**Children’s Commissioner**

**Position Description**

**The Entity**

The Children’s Commissioner is an independent Crown entity. Its functions are set out in the Children’s Commissioner Act 2003. They include:

* investigating any decision, recommendation, action or inaction in respect of any child in that child's personal capacity
* promoting the establishment of accessible and effective complaints mechanisms for children and to monitor the nature and level of complaints
* advocating for children's interests, rights, and welfare
* raising awareness and understanding of children's interests, rights, and welfare, and of the United Nations Convention on the Rights of the Child (UNCROC)
* receiving and inviting representations from members of the public on any matter that relates to the welfare of children
* undertaking, promoting research and general inquiry into, and reporting on, any matter that relates to the welfare of children
* investigating any decision, recommendation, action or inaction under the Oranga Tamariki Act 1989 in respect of any child or young person in that child’s or young person’s personal capacity
* monitoring and assessing policies and practices relating to the exercise of functions, duties or powers under the Oranga Tamariki Act 1989
* encouraging the development of policies and practices that promote the welfare of children and young persons, and
* reviewing and providing recommendations and advice to the Minister on any matter that relates to the administration of, or regulations made under, the Oranga Tamariki Act 1989.

The Children’s Commissioner is also a ‘National Preventative Mechanism’ under the Crimes of Torture Amendment Act 2003 and has responsibilities under the Optional Protocol to the United National Convention Against Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

To carry out these functions the Children’s Commissioner currently employs around 35 full-time equivalent employees. All staff are currently based in Wellington. It has a baseline of just over $3 million.

**Proposed changes**

The Government is currently strengthening oversight of the Oranga Tamariki system. As part of this:

* a decision has been made to transfer the functions associated with the independent monitoring of the Oranga Tamariki system to a departmental agency hosted by the Education Review Office
* it is proposed that the Children’s Commissioner will cease to be a corporation sole and that governance responsibilities will rest with Commissioner and a board of three to six members

Precise details of these changes will be contained in legislation that will be considered by Parliament in 2021. If the legislation is passed the proposed changes are not expected to take effect until 2022.

**The Role**

The Commissioner is appointed by the Governor-General on the recommendation of the responsible Minister. The functions of the Children's Commissioner are set out in sections 12, 13 and 14 of the Children's Commissioner Act 2003. The Children’s Commissioner currently gives effect to these functions by carrying out activities grouped under the following headings.

* *Strategy, Rights and Advice*: These activities are designed to improve child wellbeing and outcomes for children and young people by influencing others. They also involve raising awareness and understanding of the United Nations Convention on the Rights of the Child.
* *Development, Monitoring and Investigations*: These activities are designed to support Oranga Tamariki to deliver quality and child focused statutory care and protection and youth justice residential care and social work services. The Children's Commissioner also has monitoring responsibilities under the Crimes of Torture Act 1989.

To assist them to carry out these functions the Children's Commissioner is supported by an office (the OCC) currently consisting of more than 30 FTEs. The OCC currently receives Crown funding of $3.157 million[[1]](#footnote-1).

The position is classified as a corporation sole. This means that the Commissioner:

* acts as the governing body board of the entity with the authority, in the entity’s name, to exercise the powers and perform the functions of the entity
* may not, without the prior written approval of its responsible Minister, hold any office of trust or profit or engage in any occupation for reward outside his or her responsibilities as a member of the corporation sole.

The Commissioner is usually a full-time appointment and is responsible for overseeing the day-to-day operations of the entity and its effective management.

For this appointment, consideration will be given to candidates who wish to be appointed on either a full or part-time basis.

**Term of appointment**

The Crown Entities Act 2004 provides for an appointment of up to five years.

For this appointment, considering the proposed changes outlined above, the Minister will recommend an appointment of between two to three years with the option of appointment for a further term.

**Remuneration**

The Commissioner is paid a fee set by the Remuneration Authority. The fee is specific to the individual appointed and to the circumstances of their appointment. The Remuneration Authority has previously set the fee for the Commissioner at around $272,000 based on a full-time appointment.

Actual and reasonable travel and other expenses incurred carrying out the role as Commissioner are also paid in accordance with the Cabinet Fees Framework.

**Key accountabilities:**

The Commissioner is accountable for carrying out the functions set out in the Children’s Commissioner Act 2003 and the Oranga Tamariki Act 1989. They must also ensure that that the entity:

* acts in a manner consistent with its objectives, functions, current statement of intent, and current statement of performance expectations
* performs its functions efficiently and effectively, in a manner consistent with the spirit of service to the public, and in collaboration with other public entities such as the Ombudsman and Independent Children’s Monitor (if established elsewhere)
* operates in a financially responsible manner and, prudently manages its assets and liabilities; and endeavours to ensure its long-term financial viability, and that it acts as a successful going concern.

In addition, the Commissioner must:

* act with honesty and integrity, in good faith and not pursue their own interests at the expense of the entity’s interests
* exercise the care, diligence, and skill that a reasonable person would exercise in the same circumstances
* must not disclose information obtained in their official capacity to any person, or make use of, or act on, that information, except in the performance of the entity’s functions, as required or permitted by law.

**Person specification requirements**

***Specialist skills and experience***

The Children’s Commissioner is a champion for all tamariki and rangatahi in New Zealand and must be able to demonstrate:

* an awareness and understanding of the issues and challenges children face, particularly those who are at risk of harm
* knowledge of New Zealand and international law on children’s rights and of New Zealand’s obligations under the United Nations Convention on the Rights of the Child (UNCROC)
* knowledge of and an understanding of the application of the Treaty of Waitangi/Te Tiriti O Waitangi and its principles to the Commissioner’s work
* knowledge of and an understanding of the unique position of tangata whenua, the impact of colonisation on them and the disparity of outcomes for tamariki and whānau Māori
* knowledge and recognition of the social, cultural and religious values of different cultural and ethnic groups in New Zealand
* knowledge of and an understanding of New Zealand and international instruments relating to tamariki and rangatahi with disabilities, including the United Nations Convention on the Rights of People with Disabilities (CRPD)
* an understanding of, and an ability to advocate effectively for the rights of tamariki and rangatahi, focusing on equity and advocating for tamariki Māori
* an ability to engage effectively with children, family and whānau
* an ability to engage effectively with hapū, iwi and Māori organisations.

The Children’s Commissioner has specialist functions in relation to the Oranga Tamariki system and must have:

* a sound knowledge and understanding of the Oranga Tamariki System, the challenges and opportunities and the ability to influence change within legislative parameters
* the ability to establish collaborative working relationships with all agencies in the Oranga Tamariki system
* an understanding of good social work practice especially as it applies to tamariki and rangatahi involved in care and protection, and youth justice services within the Oranga Tamariki system
* the ability to effectively investigate and report on complex and sensitive issues and situations involving tamariki and rangatahi in care.

***Governance, management and leadership skills and experience***

The Children’s Commissioner is responsible for the governance and management of the Office of the Children’s Commissioner and must be able to demonstrate:

* an understanding of the role of statutory Crown entities and the operating environment within which they operate
* an ability to carry out statutory functions efficiently and effectively, in a manner consistent with the spirit of service to the public, and in collaboration with other public entities where practicable and appropriate
* strategic leadership, the ability to set clear policies and priorities and to motivate staff to achieve these
* an understanding of good management practices and experience in applying these effectively to achieve organisational goals and objectives
* an appreciation of public sector management requirements as set out in the Crown Entities Act 2004 and other relevant sector legislation (including the Public Service Act 2020, the Official Information Act 1982, the Privacy Act 1993, Public Records Act 2005, and the Public Finance Act 1989)
* an understanding of and commitment to supporting the Crown in its relationships with Māori under the Treaty of Waitangi (te Tiriti o Waitangi).

***Personal qualities***

The Children’s Commissioner must be able to demonstrate:

* strong analytical skills and clarity of thought
* an ability to operate independently within the framework set by Cabinet and Parliament
* strong communication skills, including the ability to reason objectively and convey ideas clearly and accurately in different fora and media and to communicate effectively with tamariki and rangatahi
* the ability to operate comfortably and credibly within Te Ao Māori
* the ability to exercise sound judgement and discretion at all times
* the ability to positively influence opinions and behaviours of stakeholders and the public, while advocating for children
* an understanding of and ability to use, research and data when providing advice and guidance.

***Transitional change management skills***

Bearing in mind the proposed changes to the Oranga Tamariki system outlined above the Children’s Commissioner should also have:

* an understanding of effective change management processes and of employment law, practices and principles
* an ability to provide transparent leadership, to prioritise and steer the organisation towards its future form and role
* the ability to influence others, and to work collaboratively with others as appropriate, to move towards a new vision or goal.

**Other Appointment Criteria**

The following people are **disqualified** from being a Commissioner under Section 30 of the Crown Entities Act 2004:

* a person who is an undischarged bankrupt
* a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under the [Companies Act 1993](http://www.legislation.govt.nz/libraries/contents/om_isapi.dll?clientID=306395189&infobase=pal_statutes.nfo&jump=a1993-105&softpage=DOC#JUMPDEST_a1993-105), or the Financial Markets Conduct Act 2013, or the Takeovers Act 1993
* a person who is subject to a property order under the [Protection of Personal and Property Rights Act 1988](http://www.legislation.govt.nz/libraries/contents/om_isapi.dll?clientID=306395189&infobase=pal_statutes.nfo&jump=a1988-004&softpage=DOC#JUMPDEST_a1988-004)
* a person who has been convicted of an offence punishable by imprisonment for a term of 2 years or more, or who has been sentenced to imprisonment for any other offence, unless that person has obtained a pardon, served the sentence, or otherwise suffered the penalty imposed on the person
* a member of Parliament
* a person disqualified under another Act.
1. This is the agreed baseline level of funding for the OCC. In 2020/21 the OCC will receive an additional $1 million. This will bring its funding to $4.157 million. [↑](#footnote-ref-1)