



**MINISTRY OF SOCIAL
DEVELOPMENT**
TE MANATŪ WHAKAHIATO ORA

**Te Mana
Whakamaru
Tamariki
Motuhake**

Independent
Children's
Monitor

Report

Date: 24 March 2022

**Security
Level:**

IN CONFIDENCE

To: Hon Carmel Sepuloni, Minister for Social Development and
Employment

Strengthening Oversight of the Oranga Tamariki System Programme – Monthly Progress Update – February 2022

Purpose of the report

- 1 This report provides you with a progress update for the Strengthening Oversight of the Oranga Tamariki System Programme for the period ending 28 February 2022.
- 2 Key points of interest are included in this cover report with a summary provided in the attached A3.

Recommended actions

- 3 It is recommended that you:

3.1 **note** the contents of this Strengthening Oversight of the Oranga Tamariki System Programme Monthly Progress Update which covers February 2022.

☒ YES / ☐ NO

Arran Jones
Executive Director, Independent Children's
Monitor

Hon Carmel Sepuloni
Minister for Social Development and
Employment

25/03/2022

Date

31/03/22

Date

Summary and key points of interest

Programme summary

- 4 Programme status is on track.
- 5 We commenced our monitoring visits to Te Tai Tokerau, Central Auckland and North/West Auckland. Due to the current COVID-19 pandemic and the impact of Omicron variant, we are completing our engagements virtually.
- 6 We have continued planning for the establishment of the Monitor as a departmental agency. We have provisionally agreed to the working arrangements between the agencies, subject to joint Minister's approval, and the Public Service Commissioner. This month, we were due to provide you, the Minister of Finance, Minister for the Public Service and Associate Minister of Education with an update on this work. However, with Select Committee consideration of the Oversight of Oranga Tamariki System and Children and Young People's Commission Bill (the Bill) in train, we have agreed with your Office to delay this report until after their consideration of the Departmental Report.

Policy/Legislation workstream

- 7 The Select Committee has continued to hear oral submissions on the Oversight of the Oranga Tamariki System and Children and Young People's Commission Bill (the Bill), the final hearing of submissions was on 23 March. On 6 and 13 April, the Committee will consider the Departmental Report.
- 8 Work is getting underway to develop the regulations for the Bill.


Independent Children's Monitor monitoring and establishment workstreams

Monitoring Operations

- 9 We commenced our scheduled monitoring visits to Te Tai Tokerau, Central Auckland and North-West Auckland. In response to the current Omicron variant outbreak, and to protect communities and our staff, we are completing monitoring engagements virtually for all groups. We have worked with our connectors (NGO providers and agencies) to ensure that we can hold quality virtual meetings with tamariki, whānau and caregivers.
- 10 Planning is in the early stages for our next scheduled monitoring visit to Bay of Plenty in May/June.
- 11 During February and March, we updated our suite of Kawa and Tikanga to provide staff with comprehensive guidance through all phases of monitoring. Each of these operational policies are underpinned by our values and provides clear guidance on our monitoring approach for staff. Our updated Kawa and Tikanga will be published on our intranet. In April, they will also be published on our website.
- 12 In preparation for the widening of our monitoring scope, we are expanding our monitoring approach to ensure that it aligns with the new legislative requirements set out in the Bill.

- 13 We are currently gathering insights and looking at the key questions that an effective monitoring programme will need to answer, as well as providing the greatest benefit to support system improvement. The Monitor will share these insights with Te Kāhui and seek their feedback, before meeting with external stakeholders including the Children's Commissioner, iwi and community providers. The second part of this work is to consider potential and existing data sources to inform the monitoring. This includes how we measure outcomes for tamariki so we can provide advice on the impact of system changes. We will update you as this work progresses, through future *Monthly Progress Updates*.

Establishing the Monitor as a new departmental agency

- 14 s9(2)(f)(iv) OIA
- 

- 15 Select Committee consideration does not prevent us progressing work to establish the Monitor as an agency separate from MSD. Work has continued under the six workstreams of the Programme Implementation Plan and these remain on track during March. These workstreams are:

- Legislation and legal
- The Monitor working arrangements
- People
- Finance
- Technology and Data
- Communications.

Key engagements and communications

- 16 The Executive Director and Team Lead Data and Insights met with Social Wellbeing Agency to discuss opportunities for the Monitor to access their data platform.
- 17 The Executive Director met with the Chief Executive of Oranga Tamariki to discuss the expansion of the Monitor's monitoring scope in preparation for the introduction of the Bill, and how this work programme will impact Oranga Tamariki. Progress on establishing their self-monitoring processes in preparation for our information request for our 2023 Annual Report was also discussed.
- 18 The Executive Director and Chief Monitor met with members of the Oranga Tamariki Ministerial Advisory Board to discuss the Monitor's work programme for 2022, and areas of shared interest. We agreed to continue to work with

them as we develop our Monitoring approach for the whole of the Oranga Tamariki system.

- 19 Our quarterly newsletter was emailed to subscribers on 22 March and published on our website on 23 March. It provided stakeholders with a quarterly update on the work we are undertaking for 2022.

- Attached as Appendix One is the Monthly Progress Update A3 for the period ending February 2022.

File ref: REP/22/3/182

Author: (Arran Jones, Executive Director, Independent Children's Monitor)

Responsible manager: (Stephen Crombie, Deputy Chief Executive, People and Capability)

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

February 2022

[illegible]

Programme summary:

	Previous	Current	Next	
Overall status	G	G	G	<ul style="list-style-type: none"> Programme status continues to track GREEN overall.

Programme Management:

- Following the decision on the permanent home of the Monitor, we are planning for a successful transition from MSD to ERO.

Workstream summary:

Policy/Legislation

G

- The Select Committee has continued to hear oral submissions on the Oversight of Oranga Tamariki System and Children and Young People's Commission Bill (the Bill), the final hearing of submissions was on 23 March. On 6 and 13 April, the Committee will consider the Departmental Report.
- Work is getting underway to develop the regulations for the Bill.

Establishing the Independent Children's Monitor as a new departmental agency

- s9(2)(f)(iv) OIA
- Select Committee consideration does not prevent us progressing work to establish the Monitor as an agency separate from MSD. Work has continued under the six workstreams of the Programme Implementation Plan and remains on track during March. These workstreams are:
 - Legislation and legal
 - The Monitor working arrangements
 - People
 - Finance
 - Technology and Data
 - Communications.

Independent Children's Monitor Monitoring/Operations

G

- We commenced our scheduled monitoring visits to Te Tai Tokerau, Central Auckland and North-West Auckland. In response to the current Omicron variant outbreak, and to protect communities and our staff, we are completing monitoring engagements virtually for all groups.
- Planning is in the early stages for our next scheduled monitoring visit to Bay of Plenty in May/June.
- We updated our suite of Kawa and Tikanga to provide staff with comprehensive guidance through all phases of monitoring. These will be published on our intranet. In April, they will also be published on our website.
- In preparation for the widening of our monitoring scope, we are expanding our monitoring approach to ensure that it aligns with the new legislative requirements set out in the Oversight of the Oranga Tamariki System and Children and Young People's Commission Bill (the Bill).
- We are currently gathering insights and looking at the key questions that an effective monitoring programme will need to answer, as well as providing the greatest benefit to support system improvement. The Monitor will share these insights with Te Kāhui and seek their feedback, before meeting with external stakeholders including the Children's Commissioner, iwi and community providers. The second part of this work is to consider potential and existing data sources to inform the monitoring. This includes how we measure outcomes for tamariki so we can provide advice on the impact of system changes. We will update on this work as it progresses, through future *Monthly Progress Updates*.

Engagement, Communications and Change

<p>Engagement:</p>	<ul style="list-style-type: none"> • The Executive Director and Team Lead Data and Insights met with Social Wellbeing Agency to discuss opportunities for the Monitor to access their data platform. • The Executive Director met with the Chief Executive of Oranga Tamariki to discuss the expansion of the Monitor's monitoring scope in preparation for the introduction of the Bill, and how this work programme will impact Oranga Tamariki. Progress on establishing their self-monitoring processes in preparation for our information request for our 2023 annual report was also discussed. • The Executive Director and Chief Monitor met with members of the Oranga Tamariki Ministerial Advisory Board to discuss the Monitor's work programme for 2022, and areas of shared interest. We agreed to continue to work with them as we develop our Monitoring approach for the whole of the Oranga Tamariki system.
<p>Communications:</p>	<ul style="list-style-type: none"> • Our newsletter, "<i>Ngahuru Update</i>", was emailed to stakeholders on 22 March and will also be uploaded to our website on 23 March. This provided stakeholders with a quarterly update on the work we are undertaking.



**MINISTRY OF SOCIAL
DEVELOPMENT**
TE MANATŪ WHAKAHIATO ORA

**Te Mana
Whakamaru
Tamariki
Motuhake**

Independent
Children's
Monitor

Report

Date: 28 April 2022

**Security
Level:**

IN CONFIDENCE

To: Hon Carmel Sepuloni, Minister for Social Development and
Employment

Strengthening Oversight of the Oranga Tamariki System Programme – Monthly Progress Update – March 2022

Purpose of the report

- 1 This report provides you with a progress update for the Strengthening Oversight of the Oranga Tamariki System Programme for the period ending 31 March 2022.
- 2 Key points of interest are included in this cover report with a summary provided in the attached A3.

Recommended actions

- 3 It is recommended that you:

3.1 **note** the contents of this Strengthening Oversight of the Oranga Tamariki System Programme Monthly Progress Update which covers March 2022.

YES / NO


Arran Jones

Executive Director, Independent Children's
Monitor


Date


Hon Carmel Sepuloni

Minister for Social Development and
Employment

4 / 5 / 22
Date

Summary and key points of interest

Programme summary

- 4 Programme status is on track.
- 5 We completed our monitoring visits to Te Tai Tokerau, Central Auckland and North/West Auckland. Analysis of the data gathered during these visits is now underway. We plan to provide feedback to the tamariki, rangatahi, whānau, caregivers, Oranga Tamariki and other agencies we met with during May.

Policy/Legislation workstream

- 6 On 13 April, the Select Committee considered the Departmental Report. The Committee is due to report back to the House on 13 June.
- 7 Work has continued to develop the regulations for the Bill, with consultation with agencies to occur in the coming months.

Independent Children's Monitor monitoring and establishment workstreams

Monitoring Operations

- 8 We completed our scheduled monitoring visits to Te Tai Tokerau, Central Auckland and North-West Auckland. We are currently analysing the information we gathered and are preparing to share our findings with those we spoke with in early May. The monitoring was carried out virtually, to keep communities and Monitor staff safe while the COVID-19 Protection Framework was at the 'Red' setting.
- 9 We are preparing for our next scheduled monitoring visit to Bay of Plenty in May/June and expect our monitoring to be done kano ki te kano. Staff visiting communities will be required to take Rapid Antigen Tests before traveling. The Office of the Children's Commission plan to visit the Bay of Plenty Remand Home as part of their OPCAT monitoring function. We have agreed with the Commissioner that we won't visit the home, to avoid duplication and impact on rangatahi.
- 10 We are finalising the updated schedule for our community visits for the next three years and this will be published on our website by the end of April. We will also share it with the Office of the Children's Commission and the Ombudsman, so that we can better plan and co-ordinate activities.
- 11 We continue to develop our monitoring approach for the Oranga Tamariki system, as proposed in the Oversight Bill. Since our last update, we have completed an analysis of previous reports and evaluations relevant to the Monitor's expanded scope, including *He Pāharakeke*, *he Rito Whakakikinga Whāruarua* (the 2021 Waitangi Tribunal Inquiry) and *He Purapura Ora, he Māra Tipu, from Redress to Puretumu Torowhānui* (Royal Commission of Inquiry into Abuse and State Care and Faith Based Institutions 2021). This analysis has informed internal insights about the Monitor's expanded framework and the key questions that the Monitor will look to answer.

- 12 The next part of this work is to engage with key stakeholders (including Māori and community service providers) on the framework and key questions, before consulting with government agencies such as Oranga Tamariki, the Police, Ministry of Education and the Ministry of Health and the Office of the Children's Commission. This will occur through to the end of June.

Key engagements and communications

- 13 On 3 April, we published our kawa and tikanga for our monitoring approach on our website. We have made these publicly available to enable stakeholders to view the processes and principles we follow during our monitoring work.
- 14 We met with the Office of the Children's Commissioner and the Office of the Ombudsman, in what will become regular quarterly meetings of the oversight agencies. The meeting provided an opportunity to update each other on work programmes, including the development of our approach for monitoring the Oranga Tamariki system.
- 15 The Project Manager Information Technology and the Team Lead Data and Insights met with the Social Wellbeing Agency (SWA) Manager- Data Systems to discuss opportunities for the Monitor to access their data platform.

16 s9(2)(f)(iv)

was agreed that the Monitor look to use existing data models and expertise to measure outcomes, rather than build capability in house. In addition to looking at what SWA may be able to provide, it was agreed that we consider Oranga Tamariki's Child Wellbeing Model as an option. Accessing data on high-level outcomes such as education, health, justice and employment outcomes for tamariki in care or at risk of coming into care will be needed once we start monitoring the whole of the Oranga Tamariki system.

s9(2)(f)(iv) OIA

- Attached as Appendix One is the Monthly Progress Update A3 for the period ending March 2022.

File ref: REP/22/4/337

Author: (Arran Jones, Executive Director, Independent Children's Monitor)

Responsible manager: (Stephen Crombie, Deputy Chief Executive, People and Capability)

Strengthening Oversight of the Oranga Tamariki System Programme | Monthly Progress Report for the Minister for Social Development |

March 2022



Engagement, Communications and Change

Māori Engagement:	<ul style="list-style-type: none"> We met with Te Kāhui Group to update them on our programme of work and to start to test our initial thinking on how we may approach our external consultation activities in preparation for expanded monitoring.
Engagement:	<ul style="list-style-type: none"> We met with the Office of the Children's Commissioner and the Office of the Ombudsman, in what will become regular quarterly meetings of the oversight agencies. The meeting provided an opportunity to update each other on work programmes, including the development of our approach for monitoring the Oranga Tamariki system. The Project Manager Information Technology and the Team Lead Data and Insights met with the Social Wellbeing Agency (SWA) Manager- Data Systems to discuss opportunities for the Monitor to access their data platform. s9(2)(f)(iv) OIA
Communications:	<ul style="list-style-type: none"> Our updated kawa and tikanga were published externally on our website on 3 April. These documents have been made publicly available to enable stakeholders to view the processes and principles we follow during our monitoring work.

Workstream summary:

Policy/Legislation
G
<ul style="list-style-type: none"> On 13 April, the Select Committee considered the Departmental Report. The Committee is due to report back to the House on 13 June. Work has continued to develop the regulations for the Bill. These will be consulted on in the coming months.

Establishing the Independent Children's Monitor as a new departmental agency
G
<ul style="list-style-type: none"> s9(2)(f)(iv) OIA

Independent Children's Monitor Monitoring/Operations
G
<ul style="list-style-type: none"> We completed our scheduled monitoring visits to Te Tai Tokerau, Central Auckland and North-West Auckland. We are currently analysing the information we gathered and are preparing to share our findings with those we spoke with in early May. The monitoring was carried out virtually, to keep communities and Monitor staff safe while the COVID-19 Protection Framework was at the 'Red' setting. We are preparing for our next scheduled monitoring visit to Bay of Plenty in May/June and expect our monitoring to be done kano ki te kano. Staff visiting communities will be required to take Rapid Antigen Tests before traveling. The Office of the Children's Commission plan to visit the Bay of Plenty Remand Home as part of their OPCAT monitoring function. We have agreed with the Commissioner that we won't visit the home, to avoid duplication and impact on rangatahi. We are finalising the updated schedule for our community visits for the next three years and this will be published on our website by the end of April. We will also share it with the Office of the Children's Commission and the Ombudsman, so that we can better plan and co-ordinate activities. We continue to develop our monitoring approach for the Oranga Tamariki system, as proposed in the Oversight Bill. Since our last update, we have completed an analysis of previous reports and evaluations relevant to the Monitor's expanded scope, including <i>He Pāharakeke, he Rito Whakakikinga Whāruarua</i> (the 2021 Waitangi Tribunal Inquiry) and <i>He Purapura Ora, he Māra Tipu, from Redress to Pūretumu Torowhānui</i> (Royal Commission of Inquiry into Abuse and State Care and Faith Based Institutions 2021). This analysis has informed internal insights about the Monitor's expanded framework and the key questions that the Monitor will look to answer. The next part of this work is to engage with key stakeholders (including Māori and community service providers) on the framework and key questions, before consulting with government agencies such as Oranga Tamariki, the Police, Ministry of Education and the Ministry of Health and the Office of the Children's Commission. This will occur through to the end of June.

Programme summary:

	Previous	Current	Next	
Overall status	G	G	G	<ul style="list-style-type: none"> Programme status continues to track GREEN overall.
Programme Management: Following the decision on the permanent home of the Monitor, we are planning for our establishment as a departmental agency.				

Aide-mémoire



**MINISTRY OF SOCIAL
DEVELOPMENT**
TE MANATŪ WHAKAHIATO ORA

Meeting

Date: 11 May 2022 **Security Level:** IN CONFIDENCE

For: Hon Carmel Sepuloni, Minister for Social Development and Employment

File Reference: REP/22/5/408

Meeting with Caring Families

Meeting details 12pm-12.30pm 18 May 2022, Zoom

Expected attendees Linda Surtees – CEO
Stephanie James-Sadler – National Manager of Support
Jennifer Kinsella – Marketing & Communications Manager

Purpose of meeting To discuss the Oversight of Oranga Tamariki System and Children and Young People's Commission Bill (the Bill) and Out of Scope

Background Caring Families Aotearoa was formerly known as Fostering Kids New Zealand. It was formed more than 40 years ago. The organisation provides training, encouragement, advocacy, information and support to caregiver families, throughout New Zealand, to help support placement success.

The Chief Executive is Linda Surtees. She has worked for Caring Families since 2010. The Caring Families website notes that Linda is a strong advocate for fostering families to receive robust, collaborative support and training to provide quality care for our most vulnerable children.

Caring Families did not make a submission on the Bill.

Out of Scope

Key issues

While Caring Families did not submit on the Bill, we understand they may have concerns about the Bill. These potential concerns are addressed below and include:

- pausing the Bill
- consultation
- Te Tiriti o Waitangi
- Royal Commission of Inquiry
- independence of the Monitor
- fragmentation of the system.

Further information on the board model and meeting with the Prime Minister are attached as **Appendix 1**. These themes have arisen in the course of the select committee process.

As the changes being made to the Bill are confidential to the Committee, these cannot be discussed with Caring Families. The Select Committee will be reporting the Bill back to the House on 13 June 2022. After this, the changes will be publicly available.

Pausing the Bill

Caring Families may call for the Bill to be paused to undertake further consultation with children and other groups and for the incorporation of the findings made by the Royal Commission of Inquiry into Abuse in Care (expected in June 2023) and for these policies to be worked through in partnership with Māori.

If the Bill is delayed, Oranga Tamariki will continue to operate without effective oversight, leading to further issues. It is imperative that Oranga Tamariki has comprehensive oversight arrangements in place as soon as possible, to ensure the best outcomes for children and young people.

Talking points:

- It is imperative to have comprehensive oversight arrangements in place as soon as possible, to ensure there is proper oversight of Oranga Tamariki.
-

-
- If the Bill is paused, only a narrow part of the system will continue to be monitored by the Independent Children's Monitor.

Consultation

Caring Families may express their view that consultation on the Bill has been insufficient, and further consultation is needed before the Bill progresses any further.

Consultation with children and young people has informed the development of the Bill, and a number of specific provisions in the Bill demonstrate this.

As an example, in response to hearing that children and young people did not know where to go when they had a complaint, the Bill was drafted to include requirements for the complaints and investigations processes to be accessible and visible.

The Ministry of Social Development undertook targeted engagement with Māori in 2019, hosting 22 hui, as part of the policy development for the Bill.

Officials have also worked closely with Te Kāhui throughout the development of the policy, and to craft specific provisions in the Bill.

Talking points:

- Consultation has informed the development of the Bill already, including a number of specific provisions.
- There has also been a number of submissions on the Bill at select committee, which has provided an open opportunity to share views.

Te Tiriti o Waitangi

Caring Families may be that the Bill does not uphold Te Tiriti o Waitangi obligations.

The Bill creates strong obligations on the oversight bodies to respect and uphold Te Tiriti o Waitangi. The specific clause in the Bill directly emerged from key Māori stakeholders, who called for specific obligations to be placed on the oversight bodies, rather than broad statements.

Talking points:

- The Bill places specific obligations for upholding Te Tiriti on the oversight bodies.
-

-
- Broad statements can be open to interpretation and run the risk of diluting the obligations on agencies.

Royal Commission of Inquiry

Caring Families may express concern that the Bill is progressing before the Royal Commission of Inquiry makes its final recommendations.

The Bill is consistent with the recommendations of the Royal Commission of Inquiry's report on redress. Notably, recommendation 90 calls for monitoring bodies to be independent of other oversight mechanisms and the organisation(s) being monitored.

The Beatie Report supported progression of reform prior to the Royal Commission of Inquiry's final recommendations.

The Bill includes the requirement for a review to be undertaken within five years of commencement. This will not only allow the success of the oversight mechanisms to be reviewed but will also allow any recommendations made by the Royal Commission of Inquiry to be addressed if required.

Talking points:

- Establishing stronger oversight is needed to ensure circumstances such as those surrounding historic claims are less likely for children and young people in the Oranga Tamariki system today.
- Recommendations from the Royal Commission of Inquiry can be incorporated when the oversight system is reviewed, within five years of enactment. However, tamariki and rangatahi cannot continue to wait for these changes to be made.

Independence of the Monitor

Caring Families may be concerned that as the Monitor will be a departmental agency housed within the Education Review Office (ERO), the Monitor will not be sufficiently independent for monitoring to be trusted.

The Bill includes a number of provisions which protect the independence of the Monitor. The use of a statutory officer model, alongside the Monitor's statutory reporting requirements, power to require information, powers of entry and a limit on Ministers' ability to direct the Monitor,

collectively provide the Monitor with the necessary independence.

ERO will have no operational role in the Monitor's work. The decision was made for ERO to host the Monitor because of its existing focus on children and young people and similarities in their monitoring. However, the relationship between the Monitor and ERO is mostly administrative.

The Monitor will be operationally autonomous from all other departments, including ERO, in relation to how it goes about its monitoring role as well as acting as a trusted advisor to government and the public.

Talking points:

- The Bill includes a number of provisions which strengthen the Monitor's independence.
- ERO will have no operational role in the Monitor's work, just as the Ministry of Justice has no operational role in Te Arawhiti's operational work.

Fragmentation of the system

Caring Families may be concerned that the Bill proposes an overly bureaucratic system that will be difficult to navigate for children, young people, and their whānau.

As part of consultation, officials heard that the system is unclear and difficult to navigate. The Bill makes it clear in legislation who has responsibility for the different parts of the system.

The purpose of monitoring sits in conflict with the role of an advocate. The purpose of monitoring is to monitor the system within the settings that have been put in place by Government and provide objective and impartial information to Parliament, the public and Ministers. Whereas the role of the advocate is to question whether the settings are right in the first place. The advocate does this by influencing decision makers to change system settings to those the advocate considers will generate more positive outcomes.

Under the proposed arrangements, the oversight functions are separate and focused. The system is, if anything, simplified. The Independent Children's Monitor is focused on monitoring, the Ombudsman on investigating complaints, and the Children and Young People's Commission on advocacy. This model focuses expertise within the specific

bodies, as well as reducing overlaps and duplication of functions.

Operational work will be required to ensure that this is communicated effectively to the public.

Talking point:

- Further work will be required to communicate the system to children and young people, their whānau, and the public.

General talking points:

- I am concerned that delaying the Bill will not be in the best interests of children in New Zealand, as it is imperative to have comprehensive oversight arrangements in place as soon as possible.
- Consultation has taken place with children and young people, Māori, and other priority groups, and has informed the development of the Bill.
- I am open to making changes to the Bill to ensure that it is fit for purpose.
- The Bill is complex and we will be ensuring that it is effectively communicated to children, young people, their whānau and the wider public.
- I will be looking at what changes to the Bill the select committee has recommended, and from there I will consider if any further changes are needed.

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

Out of Scope

[REDACTED]

Out of Scope

[Redacted text block]

Author: Sara Elgoran, Senior Policy Analyst, Child and Youth Policy

Responsible manager: Melissa Cathro, Policy Manager, Child and Youth Policy

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

APPENDIX 1: Further information

Board model

A board model will enable the Children and Young Person's Commission to collectively possess the diverse skills and experience required to advocate on a wide range of issues important to children and young people in New Zealand. A board model also enables the maximisation of Māori representation within the governance arrangements of the Commission.

The Bill will not prevent the board from allocating an appropriate spokesperson for the board, with an appropriate title, to ensure that the visibility and mana of the Commission is maintained. This flexibility will allow the board to make decisions that best suit its strategic goals and ensure the legislation is enduring. The Commission will remain an Independent Crown Entity.

Talking points:

- The board will still be able to appoint a spokesperson.
- The board will be able to cover and advocate on a wider range of issues.
- Appointing a board means there is partnership with Māori in the Commission, and allows for other diverse experiences to be represented.
- While the Bill is silent on these matters, it does not prevent them from happening. We want the board to be able to make the decisions it needs to, once it has been established.
- The board model will help to ensure there is continuity within the Commission.

Meeting with the Prime Minister

This specific section of the Children's Commissioner Act 2003 was not transferred into the Bill as it places no strict obligations on either party.

There is no requirement on the Prime Minister to meet with the Children's Commissioner, nor does it restrict such meetings from taking place. In the same way that the Children's Commissioner is currently able to routinely meet with Ministers without any specific legislative mandate, the Commission will still be able to meet with the Prime Minister and advocate on issues, as well as report on general issues to the Prime Minister.

Talking point:

- While the Bill does not specify this as a function, these meetings will still be able to take place just as the Children's Commissioner currently meets with other Ministers on important issues without it being in legislation.

Aide-mémoire



MINISTRY OF SOCIAL
DEVELOPMENT
TE MANATŪ WHAKAHIATO ORA

Meeting

Date: 11 May 2022 **Security Level:** IN CONFIDENCE

For: Hon Carmel Sepuloni, Minister for Social Development and Employment

File Reference: REP/22/5/410

Meeting with Amnesty International Aotearoa New Zealand

Meeting details 8.45am-9.15am, 27 May 2022, Zoom

Expected attendees Zebedee Stone - Fundraising and Marketing Director
Lisa Woods - Campaigns Director
Anna Cusack - Advocacy and Policy Manager

Purpose of meeting To discuss the Oversight of Oranga Tamariki System and Children and Young People's Commission Bill (the Bill) and Out of Scope

Background

Amnesty International Aotearoa New Zealand is part of the Amnesty International network, an international non-profit organisation working to end human rights abuses.

Amnesty International are independent of any government, political ideology, economic interest or religion and are funded mainly by membership and public donations.

Oversight of Oranga Tamariki System Bill

Amnesty International submitted against the Bill and co-signed a letter to Ministers, with other organisations representing children and young people, with concerns about the Bill and requesting it be paused.

Out of Scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Key issues

Oversight of Oranga Tamariki System Bill

In their submission to the Committee, as well as in a letter to you, Amnesty International has identified a number of concerns relating to the Bill, which are addressed below, including:

- pausing the Bill
- consultation
- Te Tiriti o Waitangi
- Royal Commission of Inquiry
- independence of the Monitor
- fragmentation of the system.

Further information on the board model and meeting with the Prime Minister are attached as **Appendix 1**. These were not raised in the letter, but have arisen in the course of the select committee process.

As the changes being made to the Bill are confidential to the Committee, these cannot be discussed with Amnesty International. The Select Committee will be reporting the Bill back to the House on 13 June 2022. After this, the changes will be publicly available.

Pausing the Bill

Amnesty International has called for the Bill to be paused to undertake further consultation with children and other groups and for the incorporation of the findings made by the Royal Commission of Inquiry into Abuse in Care (expected in June 2023) and for these policies to be worked through in partnership with Māori.

If the Bill is delayed, Oranga Tamariki will continue to operate without effective oversight, leading to further issues. It is imperative that Oranga Tamariki has

comprehensive oversight arrangements in place as soon as possible, to ensure the best outcomes for children and young people.

Talking points:

- It is imperative to have comprehensive oversight arrangements in place as soon as possible, to ensure there is proper oversight of Oranga Tamariki.
- If the Bill is paused, only a narrow part of the system will continue to be monitored by the Independent Children's Monitor.

Consultation

Amnesty International has expressed their view that consultation on the Bill has been insufficient, and further consultation is needed before the Bill progresses any further.

Consultation with children and young people has informed the development of the Bill, and a number of specific provisions in the Bill demonstrate this.

As an example, in response to hearing that children and young people did not know where to go when they had a complaint, the Bill was drafted to include requirements for the complaints and investigations processes to be accessible and visible.

The Ministry of Social Development undertook targeted engagement with Māori in 2019, hosting 22 hui, as part of the policy development for the Bill.

Officials have also worked closely with Te Kāhui throughout the development of the policy, and to craft specific provisions in the Bill.

Talking points:

- Consultation has informed the development of the Bill already, including a number of specific provisions.
- There has also been a number of submissions on the Bill at select committee, which has provided an open opportunity to share views.

Te Tiriti o Waitangi

Amnesty International are concerned that the Bill does not uphold Te Tiriti o Waitangi obligations.

The Bill creates strong obligations on the oversight bodies to respect and uphold Te Tiriti o Waitangi. The specific

clause in the Bill directly emerged from key Māori stakeholders, who called for specific obligations to be placed on the oversight bodies, rather than broad statements.

Talking points:

- The Bill places specific obligations for upholding Te Tiriti on the oversight bodies.
- Broad statements can be open to interpretation and run the risk of diluting the obligations on agencies.

Royal Commission of Inquiry

Amnesty International has expressed concern that the Bill is progressing before the Royal Commission of Inquiry makes its final recommendations.

The Bill is consistent with the recommendations of the Royal Commission of Inquiry's report on redress. Notably, recommendation 90 calls for monitoring bodies to be independent of other oversight mechanisms and the organisation(s) being monitored.

The Beattie Report supported progression of reform prior to the Royal Commission of Inquiry's final recommendations.

The Bill includes the requirement for a review to be undertaken within five years of commencement. This will not only allow the success of the oversight mechanisms to be reviewed but will also allow any recommendations made by the Royal Commission of Inquiry to be addressed if required.

Talking points:

- Establishing stronger oversight is needed to ensure circumstances such as those surrounding historic claims are less likely for children and young people in the Oranga Tamariki system today.
- Recommendations from the Royal Commission of Inquiry can be incorporated when the oversight system is reviewed, within five years of enactment. However, tamariki and rangatahi cannot continue to wait for these changes to be made.

Independence of the Monitor

Amnesty International is concerned that as the Monitor will be a departmental agency housed within the Education Review Office (ERO), the Monitor will not be sufficiently independent for monitoring to be trusted.

The Bill includes a number of provisions which protect the independence of the Monitor. The use of a statutory officer model, alongside the Monitor's statutory reporting requirements, power to require information, powers of entry and a limit on Ministers' ability to direct the Monitor, collectively provide the Monitor with the necessary independence.

ERO will have no operational role in the Monitor's work. The decision was made for ERO to host the Monitor because of its existing focus on children and young people and similarities in their monitoring. However, the relationship between the Monitor and ERO is mostly administrative.

The Monitor will be operationally autonomous from all other departments, including ERO, in relation to how it goes about its monitoring role as well as acting as a trusted advisor to government and the public.

Talking points:

- The Bill includes a number of provisions which strengthen the Monitor's independence.
- ERO will have no operational role in the Monitor's work, just as the Ministry of Justice has no operational role in Te Arawhiti's operational work.

Fragmentation of the system

Amnesty International are concerned are concerned that the Bill proposes an overly bureaucratic system that will be difficult to navigate for children, young people, and their whānau.

As part of consultation, officials heard that the system is unclear and difficult to navigate. The Bill makes its clear in legislation who has responsibility for the different parts of the system.

The purpose of monitoring sits in conflict with the role of an advocate. The purpose of monitoring is to monitor the system within the settings that have been put in place by Government and provide objective and impartial information to Parliament, the public and Ministers. Whereas the role of the advocate is to question whether the settings are right in the first place. The advocate does this by influencing decision makers to change system settings to those the advocate considers will generate more positive outcomes.

Under the proposed arrangements, the oversight functions are separate and focused. The system is, if anything, simplified. The Independent Children's Monitor is focused on monitoring, the Ombudsman on investigating complaints, and the Children and Young People's Commission on advocacy. This model focuses expertise within the specific bodies, as well as reducing overlaps and duplication of functions.

Operational work will be required to ensure that this is communicated effectively to the public.

Talking point:

- Further work will be required to communicate the system to children and young people, their whānau, and the public.

General talking points:

- I am concerned that delaying the Bill will not be in the best interests of children in New Zealand, as it is imperative to have comprehensive oversight arrangements in place as soon as possible.
- Consultation has taken place with children and young people, Māori, and other priority groups, and has informed the development of the Bill.
- I am open to making changes to the Bill to ensure that it is fit for purpose.
- The Bill is complex and we will be ensuring that it is effectively communicated to children, young people, their whānau and the wider public.
- I will be looking at what changes to the Bill the select committee has recommended, and from there I will consider if any further changes are needed.

Out of Scope

[REDACTED]

Responsible manager: Melissa Cathro, Policy Manager, Child and Youth Policy

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

APPENDIX 1: Further information

Board model

A board model will enable the Children and Young Person's Commission to collectively possess the diverse skills and experience required to advocate on a wide range of issues important to children and young people in New Zealand. A board model also enables the maximisation of Māori representation within the governance arrangements of the Commission.

The Bill will not prevent the board from allocating an appropriate spokesperson for the board, with an appropriate title, to ensure that the visibility and mana of the Commission is maintained. This flexibility will allow the board to make decisions that best suit its strategic goals and ensure the legislation is enduring. The Commission will remain an Independent Crown Entity.

Talking points:

- The board will still be able to appoint a spokesperson.
- The board will be able to cover and advocate on a wider range of issues.
- Appointing a board means there is partnership with Māori in the Commission, and allows for other diverse experiences to be represented.
- While the Bill is silent on these matters, it does not prevent them from happening. We want the board to be able to make the decisions it needs to, once it has been established.
- The board model will help to ensure there is continuity within the Commission.

Meeting with the Prime Minister

This specific section of the Children's Commissioner Act 2003 was not transferred into the Bill as it places no strict obligations on either party.

There is no requirement on the Prime Minister to meet with the Children's Commissioner, nor does it restrict such meetings from taking place. In the same way that the Children's Commissioner is currently able to routinely meet with Ministers without any specific legislative mandate, the Commission will still be able to meet with the Prime Minister and advocate on issues, as well as report on general issues to the Prime Minister.

Talking point:

- While the Bill does not specify this as a function, these meetings will still be able to take place just as the Children's Commissioner currently meets with other Ministers on important issues without it being in legislation.

Aide-mémoire



**MINISTRY OF SOCIAL
DEVELOPMENT**
TE MANATŪ WHAKAHIATO ORA

Meeting

Date: 11 May 2022 **Security Level:** IN CONFIDENCE

For: Hon Carmel Sepuloni, Minister for Social Development and Employment

File Reference: REP/22/5/411

Meeting with the Children's Rights Alliance

Meeting details 8.45am-9.15am, 17 May 2022, Zoom

Expected attendees Andrea Jamison – Executive Director

Purpose of meeting To discuss the Oversight of Oranga Tamariki System and Children and Young People's Commission Bill (the Bill).

Background The Children's Rights Alliance is focused on advocating and supporting children's rights in New Zealand. The Children's Rights Alliance is an alliance of organisations from across the children's rights sector that is run by a volunteer Steering Committee comprised of people from across the children's sector in New Zealand.

The Executive Director of the Children's Rights Alliance is Andrea Jamison. Appointed to the role in May 2020, Andrea has been part of the Children's Rights Alliance for a decade, and was part of the team that co-ordinated the 2015 children's rights reporting. Andrea has represented the Children's Rights Alliance on the Children's Convention Monitoring Group since 2016. Andrea has previously held roles in the Office of the Children's Commissioner and in the then, Ministry of Youth Affairs.

Oversight of Oranga Tamariki System Bill

The CRA co-ordinated a joint children's sector submission on the Bill, as well as making its own submission, both against the Bill.

Andrea Jamison has recently written to Ministers to raise concerns about the Bill, both directly from the CRA, and as part of a group of leaders of organisations. In both letters to Ministers that Andrea has sent, she has requested that work on the Bill be paused.

Out of Scope



Key issues

In their submission to the Committee, as well as in a letter to you, the Children's Rights Alliance has identified a number of concerns relating to the Bill, which are addressed below, including:

- pausing the Bill
- consultation
- Te Tiriti o Waitangi
- Royal Commission of Inquiry
- independence of the Monitor
- fragmentation of the system.

Further information on the board model and meeting with the Prime Minister are attached as **Appendix 1**. These were not raised in the letter but have arisen in the course of the select committee process.

As the changes being made to the Bill are confidential to the Committee, these cannot be discussed with Save the Children. The Select Committee will be reporting the Bill back to the House on 13 June 2022. After this, the changes will be publicly available. These changes include strengthening the independence of the Monitor, providing for a Chief Children's Commissioner and creating a statutory function of reporting to the Prime Minister.

Pausing the Bill

The Children's Rights Alliance has called for the Bill to be paused to undertake further consultation with children and other groups and for the incorporation of the findings made by the Royal Commission of Inquiry into Abuse in Care (expected in June 2023) and for these policies to be worked through in partnership with Māori.

If the Bill is delayed, Oranga Tamariki will continue to operate without effective oversight, leading to further issues. It is imperative that Oranga Tamariki has comprehensive oversight arrangements in place as soon as possible, to ensure the best outcomes for children and young people.

Talking points:

- It is imperative to have comprehensive oversight arrangements in place as soon as possible, to ensure there is proper oversight of Oranga Tamariki.
- If the Bill is paused, only a narrow part of the system will continue to be monitored by the Independent Children's Monitor.

Consultation

The Children's Rights Alliance has expressed their view that consultation on the Bill has been insufficient, and further consultation is needed before the Bill progresses any further.

Consultation with children and young people has informed the development of the Bill, and a number of specific provisions in the Bill demonstrate this.

As an example, in response to hearing that children and young people did not know where to go when they had a complaint, the Bill was drafted to include requirements for the complaints and investigations processes to be accessible and visible.

The Ministry of Social Development undertook targeted engagement with Māori in 2019, hosting 22 hui, as part of the policy development for the Bill.

Officials have also worked closely with Te Kāhui throughout the development of the policy, and to craft specific provisions in the Bill.

Talking points:

-
- Consultation has informed the development of the Bill already, including a number of specific provisions.
 - There has also been a number of submissions on the Bill at select committee, which has provided an open opportunity to share views.

Te Tiriti o Waitangi

The Children's Rights Alliance are concerned that the Bill does not uphold Te Tiriti o Waitangi obligations.

The Bill creates strong obligations on the oversight bodies to respect and uphold Te Tiriti o Waitangi. The specific clause in the Bill directly emerged from key Māori stakeholders, who called for specific obligations to be placed on the oversight bodies, rather than broad statements.

Talking points:

- The Bill places specific obligations for upholding Te Tiriti on the oversight bodies.
- Broad statements can be open to interpretation and run the risk of diluting the obligations on agencies.

Royal Commission of Inquiry

The Children's Rights Alliance has expressed concern that the Bill is progressing before the Royal Commission of Inquiry makes its final recommendations.

The Bill is consistent with the recommendations of the Royal Commission of Inquiry's report on redress. Notably, recommendation 90 calls for monitoring bodies to be independent of other oversight mechanisms and the organisation(s) being monitored.

The Beatie Report supported progression of reform prior to the Royal Commission of Inquiry's final recommendations.

The Bill includes the requirement for a review to be undertaken within five years of commencement. This will not only allow the success of the oversight mechanisms to be reviewed but will also allow any recommendations made by the Royal Commission of Inquiry to be addressed if required.

Talking points:

- Establishing stronger oversight is needed to ensure circumstances such as those surrounding historic claims are less likely for children and young people in the Oranga Tamariki system today.

-
- Recommendations from the Royal Commission of Inquiry can be incorporated when the oversight system is reviewed, within five years of enactment. However, tamariki and rangatahi cannot continue to wait for these changes to be made.

Independence of the Monitor

The Children's Rights Alliance is concerned that as the Monitor will be a departmental agency housed within the Education Review Office (ERO), the Monitor will not be sufficiently independent for monitoring to be trusted.

The Bill includes a number of provisions which protect the independence of the Monitor. The use of a statutory officer model, alongside the Monitor's statutory reporting requirements, power to require information, powers of entry and a limit on Ministers' ability to direct the Monitor, collectively provide the Monitor with the necessary independence.

ERO will have no operational role in the Monitor's work. The decision was made for ERO to host the Monitor because of its existing focus on children and young people and similarities in their monitoring. However, the relationship between the Monitor and ERO is mostly administrative.

The Monitor will be operationally autonomous from all other departments, including ERO, in relation to how it goes about its monitoring role as well as acting as a trusted advisor to government and the public.

Talking points:

- The Bill includes a number of provisions which strengthen the Monitor's independence.
- ERO will have no operational role in the Monitor's work, just as the Ministry of Justice has no operational role in Te Arawhiti's operational work.

Fragmentation of the system

The Children's Rights Alliance is concerned that the Bill proposes an overly bureaucratic system that will be difficult to navigate for children, young people, and their whānau.

As part of consultation, officials heard that the system is unclear and difficult to navigate. The Bill makes it clear in legislation who has responsibility for the different parts of the system.

The purpose of monitoring sits in conflict with the role of an advocate. The purpose of monitoring is to monitor the system within the settings that have been put in place by Government and provide objective and impartial information to Parliament, the public and Ministers. Whereas the role of the advocate is to question whether the settings are right in the first place. The advocate does this by influencing decision makers to change system settings to those the advocate considers will generate more positive outcomes.

Under the proposed arrangements, the oversight functions are separate and focused. The system is, if anything, simplified. The Independent Children's Monitor is focused on monitoring, the Ombudsman on investigating complaints, and the Children and Young People's Commission on advocacy. This model focuses expertise within the specific bodies, as well as reducing overlaps and duplication of functions.

Operational work will be required to ensure that this is communicated effectively to the public.

Talking point:

- Further work will be required to communicate the system to children and young people, their whānau, and the public.

General talking points:

- I am concerned that delaying the Bill will not be in the best interests of children in New Zealand, as it is imperative to have comprehensive oversight arrangements in place as soon as possible.
- Consultation has taken place with children and young people, Māori, and other priority groups, and has informed the development of the Bill.
- I am open to making changes to the Bill to ensure that it is fit for purpose.
- The Bill is complex, and we will be ensuring that it is effectively communicated to children, young people, their whānau and the wider public.
- I will be looking at what changes to the Bill the select committee has recommended, and from there I will consider if any further changes are needed.

Responsible manager: Melissa Cathro, Policy Manager, Child and Youth Policy

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

APPENDIX 1: Further information

Board model

A board model will enable the Children and Young Person's Commission to collectively possess the diverse skills and experience required to advocate on a wide range of issues important to children and young people in New Zealand. A board model also enables the maximisation of Māori representation within the governance arrangements of the Commission.

The Bill will not prevent the board from allocating an appropriate spokesperson for the board, with an appropriate title, to ensure that the visibility and mana of the Commission is maintained. This flexibility will allow the board to make decisions that best suit its strategic goals and ensure the legislation is enduring. The Commission will remain an Independent Crown Entity.

Talking points:

- The board will still be able to appoint a spokesperson.
- The board will be able to cover and advocate on a wider range of issues.
- Appointing a board means there is partnership with Māori in the Commission, and allows for other diverse experiences to be represented.
- While the Bill is silent on these matters, it does not prevent them from happening. We want the board to be able to make the decisions it needs to, once it has been established.
- The board model will help to ensure there is continuity within the Commission.

Meeting with the Prime Minister

This specific section of the Children's Commissioner Act 2003 was not transferred into the Bill as it places no strict obligations on either party.

There is no requirement on the Prime Minister to meet with the Children's Commissioner, nor does it restrict such meetings from taking place. In the same way that the Children's Commissioner is currently able to routinely meet with Ministers without any specific legislative mandate, the Commission will still be able to meet with the Prime Minister and advocate on issues, as well as report on general issues to the Prime Minister.

Talking point:

- While the Bill does not specify this as a function, these meetings will still be able to take place just as the Children's Commissioner currently meets with other Ministers on important issues without it being in legislation.

Children's Convention

Ministers decided to defer most work on two reservations (Article 32 – legislating for a minimum age of employment, and Article 37 – age-mixing with adults when deprived of liberty).

The Children's Rights Alliance has expressed a desire for New Zealand to remove these reservations. There are complex issues with bringing New Zealand into compliance with Article 32. Namely, children in New Zealand often partake in some work, for example, an after-school paper run or on a family farm. Ministers want to understand the impact on this group of people before progressing further work on New Zealand's reservation to the minimum age of employment.

Several agencies, including MBIE and MPI, are working through the implications of a minimum age of employment for children and young people in New Zealand, in particular the impact on children who help on family farms. At the CYWS Ministerial Meeting in March 2022, the Prime Minister invited the CMG to provide input into this work, particularly regarding children and young people in the agricultural sector. This work is ongoing.

The overall responsibility for the reservations work sits in Minister Davis' portfolio.



Meeting

Date: 12 May 2022 **Security Level:** IN CONFIDENCE
For: Hon Carmel Sepuloni, Minister for Social Development and
Employment
File REP/22/5/413
Reference:

Meeting with Social Service Providers Aotearoa

Meeting details Friday, 13 May 2022 10:15 AM-10:45 AM
<https://parliamentnz.zoom.us/j/82548516931?pwd=Tkp6amdDdUtsSWF4eGRsZ01WM0tXdz09>
Meeting ID: 825 4851 6931
Password: J286820H

Expected attendees Dr Claire Ahmad – Chief Executive

Purpose of meeting To discuss the Oversight of Oranga Tamariki System and Children and Young People's Commission Bill (the Bill), Out of scope

Background Social Service Providers Aotearoa (SSPA) is a national body representing around 200 community organisations working with at-risk children and young people and with families, whānau and communities. Membership is open to NGO service providers funded by government and approved under sections 396 or 403 of the Oranga Tamariki 1989. Associate membership is open to any other service provider with a government contract and approved by the SSPA national executive.

Its Chief Executive is Dr Claire Achmad. Dr Achmad was appointed in December 2020 and began the role in March 2021, when she moved to SSPA from Barnados. Claire is also a

member of the Social Sector commissioning Project Board and brings the sector voice to the table.

Key issues

Oversight of Oranga Tamariki System Bill

SSPA submitted against the Bill at select committee.

General

In their submission to the Committee, SSPA has identified a number of concerns relating to the Bill, which are addressed below, including:

- pausing the Bill
- consultation
- Te Tiriti o Waitangi
- Royal Commission of Inquiry
- independence of the Monitor
- fragmentation of the system.

Further information on the board model and meeting with the Prime Minister are attached as **Appendix 1**.

As the changes being made to the Bill are confidential to the Committee, these cannot be discussed with SSPA. The Select Committee will be reporting the Bill back to the House on 13 June 2022. After this, the changes will be publicly available. These changes include strengthening the independence of the Monitor, providing for a Chief Children's Commissioner and creating a statutory function of reporting to the Prime Minister.

Talking points:

- I am concerned that delaying the Bill will not be in the best interests of children in New Zealand, as it is imperative to have comprehensive oversight arrangements in place as soon as possible.
- Consultation has taken place with children and young people, Māori, and other priority groups, and has informed the development of the Bill.
- I am open to making changes to the Bill to ensure that it is fit for purpose.
- The Bill is complex and we will be ensuring that it is effectively communicated to children, young people, their whānau and the wider public.
- I will be looking at what changes to the Bill the select committee has recommended, and from there I will consider if any further changes are needed.

Pausing the Bill

SSPA has called for the Bill to be paused to undertake further consultation with children and other groups and for the incorporation of the findings made by the Royal Commission of Inquiry into Abuse in Care (expected in June 2023) and for these policies to be worked through in partnership with Māori.

If the Bill is delayed, Oranga Tamariki will continue to operate without effective oversight, leading to further issues. It is imperative that Oranga Tamariki has comprehensive oversight arrangements in place as soon as possible, to ensure the best outcomes for children and young people.

Talking points:

- It is imperative to have comprehensive oversight arrangements in place as soon as possible, to ensure there is proper oversight of Oranga Tamariki.
- If the Bill is paused, only a narrow part of the system will continue to be monitored by the Independent Children's Monitor.

Consultation

SSPA has expressed their view that consultation on the Bill has been insufficient, and further consultation is needed before the Bill progresses any further.

Consultation with children and young people has informed the development of the Bill, and a number of specific provisions in the Bill demonstrate this.

As an example, in response to hearing that children and young people did not know where to go when they had a complaint, the Bill was drafted to include requirements for the complaints and investigations processes to be accessible and visible.

The Ministry of Social Development undertook targeted engagement with Māori in 2019, hosting 22 hui as part of the policy development for the Bill.

Officials have also worked closely with Te Kāhui throughout the development of the policy, and to craft specific provisions in the Bill.

Talking points:

- Consultation has informed the development of the Bill already, including a number of specific provisions.

-
- There has also been a number of submissions on the Bill at select committee, which has provided an open opportunity to share views.

Te Tiriti o Waitangi

SSPA are concerned that the Bill does not uphold Te Tiriti o Waitangi obligations.

The Bill creates strong obligations on the oversight bodies to respect and uphold Te Tiriti o Waitangi. The specific clause in the Bill directly emerged from key Māori stakeholders, who called for specific obligations to be placed on the oversight bodies, rather than broad statements.

Talking points:

- The Bill places specific obligations for upholding Te Tiriti on the oversight bodies.
- Broad statements can be open to interpretation and run the risk of diluting the obligations on agencies.

Royal Commission of Inquiry

SSPA has expressed concern that the Bill is progressing before the Royal Commission of Inquiry makes its final recommendations.

The Bill is consistent with the recommendations of the Royal Commission of Inquiry's report on redress. Notably, recommendation 90 calls for monitoring bodies to be independent of other oversight mechanisms and the organisation(s) being monitored.

The Beatie Report supported progression of reform prior to the Royal Commission of Inquiry's final recommendations.

The Bill includes the requirement for a review to be undertaken within five years of commencement. This will not only allow the success of the oversight mechanisms to be reviewed but will also allow any recommendations made by the Royal Commission of Inquiry to be addressed if required.

Talking points:

- Establishing stronger oversight is needed to ensure circumstances such as those surrounding historic claims are less likely for children and young people in the Oranga Tamariki system today.
- Recommendations from the Royal Commission of Inquiry can be incorporated when the oversight system is reviewed, within five years of enactment. However,

tamariki and rangatahi cannot continue to wait for these changes to be made.

Independence of the Monitor

SSPA is concerned that as the Monitor will be a departmental agency housed within the Education Review Office (ERO), the Monitor will not be sufficiently independent for monitoring to be trusted.

The Bill includes a number of provisions which protect the independence of the Monitor. The use of a statutory officer model, alongside the Monitor's statutory reporting requirements, power to require information, powers of entry and a limit on Ministers' ability to direct the Monitor, collectively provide the Monitor with the necessary independence.

ERO will have no operational role in the Monitor's work. The decision was made for ERO to host the Monitor because of its existing focus on children and young people and similarities in their monitoring. However, the relationship between the Monitor and ERO is mostly administrative.

The Monitor will be operationally autonomous from all other departments, including ERO, in relation to how it goes about its monitoring role as well as acting as a trusted advisor to government and the public.

Talking points:

- The Bill includes a number of provisions which strengthen the Monitor's independence.
- ERO will have no operational role in the Monitor's work, just as the Ministry of Justice has no operational role in Te Arawhiti's operational work.

Fragmentation of the system

SSPA are concerned that the Bill proposes an overly bureaucratic system that will be difficult to navigate for children, young people, and their whānau.

As part of consultation, officials heard that the system is unclear and difficult to navigate. The Bill make its clear in legislation who has responsibility for the different parts of the system.

The purpose of monitoring sits in conflict with the role of an advocate. The purpose of monitoring is to monitor the system within the settings that have been put in place by Government and provide objective and impartial information to Parliament, the public and Ministers. Whereas the role of the advocate is to question whether the settings are right in the first place. The

advocate does this by influencing decision makers to change system settings to those the advocate considers will generate more positive outcomes.

Under the proposed arrangements, the oversight functions are separate and focused. The system is, if anything, simplified. The Independent Children's Monitor is focused on monitoring, the Ombudsman on investigating complaints, and the Children and Young People's Commission on advocacy. This model focuses expertise within the specific bodies, as well as reducing overlaps and duplication of functions.

Operational work will be required to ensure that this is communicated effectively to the public.

Talking points:

- Further work will be required to communicate the system to children and young people, their whānau, and the public.

Out of scope

Out of scope

■

■

■

Out of scope

Out of scope

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Out of scope

Out of scope

Out of scope

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Out of scope

Out of scope

Responsible manager(s):

Melissa Cathro, Policy Manager, Child and Youth Policy

APPENDIX 1: Further information

Board model

A board model will enable the Children and Young Person's Commission to collectively possess the diverse skills and experience required to advocate on a wide range of issues important to children and young people in New Zealand. A board model also enables the maximisation of Māori representation within the governance arrangements of the Commission.

The Bill will not prevent the board from allocating an appropriate spokesperson for the board, with an appropriate title, to ensure that the visibility and mana of the Commission is maintained. This flexibility will allow the board to make decisions that best suit its strategic goals and ensure the legislation is enduring. The Commission will remain an Independent Crown Entity.

Talking points:

- The board will still be able to appoint a spokesperson.
- The board will be able to cover and advocate on a wider range of issues.
- Appointing a board means there is partnership with Māori in the Commission, and allows for other diverse experiences to be represented.
- While the Bill is silent on these matters, it does not prevent them from happening. We want the board to be able to make the decisions it needs to, once it has been established.
- The board model will help to ensure there is continuity within the Commission.

Meeting with the Prime Minister

This specific section of the Children's Commissioner Act 2003 was not transferred into the Bill as it places no strict obligations on either party.

There is no requirement on the Prime Minister to meet with the Children's Commissioner, nor does it restrict such meetings from taking place. In the same way that the Children's Commissioner is currently able to routinely meet with Ministers without any specific legislative mandate, the Commission will still be able to meet with the Prime Minister and advocate on issues, as well as report on general issues to the Prime Minister.

Talking point:

- While the Bill does not specify this as a function, these meetings will still be able to take place just as the Children's Commissioner currently meets with other Ministers on important issues without it being in legislation.

Aide-mémoire



**MINISTRY OF SOCIAL
DEVELOPMENT**
TE MANATŪ WHAKAHIATO ORA

Meeting

Date: 11 May 2022 **Security Level:** IN CONFIDENCE

For: Hon Carmel Sepuloni, Minister for Social Development and Employment

File Reference: REP/22/5/415

Meeting with the Disability Rights Commissioner

Meeting details 12.00pm, 13 May 2022, Zoom

Expected attendees Paula Tesoriero – Disability Rights Commissioner

Purpose of meeting To discuss the Oversight of Oranga Tamariki System and Children and Young People's Commission Bill (the Bill)

We are setting up a follow up meeting to discuss the following items

- Out of Scope
- [REDACTED]
- [REDACTED]

Talking points have been provided at the back of this should Paula wish to discuss them however we recommend keeping the focus of this session to the Bill.

Background

The Disability Rights Commissioner is one of four Commissioners in the Human Rights Commission.

The Disability Rights Commissioner is Paula Tesoriero. She has a broad mandate under the Human Rights Act 1993 to protect and promote the rights of disabled New Zealanders. Paula has a background in law and was a senior public servant for a number of years prior to being appointed as

Disability Rights Commissioner. She is also a former Paralympian cycling gold medalist.

The Human Rights Commission made a submission on the Bill and Paula Tesoriero submitted orally on behalf of the Human Rights Commission.

Key issues

Oversight of Oranga Tamariki System Bill

In their submission to the Committee, as well as in a letter to you, the Human Rights Commission has identified a number of concerns relating to the Bill, which are addressed below, including:

- pausing the Bill
- consultation
- Te Tiriti o Waitangi
- Royal Commission of Inquiry
- independence of the Monitor
- fragmentation of the system.

Further information on the board model and meeting with the Prime Minister are attached as **Appendix 1**. These were not raised in the letter, but have arisen in the course of the select committee process.

As the changes being made to the Bill are confidential to the Committee, these cannot be discussed with the Human Rights Commission. The Select Committee will be reporting the Bill back to the House on 13 June 2022. After this, the changes will be publicly available.

Pausing the Bill

The Human Rights Commission has called for the Bill to be paused to undertake further consultation with children and other groups and for the incorporation of the findings made by the Royal Commission of Inquiry into Abuse in Care (expected in June 2023) and for these policies to be worked through in partnership with Māori.

If the Bill is delayed, Oranga Tamariki will continue to operate without effective oversight, leading to further issues. It is imperative that Oranga Tamariki has comprehensive oversight arrangements in place as soon as possible, to ensure the best outcomes for children and young people.

Talking points:

-
- It is imperative to have comprehensive oversight arrangements in place as soon as possible, to ensure there is proper oversight of Oranga Tamariki.
 - If the Bill is paused, only a narrow part of the system will continue to be monitored by the Independent Children's Monitor.

Consultation

The Human Rights Commission has expressed their view that consultation on the Bill has been insufficient, and further consultation is needed before the Bill progresses any further.

Consultation with children and young people has informed the development of the Bill, and a number of specific provisions in the Bill demonstrate this.

As an example, in response to hearing that children and young people did not know where to go when they had a complaint, the Bill was drafted to include requirements for the complaints and investigations processes to be accessible and visible.

The Ministry of Social Development undertook targeted engagement with Māori in 2019, hosting 22 hui, as part of the policy development for the Bill.

Officials have also worked closely with Te Kāhui throughout the development of the policy, and to craft specific provisions in the Bill.

Talking points:

- Consultation has informed the development of the Bill already, including a number of specific provisions.
- There has also been a number of submissions on the Bill at select committee, which has provided an open opportunity to share views.

Te Tiriti o Waitangi

The Human Rights Commission is concerned that the Bill does not uphold Te Tiriti o Waitangi obligations.

The Bill creates strong obligations on the oversight bodies to respect and uphold Te Tiriti o Waitangi. The specific clause in the Bill directly emerged from key Māori stakeholders, who called for specific obligations to be placed on the oversight bodies, rather than broad statements.

Talking points:

-
- The Bill places specific obligations for upholding Te Tiriti on the oversight bodies.
 - Broad statements can be open to interpretation and run the risk of diluting the obligations on agencies.

Royal Commission of Inquiry

The Human Rights Commission has expressed concern that the Bill is progressing before the Royal Commission of Inquiry makes its final recommendations.

The Bill is consistent with the recommendations of the Royal Commission of Inquiry's report on redress. Notably, recommendation 90 calls for monitoring bodies to be independent of other oversight mechanisms and the organisation(s) being monitored.

The Beatie Report supported progression of reform prior to the Royal Commission of Inquiry's final recommendations.

The Bill includes the requirement for a review to be undertaken within five years of commencement. This will not only allow the success of the oversight mechanisms to be reviewed but will also allow any recommendations made by the Royal Commission of Inquiry to be addressed if required.

Talking points:

- Establishing stronger oversight is needed to ensure circumstances such as those surrounding historic claims are less likely for children and young people in the Oranga Tamariki system today.
- Recommendations from the Royal Commission of Inquiry can be incorporated when the oversight system is reviewed, within five years of enactment. However, tamariki and rangatahi cannot continue to wait for these changes to be made.

Independence of the Monitor

The Human Rights Commission is concerned that as the Monitor will be a departmental agency housed within the Education Review Office (ERO), the Monitor will not be sufficiently independent for monitoring to be trusted.

The Bill includes a number of provisions which protect the independence of the Monitor. The use of a statutory officer model, alongside the Monitor's statutory reporting requirements, power to require information, powers of entry and a limit on Ministers' ability to direct the Monitor,

collectively provide the Monitor with the necessary independence.

ERO will have no operational role in the Monitor's work. The decision was made for ERO to host the Monitor because of its existing focus on children and young people and similarities in their monitoring. However, the relationship between the Monitor and ERO is mostly administrative.

The Monitor will be operationally autonomous from all other departments, including ERO, in relation to how it goes about its monitoring role as well as acting as a trusted advisor to government and the public.

Talking points:

- The Bill includes a number of provisions which strengthen the Monitor's independence.
- ERO will have no operational role in the Monitor's work, just as the Ministry of Justice has no operational role in Te Arawhiti's operational work.

Fragmentation of the system

The Human Rights Commission is concerned that the Bill proposes an overly bureaucratic system that will be difficult to navigate for children, young people, and their whānau.

As part of consultation, officials heard that the system is unclear and difficult to navigate. The Bill makes it clear in legislation who has responsibility for the different parts of the system.

The purpose of monitoring sits in conflict with the role of an advocate. The purpose of monitoring is to monitor the system within the settings that have been put in place by Government and provide objective and impartial information to Parliament, the public and Ministers. Whereas the role of the advocate is to question whether the settings are right in the first place. The advocate does this by influencing decision makers to change system settings to those the advocate considers will generate more positive outcomes.

Under the proposed arrangements, the oversight functions are separate and focused. The system is, if anything, simplified. The Independent Children's Monitor is focused on monitoring, the Ombudsman on investigating complaints, and the Children and Young People's Commission on advocacy. This model focuses expertise within the specific

• Out of Scope

■

■

Out of Scope

■

■

■

■

■

■

■

■

Out of Scope

Out of Scope

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Out of Scope



Author: , Senior Policy Analyst, Child and Youth Policy

Responsible manager: Melissa Cathro, Policy Manager, Child and Youth Policy

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

APPENDIX 1: Further information

Board model

A board model will enable the Children and Young Person's Commission to collectively possess the diverse skills and experience required to advocate on a wide range of issues important to children and young people in New Zealand. A board model also enables the maximisation of Māori representation within the governance arrangements of the Commission.

The Bill will not prevent the Board from allocating an appropriate spokesperson for the Board, with an appropriate title, to ensure that the visibility and mana of the Commission is maintained. This flexibility will allow the Board to make decisions that best suit its strategic goals and ensure the legislation is enduring. The Commission will remain an Independent Crown Entity.

Talking points:

- The board will still be able to appoint a spokesperson.
- The board will be able to cover and advocate on a wider range of issues.
- Appointing a board means there is partnership with Māori in the Commission, and allows for other diverse experiences to be represented.
- While the Bill is silent on these matters, it does not prevent them from happening. We want the board to be able to make the decisions it needs to, once it has been established.
- The board model will help to ensure there is continuity within the Commission.

Meeting with the Prime Minister

This specific section of the Children's Commissioner Act 2003 was not transferred into the Bill as it places no strict obligations on either party.

There is no requirement on the Prime Minister to meet with the Children's Commissioner, nor does it restrict such meetings from taking place. In the same way that the Children's Commissioner is currently able to routinely meet with Ministers without any specific legislative mandate, the Commission will still be able to meet with the Prime Minister and advocate on issues, as well as report on general issues to the Prime Minister.

Talking point:

- While the Bill does not specify this as a function, these meetings will still be able to take place just as the Children's Commissioner currently meets with other Ministers on important issues without it being in legislation.



**MINISTRY OF SOCIAL
DEVELOPMENT**
TE MANATŪ WHAKAHIATO ORA

**Te Mana
Whakamaru
Tamariki
Motuhake** | Independent
Children's
Monitor

Report

Date: 23 June 2022

**Security
Level:**

IN CONFIDENCE

To: Hon Carmel Sepuloni, Minister for Social Development and
Employment

Strengthening Oversight of the Oranga Tamariki System Programme – Monthly Progress Update – May 2022

Purpose of the report


- 1 This report provides you with a progress update for the Strengthening Oversight of the Oranga Tamariki System Programme for the period ending 31 May 2022.
- 2 Key points of interest are included in this cover report with a summary provided in the attached A3.

Recommended actions

- 3 It is recommended that you:

3.1 **note** the contents of this Strengthening Oversight of the Oranga Tamariki System Programme Monthly Progress Update which covers May 2022.

YES / NO


Arran Jones
Executive Director, Independent Children's
Monitor

23 June 2022
Date

Hon Carmel Sepuloni
Minister for Social Development and
Employment

Date

Summary and key points of interest

Programme summary

- 4 Programme status is on track.
- 5 On 9 May, we commenced our visit to the Bay of Plenty region, visiting Tāupo and Taumaranui, Rotorua and Tokoroa and Tauranga and Whakatane. Analysis of the information collected is currently being undertaken and we plan to share back our findings to these communities in early July.

Policy/Legislation workstream

- 6 On 14 June, Select Committee reported the Oversight of the Oranga Tamariki system and Children's and Young People's Commission Bill (the Bill) back to Cabinet with some amendment.

Work has continued to develop the Regulations for the Bill and these are being consulted on with Office of the Ombudsman, Office of the Children's Commissioner and Oranga Tamariki.

Independent Children's Monitor monitoring and establishment workstreams

Monitoring Operations

- 7 We provided feedback on what we heard across each community to the tamariki, rangatahi, whānau, caregivers, Oranga Tamariki and other agencies we met with during our visit to Te Tai Tokerau, Central Auckland and North-West Auckland. We also provided feedback to the Auckland Regional Public Service Commissioner, and their Regional Leadership Group.

8 During May we completed our monitoring visit to the Bay of Plenty visiting Tāupo and Taumaranui, Rotorua and Tokoroa and Tauranga and Whakatane. Engagements in the region were completed kano hi ki te kano hi. Across the region we spoke with:

- 57 tamariki and rangatahi
- 28 whānau
- 70 caregivers
- 118 monitored agency staff
- 94 staff from iwi service providers, NGOs, schools and government agencies.

9 Analysis of the information gathered during this visit is currently underway, and we plan to share back our findings with those we spoke with in Mid-July.

10 Initial planning for our next scheduled visit to South Auckland in August is in its early stages.

11 We continue to develop our monitoring approach for the broader Oranga Tamariki system. As noted in our *April Monthly Update*, we have engaged with iwi and Māori providers that hold Strategic Partnerships with Oranga Tamariki on the key questions we will need to answer to inform our monitoring approach. We have arranged to meet with the Royal Commission on Abuse in Care and are meeting with community providers such as Stand Tū Maia, Open Home Foundation, Barnardos, Brackenridge, PACT, and Caring Families Aotearoa. In July, we are also meeting with the Voyce Whakarongo Mai National Youth Council to seek their feedback on our approach.

12 Following our community engagements, we will consult with government agencies such as Oranga Tamariki, the Police, Ministry of Education and the Ministry of Health. We will also use the Government Agency meetings as an opportunity to better understand the information that they currently hold on the Oranga Tamariki System.

13 We have met young people at Dingwall Trust and Oranga Tamariki Youth Justice facilities to determine whether the approach and prompts we use to monitor the NCS Regs will be applicable for monitoring the Oranga Tamariki system. These meetings have been positive and have demonstrated that our

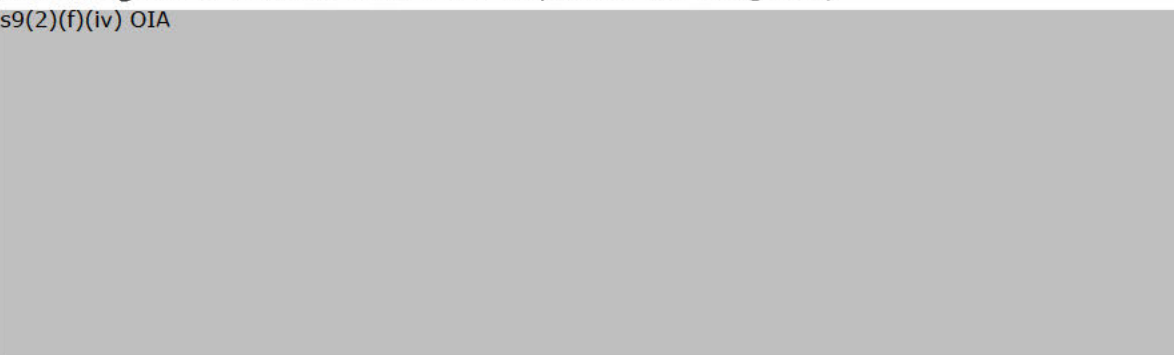
approach to engaging with tamariki can be easily expanded to cover the Oranga Tamariki system.

- 14 On 31 May, requests were sent to the monitored agencies for their self-monitoring data and information on compliance with the NCS Regs, for our next report on compliance with the NCS Regs. The next report will cover the period 1 July 2021 to 30 June 2022 and presented to the Minister for Children before the end of this year. We have asked agencies to provide their responses in August, and providing this request early gives them time to prepare.
- 15 On 1 June, we met with Te Kāhui Group. This meeting focused on seeking feedback to our key questions for our expanded monitoring function. Te Kāhui and the Executive Director also held an introductory meeting with the Children's Commissioner.
- 16 The Executive Director travelled to the Auckland to meet with Te Iwi o Ngati Kahu Trust to discuss feedback on our proposed expanded monitoring framework and key questions.
- 17 The Executive Director had a relationship meeting with the Chief Executive of Voyce Whakarongo Mai. We have worked alongside Voyce Whakarongo Mai to help us connect with rangatahi, and we are in the process of developing a sustainable partnership model.
- 18 The Executive Director and Chief Monitor met with the Children's Commissioner as part of regular monthly engagement. We discussed opportunities for the Monitor's first thematic review and progress with developing the Monitor's broadened monitoring approach.

Establishing the Monitor as a new departmental agency

s9(2)(f)(iv) OIA

19



- Attached as Appendix One is the Monthly Progress Update A3 for the period ending May 2022.

File ref: REP/22/6/554

Author: (Arran Jones, Executive Director, Independent Children's Monitor)

Responsible manager: (Nadine Kilmister, Deputy Chief Executive, People and Capability)

RELEASED UNDER THE
OFFICIAL INFORMATION ACT



Engagement, Communications and Change

Māori Engagement:

- On 1 June, we met with Te Kāhui Group. This meeting focused on seeking feedback to our key questions for our expanded monitoring function. Te Kāhui and the Executive Director also held an introductory meeting with the Children's Commissioner.
- The Executive Director travelled to the Auckland to meet with Te Iwi o Ngati Kahu Trust to discuss feedback on our proposed expanded monitoring framework and key questions

Engagement:

- We have met young people at Dingwall Trust and Oranga Tamariki Youth Justice facilities to determine whether the approach and prompts we use to monitor the NCS Regs will be applicable for monitoring the Oranga Tamariki system. These meetings have been positive and have demonstrated that our approach to engaging with tamariki can be easily expanded to cover the Oranga Tamariki system.
- The Executive Director had a relationship meeting with the Chief Executive of Voyce Whakarongo Māi. We have worked alongside Voyce Whakarongo Māi to help us connect with rangatahi, and we are in the process of developing a sustainable partnership model.
- The Executive Director and Chief Monitor met with the Children's Commissioner as part of regular monthly engagement. We discussed opportunities for the Monitor's first thematic review and progress with developing the Monitor's broadened monitoring approach

Workstream summary:

Policy/Legislation

G

- On 14 June, Select Committee reported the Oversight of the Oranga Tamariki system and Children's and Young People's Commission Bill (the Bill) back to Cabinet with some amendment.
- Work has continued to develop the Regulations for the Bill and these are being consulted on with Office of the Ombudsman, Office of the Children's Commissioner and Oranga Tamariki.

Establishing the Independent Children's Monitor as a new departmental agency

G

s9(2)(f)(iv) OIA

Independent Children's Monitor Monitoring/Operations

G

- We provided feedback on what we heard across each community to the tamariki, rangatahi, whānau, caregivers, Oranga Tamariki and other agencies we met with during our visit to Te Tai Tokerau, Central Auckland and North-West Auckland. We also provided feedback to the Auckland Regional Public Service Commissioner, and their Regional Leadership Group.
- During May we completed our monitoring visit to the Bay of Plenty visiting Tāupo and Taumaranui, Rotorua and Tokoroa and Tauranga and Whakatane. Engagements in the region were completed kanohi ki te kanohi. Across the region we spoke with:
 - 57 tamariki and rangatahi
 - 28 whānau
 - 70 caregivers
 - 118 monitored agency staff
 - 94 staff from iwi service providers, NGOs, schools and government agencies.
- Analysis of the information gathered is currently underway, and we plan to share back our findings with those we spoke with in Mid-July.
- Initial planning for our next scheduled visit to South Auckland in August is in its early stages.
- We continue to develop our monitoring approach for the broader Oranga Tamariki system. We have arranged to meet with the Royal Commission on Abuse in Care and are meeting with community providers such as Stand Tū Maia, Open Home Foundation, Barnardos, Brackenridge, PACT, and Caring Families Aotearoa.
- Following our community engagements, we will consult with government agencies such as Oranga Tamariki, the Police, Ministry of Education and the Ministry of Health. We will also use the Government Agency meetings as an opportunity to better understand the information that they currently hold on the Oranga Tamariki System.
- On 31 May, requests were sent to the monitored agencies for their self-monitoring data and information on compliance with the NCS Regs, for our next report on compliance with the NCS Regs. The next report will cover the period 1 July 2021 to 30 June 2022 and presented to the Minister for Children before the end of this year. We have asked agencies to provide their responses in August, and providing this request early gives them time to prepare.

Programme summary:

	Previous	Current	Next	
Overall status	G	G	G	Programme status continues to track GREEN overall.
Programme Management: Following the decision on the permanent home of the Monitor, we are planning for our establishment as a departmental agency.				