-tuituia-framework-and-tools/using-the-tuituia-recording-tool/>

- c. identify relationships between cases; and
 - d. record and view expenditure associated with a case.
- 1.121 The CYRAS application reflects the social work decision making process at Oranga Tamariki; it does not drive the social work process. CYRAS stands to reflect the decisions made by social workers and assist them in managing and coordinating those decisions. It has been identified that over time it will be necessary to replace CYRAS with more modern, digitally enabled case management and recording tools.
- 1.122 Decisions relating to the children that Oranga Tamariki works with depend on having information available. The requirements for information recording for social work are set out in Practice Centre guidance.⁶⁹
- 1.123 Recording is a vital element of good social work practice and one of the Oranga Tamariki eight core Practice Standards. Timely recording is key as it is an important part of a child's life-story, with the added benefit that te tamaiti may wish to know the information in the future. It also facilitates analysis and reflection, supports supervision, is a means by which social workers can be accountable for their actions and decision making, and demonstrates their integrity as a social worker. Accurate recording also supports our commitment to data quality.

The Evidence Centre

- 1.124 The Oranga Tamariki Evidence Centre helps build the evidence base to better understand wellbeing and what works to improve outcomes for children, young people and their whānau. It produces research evaluation, analytics and insights about children, young people, their whānau or family and the work of Oranga Tamariki.⁷⁰
- 1.125 It provides an informed voice on evidence about child wellbeing and what works to improve it. Through this, Oranga Tamariki aims to: build a strong and relevant evidence base to support the design of new and existing interventions, to contribute positively to tamariki wellbeing; embed a learning culture of evidence-informed decision-making in Oranga Tamariki, to facilitate continuous improvement as it transforms the system; use its wellbeing model to identify groups of children in need of services to help direct resources where they are most needed.
- 1.126 The Evidence Centre is structured around four teams that work collaboratively, but with a primary focus on:
- a. **Analytics and Insights:** Strategic advice and insight from operational data and from population and wellbeing data.
 - b. **Life-course and Systems Analytics:** Understanding the wellbeing of tamariki and rangatahi in Aotearoa New Zealand throughout their life course using the Integrated Data Infrastructure and collaboration on cross-sector research.
 - c. **Social Research and Analysis:** This includes:
 - i. Exploratory research, monitoring and building the evidence base around programmes and services that Oranga Tamariki and our partners deliver. Oranga Tamariki utilises both structured and unstructured data to draw insights.

⁶⁹ Oranga Tamariki—Ministry for Children Practice Centre “**Recording considerations**” <https://practice.orangatamariki.govt.nz/previous-practice-centre/policy/recording/key-information/recording-considerations/>

⁷⁰ Oranga Tamariki—Ministry for Children “**Research**” (11 May 2022) <https://www.orangatamariki.govt.nz/about-us/research/>

- ii. Evidence briefs harnessing international and local understanding and analysis of key issues.
 - iii. Research Survey & Design (sub-team): Specialist survey design advice and support, survey running and commissioning, helping us to gain insights from a variety of Oranga Tamariki stakeholders, partners, staff and general public.
 - d. **Evaluation and Insights:** Organisational capacity and capability building to better understand the difference Oranga Tamariki is making for tamariki, and commissioning, monitoring and undertaking evaluations.
- 1.127 In terms of research,⁷¹ the Evidence Centre produces research evaluation, analytics and insights about children, young people, their whānau or family and the work of Oranga Tamariki. It runs regular seminars to share this information. Members of the public can request access for approval from the Research and Data Access Committee to do their own research with Oranga Tamariki data.⁷²
- 1.128 The Evidence Centre provides insights and analysis on data from a range of topics related to child welfare and protection. This is a matter that will be discussed in more detail in response to question 52.

Concluding introductory section

- 1.129 Having summarised a number of key concepts, events, reports, and inquiries that are relevant to and referred to within the Notice, this response now moves on to the questions set out by the Royal Commission.

⁷¹ *Ibid*

⁷² Oranga Tamariki—Ministry for Children “How to access data for your research” (30 May 2019) <https://www.orangatamariki.govt.nz/about-us/research/research-access/>

SECTION TWO – ANSWERS TO SPECIFIC QUESTIONS

2. Racism, ableism, and bias (Q 4)

- 2.1 There have been extensive findings of racism and bias in the care and protection system through reports such as in 1988 *Pūao-te-Ata-tū Report*, the 2021 *Waitangi Tribunal Report*,⁷³ and the 2020 *Ombudsman Report into Oranga Tamariki's removal of newborn pēpi*.⁷⁴
- 2.2 Oranga Tamariki is addressing these concerns through several work programmes. Summarised information about the reviews is also covered in Section 1.

Steps taken by Oranga Tamariki in response to reviews and inquiries in relation to racism, bias and ableism

- 2.3 Oranga Tamariki has taken significant steps to establish strategies, policies, processes and practices to address racism, ableism, and bias, and is also working towards taking further steps in this regard. Changes made to date include:
- The ongoing delivery of the Future Direction Plan and response to Te Kahu Aroha seek to address racism and bias in the system.
 - Other examples of work to address racism, bias and cultural competency include the cultural competency programme Te Hāpai Ō the Practice Shift.
 - Oranga Tamariki has added prompts to policies to guide social workers to consider Te Ao Māori principles when applying its policies.
- 2.4 Together, they seek to build a more culturally responsive and sensitive workforce who understand tamariki in the context of a Māori world view.

Practice shift to respond to aspirations of Māori

- 2.5 As referenced in Section One, work has been underway at Oranga Tamariki since 2019 to make fundamental and long-term changes to practice as part of a Practice Shift drawing from Te Ao Māori knowledge, principles and approaches.

Supporting staff to implement Oranga Tamariki's future direction through Te Hāpai Ō

- 2.6 As noted in Section One of this response, Oranga Tamariki launched Te Hāpai Ō to build the cultural capability and competence of its workforce.
- 2.7 The first training programme as part of this, Tū Māia, will be undertaken by all parts of the workforce over the next two years. This is a 21-week programme designed and delivered by our Te Hāpai Ō partners, and leading Māori Tertiary providers – Te Wānanga o Aotearoa, Te Whare Wānanga o Awanuiārangī, and Te Wānanga o Raukawa.
- 2.8 Oranga Tamariki intends that in time, Te Hāpai Ō will create an environment where Te ao Māori is embraced, understood and applied within its workplaces and sites. The measure of success will be better experiences for the tamariki, rangatahi and whānau Māori that require support.

Māori Design Group

- 2.9 In 2017, Oranga Tamariki established the Māori Design Group. The Group meets on a monthly basis to provide expert advice to the chief executive. Members of the Group are well-respected leaders who each possess a deep understanding

⁷³ *He Pāharakeke*

⁷⁴ *He Take Kōhukihuki*

about whānau, hapū, iwi and Māori communities; have extensive networks; and also possess technical knowledge and experience in the social services sector. The group provide thought-leadership and an independent Māori lens across Oranga Tamariki policies, practices and services to improve outcomes for tamariki Māori.

Enabling Communities

- 2.10 Oranga Tamariki is also addressing racism and bias by shifting its role to an enabler of communities. previously discussed in section one. Work underway includes the development of an Intensive Response initiative in collaboration with partners in Horowhenua, Ōtāhuhu, Christchurch, and Tokoroa. These test new ways of working that enables whānau, hapū, iwi and communities to lead and design their own solutions for tamariki and their whānau.
- 2.11 Oranga Tamariki intends to continue to build community and regionally-led initiatives across New Zealand.
- 2.12 In addition, Oranga Tamariki has nine strategic partnerships with iwi and a further 11 such partnerships are under discussion with relevant partners and an Enabling Communities work programme.

Proposed legislative amendments to effect changes to care and protection and youth justice residences

- 2.13 Oranga Tamariki has begun work to prepare amendments to the Oranga Tamariki Act and supporting legislation that applies to youth justice and care and protection residential placements.
- 2.14 A number of changes are needed, including enabling the transition from institutional care settings to smaller more therapeutic settings with greater flexibility to meet the needs of the children and young people in out-of-home care.
- 2.15 An area for focus for Oranga Tamariki is the regulation of residential care, in particular, the powers relating to the use of force, searches, detainment, seclusion and secure care. The use of seclusion can be significantly reduced, and even eliminated, through strengthening the practice of residential staff.
- 2.16 The legislative amendments, if enacted, will be underpinned by the well-being and the best interests of the children and young people, and reflect the wider shifts in Oranga Tamariki practice towards therapeutic care that is trauma-informed and reflects Te ao Māori principles, including those with complex needs and disabilities.
- 2.17 Policy development of the draft amendment bill is being undertaken in collaboration with iwi and Māori. To further ensure the options that are recommended reflect a strong voice of Māori, Oranga Tamariki is working with a rōpū Māori of subject matter experts to jointly design and prepare the advice. The members of the rōpū Māori have been endorsed by the Iwi Chairs Forum.
- 2.18 There is also work underway which seeks to improve how Oranga Tamariki shares information with iwi and Māori partners. Initially, this work seeks to understand the conceptual shifts required to understand concepts such as privacy, confidentiality, and information and data from a tikanga Māori lens.⁷⁵ The work will then look to ensure that the Oranga Tamariki legislative framework for information sharing is fit-for-purpose and meets the needs of partners.

⁷⁵ See also *Te Pou Matakana Ltd v Attorney-General (No 1)* [2021] NZHC 2942 at [99]–[108] and [134] <https://www.courtsofnz.govt.nz/assets/Uploads/2021-NZHC-2942.pdf>; and *Te Pou Matakana Ltd v Attorney-General (No 2)* [2021] NZHC 3319 at [107]–[113] and [122] <https://www.courtsofnz.govt.nz/assets/cases/2021/2021-NZHC-3319.pdf>

Recruitment

- 2.19 Recruitment of staff to adequately engage with Māori and Pacific communities and to make decisions with and on behalf of those communities at a leadership level has developed over time:
- a. In March 2011, the Child Youth and Family Executive Committee agreed the formation of a Māori Leadership Group Te Pōtae Kōhatu Māori.
 - b. At the end of 2012, two Māori national principal advisors (the first of these Māori specific roles) were appointed to the to support the continuing development for “practice for working effectively with Māori”.
 - c. Appointment of a Chief Māori Advisor to be a critical Māori voice at the leadership table in 2017.
 - d. Establishment of the Te Tira Hāpai Māori team to support the embedding of Te Ao Māori concepts, knowledge and values within the Oranga Tamariki practice system, provide direct advice and support to sites and leadership about effective practice for tamariki and whānau Māori and provide ongoing support for Kairaranga-ā-whānau, and other Māori specialist roles and Family Group Conference Team Leaders.

Advocacy

- 2.20 Steps have been taken to increase advocacy for children and young people in care, this includes:
- a. Creation of VOYCE – Whakarongo Mai, an independent charitable organisation that advocates for children with care experience. VOYCE – Whakarongo Mai was established in 2017 and provides independent advocacy for children and young people in state care, including disabled tamariki with significant communication needs. The need for such a service was reflected in the Children Young Persons and their Families (Advocacy, Workforce and Age Settings) Amendment Act (2016) which supported the establishment of an independent advocacy service for children and young people in care by introducing a duty on the CE of Oranga Tamariki to: “ensure that services are available to children and young people...that provide them with an opportunity and support to express their views...” (section 7(2)(bb)).
 - b. Establishment of the Voices of Children and Young People team, which helps Oranga Tamariki to understand children and young people’s experiences, needs, and aspirations.
 - c. Appointment of a Tamariki Advocate in 2017.

Other steps to mitigate racism

- 2.21 A dedicated Pacific space was created through the introduction of the Pacific Principal Advisor role in 2013 within the then Office of the Chief Social Worker and subsequent Pacific Practice Advice Team within Professional Practice, now Quality Practice and Experiences.
- 2.22 Two pieces of research and their reports have been completed over the last three years by the Voices of Whānau and Community team: the Whānau Experiences Study [*Ola manuia mo alo ma fanau Pasefika*]⁷⁶ and its sister report *Talanoa Mai Tamaiki, Voices of Pacific Children and Young People*.⁷⁷ These reports

⁷⁶ Oranga Tamariki—Ministry for Children “*Ola manuia mo alo ma fanau Pasefika: A blessed wellbeing for our children, young people and families*” (15 March 2022) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Performance-and-monitoring/Pacific-reports/Ola-manuia-mo-alo-ma-fanau-Pasefika-web-checked.pdf>

⁷⁷ Oranga Tamariki—Ministry for Children “*Talanoa Mai Tamaiki, Voices of Pacific Children and Young People*” (15 March 2022) <https://www.orangatamariki.govt.nz/assets/Uploads/About->

highlight and make recommendations in response to the powerlessness experienced by Pacific families involved with the service when there is an absence of cultural responsiveness, and highlighting the ways in which they experience the service more positively when working with Pacific social workers.

- 2.23 The Te Toka Tūmoana and Va'aifetū frameworks were also developed using experts from Pacific and tangata whenua communities. These are further explained in section one.

Family Start programme

- 2.24 Oranga Tamariki has a Family Start programme⁷⁸ which is a home-visiting programme that supports families with young children aged 0-5 years. While not specifically designed to support children with disabilities, the programme supports vulnerable children and their families, including those with disabilities. As at September 2019, it was estimated that Family Start sites around the country have about 5,200 children enrolled at any given time, and about 8,000 enrolments each year.
- 2.25 In late 2018, a survey of 159 Family Start workers, increased Oranga Tamariki's understanding of the types of disabilities, needs and service delivery gaps experienced by young children with disabilities (0 to 5 years old) and their families enrolled in the Family Start Programme.
- 2.26 The report of that survey, *Understanding children with disabilities in the Family Start programme*,⁷⁹ presents the results of a survey about families with children with disabilities who participate in the Family Start programme. The survey aimed to extend Oranga Tamariki's knowledge and understanding of young children with disabilities receiving early intervention, and contribute to a better understanding of the needs, prevalence and disabilities of young children in vulnerable families.
- 2.27 The findings suggested that the prevalence of disability is higher than anticipated, and boys are more affected than girls. It also suggested that disabilities are not being picked up early enough, and that many families are not receiving timely and appropriate support and services they need. Family Start workers referred to the challenges for these families such as long waiting lists, delays in accessing adequate treatment, and financial stress.

Chief Advisor Disability appointment

- 2.28 In December 2021, Oranga Tamariki appointed a Chief Advisor Disability for the Ministry.⁸⁰ A newly-established role, the Chief Advisor Disability will support the organisation to improve outcomes and services for children and parents living with disabilities.

[us/Performance-and-monitoring/Pacific-reports/Talanoa-Mai-Tamaiti-Report-web-accessible.pdf](https://www.orangatamariki.govt.nz/performance-and-monitoring/Pacific-reports/Talanoa-Mai-Tamaiti-Report-web-accessible.pdf)

- ⁷⁸ Oranga Tamariki—Ministry for Children “Family Start” (1 July 2021) <https://www.orangatamariki.govt.nz/support-for-families/support-programmes/family-start/>
- ⁷⁹ Oranga Tamariki—Ministry for Children “Understanding children with disabilities in the Family Start programme” [Understanding children with disabilities] (September 2019) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Research/Latest-research/Children-with-disabilities-in-Family-Start/Understanding-children-with-disabilities-in-the-Family-Start-programme-Report.pdf>
- ⁸⁰ Oranga Tamariki—Ministry for Children “Oranga Tamariki welcomes new Chief Advisor Disability” (3 December 2021) <https://www.orangatamariki.govt.nz/about-us/news/oranga-tamariki-welcomes-new-chief-advisor-disability/>

Practice Centre guidance relevant to disability

- 2.29 Oranga Tamariki's Practice Centre contains specific guidance for practitioners relating to the assessment of needs relating to any disability.⁸¹
- 2.30 Oranga Tamariki are making a number of changes to its practice guidance when working with children and parents with disabilities to move away from a medical model of disability to a social and rights-based approach.
- 2.31 The Practice Framework includes an understanding of the rights of tamariki and whānau with disabilities and the move towards framing assessment through an oranga lens is well aligned with this approach.
- 2.32 The Tuituia Assessment (referred to earlier) is our current overarching assessment tool which guides assessment with all tamariki. Each assessment seeks to understand the unique circumstances of the individual child and their whānau. Disability related needs are seen as one aspect of a more holistic and complete assessment.

Other measures to mitigate ableism

- 2.33 In July 2021, the Oranga Tamariki leadership team agreed to establish a work programme to implement a social and rights-based model of disability grounded in Te Tiriti o Waitangi | the Treaty of Waitangi. As part of this work Oranga Tamariki is looking to develop a Disability Strategy and Vision which aligns with the Future Direction Plan, Te Tiriti o Waitangi | the Treaty of Waitangi, United Nations Convention on the Rights of the Child, and United Nations Convention on the Rights of Persons with Disability. While Oranga Tamariki is in the early stages of developing relationships, it is proposing to adopt a co-design approach to develop the Disability Strategy and vision. Engagement with disabled people and their whānau, disabled people's organisations, including tāngata whaikaha, is essential to determine how to implement a social, rights-based and Te Ao Māori model of disability. Oranga Tamariki is currently in the selection process for establishing an advisory group of tāngata whaikaha Māori, disabled people (including young people), whānau and caregivers of disabled people, to support sustainable input and leadership from outside of government. This way of working is essential to uphold the Treaty principles of tino rangatiratanga and partnership.
- 2.34 Oranga Tamariki is also working to enable a Te Ikaroa/ Ngāti Kahungunu iwi response to neurodiversity. This involves the partnered design of an end-to-end pathway for rangatahi and whānau involved with youth justice. The project aims to address the neuro-diverse and cultural need of rangatahi, whānau, and victims of offending. The project is in design phase and will trial and evaluate the pathway by the end of 2022.
- 2.35 Oranga Tamariki is also working with Ministry of Justice to have communications assistants and speech language therapists available to assist young people and their whānau in understand and participate in court and Family Group Conference processes.
- 2.36 A Senior Psychologist role has recently been created at each residence. The purpose of the role is to provide psychological expertise in the identification, treatment and support of less acute mental health issues and distress.
- 2.37 Oranga Tamariki has increased its specialist and psychological services nationally to meet the ongoing needs of children, young people and their families. Clinical Services provide assessments, therapeutic interventions, and advice regarding case work.

⁸¹ Oranga Tamariki—Ministry for Children Practice Centre "Assessment of needs relating to any disability" (7 December 2020) <https://practice.orangatamariki.govt.nz/our-work/assessment-and-planning/assessments/conducting-an-assessment/assessment-of-needs-relating-to-any-disability/>

2.38 The current need for psychological services for children in care has exponentially increased with complexities and risks resulting from material hardship, and avenues of ommissive abuse such as substance abuse (for example, the significant rise in methamphetamine abuse) and compounding intergenerational trauma. This, and resourcing alongside a greater recognition or increase in mental health concerns within the general population of New Zealand children, has resulted in Child and Adolescent Mental Health Services being unable to meet current demand with large waiting lists.

3. Te Tiriti o Waitangi | The Treaty of Waitangi

Q 5: Oranga Tamariki commitment and demonstration to giving effect to Te Tiriti o Waitangi | the Treaty of Waitangi

- 3.1 As the Crown agency responsible for the State care and protection system, Oranga Tamariki accepts that it has an obligation to give effect to Te Tiriti o Waitangi | the Treaty of Waitangi in respect of children, young people, disabled, persons, persons in the rainbow community, and people with mental health conditions. This is reflected in the Waitangi Tribunal's 2021 Report which is detailed in Section One. The Report reflects that Oranga Tamariki has accepted that it will:
- a. Honour the guarantee to Māori of the right of cultural continuity embodied in the guarantee of tino rangatiratanga over their kāinga.⁸²
 - b. Partner with Māori in the delivery of services in the care and protection system, consistent with the principle of partnership in Te Tiriti o Waitangi | the Treaty of Waitangi.⁸³
 - c. Actively protect the taonga of tamariki Māori and the whānau unit, from which comes the auxiliary and particular obligation to “support, strengthen, and assist whānau Māori to care for their tamaiti or tamariki to prevent their need for removal from home, if possible”.⁸⁴
 - d. Honour the principle of *equity* in Te Tiriti o Waitangi | the Treaty of Waitangi (Article 3). In this context, that includes the obligation:⁸⁵

...to recognise and accept that the systemic features that cause and sustain the disparities in the number of tamariki Māori being taken into State care require a major system change, together with a significant reallocation of resources towards strengthening whānau, in particular, through the use of “by Māori for Māori” service provision.
 - e. Honour the principle of *options* in Te Tiriti o Waitangi | the Treaty of Waitangi (under the Article 2 guarantee of tino rangatiratanga and Article 3 by the extension to Māori of the rights and privileges of British citizenship).⁸⁶ The centrality of the principle of options lies in the Crown obligation to adequately protect the availability and viability of kaupapa Māori solutions.⁸⁷
 - f. Provide redress where the Crown has exceeded its powers of kāwanatanga under Te Tiriti o Waitangi | the Treaty of Waitangi.⁸⁸ The

⁸² *He Pāharakeke* at 12.

⁸³ *He Pāharakeke* at 18.

⁸⁴ *He Pāharakeke* at 20; and 61, citing from the Crown's concessions in the **Opening Statement of Gráinne Moss** (https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Performance-and-monitoring/Reviews-and-Inquiries/Grainne-Tribunal-briefs/6032100_Opening-Statement-of-Grainne-Moss-24-November-2020.PDF) and the **Crown's Closing Submissions** (https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_168482851/Wai%202915%2C%203.3.034.pdf).

⁸⁵ *He Pāharakeke* at 22.

⁸⁶ *He Pāharakeke* at 22.

⁸⁷ *He Pāharakeke* at 23.

⁸⁸ *He Pāharakeke* at 24.

See *New Zealand Māori Council v Attorney-General* [1987] 1 NZLR 641 (CA) at 664–665 per Cooke P. <http://www.nzlii.org/nz/cases/NZCA/1987/60.pdf>

See also Waitangi Tribunal *The Ngai Tahu Sea Fisheries Report* (Wai 27, 1992) at 272 https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_68472628/NT%20Sea%20Fisheries%20W.pdf

Waitangi Tribunal noted in its 2021 Report that it had previously found that:⁸⁹

...“endowment” (or redress), “involves both the means for economic and social development looking forward and the means to ensure the survival and wellbeing of tribal taonga, including language, culture, customs, lands and other resources”.

- 3.2 The commitment by Oranga Tamariki to give effect to Te Tiriti o Waitangi | the Treaty of Waitangi is also demonstrated by its compliance with legislative requirements relating to Te Tiriti o Waitangi | the Treaty of Waitangi (as noted by section 7AA of the Oranga Tamariki Act 1989), and by Oranga Tamariki making changes to its policy and practice as detailed below.

Compliance with legislative obligations by Oranga Tamariki: s 7AA of the Oranga Tamariki Act 1989

- 3.3 In 2017, the Children, Young Persons and Their Families Act 1989 was renamed the Oranga Tamariki Act 1989. The legislative give effect to the new operating model agreed by Cabinet in response to the findings of the 2015 Expert Advisory Panel Report,⁹⁰ which is detailed in Section One.

- 3.4 The changes to the Oranga Tamariki Act 1989 included a new provision, section 7AA, that places duties on the Chief Executive of Oranga Tamariki in relation to Te Tiriti o Waitangi | the Treaty of Waitangi, including:

- a. a requirement that the chief executive report to the public at least annually on progress to improve outcomes for tamariki Māori and their whānau, hapū and iwi. These statutory reporting obligations are discussed in the introductory section of this response; and
- b. the policies, practices, and services of the department must have regard to mana tamaiti (tamariki) and the whakapapa of Māori children and young persons and the whanaungatanga responsibilities of their whānau, hapū, and iwi.

Oranga Tamariki publications related to section 7AA

- 3.5 Oranga Tamariki has published reports related to section 7AA, reflecting its commitment to Te Tiriti o Waitangi | the Treaty of Waitangi to improve outcomes for tamariki Māori.
- a. Oranga Tamariki has published section 7AA reports for 2020 [**Section 7AA Report 2020**]⁹¹ and 2021 [**Section 7AA Report 2021**]⁹² pursuant to its obligations under this provision of the Act. These reports highlight the progress that Oranga Tamariki is making to improve outcomes for tamariki Māori, their whānau, hapū and iwi.
 - b. Oranga Tamariki has also prepared section 7AA Quality Assurance Standards, a document which outlines the five quality assurance

⁸⁹ *He Pāharakeke* at 24, citing Waitangi Tribunal, Wai 953 “*Ahu Moana: The Aquaculture and Marine Farming Report*” (2002) at 71
https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_68004143/Ahu%20Moana.pdf

⁹⁰ <https://www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/corporate/expert-panel-cyf/investing-in-children-report.pdf>

⁹¹ Improving outcomes for tamariki Māori, their whānau, hapū and iwi | Te whanake i ngā hua mō ngā tamariki Māori, ō rātau whānau, hapū, iwi anō hoki: Section 7AA Report 2020 (30 July 2020) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Performance-and-monitoring/Section-7AA/S7AA-Improving-outcomes-for-tamariki-Māori.pdf>

⁹² Te whanake i ngā hua mō ngā tamariki Māori, ō rātau whānau, hapū, iwi anō hoki | Improving outcomes for tamariki Māori, their whānau, hapū and iwi: Section 7AA Report 2021 (16 May 2022) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Performance-and-monitoring/Section-7AA/s7AA-Annual-Report-2021.pdf>

standards to ensure that it meets obligations under section 7AA and standard Te Tiriti o Waitangi | the Treaty of Waitangi principles.⁹³

- 3.6 Oranga Tamariki demonstrates commitment to Te Tiriti o Waitangi | the Treaty of Waitangi at a policy and practice level.

Changes to better respond to Te Tiriti o Waitangi | the Treaty of Waitangi – Oranga Tamariki policy and practice

- 3.7 Oranga Tamariki is undertaking significant work as part of its practice shift. Oranga Tamariki has developed five quality assurance standards to ensure new policy and practice meets its obligations to Te Tiriti o Waitangi | the Treaty of Waitangi principles and section 7AA requirements, as follows:⁹⁴
- a. Oranga Tamariki upholds and protects Māori rights and interests:
 - i. the right of tamariki Māori to be connected to their culture and whakapapa;
 - ii. enabling whānau, hapū and iwi to exercise their right to make decisions over their lands, resources and people (including tamariki); and
 - iii. actively protecting the use of te reo Māori and the application of tikanga and kawa.
 - b. Oranga Tamariki hears and acts on the voices of Māori. The views and experiences of tamariki Māori and whānau, hapū, iwi or Māori organisations have been used to inform policies, practices and services.
 - c. Oranga Tamariki ensures equity by reducing disparities for tamariki Māori and their whānau: Existing disparities relevant to the work are acknowledged and a clear and logical connection to the Māori specific outcome is made.
 - d. Oranga Tamariki values the Māori evidence base: Māori knowledge, Māori data and models, Māori-led research and evaluations are valid and often preferenced. Oranga Tamariki uses this to inform its evidence base, alongside other models and evidence.
- 3.8 To build cultural competency and understanding of Te Tiriti o Waitangi | the Treaty of Waitangi, te ao Māori and tikanga Māori and implementation of Te Hāpai O (detailed in Section One), Oranga Tamariki has also developed:
- a. A Māori Practice Bicultural Principled Framework: Te Toka Tūmoana (discussed in the introduction section of this response).
 - b. As noted above, five mana tamaiti objectives for how to work effectively with Māori.⁹⁵
 - c. Te Kete Ararau, a web-based application to support Oranga Tamariki staff.
- 3.9 Combined with Te Ao Māori wellbeing principles, such as those discussed in the introductory section of this response,⁹⁶ section 7AA of the Oranga Tamariki Act

⁹³ Oranga Tamariki—Ministry for Children “Section 7AA Quality Assurance Standards” (20 April 2020) <https://www.orangatamariki.govt.nz/about-us/performance-and-monitoring/section-7aa/section-7aa-quality-assurance-standards/>

⁹⁴ *Ibid*

⁹⁵ Oranga Tamariki—Ministry for Children Practice Centre “Definitions of mana tamaiti (tamariki), whakapapa and whanaungatanga” (22 November 2019) <https://practice.orangatamariki.govt.nz/core-practice/working-with-maori/how-to-work-effectively-with-maori/practice-for-working-effectively-with-maori/#definitions-of-mana-tamaiti-tamariki-whakapapa-and-whanaungatanga>

⁹⁶ Te Toka Tūmoana

1989, and the mana-enhancing paradigm for practice, Te Tiriti o Waitangi | the Treaty of Waitangi principles in the context of Oranga Tamariki aim to promote, uphold and practice in ways that acknowledge the rights of tamariki/mokopuna, whānau, hapū and iwi.

Mana tamaiti, whakapapa and whanaungatanga

- 3.10 As noted, in compliance with requirements of section 7AA, when working with Māori, Oranga Tamariki understands the concepts of mana tamaiti, whakapapa and whānaungatanga to be central.⁹⁷
- 3.11 In the development of policies, practices and services, Oranga Tamariki will have regard to mana tamaiti, whakapapa and whānaungatanga in an effort to:
- a. Ensure the participation of tamariki, whānau, hapū and iwi in decisions affecting them at the earliest opportunity to enhance their wellbeing and safety.
 - b. Support, strengthen and assist whānau Māori to care for their tamaiti or tamariki to prevent the need for their removal from home into care or a Youth Justice response.
 - c. If removal from home is necessary, Oranga Tamariki will preference placements for tamariki Māori (including their siblings) with members of their wider whānau, hapū, iwi or family group who are able to meet their needs, including for a safe, stable, and loving home.
 - d. Support tamariki Māori in the custody of the chief executive to establish, maintain or strengthen their sense of belonging through cultural identity and connections to whānau, hapū and iwi.
 - e. Support, strengthen and assist tamariki Māori and their whānau to prepare for their return home or transition into the community.
- 3.12 Oranga Tamariki has articulated these requirements as a set of objectives to guide all staff working with tamariki and whānau Māori. The objectives are supported by Practice Guidance on the Practice Centre and include:
- a. Ensuring the participation of whānau, hapū and iwi in decisions affecting them as early as possible (Intake and Assessment).
 - b. Preventing the entry of tamariki Māori into care or custody (Early and Intensive Intervention).
 - c. If tamariki Māori do need care, they are placed with members of their whānau, hapū or iwi (Care and Youth Justice Services).
 - d. Supporting tamariki Māori to establish and/or maintain their cultural identity and connection to whānau, hapū and iwi (all operating model functions).
 - e. Supporting and assisting tamariki Māori and their whānau, to prepare for return home or transition into the community (Care and Youth Justice Services, Transition Support Services).

Q 6: Steps taken by Oranga Tamariki to ensure that Family Group Conferences (FGC) are consistent with Te Tiriti o Waitangi | the Treaty of Waitangi

- 3.13 Significant work is underway to strengthen FGC practice and ensure they are consistent with Te Tiriti o Waitangi | the Treaty of Waitangi. This includes stronger leadership through the establishment of a National Practice Advisor FGC practice and FGC team leaders.

⁹⁷ Oranga Tamariki—Ministry for Children Practice Centre “**Practice for working effectively with Māori**” (22 November 19) <https://practice.orangatamariki.govt.nz/core-practice/working-with-maori/how-to-work-effectively-with-maori/practice-for-working-effectively-with-maori/>

- 3.14 Several iwi have received delegations to co-ordinate and run FGCs directly (referred to as Iwi led FGCs). As we continue to support and enable communities to respond, we expect to see an increase in the transfer of FGCs to iwi, Māori and community leadership. Evaluations of iwi led FGCs have identified that engagement, participation and the development of plans are positively influenced through iwi led FGCs.
- 3.15 Additional steps taken by Oranga Tamariki to seek that FGCs⁹⁸ are consistent with Te Tiriti o Waitangi | the Treaty of Waitangi are as follows.
- 3.16 FGCs are held to:
- a. empower whānau or family to develop their own plan to address any care and protection concerns, needs for assistance or wellbeing (oranga), or any offending by te tamaiti or rangatahi. (**Self-determination**);
 - b. facilitate an FGC process appropriate to the whānau or family, ensuring they are fully informed, and supporting active and full participation in the FGC and the implementation of their plan (**Partnership**);
 - c. ensure that other professionals and entitled members of the FGC (and others) are encouraged to attend the FGC as appropriate in support of the developing plans that meet the needs of te tamaiti or rangatahi and their whānau or family (**Active Protection**).
- 3.17 In April 2021, changes to the Oranga Tamariki policy on FGCs further aligned them with Te Tiriti o Waitangi | the Treaty of Waitangi by:
- a. Clarifying that when working with whānau or family to make a plan, an adjournment should be considered when solutions cannot be adequately identified or agreed on. An adjournment could help whānau or family to further consider the issues and identify potential solutions. (**Self-determination**).
 - b. Ensuring that Oranga Tamariki engages with te tamaiti or rangatahi and their whānau or family in hui ā-whānau or a family meeting before the FGC, enhancing the partnership with whānau or family, and promoting full and active participation in the FGC. (**Partnership**).
 - c. Encouraging and assisting whānau or family to identify significant people who they could invite to attend and participate in the FGC, including whānau or family, hapū and iwi members – Māori specialist roles such as kairaranga-ā-whānau help identify and engage with whānau, hapū, iwi and other significant people when working with tamariki Māori, that can help support te tamaiti or rangatahi and their whānau or family (and potentially be part of the developed plan) (**Active Protection**).
- 3.18 Oranga Tamariki's Practice Centre contains guidance reflecting the particular steps taken by Oranga Tamariki to ensure that FGCs are consistent with Te Tiriti o Waitangi | the Treaty of Waitangi.⁹⁹ For example, the Care and protection social worker must:

⁹⁸ A FGC supports whānau or family to come together when there are concerns about the way a tamaiti or rangatahi is cared for and to develop a plan to address concerns or needs for assistance for te tamaiti or rangatahi.

⁹⁹ Oranga Tamariki—Ministry for Children Practice Centre “Family group conferences for care or protection concerns” (14 March 2022) <https://practice.orangatamariki.govt.nz/policy/family-group-conferences-for-care-and-or-protection-concerns/>;
Oranga Tamariki—Ministry for Children Practice Centre “Youth justice family group conference” (1 July 2019) <https://practice.orangatamariki.govt.nz/our-work/interventions/family-group-conferencing/youth-justice-family-group-conference/>;
Oranga Tamariki—Ministry for Children “Iwi-led Care and Protection Family Group Conference Evaluation Summary Report” (March 2019) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Research/Latest-research/Specialist-Māori-Roles-Evidence-Synthesis/Report-Rangitane-Iwi-Led-FGC-Kaitiaki->

- a. Support, encourage and provide opportunities for te tamaiti or rangatahi to safely participate in their FGC and freely express their views about decisions affecting them during it – if they are unable or unwilling, Oranga Tamariki must provide the opportunity for their views to be presented in a different way or by their representative.
- b. Ensure the views and wishes of te tamaiti or rangatahi are considered alongside consideration of their welfare and best interests when decisions and plans are being made.
- c. Listen and consider what te tamaiti or rangatahi and their whānau or family are proposing to ensure their tamaiti is safe in relation to the concerns identified;
- d. Support and empower whānau or family to use their connections and relationships when identifying solutions.

[2019.pdf](#); and
Oranga Tamariki—Ministry for Children “Summary Report: Formative evaluation of the iwi-led family group conference pilot” (7 November 2018)
<https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Research/Latest-research/Specialist-Māori-Roles-Evidence-Synthesis/Report-Ngati-Porou-Iwi-Led-FGC-Formative-Evaluation.pdf>

4. Cultural support and considerations

Q 7: Definition of abuse or neglect used by Oranga Tamariki

Historical position

- 4.1 The approach by Oranga Tamariki to the definition of abuse or neglect has changed over time as the understanding of child abuse and its impact on children has developed both nationally and internationally. For example, historically:
- a. The Child Welfare Division Field Officers Manual (1950-1972) did not provide a detailed definition of abuse, however it provided Social Workers with information regarding the grounds for which a Child Welfare Officer may initiate court action. This guidance appeared to focus largely on the actions or inactions of the parents or caregivers and enabled the Social Worker to make a complaint under s 13(1) of the Child Welfare Act 1925 that a child is indigent, neglected, not under proper control, living in an environment detrimental to its physical or moral well-being, or delinquent.
 - b. Child abuse and neglect definitions changed over the years to reflect the changing views and attitudes of society. The 1984 Social Work Manual provided the following definition:

Child abuse is a multi-faceted and multi-causal problem and definition itself is difficult. The term itself covers several conditions such as non-accidental injury, physical injury, physical or emotional neglect, emotional damage, sexual abuse and a general failure to provide the minimum requirements necessary to ensure a child's optimum physical and emotional growth and development.
- 4.2 The introduction of the Children Young Persons and Their Families Act (1989) Act brought a legal definition of a child or young person in need of care or protection, and the Care & Protection Handbook (2000) indicates Social Workers had access to a number of child focused tools and definitions to assist them in understanding and assessing abuse and neglect.

Current approach to definition of abuse

- 4.3 Section 15 of the Oranga Tamariki enables any member of the public who is concerned that has been or is likely to be harmed can make a report of concern. In 2019, the provisions of section 15 were expanded to include the ability to make a report of concern where concerns exist about a child's wellbeing.
- 4.4 Oranga Tamariki uses the definition of "child or young person in need of care or protection" from section 14 of the Oranga Tamariki Act 1989:
- (1) A child or young person is *in need of care or protection* if—
 - (a) the child or young person is suffering, or is likely to suffer, serious harm—
 - (i) in the circumstances described in section 14AA(1); or
 - (ii) having regard to the circumstances described in section 14AA(2); or
 - (b) the parents or guardians or the persons who have the care of the child or young person are unable to care for the child or young person; or
 - (c) the child is a subsequent child of a parent to whom section 18A applies and the parent has not demonstrated to the satisfaction of the chief executive (under section 18A) or the court (under

section 18A(4)(a) or 18C) that the parent meets the requirements of section 18A(3); or

- (d) the child or young person has behaved, or is behaving, in a manner that—
 - (i) is or is likely to be harmful to the physical or mental or emotional well-being of the child or young person or to others; and
 - (ii) the child's or young person's parents, or the persons having the care of the child or young person, are unable or unwilling to control; or
- (e) in the case of a child of or over the age of 10 years and under the age of 14 years, the child has committed an offence or offences of sufficient number, nature, or magnitude to cause serious concern for the well-being of the child.

(2) Subsection (1)(a) must be applied in conjunction with section 14AA (which describes the circumstances in which a child or young person is suffering, or is likely to suffer, serious harm).

4.5 The Safety of Children in Care Annual Report (for 2020/2021, published in 2022) [SoCiC 2022]¹⁰⁰ provided the following comprehensive definitions of abuse and neglect, which are reflected in the Practice Centre, as follows:

- a. *Physical abuse*: Physical abuse involves situations where a tamaiti has an injury or was at serious risk of injury. The harm could be deliberate or unintentionally result from a deliberate action.
- b. *Sexual abuse*: Sexual abuse is any action where a tamaiti is used for a sexual purpose.
- c. *Emotional abuse*: Emotional abuse is when the mental health and social and/or emotional functioning and development of te tamaiti has been damaged by their treatment.
- d. *Neglect*: Neglect is failing to meet the basic needs of te tamaiti.
- e. *Serious differences*: Te tamaiti can suffer serious harm when there are serious differences in the relationship between te tamaiti and their parent or caregiver, or between parents, guardians or caregivers of te tamaiti.
- f. *Harmful behaviour*: What distinguishes age-appropriate exploration from 'harmful behaviour' is the extent of the behaviour and the impact on te tamaiti.
- g. *Cumulative harm*: Cumulative harm is the outcome of exposure to multiple episodes of abuse and/or neglect and/or family violence experienced by te tamaiti.
- h. *Family violence*: The emotional, psychological and physical wellbeing of te tamaiti can be affected when they are exposed to family violence.
- i. *Inability or unwilling to care for or have abandoned te tamaiti*: Parents are sometimes unable or unwilling to care for their tamaiti.

¹⁰⁰ Oranga Tamariki—Ministry for Children "Safety of Children in Care Annual Report: July 2020 to June 2021" (4 February 2022) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Performance-and-monitoring/safety-of-children-in-care/2020-21/SOCiC-AR-2021-FA.pdf>

Q 8-9: Extent of Oranga Tamariki understanding of Māori and Pacific cultural approaches/steps taken to maintain access to culture, language and extended family

- 4.6 Set out below is an overview of how Oranga Tamariki has:
- a. sought to understand Māori and Pacific approaches to disability, mental health, and rainbow identities;
 - b. sought to understand delivery of interventions in line with those worldviews; and
 - c. taken steps to ensure that Māori and Pacific children and young people, disabled persons and persons with mental health conditions can maintain access to culture, language, and their extended family.
- 4.7 The milestones, Oranga Tamariki practices and guidance referred in this section frequently also reflect the steps taken by Oranga Tamariki to ensure Māori and Pacific children and young people, and disabled persons or persons with mental health conditions can maintain access to cultural education and intergenerational transmission of culture, language and their extended family.
- 4.8 Oranga Tamariki is committed to giving effect to Te Tiriti o Waitangi | the Treaty of Waitangi and to improving the outcomes for Māori and Pacific children and young persons under the care and protection system.
- 4.9 The needs of Māori whānau and communities are a particular consideration for Oranga Tamariki in line with Te Tiriti o Waitangi | the Treaty of Waitangi. However, Oranga Tamariki also seeks to reflect an understanding of Pacific peoples. This is particularly important given the number of children and families who have both Māori and Pacific whakapapa.
- a. The understanding of Oranga Tamariki of Māori cultural approaches to disability, mental health, rainbow identifies and delivery of interventions in line with those cultural worldviews is reflected in guidance within the Practice Centre: *Working with Māori: Te Toka Tūmoana*. This content will be strengthened by Oranga Tamariki as part of the practice shift.
 - b. The understanding that Oranga Tamariki has of Pacific people's approaches to disability, mental health, rainbow identifies and delivery of interventions in line with those cultural worldviews is reflected in guidance within the Practice Centre: *Working with Pacific peoples: Va'aifetū*.
- 4.10 Oranga Tamariki continues to improve its understanding of Pacific cultural approaches to disability, mental health, rainbow identities and delivery of interventions in line with those cultural worldviews by:
- a. Ongoing work on foundational strategic documentation to reflect its understanding of Pacific Peoples
 - b. The appointment, in June 2021, of a Chief Advisor Pacific, a newly created role within the leadership team which signifies the commitment and strategic focus on Pacific children, young people and families.
- 4.11 It is through the Oranga Tamariki foundational frameworks and practice guidance reflecting the extent of understanding where Oranga Tamariki has also taken steps to ensure that Māori, Pacific children and young people, as well as disabled persons or persons with mental health conditions can maintain access to cultural education and intergenerational transmission of culture, language and their extended family.
- 4.12 These points are discussed in more detail below.

Key milestone events

4.13 Oranga Tamariki has sought to understand Māori and Pacific approaches from key milestones across the history of the care and protection system. Examples include:

1987: **First Inaugural Pacific Fono** was held in Wellington EEO Networks Department of Social Welfare (**DSW**).

1986: **Pūao-te-Ata-tū Report** highlighted that majority of those in social welfare institutions were Māori and Pacific which highlighted the importance of understanding the unique needs of Pacific peoples to affect change and improvements. Guiding principles and objectives of this report also endorsed a bi-cultural approach with Māori involved in policy, planning and service delivery while giving due attention to the needs of other ethnic minority groups (Pacific), in a way that does not offend other cultural groups. That report included recommendations relating to:

- Advising the Minister on the development and changes in policy and scope relating to welfare of disabled persons.
- Funding initiatives with Māori authorities to investment in urban and rural districts to promote the social and cultural skills of young Māori people, and training and employment opportunities for them.
- Incorporating values, cultures, and beliefs of the Māori people in all policies developed for the future of New Zealand (even though the report focussed on improving the lives of Māori, it paved the way for improving lives of Pacific people's and highlighted the changing multi-ethnic diverse peoples of Aotearoa.)

1994: **The Pātē, Lali, Nafa: Strategy for Pacific Islands Employment and Service Delivery**,¹⁰¹ considered how to address the unique needs for Pacific peoples to enable Pacific kaimahi to be themselves at work and celebrate their uniqueness in being a Pacific Islander. It called for a commitment to ensure policy development and service delivery considered the needs, aspirations, and cultural preferences of Pacific peoples.

2010: **O Au o matua Fanau** – Children are our Treasures Pacific Action Plan: Pacific Strategy (Child, Youth and Family Services),¹⁰² highlighted that cultural identity is important to Pacific children and that identity is multi-ethnic/diverse. This is important because to work with Pacific peoples means to understand the different cultural nuances between our Pacific specific cultural approaches, being multi-ethnic also adds another layer of complexity that shapes an individual's cultural identity.

2014: Oranga Tamariki appointment of **first Principal Advisor Pacific**, Dr Saunomaali'i Karanina Sumeo (Child Youth and Family).

2015: Oranga Tamariki establishment of **Pacific Panel** and the appointment of the **first General Manager Pacific**, (Child Youth and Family).

¹⁰¹ Department of Social Welfare "Pātē, Lali, Nafa: Strategy for Pacific Islands Employment and Service Delivery" (1996) <https://www.mcguinnessinstitute.org/wp-content/uploads/2021/04/254.-Pate-Lali-Nafa-Strategy-for-Pacific-Islands-Employment-and-Service-Delivery.pdf>

¹⁰² Child, Youth and Family Pacific Action Plan 2010 and Beyond "O Au O Matua Fanau | Our Children are our Treasures" (February 2010)

2016: Oranga Tamariki launch of **Va'aifetū** Pacific Social Work Practice Framework (Child Youth and Family) integrating Pacific cultures into practice for best outcomes for children of Pacific descent, and there is **Te Toka Tumoana** for working effectively with Māori.

2018: Oranga Tamariki launch of **Oranga Tamariki Pacific strategy, 2018 – 2021**.

2021: Appointment of the Oranga Tamariki **first Chief Advisor Pacific**.

2021: *Hipokingia ki te Kahu Aroha Hipokingia ki te Katoa Te Kahu Aroha Ministerial Advisory Board Report*, Oranga Tamariki **Future Direction Plan**, and the commencement of a **refresh of the Pacific Strategy 2021-2024** (in progress).

2022: **Ola Manuia Mo Alo Ma Fanau** and **Talanoa Mai Tamaiki**. (These reports are discussed below in this section of this response.)

- 4.14 Additionally, Oranga Tamariki has specifically sought to understand and take steps in relation to Māori approaches to disability, mental health and rainbow identities and delivery of interventions. In December 2021, Oranga Tamariki announced an organisational reset, including a new leadership team called Te Riu.¹⁰³
- 4.15 Oranga Tamariki understands the importance of establishing Māori leadership positions within the agency. Therefore, in Te Riu, Tumu Tikanga, who is responsible for advising and assisting the Chief Executive on integrating Te Ao Māori into the way of working at Oranga Tamariki, directly reports to the Chief Executive.¹⁰⁴
- 4.16 The title of the Tamariki & Whānau Advocate/DCE Whānau, Partnerships & Communities was changed to *DCE Māori, Partnerships & Communities* to signal the focus of the Oranga Tamariki Leadership Team working as a genuine Treaty partner.
- 4.17 A commitment by Oranga Tamariki to a genuine Te Tiriti Partnership and to growing an understanding of Te Ao Māori will be front and centre as the new regional operating model is developed. Oranga Tamariki leaders and staff must be confident and capable with tikanga and to have the ability to bring a Te Ao Māori lens to the work of Oranga Tamariki.
- 4.18 The Practice Framework is inclusive and rights-based and provides kaimahi (staff) with guidance on what this means in practice. Oranga Tamariki is developing guidance that will address cultural approaches to disability and includes a section on “intersectionality” – where it is understood that people’s identity is influenced by a range of interconnected dimensions including but not limited to age, gender, sexuality, race, culture, or disability.
- 4.19 As noted in the introductory section of this response:
- a. The development of the framework, practice models and tools that support the Oranga Tamariki shift in practice are informed by the advice of an External Advisory Group, which includes tangata whenua, tauwi and Pacific academics, practitioners, and community leaders.
 - b. The approach to the shift in practice, including decision making and support relating to care, is based on an evidence brief for a Te Ao Māori social work practice, using a mana-enhancing practice paradigm. This draws on and

¹⁰³ Oranga Tamariki—Ministry for Children “Decision Document – Organisation Reset, Part 1: Structure decisions and next steps” (December 2021) <https://www.jacksonstone.co.nz/wp-content/uploads/2021/12/DECISI3.pdf>

¹⁰⁴ *Ibid* at [1.6].

preferences te ao Māori principles, beliefs values and knowledge in practice.¹⁰⁵

- c. Through its development, the shift in practice has been jointly led by Tangata whenua, pacific and tauwi employees.
 - d. Other applications of the Māori approaches in practice include the current *Te Toka Tūmoana* framework, and the practice standard “*Whakamana te tamaiti*”.
- 4.20 Additionally, Oranga Tamariki has specifically sought to understand and take steps in relation to Pacific approaches to disability, mental health and rainbow identities and delivery of interventions by:
- a. Developing a *Pacific Strategy for 2021 – 2024* which is inclusive of the rainbow community, gender diversity – LGBTQI and/or mahu, vakasalewa, palopa, fa’afafine, akava’ine, fakaleiti (leiti), fakafifine [MVPFAFF]; as well as recognising and being committed to understanding the needs of Pacific peoples who have disabilities and mental health issues.
 - b. Enabling the Pacific Panel to be advocates for these cohorts and represent the voices of Pacific peoples with disabilities and mental health issues on Oranga Tamariki working groups and other external boards.
 - c. The applications of Pacific approaches in practice include the current *Va’aifetū* framework (discussed in the introductory section of this response).

Pacific Reports

- 4.21 In 2020 and 2021, Oranga Tamariki engaged with Pacific children and young people in care to better understand what enables them to talk with adults and participate in decision-making, and their experiences of being connected to their family, cultural identity, and faith.
- 4.22 Two complementary reports reflect the views of Pacific children, young people, their families and caregivers, as follows.

Talanoa mai Tamaiki – The voices of Pacific children and young people (March 2022)

- 4.23 This report found that, as at 31 December 2020, Pacific and Pacific-Māori children and young people comprised 16 percent of the population of children and young people in care. It was important for Oranga Tamariki to understand the specific experiences and needs of Pacific children and young people in care, so they can gain the support and services they need.¹⁰⁶
- 4.24 To support this the project focused on the following two questions:¹⁰⁷
- a. What enables Pacific children and young people to talk with adults and participate in decision-making?
 - b. What are Pacific children’s and young people’s experiences of being connected to their family, cultural identity and faith?
- 4.25 The key findings were:¹⁰⁸

¹⁰⁵ Oranga Tamariki—Ministry for Children “Te Toka Tūmoana: Tangata whenua and bi-cultural principled wellbeing framework” (21 October 2021) <https://www.orangatamariki.govt.nz/about-us/research/our-research/mana-enhancing-papers/>; and Oranga Tamariki—Ministry for Children “Māori centred social work practice” (9 April 2021) <https://www.orangatamariki.govt.nz/about-us/research/our-research/maori-centred-social-work-practice/>

¹⁰⁶ Talanoa mai Tamaiki at 11

¹⁰⁷ Talanoa mai Tamaiki at 5

¹⁰⁸ Talanoa mai Tamaiki at 6-7

- a. Pacific children and young people need to feel safe to have a voice. Pacific children and young people said they would be worried that as children and young people they may not be perceived as having an equal voice to adults. They were scared that if they do speak out, they will be told they are wrong and be put down by the adults around them. They were also worried about the implications for their families if they say something that gets them or their families in trouble.
- b. Pacific children and young people are more likely to share their views when adults build a relationship with them or with people they trust. To support Pacific children and young people to share their views, find out who the adults are in their lives that they trust. These adults may act as advocates in situations where they do not feel comfortable to speak up.
- c. Understanding the culture of Pacific children and young people helps them to share their views. For some it helped when adults who talk with them are of the same culture. Some Pacific children and young people said that when adults are of the same culture, they understand them more and can better communicate with their families.
- d. Pacific children and young people love and respect their families. Most of the Pacific children and young people we spoke with lived with immediate and extended family members and were settled and happy living with family. Pacific children and young people living with extended family members expressed their appreciation that their wider family cared for them. There were a small number of Pacific children and young people who did not live with family and who felt disconnected. These children and young people were more likely to say birth family was not important.
- e. Family is intertwined with culture, values and faith. Of the Pacific children and young people we spoke to, those who lived with family were more likely to express pride in their culture and have an interest in learning more about their cultural heritage. They were also able to articulate the values that were important to them and more likely than the Pacific children and young people who were not living with family to participate in faith-based activities.
- f. Family is not just birth family. Some Pacific children and young people viewed family as being broader than just birth family. They identified friends and important adults in their lives, such as teachers, as being their family. Pacific children and young people who had close connections with their immediate and extended family considered children and adults not related to them to be part of their family unit.
- g. Pacific children and young people want to be accepted by their family. Most Pacific children and young people we spoke with felt accepted by their families. One did not feel accepted due to being transgender, while another felt they were not accepted due to their offending.

4.26 The report then confirmed that the next steps would be to:¹⁰⁹

- a. share findings internally and externally to raise awareness of the experiences of Pacific children and young people in care;
- b. use insights to inform practice and influence initiatives involving Pacific children, young people and their families; and
- c. advocate for further engagements with Pacific children, young people and their families who have had contact with Oranga Tamariki services, to better understand their needs and experiences.

¹⁰⁹ Talanoa mai Tamaiki at 8

Ola manuia mo alo ma fanau Pasefika – A blessed wellbeing for our children, young people and families (March 2022)

- 4.27 For this report, Oranga Tamariki asked external Pacific researchers to canvass the experiences, insights and voices of Pacific families that have engagements and interactions with Oranga Tamariki. Feedback was also sought from Pacific carers who look after children in the care of Oranga Tamariki and Pacific social workers from Pacific community providers. The research was conducted from November 2020 to July 2021.
- 4.28 The key findings of the report included:¹¹⁰
- a. social worker support was identified as a key factor in many positive interactions;
 - b. families who had children removed and did not have an Oranga Tamariki Pacific social worker assigned felt that having a Pacific social worker would have given them some assurance they were listened to and understood; and
 - c. connection to culture and understanding their whakapapa were identified as important to Pacific families.
- 4.29 Recommendations were developed by the research team to improve Pacific families experiences with Oranga Tamariki and included the following:¹¹¹
- a. *Relationships*: Explore relationships-based practice and the implementation of Va'aifetū practice principles (dignity, diversity of thought, respect for difference, cultural humility, and emotional intelligence).
 - b. *Financial support and resources*: ensure adequate access to financial support and support services for Pacific children, young people, families and carers.
 - c. *Participation in decision making and family group conferences*: Review the extent to which Oranga Tamariki processes are designed, delivered, implemented, and practised in ways that are culturally relevant and mana-enhancing for Pacific families and support their genuine participation. Ensure there is culturally informed planning for Pacific young people transitioning home.
 - d. *Communication*: Ensure communication with Pacific families is culturally sensitive, respectful and tailored. Ensure relational practice is embedded across the organisation to improve meaningful and timely communication.

Oranga Tamariki Practice and the Practice Shift

- 4.30 The Practice Centre and Practice Shift, described in the introductory section of this response, reflects Oranga Tamariki understanding of and steps taken in relation to the issues identified in questions 8 and 9.
- 4.31 The Practice Centre contains a principled practice tool for working with Pacific peoples: Va'aifetū that informs practice design, review, and workforce support to serve the needs of Pacific children and their families. In relation to its Pacific strategy, this includes work reflecting Pacific people's principles designed to keep Pacific children safe and connected with their communities through a series of targeted objectives designed to meet that purpose.
- 4.32 The Practice Centre contains guidance for responding to children with complex needs.¹¹² Oranga Tamariki understands and acknowledges that this can require a multi-disciplinary approach involving more than one agency.

¹¹⁰ Ola manuia mo alo ma fanau Pasefika at 6.

¹¹¹ Talanoa mai Tamaiki at 7

National Care Standards

- 4.33 The National Care Standards are relevant to these questions as they set out what children and young people can expect from their time in care, and what caregivers can expect when they are providing care to a child. The Care Standards are regulations that came about as part of the 2019 legislation changes and are guided by six overarching parts to ensure best practice. The practice approach to enabling the care standards is described in the introductory section.

The Tuituia framework and domains¹¹³

- 4.34 Tuituia, as described in the introductory section, includes framework domains which explore identity and culture,¹¹⁴ as well as physical and emotional wellbeing (health).¹¹⁵
- 4.35 In response to questions 8 and 9 of the Notice, this tool reflects an understanding by Oranga Tamariki that:
- The view and understanding a person has of their self as a whole and calls on their social identities, such as ethnic, cultural, gender, sexuality, disability, how the individual makes sense of their experiences.
 - Gender diversity in Te Ao Māori and a Pacific perspective of gender.¹¹⁶
 - Disability and identity by reference to the Māori experience and concepts of health and cultural identity, noting that: “Most Māori disabled people generally identify as Māori first. The importance of their cultural identity, which encompasses language, whānau or family, cultural principles, practices and linkages to the land through genealogy, is paramount to how they live their day to day lives in both Te Ao Māori and Te Ao Pakeha and as a disabled person”.
 - The rights of tamariki and rangatahi to fulfilment of personality and identity, including gender and sexuality which are set out in the United Nations Convention on the Rights of the Child, which includes specific provisions for the rights of indigenous children. These rights are also embedded in the principles of the Oranga Tamariki Act 1989 (ss 5(b)(i) and 5(b)(vi)(E) and (F)) and reflected in the National Care Standards Regulations (s 30(4)(c)), which specify that gender identity and sexual orientation are part of identity and cultural needs.

Tuituia case recording policy and systems: gender identity

- 4.36 Tuituia allows a person’s gender to be recorded as male, female, or gender diverse. Oranga Tamariki’s Case Recording Policy reflects its understanding of gender identity. It states: ¹¹⁷

Gender identity is self-defined. It is a person’s internal, deeply felt sense of being male, female, gender queer, trans, non-binary,

¹¹² Oranga Tamariki—Ministry for Children Practice Centre “Responding to complex needs”(21 June 2017) <https://practice.orangatamariki.govt.nz/previous-practice-centre/policy/assessment-and-decision-making/key-information/responding-to-complex-needs/>

¹¹³ What is Tuituia

¹¹⁴ Oranga Tamariki—Ministry for Children Practice Centre “**Identity and culture — Tuituia domain**” (27 July 2021) <https://practice.orangatamariki.govt.nz/core-practice/practice-tools/the-tuituia-framework-and-tools/the-tuituia-framework-and-domains/identity-and-culture-tuituia-domain/>

¹¹⁵ Oranga Tamariki—Ministry for Children Practice Centre “Health – Tuituia domain” (31 August 2020) <https://practice.orangatamariki.govt.nz/core-practice/practice-tools/the-tuituia-framework-and-tools/the-tuituia-framework-and-domains/health-tuituia-domain/>

¹¹⁶ Identity and culture — Tuituia domain

¹¹⁷ Oranga Tamariki—Ministry for Children Practice Centre “**Case recording**” (8 June 2022) <https://practice.orangatamariki.govt.nz/policy/case-recording/>

gender fluid or other. We must be respectful of an individual's gender identity, or cultural customs regarding gender, particularly in regard to recording gender identity for tamariki, rangatahi and others.

- 4.37 This policy requires that Oranga Tamariki must change the gender recorded if participants express they wish to be known differently from what is currently recorded.

Q 10-13: Recruitment

Lessons learned

- 4.38 Oranga Tamariki has learned lessons in relation to diversity for its recruitment practices, including from the following reports and inquiries:
- Pūao-te-Āta-tū* Report, September 1988;
 - The Waitangi Tribunal's urgent inquiry (Wai 2915) *He Pāharakeke, He Rito Whakakīkinga Whāruarua*, April 2021;
 - Oranga Tamariki Ministerial Advisory Board report, *Hipokingia ki te Kahu Aroha Hipokingia ki te Katoa Te Kahu Aroha*, 2021; and
- 4.39 The Waitangi Tribunal, the Royal Commission into Abuse in Care and the Ministerial Advisory Board have all found and reported that Oranga Tamariki has been negligent, institutionally racist and implemented policies and practices that have contributed to racial discrimination.

Current status of diversity within Oranga Tamariki /reporting of diversity progress

- 4.40 The progress made by Oranga Tamariki in relation to diversity of staff is reported as part of the section 7AA reporting. In 2021, the report identified:
- As of 30 June 2021, the Oranga Tamariki workforce was made up of 4,977 kaimahi.¹¹⁸ At that time, 27.1 per cent of kaimahi identified as Māori, significantly higher than the reported public service average of 15.9 per cent.
 - In the previous year, Oranga Tamariki had seen a 7.7 percent increase in Tier 3 managers who identify as Māori, bringing the proportion up to 28.8 percent.
 - As of June 2021, Oranga Tamariki employed kaimahi in 86.4 FTE Māori specialist roles across the country. The majority of these roles are based in the regions, and include National Office positions such as Pou Tikanga,¹¹⁹ Whānau Care Manager and the Director, Treaty Response Unit. Some of these roles are Kairaranga-ā-whānau¹²⁰ and/or Māori practice coaches and are based at site offices.¹²¹
- 4.41 Oranga Tamariki has the second highest number of Māori staff out of public sector agencies. It continues to seek more Māori expertise at all levels of the Ministry.

Steps to improve diversity of staff

- 4.42 To address the learnings from history and the various reports and findings which have informed those lessons, Oranga Tamariki has taken the following steps to implement improvements.

¹¹⁸ Section 7AA Report 2021 at page 22.

¹¹⁹ The Pou Tikanga is responsible for reinvigorating Oranga Tamariki—Ministry for Children Māori staff networks, increasing te ao Māori cultural capability across Oranga Tamariki—Ministry for Children and developing a rautaki reo Māori/Māori language plan.

¹²⁰ Kairaranga-ā-whānau is a specialist Māori role. The literal meaning of the term is: a person who is a weaver of family connections.

¹²¹ Section 7AA Report 2021 at page 23.

Approach to recruiting staff

- 4.43 Since 2019, Oranga Tamariki has committed to new teams and functions which are focused on Oranga Tamariki's responsibilities under section 7AA of the Act, and broader Treaty principles.¹²² A range of new specialist Māori roles have been introduced, including kairaranga-ā-whānau,¹²³ senior regional advisors and the partner roles of iwi Family Group Conference coordinators.¹²⁴
- 4.44 The Future Direction Plan will support the following:
- a. Establish trained specialist caregiving roles for high and complex needs tamariki.¹²⁵ The staff in these roles will be specifically trained to work with the most vulnerable tamariki which often includes Māori, Pacific and disabled tamariki.
 - b. Partnership between the Crown and iwi, hapū and Māori organisations is key to addressing disparity in outcomes for Māori.¹²⁶ Oranga Tamariki has entered into nine strategic partnerships, with another two in active negotiation. These partnerships as part of the system providing care and protection to children, and many of them are involved in the Oranga Tamariki recruitment processes.¹²⁷
- 4.45 The current focus of Oranga Tamariki is on expanding the capability and awareness of its staff, rather than recruiting based upon specific lived experience, although staff lived experience may indicate that the capability already exists when undergoing staff recruitment.
- 4.46 There is an additional focus on responsiveness to the Māori perspective is reflected by the steps taken in relation to disability that are described as part of the introduction section of this response in relation to:
- a. The formation of a work programme to implement a social and rights-based model of disability for the Oranga Tamariki context that is grounded in Te Tiriti o Waitangi | the Treaty of Waitangi and developing a Disability Strategy and Vision which aligns with the Future Direction Plan, Te Tiriti o Waitangi | the Treaty of Waitangi, United Nations Convention on the Rights of the Child, and United Nations Convention on the Rights of Persons with Disability.
 - b. Enabling Te Ikaroa/ Ngati Kahungunu Iwi Response to Neurodiversity.

Initiatives to enhance staff understanding of diversity

- 4.47 Oranga Tamariki is adopting the initiatives in relation to enhancing staff understanding of diversity, set out below.
- a. Oranga Tamariki is committed to:

¹²² Waitangi Tribunal Wai 2915, #A195 "Brief of Evidence of Gráinne Moss" (10 December 2020) at 5
https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_167024766/Wai%202915%2C%20A195.pdf

¹²³ Kairaranga-ā-whānau specialise in assisting tamariki and whānau to research, navigate and contact their significant whakapapa connections, and help identify whānau for participation in decision making and placement opportunities should a tamaiti need care.

¹²⁴ Crown's Closing Submissions

¹²⁵ Future Direction Plan at [4.7].

¹²⁶ Crown's Closing Submissions

¹²⁷ Waitangi Tribunal Wai 2915, #A195(c) "Attachment A – Response to Questions for Gráinne Moss" (26 January 2021) at 4
[https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_168246521/Wai%202915%2C%20A195\(c\).pdf](https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_168246521/Wai%202915%2C%20A195(c).pdf)

- i. Developing its current workforce to ensure cultural competency across the organisation.¹²⁸
 - ii. Addressing cultural competence within its workforce. Specifically, Oranga Tamariki is focused on staff learning about mana tamaiti, whakapapa and whanaungatanga so that we can respect these concepts in practice.¹²⁹ Again, this focus is reflected in the Practice Centre as discussed earlier in this response.
 - iii. Coaching and mentoring site and regions' staff in their practice to ensure that all staff know and understand the Oranga Tamariki Māori cultural framework and can apply it in their work.¹³⁰
- b. Oranga Tamariki intends to invest in the capability of leaders throughout the organisation to facilitate cultural shifts to support a locally-led, centrally-enabled way of working.¹³¹
 - c. Oranga Tamariki is developing a Kaimahi Ora strategy¹³² to encourage staff to prioritise their own wellbeing by developing a practice that involves:
 - i. being aware when support is required;
 - ii. regular supervision and debriefing with supervisors and colleagues;
 - iii. access to support systems like EAP to help manage stress; and
 - iv. engaging in cultural activities and personal interests that help to revive, recharge and support personal development.

¹²⁸ Future Direction Plan at [2.4].

¹²⁹ Practice for working effectively with Māori

¹³⁰ Brief of Evidence of Gráinne Moss at 5

¹³¹ Future Direction Plan at [2.6].

¹³² Oranga Tamariki—Ministry for Children Practice Centre “Kaimahi ora” (1 April 2019) <https://practice.orangatamariki.govt.nz/practice-approach/practice-standards/use-professional-supervision/kaimahi-ora/>

5. Access to education

Q 14: Lessons learned about ensuring access to education, steps to address learnings and current approaches

Lessons learned

- 5.1 Oranga Tamariki has learned lessons in relation to the importance of access to education from the following reviews and reports.
- a. In December 2015, the EAP Report found that children and young people who came into contact with Child Youth and Family (CYF) had high rates of educational disengagement and under achievement. (This report is discussed in the introductory sections of this response).
 - b. In 2019, the Oranga Tamariki Voices of Children and Young People team led a project designed to better understand care-experienced children and young people's experiences of education and the influences on their experiences.¹³³ That review highlighted a number of educational issues experienced by children in care.¹³⁴ It concluded that it was necessary to have strengths-focused policies and processes and adequate training in order to deliver successful interventions. The review also found that timely sharing of information about learning and behavioural needs may enhance educational experiences as well as a collaborative communicative relationship between the school and the caregiver.
 - c. Research completed by Oranga Tamariki with caregivers emphasised that there was a significant need for education.¹³⁵ This encompassed educational support, such as aids and financial support for items such as uniforms, sports clothing, and equipment. This report identifies that clothing is linked to wellbeing including participation in education.
 - d. From the 2021 Transition Support Service Evaluation study of young people leaving youth justice residences who are eligible for a transition support worker, Oranga Tamariki learned that for some, time in the residences offered the opportunity to re-engage with education and get their life back on track.¹³⁶
 - e. In 2021, the Education Review Office conducted a review into learning in residential care. The review identified three action areas to raise the quality of education for those learning in residential care including improving the quality of the students' education while in residence,

¹³³ Oranga Tamariki—Ministry for Children “**The educational experiences of children in care**” (11 July 2019) <https://www.orangatamariki.govt.nz/about-us/research/our-research/the-educational-experiences-of-children-in-care/>

¹³⁴ Oranga Tamariki—Ministry for Children “Experiences of Education for Children in Care Part 4: Summary of Key Findings” (July 2019) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Research/Latest-research/Educational-experiences-of-children-in-care/Experiences-of-Education-Part-4-Summary-of-key-findings.pdf>

¹³⁵ Oranga Tamariki—Ministry for Children “Caregivers Raising Children with the Orphans Benefit and the Unsupported Child's Benefit – A follow-up survey of caregivers” (November 2021) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Research/Latest-research/Orphans-Benefit-and-the-Unsupported-Childs-Benefit-A-follow-up-survey-of-caregivers-/OB-UCB-Caregivers-Report-2021-FULL-REPORT.pdf>.

¹³⁶ Oranga Tamariki—Ministry for Children “Evaluation of Transition Support Service Theme Report: Understanding the needs of rangatahi in Youth Justice facilities eligible for a Transition Worker” (March 2022) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Research/Latest-research/Transitions-Support-Service-evaluation/Youth-Justice-thematic-report.pdf>.

growing expertise and reducing variability in provision and improving access to education when they move out of residence.¹³⁷

- 5.2 Through such reports and projects, Oranga Tamariki has learned that:
- a. There is a significant need for better education of children who come into contact with the State care and protection system, who also experience difficulty remaining in the education system.
 - b. The quality of education offered for those in residential care needs improvement.
 - c. A lack of education has hindered future employment opportunities for those who are living in state care or faith-based institutions.

Steps taken to address lessons

- 5.3 To address these lessons, Oranga Tamariki continues to work on policies to support better access to education of children in the care and protection system. This includes the following:
- a. Oranga Tamariki is collaborating with the Ministry of Education to improve the quality of education for children in the care and protection system.
 - b. Oranga Tamariki is involved in Education's Highest Needs Review, which will align services and supports to ensure children and young people with the highest learning support needs, and their whānau, have access to the right support for learning to occur.
 - c. Oranga Tamariki has developed a Memorandum of Understanding (MoU) with the Ministry of Education¹³⁸ which strengthens regional relationships.
 - d. An initiative between Oranga Tamariki and the Ministry of Education include the Social Workers in Schools (**SWiS**) programme.¹³⁹ This programme has a track record of 22 years in providing in-school, NGO-delivered social work support for tamariki in primary and intermediate schools and Kura and is highly regarded and supported by schools and Principals. Where possible, SWiS work alongside complementary health, education and mental health services and supports such as Learning Support Coordinators, Counsellors in Schools and Mana Ake.

Approach to compulsory attendance at school

- 5.4 The approach adopted by Oranga Tamariki to compulsory attendance for children and young persons (including disabled persons or persons with mental health conditions) is informed by the below legislative requirements.

The Education Act 1989

- 5.5 This requires that every person who is a New Zealand citizen or resident must, during the period beginning on the person's sixth birthday and ending on the

¹³⁷ Education Review Office "Learning in residential care: They knew I wanted to learn" (1 July 2021) at 63 <https://ero.govt.nz/our-research/learning-in-residential-care-they-knew-i-wanted-to-learn>

¹³⁸ Memorandum of Understanding Between Child, Youth and Family and the Ministry of Education 2012 <https://www.education.govt.nz/assets/Documents/School/Traumatic-incidents-and-emergencies/AllegationsOfAbuseProtocolMOU-CYFandMOE2012.pdf>

¹³⁹ Oranga Tamariki—Ministry for Children "Social Workers in Schools Toolkit – The Complete Guide of Social Workers in Schools" (14 February 2020) <https://www.orangatamariki.govt.nz/working-with-children/school-programmes/social-workers-in-schools/swis-toolkit/>

person's 16th birthday, be enrolled at a registered school.¹⁴⁰ Every student of a registered school is required to attend the school whenever it is open.¹⁴¹

National Care Standards

- 5.6 Regulation 37 require that: the chief executive must ensure that a child or young person aged 6 years or over but less than 16 years who is in care or custody is enrolled at a registered school.¹⁴² If any dispute arises about the enrolment of a child or young person in a particular school, the chief executive must take steps to resolve the dispute, including, where necessary, bringing legal proceedings.¹⁴³ However, this regulation does not apply if the child or young person is exempted from enrolment under sections 21 to 22A of the Education Act 1989.

The Oranga Tamariki (Residential Care) Regulations 1996

- 5.7 These regulations require the provision of education to rangatahi in residence. Relevantly, regulation 13(1) states:

Every child or young person in a residence shall, where practicable, have access for not less than 5 hours per day (except on a Saturday, a Sunday, or on any day on which State schools in the district are normally closed),—

- (a) in the case of children and young persons of school age, to educational activities both inside and outside the residence; or
- (b) to vocational training opportunities outside the residence; or
- (c) in the event that no such activities or opportunities are available, to regular, structured, learning activities facilitated by members of the staff of the residence.

Monitoring by Oranga Tamariki

- 5.8 Oranga Tamariki monitors adherence with these legal requirements across all care and protection and youth justice residences annually to ensure that all children and young persons who are in care attend education classes on a full-time basis (including those who are disabled and have mental health conditions). This monitoring occurs in the following ways:
- a. Each Oranga Tamariki care and protection and youth justice residence has an on-site education service contracted to provide education to tamariki and rangatahi. The Ministry of Education funds these contracts.
 - b. Compliance with the Oranga Tamariki (Residential Care) Regulations 1996 is monitored annually where we undertake residence inspections to assess this, conducting interviews with residence staff and reviewing residence documentation. The compliance findings are then reported.
 - c. Oranga Tamariki residences are externally monitored by the Office of the Children's Commissioner (**OCC**) as a National Preventive Mechanism (NPM) under the Crimes of Torture Act (1989) giving effect to the Optional Protocol for the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (**OPCAT**).
 - d. As an NPM, the OCC visit Oranga Tamariki places of detention (youth justice, care and protection residences, and youth justice community

¹⁴⁰ Education Act 1989, s 20(1).

¹⁴¹ Education Act 1989, s 25(1).

¹⁴² Oranga Tamariki—Ministry for Children (National Care Standards and Related Matters) Regulations 2018, s 38(1).

¹⁴³ Oranga Tamariki—Ministry for Children (National Care Standards and Related Matters) Regulations 2018, s 38(2).

remand homes) to examine the conditions and treatment of tamariki and rangatahi. There are seven OPCAT domains examined, one of which includes 'activities and access to others.' The first part of this domain focuses on the opportunities available to mokopuna to engage in quality, youth friendly activities inside and outside secure facilities, including education and vocational activities.

- e. Following the OCC OPCAT monitoring team visiting a place of detention, a monitoring report is provided to Oranga Tamariki, which is also shared with the Minister for Children. The Oranga Tamariki response to any recommendations made by the OCC are also shared with the Minister.

- 5.9 Oranga Tamariki monitors the adherence of education provided for those living in state care by Education Assessment referrals made through the Gateway process for tamariki coming into or likely to come into care. These are monitored at a regional level by the Senior Advisors Education and Health.

Approaches to breadth of education and meet learning needs

- 5.10 In terms of approach to the breadth of education provided, including core subjects, the All About Me Plans include an education component identifying educational needs and the supports required for achievement.
- 5.11 The All About Me Plan addresses the needs identified through analysis of the Tuituia assessment. It has important information about each tamaiti or rangatahi in our care. This policy defines when the plan is needed and how Oranga Tamariki develops, maintains and uses it.
- 5.12 This is a matter addressed in more detail by Denise Marie Tapper in her witness statement as part of the investigation of abuse in State psychiatric care dated 9 April 2021. This statement sets out the way in which children and young people in the Ministry's residences receive mental health care today and refers to the All About Me Plans which includes providing support in relation to education and other perspectives.

Steps taken to minimise disruption to education and access to education as a result of multiple placements in care settings

- 5.13 Oranga Tamariki aims to support minimising the disruption to education and access to education with an agreed plan across agencies.
- 5.14 Senior Advisors Education and Health support the region to meet the National Care Standards by building and developing effective relationships with the Ministry of Education.
- 5.15 Creating a pathway and connection process between Oranga Tamariki, the Ministry of Education and the Ministry of Health help to enhance access to services for tamariki and their whānau.

Q 15-16: Education exemptions

- 5.16 Education exemptions are not the responsibility of Oranga Tamariki, these are the responsibility of the Ministry of Education pursuant to section 21 of the Education Act 1989.

6. Monitoring and oversight

Q 17: Lessons learned in respect of safeguarding

- 6.1 Present day monitoring and oversight of Oranga Tamariki occurs through a range of different mechanisms:
- three external agencies providing external monitoring and oversight;
 - internal monitoring functions; and
 - the s 7AA reporting function.

External monitoring and oversight of Oranga Tamariki to safeguard children and young persons/future improvements

- 6.2 There are three external monitoring agencies that monitor and oversee Oranga Tamariki functions. These agencies are:
- Manaakitia ā Tātou Tamariki | the Office of the Children's Commissioner;¹⁴⁴
 - Te Mana Whakamaru Tamariki Motuhake | the Independent Children's Monitor (**ICM**);¹⁴⁵ and
 - the Office of the Ombudsman | Kaitiaki Mana Tangata (**Ombudsman**).¹⁴⁶

Manaakitia ā Tātou Tamariki | The Office of the Children's Commissioner

- 6.3 The OCC was first established in 1989 to be an independent advocate for children.¹⁴⁷ This came about partly in response to cultural and professional tensions that had become apparent in the late 1980's.¹⁴⁸ For example, *Pūao-te-Ata-tū*, had drawn attention to the euro-centric interpretations of child welfare in earlier legislation, that had particularly discriminated against tamariki Māori.
- 6.4 The general functions and roles of the Children's Commissioner are set out in the Children's Commissioner Act 2003, particularly in section 12. They include the ability to investigate any decision or recommendation made, or any act done or omitted, in respect of any child in that child's personal capacity. These functions are also captured under the Oranga Tamariki Act 1989, for example in section 13 which allows the Children's Commissioner:
- To investigate any decision or recommendation made, or any act done or omitted, under that Act in respect of any child or young person in that child's or young person's personal capacity – this enables their children's rights advocacy function.
 - To monitor and assess the policies and practices of the department and the policies and practices of any other person, body, or organisation that relate to the performance or exercise by the person, body, or organisation of a function, duty, or power under the Oranga Tamariki Act or regulation made under that Act – enabling their broad monitoring function.
- 6.5 The OCC also has an additional mandate and is the appointed National Preventive Mechanism (**NPM**) under the Crimes of Torture Act 1989 giving effect

¹⁴⁴ Manaakitia ā Tātou Tamariki | Office of the Children's Commissioner "Nga Korero | Our History" <https://www.childrenandyoungpeople.org.nz/about/history-of-the-office/>

¹⁴⁵ Te Mana Whakamaru Tamariki Motuhake | Independent Children's Monitor <https://www.icm.org.nz/>

¹⁴⁶ Office of the Ombudsman | Kaitiaki Mana Tangata <https://www.ombudsman.parliament.nz/>

¹⁴⁷ Part 9 of the Children, Young Persons and their Families Act 1989 (CYPF Act).

¹⁴⁸ J. M. Barrington "A Voice for Children: The Office of the Commissioner for Children in New Zealand, 1984-2003" (2004). <https://www.occ.org.nz/assets/Uploads/OCC-AVoiceforChildren-010104.pdf>

to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

- 6.6 The OCC monitors treatment and conditions in Oranga Tamariki places of detention, which includes Care and Protection Residences, Youth Justice Residences, and Youth Justice Community Remand Homes. In carrying out its role as an NPM, the Office also has the same powers in its monitoring role of Oranga Tamariki under the Children's Commissioner Act 2003.

Future plans for improvements

- 6.7 The Oversight of the Oranga Tamariki System and Young People's Commission Bill (**Oversight Bill**) was introduced to Parliament on 8 November 2021.¹⁴⁹ The Bill is intended to strengthen the resourcing of the Office of the Children's Commissioner, to carry out systemic advocacy for New Zealand children and young people.
- 6.8 The Oversight Bill, if enacted, will result in the new Children and Young Person's Commission being established, replacing the Office of the Children's Commissioner. With exception to OPCAT monitoring, the Independent Children's Monitor will then maintain primary responsibility for monitoring Oranga Tamariki.

Te Mana Whakamaru Tamariki Motuhake | Independent Children's Monitor

- 6.9 On 1 July 2019, the MSD in consultation with Oranga Tamariki and other stakeholders, established the Independent Children's Monitor (ICM).
- 6.10 The primary role of the ICM is to monitor Oranga Tamariki, focusing on compliance with relevant regulations and legislation.¹⁵⁰ The ICM is currently hosted by MSD.
- 6.11 ICM monitoring has progressed over three phases:¹⁵¹
- a. Phase one focused on the initial monitoring from 1 July 2019. Monitoring focused on information received on abuse and neglect in relation to children in care or custody, and the response under regulations 69 and 85 of the National Care Standards.
 - b. Phase two expanded monitoring in December 2020, and focused on compliance with all aspects of the National Care Standards.
 - c. Phase three will focus on long term expansion of the ICM. The intention is that expansion will enable broader monitoring of the Oranga Tamariki Act and associated regulations.
- 6.12 The ICM monitors compliance with the National Care Standards Regulations to make sure organisations that look after tamariki and rangatahi are doing what they need to enable them to reach their potential. This includes looking at Barnardos, Open Home Foundation and Dingwall Trust as these organisations also have tamariki or children and rangatahi or young people in their custody.
- 6.13 The ICM reports provide independent oversight that helps to ensure that children and young people in care get the support they need and deserve.
- 6.14 The ICM has produced reports for the following periods:¹⁵²

¹⁴⁹ New Zealand Parliament "Oversight of Oranga Tamariki System and Children and Young People's Commission Bill" https://www.parliament.nz/en/pb/bills-and-laws/bills-proposed-laws/document/BILL_116701/oversight-of-oranga-tamariki-system-and-children-and-young

¹⁵⁰ Oranga Tamariki—Ministry for Children (National Care Standards and Related Matters) Regulations 2018 and, longer term, compliance with the Oranga Tamariki Act 1989 and other associated regulations.

¹⁵¹ Te Mana Whakamaru Tamariki Motuhake | Independent Children's Monitor "What we do" <https://www.icm.org.nz/what-we-do/#e393>

¹⁵² Te Mana Whakamaru Tamariki Motuhake | Independent Children's Monitor "Reports" <https://www.icm.org.nz/reports/>

- Report 1: 1 July – 30 September 2019;
- Report 2: 1 October – 31 December 2019;
- Report 3: 1 July 2019 – 30 June 2020;
- Experiences of Care in Aotearoa 1 July 2020 to 30 June 2021.

Future plans for improvements

- 6.15 Phase three of the ICM monitoring will occur after the enactment of the Oversight Bill. This will broaden the ICM's mandate to the entire Oranga Tamariki system and not just the National Care Standards.
- 6.16 Once the Oversight Bill is enacted, the ICM will become a departmental agency led by a Statutory Officer who will also be the Chief Executive and will be hosted by the Education Review Office (**ERO**). The ICM will be operationally independent from ERO and responsible for its own day-to-day functions.

The Office of the Ombudsman | Kaitiaki Mana Tangata

- 6.17 The Ombudsman has jurisdiction to receive complaints about the state care system, including Oranga Tamariki. The Ombudsman tries to resolve problems people are having with the system and can investigate and make recommendations, if necessary. The Ombudsman is independent and not a part of the Government.

Future plans for improvements

- 6.18 Once the Oversight Bill is enacted, the Ombudsman's complaints oversight and investigations function for the Oranga Tamariki system will be enhanced. For example, in the future, the Ombudsman will also be able to receive complaints about non-government organisations that have custody of children.

Annual reviews presented to Parliament

- 6.19 Parliament monitors the performance of government organisations over the previous year through the process of annual Select Committees. The Oranga Tamariki Annual Review 2019/20 was presented to Parliament.¹⁵³
- 6.20 The 2020/21 Annual Review was published on Parliament's website on 31 March 2022.¹⁵⁴

Oranga Tamariki Ministerial Advisory Board

- 6.21 The Oranga Tamariki Ministerial Advisory Board continues to provide assurance to the Minister for Children on Oranga Tamariki's progress on implementation of the Future Direction Plan. The Board's Phase 2 work programme includes a focus on disability issues, care, and youth justice.

Internal monitoring by Oranga Tamariki

Quality Assurance and Continuous Practice Improvement

- 6.22 Oranga Tamariki has developed a range of quality assurance activities designed to self-monitor the quality of practice delivered by Oranga Tamariki and inform continuous improvement of practice. Practice is monitored against the standards described in paragraph 1.80 and relevant policy and guidance. These activities

¹⁵³ Oranga Tamariki—Ministry for Children "Annual Review 2019/20" <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Performance-and-monitoring/Annual-reviews/Annual-review-slides.pdf>; and <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Performance-and-monitoring/Annual-reviews/Annual-review-notes.pdf>

¹⁵⁴ New Zealand Parliament "2020/21 Annual review of Oranga Tamariki – Ministry for Children" (31 March 2022) https://www.parliament.nz/en/pb/sc/business-before-committees/document/FINS_116598/202021-annual-review-of-oranga-tamariki-ministry-for and is available on our website at <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Corporate-reports/Annual-Report/OT-Annual-report-2020-21.pdf>

are delivered by the Quality Systems team within the DCE Quality Practice and Experience group. The team undertakes regular case file analysis on a range of areas of practice including care standards, the use of section 78 custody orders and residential reviews. Insights from these activities are used to inform improvements within service delivery, professional development and practice policy and guidance.

Safety of Children in Care – annual reporting (2018-2021)

- 6.23 Since 2010, Oranga Tamariki has been measuring and reporting on annual rates of abuse of children in care. This reporting has been retrospective and focused on substantiated findings against caregivers.
- 6.24 Reports completed by Oranga Tamariki from 2010 to 2015, were provided to the then Minister of Social Development and were not published. The reports were based on a retrospective review of casework at the end of each financial year. The reporting scope changed over the period of 2010 to 2015, meaning data gathered was not comparable year on year. This mahi was a precursor to the current Safety of Children in Care reporting which recognises the need to focus on, and make visible, the needs of tamariki in Oranga Tamariki care or custody. It also informed the importance of applying a consistent methodology to how data is gathered to enable an understanding over time of harm experiences.
- 6.25 In 2018, the Safety of Children in Care Unit was established to better understand and prevent harm to children in care, following the recommendation of a group of internal and external experts to better understand and prevent harm to children in care. The Unit publishes a report annually on the website to demonstrate the commitment of Oranga Tamariki to openness and improvement to ensure the safety of tamariki.
- 6.26 The insights from this work are used across the relevant business groups within Oranga Tamariki to provide understanding around any patterns or trends, and then are used to further enhance practice.
- 6.27 The insights provided by the data in this report have enabled Oranga Tamariki to put in place a number of changes to better support tamariki, rangatahi, whānau and caregivers.
- 6.28 Most tamariki or children enter the care of Oranga Tamariki because they have been harmed. The data shows that, where Oranga Tamariki removes tamariki or children from those harmful situations, in the vast majority of cases they are kept safe. But it also shows that some tamariki or children continue to experience harm – from family, other adults, or other children.
- 6.29 Oranga Tamariki has taken action around harmful situations and in some cases they have involved other agencies, such as the Police. In each case, social workers have done an assessment to determine how to proceed and whether to involve others.
- 6.30 The most recent Annual report of *Safety of Children in Care* is for the period July 2020-2021.¹⁵⁵ There are the following reports available:¹⁵⁶
- a. annual reports for the periods, 2018-2019, 2019-2020 and 2020-2021;
 - b. bi-annual reports for the periods July to December 2020 and July to December 2019; and
 - c. quarterly reports for Q4 April to June 2019, Q3 January to March 2019, Q2 October to December 2018 and Q1 July to September 2018.

¹⁵⁵ SoCiC 2022

¹⁵⁶ Oranga Tamariki—Ministry for Children “Safety of Children in Care” (4 May 2022) <https://www.orangatamariki.govt.nz/about-us/performance-and-monitoring/safety-of-children-in-care/>

Work of the Measurement team¹⁵⁷

- 6.31 The Measurement team reviews all findings of harm entered for tamariki in care to understand what has occurred for them, how we have responded to their needs, how we have managed their safety and wellbeing and how the prevention of future harm is being considered for te tamaiti into the future.
- 6.32 Measures include reviewing against regulation 69 of the National Care Standards. The data gathered enables the team to provide information about the experiences of tamariki harmed in care at Site, Regional and National level. The data and insights contributes to enhancing practice and service delivery.
- 6.33 In addition to the work of the Safety of Children in Care Unit, there are a number of broader practice quality assurance mechanisms in place that consider the quality of practice and experience for tamariki and rangatahi in care. For example:
- a. The Oranga Tamariki (Residential Care) Regulations 1996 require every residence to be inspected at least once every calendar year to ensure that those regulations, the Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018 and certain provisions of the Oranga Tamariki Act 1989 are complied with.
 - b. Site-based Practice Leaders routinely monitor the quality of practice for tamariki in care against aspects of the National Care Standards regulations, using a random sample of cases.
- 6.34 At a national level, there is a team who undertake regular case file analysis to provide assurance around Oranga Tamariki's adherence to the National Care Standards regulations, to support continuous practice improvement and the provision of information.

Oranga Tamariki regular reporting

Section 7AA reporting

- 6.35 The Chief Executive is responsible for meeting the statutory requirement of reporting publicly and annually on the progress of Oranga Tamariki under section 7AA of the Oranga Tamariki Act 1989.¹⁵⁸ The section 7AA annual report will continue to measure and highlight Oranga Tamariki performance, in regard to:
- a. the policies and practices of the department that impact on the well-being of children and young persons have the objective of reducing disparities by setting measurable outcomes for Māori children and young persons who come to the attention of the department;
 - b. the policies, practices, and services of the department have regard to mana tamaiti (tamariki) and the whakapapa of Māori children and young persons and the whanaungatanga responsibilities of their whānau, hapū, and iwi; and
 - c. the department seeks to develop strategic partnerships with iwi and Māori organisations, including iwi authorities.
- 6.36 In March 2022, Oranga Tamariki published its second report on section 7AA of the Oranga Tamariki Act 1989. The report focuses on regional stories to demonstrate how the mana tamaiti objectives are being met in the regions and sets out progress made towards reducing disparities and improving outcomes for tamariki Māori and their whānau. It incorporates key information relating to disparities for tamariki and rangatahi Māori across the care and protection system, using a disparity and disproportionality framework. To support a focus on

¹⁵⁷ Oranga Tamariki—Ministry for Children “Safety of Children in Care” (14 April 2022) <https://www.orangatamariki.govt.nz/children-in-our-care/safety-of-children-in-care/>

¹⁵⁸ Section 7AA Report 2020 and Section 7AA Report 2021

regional experiences, detailed disparity and outcomes data is included in the appendices rather than the body of the report.

Section 7AA 2020 report

- 6.37 This was the first section 7AA report published by Oranga Tamariki in response to the new amendments to the Oranga Tamariki Act. The report covers the background context to the report, the current context, the importance of a section 7AA report, a measurement of Oranga Tamariki's impact and next steps for the agency.¹⁵⁹
- 6.38 The report outlines a number of frameworks that the agency utilises to measure success (some of which have previously been referenced in this report) including:
- a. **The Oranga Tamariki Outcomes Framework:** In the development of operational policies and practices, we will identify existing disparities relevant to each policy or practice and highlight future indicators of success or outcome measures that aim to reduce those disparities. Reducing these disparities is critical for ensuring our end goal for tamariki Māori is realised.¹⁶⁰
 - b. **Mana tamaiti objectives:** outlines the nine initial measures for mana tamaiti objectives and how each of these will be measured.¹⁶¹
 - c. **Section 7AA Quality Assurance Standards:**¹⁶² to be met by our staff when developing operational policies, practices or new services. These standards incorporate key principles of Te Tiriti o Waitangi | the Treaty of Waitangi such as kāwanatanga and rangatiratanga, active protection and partnership.¹⁶³
 - d. Strategic partnership considerations.¹⁶⁴
 - e. **Māori Cultural Framework:** a starting point for us to better engage with and respond to our iwi and Māori partners, whānau and tamariki.¹⁶⁵
 - f. **Practice Standards and Guidance:** a multi-year programme to re-orient the work of our practitioners and practice leaders towards embedding a tikanga Māori based approach to practice.

Section 7AA 2021 report

- 6.39 In this report, Oranga Tamariki reported on the actions taken and progress made over the 12 months from 1 July 2020 to 30 June 2021 in two parts:¹⁶⁶
- a. **Part 1:** provides a national summary. We introduce the five Mana Tamaiti Objectives and our Practice Shift. We discuss the importance of partnerships and the advisory groups we work with.
 - b. In **Part 2** we take a closer look at each of the Mana Tamaiti Objectives and the progress we are making towards achieving them, illustrated by case studies, examples, and the viewpoints of partners from around the country. We reflect on our work in partnership with whānau, hapū, iwi, communities and strategic partners who help contribute to delivering our duties under section 7AA.

¹⁵⁹ Section 7AA report 2020 at 6

¹⁶⁰ Section 7AA report 2020 at 22

¹⁶¹ Section 7AA report 2020 at 23

¹⁶² Oranga Tamariki—Ministry for Children “Section 7AA Quality Assurance Standards” (7 September 2021) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Performance-and-monitoring/Section-7AA/Section-7AA-Quality-Assurance-Standards.pdf>

¹⁶³ Section 7AA report 2020 at 24

¹⁶⁴ *Ibid*

¹⁶⁵ *Ibid*

¹⁶⁶ Section 7AA Report 2021

Q 18: Community involvement / consultation in establishing practices for safeguarding children

- 6.40 Oranga Tamariki has consulted and engaged with communities to better understand Māori and Pacific cultural approaches and delivery of interventions. This is covered in response to question 8 of the Notice.
- 6.41 Oranga Tamariki has signed partnerships agreements with nine iwi/Māori organisations which assist in keeping Oranga Tamariki accountable for our practice and the way we work with these communities.¹⁶⁷
- 6.42 Oranga Tamariki also support the community through establishing and funding programmes like VOYCE – Whakarongo Mai Tangata Whaikaha service to deliver specialised advocacy services for disabled tamariki and rangatahi in care.
- 6.43 Community engagement also occurs at a site level in day to day practice. Each site has access to a Care and Protection Resource Panel to provide community advice in regards to working with the tamariki and whānau in that community. The panels bring expert knowledge about local resources and supports. Panel membership can include local iwi representatives, health, education or social service providers, cultural advisors and Police.¹⁶⁸
- 6.44 Of note is the establishment of the Practice Programme External Advisory Group in January 2021, as an integrated practice design advisory group. This group combined tangata whenua and tauwiwi applied practice perspectives for key aspects of our practice programme of work. The group comprises a tangata whenua and Pacific caucus with representation across community and NGO services, academia and partner agencies.
- 6.45 In 2015, the Oranga Tamariki Pacific Panel was established. Oranga Tamariki has recently refreshed the Oranga Tamariki Pacific strategy 2021 – 2024. An updated implementation plan is currently under development that focuses on ensuring: “All Pacific children are safe, loved and supported by loving families and connected to thriving communities in Aotearoa New Zealand”. The Pacific strategy is yet to be published.
- 6.46 Oranga Tamariki will shortly embark on an inclusive consultation program for development of a Disability Strategy for the organisation. It is important that it hears from disabled people with care experience, carers of disabled children, providers and disabled parents so that we can get a fuller understanding of Oranga Tamariki systems, policies and practices. The intention is to build constructive, reciprocal relationships that enables working together to achieve better outcomes for tamariki and rangatahi whaikaha, and for whānau haua.

Q 19: Reporting and investigating of deaths in state care settings

- 6.47 Oranga Tamariki works closely with some of the most vulnerable children and young people in Aotearoa. Whether deaths are intentional, accidental, related to illness or disability, or unforeseen, they are all tragedies in their own right.
- 6.48 The death of a child or young person is a tragic and traumatic event, particularly for their family and others involved in their life. When Oranga Tamariki is involved with a child or young person who has died, it engages directly with the whānau or family of te tamaiti or rangatahi.
- 6.49 Media attention and wider public interest in these tragic events can add to people’s distress. The safety of other children and young people, the wellbeing and support of whānau or family, the impact on the community and staff

¹⁶⁷ Oranga Tamariki—Ministry for Children “Strategic partnerships with Māori” (12 April 2021) <https://www.orangatamariki.govt.nz/about-us/how-we-work/strategic-partnerships-with-maori/>

¹⁶⁸ Oranga Tamariki—Ministry for Children Practice Centre “Care and protection resource panel” (18 February 2020) <https://practice.orangatamariki.govt.nz/practice-approach/practice-standards/work-closely-in-partnership-with-others/care-and-protection-resource-panel/>

- wellbeing, are key considerations. It is important that timely and appropriate supports are made available to those people directly affected by the death.
- 6.50 It is not the role of Oranga Tamariki to investigate a death. If the death itself is suspicious or there are criminal elements, that is the role of the New Zealand Police to investigate and the Coroner to enquire and determine the cause of death.
- 6.51 The role of Oranga Tamariki is to review its practice in relation to the deaths of tamariki or rangatahi in care. Following the death of te tamaiti or rangatahi that has had recent involvement with, or is currently involved with Oranga Tamariki, Practice Analysis will be undertaken. Practice Analysis provides Oranga Tamariki with an opportunity to review its own involvement with the tamariki and their whānau against relevant practice policy expectations and standards and consider opportunities for learning and improvement.
- 6.52 Practice Analysis are used to drive practice improvements. For example, following a practice review into the death of an infant¹⁶⁹ in June 2017 which found that there was little collaboration with other agencies and a lack of safety the Chief Executive committed to a plan to strengthen practice and decision making which included building the capability of staff to exercise professional judgement in areas of risk and ambiguity.
- 6.53 Updates have been made to the intake and assessment policy, with additional considerations being introduced for when Oranga Tamariki receives a Report of Concern for a newborn or unborn pēpi, to strengthen the response.¹⁷⁰
- 6.54 Oranga Tamariki has also updated guidance on breastfeeding and safe sleeping, to ensure support for caregivers to follow policies around safe sleeping and breastfeeding and help them address concerns.¹⁷¹
- 6.55 Further work is currently underway that will include greater information for staff about working with and supporting the whānau or families when a child dies, including being culturally responsive in their support.¹⁷²
- 6.56 It will also include information for staff about the immediate role of the coroner so that staff can better support and inform whānau or family about this. The current draft policy has a requirement for the social worker to advise the whānau or family that the Coroner will be involved and inform them of their rights.
- 6.57 Oranga Tamariki has identified and implemented specific steps that need to be carried out in situations when the child or young person who has died is in the custody or guardianship of the chief executive, an iwi or cultural social service, or a child and family support service. The site or residence needs to:¹⁷³

¹⁶⁹ Oranga Tamariki—Ministry for Children “Release of practice review into infant death” (13 June 2017) <https://www.orangatamariki.govt.nz/about-us/news/release-of-practice-review-into-infant-death/>

¹⁷⁰ Oranga Tamariki—Ministry for Children Practice Centre “Strengthening our response to unborn and newborn pēpi” (22 July 2021) <https://practice.orangatamariki.govt.nz/our-work/assessment-and-planning/assessments/intake-and-early-assessment/strengthening-our-response-to-unborn-and-newborn-pepi/>

¹⁷¹ Oranga Tamariki—Ministry for Children Practice Centre “Breastfeeding – caring for and nurturing a pēpi” (6 May 2021) <https://practice.orangatamariki.govt.nz/our-work/care/caring-for-tamariki-in-care/breastfeeding-caring-for-and-nurturing-a-pepi/>

¹⁷² Oranga Tamariki—Ministry for Children Practice Centre “Safe Sleep” (8 November 2021) <https://practice.orangatamariki.govt.nz/policy/safe-sleep/>; and Oranga Tamariki—Ministry for Children Practice Centre “Safe Sleeping” (19 July 2021) <https://practice.orangatamariki.govt.nz/our-work/assessment-and-planning/assessments/conducting-an-assessment/safe-sleeping/>

¹⁷³ Oranga Tamariki—Ministry for Children Practice Centre “When a child or young person dies” (31 July 2017) <https://practice.orangatamariki.govt.nz/previous-practice-centre/policy/caring-for-children-and-young-people/resources/when-a-child-or-young-person-dies/>

- a. Notify the police and consider whether the Child Protection Protocol applies in this situation.
 - b. Send a Serious Event Notification to the relevant regional Executive Manager and Regional Manager advising of the death.
 - c. Make all relevant electronic and paper records confidential, and ensure that case information on CYRAS (Oranga Tamariki's case file system) is up-to-date. If this is not done immediately, this must be done in retrospect.
 - d. Develop a plan which outlines how the site will support the whānau or kaimahi during this difficult time.
- 6.58 Oranga Tamariki staff members are also expected to clearly record and evidence in CYRAS what has been done or planned to support the child or young person's whānau or family.
- 6.59 Oranga Tamariki will consider the provision of additional support for the site or residence. This is particularly important where a site or residence may have experienced a number of deaths in a short space of time, where it is short staffed or unable to respond to the extra demands associated with such an event, or if the circumstances of the death are particularly traumatic or distressing.
- 6.60 The site manager or the residence manager are the first point of contact and assume responsibility for managing the situation. They may choose to have a meeting to formulate a plan which:
- a. considers all staff, including those who may be off site, on training, annual leave or who have recently left the site;
 - b. determines what is appropriate for staff to know;
 - c. seeks advice from legal where required, for example during a police investigation;
 - d. ensures appropriate staff are allocated to any ongoing casework;
 - e. nominates a first contact point for families/caregivers or any other relevant parties; and
 - f. considers supports for staff, family, caregivers, other children or young people (particularly when a child or young person dies in a residence) and that there is ongoing support throughout the entire process e.g. Police, Court and Coroners proceedings.
- 6.61 From 1 April 2017 until 27 February 2022, there has been 32 deaths of children in care. This figure is for children that Oranga Tamariki held a legal status for at the time of their death. Of these, 22 identified as Māori and three identified as Māori and another ethnicity, a total of 25. Of the 32 deaths, 18 were identified as 'natural causes'
- 6.62 Oranga Tamariki is committed to improving and understanding how to keep all tamariki safe in state care. Particular attention is needed for the most vulnerable tamariki Māori

7. Vetting and safeguarding

Q 20-23: Lessons learned and changes – vetting caregivers and staff

- 7.1 Oranga Tamariki has learned that staff and caregivers need to be appropriately assessed to ensure that they are suitable people to care for children, young persons, disabled persons or persons with mental health conditions. The lessons learned are reflected in the reports and findings set out in Section One.
- 7.2 In deciding whether staff and caregivers are appropriate for their roles, Oranga Tamariki considers the standard of care that every child and young person needs to do well and be well, as reflected in the National Care Standards.

Assessment of suitability of caregivers

- 7.3 Assessment enables Oranga Tamariki to determine prospective caregivers' suitability to provide care. Their capability and capacity are matched against unique needs of te tamaiti.¹⁷⁴ Oranga Tamariki adopts a framework made up of six core attributes: safety; attachment; resilience; identity; integrity; and support.
- 7.4 The purpose of assessing a prospective caregiver or adoptive applicant and their household is to enable it to determine their suitability to provide care. Oranga Tamariki must consider their ability to:
- a. provide an appropriate standard of care for te tamaiti;
 - b. provide a safe, stable, and loving home for te tamaiti;
 - c. respond to the needs and advance the wellbeing of te tamaiti;
 - d. value te tamaiti for who they are and promote and support their identity and aspirations;
 - e. support te tamaiti to maintain and strengthen their whakapapa connections;
 - f. recognise and support the practice of whanaungatanga in relation to te tamaiti; and
 - g. provide a new family for a tamaiti in need of adoption.
- 7.5 Prospective caregivers, and their household, must be assessed and approved as suitable to provide care on behalf of the Oranga Tamariki chief executive before tamariki can be placed with them. In urgent situations, this may be a provisional assessment. Oranga Tamariki must complete the assessment and approval process within 90 calendar days of the date the prospective caregiver or adoptive applicant confirms they want to proceed with a full assessment.
- 7.6 Oranga Tamariki has an assessment criterion which is part of its caregiver and adoptive applicant assessment and approval policy and procedure. It assesses:
- a. the prospective caregiver or adoptive applicant's experience, skills (including understanding trauma) and attitudes relevant to their ability to provide safe, stable, loving care;
 - b. the prospective caregiver or adoptive applicant's ability to respond to the needs, and advance the wellbeing of a tamaiti;
 - c. the prospective caregiver or adoptive applicant's cultural competency, including their ability and willingness to promote and support cultural identity and connections for te tamaiti and ability to foster and support whanaungatanga;

¹⁷⁴ Oranga Tamariki—Ministry for Children Practice Centre “**Caregiver and adoptive applicant assessment and approval**” (11 February 2022)
<https://practice.orangatamariki.govt.nz/policy/caregiver-and-adoptive-applicant-assessment-and-approval/>

- d. the needs, strengths and circumstances of the prospective caregiver or adoptive applicant and their household;
- e. the safety, adequacy and appropriateness of the physical caregiving environment – their willingness and capacity to provide a smoke and vape free environment must be included in a home visit; and
- f. what support and capability building the prospective caregiver or adoptive applicant and their household might need to help them provide care.

7.7 The assessment must also consider:

- a. the types of care the prospective caregiver or adoptive applicant is seeking to provide;
- b. the needs of the particular tamaiti being placed or considered for adoption — if there is an identified tamaiti in mind; and
- c. the likely effects on te tamaiti and the household if te tamaiti is placed with a particular household, including the effect on other tamariki within the home.

7.8 There are additional components of an assessment in specific situations. Examples of these include:

- a. **For particular tamaiti:** If the caregiver assessment is being undertaken for a specific tamaiti, the Tuituia assessment framework is used to assess needs, strengths, risks for the tamaiti.
- b. **Family Home Caregiver:** If the assessment is for a prospective Family Home Caregiver, the assessment must additionally include:
 - i. exploration, assessment of issues specifically relating to providing care in a Family Home;
 - ii. confirmation of current COVID-19 vaccination status certificate and willingness to maintain this certificate; and
 - iii. a panel interview.
- c. **Applicant is an Oranga Tamariki staff member:** In these situations, Oranga Tamariki ensures there is no conflict of interest. Such applicants must be assessed by someone who works at a different site or, where appropriate, an NGO may be commissioned to complete the assessment. Oranga Tamariki staff cannot be considered for any caregiving or adoptive roles involving tamariki they are directly working with.
- d. **Youth justice — custody of a tamaiti or rangatahi pending hearing:** Where a tamaiti or rangatahi appears before the Youth Court, the court has a range of options for custody, including ordering that te tamaiti or rangatahi be: delivered into the custody of any person approved by the chief executive for the purpose 238(1)(c); detained in the custody of the chief executive, an iwi social service, or a cultural social service 238(1)(d).
- e. **If the assessment is for custody under section 238(1)(c):** If the Youth Court has ordered a tamaiti or rangatahi to be delivered into the custody of a person approved by the chief executive under section 238(1)(c), a full caregiver assessment and approval is not required because in these circumstances Oranga Tamariki is not deemed to have legal custody of the young person. The social worker must take steps to be satisfied that the proposed carer can provide safe and suitable care and meet the needs of te tamaiti or rangatahi. The social worker will: complete identity checks, police vetting and CYRAS and TRIM checks for all members of the household; interview the proposed carer to ensure they can provide safe and suitable care and meet the needs of te tamaiti; and visit the home to check the safety of the environment.

- f. **If the assessment is for detention under section 238(1)(d):** If a tamaiti detained under section 238(1)(d) is placed in a community placement, not a Youth Justice Residence, they must be placed with a caregiver who has been approved following a full caregiver assessment. This assessment will need to consider whether the care arrangement meets the requirements for a young person to be deemed as 'detained' in custody.
 - g. **Assessment of a placement as a result of a family group conference where the chief executive has no legal status:** If whānau or family decide that a tamaiti who is not in the care or custody of the chief executive needs to be cared for by someone other than their parent or usual caregiver as a result of a family group conference, Oranga Tamariki must be assured that the placement is safe and suitable for the needs of te tamaiti. At a minimum, a social worker will: visit the home to check the safety and suitability of the environment; meet with the parents and proposed carers together (where possible) to clarify the details of the care arrangement; and complete identity checks, police vetting and CYRAS checks (with consent) for all members of the household aged 18 years or older.
 - h. **Assessments for a prospective caregiver or adoptive applicant living overseas:** Placement of tamariki with someone who lives overseas requires an additional level of assurance as our ability to monitor and support them is limited after placement. Before agreeing to place te tamaiti with someone who lives overseas, a recognised social service agency in the placement country must complete an assessment of the prospective caregiver to ensure the placement is viable and in the best interests of te tamaiti.
- 7.9 Oranga Tamariki also completes suitability checks for a prospective caregiver or adoptive applicant and members of the caregiver's or adoptive applicant's household who are 18 years or older. Individuals undergoing a suitability check must be interviewed to gather and explore information as part of the assessment process. Oranga Tamariki considers whether they pose, or would pose, any risk to the safety of te tamaiti and, if so, the extent of that risk.
- 7.10 As part of a suitability check, Oranga Tamariki gathers and considers the following information about the applicant (further explanation about the details of what is considered is contained in detailed guidance within the Practice Centre):¹⁷⁵
- a. **Identity confirmation:** Identity of the applicant must be confirmed.
 - b. **Police vetting information and a risk assessment of the information obtained:** Information and risk assessment of that information (consent to that is required) must be obtained from all individuals undergoing a suitability check. It may also be required of other individuals such as rangatahi aged under 18 who reside in the home, or people aged 18 and older who have connections to prospective caregiver/household, and are likely to have regular unsupervised/overnight contact with tamariki. If Oranga Tamariki makes a decision not to complete aspects of this, the rationale for not completing a suitability check must be made in consultation with a supervisor, and recorded.

¹⁷⁵ Oranga Tamariki—Ministry for Children Practice Centre "Review of caregiver approval" (11 February 2022) <https://practice.orangatamariki.govt.nz/policy/review-of-caregiver-approval/>; and Oranga Tamariki—Ministry for Children Practice Centre "Assessing information from suitability checks" (1 April 2019) <https://practice.orangatamariki.govt.nz/our-work/care/caregivers/assessing-and-approving-caregivers-and-adoptive-parents/assessing-information-from-suitability-checks/>

- c. Applicants are not automatically disqualified if they have criminal convictions or a history with police or Oranga Tamariki. The assessing social worker can decide to decline a prospective caregiver if they have been convicted of any offences, and if other individuals who have undergone suitability check have been convicted of any offences.
- d. **Residential addresses from the previous 5 years:** These details must be obtained from applicants. The intention of assessing this information is to ensure tamaiti has stability. Oranga Tamariki needs to be confident that a caregiver can provide consistency, security, a safe, stable home base. The reasons for changes of address are considered and taken into account (for example, work transfers and relationship issues).
- e. **Referee checks:** Applicants must provide at least two referees who have known them at least two years (one referee must not be related to applicant and one referee must be member of person's extended family). At least two referees named by each person must be contacted, to request information to assist the assessment of the applicant.
- f. **Medical report, for the prospective caregiver or adoptive parent only:** This must be provided by the applicant's doctor.
- g. **Immigration status of the prospective caregiver or adoptive applicant only:** The applicant must provide evidence of citizenship, permanent residency or other immigration status. Prospective permanent caregivers/short-term caregivers/adoptive applicants must have New Zealand citizenship or New Zealand permanent resident status with no travel restrictions.
- h. **CYRAS and TRIM records:** Oranga Tamariki must search its records for information about the applicant (consent to this is required).

Vetting in relation to staff

- 7.11 On 1 July 2015, safety checking regulations for the children's workforce came into force: Children's (Requirements for Safety Checks of Children's Workers) Regulations 2015. These changes were implemented following the White Paper for Vulnerable Children's findings that there was a lack of consistency in police vetting across the country for those who regularly work with children.
- 7.12 The regulations require all paid people who work with children or tamariki for government-funded organisations to be safety checked, and to have these safety checks updated every three years. Oranga Tamariki police vetting policies are in line with these mandatory requirements.
- 7.13 Furthermore, mandatory registration is required to practise social work in New Zealand (in accordance with amendments implemented in February 2021 to the Social Workers Registration Act 2003). The Social Workers Registration Board (**SWRB**) is authorised to register social workers.
- 7.14 When allocating a key worker for te tamaiti or rangatahi and their whānau or family, Oranga Tamariki supervisors also consider:¹⁷⁶
 - a. the needs of newly qualified staff, those returning from extended absences and other individual circumstances;
 - b. matching the complexity of the reported concerns or offending history with the level of experience and expertise held by the worker;
 - c. the necessary cultural competence and required skills to engage cross-culturally;

¹⁷⁶ Oranga Tamariki—Ministry for Children Practice Centre "Allocating a key worker and co-worker" (28 May 2020) <https://practice.orangatamariki.govt.nz/our-work/assessment-and-planning/assessments/conducting-an-assessment/allocating-a-key-worker-and-co-worker/>

- d. allocating a co-worker if there are complex issues and concerns, or specialist knowledge is required; and
- e. the voice and views of tamariki and whānau or family.

Q 21-23: Historical approach to Police vetting in relation to staff

- 7.15 Prior to mandatory police vetting established by the Children's (Requirements for Safety Checks of Children's Workers) Regulations 2015, Oranga Tamariki, or Child, Youth and Family, required all employees whose roles involved the care and protection of children and/or who worked with or had exposure to families, children and young persons and/or their records to undergo background checks, including full Police checks.¹⁷⁷ Child, Youth and Family also applied these to certain unpaid workers.
- 7.16 Oranga Tamariki is not able to identify what year mandatory police vetting was implemented for staff.
- 7.17 In relation to foster parents, the Social Workers Manual c 1970, states:
- The police have agreed to undertake a check of prospective foster-parents where this is considered necessary. These checks will be carried out in the same way and using the same form as for adoptive applicants. Requests for such checks should be kept to a minimum and should be made only where some doubt exists about the applicants' character or background.
- 7.18 At a point in time between 1970 and 1981, police checks appear to have become a requirement for foster parents on the basis that the Amended Social Worker's Manual post 1981 states: "Police checks on prospective foster parents should be carried out in the same way and using the same forms for adoptive applicants." (This was compulsory for adoptive applicants at this point).
- 7.19 In about 1988, Police agreed to undertake same checks of voluntary agency foster parent applicants as for prospective DSW foster parents.¹⁷⁸ The New Zealand Foster Care Federation had asked if such Police checks could be undertaken on a national basis for all voluntary agencies providing foster care. They were already doing police checks at this point. However, it is unclear if this refers to mandatory police checks or not.
- 7.20 The Ministry ensures that staff applicants who have previously offended against children are not employed, using the following steps:
- a. For applicants with criminal history, or a finding in CYRAS that they have abused/neglected/harmed a tamaiti, approval may require special consideration.
 - b. There is delegated approval for this special consideration, depending on level of conviction, ranging from CGRS Manager to DCE Care Services. Only under extraordinary circumstances will special consideration for serious offences involving the harm or exploitation of others be granted.

Q 24: Supervision and inspection of foster homes and foster carers

Lessons learned

- 7.21 Oranga Tamariki has learned lessons about the supervision and inspection of foster homes and foster carers, regarding the protection and safeguarding of children and young persons in the reports and inquiries addressed in the

¹⁷⁷ Oranga Tamariki—Ministry for Children "The White Paper for Vulnerable Children, Volume II" (24 March 2017) at 146 <https://orangatamariki.govt.nz/assets/Uploads/Support-for-families/childrens-teams/whitepaper-volume-2.pdf>

¹⁷⁸ Department of Social Welfare Circular Memorandum 1988/26 "Police checks of prospective voluntary agency foster parents (SWK 4-1)" (3 June 1988)

introductory section of this response. These reflect aspects of the historical position.

Current approach

- 7.22 Oranga Tamariki requires that both tamariki and caregivers are regularly visited by social workers.
- 7.23 Since the establishment of Oranga Tamariki, it has significantly strengthened its practice quality assurance system, including mechanisms for monitoring the quality of practice for children in care. Changes to the quality assurance relevant to foster homes and foster carers include:
- a. Analysis on a random sample of children's case files (their CYRAS records) on a quarterly basis. The results of this monitoring are used for continuous improvement, and to provide information to the Independent Children's Monitor to support independent oversight of compliance with the Care Standards.
 - b. New routine monitoring of the quality of practice for children in care by site-based Practice Leaders, who use a structured set of quality criteria aligned to the National Care Standards to assess the quality of practice for a sample of children in care within their community each quarter. Results are used to provide feedback to individual social workers, and to identify patterns and trends in practice locally to support continuous practice improvement.
 - c. New routine monitoring of the quality of practice for caregivers (including assessment and support) by Supervisors responsible for caregiver social workers. Results are used to provide feedback to individual social workers, and to identify patterns and trends in practice to support continuous practice improvement.
 - d. A new routine process for monitoring the quality of care against aspects of the National Care Standards regulations, with a national-level quality assurance team carrying out case file.
- 7.24 Group home arrangements are generally run on a staffed model of care as opposed to individual caregivers. There are only a small number of Oranga Tamariki Family Home Caregivers left. As they leave, they are replaced by a care partner contracted by Māori Partnerships and Communities to deliver a specified service. Māori Partnerships and Community have a series of Quality Assurance mechanisms in place to monitor these.
- 7.25 Oranga Tamariki does not currently monitor group home arrangements. However, there is currently assurance work underway to better understand the current arrangements across the spectrum of community homes and make recommendations around any changes needed to strengthen monitoring and oversight of these arrangements.

Q 25: Oversight of foster home and family home carers

Lessons learned

- 7.26 The lessons learned by Oranga Tamariki in relation to the oversight of foster home and family home carers are reflected in the reports and findings set out in Section One, and the further reports and reviews set out in the following sections.

Standard and accessibility of premises

- 7.27 In 2018 MSD contracted building consultants Maynard Marks to carry out condition assessments on all our owned kāinga to inform a ten-year maintenance plan. This plan was never implemented. At the end of June 2020, ownership of the homes transitioned from MSD to Oranga Tamariki. At this point in time, it was very apparent that most of the homes were overtly institutional in feel and fabric and were in a poor state of repair, as no routine maintenance was undertaken in the preceding 20 years, with one kāinga being upgraded each year. The Maynard

Marks condition assessments identified 57 percent of the kāinga transferred were in moderate or poor condition.

- 7.28 A significant upgrade programme has been underway since the kāinga transitioned to Oranga Tamariki to bring the majority of our owned homes up to Healthy Homes Standards, which includes insulation, damp proof courses, double glazing and replacing end of life Heating, Ventilation and Air Conditioning (HVAC) systems. A small number of homes will not be upgraded to meet Healthy Homes Standards as these are identified to be either demolished or sold.
- 7.29 Accessibility is achieved through architectural design and by integrating accessibility features such as modified furniture, electronic devices, handrails and hoists and deciding whether or not a kāinga is accessible, depends on the nature and extent of a person's disability. None of our kāinga, which were constructed in the 50s, 60s and 70s, were designed to incorporate accessibility modifications from the outset and thus none could be described as fully accessible. Currently our kāinga contain varying accessibility modifications such as ramps, handrails, grab bars and baths as well as showers.
- 7.30 We received \$30 million of capital funding and \$35 million of operating funding over six years in Budget 2019 to build 10 whakaruruhau kāinga to help address issues with long term care capacity for those with high and very high support needs. The first of these homes is nearing completion and this home has been designed from the outset to incorporate accessibility features such as ramp access with zero-step entry, wider doorways, wet rooms and toileting facilities that can enable full accessibility.

Sleeping arrangements

- 7.31 Homes are set up so that each tamariki and rangatahi have their own bedroom, unless they are sibling group and it is in their best interest for them to be sharing a bedroom.

Auditing of allowances for foster homes

- 7.32 In 2020, Oranga Tamariki completed a review of the financial assistance for caregivers.¹⁷⁹ Part of this review considered whether financial assistance is reaching tamariki.
- 7.33 Oranga Tamariki advises foster parents that all pocket money and other allowances must be passed on to tamariki and must never be withheld as a form of punishment.¹⁸⁰ However, Oranga Tamariki acknowledges that it learned through the review into financial assistance for caregivers that advocates had ongoing concerns about allowances not being appropriately passed on to tamariki.
- 7.34 Oranga Tamariki educates tamariki about their entitlements to ensure that they are financially supported. Tamariki and rangatahi are supported to make decisions about how they receive their pocket money, and their views are taken into account about whether they are paid pocket money directly or it is paid into

¹⁷⁹ Oranga Tamariki—Ministry for Children “Review of financial assistance for caregivers, Summary of engagement findings: Final report” (June 2020)
<https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Report-and-releases/Cabinet-papers/Financial-assistance-caregivers/Review-of-Financial-Assistance-for-Caregivers-Summary-of-Engagement-Findings.pdf>

¹⁸⁰ Oranga Tamariki—Ministry for Children Practice Centre “Allowances to support tamariki and rangatahi in care or custody and their caregivers” (27 October 2020)
<https://practice.orangatamariki.govt.nz/our-work/care/caregivers/support-for-caregivers/allowances-to-support-tamariki-and-rangatahi-in-care-or-custody-and-their-caregivers/>; and
Oranga Tamariki—Ministry for Children Practice Centre “Caregiver support” (30 March 2022)
<https://practice.orangatamariki.govt.nz/policy/caregiver-support>

their bank account. Tamariki are encouraged to inform their social worker or contact VOYCE - Whakaronga Mai if they are not receiving their entitlements.¹⁸¹

Q 26: Regulations or rules covering the standards of care of children prior to Care Standard Rules

- 7.35 Prior to the Care Standard Rules of 2018, residential care was governed by the Oranga Tamariki (Residential Care) Regulations 1996. These regulations require every residence to be inspected at least once every calendar year to ensure that those regulations, the Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018 and certain provisions of the Oranga Tamariki Act 1989 are/were satisfied.¹⁸²
- 7.36 The Regulations were implemented through codes of practice.¹⁸³ This continued the practice of such codes prior to the Regulations being introduced.¹⁸⁴

¹⁸¹ Oranga Tamariki—Ministry for Children “If you are a child or young person in care or custody you have a right to Pocket money and allowances”
<https://practice.orangatamariki.govt.nz/assets/Our-work/Care/rangatahi-resource-pocket-money-and-allowances-poster.pdf>

¹⁸² Oranga Tamariki—Ministry for Children (Residential Care) Regulations 1996, clause 37(1).

¹⁸³ For example, Child, Youth and Family “Code of Practice: Residential Services” (July 2003).

¹⁸⁴ For example, Department of Social Welfare “A Code of Practice for Residential Institutions” (1 April 1985)

8. Complaints

Q 27: Complaints and disclosures of abuse in State care

Lessons learned

- 8.1 Oranga Tamariki has learnt the following lessons about the importance of an effective system for complaints and disclosures of abuse in the care and protection system:¹⁸⁵
- a. That an effective complaints system can resolve issues, lead to improvements in service delivery and improve the reputation of an organisation.
 - b. Some children and young people face barriers to giving feedback or making complaints.

Current approach to complaints mechanisms

- 8.2 In 2019, the Oranga Tamariki Act 1989 was updated to include the importance of including the voices and participation of tamariki and rangatahi (notably through the introduction of Family Group Conferences which supports the involvement of the wider family group by holding a meeting where Oranga Tamariki support whānau to come together, when there are concerns about the way a tamaiti or rangatahi is cared for, their safety or wellbeing, or if there is offending). Family Group Conferences are addressed in response to question 6 of the Notice.
- 8.3 VOYCE – Whakarongo Mai, is a service that was established as an NGO in 2017 in response to recommendations from the Expert Panel on Modernising Child, Youth and Family, “*to embed the voices of tamariki and rangatahi with care experience at all levels of decision-making by providing for independent advocacy at an individual and system level, and through on-going roles in service design and governance.*” VOYCE – Whakarongo Mai was designed in partnership between philanthropies, care-experienced rangatahi, the NGO sector and government.
- 8.4 Oranga Tamariki also seeks bespoke insights and engagement from tamariki and rangatahi with care experience through the Oranga Tamariki Youth Advisory group (which is an internal group) and the VOYCE – Whakarongo Mai National Youth Council (which is an independent/external group), as well as working closely with VOYCE – Whakarongo Mai and sharing insights from tamariki and rangatahi with care experience.
- 8.5 Oranga Tamariki is committed to using feedback from tamariki and rangatahi to drive policy, practice and service improvements.¹⁸⁶ Therefore, Oranga Tamariki also runs Te Tohu o te Ora, an annual national voluntary survey of eligible tamariki and rangatahi aged 10 to 17 who are in care. This survey was designed with help from rangatahi with care-experience. These findings help Oranga Tamariki better understand whether Oranga Tamariki are making a difference to the experiences of tamariki and rangatahi in care.
- 8.6 A report on these findings, *Te Mātātaki*, is released publicly so tamariki, rangatahi, whānau, and the community can hold Oranga Tamariki to account. The first report was released in 2021.

¹⁸⁵ Oranga Tamariki—Ministry for Children “Feedback and Complaints Systems: A Rapid Review” (October 2018) <https://orangatamariki.govt.nz/assets/Uploads/About-us/Research/Latest-research/Feedback-and-complaints-report/Feedback-and-complaints-systems-A-rapid-review.pdf>

¹⁸⁶ Oranga Tamariki—Ministry for Children “Te Mātātaki 2021: Findings from the 2019/2020 survey of tamariki and rangatahi in care” (May 2021) at 36 <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Research/Latest-research/Te-Matataki/Te-Matataki-Report-2021.pdf>

- 8.7 The *Future Direction Plan* will support strengthening the feedback and complaints system so it is ‘fit-for-whānau’, and ensures that tamariki, rangatahi and their whānau have their voices heard and have confidence in the process.¹⁸⁷ Oranga Tamariki is co-designing a project with VOYCE – Whakarongo Mai, community and whānau organisations, to develop a fit-for-whānau approach to the feedback and complaints system.
- 8.8 In respect of those in residences, rangatahi and families and whānau are given information on the grievance system on admission to a residence and this encourages them to talk to the person they are dealing with or to ask for the manager. However, not everyone is comfortable with this avenue, so Oranga Tamariki provides for feedback to be given online.¹⁸⁸
- 8.9 At this time there are grievance processes in place which are monitored both internally and externally. Findings on grievances and the nature of the grievances themselves are reported on a regular basis.

Q 28 and 30: Other information about complaints relevant to Oranga Tamariki’s response to Notice No. 14

- 8.10 Oranga Tamariki accepts:
- a. That there have been occasions where children and young people have disclosed allegations of abuse which went unheard. As a result, these have not been formally responded to or recorded.
 - b. That when allegations/disclosures have been responded to, there have been occasions when these allegations/disclosures were not formally recorded.
 - c. That even when allegations/disclosures are responded to and recorded, these cannot be reported at an aggregate level.
- 8.11 Oranga Tamariki acknowledges that the differences in reporting, response and recording, is a direct result of the very different cultural, legislative and policy parameters in place, between 1950 and 2010.
- 8.12 Oranga Tamariki notes that it was not until the mid-1970s that most jurisdictions around the world formally acknowledged child abuse in legislation and policy. Oranga Tamariki recognises that, historically, conversations about child abuse and children’s and young people’s rights, were limited or in some communities non-existent. This reflects that social work practice operates within a cultural and historical context. Context includes changing moral attitudes and persuasion, which in turn determines the expected role of the state through regulatory and legislative functions, that in turn establish practice standards.

Paragraph 5 of Ms Nichols’ statement

- 8.13 In the statement provided to the Commission by Andrea Nichols dated 23 October 2020 in response to NTP14, Ms Nichols stated:

For the period 1950 to 2010 information about allegations of abuse, subsequent investigation and assessment, and outcomes (where recorded) is held on individual case files (either electronic or paper based) and cannot be reported without reviewing each individual case file.

- 8.14 Oranga Tamariki confirms that no manual exercise for this period has been completed. In 2011 Child, Youth and Family established a manual review of casefiles to report on numbers of children and young people in care with findings of abuse (sexual, physical, emotional and neglect) within specific parameters.

¹⁸⁷ Future Direction Plan at [1.4].

¹⁸⁸ Oranga Tamariki—Ministry for Children “Feedback” (23 May 2022) www.orangatamariki.govt.nz/about-us/contact-us/feedback

The specific parameters of the abuse experienced by children changed over time and did not reflect all care arrangements. For example, the initial parameters of the review looked at Ministry approved caregivers only. As the review work progressed, the parameters changed to include children in the wider care population. This was the first time such information was reported at a national level.

- 8.15 The manual review process was completed annually to prepare reports for the years 2010 to 2015. The 'Abuse of Children in the Care of Child, Youth and Family' reports were provided to the Minister for Social Development. A subset of the data was reported within the MSD annual report, data provided was for the period 1 July to 30 June each year. Child, Youth and Family conducted five annual reviews from 2010/2011 to 2014/2015.

Current practice

Investigating allegations of abuse, neglect and harm

- 8.16 The definitions used by Oranga Tamariki in relation to abuse, neglect and harm are addressed in response to question 7 of this response.
- 8.17 The current practice for investigating allegations of harm for tamariki and rangatahi in care is extensive and part of the Practice Centre in relation to the following policies:
- a. Allegations of harm (ill-treatment, abuse, neglect or deprivation) of tamariki in care or custody.¹⁸⁹
 - b. Allegations of harm towards rangatahi aged 18 and above by transition caregivers.¹⁹⁰
- 8.18 Oranga Tamariki operational policies are updated based on internal and external drivers. Internal drivers include the policies coming up for scheduled review (generally 6 or 12 months), insights or changes in practice, recommendations from practice reviews, and shifts in organisational priorities. External drivers include Ministerial or Ombudsman review or recommendations. The associated training for each policy is determined on a case-by-case basis.
- 8.19 The policy relating to allegations of harm towards rangatahi aged 18 or above by transition caregivers was published on 11 January 2021. This was a new policy as it was noted that the policy regarding allegations did not apply to the cohort of rangatahi aged 18 and above, as a Report of Concern cannot be made for a rangatahi over the age of 18.
- 8.20 In terms of training for investigation allegations of abuse, neglect and harm, Four Drop-In sessions for senior frontline staff – including Regional Senior Advisors, Practice Leaders, Supervisors, Care Managers, were held in March 2022 which were attended by 180 staff from Services for Children and Families, Youth Justice, CGRS, Residence, Professional Practice Group and Safety of Children in Care. The Drop-In sessions provided an overview of the new policy and guidance.

Complaints

- 8.21 Oranga Tamariki treats complaints as distinct from allegations of harm (ill-treatment, abuse, neglect or deprivation), and the matters are handled very differently. Oranga Tamariki has clear processes in place to ensure all complaints

¹⁸⁹ Oranga Tamariki—Ministry for Children Practice Centre “Allegations of harm (ill-treatment, abuse, neglect or deprivation) of tamariki in care or custody” (14 March 2022) <https://practice.orangatamariki.govt.nz/policy/allegations-of-harm-ill-treatment-abuse-neglect-or-deprivation-of-tamariki-in-care-or-custody/>

¹⁹⁰ Oranga Tamariki—Ministry for Children Practice Centre “Allegations of harm towards rangatahi aged 18 and above by transition caregivers” (23 February 2022) <https://practice.orangatamariki.govt.nz/policy/allegations-of-harm-towards-rangatahi-aged-18-and-above-by-transition-caregivers/>

are undertaken appropriately, in a timely, fair and tamariki focused way. Oranga Tamariki understands that all complaints are unique, and the issues raised are often complex and of a sensitive nature. It aims to take that complexity into consideration, so each investigation and response are unique to the matters raised.

- 8.22 In September 2018, Oranga Tamariki prepared a feedback and complaints report.¹⁹¹ The purpose of the evaluation was to identify any difficulties posed by the Child, Youth and Family (CYF) feedback and complaints system. The Evidence Centre's evaluation team conducted 18 interviews with 25 stakeholders from Child, Youth and Family/MSD and external agencies and organisations.
- 8.23 Key findings from the report included:
- a. Social workers and Child, Youth and Family do not have a 'customer service' focus.
 - b. The new system needs to ensure there is clear action in response to feedback or a complaint.
 - c. The new system needs to encourage child-centredness and show greater cultural responsiveness.
 - d. In order for Oranga Tamariki to develop a learning culture, the organisation needs to see mistakes as opportunities.
 - e. Good practice feedback and complaints systems should incorporate continuous learning, providing positive learning opportunities and experiences for social workers and the organisation. This needs to happen alongside improving capability, capacity, and usability of the feedback and complaints system.
- 8.24 The evaluation findings have helped inform the design and delivery of the feedback and complaints system used by Oranga Tamariki.
- 8.25 The Oranga Tamariki feedback and complaints team is organised into three areas of focus:
- a. A centralised intake and enabling group to ensure consistency of response and accuracy of recording and also provides dedicated reporting functionality to enable understanding of data and any patterns and trends in practice issues.
 - b. A site support team who provides dedicated and expert support to sites in reviewing and resolving complaints being managed by them.
 - c. A complaint management team who reviews complaints of a more complex and/or serious nature, or where there is a specific conflict of interest for sites.
- 8.26 The feedback and complaints process has been established to provide a local regional response with centralised and expert oversight and support when needed. This allows for any immediate learnings to be communicated during the progression of a complaint through the engagement at sites from our site support team.
- 8.27 Oranga Tamariki has clear processes in place to ensure the responses to whānau feedback and complaints are undertaken appropriately, in a timely, fair and tamariki focused way. It recognises that all whānau are unique, and the issues raised are often complex and of a sensitive nature. Oranga Tamariki aims to take this into consideration, so each investigation and response are unique to the matter raised.

¹⁹¹ Oranga Tamariki—Ministry for Children "Feedback and complaints report" (21 September 2018) <https://www.orangatamariki.govt.nz/about-us/research/our-research/feedback-and-complaints-report/>

- 8.28 Monthly reporting at a regional level and quarterly thematic reporting also provides a regular touchpoint to ensure that Oranga Tamariki is meeting practice standards in its delivery to feedback providers. Wider practice themes and patterns are identified and provided to regions and other business groups to inform continuous improvement activities. Quality assurance reviews are undertaken at various points in the process which also allow Oranga Tamariki to understand any areas of inconsistent practice or learnings and it routinely (every month) provides regions with feedback on these activities to promote best practice and improvement activities.
- 8.29 Manaaki Korero forms part of the future direction plan and will examine ways that Oranga Tamariki can enable greater accessibility and improve the experience for tamariki and whānau.

Paragraph 6 of Ms Nichols' statement

- 8.30 Oranga Tamariki is unable to provide a proportion of allegations/allegations not reported on as allegations related to circumstances outside of the review parameters were not examined for the purposes of reporting.

Paragraph 7 of Ms Nichols' statement

- 8.31 The reports covering the five reviews undertaken during the period 2010 to 2015 have been provided to the Royal Commission in response to Notice to Produce No. 8. Between 2011 to 2015, themes identified from practice when responding to harm of children in care included:
- a. the need to strengthen how social workers made accurate judgements about the nature of abuse for tamariki in care;
 - b. the need to strengthen assessment;
 - c. support and monitoring of caregivers, including Child Family Support Service caregivers, and the need to strengthen decision making; and
 - d. robust and meaningful supports around families when children return home.
- 8.32 Practice themes specific to children included the need to help young people in care, learn how to keep themselves safe from potentially harmful situations and improving the quality, monitoring and review of children's care plans. All of these themes continue to be relevant to current practice.
- 8.33 During this period the following systemic issues were identified:
- a. organisations need to be able to compare data gathered year on year (consistent methodology);
 - b. improving the efficiency of how information was reported;
 - c. an acknowledgment that retrospective reviews missed opportunities to influence social work practice and outcomes for children; and
 - d. the need for a level of oversight, support and guidance to improve outcomes.
- 8.34 Social workers responded to allegations of abuse in the following way:
- a. responses took into account a risk assessment and safety planning; and
 - b. responses established the process that allowed issues to be identified, within casework during the review process (which at this time was retrospective) was to escalate to sites.

Paragraph 14 of Ms Nichols' statement

- 8.35 All recommendations of the Expert Measurement Group contained in the *Safety of Children in Care – Measurement of Harm* report of 2018 were implemented.

Q 29: Seclusion and medical treatment as punishment

- 8.36 Oranga Tamariki is aware of historic claims of seclusion and medical treatment being used as punishment. This is not endorsed or condoned by Oranga Tamariki.
- 8.37 Oranga Tamariki acknowledges that:
- a. Seclusion has a negative impact on children, who report experiencing feelings of fear, anger, abandonment, confusion, and punishment.¹⁹² For children with trauma-related histories, the experience of seclusion is re-traumatising, making therapeutic goals more difficult to attain.
 - b. Staff experience of seclusion is also negative, causing stress, psychological trauma, and spiritual trauma among Māori practitioners.
 - c. Seclusion is not effective in reducing either the frequency or intensity of challenging behaviour with children and adolescents. Rather, seclusion has been shown to increase the risk of serious physical harm, and even death, with children.
- 8.38 The use of seclusion can be significantly reduced, and even eliminated, through programmes that address staff management and training in alternative methods of behavioural management for challenging behaviours with young people.¹⁹³

Q 31: Referring allegations of criminal offending as part of Historic Claims to Police

- 8.39 This question will be addressed by MSD.

¹⁹² Oranga Tamariki—Ministry for Children “Therapeutic Residential Care Evidence Brief” (February 2020) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Research/Latest-research/Therapeutic-Residential-Care/Therapeutic-Residential-Care-Evidence-Brief.pdf>

¹⁹³ Oranga Tamariki—Ministry for Children Practice Centre “Use of secure care in care and protection and youth justice residences” <https://practice.orangatamariki.govt.nz/previous-practice-centre/policy/working-with-children-and-young-people-in-residences/key-information/use-of-secure-care-in-care-and-protection-and-youth-justice-residences/>

9. Training and support

Q 32: Lessons learned in relation to staff training about safeguarding and care needs

- 9.1 Safeguarding and care needs are essential to Oranga Tamariki's operation, and accordingly Oranga Tamariki consistently seeks to improve staff training.
- 9.2 Staff development focuses on providing the tools and resources to support individual staff development, while organisational development focuses on providing tools and resources to grow an organisational environment, and support cultural capability. Both priorities will serve to:
 - a. strengthen practice approaches in frontline and enabling functions;
 - b. strengthen how Oranga Tamariki works and engages, both internally and with partners, external stakeholders and importantly children, young people and their families;
 - c. enhance relationships with whānau and Māori; and
 - d. create a positive organisation culture.

Lessons learnt from 1950 to the present day

- 9.3 Learning and development as a discipline has shifted significantly over the last 50 years; a key development has been the greater emphasis in the last decade on meeting learning needs through better understanding and application of adult learning principles and approaches. This also includes improving staff cultural competency.
- 9.4 Reports and inquiries detailed in Section One have focused on the need for improvements to staff training, including providing a Māori perspective for training courses more directly related to the needs of the Māori.

The current programme

- 9.5 The Oranga Tamariki learning and development programme delivers:
 - a. **Puāwai Practice Induction Programme:** The Puāwai Practice Induction Programme is designed to ensure all social workers new to a role within Youth Justice, Services for Children and Families and Care Services have the foundation knowledge and skills necessary to be effective statutory social workers. This programme is reviewed on a quarterly basis to ensure all new staff have a strong foundation knowledge in the legal framework and in understanding the organisations obligations regarding 7AA and Te Tiriti o Waitangi | the Treaty of Waitangi. Changes to the programme in 2021 were made to introduce the Practice Shift Learning Cycle material into the delivery. This will be further strengthened through the new programme development. The programme includes understanding and responding to Māori and Pacific communities. It is currently being refreshed.
 - b. **Supervisor Development Programme:** The Supervisor Development programme is aimed at supervisors who are new to role and is designed to ensure there is consistency in the foundation level supervision skills of all Oranga Tamariki kaimahi with a supervisor role.
 - c. **Responding to Suicide Risk Programme:** Oranga Tamariki deliver a suicide prevention training programme in partnership with Clinical Services Aotearoa and Towards Wellbeing. This programme provides registered social workers with a core understanding of how to identify young people at risk of suicide, how to screen and how to refer.
 - d. **Safety Intervention Programmes:** Qualified learning facilitators deliver in-house training to front line staff in how to de-escalate situations that have the potential to result in harm. This learning is included in the Puāwai Practice Induction programme for new staff and is offered as a

refresher every two years for other staff. A core package is provided to social workers and casual staff working in Youth Justice, Services for Children and Families and Care Services. Programme governance is delivered through Crisis Prevention Institute (which is based in the United Kingdom, with a New Zealand branch) and was iterated in 2021 to be a trauma informed and child centric programme, better suiting the needs of the Oranga Tamariki staff.

Additional focus on responsiveness to the Māori perspective

- 9.6 Oranga Tamariki is shifting the starting point for learning planning, design and delivery to be drawn from Te Ao Māori approaches and methods. This has seen the introduction of specific Māori roles to support the development and delivery of learning. The following training courses are directly related to the needs of Māori and Pacific peoples:
- a. Oranga Tamariki has a cultural self-assessment available on MyLearn, this self-assessment was a very basic stocktake of kaimahi knowledge of specific Te Ao Māori principles, values, cultural expectations, key acts, legislation etc, and comprehension of how this affected Māori.
 - b. Oranga Tamariki also has the Te Kete Ararau and Talanoa mai application, which helps with support around learning into the cultural expectations for Māori and Pacific peoples as well as the *Te Pae* page referencing *Te Toka Tumoana*.
 - c. With regard to training around reo Māori, te Ao Māori and tikanga Māori principles: *Te Hāpai Ō*, which is Oranga Tamariki's Māori cultural competency framework, was launched in March 2022. As discussed earlier in this response, *Te Hāpai Ō* provides a focused, whole of organisation approach, to building cultural capability within Oranga Tamariki. *Te Hāpai Ō* is our approach to building and growing the cultural capability by prioritising two developmental areas – staff development and organisational development.

Monitoring and evaluation of staff training programmes

- 9.7 The current programme is assessed and existing gaps in the programmes delivered, such as responding pro-actively to understanding working with tamariki and whānau with disability and mental health challenges, are being addressed through the ongoing development Puāwai Practice Induction and the development of a new programme, Leaders of Practice, which is being built from a foundation of Te Ao Māori principles and approaches and which address the wide needs of the business as identified through a stakeholder engagement process completed in December 2021.
- 9.8 The Professional Development team have a monitoring and evaluation framework – Te Pou Aromatawai, which is currently being reviewed and adjusted to ensure alignment with a Te Ao Māori approach.
- 9.9 Additionally, the following monitoring and evaluation is taken in relation to each of the current programmes:
- a. **Puāwai Practice Induction Programme and Supervisor Development Programme:** The Puāwai Practice Induction Programme has evaluations attached to individual deliveries, and is reviewed on a programme-by-programme basis with Learning Facilitators, and again on a quarterly review basis as part of the review of the full suite of programmes.
 - b. **Responding to Suicide Risk Programme and Safety Interventions Programmes:** These programmes are evaluated using our partners' material and are reviewed through those agencies.
- 9.10 The new development for the Puāwai Practice Induction Programme and Leading Practice will include a capability framework and new learning curriculum, and coupled with a recognition framework, and will introduce a new assessment

process which includes imbedded qualifications and micro-credentialling. This is still in development and expected to be available for use in 2023.

Q 33: Lessons learned in relation to support for caregivers, parents and adoptive parents

- 9.11 The various reports outlined earlier in this response have provided Oranga Tamariki with lessons the support it provides caregivers, parents and adoptive parents who care for children and young persons who are in the care of the State.
- 9.12 To address these learnings, Oranga Tamariki has taken several steps, including those identified earlier in this response to address the issues raised in the reviews. For example, this has included improving financial support for caregivers.
- 9.13 Part 3 of the **National Care Standards** outlines the support caregivers are entitled to receive.¹⁹⁴ This is for all caregivers of tamariki who are in the custody of caregivers whether that be whānau caregivers, non-whānau caregivers, respite caregivers and emergency caregivers.
- 9.14 Evidence-based trauma-informed learning was piloted for caregivers for three years and is now offered in all regions in Aotearoa.¹⁹⁵ Trauma informed theory is focused on the impacts trauma can have on tamariki and whānau, when they have experienced challenging events at an individual or collective level.
- 9.15 Caregivers have a support plan developed with them to determine the supports they need to care for Tamariki who may have needs including mental health and disability and/or educational needs. The support plan also details how to keep Tamariki connected to their whakapapa or other cultural connections.

Q 34: Minimum qualifications and mandatory training to become a foster caregiver

Who can become a caregiver¹⁹⁶

- 9.16 There are no minimum qualifications for becoming a foster caregiver, apart from being 18 years or older, and permanent New Zealand residents or New Zealand citizens.
- 9.17 The priority is to find a caregiver from within a child's wider family, whānau, hapū, iwi or community who can offer them a safe, stable, loving home for as long as needed. Appropriate caregivers are found through family group conferences, hui a-whānau and our Whānau Care partnerships.
- 9.18 Sometimes non-kin caregivers for a child or young person are needed until they can safely return home or go to stay with a caregiver from their wider family or whānau. However, non-kin carers are used if a suitable whānau placement cannot be found. Oranga Tamariki supports non-kin caregivers to keep children in their care connected to their whānau or family and whakapapa. Both whānau or family and non-kin caregivers are also used to care for children and young people in an emergency or when their usual caregiver takes a break.
- 9.19 Around 70 percent of children, tamariki, young people, and rangatahi in care are Māori. Oranga Tamariki works in partnership with iwi and kāupapa Māori

¹⁹⁴ Oranga Tamariki—Ministry for Children Practice Centre “Care standards”
<https://practice.orangatamariki.govt.nz/our-work/care/care-standards/>

¹⁹⁵ Oranga Tamariki—Ministry for Children Practice Centre “Trauma-informed theory” (1 April 2019) <https://practice.orangatamariki.govt.nz/practice-approach/theories-underpinning-our-work/trauma-informed-theory/>

¹⁹⁶ Oranga Tamariki—Ministry for Children “Who can be a caregiver?” (7 June 2022)
<https://www.orangatamariki.govt.nz/caregiving/who-can-care/>

providers to connect tamariki Māori in care to caregivers from their whānau, hapū or iwi.

- 9.20 Through co-design Oranga Tamariki supports Whānau Care partners to determine their own ways of caring for their tamariki and rangatahi.
- 9.21 The needs of Whānau Care partners are all slightly different based on their aspirations for their tamariki, so the co-designed models of care will differ from partner to partner. The end goal is always the same – to connect tamariki and rangatahi Māori in care to their whakapapa through well-supported whānau caregivers.

Preparing to become a caregiver

- 9.22 A potential caregiver must make an application, involving application forms, medical forms, referees, and consent to Police vetting for household members and regular visitors 18 years and older.
- 9.23 Oranga Tamariki offers a *Prepare to Care* programme for those who become caregivers which is designed to help caregivers begin their journey with confidence.¹⁹⁷ The goal of the programme is to ensure caregivers have an understanding of their role and are ready to provide safe, stable, loving care for tamariki and rangatahi.
- 9.24 The assessment of an application includes a social worker meeting with the caregiver to discuss their application including:
 - a. their experience and strengths;
 - b. their ability to promote wellbeing;
 - c. their ability to nurture different cultures;
 - d. the safety of their home and vehicle;
 - e. what support the caregiver might need as they provide care for tamariki.

Q 35: Support for families where there is an identified risk of the children or young persons coming into care

- 9.25 Oranga Tamariki provide a range of support for tamariki, rangatahi and their whānau, when there is an identified risk of the tamariki or rangatahi coming into care.
- 9.26 A notable example of the support available is codified under s 28(b) of the Oranga Tamariki Act 1989. Section 28(b) gives those involved in the FGC process the ability to make decisions, recommendations and plans for a tamaiti or rangatahi, where the FGC considers these desirable for a tamaiti or rangatahi who is in need of assistance. This is in addition to the ability to make decisions, recommendations and plans where the family group conference considers these desirable for a tamaiti or rangatahi in need of care or protection.
- 9.27 These changes also allow FGC's to meet the needs of a tamaiti, rangatahi and their whānau in a more expansive way. This can include providing assistance for the needs or wellbeing of a tamaiti or rangatahi and their whānau.
- 9.28 As part of the FGC process Oranga Tamariki will work with other agencies to help find appropriate support for a tamaiti, rangatahi and their whānau. This support can include but is not limited to, financial support in the form of disability funding or a MSD benefit, parenting support, cultural support, support for disabled persons, support for persons with mental health conditions and/or ACC if appropriate.

¹⁹⁷ Oranga Tamariki—Ministry for Children “Becoming a caregiver” (24 March 2022) <https://www.orangatamariki.govt.nz/caregiving/becoming-a-caregiver/>

Q 36: Social worker qualifications and training requirements

- 9.29 The qualification requirements for a Social Worker are:¹⁹⁸
- a. A Social Work qualification recognised by SWRB, or a full SWRB registration and current annual practising certificate; and
 - b. A clean, current driver's licence is, and a willingness to drive the Ministry's vehicles.
- 9.30 Applicants must also demonstrate a commitment to the following:
- a. The organisational vision, purpose, values and goals;
 - b. Te Tiriti o Waitangi | The Treaty of Waitangi, Te Toka Tumoana, Va'aifetū, and *Pūao-te-Ata-tū*;
 - c. Working with clients and colleagues in a culturally sensitive and appropriate manner; and
 - d. Equal employment opportunities.
- 9.31 There are also requirements for position competencies for social workers, including particular interpersonal understanding. This means:
- a. a desire to understand the structure and protocols of other cultures and a willingness and aptitude to utilise these for the benefit of clients of the Ministry; and
 - b. ability to understand the reasons for the feelings and behaviour of others through the ability to interpret unspoken or partially expressed thoughts feelings and concerns, and through an appreciation of the cultural framework within which that person operates.
- 9.32 Having some knowledge of Te Reo Māori is not compulsory, but it is useful when working as a social worker.¹⁹⁹

Q 37: Lessons learned about maximum case loads

- 9.33 In May 2014, the Office of the Chief Social Worker conducted a workload and casework review which was a qualitative review of the social worker caseload, casework and workload management.²⁰⁰
- 9.34 Oranga Tamariki learned from this review that effective leadership, support systems and processes alongside manageable workloads make a significant difference to a social worker's ability to deliver high quality practice.²⁰¹ Quality practice includes spending ample time with children and whānau, consulting and collaborating with other agencies and professionals, and supportive, challenging professional supervision.
- 9.35 The report showed that the timeliness of assessments was excellent, with 95 to 99 percent of responses to notifications being completed on time.
- 9.36 However, the review highlighted a number of key areas for improvement including:
- a. more priority needs to be given to quality, professional engagement with children, young people and their families;

¹⁹⁸ Oranga Tamariki—Ministry for Children "Position Description: Social Worker" (28 March 2019) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Careers/social-worker-position-description.pdf>

¹⁹⁹ Oranga Tamariki—Ministry for Children "About the social work roles" (31 July 2018) <https://www.orangatamariki.govt.nz/about-us/careers/social-worker-jobs/about-the-role/>

²⁰⁰ Workload and casework review, 2014.

²⁰¹ Workload and casework review, 2014, page 8.

- b. social workers need more capacity and ability to build effective, culturally responsive relationships;
 - c. the caseloads of social workers needs to be reviewed and Oranga Tamariki needs to investigate ways to reduce social workers' administration and desk time; and
 - d. data and information systems need to be modernised and simplified, to better project workloads and future resource needs.
- 9.37 Oranga Tamariki is committed to ensuring that social workers are appropriately supervised and are not overworked. Although there is still room for improvement, considerable progress has been made with employing more social workers and generally decreasing average caseloads.
- 9.38 It also acknowledges that it is important for social workers to have appropriate training and support to handle any trauma they are exposed to.
- 9.39 In response to a number of reviews Oranga Tamariki is committed to enhancing the mana of social workers across both the agency and the wider care and protection sector to better support tamariki, rangatahi, and whānau needs. This is a key part of the Future Direction Plan. This will be achieved through developing standard operating procedures that give staff clarity on areas of practice that require national consistency²⁰² and replacing the Oranga Tamariki data warehouse to enable data collected to be centralised and analysed to inform monitoring and decision-making.²⁰³
- 9.40 Furthermore, Oranga Tamariki is in the process of developing a Kaimahi Ora strategy for all staff, supporting staff to have work life balance and provide regular opportunities to debrief following traumatic events and manage the cumulative impacts of their work.²⁰⁴

Q 38: Minimum qualifications and training for residential facility staff working with disabled persons/persons with mental health conditions

- 9.41 Residential staff must have relevant qualifications and experiences for working with disabled persons or persons with mental health conditions. This includes an understanding of and willingness to grow in Te Ao Māori me ona Tikanga and experience caring for youth presenting with neuro-diverse or challenging behaviours.

Q 39: State residences recruitment

- 9.42 Oranga Tamariki is unable to find any information to suggest that the residences actively recruited staff from military and/or correctional backgrounds.

Q 40: Nature and functions of Residential Training School

- 9.43 There is a limited amount of information available to Oranga Tamariki to address this question.
- 9.44 The Residential Staff Training School was established at Kohitere, Levin in 1970.
- 9.45 In 1972, it appears that courses were offered to a variety of staff which included the following content: management techniques; staff control and casework supervision; child development and needs; training and activity programmes; and human growth and behaviour.
- 9.46 In 1976, the first induction programme for new workers was introduced. This programme trained groups of 15 to 16 people twice yearly. The trainees were

²⁰² Future Direction Plan at 4.5.

²⁰³ Future Direction Plan at 5.5.

²⁰⁴ Future Direction Plan at 2.1.

- supernumerary to staff positions and employed for the 18 weeks of training. Half of their time was spent at institutions and half time spent at the school. At the end of the 18 weeks the staff were expected to be absorbed within three months in vacancies as they naturally occurred.
- 9.47 However, this programme was unable to meet all new recruitment needs, with some staff joining the Department through the induction programme, while others joined by filling advertised vacancies and received no training. This discrepancy was a major consideration in changing the system of training in 1984.
- 9.48 In 1984, a new induction programme was introduced. This programme had two intakes per annum of 15 to 16 people who were supernumerary to staff positions. Individuals were employed for the 18-week programme which was divided between the institutions and the school. At the end of the 18 weeks continued employment was based on completion of further learning within the first year of employment.
- 9.49 The curriculum included 10 modules:
- a. Introducing the Public Service;
 - b. Introducing the Department of Social Welfare;
 - c. Introducing Social Work;
 - d. Understanding Human Needs and Development;
 - e. Residential Social Work I: Introducing the World of Residential Social Work;
 - f. Residential Social Work II: Working with Individuals;
 - g. Residential Social Work III: Working with the group;
 - h. Using Behavioural Procedures;
 - i. Introducing Social Issues; and
 - j. Understanding our differences.
- 9.50 Each module included assessment of learning. Each trainee had a personal supervisor appointed to assist and support.
- 9.51 In addition, there were two further modules concentrating on helping/counselling skills, behaviour management and residential practice skills required further time at the Training School, as follows:
- a. Four weeks within first few months; and
 - b. Three weeks toward end of programme
- 9.52 It is unclear, based on the limited information available to Oranga Tamariki, when the Residential Training School closed.

10. Entry into care

Q 41: Lessons learned about whether and how a child or young person should be placed in State care, actions to address learnings and changes in criteria

Lessons learned

- 10.1 Oranga Tamariki has learned lessons about whether and how a child or young person should be placed into state care from the reports and reviews which are discussed in the introductory sections of this response. Notably, in relation to “without notice” orders under section 78 of the Oranga Tamariki Act, Oranga Tamariki has learned from:
- a. the Chief Ombudsman’s 2020 Report on the removal of newborn pēpi;²⁰⁵ and
 - b. the Hawke’s Bay Practice Review in 2020.
- 10.2 Oranga Tamariki looks to preventing entry to care to the greatest extent possible in the circumstances. Where care is required, every effort is made to promote whānau care for all children, including tamariki Māori.
- 10.3 There is a new “without notice policy”, which applies to the use of without notice applications for interim custody of tamaiti or rangatahi (under section 78 of the Oranga Tamariki Act).²⁰⁶ This new policy requires a standard set of questions to investigate:
- a. compliance with policy and guidance; and
 - b. the broader practice around section 78 applications, to provide a more comprehensive understanding of practice and early intervention with pēpi, and support identification of strengths and improvements needed.
- 10.4 Oranga Tamariki has made significant changes to how section 78 orders are used, including the introduction of additional checks and balances (as well as the requirement that the relevant site manager, practice leader and regional legal manager endorse the course of action before a without notice application can be made by social worker. The intention is that such applications are only made if they are necessary (i.e. there is an immediate risk and all appropriate steps have been taken to engage parents and wider whānau about the concerns and to consider alternative action).
- 10.5 In relation to pēpi, Oranga Tamariki has also:
- a. published two relevant reports in relation to the use of section 78 applications: the first was released in August 2021, covering the period 1 September 2020 and 31 December 2020.²⁰⁷ The second, and latest, report covers the period 1 January 2021 to 31 August 2021.²⁰⁸
 - b. accepted all of the Ombudsman’s recommendations made in the Chief Ombudsman’s 2020 Report on the removal of newborn pēpi.

²⁰⁵ He Take Kōhukihuki

²⁰⁶ Oranga Tamariki—Ministry for Children Practice Centre “Without notice application for interim custody of a tamaiti or rangatahi” (13 December 2021) <https://practice.orangatamariki.govt.nz/policy/without-notice-application-for-interim-custody-of-a-tamaiti-or-rangatahi/>

²⁰⁷ Oranga Tamariki—Ministry for Children “Report on s78 custody orders for unborn and new-born pēpi” (July 2021) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Performance-and-monitoring/Ombudsman-reports/210726-Final-report-on-the-use-of-s78-for-newborn-pepi-003.pdf>

²⁰⁸ Oranga Tamariki—Ministry for Children “Second report on section 78 custody orders for unborn and new-born pēpi” (March 2022) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Performance-and-monitoring/Ombudsman-reports/Report-s78-pepi-review-FINAL-March-22.pdf>

- c. completed four quarterly reports to the Chief Ombudsman, which detail the progress Oranga Tamariki has made in implementing actions in response to his recommendations.

10.6 The use by Oranga Tamariki of section 78 orders has significantly declined.

Q 42: Te Tiriti o Waitangi | The Treaty of Waitangi and Oranga Tamariki recognition of Māori customary practice

Relevance of Te Tiriti o Waitangi | the Treaty of Waitangi in relation to decisions to place tamariki into State care

10.7 As explained in answer to question 5 of this response, Oranga Tamariki recognises that it has obligations under Te Tiriti o Waitangi | the Treaty of Waitangi, including when deciding to bring tamariki into care.

Oranga Tamariki's consideration of whāngai practice

10.8 To give effect to Te Tiriti o Waitangi | the Treaty of Waitangi, Oranga Tamariki has taken steps to recognise the Māori customary practice of whāngai.

10.9 Whāngai is the Māori tradition of children being raised by someone other than their birth parents — usually a relative. Whāngai usually involves a child being raised by whānau or extended family. Often, it means placing a child with its grandparents, but it could also be another family member, or someone unrelated. It can be a short-term, long-term, or permanent arrangement.

10.10 Whāngai is informal. A whāngai placement is arranged directly between the birth parents and the mātua whāngai (the family who will raise the child). Oranga Tamariki do not need to be involved and the birth parents are still the child's legal guardians.

10.11 In most cases, whāngai takes place at birth, but it can also involve older children. A whāngai child usually knows its birth parents and has an ongoing relationship with them.

Steps taken by Oranga Tamariki to recognise whāngai

10.12 As the Waitangi Tribunal concluded in its 2021 Report, the promise of the “reinvigoration of the Maatua Whāngai programme” was “allowed [by the Crown] to “wither on the vine”, which was itself a clear breach of the Treaty principle of active protection.²⁰⁹

10.13 Oranga Tamariki acknowledges that the customary practice of whāngai exists as an option for the care of a child who is at risk of harm, and that this can occur under the legislative framework, though not explicitly recognised under the Oranga Tamariki Act.²¹⁰

Q 43: Colonisation and institutional racism in relation to removals or uplifts

10.14 Oranga Tamariki accepts that colonisation and institutional racism has played a part in seeing removals or uplifts of children and young persons.

10.15 Oranga Tamariki, on behalf of the Crown, made concessions in the context of a Waitangi Tribunal Inquiry, following the Hawkes Bay Practice Review, as outlined in Section One.²¹¹ The following concessions were made in November 2020 by the previous Oranga Tamariki Chief Executive on behalf of the Crown:²¹²

- a. Structural racism is a feature of the care and protection system which has had adverse effects for tamariki Māori, whānau, hapū and iwi. This has resulted from a series of legislative, policy and systems settings over

²⁰⁹ He Pāharakeke at 106

²¹⁰ Te Kuku o te Manawa part 2 at 65

²¹¹ Hawke's Bay Practice Review

²¹² Opening statement of Gráinne Moss at [9]-[12]

- time and has detrimentally impacted the relationship between Māori and the Crown.
- b. The structural racism that exists in the care and protection system, reflects broader society and has also meant more tamariki Māori being reported to it.
 - c. The impact of structural racism on outcomes for and experiences of tamariki and their whānau, and on culture and trust more generally, means that the Crown should have identified the need to tackle structural racism head on in the establishment of Oranga Tamariki.
 - d. The Chief Executive stressed Oranga Tamariki's absolute commitment to addressing racism in the care and protection system at all levels.
- 10.16 The Chief Executive outlined to the Waitangi Tribunal some of the changes that were already underway to address structural racism which included:²¹³
- a. Better understanding bias in the system through the work of Oranga Tamariki's Evidence Centre exploring 'Factors Associated with disparities experienced by tamariki Māori in the care and protection system'.
 - b. Improving Oranga Tamariki's intake and assessment process to balance out any over reporting of tamariki Māori.
 - c. Since 2019, Oranga Tamariki has stood up new teams and functions which are focused on Oranga Tamariki's responsibilities under section 7AA and broader Treaty principles.
 - d. Embedding the Mana Tamaiti objectives across the organisation and monitoring of it through the Section 7AA Quality Assurance standards.
 - e. Developing and entering into strategic partnerships and Whānau Care partnerships.
 - f. With support from mana whenua, expanding the Kairaranga-ā-whānau roles from a small number to at least 62 across the country.
 - g. Coaching and mentoring site and regions' staff in their application of Māori-centred practice.
 - h. Ensuring all staff know and understand Oranga Tamariki's Māori cultural framework and can apply it in their work.
 - i. Addressing inequities in funding and supporting Oranga Tamariki's Treaty partners' aspirations to design and deliver fit for purpose programmes and services for their communities.
 - j. Continuing to lead the public sector by lifting the number and levels of Māori staff across the agency.
- 10.17 As of June 2021, Oranga Tamariki research shows that despite the decreasing number of tamariki Māori coming into state care, the figures are still disproportionate to broader society.²¹⁴
- 10.18 The Practice Centre recognises the detrimental impact of colonisation and intergenerational trauma and supports the development and understanding of these key themes in the work of Oranga Tamariki.²¹⁵

²¹³ Response to questions for Gráinne Moss at [10.2.1]-[10.2.10]

²¹⁴ Oranga Tamariki—Ministry for Children "Disparity and Disproportionality in the Care and Protection System to June 2021" <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Research/Data-analytics-and-insights/Report-on-disparities-and-disproportionality-experienced-by-tamariki-Māori.pdf>

²¹⁵ Identity and culture — Tuituia domain

Q 44: Placing children into State care because parents or guardians are considered unable to care for children due to disability or mental health conditions

- 10.19 In the 12 months to 31 December 2021, there were 790 entries to state care and protection involving 750 children and young people.²¹⁶
- 10.20 For children to come into custody of Oranga Tamariki, it needs to be established that there are care and protection needs for te tamaiti, rather than the disability of the parent. In other words, Oranga Tamariki does not take children into care because a parent or caregiver is disabled but because they are not caring for the child. A major contributing factor to shortcomings in care of children are mental health and addiction issues.
- 10.21 Oranga Tamariki learned lessons from the Hawkes Bay Practice Review about removing children from a home situation because the parents or guardians have been considered unable to care for the children. The decision to place a child into state care is a multi-factorial consideration and there are many other factors that are also considered over and above disability and mental health conditions.
- 10.22 As recognised in the Ombudsman's 2020 report, which was critical of the lack of guidance by Oranga Tamariki regarding the needs of disabled parents, Oranga Tamariki acknowledges that it must strengthen its practice to support parents to safely care for tamariki more effectively. Oranga Tamariki is working to improve its practices and policies to implement the Ombudsman's recommendations in respect of disabled parents.
- 10.23 Oranga Tamariki accepted the recommendations of the Ombudsman in principle, but explained that funding and provision of services and support to enable parents with disabilities to retain care of their children relies heavily on the Ministries of Health and Education, Office for Disability Issues, Work and Income, the Disability Rights Commissioner and disability support and advocacy services, as well as with Oranga Tamariki.²¹⁷ Oranga Tamariki also noted that services will need to be enhanced and expanded across the sector, if it is to meet the recommendation regarding providing reasonable accommodation and ensuring that all disabled parents have access to specialist advocacy during the assessment and intervention phases.
- 10.24 Oranga Tamariki agreed to report back to the Ombudsman on the achievement of these recommendations on a quarterly basis, with the first report due by 4 November 2020. Subsequently, Oranga Tamariki provided four regular reports and continues to meet with the Office of the Ombudsman on a regular basis.²¹⁸
- 10.25 The Oranga Tamariki Leadership Team agreed to a disability work programme to assist with implementing a social model and rights-based approach more consistently in policies and practices across the organisation, building on work already underway. The proposed work programme is directly relevant to the focus on disabled people (parents and tamariki) in the strategy work currently under development.²¹⁹
- 10.26 Oranga Tamariki is continuing to engage with the Disabled Peoples Organisation (DPO) coalition and Kāpō Māori to develop a rights-based practice framework as

²¹⁶ Oranga Tamariki—Ministry for Children "Care and protection – statistics" (3 June 2020) <https://www.orangatamariki.govt.nz/about-us/performance-and-monitoring/quarterly-report/care-and-protection-statistics/>.

²¹⁷ Oranga Tamariki—Ministry for Children "Response to the Chief Ombudsman's 'Final Opinion: investigation into Oranga Tamariki – newborn removals'" (6 September 2021) at page 6 <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Performance-and-monitoring/Reviews-and-Inquiries/Ombudsmans-Report/Response-to-Chief-Ombudsman-6-August-2020.pdf>

²¹⁸ Ombudsman reports

²¹⁹ Fourth Quarterly Report to the Ombudsman

previously discussed in this notice. Oranga Tamariki intends to have further engagement, and a workshop with DPO and disabled people (including tāngata whaikaha Māori). This is also likely to include I.Lead, which is a youth with disabilities movement.²²⁰

Q 45-46: Care options for disabled persons/persons with mental health conditions

- 10.27 The Practice Centre includes guidance about how to complete an assessment following a report of concern.²²¹ This includes guidance on working with disabled tamariki and their whānau or family who may need specialised out of home care²²² as well as safe parenting factors (including mental health),²²³ assessment of needs relating to any disability²²⁴ amongst other factors.
- 10.28 In identifying safe and appropriate placements for people with disabilities and mental health conditions, Oranga Tamariki has regard to the particular needs of each individual child.²²⁵
- 10.29 The approach by Oranga Tamariki to care options for children and young people with disabilities and mental health conditions has been informed by the lessons learned by Oranga Tamariki about past practice from the various reviews and reports discussed in the introductory section of this response.
- 10.30 Disabled tamariki and rangatahi, tangata whaikaha Māori, and/or those with mental health conditions are supported in the first instance to live with whānau/family, hapū, iwi. Oranga Tamariki will ensure that relevant professionals/clinicians assist in understanding any additional support needs of tamariki/rangatahi within the holistic context of their individual situation, culture and identity. Oranga Tamariki will also endeavour to ensure they, alongside tamariki/rangatahi and whānau, are part of developing and reviewing ongoing support plans. Where disabled tamariki and rangatahi and/or those with mental health support needs are unable to live with whānau Oranga Tamariki will endeavour to support them to live in as close to family-like situations as is achievable, with providers able to meet their identified and specific needs. These out of home services are managed by disability support service providers, with close connections being maintained with whānau and community wherever possible.
- 10.31 Independent advocacy support is available for disabled tamariki & rangatahi and those with mental health support needs through a specialised 'tangata whaikaha' service now available with VOYCE – Whakarongo Mai and tamariki and

²²⁰ *Ibid*

²²¹ Oranga Tamariki—Ministry for Children Practice Centre “Intake and early assessment” (1 September 2020) <https://practice.orangatamariki.govt.nz/our-work/assessment-and-planning/assessments/intake-and-early-assessment/>; and Oranga Tamariki—Ministry for Children Practice Centre “Conducting an assessment” (1 April 2019) <https://practice.orangatamariki.govt.nz/our-work/assessment-and-planning/assessments/conducting-an-assessment/>

²²² Oranga Tamariki—Ministry for Children Practice Centre “Working with disabled tamariki and their whānau or family who may need specialised out-of-home care” (31 August 2020) <https://practice.orangatamariki.govt.nz/our-work/assessment-and-planning/assessments/conducting-an-assessment/working-with-disabled-tamariki-and-their-familywhanau-who-may-need-specialised-out-of-home-care/>

²²³ Oranga Tamariki—Ministry for Children Practice Centre “Safe parenting factors — Tuituia subdomain” (1 April 2019) <https://practice.orangatamariki.govt.nz/core-practice/practice-tools/the-tuituia-framework-and-tools/the-tuituia-framework-and-domains/safe-parenting-factors-tuituia-subdomain/>

²²⁴ Oranga Tamariki—Ministry for Children Practice Centre “Assessment of needs relating to any disability” (7 December 2020) <https://practice.orangatamariki.govt.nz/our-work/assessment-and-planning/assessments/conducting-an-assessment/assessment-of-needs-relating-to-any-disability/>

²²⁵ All About Me Plan

rangatahi will be supported to engage with these services as early as possible to ensure their voices are heard.

- 10.32 Disabled tamariki and rangatahi and those with mental health support needs are subject to the same safeguards as all tamariki in the custody of the Chief Executive and in out of home care, in relation to ensuring Care Standards are met. All About Me Plans are relevant and up to date and informed by tamariki/rangatahi and their whānau.
- 10.33 Since the repeal of section 141 provisions, disabled tamariki and rangatahi and/or those with mental health support needs, are supported in out of home care via the same custodial options as any other tamariki. They are therefore regularly visited and supported by an Oranga Tamariki social worker, enabled to access advocacy through VOYCE – Whakarongo Mai, and their plans monitored regularly either via Family Group Conference provisions or through the Family Court processes. All reviews are undertaken with relevant professionals and clinicians working with the tamariki/rangatahi, along with their whānau and ensuring input from the tamariki/rangatahi themselves.
- 10.34 Denise Tapper has addressed information relevant to this question in her earlier Brief of Evidence dated 9 April 2021 in relation to mental health cohort and provision.

Q 47: Ensuring needs of disabled persons/persons with mental health conditions are met in residential or community-based care settings

- 10.35 Oranga Tamariki seeks to address the needs of those under its care in residential or community-based care settings who are disabled or have mental health conditions. This is reflected by the requirement and preparation of an All About Me Plan for all tamariki in the care of Oranga Tamariki which addresses all of their assessed needs. The content of this individualised plan should specify a broad range of areas of need, as follows:
- a. the goals for te tamaiti or rangatahi and how Oranga Tamariki will support them to meet these (this should include the goals from the family group conference or court plan);
 - b. the aspirations, wishes and strengths of te tamaiti or rangatahi, and how these will be promoted and supported;
 - c. how the assessed needs of te tamaiti or rangatahi from the Tuituia assessment will be addressed, the support to be provided to meet these needs, who will carry out certain actions and by when;
 - d. what personal belongings te tamaiti or rangatahi has and will get, and how they will be stored, if necessary;
 - e. the frequency of social work visits, why that frequency was chosen, and when that decision will be reviewed;
 - f. how family, whānau, hapū, iwi, marae and the family group and others important to and for te tamaiti or rangatahi are involved in the plan, including:
 - g. how te tamaiti or rangatahi will establish, maintain and strengthen relationships with whānau, the family group, significant people and siblings (if this can be undertaken safely);
 - h. how te tamaiti or rangatahi will maintain and strengthen relationships with their hapū, iwi and marae;
 - i. how we will support te tamaiti or rangatahi to understand their whakapapa and help enable whānau, hapū, iwi, marae and the family group to carry out their whanaungatanga responsibilities;
 - j. how we will ensure whānau and significant people know about events they can attend that te tamaiti or rangatahi is participating in; and

- k. arrangements for informing te tamaiti or rangatahi of any important matters relating to their whānau, hapū, iwi, marae, significant people, family group and siblings;
- l. the support caregivers will receive to meet the needs of te tamaiti or rangatahi in their care; and
- m. transition needs as te tamaiti or rangatahi moves to another care situation.

Q 48: Oversight and involvement of Oranga Tamariki in cases of admissions to youth mental health inpatient units / national secure forensic units

- 10.36 There are three main mental health inpatient units across the country specifically for children and young people. The Child and Family Unit is a supra-regional acute psychiatric child and adolescent mental health inpatient unit hosted by Auckland District Health Board which is located at Starship Children's hospital. Its services cover Auckland, Northland, Bay of Plenty, Lakes and Taranaki.
- 10.37 Since 2017, Oranga Tamariki has had a senior social work practitioner based at the inpatient unit supporting collaborative planning between the Ministry of Health and Oranga Tamariki while children are in the unit (including their transition at discharge). This is a 50:50 funding agreement between the agencies.
- 10.38 An Oranga Tamariki social worker is based at each District Health Board around the country. They respond to, and provide advice, support and assistance between both agencies when children and young people are admitted to other children's mental health inpatient units.
- 10.39 Children and young people in care who are admitted to inpatient units are visited by their social worker as part of their care plan. It is important to note that Oranga Tamariki is not involved with all tamariki in inpatient care. Oranga Tamariki can still be involved with some children and young people in an assessment or intervention phase not in care, but this would not be automatic and would be assessed on a case-by-case basis.

Q 49: Oranga Tamariki Professional Practice Group

- 10.40 The Quality Practice and Experiences group includes a range of practice support, review and improvement functions. This group reports to the newly established Deputy Chief Executive, Quality Practice and Experiences and works closely alongside the Chief Social Worker.
- 10.41 This group has made observations through its annual inspections (also known as residence reviews) and/or external reviews. Relevant to disability and mental health issues, the group has raised issues with:
 - a. Fetal Alcohol Spectrum Disorder (**FASD**).
 - b. Behavioural Management System (**BMS**).
- 10.42 There are also Evidence Centre reports which discuss the likely proportion of children with FASD, though they do not suggest specific treatment plans or supports. These reports address issues relevant to disability and mental health issues:
 - a. September 2019, Understanding-children with disabilities in the Family Start programme-Report.²²⁶ This report presents the results of a survey about families with children with disabilities who participate in the Family Start programme. The survey aimed to extend knowledge and understanding of young children with disabilities, receiving early intervention and contribute to a better understanding of the needs, prevalence and disabilities of young children in vulnerable families.

²²⁶ Understanding children with disabilities

- b. June 2020, Children and young people with impairments.²²⁷ This report provides an overview of children in Out of Home care or with Oranga Tamariki involvement who are living with impairments and where this is identified by administrative data in Statistics NZ’s Integrated Data Infrastructure.
- c. May 2022, Good practice for disabled tamariki and rangatahi in care.²²⁸ This literature review focuses on identifying good practice for disabled tamariki and rangatahi in out-of-home care.

Fetal Alcohol Spectrum Disorder (FASD)

10.43 Oranga Tamariki has FASD guidance which recommends individualised responses to need and plans.²²⁹ This guideline does not focus on specific programmes and interventions.

Behavioural Management System (BMS)

10.44 The Residential Care section of the Practice Centre includes guidance on the behaviour management systems. “Points and levels” are a key component of BMS, and this uses a token economy to reward behaviours. Oranga Tamariki acknowledges that rangatahi who are neurodiverse or have FASD may not be able to follow the points and levels system and receive rewards.

10.45 All four of the Care and Protection residences are currently using BMS. However, work is underway to replace this with the Alert Programme.²³⁰ The alert programme is an evidence-based intervention that promotes self-regulation using sensory and cognitive strategies. It can be a component of an individual plan and is a recommended option for people with FASD.

10.46 The BMS is also currently used in four out of five youth justice residences, but significant changes are underway. For example:

- a. Whakatakapokai is a new residence and does not use the BMS. Instead, it operates within a Māori-centred model of care called Whakamana Tangata, which uses restorative principles to support rangatahi to learn the impact of their behaviour on others, and to restore the mana of people impacted. Other features of Whakamana Tangata include that it is contained within *Tainui tikanga* and *kawa*, and uses individual plans for rangatahi who have neuro-disabilities.
- b. Whakamana Tangata is being introduced in all youth justice residences and once implementation has been completed, the BMS will be withdrawn.
- c. The Alert Programme will be piloted in one youth justice residence. If successful, this will be rolled out to the other residences and available as an option for individual plans. Particular focus will be given to the benefit this programme may have for disabled persons and persons with mental health conditions.

²²⁷ Oranga Tamariki—Ministry for Children “Children and young people with impairments” (10 June 2020) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Research/Data-analytics-and-insights/Children-and-young-people-with-impairments.pdf>

²²⁸ Oranga Tamariki—Ministry for Children “**Good practice for disabled tamariki and rangatahi in care**” (12 May 2022) <https://www.orangatamariki.govt.nz/about-us/research/our-research/good-practice-for-disabled-tamariki-and-rangatahi-in-care/>

²²⁹ Oranga Tamariki—Ministry for Children Practice Centre “Fetal Alcohol Spectrum Disorder (FASD)” (8 January 2020) <https://practice.orangatamariki.govt.nz/previous-practice-centre/knowledge-base-practice-frameworks/fetal-alcohol-spectrum-disorder/>.

²³⁰ The Alert Program® <https://www.alertprogram.com/>

11. Exit from care

Q 50: Lessons learned

11.1 Oranga Tamariki has learned lessons about the discharge of children, young persons, disabled persons and persons with mental health conditions in its care from the reports and reviews detailed in Section One. Below is further detail to address those learnings and to explain the current approach to topics raised by the Notice at question 50.

Age of discharge

- 11.2 Tamariki and rangatahi can leave the custody of the state at any age. A custody order ceases to have effect for rangatahi in care when they reach the age of 18 years. For other tamariki and rangatahi, Oranga Tamariki can apply to the Family Court to discharge the orders, when they are returning to the care of their parents or usual caregivers, or when they are moving to a permanent care arrangement. The timeframes for achieving permanent care are set according to what is appropriate to the age and development of individual tamariki and rangatahi, including disability or mental health considerations, to achieve stability for them at the earliest opportunity.
- 11.3 In 2016, the age of care was modified (in that it was raised from 17 to 18 years) such that while custody orders still cease at age 18, young persons had the right to live with a caregiver up until the age of 21 and could access advice and assistance through until the age of 25 years.²³¹ Rangatahi themselves advocated for the need for raising the age.
- 11.4 The increase in age for support to 21 years was not linked to disability; it was in recognition that all young people, irrespective of whether they have been in care need support as they transition to adulthood as would be provided by parents. The 25 years consideration recognises increased vulnerability for some young people, particularly those with disability.
- 11.5 Oranga Tamariki works with rangatahi to prepare them for the transition to adulthood. Oranga Tamariki:
- Provides an allocated transition worker who will maintain proactive contact and provide support until they turn 21.
 - Ensures that staff then continue to provide access to advice and assistance to rangatahi, until the age of 25.
 - As outlined above, rangatahi also have the right to remain or return to live with a caregiver from the age of 18, until they turn 21.
- 11.6 Oranga Tamariki prepares and assists eligible rangatahi over 15 years old, to successfully transition to adulthood by starting a conversation about transition from age 15 (and allocation to a transition worker with their consent).²³²
- 11.7 Oranga Tamariki also provides a transition worker for rangatahi when they leave care or a youth justice residential placement.

Person responsible for requesting, recommending and actioning discharge

11.8 The social worker for te tamaiti or rangatahi is usually the person who makes a recommendation to the Family Court that a custody order should be discharged in consultation with the child, whānau and caregivers. However, any party,

²³¹ Oranga Tamariki—Ministry for Children Act, ss 386AAD and 386A respectively inserted by s 128 and replaced by 129 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017.

²³² Oranga Tamariki—Ministry for Children “**Transition Support Service for rangatahi**” (15 March 2022) <https://www.orangatamariki.govt.nz/children-in-our-care/transition-support-service/>

including a parent or lawyer for child can make an application for discharge, so long as they are parties to proceedings.

- 11.9 These recommendations may be accompanied by an application for guardianship and parenting orders in favour of a permanent caregiver.
- 11.10 Based on such applications, the Family Court makes a decision relating to discharge. This decision is discretionary (as there is no prescribed test). However, the Family Court's first and paramount consideration in considering a discharge is the well-being and best interests of the child.²³³

Factors taken into account in deciding whether to discharge

- 11.11 In determining whether to request or recommend a discharge, the social worker for te tamaiti or rangatahi considers a range of matters. At the forefront of this is the social worker's responsibility to work with te tamaiti or rangatahi, their family, whānau, hapū, iwi and family group, to establish a safe, stable and loving home for them as outlined in the "Ensuring a safe, stable, and loving home for tamariki in care" policy guidance in the Practice Centre.²³⁴
- 11.12 The Oranga Tamariki policy guidance outlines factors to be considered when planning for permanent care following an order discharging from state care. The proposed permanent care arrangement must meet the specific needs of te tamaiti or rangatahi. This includes recognising and having regard for:
- a. Mana tamaiti (tamariki).
 - b. The whakapapa of tamariki Māori.
 - c. The genealogical and family connections of tamariki.
 - d. The whanaungatanga responsibilities of the family, whānau, hapū, iwi and family group.
- 11.13 For all tamariki, this includes:
- a. recognition of important relationships and connections, including those with siblings, and ensuring that these are supported and maintained; and
 - b. recognition of values, cultural beliefs and practices, and links to significant places such as marae.
- 11.14 Oranga Tamariki also applies the policy guidance on its Practice Centre, in working with disabled tamariki who require a specialised out-of-home placement policy.²³⁵ This outlines the ways Oranga Tamariki will provide support for disabled tamariki with high and complex needs, and who may require a specialised out-of-home placement. A specialised out-of-home placement requires caregivers or service providers to have disability expertise and, in some cases, environmental adaptations.

Support for Permanent Caregivers

- 11.15 There is a range of support made available to caregivers who take on the permanent care of tamariki once custody orders in favour of Oranga Tamariki are

²³³ Oranga Tamariki Act 1989, s 4A, 5, and 13.

²³⁴ Oranga Tamariki—Ministry for Children Practice Centre "Ensuring a safe, stable and loving home for tamariki in care" (23 March 2022)
<https://practice.orangatamariki.govt.nz/policy/ensuring-a-safe-stable-and-loving-home-for-tamariki-in-care/>

²³⁵ Oranga Tamariki—Ministry for Children Practice Centre "Working with disabled tamariki who require a specialised out-of-home placement" (22 March 2022)
<https://practice.orangatamariki.govt.nz/policy/working-with-disabled-tamariki-who-require-a-specialised-out-of-home-placement/>

discharged. The support includes financial and other forms of practical support including for legal fees, respite care and emotional support.²³⁶

Q 51: Transitional support offered by Oranga Tamariki

11.16 Oranga Tamariki provides a “Transition Support Service” for rangatahi leaving care (or youth justice). The support service enables rangatahi to call a helpline to get assistance from a youth worker at Oranga Tamariki.²³⁷

11.17 It offers advice and assistance to rangatahi who have left state care:²³⁸

- a. Advice and non-financial assistance, such as advice and assistance to improve their wellbeing and success in living independently. Assistance can include:
 - i. Providing information about services in the community.
 - ii. Assisting rangatahi to access legal advice, counselling, or other services in the community.
 - iii. Assisting rangatahi to obtain accommodation.
 - iv. Assisting rangatahi to enrol in education or training, including access to the services and grants available through Work and Income’s employment and training grants and services.
- b. Financial assistance may be provided once all other options for meeting a need has been accessed and financial assistance is unable to be provided by another agency when required. The support may include:
 - i. Financial contributions or grants connected with attending education or training.
 - ii. Short-term financial assistance to obtain or maintain accommodation, including expenses incurred in enabling them to live near their place of employment or training.
 - iii. Contributions to purchase glasses or hearing aids.
 - iv. Contributions to meet immediate and urgent needs, such as emergency accommodation, and food.

11.18 Oranga Tamariki considers the individualised needs of rangatahi with disabilities or mental health conditions, when making decisions about their care. This includes deciding what advice and assistance needs to be given to an individual transitioning out of care, which is assessed on a case-by-case basis.

11.19 Additionally, Oranga Tamariki suggests that rangatahi seek further support and advice from VOYCE – Whakarongo Mai, and Youth Service – Ratonga Taiohi.²³⁹ As mentioned earlier, these are independent agencies that can provide specialist support and advocacy services to rangatahi. These independent support services also guide rangatahi who are leaving state care, in addition to Oranga Tamariki’s own services. This is for all tamariki during their whole time in state care.

²³⁶ Oranga Tamariki—Ministry for Children Practice Centre “Support for permanent caregivers” (17 February 2021) <https://practice.orangatamariki.govt.nz/our-work/care/transitioning-between-placements-or-out-of-care/support-for-permanent-caregivers/>

²³⁷ Transition Support Service for rangatahi

²³⁸ Oranga Tamariki—Ministry for Children Practice Centre “Advice and assistance when rangatahi are transitioning out of or have left our care or custody” (3 September 2020) <https://practice.orangatamariki.govt.nz/our-work/transitioning-to-adulthood/transition-to-independence/transition-to-adulthood/advice-and-assistance-when-transitioning-out-of-care/>

²³⁹ Transition Support Service for rangatahi; VOYCE Whakarongo Mai <https://voyce.org.nz/>; and Ministry of Social Development| Te Manatū Whakahiato Ora “Youth Service: Realising the dreams and aspirations of youth | Ratonga Taiohi: tau awhitia te taiohi, ka puta ki te wheiao” <https://www.youthservice.govt.nz/>.

12. Future outcomes of abuse in care (Q52)

Lessons learned

- 12.1 Oranga Tamariki has learned the importance of tracking and monitoring future outcomes for those who have been in state care and protection to inform its policy development.

Steps taken – Tracking and monitoring future outcomes/analysis of data by Oranga Tamariki

- 12.2 One of the main tools used by Oranga Tamariki to measure future outcomes is the Statistics NZ Integrated Data Infrastructure (IDI).²⁴⁰ IDI is a large research database that holds microdata about people and households. It is a tool used by government to gain insight into society and economy in relation to aspects of life such as education, income, benefits, migration, justice, and health. The data is provided by government agencies, Statistics NZ surveys including Te Kupenga, and non-government organisations (NGOs). This data is linked together, or integrated, to form the IDI. It is data provided at population level, not an individual level.
- 12.3 Oranga Tamariki does not, and has no power to, monitor people once they have left state care.

May 2022 developments

- 12.4 To address the importance of tracking and monitoring future outcomes for those who have been in state care and protection, Oranga Tamariki has recently undertaken an analysis to better understand the services used and required for families that need support from the care and protection system.²⁴¹ This analysis referred to as: *Complexity of Tamariki Interacting with Oranga Tamariki: Reports of Concern compared to Entries to care* was published in May 2022.
- 12.5 As part of this recent analysis, using information available from IDI, Oranga Tamariki selected 54 indicators as possible indicators of complexity of a child's environment (these indicators related to the child, their siblings, parents, and wider families service usage). This was done for children at various points of care and protection, and across a period of time.
- 12.6 Analysis of this data showed that children who enter care are more likely to have indicators of complexity than children who were only reported to Oranga Tamariki. Compared to tamariki who were only reported to Oranga Tamariki, tamariki in the care and protection system during the 2019 financial year were more likely to:
- have a sibling in a placement;
 - have a parent who received an accommodation supplement;
 - have their family involved in a family violence incident;
 - have a parent with correctional involvement; and
 - have a parent or sibling with substance usage treatment.
- 12.7 There are no significant changes in the proportions of tamariki and rangatahi with these indicators over the past few years, both at the report of concern stage or at entry into care.

²⁴⁰ Stats NZ | Tatauranga Aotearoa "Integrated Data Infrastructure" (30 November 2020) <https://www.stats.govt.nz/integrated-data/integrated-data-infrastructure/>

²⁴¹ Oranga Tamariki—Ministry for Children "Complexity of Tamariki Interacting with Oranga Tamariki: Reports of Concern compared to Entries to care" (24 May 2022) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Research/Latest-research/Complexity-of-Tamariki-Interacting-with-Oranga-Tamariki-Reports-of-Concern-Compared-to-Entries-to-Care/Complexity-of-Tamariki-Interacting-with-Oranga-Tamariki6-05-2022.pdf>

- 12.8 This recent analysis is part of a growing body of work that informs children’s agencies about what children, young people and their whānau need to prevent harm and improve their wellbeing for the future. Other analyses include methamphetamine as a factor in entry to care,²⁴² and pathways to youth justice.²⁴³

The Evidence Centre – compilation of research undertaken into future outcomes

- 12.9 The Evidence Centre, detailed in Section One, focuses on future outcome analysis, often using the IDI to provide longitudinal analysis of outcomes. This information, in combination with that from literature reviews, case note analysis and evaluations informs policy formation, practice and business design.
- 12.10 Some of research from the Evidence Centre focuses exclusively on topics such as addiction rates, suicide rates, criminal offending, health outcomes, education outcomes, poverty rates, future experience of abuse and intergenerational care. However, these factors are usually indicators that are taken together to encompass ‘well-being’ and are often wrapped into any outcomes-related work undertaken by Oranga Tamariki.
- 12.11 To date, the Evidence Centre has published 12 analytics and insights reports which are publicly available covering topics relevant to tracking and monitoring future outcomes:²⁴⁴
- a. reports on disparities and disproportionality experienced by tamariki Māori;
 - b. babies entering Oranga Tamariki care;
 - c. harm to children in New Zealand;
 - d. youth justice pathways;
 - e. analysis of the decrease in the number of children entering care;
 - f. mothers with care and protection history; and
 - g. children and young people with impairments.
- 12.12 In addition to the analysis undertaken by the Oranga Tamariki Evidence Centre, five reports have been produced from the Adolescent Health Research Group’s Youth 19 Rangatahi Smart Survey.²⁴⁵ These reports compare outcomes between students who reported involvement with Oranga Tamariki and those who did not. The outcome areas considered by these reports are:
- a. identity and cultural connectedness;
 - b. home and housing;
 - c. mental and physical health and healthcare access;
 - d. community and context; and
 - e. youth voices.
- 12.13 There are three major ways in which Oranga Tamariki uses data and information:

²⁴² Oranga Tamariki—Ministry for Children “Methamphetamine and care: What we know to date” (July 2020) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Research/Latest-research/Methamphetamine-and-care/Methamphetamine-and-Care.pdf>

²⁴³ Oranga Tamariki—Ministry for Children “**Youth Justice Insights: Separating Misconceptions from Facts**” (2 April 2020) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Research/Data-analytics-and-insights/Youth-justice-insights-separating-misconceptions-from-facts.pdf>

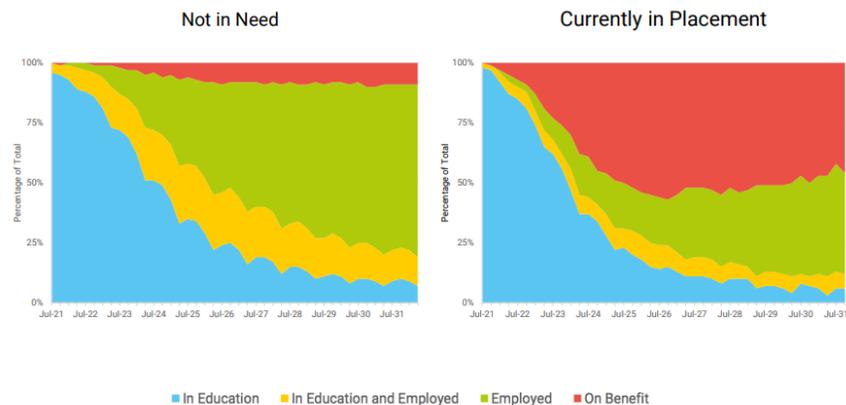
²⁴⁴ Oranga Tamariki—Ministry for Children “Analytics and insights” (25 February 2022) <https://www.orangatamariki.govt.nz/about-us/research/data-analytics-and-insights/>

²⁴⁵ Oranga Tamariki—Ministry for Children “**Youth19 Rangatahi Smart Survey reports**” (16 March 2022) <https://www.orangatamariki.govt.nz/about-us/research/our-research/youth19-rangatahi-smart-survey-reports/>

- a. when working to support tamariki i.e. the practice of social work;
- b. to meet reporting and governance requirements;
- c. to increase the evidence base of what is working and for who, primarily to inform development of policy and practice.

Example 1 of future outcomes analysis – “Wellbeing model”

- 12.14 One example that has been undertaken by Oranga Tamariki is a wellbeing analysis.²⁴⁶ The wellbeing model considered five domains: safety, security, connectedness, wellness (physical & mental health), and development (including education).
- 12.15 As a result of that analysis, Oranga Tamariki now understand that children in state care have high levels of need in a number of domains. Applying this to future expectations, Oranga Tamariki understands that children and young people who are currently in a placement have greater possibility of being on a social welfare benefit (refer to the red area in the graph below).²⁴⁷ This analysis suggested that raising the age of care to provide extra support will improve future outcomes. Evaluation of ‘raising the age’ has shown improved engagement with education.



- 12.16 Wellbeing analysis also indicates that the care population and their whānau have higher rates of use of addition services than the remainder of the population. However, use of addition services can be a positive feature as reflected by the evaluation of Family Start which showed increased use of medical and support services as part of the healing journey.²⁴⁸

Example 2 of future outcomes analysis – “Youth Justice”

- 12.17 A further example is the “Youth Justice Pathways” review report.²⁴⁹ This is an examination of the wellbeing indicators and outcomes for young people involved with youth justice. It considers IDI indicators and outcomes for a cohort with

²⁴⁶ Oranga Tamariki—Ministry for Children “Lifetime Wellbeing Model for New Zealand Children” (18 September 2018) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Research/Latest-research/International-Conference-on-Well-Being-Conference-2018/Lifetime-Wellbeing-Model-for-New-Zealand-Children.pdf>

²⁴⁷ *Ibid* at 8

²⁴⁸ Oranga Tamariki—Ministry for Children “Evaluation of the Family Start Programme: Report on the findings of the process evaluation” (April 2020) <https://orangatamariki.govt.nz/assets/Uploads/About-us/Research/Latest-research/Family-Start/Evaluation-of-the-Family-Start-programme.pdf>

²⁴⁹ Oranga Tamariki—Ministry for Children “Youth Justice Pathways: An examination of wellbeing indicators and outcomes for young people involved with youth justice” (6 July 2021) <https://orangatamariki.govt.nz/assets/Uploads/About-us/Research/Data-analytics-and-insights/Part-1-Youth-justice-pathways-wellbeing-indicators-and-outcomes-for-young-people-involved-with-youth-justice.pdf>.

statutory youth justice or child protection involvement between the ages of 17 and 21. It compares indicators for the “crossover” group which are those who have statutory involvement in both youth justice and child protection services with those who only have involvement with youth justice or child protection services, and those who have no involvement with either.

- 12.18 This report found that being involved in care and protection does not mean a child or young person will become involved with the youth justice system.²⁵⁰ Despite the commonly held belief that being involved in care and protection leads to youth justice involvement, the vast majority of individuals never went on to have youth justice involvement:
- a. Of the 3,220 18-year-olds who had care and protection statutory involvement, 2,630 never went on to have youth justice statutory involvement.
 - b. Of the 1,520 18-year-olds who had statutory involvement with youth justice, 930 had never had care and protection statutory involvement.

Future outcomes

- 12.19 Key examples of recent tracking and monitoring of future outcomes by Oranga Tamariki in relation to the following topics are contained with the Evidence Centre, as follows:

Addiction rates: The Youth Justice Pathways examination of wellbeing indicators and outcomes for young people involved with youth justice²⁵¹ indicated that: Analysis of information for those with youth justice statutory involvement (i.e. Those who have had a youth justice family group conference or a youth justice placement) showed rates of mental health and substance usage treatment appear higher in the year before a young person’s first youth justice FGC.

Suicide rates: Analysis of information provided by young people responding to the Youth 2000 survey relating to young people who have been involved with Oranga Tamariki: mental and physical health access,²⁵² showed of young people reporting involvement with Oranga Tamariki:

The majority reported very good or excellent overall health and around half reported good emotional wellbeing.

However, 44 percent were screened to have depressive symptoms and 22 percent had attempted suicide in the last 12 months.

Criminal offending: The evaluation undertaken as part of the Reducing Youth Offending Social Bond Pilot: Evaluation report,²⁵³ indicated that participants’ likelihood of reoffending, number of offences (if any), and offence severity all declined following enrolment. This will be explored further in a forthcoming outcomes evaluation.

²⁵⁰ *Ibid* and Youth Justice Insights: Separating Misconceptions from Facts

²⁵¹ Oranga Tamariki—Ministry for Children “**Youth Justice Pathways:** An examination of wellbeing indicators and outcomes for young people involved with youth justice” (6 July 2021) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Research/Data-analytics-and-insights/Part-1-Youth-justice-pathways-wellbeing-indicators-and-outcomes-for-young-people-involved-with-youth-justice.pdf>

²⁵² Oranga Tamariki—Ministry for Children “**Youth2000 Survey** Series: Young people who have been involved with Oranga Tamariki – Mental and physical health and healthcare access” (9 February 2022) https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Research/Latest-research/Youth19-Rangatahi-Smart-Survey/Youth19_young-people-involved-with-Oranga-Tamaki_mental-physical-health-and-healthcare-access.pdf

²⁵³ Oranga Tamariki—Ministry for Children “Reducing Youth Offending Social Bond Pilot: Evaluation report” (16 August 2021) <https://www.orangatamariki.govt.nz/about-us/research/our-research/reducing-youth-offending-pilot/>

A report on Youth justice – separating misconceptions from facts²⁵⁴ his analysis examines outcomes for children with a care history and confirms that being in care does not necessarily lead to youth or adult justice engagement.

The Youth Justice Pathways examination of wellbeing indicators and outcomes for young people involved with youth justice²⁵⁵, indicated that most young people referred to their first Youth Justice FGC have previously been involved in family violence notifications and/or care and protection reports of concern. School disengagement occurs at varying rates in the years before a young person's first such FGC.

Health outcomes: Analysis of information provided by young people responding to the Youth 2000 survey relating to young people who have been involved with Oranga Tamariki: mental and physical health access,²⁵⁶ showed of young people reporting involvement with Oranga Tamariki The majority reported very good or excellent overall health and around half reported good emotional wellbeing.

Education outcomes: The Voices of Children and Young People team recently led a project designed to better understand experiences of mainstream education for children and young people in care.²⁵⁷ The educational experiences of children in care indicated that children who have reached a point in their lives where they need to be taken into care have higher rates of educational disengagement and lower levels of achievement than other children. Differences in educational engagement are small for younger children with or without care experience, but with older children there starts to be more discrepancies. Ethnic disparities in educational achievement are less evident in those with care experience than among those with no care experience. Young people who achieve NCEA Level 2 are more likely to be in education, employment or training in the future and have lower levels of long-term benefit dependency.

Poverty rates: Those who have been in care are expected to have a greater prevalence of not being in paid employment than those who are not care experienced. Approximately 50 percent of those children in a placement will be on a benefit in the future compared to around 10 percent of those children who are 'not in need'. In the diagrams 'receiving a benefit' is the red area. There is a high correlation of receiving a benefit with being in poverty ²⁵⁸

Intergenerational care: The Child entries into care for mothers with a care and protection history report analysis²⁵⁹ shows that, as at June 2018, almost 90 percent of mothers with an out-of-home care experience did not have a baby placed into care in the first two years of the child's life.

12.20 Of broader relevance are the following reports:

²⁵⁴ Youth Justice Insights: Separating Misconceptions from Facts

²⁵⁵ Youth Justice Pathways

²⁵⁶ Youth2000 Survey

²⁵⁷ The educational experiences of children in care

²⁵⁸ Oranga Tamariki—Ministry for Children "Lifetime Wellbeing Model for New Zealand Children" (18 September 2018) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Research/Latest-research/International-Conference-on-Well-Being-Conference-2018/Lifetime-Wellbeing-Model-for-New-Zealand-Children.pdf>; and Oranga Tamariki—Ministry for Children "International Wellbeing Conference: September 2018" (26 October 2018) <https://www.orangatamariki.govt.nz/about-us/research/seminars/international-wellbeing-conference-sept-2018/>

²⁵⁹ Oranga Tamariki—Ministry for Children "Child entries into care for mothers with a care and protection history" (16 April 2021) <https://www.orangatamariki.govt.nz/about-us/research/our-research/child-entries-into-care/>

- a. Five reports have been produced from the Adolescent Health Research Group's Youth 19 Rangatahi Smart Survey.²⁶⁰ The reports compare outcomes between students who reported involvement with Oranga Tamariki and those who did not.
- b. A report by Oranga Tamariki: "Youth Justice Insights: Separating Misconceptions from Facts"²⁶¹, explores commonly posed questions about the youth justice system, and presents insights around the seriousness of youth crime, rates of reoffending and the relationship between care and youth justice.
- c. The Expert Advisory Panel (2015) reported that children and young people who encountered Child Youth and Family (CYF) had high rates of educational disengagement and under achievement. The Voices team further explored these experiences and outcomes through a qualitative study of children and young people's experiences, a review of New Zealand government data, and a literature scan of national and international research.²⁶² This project is intended to inform policy and practice change within Oranga Tamariki as well as support and inform Ministry of Education work. It is comprised of three research reports and a summary.
- d. In August 2019, an evidence brief was published by Oranga Tamariki relating to teen parents.²⁶³ The purpose of this evidence brief is to provide up-to-date evidence from New Zealand and international literature about effective support for teenage parents, their children and family or whānau, as well as protective factors and risks of poor outcomes faced by teenage parents and their children. This brief also includes information about support services and interventions currently in place in New Zealand, indicators of their effectiveness, and outcomes (both short- and long-term) for teenage parents and children engaged with those services. Section One of the brief provides contextual information about teen pregnancy and parenting in Aotearoa New Zealand. Section Two reports the findings from a search for peer-reviewed and grey literature.
- e. The University of Auckland study on Growing Up in New Zealand²⁶⁴ has been following the lives of these children since 2009 and 2010, before they were even born. They visit the children and their parents around every three years to gather vital information to build a picture of what it's like to be a child growing up in the complex world of 21st century New Zealand. The 6,000 children included in the study reflect the ethnic and socioeconomic make-up of New Zealand today, so provide us with an accurate representation of the diverse experiences of our tamariki. The Growing Up in New Zealand study will continue to connect with our cohort until the children grow into adulthood and are at least 21 years old.

²⁶⁰ Youth19 Rangatahi Smart Survey reports

²⁶¹ Youth Justice Insights: Separating Misconceptions from Facts

²⁶² The educational experiences of children in care

²⁶³ Oranga Tamariki—Ministry for Children "Teen parents evidence brief" (30 August 2019) <https://www.orangatamariki.govt.nz/about-us/research/our-research/teen-parents-evidence-brief/>

²⁶⁴ Oranga Tamariki—Ministry for Children "Growing Up in New Zealand" (31 May 2021) <https://www.orangatamariki.govt.nz/about-us/research/our-research/growing-up-in-new-zealand/>

13. Provision of care

Q 53: Lessons learned regarding consultation in developing and implementing policies and practices for provision of care

- 13.1 The lessons learned by Oranga Tamariki about consulting with Māori and Pacific people, disabled people, and people with mental health conditions in care and the wider communities in developing and implementing its policies and practices are outlined in Section One.
- 13.2 Oranga Tamariki uses the lessons it has learned regarding partnership and consultation to inform all aspects of its practice and policies.

Q 54: Lessons learned regarding maintaining whānau, whakapapa and cultural connections

- 13.3 The lessons learned regarding maintaining whānau, whakapapa and cultural connections are outlined in Section One.
- 13.4 Oranga Tamariki has used these lessons to inform all aspects of its practice and policies.

Q 55: Lessons learned /steps taken to address racism, prejudice and unconscious bias

- 13.5 The lessons learned by Oranga Tamariki about racism, prejudice and unconscious bias within its structure and operations, and steps taken to address these, are outlined in response to question 4 of the Notice.

Q 56-57: Issues relating to relocation of foster parents (remote locations and overseas)

- 13.6 Relocation of foster parents is governed by the relevant and operative legal framework. Oranga Tamariki should understand what a change in circumstance for the caregiver meant for the needs of the child, for example maintaining whakapapa and whanaungatanga relationships and connections.
- 13.7 If the Chief Executive retains care and protection orders in relation to a child or young person, then any decision for them to move overseas with their foster carer must be guided by operational policy.
- 13.8 Once the Chief Executive has discharged the care and protection orders, the Chief Executive has no ability to influence the decisions caregivers make to travel or relocate. Parents, who retain guardianship responsibilities, should be consulted about a decision for their children to travel or to move, but whether or not this occurs will depend to some extent on the caregiver. In the absence of Court orders, the Chief Executive is not involved in these decisions.
- 13.9 This is enabled through part 3A of the Oranga Tamariki Act and is operationalised through the Trans-Tasman Protocols which exist between the Australian States and Territories and New Zealand. Placement of children in Australia occurs when someone known to the child or their whānau is approved to be a caregiver for the child and there is agreement of the family and Court that the placement occurs.
- 13.10 With the exception of Australia, children are not placed overseas with orders retained as there is no ability for the chief executive to ensure his duty of care to the child (including knowing how the child is doing and being able to take action in the event that is necessary). With respect to Australia, the ability exists to place children with an approved person in Australia and in doing so retain court orders.
- 13.11 For a placement in Australia to occur the proposed caregiver is assessed and approved, a decision to proceed with the placement (or not) is confirmed, and the placement is supported by the relevant child protection agency in Australia. Updates are provided to Oranga Tamariki to enable the Court Plan to be reviewed. On occasion, New Zealand Family Court orders will be transferred to

the applicable Australian Court. The same process operates in the reverse with Australia placing children with relatives in New Zealand.

Q 58: Impacts of abuse

- 13.12 Oranga Tamariki has considered the impacts of abuse on victims and survivors as well as their families, whānau, hapū, iwi and communities in the various reports outlined in Section One.
- 13.13 The Safety of Children in Care Unit was established in 2018 to ensure a greater understanding of harm and the circumstances in which it happens. This enables Oranga Tamariki to understand how to prevent harm to children in care. The Unit provides a dedicated response which is focused on understanding the elements that provide for the safety of children in care and can promote best practice in this area whilst also providing comprehensive public information. The reports prepared by this unit, in the form of Safety of Care Annual Reports, detail the findings in relation to harm of children in care and insights associated with those findings.
- 13.14 The most recent report, July 2020-2021 Safety of Children in Care Annual report²⁶⁵ reflects the work undertaken across Oranga Tamariki to keep children safe. This reporting relates to contemporary harm of tamariki currently in care, and not claims from those previously in care. In that report, Oranga Tamariki outlines its response plan when allegations of harm are raised.²⁶⁶ This includes, but is not limited to:
- a. social workers engaging with the child and completing an assessment to understand what has happened to them;
 - b. this assessment will involve those providing care for the child, to ensure that the child's immediate needs are met and to manage any ongoing risks that might be present;
 - c. social workers are required to formulate an assessment plan for investigating the incident and where appropriate this will involve the Police;
 - d. social workers arrange and provide support to children to ensure they feel safe and secure, and to address any impact of the harm they have experienced.
- 13.15 Some children have received counselling support to address the impact of the harm they have experienced. For other children, this will be considered at a later point to reflect their immediate need for care arrangements to be stabilised before more focused support is made available. Some family members have also been provided with additional supports to ensure they can help their child address the impact of harm and to address their own support needs.²⁶⁷
- 13.16 Oranga Tamariki explains the changes it has made to practice as part of the Practice Shift. In particular, evidence-based trauma informed learning, was piloted for caregivers for three years and is now offered in all regions in Aotearoa.²⁶⁸ Trauma informed theory is focused on the impacts trauma can have on tamariki and whānau, when they have experienced challenging events at an individual or collective level. Substantial practice guidance and practice tools were developed with the introduction of the National Care Standards, to support social workers to develop a holistic understanding of the needs of tamariki.

²⁶⁵ SoCiC 2022

²⁶⁶ SoCiC 2022 at 7,

²⁶⁷ SoCiC 2022

²⁶⁸ Trauma-informed theory

Q 59: Section 10 reports under s 11 of Adoption Act 1955

Factors taken into account

- 13.17 Oranga Tamariki social workers consider a range of factors when a section 10 report under the Adoption Act 1955 is furnished. The approach of Oranga Tamariki is for social work reports to provide the Court with the relevant information to enable the Court to determine the following considerations under section 11 of the Adoption Act 1955:
- a. that every person who is applying for the order is a fit and proper person to have the role of providing day-to-day care for the child and of sufficient ability to bring up, maintain, and educate the child; and
 - b. that the welfare and interests of the child will be promoted by the adoption, due consideration being for this purpose given to the wishes of the child, having regard to the age and understanding of the child; and
 - c. that any condition imposed by any parent or guardian of the child with respect to the religious denomination and practice of the applicants or any applicant or as to the religious denomination in which the applicants or applicant intend to bring up the child is being complied with.
- 13.18 Information about the assessments that were carried out by social workers and which informed their social work reports is set out at NTP 340, Schedule B, section (c).

Historical background to section 10 reports

- 13.19 Oranga Tamariki acknowledge that the content of social work reports and the assessments that sit behind them, have developed since the enactment of the Adoption Act in 1995.
- 13.20 While the Adoption Act 1955 does not provide an exhaustive criterion as to the purpose and content of social work reports, case law provided detailed consideration. In *Re: An application for adoption by X and Anor* (1976) 14 MCD 259, it was held that the report is part of the evidence which the Court must consider in deciding whether to grant an adoption application.
- 13.21 The section 10 reports prepared by Oranga Tamariki are expected to have a sound basis of fact and should:
- a. record fully and fairly the facts about the applicants and their material circumstances;
 - b. state the observations of the social worker/s, drawn from interviews and inquiries;
 - c. give any opinions which the social worker/s may wish to express and the basis for the forming of those opinions; and
 - d. make any recommendations that the social worker may wish to make.
- 13.22 Social work reports through the period 1955 to the present day have always included the results of police and referee checks that are made on the adoptive applicants. The 1971 *Social Work Manual* specified at P6.23 that:
- The report for hearing of an application for an interim order will be chiefly concerned with the results of the interviews with the applicants, visits to their home, interviews with referees and checks with the Police, together with background particulars of the child.*

Review of changes to factors over time

- 13.23 Social work reports have developed over time to include a number of areas as further outlined below.

References

- 13.24 From 1980s onwards, referees were asked more specifically about adoptive applicants' capabilities, resources and their ability to provide a child with a safe and stable family life.
- 13.25 In more recent times, referees are asked to comment on applicants' relationships with children, including any existing parenting relationships as well as applicants' knowledge and experience of people from other cultures.
- 13.26 From the 1970s onwards, medical reports from applicants' GPs were routinely sought. GPs were asked to comment on applicants' general physical, psychological and emotional health, their fertility/infertility history and treatment, previous health history and current treatments, as well as general suitability to parent children by adoption. This was information was considered as part of the social work 'assessment' and any significant health information was included in the social work court report.

Interviews and home assessments

- 13.27 The social work reports would also include relevant information from interviews and home visits with the applicants. As well as descriptive information about applicants – including their family situation, employment and education, health and any religious commitments – reports may have included comment on applicants' motivation and aspirations. From the 1980s onwards, social work reports more consistently addressed the nature of contact between birth and adoptive families and the sorts of commitments that had been agreed.

Group meetings

- 13.28 From the 1980s onwards, Ministry guidance encouraged staff to run group meetings for adoptive applicants. The 1989 manual stated:

E3.1 – E3.2 Recent literature on adoption emphasises the importance of our role in the preparation of applicants for adoptive parenthood. Attention is drawn to the value of group discussion and education for adoptive applicants, as well as for couples who have already had children placed with them. Some districts have introduced group meetings with the purpose of presenting general information on adoption to prospective applicants in a setting where they are able to ask questions informally and to exchange views.

- 13.29 *Group meetings* were a way to inform applicants about the realities of adoption, including the promotion of birth family contact and the benefits of open adoption. The opportunity to hear from adopted adults, experienced adoptive parents as well as birth parents who had placed a child for adoption helped to shift attitudes and supported the development of open adoption relationships.
- 13.30 The availability of such group meetings varied across the country up until the establishment of the Adoption Information and Services Unit within NZCYF around 1991. From that time, a national education and preparation programme for adoptive applicants was developed. This programme was based on face-to-face presentations from adopted adults, birth parents and adoptive parents that addressing the distinctive nature of parenting by adoption.

Applicants' attitudes

- 13.31 From the 1980s onwards, social work reports also addressed applicants' attitudes to birth family contact and relationships, based in part, on their learnings from participation in this programme.

Information about and from birth parents

- 13.32 During the 1950s to 1970s, reports included basic information about the birth parent(s) situation and the circumstances of the child. Reports varied as to the extent of the birth family information that was available. The 1971 Social Work Manual specified that reports should include:

the name, date and date of birth of the child, the name, age, nationality, occupation and marital status of the mother, and if known the father of the child. The father should not be named, unless he has been adjudged. Comment may be made on the reasons the child is available for adoption. Where an older child is being adopted, comment should be made about his feelings towards the proposal.

- 13.33 From the 1980s onwards, as birth parents were encouraged to take more decision making responsibility for the selection of an adoptive family and there was increased focus on ongoing contact, the social work report also included these discussions. There was also a stronger focus on the collection of relevant birth family information for the consideration of the court, with the understanding that this information could be available to adopted adults.
- 13.34 With the passage of the Adult Adoption Information Act in 1985, there was greater awareness of the needs of adopted adults for information about their origins and an understanding that the court report was one place that relevant information could be recorded for future availability.

Social work placement approval

- 13.35 The social work report also included information about whether or not there had been a social work placement approval provided for the adoption placement under s 6 of the Adoption Act 1955. If there had not been a social work placement approval issued in support of the adoptive placement, the reasons for that would be set out.

Suitability of the applicant

- 13.36 The social work report would consider the range of information available about the suitability of the applicants and about the circumstances of the child. The social worker would consider this information on balance to inform a recommendation to the court as to whether the application satisfied the conditions at s 11 and whether the court should grant or decline the adoption application.

Q 60: Adoption placements – account of ethnicity, cultural awareness and competence, and family ties

- 13.37 The extent to which ethnicity, cultural awareness and competence, and family ties are taken into account in recommending adoptions to determine adoption placements is reflected in the relevant assessment criteria.²⁶⁹
- 13.38 As part of assessing prospective adoptive applicant, Oranga Tamariki must assess:
- a. the prospective caregiver or adoptive applicant's experience, skills (including understanding trauma) and attitudes relevant to their ability to provide safe, stable, loving care;
 - b. the prospective caregiver or adoptive applicant's ability to respond to the needs, and advance the wellbeing of a tamaiti;
 - c. the prospective caregiver or adoptive applicant's cultural competency, including their ability and willingness to promote and support cultural identity and connections for te tamaiti and ability to foster and support whanaungatanga;
 - d. the needs, strengths and circumstances of the prospective caregiver or adoptive applicant and their household;
 - e. the safety, adequacy and appropriateness of the physical caregiving environment – their willingness and capacity to provide a smoke and vape free environment must be included in a home visit;

²⁶⁹ Caregiver and adoptive applicant assessment and approval

- f. what support and capability building the prospective caregiver or adoptive applicant and their household might need to help them provide care;
- g. the needs of the particular tamaiti being placed or considered for adoption – if there is an identified tamaiti in mind;
- h. the likely effects on te tamaiti and the household if te tamaiti is placed with a particular household, including the effect on other tamariki within the home.

Q 61: Reduction of the number of functioning care and protection residences

- 13.39 Working in partnership with service providers, Oranga Tamariki has a vision to reduce the number of tamariki in our care and ensure tamariki Māori thrive under the protection of whānau, marae, hapū and iwi.
- 13.40 Oranga Tamariki is aware, that smaller family-like homes based on a therapeutic model are better suited for children than larger residences. Oranga Tamariki has significantly reduced its reliance on residences through the use of group homes, partnered care homes, and remand homes. Oranga Tamariki plans to continually reduce reliance on residences.
- 13.41 As set out in the Future Direction Plan, Oranga Tamariki is committed to close current care and protection residences and replace them with a model that enables tailored care for tamariki with high and complex needs. This will be done via a fit-for-purpose transition plan.²⁷⁰
- 13.42 The number of children in longer term out of home care continues to decline. Family or whānau placements remain the main placement type for tamariki or children in longer term placements. In the latest quarter, family or whānau placements were 57 percent of all longer term out of home placements.²⁷¹

²⁷⁰ Future Direction Plan at 1.7.

²⁷¹ <https://www.orangatamariki.govt.nz/about-us/performance-and-monitoring/quarterly-report/care-and-protection/>

14. Funding (Q 62-65)

- 14.1 Funding information since Oranga Tamariki was established as a separate Vote is available in each of the Estimates of Appropriations each year and subsequent financial reporting is available in each of the Annual Reports. These are available on our website.²⁷² Prior to 1 April 2017 funding was provided as a part of Vote Social Development. Annual reports back to 2005-2006 can be found on the MSD website.²⁷³

Funding of faith-based institutions to provide care services

- 14.2 Number of faith-based providers funded by Oranga Tamariki for care services and value of care service funding by year.

Current financial year figures (FY21/22) are as at 18 May 2022

Providers have been identified as “faith-based” on the basis of name. We cannot guarantee the completeness or accuracy of this information, and it should be considered indicative only.

	FY21/22	FY20/21	FY19/20	FY18/19	FY17/18
Total number of providers	59	60	54	49	48
Number of faith-based providers	4	4	5	6	6
% faith-based providers	6.8%	6.7%	9.3%	12.2%	12.5%
Total FY value of funding	\$155,487,641	\$ 120,972,783	\$ 89,711,428	\$ 72,795,424	\$ 55,551,574
Funding with faith-based providers	\$1,932,723	\$ 1,694,369	\$ 1,711,167	\$ 1,764,470	\$ 1,577,337
% funding with faith-based providers	1.2%	1.4%	1.9%	2.4%	2.8%

²⁷² Oranga Tamariki—Ministry for Children “Annual Report” (4 May 2022)
<https://www.orangatamariki.govt.nz/about-us/corporate-reports/annual-report/>

²⁷³ Ministry of Social Development| Te Manatū Whakahiato Ora “Annual Reports”
<https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/corporate/annual-report/index.html>; and
 Ministry of Social Development| Te Manatū Whakahiato Ora “Previous Annual Reports”
<https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/corporate/annual-report/previous-annual-reports.html>

Funding of Māori third party providers to provide care services

14.3 Number of third party providers funded by Oranga Tamariki for care services and value of care service funding by year:

Current financial year figures (FY21/22) are as at 18 May 2022

“Māori/iwi providers” include those who self-identified as part of Te Kāhui Kāhu's social services accreditation process, as well as other known iwi affiliates.

	FY21/22	FY20/21	FY19/20	FY18/19	FY17/18
Total number of providers	59	60	54	49	48
Number of Māori/iwi providers	22	21	18	13	11
% Māori/iwi providers	37.3%	35.0%	33.3%	26.5%	22.9%
Total FY value of funding	\$155,487,641	\$120,972,783	\$ 89,711,428	\$ 72,795,424	\$ 55,551,574
Funding with Māori/iwi providers	\$47,358,455	\$25,995,131	\$12,942,436	\$5,061,473	\$2,171,892
% funding with Māori/iwi providers	30.5%	21.5%	14.4%	7.0%	3.9%

15. Third party providers

Scope of response

- 15.1 For the purpose of this response, third party providers who provide day-to-day care for children are defined as follows:
- a. “**Section 396 care providers**”: an incorporated body approved as an iwi social service or cultural social service, or an organisation or body approved as a child and family support service, under section 396 of the Oranga Tamariki Act 1989.

The Family Court can make a custody order or sole guardianship order placing the child or young person in the legal custody of these organisations (as an alternative to placing in the legal custody of the chief executive of Oranga Tamariki). The parent, guardian or person having the care of the child or young person may enter into a care agreement with these organisations. Oranga Tamariki also place tamariki with 396 providers, but retain custody.
 - b. “**Care partners**”: an approved organisation in whose charge Oranga Tamariki has placed a child or young person where Oranga Tamariki have a custody order or are party to care agreement with the parent, guardian or person who had the care of the child or young person, and Oranga Tamariki consider the organisation is suitable to provide for the child or young person’s care, control and upbringing”. Care partners should be 396 approved.
- 15.2 Oranga Tamariki also has relationships with a broad range of other providers who do not provide day-to-day care (and who are not addressed in this response).

Q 66-67: Differences in care providers

Section 396 care provider

- 15.3 Sections 396 to 402 of the Oranga Tamariki Act address the approval, ongoing assessment, suspension and revocation processed for Section 396 care providers.
- 15.4 Oranga Tamariki does not have “oversight” of a section 396 provider regarding the allocation of a social worker and social work visits to the caregiver. The oversight is the process of Oranga Tamariki approving the organisation or body as a section 396 provider and the regular reviews undertaken of section 396 providers. Oranga Tamariki can place a child or young person with a care partner without the organisation being approved as a section 396 provider, provided that Oranga Tamariki has assessed that organisation as suitable to provide for the child or young person’s care, control and upbringing.

*Partnered care*²⁷⁴

- 15.5 Oranga Tamariki work with around 60 care partners (both whānau and non-whānau caregivers) that provide safe homes and places to live for children in care. This is in addition to placements that Oranga Tamariki arrange directly with caregivers who care for children and young persons in their own homes. Together with our 60 care partners, Oranga Tamariki designed changes for partnered care that focus on experiences and outcomes and meet the National Care Standards and wider commitments such as section 7AA. Oranga Tamariki is committed to a collaborative approach of working together that is focused on:
- a. meeting collective obligations (recognising that all tamariki, not just tamariki Māori, should be within their family group wherever possible);

²⁷⁴ Oranga Tamariki—Ministry for Children “Partnered Care” (7 June 2022) <https://www.orangatamariki.govt.nz/working-with-children/information-for-providers/partnered-care/>

- b. continuous improvement; and
 - c. supporting children or tamariki and young people or rangatahi in care to achieve better outcomes.
- 15.6 To become a care partner there are four phases:²⁷⁵
- a. Preparation;
 - b. Care partner readiness;
 - c. Confirmation of partner; and
 - d. Transition into quality assurance cycle.
- 15.7 The following principles underpin the process of becoming a care partner:
- a. Tamariki Māori should be with whānau, hapū and iwi wherever possible.
 - b. Before approving new care partners, Oranga Tamariki needs to consider what is already provided in the local area and talk with key stakeholders.
 - c. Oranga Tamariki will provide resources and support for new care partners to provide care for tamariki or children.
 - d. Oranga Tamariki works collectively and in partnership to co-design services and improve the experiences and outcomes of tamariki or children in care.
 - e. Together Oranga Tamariki ensures our statutory responsibilities to assess the needs of the child and ensure a plan is in place to meet their needs.

Q 68: Reasons why Oranga Tamariki has shared care with third party providers

- 15.8 The ability to fund other organisations was established formally in the Children Young Persons and their families Act 1989, following the *Pūao-te-Ata-tū* report. Those are the section 396 and section 403 provisions for iwi, cultural and community social service providers being able to provide care and other services for tamariki and their whānau. Both that document and the more recent Te Kahu Aroha produced by the Ministerial Advisory Board promote community-based organisations (suitably accredited) leading care arrangements for tamariki.
- 15.9 To say that Oranga Tamariki relies on third party care providers would be somewhat overstated. Approximately 80 percent of all our care arrangements are organised and managed by Oranga Tamariki social workers. A significant part of the 20 percent of care arrangements led by community-based organisations are for tamariki and rangatahi with high needs, on the basis that they bring specialist skills and usually experience to meet the very specific needs of individuals in those care arrangements.

Q 69: Suitability and Accreditation

- 15.10 Prior to 1 July 2021, MSD and Oranga Tamariki had defined roles with respect to assessing the suitability of third-party providers: MSD (through Te Kāhui Kāhu) was responsible for the accreditation and approval of third party providers and Oranga Tamariki was responsible for contracting and monitoring.
- 15.11 Since 1 July 2021, Oranga Tamariki now has a significant role in the suitability assessment and approval for section 396 care providers and care partners. Te Kāhui Kāhu has a much more reduced role in that it only assesses third party providers against the Social Sector Accreditation Standards (**SSAS**). This is only one component of the approval/assessment/monitoring process.

²⁷⁵ Oranga Tamariki—Ministry for Children “Becoming a care partner” (9 September 2021) <https://www.orangatamariki.govt.nz/working-with-children/information-for-providers/partnered-care/becoming-a-care-partner/>

- 15.12 Oranga Tamariki has provided an explanation as to how it assesses the suitability of third-party providers in response to Notice 298.
- 15.13 Oranga Tamariki understand MSD will address the accreditation process run by Te Kāhui Kāhu for assessing the suitability of third-party service providers.

Q 70: Reporting requirements and complaints

- 15.14 Third party providers (also referred to as care partners) must report back to Oranga Tamariki on a regular basis.²⁷⁶
- 15.15 General reporting requirements for third party providers are found in tables 11 to 13 of the Shared Care Service Specifications.²⁷⁷
- 15.16 It is the responsibility of Oranga Tamariki and the third-party provider to ensure tamariki know how to make complaints. There are currently no contractual requirements to report general complaints. However, each third-party provider is required to have their own complaints policy and procedures, and some third-party providers will have agreed escalation pathways developed with Oranga Tamariki as part of their relationship management plan.
- 15.17 Furthermore, the third-party provider must provide written notice as soon as reasonably practicable of any problems, issues or incidents that arise in relation to the performance of their contracts (other than those stipulated in table 12), including any problems or issues that will, or are likely to, affect the provision or quality of the services or the ability of the third-party provider to perform its obligations under the contract.

Q 71: Monitoring and review²⁷⁸

- 15.18 When reviewing third party providers, Oranga Tamariki focuses on building partnerships and understanding the experiences of the children or tamariki, young people or rangatahi, carers, and whānau or family involved in care. This approach was designed collaboratively between a range of third-party providers and Oranga Tamariki. It will continue to be developed and refined over time.
- 15.19 Continuous improvement and collaboration are some of the foundational principles that have been agreed between third party providers and Oranga Tamariki. These principles have shaped the development of the Quality Assurance function and continue to be the focus guiding our mahi.
- 15.20 Oranga Tamariki regularly engages throughout the year both regionally and nationally to gather and share information. This includes:
- a. regular Partnership Touchpoints;
 - b. Annual Care Partner Reflection; and
 - c. within Communities of Practice to generate and share best practice knowledge.
- 15.21 The current frequency of monitoring is based on a risk assessment undertaken by the Contract Manager. Risk factors include level of funding, experience and past history, types of services funded, accreditation results, and financial viability. The current guidance requires a minimum of two monitoring visits per annum. Monitoring typically takes the form of:

²⁷⁶ Oranga Tamariki—Ministry for Children “Provider service reporting” (9 November 2021) <https://www.orangatamariki.govt.nz/working-with-children/information-for-providers/provider-service-reporting/>

²⁷⁷ Oranga Tamariki—Ministry for Children “**Shared Care: Service Specification**” (June 2021) <https://www.orangatamariki.govt.nz/assets/Uploads/Working-with-children/Information-for-providers/Service-Specifications/Shared-Care-Service-Specification-from-1-July-2021.pdf>

²⁷⁸ Oranga Tamariki—Ministry for Children “Quality Assurance” (16 February 2022) <https://www.orangatamariki.govt.nz/working-with-children/information-for-providers/partnered-care/quality-assurance/>

- a. an assessment of the third party provider’s performance reporting / outputs / outcomes achieved.
- b. discussion / assessment of a set of questions pertinent to the successful delivery of the service.
- c. reviewing a random selection of client files.
- d. encouraging the on-going review and assessment of the effectiveness of the service;
- e. providing mutual constructive feedback.

Q 72: Recording information

- 15.22 The care model summary requires third party providers to record what ethnicities a child is, what support level is required for example, are there any disability or mental health or behavioural needs, and also what level of funding third party providers require to provide high-quality care that meets legislative requirements.²⁷⁹
- 15.23 All tamariki and rangatahi in care or custody must have an All About Me Plan.²⁸⁰ The All About Me Plan addresses the needs identified through analysis of the Tuituia assessment. It has important information about each tamaiti or rangatahi in Oranga Tamariki care. The All About Me policy defines when the plan is needed and how it is developed, maintained, and used. The All About Me Plan for te tamaiti, has three parts (information about the child, their aspirations and the plan to meet their needs) and includes how often their social worker will visit, information about the ongoing planned contact with the whānau or family of te tamaiti, and other people that it is important for them to stay in contact with.
- 15.24 Third party providers will collect and store the information supplied by the Oranga Tamariki social worker at the referral stage and within the All About Me Plan. They will then update the information if there are any changes while they are in their care.

Q 73: Care partners: meeting the needs of specific people

- 15.25 The National Care Standards and the Shared Care Service Specifications outline the current expectations for Oranga Tamariki and Care Partners in meeting the needs of children in care.
- 15.26 The service specifications and care model summary, directly acknowledge the importance of care partners and Oranga Tamariki working together as genuine partners, pooling our knowledge and expertise to best meet the needs of children or tamariki in care and their whānau or families.²⁸¹
- 15.27 As part of the care model provided by the care partner they will identify the nature of care they are able to provide and this should be used to inform placement decisions made by the Oranga Tamariki social worker at the referral stage.

Q 74: Visits

- 15.28 As detailed in Section One, the National Care Standards must be met for all children in state care, including those with third party providers. These standards require that a child’s need to maintain connections with their family, whānau, hapū, iwi, and family group must be assessed and then reflected in their individual plan.

²⁷⁹ Oranga Tamariki—Ministry for Children “Care Model Summary” (13 April 2022) <https://www.orangatamariki.govt.nz/assets/Uploads/Working-with-children/Information-for-providers/Service-Specifications/Care-Model-Summary-template.docx>

²⁸⁰ All About Me Plan

²⁸¹ Shared Care: Service Specification

- 15.29 The All About Me Plan specifies how often te tamaiti will be visited by their Oranga Tamariki social worker. The social worker will meet with te tamaiti face-to-face and alone or in private when at all possible, engaging with them positively to encourage them to share freely express any worries or concerns, talk about what's going well and what needs to be changed to better meet their needs. For example, the social worker will ask what is going well for te tamaiti, what is important to them and if they have any concerns or worries. If te tamaiti has tasks specified in a Family Group Conference or Court plan, the social worker will also check whether these are on track to be completed in the required time.²⁸²
- 15.30 The frequency of the visits should be based on the needs of te tamaiti. This visit is also a time to ensure that their All About Me Plan is up to date and the plan is being implemented.
- 15.31 Social workers are encouraged to ensure a child's All About Me Plan is regularly reviewed and updated, noting that assessment and planning is not an isolated event but a continual process of noticing, making sense of and responding to change and progress. Each assessment and updated plan need to be recorded, to track what change looks like for te tamaiti over time and ensure progress positive is being made.
- 15.32 Third party providers may also want to use their own day-to-day planning tools to manage how the needs of te tamaiti are to be met according to their All About Me Plan, on a day-to-day basis. Examples of when this may be helpful are, if a roster of care staff is involved, or if te tamaiti has needs that affect how their daily routine should be managed. Third party providers have full discretion to create their own tools – the important thing is that any day-to-day planning must align with the All About Me Plan.

Q 75-77: Incident reporting

- 15.33 Critical incident reporting is made by the third-party provider directly to the contracting agency, with definitions and thresholds for reporting detailed in the outcome agreement (contract for services) with the third-party provider. Third party providers are not contractually required or required under the SSAS, to report deaths directly to Te Kāhui Kāhu. However, if the contracting agency advises Te Kāhui Kāhu of such an incident, Te Kāhui Kāhu would apply its Issues and Complaints and Management Policy (2019). This policy specifies that:
- a. All issues and complaints relating to the third-party provider's adherence to the SSAS will be taken seriously.
 - b. Te Kāhui Kāhu can only respond to issues or complaints related to a third-party provider's adherence to the SSAS.
 - c. Te Kāhui Kāhu may become involved when the contracting agency has gathered information from all relevant sources and there is evidence to suggest that a third party provider may be in breach of the SSAS.
 - d. If Te Kāhui Kāhu is responding to a high-risk issue or complaint, it will conduct an assessment when a statutory investigation has been completed.

Q 78: Support and engagement by the Ministry with deceased person's family, whānau, hapū, and iwi

- 15.34 Oranga Tamariki's process in relation to a what happens when a person in the care of Oranga Tamariki dies is described in answer to question 19 and relates to all care settings.

²⁸² Shared Care: Service Specification at 14.

Q 79: Assessment/consideration of impacts of abuse and changes to third-party placement practices and policies

- 15.35 Oranga Tamariki recognises that abuse and harm experienced by tamariki as a result of being in the care and protection system can have immediate, long-term and intergenerational impacts on victims and survivors, their families, whānau, hapū, iwi and communities.
- 15.36 The Hawke's Bay Practice Review found that the likely impact of prior trauma on parents' behaviour was not sufficiently well understood, and this compromised decision making and engagement (which also meant opportunities to avoid re-traumatisation were also missed).²⁸³ Oranga Tamariki made immediate changes following the review.
- 15.37 To overcome previous failings to understand the impact of prior trauma, it was important social workers recognise and respond to trauma when working with tamariki and whānau.
- 15.38 Trauma can occur across families and generations, within social systems and directly to individuals.
- 15.39 "Complex trauma"²⁸⁴ often results from physical, emotional and sexual abuse, neglect, conscious/unconscious bias and discrimination, conflict and oppression, and the effects of colonisation: loss of culture, language, identity, land and collective wellbeing.
- 15.40 Within the care and protection system, removing tamariki from whānau care is inherently traumatic, even where required for safety reasons. For Māori this is compounded by the historical trauma of colonisation and their intergenerational impacts of exposure to the system.
- 15.41 Social workers need to be aware of indicators of trauma such as whānau experiencing powerlessness, having no voice or self-esteem and having no protective boundaries. Demonstrating empathy and understanding was important to overcome this.

Q 80-81: Regulation of faith-based organisations

- 15.42 As was outlined in Oranga Tamariki's response to Notice 340, Oranga Tamariki did not regulate faith-based organisations.

²⁸³ Hawke's Bay Practice Review 2019 at 41; and Practice Centre: Trauma-informed theory.

²⁸⁴ Describing multiple, enduring experiences that threaten or cause harm to wellbeing.

16. Māori as Third Party Providers

Q 82-84: Breaking down barriers to entry for Māori third-party care providers of care and protection services under the Oranga Tamariki Act 1989

- 16.1 Section 7AA of the Oranga Tamariki Act sets out specific duties of Oranga Tamariki in relation to Te Tiriti o Waitangi | the Treaty of Waitangi and improvement of outcomes for tamariki Māori. Section 7AA(2)(c) states that Oranga Tamariki seeks to develop strategic partnerships with iwi and Māori organisations, to provide opportunities for the chief executive to delegate functions under the Oranga Tamariki Act to appropriately qualified people within Māori organisations.
- 16.2 Section 396 of the Oranga Tamariki Act provides that the chief executive of Oranga Tamariki may approve any incorporated body as an iwi social service for the purposes of the Act. Applications to be a Māori service provider of third party social services are made pursuant to section 396 of the Oranga Tamariki Act. Those applications are determined by the chief executive.
- 16.3 Oranga Tamariki acknowledges it will not achieve improved outcomes for tamariki Māori on its own. It funds over 100 iwi and Māori organisations to deliver services, the majority of whom provide prevention, early or intensive intervention services. Oranga Tamariki also has a range of relationships with iwi and Māori organisations from formal partnership agreements through to site level agreements.
- 16.4 Social service providers classify themselves to be iwi, Māori or range of other “ethnicities” when they apply to Te Kahui Kahu for accreditation. Te Kahui Kahu maintains a database of accredited providers and the database includes the self-reported ethnicity category allocated to the organisation. The self-reported ethnicity affiliation of the organisation is confirmed as part of the accreditation process. A number of Māori organisations have not stated that they are iwi or Māori service providers and accordingly are included as non-iwi or Māori for identification and statistical purposes.
- 16.5 The primary current barrier to Māori becoming third party social services providers is sustainable long-term funding, which would be required in order to increase the capability and capacity in iwi and kaupapa Māori organisations to become accredited providers. The lack of adequate or sustained funding impacts the ability of iwi and kaupapa Māori organisations to recruit the people resource with the right knowledge and expertise around the systems, legislation, and policy which is needed when trying to gain and maintain s 396 accreditation for operating as a third-party provider, or operation under s 7AA of the Oranga Tamariki Act 1989.
- 16.6 Oranga Tamariki, as part of its future direction, intends to do the following to remove the barriers that currently exist for Iwi and kaupapa providers to become accredited third party providers of care and protection services:
 - a. Create structures that whakamana Te Ao Māori and trust in mātauranga Māori as a key contributor for tamariki, rangatahi and whānau to flourish.
 - b. Build interrelated systems and structures which purposefully and actively enable devolvement of services to Māori and is a key change across government.
 - c. Invest in a manner that addresses inequities to enable sustainable Māori designed and Māori led solutions.
 - d. Shifting mana in a way that enables whānau, hapū and iwi to nurture, grow and heal tamariki Māori and their whānau.
- 16.7 The Whānau Care partnership programme is one of the specific ways which Oranga Tamariki is removing barriers to iwi and kaupapa Māori organisations

becoming third party or section 396 accredited providers. Whānau Care is a partnership between Oranga Tamariki and an iwi (or iwi mandated organisation) or Māori organisation (once the partnership is established, these organisations are called Whānau Care partners) that has the social service credentials and networks to connect tamariki to their whānau, hapū and iwi, fundamental to upholding the mana of tamariki. The Whānau Care kaupapa is a significant lever for iwi and Māori. It supports Oranga Tamariki to ensure tamariki Māori thrive in the care and protection of their whānau, hapū and iwi. Through these partnerships, Oranga Tamariki supports iwi and Māori organisations to receive tamariki from the care and protection system.

- 16.8 Support includes section 396 accreditation capability to deliver care services in place of Oranga Tamariki and bolstering capacity of Whānau Care partners to recruit and support their own caregivers. The Whānau Care engagement model enables Oranga Tamariki to commission and co-design with iwi and Māori organisations directly, targeting those with the most tamariki Māori in care first. With our partners, we are co-designing iwi-led indigenous models of care that enable whanaungatanga, whakapapa and connections between tamariki, their whānau and wider hapū and iwi. This allows the development, by the Whānau Care partner, of the tikanga and practical operational approach that the Whānau Care partner will undertake. Each model is culturally constructed, in a way unique to the lens of each Whānau Care partner, and each is inherently embedded with dual expectations being:
- a. responsibilities to the partnership with Oranga Tamariki; and
 - b. responsibilities to whānau, hapū and iwi communities to whom they are accountable.
- 16.9 Oranga Tamariki currently has Whānau Care eight partnerships with iwi and Māori organisations, all of which have expressed a strong desire to support whānau and tamariki at risk of entering care. These partnerships allow us to potentially reach 48.4% of tamariki Māori currently in care. Current Whānau Care partners include: Waitomo Papakāinga; Te Rūnanga ā-Iwi o Ngāpuhi; Te Iwi o Ngāti Kahu; Waikato-Tainui; Ngāti Maniapoto; Ngāti Ruanui; Te Roopu Awhina ki Porirua; and Ngāi Tahu.²⁸⁵
- 16.10 Additionally, Oranga Tamariki prioritises strategic partnerships with Māori. Each strategic partnership is unique and reflects differing iwi priorities to meet the needs of their tamariki, whānau, marae and hapū. We all share a vision to reduce the number of tamariki in our care and ensure tamariki Māori thrive under the protection of whānau, marae, hapū and iwi.
- 16.11 Ensuring consistency of Whānau Care partnerships and service provision by other Māori service providers with Te Tiriti o Waitangi | the Treaty of Waitangi is essential, and the requirements in place to ensure services provided by Māori service providers to Māori children and young people are consistent with Te Tiriti o Waitangi | the Treaty of Waitangi are the same as those addressed above in the section of this response addressing third party service providers generally. Specifically, in relation to responsiveness to the requirements of section 7AA of the Act, as part of the assessment for new Whānau Care Partners, Oranga Tamariki asks potential care partners how they will achieve this as part of service delivery. The Quality Assurance Framework then asks care partners to describe and evidence how the section 7AA requirements are actioned in their service. Due diligence through the contracting process also addresses this issue.

²⁸⁵ Section 7AA Report 2020

17. Human Rights and Obligations under international law/instruments

- 17.1 Oranga Tamariki recognises the importance of human rights and obligations under international law and instruments as reflected by the matters addressed below. The new Practice Framework explicitly addresses the rights of tamariki and whānau with direct links and references to the United Nations conventions and declarations. Guidance on how to apply the frameworks guides kaimahi to “assert the rights of all tamariki/mokopuna and rangatahi, whānau and families under the United Nations Convention on the Rights of the Child, the United Nations Declaration on the Rights of Indigenous Peoples, and the United Nations Convention on the Rights of Persons with Disabilities”

Q 85: Right to culture under international instruments

- 17.2 In section One we have noted the findings of reviews and reports that have highlighted the importance of cultural connectedness for the wellbeing of children and young people. For example, the Expert Advisory Panel’s 2015 report observed the importance of whakapapa and a need to focus on culture and identity for tamariki Māori.
- 17.3 The amendments to the Oranga Tamariki Act 2019 and introduction of section 7AA are also relevant and have been addressed throughout this response.
- 17.4 Oranga Tamariki has considered the Crown’s obligations under article 15 of the International Covenant on Economic, Social and Cultural Rights and article 37 of the International Covenant on Civil and Political Rights relating to the rights of children and young people in its care, and gives effect to these obligations through the National Care Standards and Practice Centre guidance.
- 17.5 As detailed in Section One, the National Care Standards came into force on 1 July 2019. They set out explicit expectations on ensuring that children and young people in care or custody are supported in ways that meet their needs.²⁸⁶ This includes support in the areas of culture, belonging and identity as well as support to maintain connections, which further relies on connections with their family/whānau, hapū, iwi and family group.²⁸⁷ The National Care Standards were developed in close consultation with children, young people, iwi social services, care givers, care providers and social workers.
- 17.6 Oranga Tamariki has developed two initiatives to maintain a child or young person’s cultural connections, and to support increased whānau participation in providing care. These are:²⁸⁸
- a. Expanding the Mokopuna Ora Programme. This is a partnership arrangement with Waikato – Tainui and Oranga Tamariki to keep children connected with their whānau, hapū, and iwi to prevent children and young people coming into the State care and protection system.
 - b. Development of Whānau Care. Whānau Care partners with Iwi and Kaupapa Māori organisations, to design and implement their own models of care for whānau, hapū and iwi caregivers. This is to ensure tamariki Māori in care, are placed with whānau and are connected to their culture in a way that enhances their mana. The Whānau Care seeks to achieve this by:²⁸⁹

²⁸⁶ National Care Standards

²⁸⁷ Oranga Tamariki—Ministry for Children Practice Centre “**Culture, belonging and identity**” (1 July 2019) <https://practice.orangatamariki.govt.nz/our-work/care/caring-for-tamariki-in-care/culture-belonging-and-identity/>

²⁸⁸ Section 7AA Report 2021 at 26, 35, and 40–41.

²⁸⁹ Oranga Tamariki—Ministry for Children “Family and whānau care” (6 October 2020) <https://www.orangatamariki.govt.nz/support-for-families/how-we-support-whānau/family-and-whānau-care/>

- i. Developing partnerships with iwi and kaupapa Māori organisations. The Whānau Care partnership may also operate under a Strategic Partnership Agreement such as Waikato Tainui.
 - ii. Recruiting an initial cohort of hapū and iwi caregivers to ensure there are options for Tamariki Māori to be placed with whānau, hapū or iwi caregivers.
 - iii. Whānau searching along whakapapa lines is held by Whānau Care partners.
 - iv. Shared decision making for Tamariki of the relevant iwi either entering state care or are already in state care.
 - v. Oranga Tamariki staff working collectively with the partner to ensure a successful partnership.
 - vi. Transitioning Tamariki currently in non-kin care to whānau placements, is a priority as Oranga Tamariki ensure all whānau are supported to do so. If this is not possible, Oranga Tamariki look to ensure the Tamariki is placed with iwi or hapū caregivers until whānau are available.
- c. Expanding hui-a-whānau and whānau searching initiatives:
- i. Hui-a-whānau provide a way for children, young people and whānau to work together to make decisions and resolve problems. At-risk families are supported at an earlier stage, and outcomes of family group conferences will be improved.
 - ii. Whānau searching will help Oranga Tamariki engage in a more culturally responsive way. This will increase the likelihood of children and young people being placed with whānau and developing a sense of belonging and connection.
- 17.7 Oranga Tamariki recognises further work is still required, to ensure the Crown observes its international obligations in respect of the rights of children, in particular children and young people in state care. As such, the Oranga Tamariki Practice Centre guidance is to be:²⁹⁰

...strengthened so it more completely reflects [Oranga Tamariki's] commitment to practice framed by Te Tiriti o Waitangi | the Treaty of Waitangi, based on a mana-enhancing paradigm for practice, and drawing from Te Ao Māori principles of oranga to support mana tamaiti, whakapapa and whanaungatanga.

Q 86-87 and 89: Disabilities – international obligations

- 17.8 When the new Oranga Tamariki National Care Standards came into effect, these legislative changes further increased the obligations of Oranga Tamariki to meet the needs of disabled tamariki who come to the attention of Oranga Tamariki. One of the most significant disability changes was the repeal of section 141 of the Oranga Tamariki Act. Section 141 related to agreements for extended care of severely disabled children and young people.
- 17.9 Repealing section 141 (and section 142) was relevant to a recommendation of the United Nations Committee on the Rights of Persons with Disabilities, that sections 141, 142 and 144(2) of the Oranga Tamariki Act “appear not to give children with disabilities the same protections as other children when they are placed in out-of-home care”.
- 17.10 Preparation to implement the repeal of section 141 also highlighted ongoing issues with Oranga Tamariki's approach to disability. These included:

²⁹⁰ Culture, belonging and identity

- a. a belief that disabled tamariki and whānau that came through a health pathway to out-of-home care, did not meet the threshold for statutory intervention. There was a propensity try to keep these families outside of the care and protection system. This inadvertently highlighted discriminatory attitudes towards those whānau who did meet the threshold for a statutory intervention.
 - b. how inaccessible Oranga Tamariki systems were for disabled children, their whānau and disabled parents.
 - c. that the partnership between Oranga Tamariki and the Ministry of Health had degraded, impacting outcomes for tamariki and whānau.
- 17.11 Preparation for the repeal also highlighted wider systems issues including:
- a. how deeply embedded the charity and medical models of disability are, and the impact those models have on Oranga Tamariki relationships, practice and service delivery; and
 - b. the tendency of those involved in the disability sector, to work in silo's resulting in disabled children and young people not having their needs meet.
- 17.12 Oranga Tamariki has a growing awareness of disability and disability issues. As a result, Oranga Tamariki has begun to make improvements in its approach to disabled people. Some of these improvements are detailed further in other parts of this response. Including:
- a. all disabled tamariki in need of out-of-home care being treated the same no matter their socio-economic background or ethnicity;
 - b. the number of Regional Disability Advisors has increased to support frontline kaimahi;
 - c. a disability advocacy service called VOYCE Tangata Whaikaha, has been developed for tamariki in care with communication needs;
 - d. a commitment on an organisational level to address, the many issues in the high needs/specialist care space, in co-operation with other agencies;
 - e. increased the profile of disability and started to shift narratives – Oranga Tamariki have always worked with disabled children who may need a statutory response; and
 - f. increasing the number of staff committed to championing disability rights at Oranga Tamariki.

Disability strategy

- 17.13 Additionally, Oranga Tamariki is developing a disability strategy. The aim of the strategy is to support Oranga Tamariki to become a fully inclusive and accessible organisation, that meets the needs of disabled people and gives full effect to a social and rights-based model of disability. Development of the strategy will use the definition of disability from the United Nations Convention on the Rights of Persons with Disabilities, which is also referenced in the New Zealand Disability Strategy.²⁹¹
- 17.14 Oranga Tamariki also has a disability work programme. This work focuses on improving outcomes for disabled tamariki and rangatahi as well improving outcomes for disabled parents, whose children are involved with the care or youth justice system. Oranga Tamariki is seeking to implement this approach throughout the organisation including through the practices, guidance and policies, supports, data and evidence, training and organisational culture.

²⁹¹ Office for Disability Issues | Te Tari Mō Ngā Take Hauātanga “New Zealand Disability Strategy 2016–2026” (November 2016) <https://www.odi.govt.nz/assets/New-Zealand-Disability-Strategy-files/pdf-nz-disability-strategy-2016.pdf>

- 17.15 The disability strategy will support the implementation of Oranga Tamariki’s draft strategy which is proposing a focus on tamariki Māori, Pacific children and disabled children. Disability is a population issue and the focus on disabled children cannot be done in isolation from the focus on tamariki Māori and Pacific children or the wider system.
- 17.16 In addition, in October 2021 the new chief disability advisor to Oranga Tamariki was appointed and will be important in providing ongoing strategic leadership for the strategy. This is likely to include sector engagement and internal advocacy consistent with the social and rights-based model already outlined.

Q 88: Indigenous peoples – international commitments

- 17.17 In addition to the Crown’s Treaty obligations, Oranga Tamariki recognises its international commitments to the rights of Māori in accordance with the United Nations Declaration on the Rights of Indigenous People (UNDRIP).
- 17.18 UNDRIP is non-legally binding resolution of the General Assembly of the United Nations. When the resolution passed in 2007, New Zealand was one of only four member states to vote against the resolution. However, in 2010, New Zealand decided to support UNDRIP.²⁹² In 2014, the Government committed to take concrete measures to ensure the implementation and promotion of UNDRIP.
- 17.19 In a Cabinet Paper in March 2019,²⁹³ the Minister for Māori Development observed UNDRIP was “considered in an ad hoc manner by government agencies”. In that Cabinet Paper, the Minister proposed to develop a “Declaration plan that articulates [the Government’s] commitment to action on Māori wellbeing and development”. Te Puni Kōkiri is the lead agency to develop a Declaration plan on New Zealand’s progress towards the objectives of the UNDRIP.²⁹⁴ Therefore, Oranga Tamariki works with Te Puni Kōkiri to ensure its practice and policies are consistent with UNDRIP.
- 17.20 As a result of the New Zealand Government’s commitments under UNDRIP, Oranga Tamariki has a central responsibility to improve outcomes for vulnerable tamariki and rangatahi Māori. It already seeks to achieve this by setting policies and practice to reduce disparities, having regard to mana tamaiti, whakapapa and whanaungatanga in Oranga Tamariki policies, practices and services and by strategically partnering with iwi and Māori organisations. This is extensively addressed above in relation to the Crown’s Treaty obligations (in particular at question 4), but these principles apply here in terms of the general international commitments of the Government to Māori in accordance with UNDRIP.
- 17.21 As with UNCROC, Oranga Tamariki recognises, as recorded in its Practice Centre, that tamariki Māori have particular convention under UNDRIP.²⁹⁵ The guidance in the Practice Centre provides that the protections under UNDRIP:

...are consistent with our aspirations for tamariki Māori who are in care. [UNCROC and UNDRIP] provide best practice guidance on how to ensure indigenous people are able to participate in their culture, customary practices and language, and experience appropriate support and responsive services to meet their needs.

²⁹² New Zealand Statement Before 9th Session of the United Nations Permanent Forum on Indigenous Issues (20 April 2010)

²⁹³ Te Puni Kōkiri | Ministry of Māori Development “Developing a plan on New Zealand’s progress on the United Nations” (2019) <https://www.tpk.govt.nz/en/a-matou-mohiotanga/cabinet-papers/develop-plan-on-nz-progress-un>

²⁹⁴ Te Puni Kōkiri | Ministry of Māori Development “UN Declaration on the Rights of Indigenous Peoples” (22 April 2022) <https://www.tpk.govt.nz/en/whakamahia/un-declaration-on-the-rights-of-indigenous-peoples>.

²⁹⁵ Oranga Tamariki—Ministry for Children Practice Centre “Explaining rights and entitlements to tamariki and rangatahi” (11 October 2021) <https://practice.orangatamariki.govt.nz/our-work/care/caring-for-tamariki-in-care/explaining-rights-and-entitlements-to-tamariki-and-rangatahi/>.

Q 90-96: The United Nations Convention on the Rights of the Child (UNCROC)

Work undertaken to give effect to UNCROC obligations

- 17.22 Between 2014 and 2015, the three main areas that were covered under Oranga Tamariki's work programme to improve outcomes for children, young people and their families to give effect to the Government's obligations under the United Nations Convention on the Rights of the Child were:
- a. Investigating raising the age that young people leave care to 18.
 - b. Considering options for improving input of children and young people's views in the formulation of legislation and policies associated with their rights under UNCROC.
 - c. Considering options to facilitate the consideration of children and young people's rights in the development of major policy and legislative initiatives, to ensure that the New Zealand Government's obligations under UNCROC are taken into account.
- 17.23 The establishment of Oranga Tamariki in 2017 was the start of a major transformation programme to build a more child-centred care and protection system focusing on harm and trauma prevention and early intervention, rather than crisis management. The legislative amendments to support this included:
- a. An extension to the provision of the statutory Care and Protection system to young people aged 17 years; the treatment of 17-year-olds within the new design of the youth justice system significantly increases the alignment of New Zealand's justice system to UNCROC.²⁹⁶
 - b. Embedding the views of children and young people at a systemic and individual level by strengthening obligations to support participation under the Act.
 - c. Encouraging the participation of children and young people in decisions that could significantly affect them
 - d. Supporting the establishment of independent advocacy services; and enabling a broader range of professionals to perform a wider set of functions under the Act.
- 17.24 A second set of legislative amendments were made in 2017. These included:
- a. The creation of specific duties on the Chief Executive in relation to Te Tiriti o Waitangi | the Treaty of Waitangi (section 7AA).
 - b. Changes to the purposes and principles of the Act to better ensure children and young people are at the centre of decision-making while considering them within the context of their families, whānau, hapū, iwi, family groups, and broader networks and communities.
 - c. A requirement to have regulations that prescribe the actions or steps that must be taken to help ensure that children and young people receive an appropriate standard of care.
 - d. An extension to the Youth Justice system to include most 17-year-olds (with those charged with specified serious offences to be dealt with in the adult courts).
 - e. Provisions giving young people the right to remain or return to living with a caregiver until the age of 21, with transition support and advice available up to age 25.

²⁹⁶ This also responded to a recommendation from the United Nations Committee on the Rights of the Child to raise the age of criminal majority to 18 years (recommendation 45 (b) in the Committee's 2016 concluding recommendations on NZ's Fifth Periodic Report).

- f. Strengthened information sharing provisions to keep vulnerable children and young people safe from harm.
 - g. A requirement for Oranga Tamariki to have one or more child-centred complaints mechanisms in place.
 - h. The repeal of sections 141 and 142 of the Oranga Tamariki Act.
 - i. A requirement to ensure that children's and young people's rights under UNCROC are considered in the exercise of statutory intervention. Amendments to section 5 ("Principles to be applied in exercise of powers under this Act") of the Oranga Tamariki Act now require any court or other person exercising powers under the Act to respect the child's or young person's rights, including those rights set out in UNCROC, when exercising powers under the legislation.
- 17.25 Since 2017, Oranga Tamariki has moved to embed the voices of children and young people into decision-making at both individual and system levels. Some of Oranga Tamariki historical contributions include:
- a. The previous role of the Tamariki Advocate/Deputy Chief Executive (Voices of Children) was designed to ensure that policies were made in partnership with others, particularly care-experienced young people. In 2021, as part of the organisations restructure, this role was disestablished and the team have moved to Māori Partnerships and Communities. Consultation and partnership however, still remain a core feature of Oranga Tamariki.
 - b. Youth panels have been regularly established to inform the transformation programme for the care and protection system. Central to the development of the new operating model has been the Minister for Children's two youth advisory panels. These panels comprise care experienced young people who have advised the Minister on the transformation of the care and protection operating model.
 - c. Children and young people have contributed to the development of a range of key changes, including the National Care Standards, specialist foster care as an option for children and young people detained in custody, new model sites and transition services.
 - d. Amendments to the principles of, and strengthened obligations in, the Oranga Tamariki Act 1989 include requirements to encourage and assist children and young people to participate in, and express their views about, any proceedings or processes affecting them, and to take their views into account. This means, at an individual level, frontline workers will ensure children and young people are supported to participate in decisions that affect them, and that their views are better represented in Court and in Family Group Conferences. To achieve this, changes were made to increase staff capacity so social workers can spend more time with children and young people.
- 17.26 The legislative changes also supported the establishment of VOYCE – Whakarongo Mai, which provides children and young people in care, or with care experience, with an opportunity and support to express their views about their experiences in care.
- 17.27 Oranga Tamariki's operating model aims to make a difference for a child at the earliest possible point, by keeping more children and young people safely with their families and whānau; where that is not possible, by providing children and young people with high quality alternative care; and ensuring that children and young people in care or custody can transition to independence with appropriate support.

Reservations of UNCROC

- 17.28 The New Zealand Government has made and still maintains the following reservations to the UNCROC:
- a. Article 2 – right to be free from discrimination.
 - b. Article 32 – legislation for minimum age of employment.
 - c. Article 37(c) – age-mixing with adults when deprived of liberty.
- 17.29 In 2021, Oranga Tamariki provided advice to MSD on removing the reservation to article 37(c). This article requires that “every child deprived of liberty shall be separated from adults unless it is considered in the child’s best interest not to do so.” New Zealand’s geography, relatively dispersed population, and the shortage of secure youth facilities can make age-mixing difficult to avoid. The age-mixing reservation is mainly driven by these resource constraints.
- 17.30 An initial assessment by Oranga Tamariki (together with Police, Department of Corrections, Ministry of Justice, and Ministry of Health) indicates that infrastructural changes for total age-separation across the whole system would likely require significant cost and investment for the relatively small number of situations where age-mixing may occur.

Monitoring against UNCROC

- 17.31 While MSD is the coordinating agency for UNCROC, the New Zealand Government’s progress is independently monitored by the Children’s Convention Monitoring Group (CMG).
- 17.32 The CMG was formed in February 2011 to monitor the New Zealand Government’s response to the 2011 Concluding Observations of the UN Committee on the Rights of the Child on New Zealand. The CMG is convened by the Office of the Children’s Commissioner (OCC), and consists of representatives from:
- the Human Rights Commission (HRC);
 - Action for Children and Youth Aotearoa (ACYA);
 - Save the Children New Zealand;
 - UNICEF New Zealand.
- 17.33 The CMG meets at least quarterly to monitor the progress made on implementing UNCROC in New Zealand. They also meet at least twice a year with a cross-sector group of Children’s Convention Deputy Chief Executives to discuss their findings and provide regular reports.
- 17.34 The Children’s Convention Deputy Chief Executives (DCEs) group helps to ensure that the individual work programmes in each agency contribute to the implementation of the Convention, and provide high-level coordination and implementation of UNCROC throughout New Zealand.
- 17.35 The Children’s Convention DCEs and the CMG meet at least twice a year to support the Children’s Convention DCEs to fulfil the Government’s obligations in implementing the Convention, and to inform the CMG’s monitoring.
- 17.36 The Children’s Convention DCEs group consists of DCEs from the following government agencies:
- MSD (Chair);
 - Ministry of Health | Manatū Hauora;
 - Ministry of Education | Te Tāhuhu o Te Mātauranga;
 - Ministry of Business, Innovation and Employment | Hikina Whakatutuki;
 - Ministry of Justice | Tāhū o te Ture;
 - New Zealand Police | Nga Pirihimana O Aotearoa;

- Oranga Tamariki—Ministry for Children;
- Stats NZ | Tatauranga Aotearoa;
- Ministry for Pacific Peoples | Te Manatū mō Ngā Iwi o Te Moana-nui-a-Kiwa;
- Te Puni Kōkiri | Ministry of Māori Development | Te Tari o te Pirimia me te Rūnanga Kāwanatanga;
- Department of the Prime Minister and Cabinet.

17.37 Oranga Tamariki currently has a workstream programme to expand community-based options across all relevant settings to reduce the use of detention for children and young people.

Q 97: Ensuring obligations under the UNCAT and other international human rights mechanisms are met: The Mass Allegation Investigation – Joint Operating Procedures

17.38 The Mass Allegation Investigation – Joint Operating Procedures (MAIJOP) was finalised in 2017 in conjunction with the New Zealand Police in order to address concerns relating suspected abuse of children and/or young persons by the same offender or a connected group of offenders. These issues were raised in the decision *Zentveld v New Zealand*, Decision adopted 4 Dec. 2019, UN Doc. CAT/C/68/D/852/2017 [*Zentveld*].

17.39 The procedures in the MAIJOP outline the agreed approach when dealing with investigations of suspected abuse of three or more children/young people who are linked through a range of different circumstances including:

- a. a family/ whānau member;
- b. a group or activity they participate in, for example sports clubs, church group, hobby club, holiday programme;
- c. a facility they attend, for example kindergarten, childcare, school; or
- d. their care arrangements, for example residences and group homes.

17.40 The purpose of the MAIJOP is to set out the agreed working arrangements between the New Zealand Police and Oranga Tamariki in the event of a mass allegation investigation, including an investigation into historic abuse. The MAIJOP are followed on every occasion when dealing with a mass allegation investigation where the victims are children and/or young persons, or where a historic mass allegation investigation indicates that there may be children and/or young persons who are currently at risk.

17.41 The MAIJOP address how care and protection services are delivered to children, young persons, disabled persons and persons with mental health conditions. They provide for:

- a. the process;
- b. report of concern or complaint;
- c. organisation and parents meeting process;
- d. screening process;
- e. specialist child (witness) interview;
- f. communication with family / whānau;
- g. media communication;
- h. name suppression and disclosure;
- i. further investigation considerations; and the United Nations Convention on the Rights of the Child; and
- j. support for staff.

- 17.42 The consideration of further issues includes dealing with children who have special needs. In particular, in relation to disabled persons, the MAIJOP provides that careful planning is required when the child or young person has a disability, and states that it may be useful to refer to practice considerations for engaging and communication with disabled children. If further assistance is required, the MAIJOP refer to regional child disability advisors, who can be contacted for assistance.
- 17.43 As the MAIJOP were finalised in 2017 they already addressed a majority of the concerns raised in *Zentveld*; accordingly, the MAIJOP were not amended following the release of the *Zentveld* decision.
- 17.44 MSD's Historic Claims team is responsible for managing claims from people who have experienced abuse or neglect in care prior to 1 April 2017. Oranga Tamariki is actively developing a claims process, and there is significant cross-agency work being done to establish a redress process that will incorporate the findings of the Royal Commission, as addressed at the Royal Commission's public hearing on Redress.

The specific issue of investigations of historic claims

- 17.45 Specific processes associated with historic cases are included, which provide in summary that:
- a. **Victims under 17 years of age – historic allegations:** Oranga Tamariki will have a role in matters involving historical harm or abuse if the alleged victim is still younger than 17 years of age or where children and/or young persons may be at risk through on-going contact with the alleged suspect(s). This is investigated under the Child Protection Protocol: Joint Operating Procedures.
 - b. **Victims over 17 years of age – historic allegations:** Police will be primarily responsible for the investigation of historic cases of alleged abuse where the victim is now over 17 years old and no children and/or young persons are thought to be currently at risk. Additionally:
 - i. Where the historic offending is in relation to Oranga Tamariki caregivers or children previously in Oranga Tamariki care, Police must consider obtaining all case and file notes in relation to the alleged offender/victim that are held by Oranga Tamariki.
 - ii. If the alleged victim was a child or young person in Oranga Tamariki care at the time of the alleged harm/abuse, then Oranga Tamariki's Historic Claims Team must be informed.
 - c. **Concern of current offending against children and/or young persons:** Consideration must be given to whether the alleged offender still has access to children and/or young persons and may still be offending. Action must be taken to mitigate risk to any children and/or young person who may currently have contact with the alleged offender.
- 17.46 **Screening/cold-calling of potential historic victims:** Consideration must be given to whether potential victims should be approached where the identity of a suspected victim of historical child abuse has become known to police but the victim themselves has not disclosed the abuse to the police. The need to approach must be balanced against the needs of the investigation, community risk and the potential of causing further trauma to the victim.

18. Data collection/record keeping/access to records

Q 98: Lessons learned – What recent reviews in the care and protection sector say about collection of Māori data and information

- 18.1 Lessons have been learned from various reviews and reports into the care and protection sector regarding data collection practices.
- 18.2 The reviews and reports detailed below, which relied heavily on data held by Oranga Tamariki, confirmed the need for fit-for-purpose data for Māori in the care and protection sector.
- 18.3 For the sake of completeness, Oranga Tamariki notes its understanding of question 98 to be limited to data collection and for that reason does not address issues of data use and access in response to this question.

Report of the Oranga Tamariki Ministerial Advisory Board – *Te Kahu Aroha*

- 18.4 The Oranga Tamariki Ministerial Advisory Board's report emphasises the importance of data, and its essential role in ensuring a fit-for-purpose care system.
- 18.5 These issues are largely addressed in the Future Direction Plan. The Board will continue to provide independent assurance across the Future Direction Plan to the Minister for Children.

Waitangi Tribunal Urgent Inquiry 2915

- 18.6 The Waitangi Tribunal identified a lack of reliable and accessible data and quality issues with data relating to Māori and the role of Oranga Tamariki (and its predecessor organisations). The Waitangi Tribunal found that the Crown continued to breach its Treaty of Waitangi | Te Tiriti o Waitangi obligation to honour the right of Māori to exercise tino rangatiratanga over their kāinga and taonga.²⁹⁷

“...by failing to oversee and consistently apply mechanisms for monitoring and accountability of social work practice, and by failing to apply best practices in terms of data collection and quality...”

- 18.7 The Waitangi Tribunal also found that:²⁹⁸
 - a. there is variability of the quality of data on disparity for tamariki Māori who have been in care;
 - b. problems with data consistency from 1989 to the present are signalled with reference to the lack of contemporary data available for *Pūao-te-Ata-tū* (1988);
 - c. the Crown had attempted to improve its data collection, including by work then underway to modernise and realign Oranga Tamariki data in line with s 7AA standards;
 - d. it was imperative that Oranga Tamariki meet the six critical dimensions of data quality so that this data can be assessed across agencies the current practices of Oranga Tamariki fall well short of these standards
 - e. data on the level of staff cultural competency was lacking. The Waitangi Tribunal noted that while it acknowledged the changes Oranga Tamariki has introduced since 2017 to increase cultural competency, it did not consider there is sufficient evidence or data to offer a definitive conclusion on the extent to which this has improved;

²⁹⁷ He Pāharakeke at 161

²⁹⁸ He Pāharakeke at 45-46, 223, appendix 2

- f. work was underway within Oranga Tamariki to provide a baseline measure of cultural competency; and
- g. while there appeared to be a paucity of data on the impacts of family group conference changes since 2017, the Waitangi Tribunal noted that the number of family group conferences involving tamariki Māori had remained relatively static over the last decade.

Hāhā-uri, Hāhā-tea: Māori Involvement in State Care 1950 – 1999 (Ihi Research)²⁹⁹

- 18.8 Hāhā-uri, Hāhā-tea assessed the quality and completeness of data available on Māori in state care from 1950 to 1999, including the current status of data availability.
- 18.9 The scope of this research was limited by time and data availability.³⁰⁰ As a result, there is uncertainty around estimates of the cohorts and numbers of Māori tamariki and vulnerable adults in state care, due to a lack of ethnicity data collected and reported between 1950 and 1999. The ‘true’ number may never be known with any degree of precision, however there is data that highlights the extent of Māori over-representation.
- 18.10 The researchers found access to data and information challenging. Data they were able to obtain was often fragmented, and of low utility and quality. There were also significant challenges accessing Crown records from the research period.³⁰¹ The records transferred to Archives NZ have mixed levels of metadata (that is, the high-level information held about a record or file’s contents) depending on the date ranges of the records. Similarly, records held by agencies are also described at varying levels of detail, reflecting variations in record-keeping practices within agencies over time.
- 18.11 However, the researchers found that making sense of the ‘evidence-base’ relating to Māori experiences of state care between 1950 and 1999 contributed to an overall understanding of structural and systemic racism.³⁰² They uncovered:
- a. insufficient, patchy and poor-quality ethnicity data collection practices across state care institutions;
 - b. the loss of key documents related to state care institutions, including the destruction of evidence;³⁰³
 - c. the use of racist, deficit terminology in archival records, such as ‘half-caste’; judgements made about ethnicity based on skin colour and lumping the ‘brown’ children together (as seen in Campbell Park Ministry of Education Records – “Māori and Pacific children are the majority”); and
 - d. reports by various Ministries which are identified as being on their websites but were not in fact available online.
- 18.12 Researchers concluded the following outcomes are needed:
- a. a consistent approach to collecting quality Māori information and data providing an integrated picture of Māori experiences in the care system; and

²⁹⁹ Ihi Research “**Hāhā-uri, Hāhā-tea: Māori Involvement in State Care 1950 – 1999**” (July 2021) <https://www.abuseinquiryresponse.govt.nz/assets/Uploads/Māori-research-report/Haha-uri-haha-tea-Māori-Involvement-in-State-Care-1950-1999.pdf>; Summaries and alternative versions can be found at <https://www.abuseinquiryresponse.govt.nz/documents/>

³⁰⁰ *Ibid* at 12: Data considerations and challenges.

³⁰¹ *Ibid* at 372.

³⁰² *Ibid* at 373.

³⁰³ See also E. Stanley “The Road to Hell: State Violence against Children in Postwar New Zealand” (Auckland, New Zealand: Auckland University Press, 2016)

- b. the Crown, whānau, hapū, iwi and Māori organisations should work together on Māori information and data collection, the design and implementation of policies and programmes to continually improve and monitor state care.³⁰⁴
- 18.13 It had become apparent from early work the Crown Response did to look at Māori over-representation in state care,³⁰⁵ that there are significant issues with the data on Māori involvement in the care system.
- 18.14 Critical gaps in the data collection process have since been confirmed by both the MartinJenkins³⁰⁶ report to the Royal Commission, and through feedback received during Royal Commission hearings. These concerns indicate that the collection, recording and reporting and use of data concerning Māori had been undertaken unevenly (at best), or not at all (at worst) between 1950 and 1999. The 2020 MartinJenkins report, was unable to make estimates concerning Māori involvement in state care.
- 18.15 This has led the Māori Information and Data Group to review current collection, recording, reporting and use of Māori data by relevant agencies, including how their treatment of Māori data has changed over time, and what future changes are needed and planned.

He Purapura Ora, he Māra Tipu: From Redress to Puretumu Torowhānuī^{307.}

- 18.16 He Purapura Ora, he Māra Tipu was released by the Royal Commission on 15 December 2021. The Crown Response's Redress Programme was established to coordinate the Crown's response to the report's 95 recommendations, particularly to establish an independent holistic redress system puretumu torowhānuī. The Redress Programme has multiple workstreams handling different projects within overall redress development.
- 18.17 Recommendations 46, 52, 55 and 56 (per the report's numbering) refer to the need for the redress system to create and manage data and information about survivors well.³⁰⁸ Recommendation 59 covers reporting for the redress system, in order to elevate public awareness. Such reporting will require the collection of survivor data, including age, iwi affiliation, ethnicity, and type of abuse. Recommendations relating to a proposed listening service (26, 27, 94) and to records access (85 to 89) also refer to information management – information sources usually include data, either structured or unstructured.
- 18.18 The report also comments on the care and protection sector's insufficient recording of data about ethnicity or iwi/hapū affiliation, and on the importance of such data for understanding whakapapa and enabling reconnections.³⁰⁹ Taking this with the other recommendations, there is a clear need to design a transparent, survivor-centred and rights-based care data system that gives effect to Te Tiriti o Waitangi | the Treaty of Waitangi and broader indigenous data governance principles. This needs to enhance the mana of survivors and the

³⁰⁴ Summary of Ihi Research "Hāhā-uri, Hāhā-tea: Māori Involvement in State Care 1950 – 1999" (July 2021) <https://www.abuseinquiryresponse.govt.nz/assets/Uploads/Māori-research-report/2021-10-21-A3-overview-Haha-uri-haha-tea-Desolate-Darkness-desolate-light.pdf>

³⁰⁵ For example, views expressed by the Oranga Tamariki Ministerial Advisory Board in its report *Hipokingia ki te Kahu Aroha Hipokingia ki te Katoa*, also see page 35 of this report.

³⁰⁶ MartinJenkins "Indicative Estimates of the Size of Cohorts and Levels of Abuse in State and Faith-based Care – 1950 to 2019" (1 October 2020) <https://www.abuseincare.org.nz/assets/Uploads/Size-of-cohorts-and-levels-of-abuse-in-State-and-faith-based-care.pdf>

³⁰⁷ Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions "He Purapura Ora, he Māra Tipu.: From Redress to Puretumu Torowhānuī | Kia Torowhānuī te Puretumu" (2021) www.abuseincare.org.nz/our-progress/reports/from-redress-to-puretumu/ and <https://www.abuseincare.org.nz/our-progress/reports/from-redress-to-puretumu-2/>

³⁰⁸ *Ibid* at 311.

³⁰⁹ *Ibid* at 250, 253-254.

collectives they belong to, as well as support redress system functions such as reporting and meeting legislated requirements for data and information. Those functions are required for effective monitoring and will contribute to the prevention of abuse in care. The records and information workstream in the Crown Response's Redress Programme will support the design of any system aspects that relate to information and data.

Legislation, frameworks and policies for the collection, publication and use of Māori data.

- 18.19 The data collection practices of Oranga Tamariki are governed by a number of legislative provisions.
- 18.20 The Oranga Tamariki Act requires the Chief Executive to improve outcomes for tamariki Māori, and to report annually on progress.³¹⁰
- 18.21 In line with these obligations, Oranga Tamariki reports quarterly against an outcomes framework³¹¹ which aligns to government priorities and sets out the organisation's goals and core functions.
- 18.22 Furthermore, Oranga Tamariki has a policy on recording disability, and ethnicity and iwi affiliation:³¹²
- 18.23 Oranga Tamariki also has policy and guidance for working effectively with Māori, including methods, tools and procedures that are relevant in collecting Māori information.³¹³ Examples include hui-a-whānau, whānau searching and whakapapa research.

Q 99: Data collection practices in relation to people in state care

- 18.24 Gaps in data have been identified as a barrier to understanding the current and long term impacts of the state care and protection system. Oranga Tamariki acknowledges that there are existing limitations in respect of the reliability of information held by it, and it requires ongoing work to address.
- 18.25 Difficulties finding accurate ethnicity information for those with experiences of state care was shown in work relating to the Royal Commission, notably the Martin Jenkins analysis and the report *Hāhā-uri, Hāhā-tea: Māori Involvement in State Care 1950–1999*.³¹⁴ Peer review of the Martin Jenkins analysis concluded:³¹⁵

The lack of demographic information has meant no conclusions could be made by Martin Jenkins about the proportion of survivors of abuse of Māori or Pacific descent. This has resulted in the demographic issue being removed from the scope of the report.
- 18.26 In 2021, the Inter Agency Group Māori working group surveyed care agencies to understand the current state of recording of ethnicity data in state care agencies. Based on the survey of the eight agencies the group concluded that there have been improvements in recording and accessibility of ethnicity data, including for Māori. The computerisation of records in a structured form has led to improved analytic capability, coupled with guidance on best practice in classification as provided by Statistics New Zealand.

³¹⁰ Oranga Tamariki—Ministry for Children Act 1989, section 7AA.

³¹¹ Oranga Tamariki—Ministry for Children "Outcomes framework" (18 December 2020) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/How-we-work/Outcomes-Framework/Outcomes-Framework.pdf>

³¹² Case recording

³¹³ Practice for working effectively with Māori

³¹⁴ *Hāhā-uri, Hāhā-tea*

³¹⁵ TDB Advisory "Peer Review of Martin Jenkins Report" (30 September 2020) at 10 <https://www.abuseincare.org.nz/assets/Uploads/Peer-Review-of-Cohort-Report.pdf>

- 18.27 Prior to 2000, the ethnic breakdown of children was not available in a structured data format, and there is no available information on the breakdown in ethnicity of children in care prior to 2001. This information may have been held in individual case files. However, it cannot be provided without a manual review of the files. Until 2004, there were known issues with recording and data for this period is treated with caution.
- 18.28 Prior to 1 April 2017, Child, Youth and Family reported a “primary” ethnicity for each child, which influenced staff to record a primary ethnicity, as opposed to recording multiple ethnicities. Reporting only the “primary” ethnicity is more likely to result in undercounting the number of Pacific ethnicities.
- 18.29 Since its establishment in 2017, Oranga Tamariki records ethnicity in line with Statistics New Zealand standards on the use of ethnicity data and how individuals identify themselves.³¹⁶ This enables the recording of as many ethnicities for each child as required.

Treatment of ethnicity

- 18.30 There are four high-level categories Oranga Tamariki uses to report on ethnicity:
- a. *Māori* – children who identify Māori (but not Pacific) as one of their ethnicities.
 - b. *Māori and Pacific* – children who identify both Māori and Pacific as their ethnicities.
 - c. *Pacific* – children who identify Pacific (but not Māori) as one of their ethnicities.
 - d. *NZ European and other* – children who do not identify Māori or Pacific as any of their ethnicities. This includes New Zealand European, European, Asian, Middle Eastern/Latin American/African and other ethnicities.
- 18.31 It is not uncommon for an individual to have multiple ethnicities, particularly crossing between Māori and Pacific communities. The “Māori and Pacific” category includes children and young people who have ever been recorded as both Māori and Pacific.

Abuse in care

- 18.32 Oranga Tamariki records and holds information on those in its care, including if someone has been abused in care. This is recorded in CYRAS, the case management system.

Adoptions

- 18.33 The Ministry of Justice holds official adoption records. Oranga Tamariki holds contextual adoption information adoption index cards (adoption dataset) and correspondence and information recorded on the adoption case files.

Q 100: Types and format of records held by Oranga Tamariki

- 18.34 The information is held in various forms, in structured and semi-structured information and within case notes. Case notes are largely recorded in CYRAS (detailed in Section One), with less reliance on paper files over time.
- 18.35 The extent that case note review, which is time-intensive and requires skilled people, is possible is constrained by both resources and the consistency of complexity of the information recorded. Good quality case note analysis often takes several hours per case, while complex analysis may take days per case.

³¹⁶ Oranga Tamariki—Ministry for Children “Factors Associated with Disparities Experienced by Tamariki Māori: in the care and protection system” (July 2020) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Research/Data-analytics-and-insights/Māori-disparities-in-the-CP-system.pdf>

Record retention

- 18.36 Oranga Tamariki is subject to the Public Records Act 2005 which is a legislative framework for information and records management across the public sector.
- 18.37 Oranga Tamariki may only legally dispose of records where it has the authorisation of the Chief Archivist. It does not have an agency specific authority in place therefore Oranga Tamariki is limited to disposing of a narrow range of records. In addition, the Chief Archivist has issued a moratorium on disposal of any records relevant to this inquiry. This means that records related to tamariki and rangatahi are currently retained.

Q 101: How is data and information used?

- 18.38 The collection of ethnicity and iwi affiliation information and data assists Oranga Tamariki to monitor outcomes, inform practice development, and better understand those that it works with.
- 18.39 As detailed above, the shift from reporting primary ethnicity to all ethnicities has been driven by changes to statistical standards and the work of Oranga Tamariki with iwi groups and their interest in the iwi affiliation for tamariki and rangatahi in care.
- 18.40 Decisions relating to children that Oranga Tamariki works with relies on having information available. The requirements for information recording for social work are set out in Practice Centre guidance.³¹⁷

Ethnicity and iwi affiliation recording

- 18.41 Record keeping is a vital element of good social work practice and one of our eight core Practice Standards. Timely recording is key and an important part of a child's life story, with the added benefit that te tamaiti may wish to know the information in the future. It also facilitates analysis and reflection, supports supervision, is a means by which social workers can be accountable for their actions and decision making, and allows them to demonstrate their integrity as a social worker.
- 18.42 The information stored in CYRAS is a record of the child's story during the time Oranga Tamariki is working with them and helps it to understand what has happened in their life at any point in time. It must always be up to date, accurate, relevant, free from jargon, and must differentiate fact from opinion. In addition, te tamaiti has a right to view their records at any time, including in the future. Accurate recording also supports our commitment to data quality.
- 18.43 It is important that Oranga Tamariki has comprehensive ethnicity data in order to:
- a. Deliver services in a culturally appropriate manner.
 - b. Establish the need for culturally appropriate publications.
 - c. Identify significant communities of interest.
 - d. Understand the quality of our practice with different groups of tamariki and whānau.
 - e. Evaluate the effectiveness of various programmes among different client groups.
 - f. Identify areas where particular cultural and language skills may be required.
 - g. Ensure Oranga Tamariki can meet our external reporting requirements such as those in Part 6 of the National Care Standards Regulations.

³¹⁷ Recording considerations

- 18.44 Understanding and recording iwi affiliation is additionally important, as it:
- a. assists social workers in placing tamariki Māori with whānau or caregivers of the same iwi or hapū and with linking tamariki Māori who have been placed outside of their iwi or hapū with their whakapapa connections;
 - b. protects the whakapapa of tamariki Māori for their future; and
 - c. ensures tamariki Māori receive various entitlements; for example, some iwi have financial grants available for tamariki affiliated with them.

Disparity and disproportionality

- 18.45 The recording and reporting of ethnicity allows Oranga Tamariki to view all statistics and child-related outcomes by ethnicity. Specific measures can monitor improvements in disparity and disproportionality over time, allowing Oranga Tamariki to identify whether programmes of work are making a positive impact by showing improvements in the disparities and disproportionality experienced by different ethnic populations.

To inform Practice Development

- 18.46 Ethnicity information collected may inform practice development. This includes the commitment of Oranga Tamariki to shifting its practice as part of the practice shift as detailed in Section One.
- 18.47 This practice orientation is key to better outcomes for the tamariki and whānau Oranga Tamariki works alongside, and to achieving its section 7AA aspirations.

Q 102 and 103: Processes and practices for individuals to view/amend their ethnicity, gender or sexuality (or other) information, and information relating to family/whānau

- 18.48 When working with a social worker information is updated as it becomes available. Recorded ethnicity may be corrected as children are further engaged with the care system. Initially, on receipt of a Report of Concern, ethnicity may be unknown, at the assessment or Family Group Conference stage more information may be available, and the information updated. Similarly further information on the whakapapa of a tamariki may be identified during engagement with the whānau.³¹⁸

Q 104: Barriers to record or collect data³¹⁹

- 18.49 When working with a social worker, information is updated as it becomes available. Information on social work practice, services required and personal details are often held in unstructured case notes which makes analysis and aggregation resource intensive and difficult. As described in the response to question 100 above, many aspects of individual cases are complex and unique, so do not readily lend themselves to classification.

Q 105: Information collected relating to disability, mental health/medical issues, support and care needs

Disability status, mental health and medical issues

- 18.50 Oranga Tamariki records any disabilities on a child or young person's file, including mental health, medical issues and severe behavioural problems. However, the information is not easily analysed and may also be incomplete as some children or young people may not have had a formal diagnosis. The

³¹⁸ Question 103 is not answered because Oranga Tamariki—Ministry for Children does collect this data, as outlined in this paragraph.

³¹⁹ This response presumes question 104 of the Notice intends to refer to paragraph 98, rather than 97, which relates to the New Zealand's Government's obligations and commitments under international instruments.

Oranga Tamariki survey³²⁰ of rangatahi transitioning from care uses the Washington scale to seek information on disability from the perspective of the young person.³²¹

Sexuality and gender

- 18.51 An explanation of the collection of information relating to rainbow identities detailed above.

Lessons learned

- 18.52 Currently, disability data is not held in a consistent, readily analysed format. Many children and young people known to Oranga Tamariki have not undergone formal diagnosis, and consequently recorded data provides a partial picture in relation to disability.
- 18.53 Oranga Tamariki acknowledges the need for improved data and evidence is especially relevant in youth justice settings, where there is an estimated overrepresentation of disabled young people.
- 18.54 Oranga Tamariki will continue to improve upon existing avenues of disability data collection, for example through internal data matching and case file analysis, and the Integrated Data Infrastructure.

Practice improvement to better support disabled children, young people and families

- 18.55 Oranga Tamariki is a member of the cross-agency Disability Data and Evidence Working Group which is committed to improving administrative and population disability data and evidence.
- 18.56 Decision-making by social workers is informed by robust assessment and engagement and is not done in isolation. Social workers undertake robust assessments to build an understanding of the whānau/family's situation and circumstances and identify any safety and risk concerns for the child or young person. Where Oranga Tamariki is responding to reports of concern relating to a disabled parent, it works closely with tamariki, whānau, hapū, iwi, family groups, NGO's, other professionals, and others within their community to ensure it has a full understanding of the whānau and needs of tamariki to develop support plans to ensure these tamariki are able to live in a safe and nurturing environment.
- 18.57 An important part of any assessment is understanding the parent/s capacity to nurture the safety and wellbeing of the tamariki. Disability alone is not grounds for a report of concern. There would need to be allegations or concerns about specific issues related to a child's safety or care for an assessment to be initiated. As part of the assessment social workers would consider the context of any diagnosed or suspected disability, and the possible impact of this on the parent's (or parents') ability to ensure the safety and wellbeing of the child or young person.

³²⁰ Malatest International "Survey of rangatahi/young people eligible for a transition worker: Supplemented by findings from the Just Sayin' survey of 16 year olds" (January 2021) at 20 <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Research/Latest-research/Just-Sayin-Survey-of-rangatahi-eligible-for-a-Transition-Worker/Just-Sayin-Survey-of-rangatahi-eligible-for-a-Transition-Worker.pdf>

³²¹ The Washington Group on Disability Statistics Short Set of six questions on functioning for use on national censuses and surveys was developed, tested and adopted by the Washington Group on Disability Statistics. The questions reflect advances in the conceptualisation of disability and use the World Health Organization's International Classification of Functioning, Disability, and Health (ICF) as a conceptual framework. (<https://www.washingtongroup-disability.com/>)

The ICF presents a bio-psycho-social model that locates disability as the interaction between a person's capabilities (limitation in functioning) and environmental barriers (physical, social, cultural or legislative) that may limit their participation in society.

- 18.58 While there is likely to be a continued need for some children to be taken into care, this should only happen after all avenues with whānau, hapū, iwi and community have been explored. It is likely that there are tamariki entering care due to having disabled parent(s)/guardian(s) who, for many reasons, including, at times, a lack of appropriate support options in the community, are unable to provide the care needed for the tamariki to be safe. Oranga Tamariki continues to seek positive outcomes with tamariki within their family or whānau first and foremost and will work with other government and non-governmental agencies to enable them to care for their tamariki safely.

Relevant reports relating to disability

- 18.59 Oranga Tamariki *Good Practice for Disabled Tamariki in care*.³²² This literature review draws on information from New Zealand and overseas and centres on Te Ao Māori, right based and social models of disability.
- 18.60 August 2020, Ombudsman report: *He Take Kōhukihuki* as set out in Section One
- 18.61 October 2020, Hilary Stace and Martin Sullivan, *History of Disability in NZ*.³²³ This paper reviews the history of disability in New Zealand since the advent of European settlement.
- 18.62 In 2021, a Care Standards case file analysis was completed, *Disability in the PPG National Care regulations Case File Analysis: an Internal Data Comparison*. This assessed the adherence of Oranga Tamariki to the National Care Standards.³²⁴ Case file records from 30 June 2020 onward relating to children in care and protection were considered. There were questions considered relating to disability which allowed Oranga Tamariki to estimate the prevalence of disability using the case file analysis results. This analysis investigated the disability status of 700 children in care.

Future plans for improvement

Supporting young people in youth justice with disabilities

- 18.63 Oranga Tamariki is exploring programmes that will support young people in the youth justice setting with disabilities:
- Fetal Alcohol Spectrum Disorder (FASD) and Young People Study* – Oranga Tamariki is exploring a comprehensive study into the prevalence of Fetal Alcohol Spectrum Disorder in the youth justice population. The study could involve a team of national and international researchers and include a professional development component for staff to help them learn and embed best practice approaches to support young people with neurodisability/FASD. However, the study is subject to further decisions and funding.
 - Te Ara Whakamana (self-regulation programme)* – Oranga Tamariki is exploring the trial and evaluation of a self-regulation programme, in a youth justice residence and community home. Te Ara Whakamana is a Te ao Māori programme that uses Māori concepts, narratives and legends to improve rangatahi self-awareness and emotion regulation.
 - Early negotiations are underway with the owners of Te Ara Whakamana to establish a pilot in a residence.

³²² Oranga Tamariki—Ministry for Children “Good practice for disabled tamariki and rangatahi in care” (May 2022) <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Research/Latest-research/Good-practice-for-disabled-tamariki-and-rangatahi-in-care/Good-practice-for-disabled-tamariki-and-rangatahi-in-care-report.pdf>

³²³ Office for Disability Issues | Te Tari Mō Ngā Take Hauātanga “A brief history of disability in Aotearoa New Zealand” (October 2020) <https://www.odi.govt.nz/assets/Uploads/History-of-Disability-in-Aotearoa-NZ-final.pdf>

³²⁴ The National Care Standards set out the standard of care every child and young person needs to do well and be well, and the support all caregivers can expect to receive when they open their hearts and homes to tamariki. They came into effect on 1 July 2019.

18.64 Oranga Tamariki acknowledges that there are some areas for improvement. In particular, Oranga Tamariki does not currently have a specific work programme relating to supports for disabled parents.

Future Directions Action Plan – Data

- 18.65 As part of the Future Direction Plan, Oranga Tamariki is committed to delivering the following actions within two to five years:³²⁵
- a. Ensure robust data, research and information flows that support ongoing transformation. This includes ensuring that our understanding of how tamariki are experiencing care is current, accurate and equitable.
 - b. Continue to roll out new performance reporting tools which make data and information available to operational staff from social workers and site managers all the way to the leadership team to inform their decision-making.
 - c. Develop options for replacing the Oranga Tamariki case management system in a cost conscious and timely way. The replacement will capture more detailed information on, for example, the needs of tamariki and whānau, progress in meeting those needs, and the experiences of tamariki and whānau who interact with us.
 - d. Share data and evidence on needs and challenges of whānau and the support and resources that can make a difference.
 - e. Review performance management framework to align with revised organisational strategy and vision.
 - f. Replace the Oranga Tamariki data warehouse to enable data collected to be centralised and analysed to inform monitoring and decision-making.
 - g. Embed evidence-based decision making from sites to national office, that encompass several actions including implementing new performance reporting tools to make data and information available to all staff to inform decision-making.
 - h. Deploy the Social Wellbeing Agency's Data Exchange to make sure Oranga Tamariki can seamlessly share data internally and with its partners in a safe and secure way.

Q 106: Recording of number of children who have been adopted from 1950 to the present day

18.66 Oranga Tamariki does not have a record of the number of children who have been adopted from 1950 until the present day. The agency most likely to hold this information is Ministry of Justice.

³²⁵ Future Direction Plan

19. Concluding remarks

- 19.1 Representatives of Oranga Tamariki have attended each of the hearings held by this Royal Commission of Inquiry. We have listened to the survivor's stories and carefully reviewed the Commission's recommendations and interim reporting across the various investigation areas, thus far.
- 19.2 Oranga Tamariki has heard the many concerns that have been raised through this inquiry and acknowledges them. To date we have analysed what we have heard as part of the hearings and identified the following themes:
- a. The over-representation of Māori and discrimination against them in the care and adoption system, their disproportionate representation in cases of abuse in care, and the removal of survivor's identity flowing from structural racism and a lack of culturally responsive programmes or opportunities to learn their culture whilst in care.
 - b. The over-representation of Pacifica who experienced cultural assimilation through being placed with non-Pacific families and not providing cultural support, and being denied access to family and culture which resulted in loss of identity.
 - c. The additional pronunciation of these issues for disabled children and young people with survivors experiencing neglect as the most prevalent form of abuse for disabled children in care.
 - d. The historical issues with inadequate pathways available for children in care to make complaints about abuse or other matters, as well as other barriers to reporting such as unclear reporting processes, not being believed and the immense personal courage it takes to open up about survivors' experiences.
 - e. A system in which children and young people in care lacked a voice in decisions that involved them, which was felt remains an issue today.
 - f. A wide range of historical poor practices in care, protection and the youth justice system, including frequent instability of care placements and not feeling loved or cared for while in care.
 - g. Long-lasting and wide-ranging impacts of abuse in care, particularly lack of education,)and inter-generational impacts.
 - h. Issues with record keeping in the areas of Pacific peoples, disability, as well as inaccuracies in case files and failure to record complaints made or progress reporting by the school or social workers.
 - i. The use of secure care which involved long periods of isolation in barren rooms.
 - j. Staff at residences enabling the culture of violence and sexual abuse enabled by isolation.
 - k. A lack of engagement or monitoring by social workers when a child or young person was in a residence.
- 19.3 The survivors' stories of suffering and their great courage from the Commission's hearings have informed Oranga Tamariki and provided us with important insights and information to further improve our practice. The improvements and strategies that we have detailed in this response and those which we have foreshadowed for the future will address the shortcomings of the past, and minimise the risk of further harm in the future. Oranga Tamariki will continue to improve its practices, processes and procedures as it moves forward with the benefit of the information that this Commission provides.
- 19.4 By continuing to listen to the experiences of tamariki and whānau Oranga Tamariki will know if our work now and in the future is making a difference to the

outcomes we are seeking. Oranga Tamariki has listened, heard and made changes and it will continue to do so moving forward.