

Chair
Cabinet

Orders in Council to establish the Ministry for Vulnerable Children, Oranga Tamariki

Proposal

- 1 We propose that Cabinet authorise the submission to the Executive Council of the following Orders in Council:
 - State Sector (Ministry for Vulnerable Children, Oranga Tamariki) Order 2016; and
 - Ombudsmen Act (Schedule 1 – Ministry for Vulnerable Children, Oranga Tamariki) Order 2016.
- 2 We also invite Cabinet to approve Ministry for Vulnerable Children, Oranga Tamariki as the legal name of the new Department.

Policy

- 3 In May 2016 the Cabinet Social Policy Committee (SOC) agreed to establish a stand-alone department to develop and implement a new operating model for services to vulnerable children and young people [SOC-16-MIN-0053].
- 4 On 11 July 2016 Cabinet agreed that the name of the new department would be the Ministry for Vulnerable Children [CAB-16-MIN-0339].
- 5 Cabinet invited the Minister of State Services to issue drafting instructions to the Parliamentary Counsel Office to draft Orders in Council:
 - 5.1 under the State Sector Act 1988 to add the name Ministry for Vulnerable Children, Oranga Tamariki to Schedule 1 of that Act and to authorise the Ministry for Vulnerable Children to use the Ministry of Social Development name (if required) for a further 12 months; and
 - 5.2 under the Ombudsmen Act 1975 to add the name Ministry for Vulnerable Children, Oranga Tamariki to the list of Government departments in Schedule 1 of that Act.
- 6 We are now seeking Cabinet's agreement to amend these previous decisions. We propose that the legal name of the new department is the Ministry for Vulnerable Children, Oranga Tamariki.
- 7 The State Sector (Ministry for Vulnerable Children, Oranga Tamariki) Order 2016 adds the name Ministry for Vulnerable Children, Oranga Tamariki to Schedule 1 of the State Sector Act 1988 and enables references to the Ministry of Social Development in things coming into force, entered into, or created during a transitional period of 12 months after the transfer of functions to be read as references to the Ministry for Vulnerable Children, Oranga Tamariki where required. The Order is made under sections 30A and 30K of that Act.
- 8 The Ombudsmen Act (Schedule 1 – Ministry for Vulnerable Children, Oranga Tamariki) Order 2016 adds the name Ministry for Vulnerable Children, Oranga Tamariki to Part 1 of Schedule 1 of the Ombudsmen Act 1975. This Order is made

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under section 32(1) of that Act, and ensures that Act and the Official Information Act 1982 will apply to the new department.

- 9 The Orders are an entirely routine administrative step to give effect to Cabinet's decision to establish a new Public Service department. No new policy decisions are required.

Timing and 28-day rule

- 10 The Orders in Council are intended to come into force on 1 April 2017, allowing compliance with the 28-day rule.

Compliance

- 11 The Orders in Council comply with each of the following:
- principles of the Treaty of Waitangi;
 - rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - principles and guidelines set out in the Privacy Act 1993;
 - relevant international standards and obligations; and
 - *LAC Guidelines: Guidelines on Process and Content of Legislation.*

Regulations Review Committee

- 12 There are no grounds for the Regulations Review Committee to draw the Orders in Council to the attention of the House under Standing Order 319.

Certification by Parliamentary Counsel

- 13 Parliamentary Counsel have certified that the draft Orders in Council are in order for submission to Cabinet.

Regulatory impact analysis

- 14 The Regulatory Impact Analysis (RIA) requirements apply to the proposal to establish the new children's entity as a separate department and a Regulatory Impact Statement (RIS) was presented alongside the paper seeking earlier decisions in SOC-16-MIN-0053 on 4 May 2016. The Orders in Council in this paper are required to give technical effect to Cabinet's decision in May 2016.
- 15 The Regulatory Impact Analysis Team (RIAT) at the Treasury reviewed the RIS prepared by the State Services Commission and considered that the information and analysis summarised in the RIS partially met the quality assurance criteria, given the timeframes and parameters set by Ministers for a decision on institutional form at that time.
- 16 The July 2016 Cabinet paper signalled that the impacts of the decision to create the new entity would be supported by future analysis, including of establishment transition costs, but that has not yet occurred. The detailed decisions on giving effect to the proposed operating model will be brought to SOC in October 2016. Treasury expects that a RIS that includes further detailed analysis will be presented to SOC at that time.

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Publicity

- 17 Making these Orders in Council will enable formal announcements regarding the name of the entity and will also enable the Governor-General to accept the State Services Commissioner's recommendation to appoint the acting Chief Executive of the entity. In accordance with the usual convention, the State Services Commission will publish the RIS relating to this decision when the Orders are gazetted on 18 August 2016. The State Services Commission and the Ministry of Social Development have advised us that they also plan to publish the related Cabinet papers for SOC-16-MIN-0053 and CAB-16-MIN-0339 at this time.

Consultation

- 18 The State Services Commission prepared the drafting instructions for the Orders in Council. The Ministry of Justice and the Treasury were consulted. The Department of the Prime Minister and Cabinet and the Office of the Ombudsman were informed.
- 19 Te Taura Whiri i te Reo Māori (the Māori Language Commission) was consulted on and approved the Māori name Oranga Tamariki for the Ministry for Vulnerable Children.

Recommendations

- 20 We recommend that the Cabinet:
- 1 **note** that in May 2016, the Cabinet Social Policy Committee agreed to establish a stand-alone department to develop and implement a new operating model for services to vulnerable children and young people [SOC-16-MIN-0053];
 - 2 **note** that on 11 July 2016, Cabinet:
 - 2.1 agreed that the name of the new department would be the Ministry for Vulnerable Children;
 - 2.2 invited the Minister of State Services to issue drafting instructions to the Parliamentary Counsel Office to draft Orders in Council:
 - 2.2.1 under the State Sector Act 1988 to add the name Ministry for Vulnerable Children to Schedule 1 of that Act and to authorise the Ministry for Vulnerable Children to use the Ministry of Social Development name (if required) for a further 12 months; and
 - 2.2.2 under the Ombudsmen Act 1975 to add the name Ministry for Vulnerable Children to the list of Government departments in Schedule 1 of that Act;
- [CAB-16-MIN-0339];
- 3 **rescind** Cabinet's decision set out in recommendation 2 above
 - 4 **agree** that the name of the new department will be the Ministry for Vulnerable Children, Oranga Tamariki
 - 5 **note** that the State Sector (Ministry for Vulnerable Children, Oranga Tamariki) Order 2016 and the Ombudsmen Act (Schedule 1 – Ministry for Vulnerable Children, Oranga Tamariki) Order 2016 give effect to these decisions;
 - 6 **note** that the Orders come into force on 1 April 2017;

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7 **authorise** the submission to the Executive Council of the:

- 7.1 State Sector (Ministry for Vulnerable Children, Oranga Tamariki) Order 2016;
- 7.2 Ombudsmen Act (Schedule 1 – Ministry for Vulnerable Children, Oranga Tamariki) Order 2016.

Hon Paula Bennett
Minister of State Services

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Hon Anne Tolley
Minister for Social Development

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